

**OPINION NO. 85-097**

**Syllabus:**

1. A manufactured home is a "motor vehicle" for purposes of R.C. 4513.60 and R.C. 4513.63.
2. A county sheriff has the authority, pursuant to R.C. 4513.60, to order the removal and storage of

a manufactured home at the request of the owner of the manufactured home park where the home is located, provided that the manufactured home has been left in the park for at least four hours without the permission of the person having the right to possession of the property. The authority of the sheriff to order the removal and storage of a manufactured home pursuant to R.C. 4513.60 is discretionary in nature.

3. Pursuant to R.C. 4513.63, upon complaint of the owner of a manufactured home park, a county sheriff is under a duty to remove from the manufactured home park a manufactured home which meets the requirements of an abandoned junk motor vehicle set forth in R.C. 4513.63(A)-(E) and to dispose of the home in accordance with R.C. 4513.63. The duty of the sheriff to remove a manufactured home pursuant to R.C. 4513.63 is mandatory in nature.

---

**To: William Schenck, Greene County Prosecuting Attorney, Xenia, Ohio**  
**By: Anthony J. Celebrezze, Jr., Attorney General, December 27, 1985**

I have before me your request for my opinion regarding the authority of the county sheriff to remove manufactured homes from a manufactured home park<sup>1</sup> upon the request of the owner of the manufactured home park. Specifically, you have asked whether a manufactured home is a "motor vehicle" for purposes of R.C. 4513.60 and R.C. 4513.63, which provide for removal, storage, and disposal of unclaimed or abandoned vehicles. Pursuant to a telephone conversation you have had with a member of my staff, you have also asked me to address the question whether the county sheriff has the authority or the duty, pursuant to R.C. 4513.60 and R.C. 4513.63, to remove manufactured homes from a manufactured home park upon the request of the owner of the manufactured home park.

Turning to your first question, I note that R.C. 4513.60, concerning the removal and storage of unclaimed motor vehicles left on private residential property, states, in pertinent part:

(A)(1) The sheriff of a county or chief of police of a municipal corporation, township, or township

---

<sup>1</sup> R.C. 4501.01(O) defines "manufactured home" to mean:

any nonself-propelled vehicle transportable in one or more sections, which in the traveling mode, is eight body feet or more in width or forty body feet or more in length or, when erected on site, is three hundred twenty or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein.

R.C. 3733.01(A) defines "manufactured home park" for purposes of that chapter, providing for licensing of manufactured home parks, as:

police district, within his respective territorial jurisdiction, upon complaint of any person adversely affected, may order into storage any motor vehicle, other than an abandoned junk motor vehicle as defined in section 4513.63 of the Revised Code, that has been left on private residential or private agricultural property for at least four hours without the permission of the person having the right to the possession of the property....The place of storage shall be designated by the sheriff or chief of police. When ordering a motor vehicle into storage pursuant to this division, a sheriff or chief of police shall, whenever possible, arrange for the removal of such motor vehicle by a private tow truck operator or towing company. Subject to division (C) of this section, the owner of a motor vehicle that has been removed pursuant to this division may recover the vehicle only in accordance with division (E) of this section. (Emphasis added.)

R.C. 4513.63, providing for the disposition of abandoned junk motor vehicles, reads in part as follows:

"Abandoned junk motor vehicle" means any motor vehicle meeting all of the following requirements:

(A) Left on private property for more than seventy-two hours without the permission of the person having the right to the possession of the property, on a public street or other property open to the public for purposes of vehicular travel or parking, or upon or within the right-of-way of any road or highway, for forty-eight hours or longer;

(B) Three years old, or older;

(C) Extensively damaged, such damage including but not limited to any of the following: missing wheels, tires, motor, or transmission;

(D) Apparently inoperable;

(E) Having a fair market value of two hundred dollars or less.

The sheriff of a county or chief of police of a municipal corporation, township, or township police district, within his respective territorial jurisdiction, or a state highway patrolman, upon notification to the sheriff or chief of police of such action, shall order any abandoned junk motor vehicle

---

any tract of land upon which three or more manufactured homes used for habitation are parked, either free of charge or for revenue purposes, and includes any roadway, building, structure, vehicle, or enclosure used or intended for use as a part of the facilities of such park. A tract of land which is subdivided and the individual lots are not for rent or rented, but are for sale or sold for the purpose of installation of manufactured homes on the lots, is not a manufactured home park even though three or more manufactured homes are parked thereon if the roadways are dedicated to the local government authority.

