



JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

State of Louisiana
DEPARTMENT OF JUSTICE
P.O. BOX 94005
BATON ROUGE
70804-9005

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OPINION 14-0054

90 POLICE JURIES – Powers & Functions
50 HIGHWAYS – Roads

La. R.S. 33:3689.1, *et seq.*

Mr. Douglas L. Stokes
Assistant District Attorney
Parish of Jackson
P.O. Drawer 459
Jonesboro, LA 71251

When two streets in a single neighborhood are considered for acceptance into the Parish Road System, each street should be treated as a separate project and each street's total owners must be considered separately for the purposes of determining whether the street will be accepted into the Parish Road System. Should an objection be filed to the proposed improvement by the property owners owning more than one-half of the total front feet of the property abutting the single street at issue, the police jury shall not order the construction of improvements on that particular street.

Dear Mr. Stokes:

You have requested an opinion from this office related to the improvements to and assessments of perpendicular streets within a single neighborhood and whether those streets must be evaluated individually or considered together in terms of the property owners' votes. As you mentioned in your request, these streets have been previously dedicated to the public by plat, but fall short of meeting parish standards for acceptance into the Jackson Parish Road System. Specifically, you are concerned that one street, which is a cul de sac (unnamed at this time) and is only accessible by Paradise Drive to the south, may not be able to be incorporated into the parish road system if an objection is lodged by property owners owning in excess of one-half of the total property on the perpendicular Paradise Drive. Thus, your question is whether La. R.S. 33:3689.3 requires a majority vote of the property owners on each street or a majority vote of the two streets' owners collectively.

As an initial matter, it is important to note that this question is governed by La. R.S. 33:3689.1, *et seq.*, which sets forth the process by which a parish or municipality may improve previously dedicated streets.¹ Consistent with La. R.S. 33:3689.2, a police jury wishing to make improvements to streets or sidewalks must adopt a resolution which gives the public notice of the proposed improvements and the manner of payment. This notice must set forth a day and time that the public may object to the proposed improvements and the notice must be published for three consecutive weeks. With specific reference to objections to proposed improvements, La. R.S. 33:3689.3 states (emphasis added):

¹ According to the opinion request submitted to this office, both roads at issue were dedicated to the public by virtue of a subdivision plat filed in Jackson Parish.

The police jury of any parish shall not order the construction of said improvements in the event there is filed at the public hearing written objection to the proposed improvement **signed by the property owners owning more than one-half of the total front feet of property abutting on the street, road, sidewalk or alleys, or portion thereof, to be improved** and which will be assessed to pay the cost of such improvements; the majority shall be determined after considering the front footage of all properties abutting the portion of the street, road, sidewalk or alley, ordered improved and the owners of such portion shall be determined by the conveyance records of the parish.

This provision prohibits a police jury from ordering improvements if an objection is filed, signed by property owners that own more than one-half of the property abutting the street to be improved and who will be assessed the costs of such improvements.² However, when determining if the lodged objection meets the "more than one-half" threshold, La. R.S. 33:3689.3 does not clearly direct the police jury. The true ambiguity lies in the fact that a notice of intention under La. R.S. 33:3689.2 may encompass multiple, non-contiguous streets. Therefore, the ultimate question is whether, under La. R.S. 33:3689.3, the "more than one-half" requirement references "more than one-half of the total front feet of property owners" on each street individually, or whether it references "more than one-half" of the property owners' total front footage within the entire project contemplated by the notice of intention under La. R.S. 33:3689.2.

The interpretation of statutes requires that a statute be applied as written without further interpretation when the law is clear and unambiguous.³ This statute uses the singular form when referring to "the street, road, or sidewalk abutting the property to be improved." However, it is clear that a single street may have multiple sidewalks, one on either side of the road. The statute also contemplates that multiple alleys might exist on a single road or street, but does not differentiate between connecting streets within a single subdivision. Further, the language of La. R.S. 33:3689.2 clearly envisions that the notice of intention to adopt a resolution may name "the street or streets, road or roads, sidewalk or sidewalks, alley or alleys" for proposed improvements. On the other hand, while La. R.S. 33:3689.2 could include multiple streets, roads, sidewalks, or alleys, the use of these in the singular in La. R.S. 33:3689.3 suggests that this provision applies to an individual street, road or sidewalk. Unfortunately, there has been no legal commentary on these statutes since they were enacted in 1952.

² We note that La. R.S. 33:3689.3 is relevant when improvements are proposed to be funded by assessments rather than funded by general operating dollars.

³ La. C.C. Art. 9.

Because of the inherent ambiguity in these statutes, this law could be interpreted in more than one manner, thus invoking the statutory construction principle that the law "must be interpreted as having the meaning that best conforms to the purpose of the law."⁴ In search of the purpose of the law, we are unable to locate any guidance as to legislative intent. However, this office previously rendered two opinions in the late 1940s addressing the method of levying special assessments for street improvements for property situated over multiple streets, stating:

It is indispensable and necessary that each street be considered separately, both in determining whether or not a majority in number and value of abutting real estate owners has signed the petition for the paving of the given street, and in arriving at the total cost of paving that street and in apportioning the cost by making assessments under the lineal front footage rule. This holds true, whether one or two streets are to be paved in each of several different parts of the parish, or whether the program contemplates the paving of all the streets in an entire subdivision.⁵

The same unit rule applies in such determination that exists in ascertaining the total cost and apportioning it in levying the special assessments. That is to say, each street to be improved is a separate project...In the case of the corner lot, the total assessed value of that lot should be considered separately and independently, upon receiving a petition for the improvement of each of the two streets, and should be counted entirely twice, or for each contemplated project.⁶

For reference, La. R.S. 33:3689.3 was enacted in 1952 by Act 430.⁷ The Attorney General opinions referenced herein are from the late 1940s, and therefore, obviously do not speak to this particular statute. However, we find the previous opinions persuasive in the meaning and purpose of the law. Based on these opinions and a logical interpretation of the law, we here opine that each street must be considered separately and each owner's front footage must be considered street-by-street. However, this conclusion does not affect the scope or the authority of the governing body when determining whether to accept the project, in whole or in part, as granted by La. R.S. 33:3689.2. The remainder of the project described in the notice of intention, published pursuant to La. R.S. 33:3689.2, would be voted upon by the police jury, simply removing any portion of the project that has been properly objected to consistent with La. R.S. 33:3689.3.

⁴ La. C.C. Art. 10.

⁵ La. Atty. Gen. Op. 1946-48, p.687 (1947).

⁶ La. Atty. Gen. Op. 1946-48, p.684 (1947).

⁷ S.B.95, Reg. Sess. (1952).

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Admittedly, our interpretation leads to the odd scenario that the cul de sac in your request, only accessible by a street that is privately maintained (Paradise Drive), will be constructed and maintained by the parish. However, it is our opinion that this is the proper result under the law. As to Paradise Drive, should the parish desire to also improve this road, it may still adopt a resolution, give notice, and await any possible objection in accordance with the procedural requirements of La. R.S. 33:3689.1, *et seq.* Should such objection be supported by the property owners owning more than one-half of the front footage on Paradise Drive, then that road cannot be improved at this time.

We hope this sufficiently answers your inquiry; however, if we may be of further assistance please do not hesitate to contact our office.

Sincerely yours,

JAMES D. "BUDDY" CALDWELL
ATTORNEY GENERAL

By: Candice L. Rodgers
CANDICE L. RODGERS
Assistant Attorney General

JDC/CLR/jt