

OPINION NO. 66-084**Syllabus:**

A county engineer has no duty to make a survey for a board of township trustees for an addition to a township cemetery unless the survey is requested by the board to establish in said addition a lost, destroyed or uncertain corner or line pursuant to Sections 315.28 and 315.29, Revised Code.

To: John F. DeMuth, Paulding County Pros. Atty., Paulding, Ohio
By: William B. Saxbe, Attorney General, May 2, 1966

Your request for my opinion presents the following question:

"Under the provisions of Revised Code 315.08 is the county engineer obligated to make a survey without cost for a board of township trustees for an addition to a township cemetery?"

In this request two questions are presented: first, does the county engineer have an official duty to make such a survey for the township trustees; second, if the county engineer has the duty to make said survey, is he entitled to compensation therefor?

In regard to the first of these questions, it is necessary to examine Section 315.08, Revised Code, which generally sets

forth the duties of the county engineer and reads in pertinent part:

"The county engineer shall perform for the county all duties authorized or declared by law to be done by a civil engineer or surveyor. He shall prepare all plans, specifications, details, estimates of cost, and submit forms of contracts for the construction, maintenance and repair of all bridges, culverts, roads, drains, ditches, roads on county fairgrounds, and other public improvements, except buildings, constructed under the authority of any board within and for the county.* * *" (Emphasis added)

Beginning with the general proposition that a county and a township are separate political entities, it must be noted that Section 315.08, supra, devolves upon the county engineer, a county officer, duties concerning county matters. Therefore, pursuant to the terms of Section 315.08, supra, the county engineer has no duty to make a survey at the behest of the township trustees.

However, I am not unmindful that other provisions of law require the county engineer to act on township matters, primarily in the area of township roads and matters ancillary thereto. See Section 5573.01, Revised Code, and Chapter 5543, Revised Code. Thus, the question becomes whether the county engineer is specifically required by statute to make surveys for the board of township trustees concerning township cemeteries. Having reviewed Chapter 517, Revised Code, wherein the powers and duties of the board of township trustees over and concerning township cemeteries are set forth, I have found no provision directly or impliedly requiring the county engineer to make the surveys and plats therein specified to be made. Therefore, I believe the county engineer has no duty to make a survey for an addition to a township cemetery.

An exception to the foregoing conclusion would exist if the board of township trustees were requesting the county engineer to establish in the township cemetery addition a lost, destroyed or uncertain corner or line pursuant to Sections 315.28 and 315.29, Revised Code. In this instance the county engineer would be entitled to receive from the board the fees prescribed in Section 315.33, Revised Code.

Since the county engineer has no duty to make said survey, except as above noted, there is no need to answer the second aspect of your question.

Therefore, it is my opinion and you are hereby advised that a county engineer has no duty to make a survey for a board of township trustees for an addition to a township cemetery unless the survey is requested by the board to establish in said addition a lost, destroyed or uncertain corner or line pursuant to Sections 315.28 and 315.29, Revised Code.