"Manufactured home park" does not include any tract of land used solely for the storage or display for sale of manufactured homes.

to be photographed by a law enforcement officer. The officer shall record the make of motor vehicle, the serial number when available, and shall also detail the damage or missing equipment to substantiate the value of two hundred dollars or less. The sheriff or chief of police shall thereupon immediately dispose of the abandoned junk motor vehicle to a motor vehicle salvage dealer as defined in section 4738.01 of the Revised Code or a scrap metal processing facility as defined in section 4737.05 of the Revised Code....(Emphasis added.)

See also R.C. 4513.61 (removal of motor vehicles left on public property); R.C. 4513.62 (disposal of unclaimed vehicles ordered into storage pursuant to R.C. 4513.60(A)(1) or R.C. 4513.61). See generally 1976 Op. Att'y Gen. No. 76-036 (discussing provisions of R.C. 4513.60 and R.C. 4513.63). R.C. 4513.60 and R.C. 4513.63, by their terms, apply only to "motor vehicles." Thus, whether a manufactured home is subject to removal under R.C. 4513.60 or R.C. 4513.63 depends, initially, upon whether a manufactured home is a motor vehicle for purposes of R.C. 4513.60 and R.C. 4513.63.

As you note in your request, R.C. 4513.01 provides that, "[t]he definitions set forth in section 4511.01 of the Revised Code apply to sections 4513.01 to 4513.37, inclusive, of the Revised Code." See R.C. 4511.01(B) (defining "motor vehicle"). R.C. 4513.60 and R.C. 4513.63, however, fall outside the scope of R.C. 4513.01. Thus, the definition of "motor vehicle" set forth in R.C. 4511.01(B) does not apply to R.C. 4513.60 and R.C. 4513.63. Further, you note that a question has arisen as to whether the definition of "motor vehicle" found in R.C. 4505.01 should be utilized for purposes of R.C. 4513.60 and R.C. 4513.63. R.C. 4505.01(A)(2) defines "motor vehicle" to include a manufactured home. However, the definitions set forth in R.C. 4505.01 apply, by the terms of R.C. 4505.01(A), only to the provisions of R.C. Chapter 4505, Ohio's certificate of title law.

R.C. 4501.01, however, does supply definitions, except as otherwise provided, for various chapters of the Revised Code, including R.C. Chapter 4513. R.C. 4501.01(B) defines "motor vehicle" to mean, with certain exceptions not relevant herein, "any vehicle, including manufactured homes and recreational vehicles, propelled or drawn by power other than muscular power or power collected from overhead electric trolley wires...." (Emphasis added.) See R.C. 4501.01(A) (defining "vehicle" to mean, in part, "everything on wheels or runners"). Thus, the term "motor vehicle," as used in R.C. 4513.60 and R.C. 4513.63, specifically includes a manufactured home.

I turn now to your question whether the county sheriff has the authority or the duty, pursuant to R.C. 4513.60 and R.C. 4513.63, to remove manufactured homes from a manufactured home park upon the request of the owner of the manufactured home park.

As set forth above, R.C. 4513.60(A)(1) reads, in part: "The sheriff of a county...within his respective territorial jurisdiction, upon complaint of any person adversely affected, may order into storage any motor vehicle...that has been left on private residential...property for at least four hours without the permission of the person having the right to the possession of the property." R.C. 4513.60(A)(3) defines "private residential property" as:

private property on which is located one or more structures that are used as a home, residence, or sleeping place by one or more persons, if no more than three separate households are maintained in the structure or structures. "Private residential property" does not include any private property on which is located one or more structures that are used as a home, residence, or sleeping place by two or more persons, if more than three separate households are maintained in the structure or structures.

As discussed above, for purposes of R.C. 4513.60, the term "motor vehicle" includes a manufactured home. I believe that the owner of a manufactured home park may properly be considered a "person adversely affected" in instances where a motor vehicle has been left, unclaimed, without permission, on his property. See Op. No. 76-036 at 2-122 ("R.C. 4513.60 provides a method whereby owners of private property may have unclaimed motor vehicles removed from their premises"). Further, a manufactured home park falls within the definition of "private residential property," set forth in R.C. 4513.60(A)(3), since a manufactured home park is "private property on which is located one or more structures that are used as a home, residence, or sleeping place by one or more persons" and it appears unlikely that more than three separate households would be maintained in any manufactured home located in the manufactured home park.

