

**OPINION NO. 71-041****Syllabus:**

A petition "signed by at least fifty-one per cent of the land or lot owners", as prescribed in Section 5559.03, Revised Code, means a petition signed by a majority of the owners of property, regardless of the number of land parcels or lots affected by the petition.

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**To: John E. Moyer, Erie County Pros. Atty., Sandusky, Ohio**  
**By: William J. Brown, Attorney General, July 30, 1971**

I am in receipt of your request for my opinion, which states as follows:

"The question has arisen in a case where one person owns more than one lot which will be specially assessed for a proposed street improvement [under Section 5559.02, Revised Code]. The question is whether such person should be counted only once, or once for each lot which he owns, in determining whether the petition for such improvement [as provided for in Section 5559.03, Revised Code] is signed 'by at least fifty-one per cent of the land or lot owners.'"

The pertinent statute providing for petition by owners is Section 5559.03, Revised Code. It states as follows:

"When a petition is presented to the board of county commissioners asking for the improve-

ment as provided by section 5559.02 of the Revised Code, and specifying the general character of the improvement desired, signed by at least fifty-one per cent of the land or lot owners, residents of such county, who are to be specially assessed for such improvement, the board shall, within thirty days after such petition is presented, go upon the line of the proposed improvement, and, after viewing it, determine whether the public convenience and welfare require that such improvement be made."

In essence, the issue presented is whether "\* \* \* signed by at least fifty-one per cent of the land or lot owners, \* \* \*" means owners of fifty-one per cent of the land parcels to be improved or fifty-one percent of the total number of owners of such land parcels or, in other words, whether persons (broadly speaking) or parcels are to be counted.

Petition by a majority of individuals affected by a proposed improvement has long been recognized as an appropriate means of initiating consideration of such project. In 1906, the Supreme Court so construed a statute requiring a petition by "a majority of the resident owners of any real estate". Alexander et al. v. Baker et al., 74 Ohio St. 258 (1906). The Court applied the statute to individuals residing within the county, although not residing within the assessment area and, in doing so, related such construction to an even earlier statute.

The phrase "fifty-one per cent of the land or lot owners", used in Section 6906-2, General Code, was held by one of my predecessors to require signatures of fifty-one per cent of the persons who were owners. Opinion No. 2102, Opinions of the Attorney General for 1930. That Opinion relied on Opinion No. 508, Opinions of the Attorney General for 1927, which dealt with identical language, contained in Section 3298-2, General Code.

I have found nothing since the time of those Opinions indicating the existence of any doubt or qualification on the interpretation adopted therein. Indeed, I have been advised that such view has been followed uniformly in one, at least, of the larger counties in the State. There is, thus, no reason to construe Section 5559.03, supra, as applying to parcels of land. It must be construed as applying to owners.

In specific answer to your question, it is my opinion that a petition "signed by at least fifty-one per cent of the land or lot owners", as prescribed in Section 5559.03, Revised Code, means a petition signed by a majority of the owners of property, regardless of the number of land parcels or lots affected by the petition.