

**OPINION 65-5**

**Syllabus:**

A residence or business is "serviced" by a public road within the meaning of Section 5553.02, Revised Code, if it is adjacent, and has access, to the public road.

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To: Everett Burton, Scioto County Pros. Atty., Portsmouth, Ohio  
By: William B. Saxbe, Attorney General, January 12, 1965

Your request for my opinion reads as follows:

"This office is in receipt of the following request:

"Pursuant to a meeting held by the Board of County Commissioners on October 1, 1964, they are requesting you to render an opinion relative to Section 5553.02, Revised Code of Ohio:

"The Board of County Commissioners has received a petition for establishing a public road, beginning at a point north of Thomas Hollow Road and running in a northerly direction through the "A" property.

"Does a residence fronting on an intersecting road adjacent to a proposed road, constitute one of three residences in the first five hundred feet as required by Section 5553.02, Ohio Revised Code?"

"Since this is a recently enacted statute and has not be (sic.) judicially interpreted or interpreted by the Attorney General, we request your opinion as to the question propounded by the Board of Commissioners in their request."

Section 5553.02, Revised Code, delegates to the Board of county commissioners authority to establish public roads subject only to certain statutory limitations. This section provides:

"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 5554.17, 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, public school, 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."

(Emphasis added)

The specific question appears, from the facts you have given, to be whether a residence which will abut the proposed public road but which fronts on a private road, which is perpendicular to the proposed public road, and which will intersect with the proposed public road, will be a residence serviced by the proposed public road within the meaning of the emphasized language in Section

5553.02, supra. Determination of this question depends upon the meaning of the word "services" as used in this statute.

The word is not defined in the Revised Code, but I am persuaded that as used in this context it means providing ingress and egress to properties adjacent to the road. A public road which "services" residences or businesses within the meaning of this statute, may be compared with a "service highway" under Section 5535.04, Revised Code. This latter section provides:

"As an adjunct of any 'limited access highway' or 'freeway,' the director of highways, board of county commissioners, and municipal authorities may lay out and construct highways and drives, to be designated as service highways, to provide access from areas adjacent to a limited access highway or freeway, when they are deemed necessary in the public interest."

It is apparent that the residence in question will be provided access by the proposed public road and the fact that it is already serviced by a private road does not in my opinion exclude it from eligibility under Section 5553.02, supra. While undoubtedly the limitation that a road service a minimum number of residences or businesses was inserted to insure that a road is established only upon need, the residence, here, meets the literal requirements of the statute and I cannot add a further limitation or condition under the guise of statutory construction.

In specific answer to your question, therefore, it is my opinion and you are advised that a residence or business is "serviced" by a public road within the meaning of Section 5553.02, Revised Code, if it is adjacent, and has access, to the public road.