Prior to removal of a motor vehicle under R.C. 4513.60, the vehicle must have been left on private property for at least four hours without permission of the person having the right to possession of the property. A person who leases the lot on which his manufactured home is located is a tenant of the operator of a manufactured home park and has certain rights and obligations as such. See, e.g., R.C. 3733.10 (obligations of park operator); R.C. 3733.101 (obligations of tenant). R.C. 3733.091 permits an operator to bring a forcible entry and detainer action under R.C. Chapter 1923 for possession of the premises if the tenant fails to meet certain of his obligations. All requirements of R.C. Chapter 1923 must be met by the operator before the tenant may be evicted, including all notice requirements. Voyager Village Limited v. Williams, 3 Ohio App. 3d 288, 444 N.E.2d 1337 (Greene County 1982). During his lawful tenancy, however, the tenant has the right of possession of the lot. See generally R.C. 3733.01(J) (defining "tenant" as "a person entitled under a rental agreement to the use and occupancy of residential premises to the exclusion of others"). If the owner of a manufactured home is entitled to possession of the lot upon which his home is located, then the sheriff may not remove the tenant's manufactured home under R.C. 4513.60. If the operator successfully maintains a forcible entry and detainer action, or if the owner of the manufactured home is otherwise not entitled to possession of the lot upon which the home is located, then the procedure outlined in R.C. 4513.60 may be utilized if otherwise applicable.

Thus, a sheriff may, pursuant to R.C. 4513.60, order the removal and storage of a manufactured home at the request of the owner of a manufactured home park, provided that the manufactured home has been left in the manufactured home park for at least four hours without the permission of the person having the right to possession of the property.

R.C. 4513.60 states that a sheriff "may" order into storage a motor vehicle upon complaint. "The statutory use of the word 'may' is generally construed to make the provision in which it is contained optional, permissive, or discretionary...at least where there is nothing in the language or in the sense or policy of the provision to require an unusual interpretation...." (Citations omitted.) Dorrian v. Scioto Conservancy District, 27 Ohio St. 2d 102, 107, 271 N.E.2d 834, 837 (1971). Accord, Dennison v. Dennison, 165 Ohio St. 146, 134 N.E.2d 574 (1956). I find that the sheriff's duty under R.C. 4513.60 to remove a manufactured home from a manufactured home park upon complaint of the owner of the park is discretionary in nature, even assuming that the statutory conditions and requirements for ordering the manufactured home into storage have been met.

I turn now to R.C. 4513.63, set forth above, which authorizes the county sheriff to dispose of abandoned junk motor vehicles. As discussed above, a manufactured home is a "motor vehicle" for purposes of R.C. 4513.63. However, in order for a manufactured home to be subject to disposal pursuant to R.C. 4513.63, it must be an abandoned junk motor vehicle meeting the requirements of R.C. 4513.63(A)-(E).<sup>2</sup> Assuming that these requirements are met, and that a manufactured home is an abandoned junk motor vehicle, R.C. 4513.63 states that the county sheriff "shall order any abandoned junk motor vehicle to be photographed by a law enforcement officer" and "shall thereupon immediately dispose of the abandoned junk motor vehicle." The statutory use of the word "shall" is ordinarily interpreted as rendering the provision in which it is contained mandatory. Dorrian v. Scioto Conservancy District; Dennison v. Dennison. I see no reason why the word "shall," as used in R.C. 4513.63, should not be given its ordinary meaning. Thus, R.C. 4513.63 imposes a mandatory duty upon the county sheriff to dispose of abandoned junk motor vehicles, and I conclude that, upon complaint of the owner of a manufactured home park, a county sheriff must remove from the manufactured home park a manufactured home which meets the requirements of an abandoned junk motor vehicle and must dispose of the home in accordance with R.C. 4513.63.

In conclusion, it is my opinion, and you are advised, that:

1. A manufactured home is a "motor vehicle" for purposes of R.C. 4513.60 and R.C. 4513.63.
2. A county sheriff has the authority, pursuant to R.C. 4513.60, to order the removal and storage of a manufactured home at the request of the owner of the manufactured home park where the home is located, provided that the manufactured home has been left in the park for at least four hours

---

<sup>2</sup> In order to be an "abandoned junk motor vehicle," a motor vehicle must, if found on private property, have been left on such property "for more than seventy-two hours without the permission of the person having the right to the possession of the property." R.C. 4513.63(A). As discussed above in relation to R.C. 4513.60, if a tenant has the right to the possession of his lot, then R.C. 4513.63 may not be utilized to dispose of any manufactured home thereon.

without the permission of the person having the right to possession of the property. The authority of the sheriff to order the removal and storage of a manufactured home pursuant to R.C. 4513.60 is discretionary in nature.

3. Pursuant to R.C. 4513.63, upon complaint of the owner of a manufactured home park, a county sheriff is under a duty to remove from the manufactured home park a manufactured home which meets the requirements of an abandoned junk motor vehicle set forth in R.C. 4513.63(A)-(E) and to dispose of the home in accordance with R.C. 4513.63. The duty of the sheriff to remove a manufactured home pursuant to R.C. 4513.63 is mandatory in nature.