

OPINION NO. 70-065

Syllabus:

Proceeds of the permissive county motor vehicle license tax may be used to improve streets which are located wholly within a municipality if such streets are determined by the county engineer to be necessary or conducive to the orderly and efficient flow of traffic within and through the county.

To: Harry A. Sargeant, Jr., Sandusky County Pros. Atty., Fremont, Ohio
By: Paul W. Brown, Attorney General, June 12, 1970

Your request for my opinion reads in part as follows:

"Section 4504.03 of the Revised Code, dealing with the permissive county motor vehicle license tax, requires the county engineer to prepare and file with the Board of County Commissioners 'a comprehensive map of the roadways of the county, . . . and those streets located within municipal corporations in the county . . . which are determined by the county engineer to be necessary or conducive to the orderly and efficient flow of traffic within and through the county.

* * * * *

"In your opinion, can proceeds of the permissive county motor vehicle license tax be used to improve streets, which are determined by the county engineer to be necessary or conducive to the orderly and efficient flow of traffic, but which are located wholly within a municipality?

* * * * *

Your question arises because, as stated in your letter of request, "a strict interpretation of the words 'within and through' might not allow a road in a municipal corporation to be included on the comprehensive map unless the road extended out into the county." A careful analysis of the wording of Section 4504.03, Revised Code, however, as read in conjunction with the purposes and other relevant sections of Chapter 4504, Revised Code, does not support such a "strict interpretation."

Section 4504.03, Revised Code, reads in part as follows:

"The county engineer of any county levying a county motor vehicle license tax shall within ninety days after the effective date of the resolution levying the tax prepare and file with the board of county commissioners a comprehensive map of roadway of the county, designating separately thereon interstate highways, state highways, intercounty roads, county and township roads forming a part of the system of county highways established pursuant to Chapter 5541. of the Revised Code, and those streets located within municipal corporations in the county not included in any of the foregoing which are determined by the county engineer to be necessary or conducive to the orderly and efficient flow of traffic within and through the county. Such municipal streets may be designated by the county engineer as primary and secondary based upon their relative importance to the orderly and efficient flow of traffic within and through the county.

"The county engineer may consult with the officers of the municipal corporations within the county in charge of the construction, improvement, and maintenance of municipal streets and he may designate on the map prepared pursuant to this section any proposed streets which he determines will be necessary or conducive to the orderly and efficient flow of traffic within and through the county.

" * * *

* * *

* * *"

It is evident from this reading that the only direct restriction imposed upon the county engineer is that the roadways and streets noted upon the map must be "necessary or conducive to the orderly and efficient flow of traffic within and through the county." This same restrictive test should be noted also in the "purposes" listed in Section 4504.02, Revised Code, and in Sections 4504.04 and 4504.05, Revised Code.

As listed in Section 4504.03, supra, the types of roadways to be designated on the map are interstate highways, state highways, intercounty roads, county and township roads forming a part of the system of county highways established pursuant to Chapter 5541, Revised Code, and those streets located within municipal corporations which are not included within any of these types of roadways. It is obvious then, that this last category must include streets which are located wholly within a municipality.

Further, the provisions in Sections 4504.04 and 4504.05, Revised Code, for allocating a portion of the county motor vehicle license tax moneys to the municipalities within the county for certain purposes would be meaningless if streets located wholly within a municipality were not allowed to be included on the comprehensive map. And, if these streets located wholly within a municipality were not allowed to be included on the comprehensive map, then there would be no need for the mutually exclusive provisions of Sections 4504.02 and 4504.06, Revised Code.

For the reasons hereinabove set out, therefore, it is my opinion and you are advised that proceeds of the permissive county motor vehicle license tax may be used to improve streets which are located wholly within a municipality if such streets are determined by the county engineer to be necessary or conducive to the orderly and efficient flow of traffic within and through the county.