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ARIZONA ATTORNEY GENERAL

September 2, 1959

59-120-L
Wade Church
V. Maggiore
Les Hardy
John Vanlandingham

Honorable James P. Boyle, Jr.
Yavapai County Attorney
Prescott, Arizona

Dear Sir:

You have requested the opinion of the Attorney General with respect to the qualifications of persons to sign a petition requesting that a sanitary district be established by the Board of Supervisors. The qualifications of such petitioners is prescribed by A.R.S. § 36-1302, which provides as follows:

"A. A petition requesting that a sanitary District be established by a Board of Supervisors may be filed with the Clerk of the Board if signed by a majority of the persons owning real property or by the owners of fifty-one per cent or more of the real property within the proposed district * * * (Emphasis supplied)

The quoted provision has not been construed by the Supreme Court of Arizona. A careful examination of the statutes relating to the organization of sanitary districts does not clarify the situation.

The statute provides two qualifications for the petitioners signing such a petition. (1) "By a majority of the persons owning real property * * * within the proposed district." This clarification is clear and ascertainable without difficulty. (2) "By the owners of fifty-one per cent or more of the real property within the proposed district."

With respect to sub-heading (2) the statute does not fix a standard based upon property valuation such as assessed valuation for taxable purposes; and does not

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fix a standard for determining valuation otherwise.

Therefore, it is the opinion of the Attorney General that when a petition is signed "by the owner of fifty-one per cent or more of the real property within the proposed district" the Legislature meant that the qualification of the petitioners is based upon areas of lands within the proposed sanitary district rather than the value of such lands.

Very truly yours,

WADE CHURCH
The Attorney General

LESLIE C. HARDY
Chief Assistant
Attorney General

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