



# James R. Flaiz

## Geauga County Prosecuting Attorney

### Assistant Prosecutors

Laura A. LaChapelle  
First Assistant

Nicholas A. Burling  
Chief Assistant  
Criminal Division

Steven E. Patton  
Chief Assistant  
Municipal Division

Paul E. Miller  
Family Division  
Supervisor

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Linda M. Applebaum

Christian A. Bondra

John W. Bosco

Neil L. Harrison

Melissa J. Lee

Kristen Rine

Sheila M. Salem

Alexandria R. Scheid

Joshua B. Weintraub

Susan T. Wieland

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Administration  
Richard Warner  
Lead Investigator

Scott M. Christopher  
Kendra Yurgionas  
Criminal Investigators

Amy M. Reinhart  
Alyson Satterfield  
Juliann Workman  
Kelly Mansi  
Legal Assistants

Erica Apperson  
Legal Assistant  
Child Support Division

Samantha Harris  
Fiscal Coordinator

Cindi Haycox Wellman  
Victim Assistance Advocate

March 3, 2025

The Honorable Dave Yost  
Ohio Attorney General  
c/o Opinions Section  
30 East Broad Street, 15th Floor  
Columbus, Ohio 43215  
*delivered via email and regular mail*

Re: Request for Attorney General Opinion

Dear Attorney General Yost:

Pursuant to R.C. 109.14, the Office of the Geauga County Prosecuting Attorney formally requests a written opinion regarding the following questions concerning the use of various types of tax funds for road purposes, and whether such funds can be used on a road project outside of the legal boundaries of a township.

### **Background Information**

Durkee Road is a township road, as defined in R.C. 5535.01(C). At issue here is a 1.3-mile portion of Durkee Road that lies entirely within Burton Township in Geauga County. The road right-of-way for this portion of Durkee Road abuts the boundary line between Burton Township and Claridon Township, but the road and road right-of-way lies entirely within Burton Township. The road is a township road, as defined in 5535.01(C), which runs from east to west. The parcels along Durkee Road within Burton Township have land on both the southern side of the road and northern side of the road ("the Burton Parcels"). The parcels on the northern side of the road are entirely within Claridon Township ("the Claridon Parcels"). The only means of road access for the Claridon Parcels requires travel across road right-of-way on the northern side of the Burton Parcels to access Durkee Road. A map of the area is included here for illustrative purposes.

### **Opinion Request**

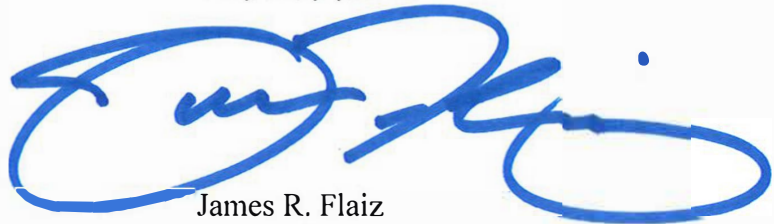
Our office, on behalf of the Townships, seeks to understand a township's mandatory and discretionary duties as to a road like Durkee Road, and ask the following questions:

1. Does a neighboring township have any responsibilities as to the maintenance, construction or reconstruction of a road where the road right-of-way abuts township boundaries, but the road right-of-way and road fall entirely outside of its jurisdictional boundaries?

2. Is a neighboring township prohibited from using any of the following funds to contribute to the maintenance, construction, or reconstruction of township roads outside of its jurisdictional boundaries:
  - a. Taxes levied pursuant to R.C. 5705.19(G)
  - b. Inside millage assigned to road and bridge purposes under R.C. 5705.06(F)
  - c. Gas excise tax pursuant to R.C. 5735.27
  - d. Automobile registration fund distributions pursuant to R.C. 4501.04(E)
  - e. Local Government Fund distributions pursuant R.C. 5747.50-5747.53
  - f. General fund monies
  
3. Is a joint road improvement under R.C. 5573.15 the only statutory means by which neighboring townships could jointly improve a road located wholly within just one of the townships?<sup>1</sup>
  
4. When reviewing the statutory scheme set forth in R.C. 5573.15, can your office provide guidance on how the term “within less than the legal assessment distance of the township line” is defined?

Should you have any questions about the above request or need any additional information or clarification, please contact Assistant Prosecuting Attorney Kristen Rine.

Very truly yours,



James R. Flaiz  
Prosecuting Attorney

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<sup>1</sup> 1994 Ohio Atty.Gen.Ops. 94-038 discussed a similar, but different circumstance involving a township road located entirely within one township, but arguably benefitting property owners in a neighboring township.