

OPINION NO. 77-058**Syllabus:**

1. The Ohio Board of Building Standards has jurisdiction under R.C. 3781.06 over trailer type mobile educational units which are purchased by a school district pursuant to R.C. 3317.06.
2. Trailer type mobile educational units are industrialized units under R.C. 3781.10 and OAC 4101:2-19-08 and are therefore subject to the jurisdiction of the Ohio Board of Building Standards.

To: James R. Unger, Stark County Pros. Atty., Canton, Ohio
By: William J. Brown, Attorney General, October 11, 1977

I have before me your request for my opinion on certain questions raised by township school districts in Stark County. R.C. 3317.06 provides funding to school districts for auxiliary services, such as guidance counseling programs and adult basic literacy education. Your request states that township school districts in Stark County wish to purchase mobile education units under the authority granted them by R.C. 3317.06.

You have requested my opinion as to the following:

1. Whether an education mobile unit purchased pursuant to O.R.C. Section 3317.06 by a school district with the intended purpose of providing instruction within that unit is subject to the jurisdiction and control of the Board of Building Standards under O.R.C. Section 3781.06?
2. Whether an education mobile unit purchased pursuant to O.R.C. Section 3317.06 by a

school district with the intended purpose of providing instruction within that unit can be considered an industrialized unit and thereby subject to O.R.C. 3781.10?

From further information provided by you it is my understanding that the types of units which the township school boards are contemplating purchasing are not self-propelled, but of a trailer type which must be hitched to a vehicle in order to move them from place to place within the school district.

R.C. 3781.10(A), in pertinent part, requires the Ohio Board of Building Standards to:

Formulate and adopt regulations governing the erection, construction, repair, alteration, and maintenance of all buildings or classes of buildings specified in Section 3781.06 of the Revised Code, including land area incidental thereto, the construction of industrialized units, the installation of equipment, the standards or requirements for materials to be used in connection therewith, and other requirements relating to the safety and sanitation of such buildings.

The regulations promulgated by the Board of Building Standards comprise the Ohio Building Code which is part of the Ohio Administrative Code.

Because R.C. 3781.10 grants jurisdiction to the Board of Building Standards over buildings specified in R.C. 3781.06, your question requires an evaluation of the definition of "building" as set forth in R.C. 3781.06 and an analysis as to whether the mobile units which the township school boards are contemplating purchasing fall within this definition.

R.C. 3781.06(B) provides, in pertinent part, as follows:

"A building" is any structure consisting of foundations, walls, columns, girders, beams, floors, and roof, or a combination of any number of these parts, with or without other parts or appurtenances.

In interpreting any statutory enactment, it is necessary to first look to the actual words used by the General Assembly in its definition. Where the General Assembly defines terms that are used in a statute, the well-settled rule is that such definitions must control in the application of the statute. Baltimore & O.R. Co. v. Board of Revision, 152 Ohio St. 521, (1950). In light of the broad nature of the definition of "building" set forth in R.C. 3781.06, it is apparent that the scope of structures subject to the coverage of Chapter 3781 is also quite broad.

I must conclude that the mobile units you describe are buildings as defined by R.C. 3781.06, since they have floors, walls, roofs, etc. and thus are subject to the jurisdiction of the Ohio Board of Building Standards.

The Ohio Board of Building Standards, however, would

appear to have jurisdiction over such mobile units also under R.C. 3781.10(H) which provides in pertinent part as follows:

(H). . . "industrialized unit" means an assembly of materials or products comprising all or part of a total structure which, when constructed, is self-sufficient or substantially self-sufficient, and when installed constitutes the structure or part of a structure, except for preparations for its placement.

The scope of this statutory definition is addressed by the Ohio Administrative Code 4101:2-19-08 (formerly Ohio Building Code 19-08):

The inherent concept of the industrialized unit involves completion or substantial completion or fabrication of a unit or assembly of closed construction at a location remote from the site of intended use and requires transportation, provisions and preparation for its placement at a building site for its subsequent use as an occupancy regulated by OBC.

OAC 4101:2-19-08 clarifies this definition and lists the following characteristics of industrialized units:

- (1) Fabrication remote from site of intended use;
- (2) Assembly or construction which obviates normal inspection for code compliance at the site of intended use;
- (3) Requiring transportation to the site of intended use;
- (4) Requiring preparation at the building site for acceptance and incorporation to form a complete structural entity.

The mobile units in question thus seem to be within the scope of the definition set forth by R.C. 3781.10(H) and OAC 4101:2-19-08. The units are fabricated away from the site of intended use; their assembly in such a location rules out normal inspection for code compliance at the site; they do require transportation to the site of intended use, since they are not self-propelled; and they require preparation of some sort at the building site to form a complete structural entity. This preparation could arise from the necessity of a solid and/or level surface upon which the unit will rest, or possibly the laying of some sort of foundation for the unit. At least some sort of preparation is required for the unhitching of the unit from its towing vehicle.

In the case of Education Equipment Research and Manufacturing Company vs. Ohio Board of Building Standards, Franklin County, Case No. 77-CV-01-367 (March 1977), the Court of Common Pleas held that the Ohio Board of Building Standards has no jurisdiction over self-contained, self-sufficient, and self-propelled mobile units which are distributed pursuant to the authority granted by R.C. 3317.06. These mobile units were found not to be industrialized units by the Franklin County Court of Common Pleas.

The mobile units in question in the Franklin County case were different from those involved in your question, in that the former were self-propelled and self-contained needing no preparation at the site of intended use, whereas the latter require that preparation specified in R.C. 3781.10. I express no opinion as to the jurisdiction of the Board of Building Standards where mobile units are, in fact, self-propelled.

In specific answer to your questions, it is my opinion and you are so advised that:

- (1) The Ohio Board of Building Standards has jurisdiction under R.C. 3781.06 over trailer type mobile educational units which are purchased by a school district pursuant to R.C. 3317.06.
- (2) Trailer type mobile educational units are industrialized units under R.C. 3781.10 and OAC 4101:2-19-08 and are therefore subject to the jurisdiction of the Ohio Board of Building Standards.