

OPINION NO. 78-041**Syllabus:**

1. The Ohio Board of Building Standards has jurisdiction over places of outdoor assembly which qualify by definition as buildings pursuant to R.C. 3781.06(B).
2. The Ohio Board of Building Standards has jurisdiction over tents which possess the requisite components to qualify as a building under R.C. 3781.06(B).

To: Helen W. Evans, Director, Dept. of Industrial Relations, Columbus, Ohio
By: William J. Brown, Attorney General, June 15, 1978

I have before me your request for my opinion on certain questions regarding the Board of Building Standards' authority to promulgate rules pursuant to R.C. 3781.06. You have requested my opinion as to the following:

1. Do "places of outdoor assembly" as defined in 4101:2-65 of the Ohio Building Code fall within the

definition of a "building" as set forth in 3781.06?
Or has the Board of Building Standards exceeded its authority by promulgating these rules?

2. In one particular area of controversy, may the Board of Building Standards promulgate rules concerning tents?

R.C. 3781.10(A), requires the Ohio Board of Building Standards to:

Formulate and adopt regulations governing the erection, construction, repair, alteration, and maintenance of all buildings or classes of buildings specified in Section 3781.06 of the Revised Code, including land area incidental thereto, the construction of industrialized units, the installation of equipment, the standards or requirements for materials to be used in connection therewith, and other requirements relating to the safety and sanitation of such buildings.

Because R.C. 3781.10 grants jurisdiction to the Board of Building Standards relative to the buildings specified in R.C. 3781.06, an answer to your questions first requires a determination of whether the definition of "places of outdoor assembly" contained in OAC §4101:2-65-01 is consistent with the definition of "building" as set forth in R.C. 3781.06.

R.C. 3781.06(B) provides as follows:

"A building" is any structure consisting of foundations, walls, columns, girders, beams, floors, and roof, or a combination of any number of these parts, with or without other parts or appurtenances.

OAC 4101:2-65-01 defines a "place of outdoor assembly" as "a structure or enclosed area used for 'outdoor assembly' as defined in this section, and accommodating 200 or more persons". Since it is highly likely that such structures would be composed of girders, beams, floors, etc., or a combination thereof, I must conclude that to the extent that these structures do possess the necessary component parts as outlined in R.C. 3781.06(B), they may be regulated as "buildings" by the Board of Building Standards.

An answer to your second question requires an analysis of the term "tent". OAC §4101:2-65-01 defines a "tent" as:

". . . a shelter or structure, which is not an appendage to a building nor a roof structure, the covering of which is wholly or partly of canvas or other pliable material which is supported and made stable by standards, stakes, and ropes.

Under this definition, tents may be regulated as buildings if they have any of the components listed in R.C. 3781.06(B), *supra*. There appears to be no requirement that a "building" be permanent or that it be constructed with any particular type of material.

In specific answer to your questions, it is my opinion and you are so advised that:

1. The Ohio Board of Building Standards has jurisdiction over "places of outdoor assembly" which qualify by definition as "buildings" pursuant to R.C. 3781.06(B).

2. The Ohio Board of Building Standards has jurisdiction over "tents" which possess the requisite components to qualify as a "building" under R.C. 3781.06(B).