

**OPINION NO. 66-068****Syllabus:**

The County recorder may accept a declaration for proceedings under the "Condominium Property" law, Chapter 5311, Revised Code, and issue an owner's duplicate certificate of title as provided in Chapter 5309, Revised Code, when the property involves registered land.

---

**To: Fred V. Skok, Lake County Pros. Atty., Painesville, Ohio**

**By: William B. Saxbe, Attorney General, March 30, 1966**

You request my opinion on the following question:

May the county recorder accept a declaration for proceedings under the "Condominium Property" law and issue an owner's duplicate certificate of title when the property involves registered land?

Chapters 5309 and 5310, Revised Code, relate entirely to "Registration of Land Titles." Chapter 5311, Revised Code, relates entirely to "Condominium Property." It went into effect in 1963, therefore, subsequent to Chapters 5309 and 5310, supra. I find no provision in any of such three chapters prohibiting the application of the "Condominium" law to any land title so registered under Chapters 5309 and 5310, supra.

The following is quoted from Section 5311.02, Revised Code:

"Chapter 5311. of the Revised Code applies only to property which is specifically submitted to its provisions by the execution and filing for record of a declaration by the owner thereof, as provided in Chapter 5311. of the Revised Code. In every instance any real estate so submitted shall be either a fee simple estate or a ninety-nine year leasehold, renewable forever. \* \* \*"

Certainly that would include any such land the title to which had been registered.

Section 5311.03, Revised Code, reads in part as follows:

"(A) Each unit, together with its undivided

interest in the common areas and facilities, shall for all purposes constitute real property and shall be deemed real estate within the meaning of all provisions of the Revised Code."

Accordingly, real estate within the meaning of all provisions of Chapters 5309 and 5310, Revised Code, relating to "Registration of Land Titles", is deemed real estate within all provisions of Chapter 5311, Revised Code, relating to "Condominium Property."

Section 5309.25, Revised Code, concerns certificates of title to registered land and provides in part:

"All certificates of title shall be numbered consecutively, beginning with number one. The recorder shall in each case make an exact duplicate of the original certificate, but shall put on such duplicate 'Owner's duplicate certificate,' and deliver it to the owner or his authorized attorney.  
\* \* \*"

The following is quoted from Section 317.08, Revised Code, which went into effect on the same date, 8-19-63, as said Chapter 5311, supra:

"The county recorder shall keep five separate sets of records as follows:

"(A) A record of deeds, in which shall be recorded all deeds and other instruments of writing for the absolute and unconditional sale or conveyance of lands, tenements and hereditaments;  
\* \* \* all declarations and bylaws as provided for in sections 5311.01 to 5311.22, inclusive, of the Revised Code; \* \* \*"

Section 5309.26, Revised Code, provides:

"The certificate of title first registered in pursuance of a decree of registration in regard to any parcel of land shall, in the register of titles, be entitled 'Original certificate of title, entered pursuant to decree of the . . . . . court, dated at . . . . . (stating time and place of entry of decree and the number of the case).' \* \* \* Subsequent certificates relating to the same land shall be in like form, but shall be entitled 'Transfer from No. . . . .' (the number of the last previous certificate relating to the same land), and also 'Originally registered' (date, volume, and page of registration) and shall take effect from and be dated the exact time of filing and noting in the county recorder's office of the instrument of transfer pursuant to which

the certificate is issued. The recorder shall make out and deliver to the proper parties duplicates of all subsequent certificates.

"\* \* \* \* \*"

Accordingly, it is my opinion that the county recorder may accept a declaration for proceedings under the "Condominium Property" law, Chapter 5311, Revised Code, and issue an owner's duplicate certificate of title as provided in Chapter 5309, Revised Code, when the property involves registered land.