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Trees/Associated Wood Products Within a County Right-of-Way: Arkansas Attorney General Opinion Addresses Ownership Issue

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The Arkansas Attorney General (“AG”) addressed in a December 2nd Opinion an issue regarding a Baxter County right-of-way.

The question involved ownership of trees and related wood products within the Baxter County right-of-way.

The December 2nd Opinion states that the Baxter County Road and Bridge Department (“Department”) removed and cut trees in a county road right-of-way that passed through the Honorable John Payton’s (State Representative) constituent’s farm. The constituent is stated to have requested that all usable firewood and wood chippings be provided to him. Such firewood and wood chippings (from his property) are stated to have instead been provided to his neighbor.

The Department is stated to have indicated that they:

... could do whatever they wanted to with the right of way and resulting firewood and wood chippings.

As a result, State Representative John Payton asked:

1. Who owns the trees and related wood products located within a county road right of way?
2. Does a county, by and through its employees or agents, have the authority to do whatever they want with the trees, timber, and related wood products that are cut and removed from a county road right of way?

As to the first question, the Attorney General states:

... the trees and other vegetation located within the county road right-of-way ordinarily belong to the owner of the land that is occupied for the right-of-way.

The Attorney General responds to the second question, stating, “yes,”:

... with the understanding that the trees were removed because they interfered with the use of the county road right-of-way.

The Attorney General also states in part:

. . . in the case of county roads in Arkansas, the County Judge is specifically responsible for “the maintenance and construction of public roadways . . . ” The County Judge's authority in this regard involves an exercise of discretion. I believe this discretion would generally extend to deciding that the removal of trees is necessary to preserve the right-of-way.

As for the trees' disposal, I believe the county judge's discretion also generally extends to the matter of deciding what to do with the trees and related products that must be cut and removed.

A copy of the Opinion can be downloaded [here](#).