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House of Representatives
Committee on Transportation

OPINION COMMITTEE

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RQ-0577-JC

July 12, 2002

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OFFICE OF THE ATTORNEY GENERAL
EXECUTIVE ADMINISTRATION

The Honorable John Cornyn
Attorney General, State of Texas
PO Box 12548
Austin, TX 78711-2548

FILE # ML-42708-02

I.D. # 42708

2898

Re: Request for Attorney General's Opinion regarding Transportation Code §253.001 and §253.003

Dear General Cornyn:

A group of citizens in Grayson County have been working on a project to improve part of a road, Ridgeview Drive, that runs through their subdivision. Ridgeview Drive provides the only access to the subdivision from a State highway. Approximately one mile of Ridgeview Drive is paved. The remaining tenth of a mile at the end of the road is unpaved.

The road is a county road up to where the pavement ends. The unpaved portion is not up to county standards, so the County has not agreed to ownership and maintenance of that section. The residents who own property along the unpaved section of Ridgeview Drive would like assistance from the County in paving the road.

Chapter 253, Transportation Code would allow the County to make improvements to the road and assess the costs to the property owners in the subdivision if property owners in the subdivision vote to pay for improvements to the road. §253.001 clearly states that the chapter applies to part of a subdivision.

Since only the last one-tenth of a mile of the road is unpaved, the residents in the subdivision adjacent to the paved portion would have no reason to vote for the project. The residents adjacent to the unpaved portion believe they should be allowed to vote whether they alone should bear the cost.

The County Attorney is concerned that since §253.003 does not repeat the language "part of a subdivision," found in §253.001, the County can act only on a vote of the entire subdivision. The requesting residents point out that this ignores the clear language of §253.001. Additionally, to limit the application of §253.003 to cases where all of the subdivision's residents voted would, for all practical purposes, make it applicable only when all, or a majority of, the roads in a subdivision are



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unpaved. Where only one road or a portion of a road needed paving, why should non-adjacent residents who don't need the road for access ever vote for paving? On the other hand, since §253.001 states that the chapter applies to part of a subdivision, why can't the residents of the effected part hold an election as to themselves and their property?

Accordingly, I respectfully request an Attorney General's Opinion to clarify this situation.

Does Chapter 253, Transportation Code allow a county to make improvements to the unpaved part of a road running through a subdivision based on a vote of the residents served by that portion of the road and having the costs of the improvements assessed to only those property owners in the portion of the subdivision served by the road?

Sincerely,



Clyde Alexander, Chairman
House Transportation Committee

CA/cll