

1865

MAPS AND PLANS MADE UNDER SECTION 1178-33 G. C.—
STATE HIGHWAY PROJECTS—NO STATUTORY PROVISION
TO RECORD SAME IN COUNTY RECORDER'S OFFICE.

SYLLABUS:

No statutory provision has been made for recording in the County Recorder's office maps and plans made under authority of Section 1178-33, General Code, and covering state highway projects.

Columbus, Ohio, May 10, 1947

Hon. Albert T. Stroup, Prosecuting Attorney, Van Wert County
Van Wert, Ohio

Dear Sir:

This will acknowledge receipt of your letter in which you state that the state highway engineers desire to have a photostatic drawing called :

“Highway Location Plan” recorded in the county recorder’s office, and you request my opinion on the questions whether or not the recorder should accept the drawing for record, and if it is accepted by him, in which book should it be recorded.

You do not describe the drawing referred to in your letter, and I am therefore unable to determine whether it should be classed as a map in outline and profile or as a plan covering a proposed state highway project, or as a combination of both, within the meaning of Section 1178-33, General Code, which empowers and directs the highway director to make such maps and plans. So far as the questions you have submitted are concerned, it is my view that it makes no difference in which category the drawing may be placed, for the reason that the answers to your questions would be the same in either case.

As I understand it and have indicated above, the drawing was made under authority of Section 1178-33, General Code. The portion of that section pertinent to your questions reads as follows:

“The director shall make, or cause to be made, a map of the highway in outline and profile, and plans, specifications, profiles, and estimates covering the proposed projects. When completed the director shall indorse upon such maps, profiles, plans, specifications and estimates of quantities his approval of the same and cause a copy thereof to be placed on file in the office of the director and another in the office of the division deputy director for public inspection on or before starting the publication of notice to bidders as hereinafter provided.”

It will be noted that the maps and plans referred to in the statute relate solely and exclusively to maps and plans covering state highway projects, and also that special provision is made therein as to the public offices in which copies are to be filed, namely, in the office of the director and in the office of the division deputy director. No provision is made in Section 1178-33, nor in any other section of the state highway law, for filing and recording maps and plans covering state highway projects in the office of the county recorder, and I have been unable to find any other statute which authorizes such filing and recording.

The record books which the county recorder is required to keep, other than those prescribed for federal tax liens, soldiers’ discharges, unemployment compensation liens, and mechanics’ liens, are provided for by Sec-

tion 2757, General Code, namely: A record of deeds, a record of mortgages, a record of plats, and a record of leases. With respect to the "record of plats", Section 2757 describes the particular plats and maps that may be recorded therein as follows:

"Plats and maps of town lots, and of the subdivisions thereof, and of other divisions or surveys of lands."

The maps and plats referred to in Section 2757, in my opinion do not include highway maps or plans of the character referred to in Section 1178-33, for the reason that the latter are not maps or plats of town lots, or maps or plats of subdivisions of town lots, or maps or plats of divisions or surveys of lands, but are, as the state highway law itself discloses, maps and plans covering proposed state highway projects.

I have also examined the statutes governing the office of county engineer. Those statutes, so far as road maps and plans are concerned, relate to the county and township highway systems, and I have found nothing therein which makes provision for recording in that office the maps and plans referred to in Section 1178-33.

Respectfully,

HUGH S. JENKINS,
Attorney General.