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September 26, 2018

Kyle Camper  
Hardin County Dog Warden  
49 Jones Rd.,  
Kenton, Ohio 43326

RE: Required Giving of Monies to Out-of-County Humane Societies

Dear Mr. Camper:

You have asked my office to provide you with an opinion on whether the Hardin County Board of Commissioners must pay an out-of-county humane society with any money in excess of \$2,000 when the out-of-county humane society receives dogs from the Hardin County Dog Warden. In my opinion, the answer to your question is no, the Hardin County Board of Commissioners is not required to give any money in excess of \$2,000 to an out-of-county humane society.

The relevant statute to your inquiry is Ohio Revised Code § 955.27, which says:

“After paying all necessary expenses of administering the sections of the Revised Code relating to the registration, seizing, impounding, and destroying of dogs, including the purchase, construction, and repair of vehicles and facilities necessary for the proper administration of such sections, the board of county commissioners, at the December session, if there remains more than two thousand dollars in the dog and kennel fund for that year in a county in which there is a society for the prevention of cruelty to children and animals... and having one or more agents appointed pursuant to law... that owns or controls a suitable dog kennel or a place for the keeping and destroying of dogs that has one or more agents appointed and employed pursuant to law, may pay to the treasurer of the society, upon warrant of the county auditor, all such excess as the board deems necessary for the uses and purposes of the society.” (emphasis added)

When looking at this language, it is clear that § 955.27 gives the decision to delegate excess funds to the Board of Commissioners. After the Board decides to issue excess funds to a humane society, the Board then must decide how much to give. This becomes clearer when looking at a case decided in 1990, *Lake County Humane Society v. Board of Commissioners*. In *Lake County*, the Humane Society of Lake County requested excess monies from the Lake County Board of Commissioners for many years and had not obtained any funds from those requests. The kennel fund had an excess of funds each of those years but did not wish to give the humane society any money. The lower court found that the discretion to give any excess money was left with the Board of Commissioners, and they were not required to give any money. The appellate court agreed, stating that O.R.C. § 955.27 gave the Board of Commissioners “absolute discretion” in determining what, if any money to give to the humane society. Further, even if need was shown from the humane society, the Commissioners were still not required to provide any funds to the humane society.

Both O.R.C. § 955.27 and *Lake County* show that the Board of Commissioners has the absolute discretion to determine whether they pay any money in excess of \$2,000 to a humane society (you will find a copy of both O.R.C. 955.27 and *Lake County* attached). Therefore, the answer to your question is that the Hardin County Board of Commissioners is not required to give any money in excess of \$2,000 to an out-of-county humane society.

Thank you,

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Bradford W. Bailey