

## OPINION NO. 1042

## Syllabus:

Section 6103.20, Revised Code, applies only to acquisitions for the purpose of supplying water to an area outside the area for which the lines to be purchased were constructed.

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**To: Lynn B. Griffith, Jr., Trumbull County Pros. Atty., Warren, Ohio**  
**By: William B. Saxbe, Attorney General, May 12, 1964**

In the interests of brevity, I have paraphrased your request letter. In effect, your primary concern is whether the limitations imposed by Section 6103.20, Revised Code, are applicable to the situation where a county purchases water facilities for use in the area for which they were constructed as well as to the situation where the county purchases these facilities for use in an area outside of that for which they were originally constructed.

The powers of the board of county commissioners are set forth in Section 6103.02, Revised Code, which provides in part, that:

"For the purpose of preserving and promoting the public health and welfare, and providing fire protection, any board of county commissioners may by resolution acquire, construct, maintain and operate any public water supply or water works system within its county for any sewer district,\* \* \*" (Emphasis added)

Because of Opinion No. 2341, Opinions of the Attorney General for 1958, page 422, the above underlined word, "acquire," has been construed to include "purchase." Thus the board of county commissioners in accordance with Section 6103.02, supra, has the power to purchase a public water supply or water works system.

In response to the specific question of whether the limitations on the price to be paid for water lines as contained in Section 6103.20, Revised Code, would be applicable to an acquisition for the purpose of serving the area now being served by the privately owned facilities, without any plan to expand those facilities, it is necessary to look at the pertinent part of Section 6103.20, supra, which provides that:

"Whenever a water supply line has been constructed by a corporation, individual, or public institution at its own expense for the purpose of supplying water to any allotment, development, sub-

division or similar enterprise, or to any institution, and it is deemed expedient by the board to acquire said water supply line or any part thereof for the purpose of supplying water to territory outside the allotment, subdivision, development, or other such enterprise for which such line was constructed, and such additional territory is within a district, the county sanitary engineer shall examine it and if he finds the same properly designed and constructed, he shall make an appraisal of its present value to the district as a means of supplying water to territory outside the allotment, subdivision, development, or similar enterprise for which it was originally constructed and shall certify such value to the board. In such appraisal no allowance shall be made for the value of such water supply line to the territory for the service of which it was originally constructed."

(Emphasis added)

The underscored portion of the quoted portion of the statute makes it clear that its application is limited to acquisitions of facilities for the purpose of extending service beyond the area already served. In this connection, an earlier opinion, Opinion No. 3781, Opinions of the Attorney General for 1954, held, at page 223:

"Here, it will be observed, is express authority for the purchase of a water supply line which has been constructed by private parties or any public institution, when it is 'deemed expedient by the board to acquire said water line or any part thereof for the purpose of supplying water to territory outside the allotment, subdivision, development, or other such enterprise for which such line was constructed.'"

It is clear from the foregoing that Section 6103.20, Revised Code, is not applicable to a situation in which the board of county commissioners deems it necessary to purchase water supply facilities constructed by a private company for the purpose of serving a particular area when, in fact, the board plans to use these facilities to serve only the same area now being served thereby and no other area.

Therefore, in response to your specific question, it is my opinion and you are advised that Section 6103.20, Revised Code, applies only to acquisitions for the purpose of supplying water to an area outside the area for which the lines to be purchased were constructed.