

**OPINION 65-203****Syllabus:**

The word "dwellings" as used in Section 307.37, Revised Code, as amended effective September 11, 1961, does not include detached garages, and the deletion of the words "including public or private garages" from such section by amendment excludes detached garages. Therefore, by Section 307.37, Revised Code, as amended, a board of county commissioners has no authority under the statutes to adopt, administer and enforce regulations pertaining to the erection, construction, repair, alteration and maintenance of detached garages appurtenant to residential buildings.

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To: Robert A. Jones, Clermont County Pros. Atty., Batavia, Ohio  
 By: William B. Saxbe, Attorney General, November 23, 1965

I am in receipt of your request for my opinion which reads as follows:

\* \* \* \* \*

"Section 307.37 of the Revised Code, effective October 1, 1953, reads as follows:

"The board of county commissioners, in addition to its other powers, may adopt, administer, and enforce regulations pertaining to the erection, construction, repair, alteration, and maintenance of residential buildings, offices, mercantile buildings or shops or factories, including public or private garages, within the unincorporated portions of any county. \* \* \*"

"This section of the Revised Code was amended, effective November 11, 1961. Section 307.37 reads as follows:

"The board of county commissioners, in addition to its other powers, may adopt, administer and enforce regulations pertaining to the erection, construction, repair, alteration and maintenance of single family, two family, and three family dwellings, within the unincorporated territory of the county. \* \* \*"

"Our specific request for an opinion is whether or not, by the present reading of Section 307.37 of the Revised Code, effective November 11, 1961, wherein the words 'residential buildings' were deleted and the present statute substituted therefor 'single family, two family, and three family dwellings', and by deleting 'including public or private garages' from the Section 307.37 as amended, would leave the county without authority under the statutes to adopt and enforce regulations pertaining to the construction, repair, alterations and maintenance of detached garages appurtenant to residential buildings."

Your letter of request calls for interpretation of Section 307.37, Revised Code, as amended, effective September 11, 1961. The second paragraph of such Section 307.37, supra, both before and after such amendment, is identical in language. It is as follows:

"No person shall violate any such regulation of the board under sections 307.37 to 307.40, inclusive, of the Revised Code."

Section 307.40, Revised Code, as effective October 1, 1953, provided as follows:

"No person shall erect, construct, alter,

repair, or maintain any residential building, office, mercantile building, workshop, or factory, including a public or private garage, within the unincorporated portion of any county, wherein the board of county commissioners has enacted building regulations as provided in section 307.37 of the Revised Code, unless such building regulations are fully complied with.  
\* \* \*

As amended, effective also on September 11, 1961, such Section 307.40, Revised Code, provides as follows:

"No person shall erect, construct, alter, repair, or maintain any single-family, two-family, or three-family dwellings, within the unincorporated portion of any county, wherein the board of county commissioners has enacted building regulations as provided in section 307.37 of the Revised Code, unless such building regulations are fully complied with.\* \* \*"

Thus, the language in the amendment to Section 307.40, supra, conforms entirely with the language in the amendment to Section 307.37, supra, and both were effective on the same date, September 11, 1961.

Obviously, his use of the word "dwellings" meant "residential buildings" as then used in such Section 307.37, Revised Code.

The following is quoted from the case State v. Mason, 74 Ohio St., 65, at page 78:

"\* \* \* A dwelling-house is a building which by the mode of its construction or reconstruction is suitable for a habitation. \* \* \*"

Thus, the meaning of the word "dwellings" as used in Section 307.37, Revised Code, as amended, and the deletion of the words "including public or private garages" from such section by such amendment clearly excludes garages, detached from the dwellings, from the authority granted to a board of county commissioners by the present Section 307.37, Revised Code.

Accordingly, in response to your request my opinion is as follows:

The word "dwellings" as used in Section 307.37, Revised Code, as amended effective September 11, 1961, does not include detached garages, and the deletion of the words "including public or private garages" from such Section by amendment excludes detached garages. Therefore, by Section 307.37, Revised Code, as amended, a board of county commissioners has no authority under the statutes to adopt, administer and enforce regulations pertaining to the erection, construction, repair, alteration and maintenance of detached garages appurtenant to residential buildings.