

OPINION NO. 65-136**Syllabus:**

Under the provisions of Section 317.13, Revised Code, a drawing can be recorded with a written easement.

To: John J. Malik, Jr., Belmont County Pros. Atty., St. Clairsville, Ohio
By: William B. Saxbe, Attorney General, July 28, 1965

You requested my opinion regarding the following question:

"'Can a drawing be recorded as an exhibit with the original easement when the easement is not described by meets (sic.) and bounds in the original instrument?'"

Your letter of request informs me that the instrument about which you are concerned is an easement. I assume that the easement is evidenced by a written instrument transferring an interest in land and as such is entitled to record. See Opinion No. 3001, Opinions of the Attorney General for 1928, page 2808.

Section 317.13, Revised Code, provides in part as follows:

"The county recorder shall record in the proper record, in legible handwriting, typewriting, or printing, or by any authorized photographic process, all deeds, mortgages, plats, or other instruments of writing required or authorized to be recorded, presented to him for that purpose. * * *"

My research reveals that a former Attorney General in Opinion No. 5650, Opinions of the Attorney General for 1936, page 759, stated in the first paragraph of the syllabus as follows:

"1. A county recorder is unauthorized to record a lease which contains a map or a plat describing the property in such lease by merely pasting the plat on the record."

(Emphasis added)

A reading of that opinion indicates that the unauthorized aspect of the procedure was the pasting of the plat on the record rather than an inherent legal objection to the proper recording of a map or plat as a part of a lease.

A somewhat similar question to the one requested by you was received by one of my predecessors in office. The syllabus of Opinion No. 2705, Opinions of the Attorney General for 1934, page 728, reads as follows:

"Where a deed contains a map or plat of the territory being recorded by photostatic or photographic process, it is the duty of the county recorder to charge a fee of twelve cents for each hundred words photographed or photostated upon the records, and in addition thereto the fee prescribed in section 2779, General Code, for recording a plat or map by the photostatic or photographic process."

Inferentially, it can be concluded that there is no statutory impediment to recording a deed containing a map or plat of the territory being deeded.

From your inquiry I learn that the easement about which you concerned is not described by metes and bounds in the original instrument. I must assume, therefore, that the drawing is an integral part of the instrument and is necessary to show the proper location of the property involved.

Therefore, I conclude and it is my opinion that under the provisions of Section 317.13, Revised Code, a drawing can be recorded with a written easement.