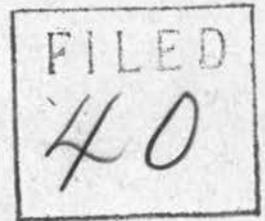


ROADS:
MAINTENANCE:

There is no duty imposed upon land owners abutting on a county road to remove growth and underbrush on the right-of-way.

January 23, 1949



Mr. Roger Hibbard
Prosecuting Attorney
Marion County
Hannibal, Missouri

Dear Mr. Hibbard:

This office is in receipt of your recent inquiry as to whether there is any duty on owners of land abutting on a county road to remove and clear growth and underbrush on the road itself, that is, upon the right-of-way. We note that Marion county operates under a county highway commission system.

Section 8504, Laws of Missouri, 1945, states: "It shall be the duty of the county highway commission and said commission shall have the power to locate, lay out, designate, construct and maintain, subject to approval of the state highway commission, a system of county highways * * *."

Section 8508, R. S. Mo. 1939, states:

"The county highway commission shall have absolute jurisdiction and control over all highways constituting a part of the county highway system, and shall hold title in fee to the right-of-way thereof, and no other officer, board or commission, except as in this article specifically provided, shall have or exercise any authority or jurisdiction over any of such highways. The roads constituting the county highway system shall be known and designated as 'county highways.'"

Section 8579, R. S. Mo. 1939, states:

"The county highway engineer and overseers shall protect all fruit, shade and ornamental trees along the sides of the public roads, and shall forthwith remove all signs and advertisements whatsoever that may have been nailed or fastened to any of said trees. And it shall be the duty of the county highway engineer to

Mr. Roger Hibbard

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see that this provision is enforced."

From the above we conclude that responsibility for maintenance of the right-of-way of county roads in counties operating under a county highway commission rests solely upon the aforesaid commission.

The only duty imposed upon the owners of land abutting upon county roads is set forth in Section 8578, R. S. Mo. 1939, which duty is that every person owning a hedge fence situated along or near the right-of-way of any public road shall between the first days of May and August of each year cut the same down to a height of not more than five feet.

CONCLUSION

It is the opinion of this office that there is no duty imposed upon the owners of land abutting upon a county road to remove and clear growth and underbrush on the right-of-way of the road.

Respectfully submitted,

HUGH P. WILLIAMSON
Assistant Attorney General

APPROVED:

J. E. TAYLOR
Attorney General

HPW:mw