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OPINION NO. 02-0023

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50 - HIGHWAYS-Roads

La. R.S. 48:701

The decision of a local governing authority to revoke the dedication of roads and streets which are abandoned or no longer needed for public purposes is a discretionary act.

Honorable Dyann S. Plunkett
Mayor, Village of Dubberly
P.O. Box 69
Dubberly, Louisiana 71024-0069

Dear Mayor Plunkett:

You have requested an opinion of this office as to the legality of your Ordinance #2001-1126. This ordinance concerns the abandonment of what is known as Airport Road by the Board of Aldermen of the Village of Dubberly.

In accordance with our telephone conversation of January 23, 2002, this will confirm our decision to decline rendering such an opinion on this matter for two reasons.

The decision of a municipal governing authority to revoke the dedication of roads and streets which are abandoned or no longer needed for public purposes is a discretionary act. La. R.S. 48:701.

It is the policy of this office not to issue opinions as to the exercise of discretion. This policy is in accord with the decisions of Louisiana courts, which basically hold that local governing authorities may not be prevented from exercising its discretion to abandon roads or streets, unless they do so arbitrarily or capriciously.

Furthermore, it is the policy of this office not to furnish opinions where the prospect of litigation appears imminent. Your opinion request reflects that one of the owners of property contiguous to Airport Road is challenging the legality of the Board of Aldermen's action in abandoning Airport Road, and has retained the services of an attorney. Under these circumstances, the prospect of litigation certainly does appear imminent.

Honorable Dyann S. Plunkett
Mayor, Village of Dubberly
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If we can be of any further service to you in the future, please do not hesitate to contact our office.

Very truly yours,

RICHARD P. IEYOUB
ATTORNEY GENERAL

BY:


ROBERT H. CARPENTER, JR.
Assistant Attorney General

RPI/RHC/tp

