



## Ohio Elections Commission

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December 17, 2015

### Ohio Elections Commission Advisory Opinion 2015ELC-02

**SYLLABUS:** The Veterans Memorial Fund, established by the Minerva Park Village Council in Ordinance 5-2010 on November 8, 2010, qualifies as a charitable organization pursuant to Ohio Revised Code §3517.08(G), as determined by the Ohio Elections Commission, pursuant to the authority granted to it, to receive contributions from any ballot issue committee, campaign committee, Political Action Committee, or any other organization which is subject to Ohio's campaign finance reporting laws.

To: Sharon Bierman  
Treasurer  
Citizens for the Minerva Park Income Tax

You have requested an advisory opinion on a question concerning Ohio campaign finance law. The question posed to the Commission is as follows:

Can the Veterans Memorial Fund established by the Minerva Park Village Council qualify as a charitable organization pursuant to Ohio Revised Code §3517.08(G), in order to qualify for a contribution from a ballot issue committee?

In Ohio Elections Commission Advisory Opinion 2004ELC-02, the Commission established the first 'legitimate charitable organization' pursuant to Ohio Revised Code §3517.08(G). In that opinion, the Commission declared that the Alcohol, Drug and Mental Health Service Board of Lake County (ADAMHS Board) fit within the terms of R.C. §3517.08(G) and was an appropriate recipient for contributions from entities subject to Ohio's campaign finance laws.

The Commission declared that opinion 2004ELC-02 "will apply to any government office, board, agency, commission or other entity which is granted authority to receive tax funding." The statute acknowledges, and the Commission recognized, that there are entities that can receive certain funds but are not established as non-profit organizations under Internal Revenue Code §501(c). In the opinion, the Commission also stated that the ADAMHS Board "is able to receive both direct tax dollars, as well as other contributions ... a logical recipient of funds which were originally intended to support the approval of the related tax levy."

While the Veterans Memorial Fund is not a “government office, board, agency, commission or other entity” as the Commission stated in 2004ELC-02, it is a fund established and controlled by the village pursuant to an exercise of the village’s statutory authority. As enumerated in R.C. §717.01(M), a municipal corporation is empowered to “(c)onstruct monuments or memorial buildings to commemorate the services of soldiers, sailors, and marines of the state and nation”. In order to do so, a municipal corporation must either allocate funds or establish an account to receive such funds.

In Section 1 of ordinance 05-2010, the village council of Minerva Park first authorized “a Veterans Memorial to be constructed in the Village” that would reflect the village’s intent to “recognize the service of all United States military personnel”. Then in Section 2, the council established “a Veterans Memorial Fund ... to account for all monies received through donations from Village residents and others.” In the intervening period, the account has been established and funds have been received in anticipation of the memorial being built. This account is the type of fund recognized by the General Assembly that would not be authorized under §501(c) by the IRS, but, as a governmental fund, is a ‘legitimate charitable organization’ as envisioned in R.C. §3517.08(G) and as declared by the Commission.

The Citizens for the Minerva Park Income Tax is an Ohio campaign committee established with the submission of a Designation of Treasurer form with the Franklin County Board of Elections. It raised funds and worked to promote a tax levy for the benefit of the village. The committee is now in a position where the group still has funds in its campaign account but, as there is no ballot issue to support, it desires to expend those remaining funds so that the campaign committee may be properly terminated with a zero balance as required by statute. As the ballot issue was intended for the benefit of the village, allowing this expenditure from the ballot issue committee to this fund is a logical follow-up and a reasonable use of the remaining funds.

Accordingly, it is the opinion of the Ohio Elections Commission, and you are so advised, that the Veterans Memorial Fund, established by the Minerva Park Village Council with the passage of Ordinance 5-2010 on November 8, 2010, qualifies as a charitable organization pursuant to Ohio Revised Code §3517.08(G), as determined by the Ohio Elections Commission, pursuant to the authority granted to it, to receive contributions from any ballot issue committee, campaign committee, Political Action Committee, or any other organization which is subject to Ohio’s campaign finance reporting laws.

Sincerely,



Helen Balcolm  
Chair