

## OPINION NO. 73-004

**Syllabus:**

Neither a board of township trustees nor a board of county commissioners has the power to barricade a passable township public road.

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To: Charles G. Wetherholt, Gallia County Pros. Atty., Gallipolis, Ohio  
By: William J. Brown, Attorney General, January 18, 1973

Your predecessor's request for my opinion reads as follows:

The trustees of one of our townships, along with nine other freeholders, have petitioned the county commission to alter a township road by barricading it in the middle. This way the road would be open to the residents to either side of the barricade, but would not be a through road. The County Commission has asked me to request your opinion to do this on its own and if not, whether the County Commission has such authority.

The power of the board of county commissioners to locate, alter, or vacate "all roads within the county", is stated in R.C. 5553.02, which provides as follows:

The board of county commissioners may locate, establish, alter, widen, straighten, vacate, or change the direction of roads as provided in sections 5553.03 to 5553.16, inclusive, of the Revised Code. This power extends to all roads within the county, except that as to roads on the state highway system the approval of the director of highways shall be had. However, no public road shall be located or established by the board of county commissioners, unless the location or establishment begins on a public road and terminates on a public road, or begins on a public road and services a public park, a state supported educational institution, public school, public aviation area, or a public recreation

area, or begins on a public road and services at least three private residences or businesses in the first five hundred feet and one private residence or business in each two hundred feet thereafter.

Your question states that the petition calls for alteration of a township road by placing a barricade at a point some place between its termini.

Webster's Third New International Dictionary defines "alter" as, "to cause to become different in some particular characteristic (as measure, dimension, course, arrangement or inclination) without changing into something else \* \* \*." The contemplated barricade would create two separate roads, each coming to a dead end at the barricade. I am advised that the road is essential for ingress and egress for several residences in times of high water and that the barricade would be removed in such emergencies. I am unable to find any authority for a practice of this kind.

The only authority the township trustees have to alter or vacate a portion of a township road is found in R.C. 5571.011, the pertinent part of which reads as follows:

At the hearing had on the petition the board of township trustees may hear evidence for or against changing the road, and if the board is satisfied that the proposed change will not cause serious injury or disadvantage to the public, it may make a finding of such fact in its journal and authorize the petitioner to change such road in conformity with the prayer of the petition. The board may grant the change as prayed for in the petition, or it may order such change of the route of such road as will, in its judgment, be for the best interest of the public.

I do not believe that this Section authorizes the obstruction of a through road, and the simultaneous creation of two dead-end roads. Nor, as stated above, do I think that the county commissioners have such a power under R.C. 5553.02. The opening of a township road is for the benefit of the general public, not solely, nor even primarily, for the benefit of adjacent landowners. The proposed barricade would, in effect, create two private roads.

R.C. 5543.17 goes to some length to require that roads shall not be barricaded for any reason unless absolutely necessary for construction of bridges or other improvements. Even then it is the duty of the county engineer to provide proper barricades and detour signs. See also R.C. Chapter 5547.

In answer to your specific question it is my opinion, and you are so advised, that neither a board of township trustees nor a board of county commissioners has the power to barricade a passable township public road.