



OFFICE OF THE ATTORNEY GENERAL OF TEXAS  
AUSTIN

GERALD C. MANN  
ATTORNEY GENERAL

Honorable Joe Fultz  
County Attorney  
Grimes County  
Anderson, Texas

Dear Sir:

Opinion No. 0-4808

Re: Whose duty is it to construct an access bridge between a public road and the abutting owners.

We acknowledge receipt of your letter of August 27, 1942, wherein you request an opinion of this department upon the following facts and questions:

"A highway drainage ditch, 5 feet in depth, runs parallel with the road way and is situated on the right-of-way of State Highway No. 6, within the corporate limits of the city of Navasota, Texas. The ditch is maintained exclusively by the State Highway Department, as the same drains the pavement and right-of-way. A landowner owns land adjoining the said right-of-way with the drainage ditch thereon, and he cannot reach his land because there is no bridge over the ditch. Being entirely on the State right-of-way, Grimes County has disclaimed responsibility for constructing a bridge over the ditch. The city of Navasota and the State Highway Department have likewise disclaimed responsibility for the construction, and of course the landowner has objected to building a bridge. Grimes County is under no contractual obligation with any agency.

"Whose responsibility is it to construct a bridge over a drainage ditch located entirely upon the right-of-way of the State Highway, where the ditch obstructs the passageway to an adjoining owner? Assume that the fee simple title to the

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right-of-way is in the property owner, would the answer be the same.

"County lateral roads are all lined with drainage ditches on both sides. The roads are constructed and maintained by Grimes County, the ditches being periodically graded and cleaned, The right-of-ways are all owned by Grimes County. In order to get across the drainage ditches to the land adjoining the right-of-way, culverts and ditches must be built. The bridges being wholly on the right-of-way, the bridges likewise would be located wholly on the right-of-way. No agreement exists between the landowners who abut the rights-of-way in Grimes County. Grimes County refuses to construct the bridges. Fee simple title to the right-of-way is in Grimes County.

"Whose responsibility is it to construct bridges over drainage ditches, which lie wholly on the rights-of-way in Grimes County, where such bridges are necessary to reach property abutting the right-of-way?

"A highway drainage ditch, 5 feet in depth, runs parallel with the roadway and is situated on the right-of-way of State Highway No. 90, outside the limits of any incorporated city. The right-of-way and ditch is graded and maintained exclusively by the State Highway Department. The fee simple title of the right-of-way is in the State of Texas. The landowner has a lot of land, containing one-half acre, adjoining the right-of-way, and he cannot reach his land because there is no bridge over the ditch.

"The ditch being wholly on the right-of-way of the State, Grimes County has disclaimed responsibility for construction of the bridge. The State Highway Department has also disclaimed responsibility. There is no contractual obligation between any of the interested parties.

"Whose responsibility is it to construct a bridge over a drainage ditch located wholly on the right-of-way of a State Highway?"

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Access to and from a city street, a county road or State Highway is a right appurtenant to the abutting owner, whether the fee to said street or road or highway is in the city, county or state or privately owned.

Where the State, County or City has cut a ditch along any property the adjoining land owner has the privilege of and right to construct and maintain all necessary bridges or culverts across same to enable him to have ingress and egress to his land.

Of course, under some specific fact situations, where it could be discerned that either the State, the county, or the city have destroyed or impaired such right of access, the abutting owner might have an action in damages against the State, county or city, as the case may be.

Trusting that the foregoing fully answers your inquiry, we are

Yours very truly

ATTORNEY GENERAL OF TEXAS

By

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