

Opinion No. 56-6390

February 16, 1956

BY: RICHARD H. ROBINSON, Attorney General

TO: Mr. E. P. Corcoran, Chief Inspector, Plumbing Administrative Board, 307 Lead Avenue, S. W., Albuquerque, New Mexico

We have your request of December 9, 1955, in which you ask the following questions:

1. Under the provisions of Section 67-22-2(c), N.M.S.A., 1953 Compilation, Pocket Supplement, can an owner occupier of a single dwelling do his own installing, altering or repairing of the plumbing or plumbing fixtures in said single dwelling where the same is located within a municipality, without first being a licensed plumber?

Section 67-22-2(c), reads in part, as follows:

"The provisions of this act shall not prohibit an individual from installing, altering or repairing plumbing or plumbing fixtures in a single family dwelling owned and occupied by him, or require a license from an individual doing such work on such premises except in municipalities; . . ."

It is the opinion of this office that the Legislature intended that the owner occupier could repair his own plumbing without a license or have an individual do it for him so long as such dwelling was not within a municipality. It is our opinion that the Legislature intended that plumbing work as defined by the Plumbing Law, in municipalities, could only be done by a licensed individual under the terms and provisions of the Act.

2. Does the provision of Section 67-22-4, N.M.S.A., 1953 Compilation, Pocket Supplement, prohibit a municipality from fixing by ordinance plumbing standards to be followed within such municipality?

Section 67-22-4, reads in part, as follows:

". . . The board shall issue orders prescribing the minimum standards for the installation, alteration and repair of plumbing, fixtures, and consumers' gas piping and for the installation of gas appliances for the purpose of protecting the lives, health, welfare and property of users of plumbing, fixtures, consumers' gas piping and appliances and of all members of the general public in the safe use thereof in this state. . . ."

It seems clear that the Legislature intended that the Board was to issue only minimum standards for plumbing. We are of the opinion that the municipality could pass ordinance fixing plumbing standards within the municipality so long as those standards do not conflict in any way with the **minimum** standards fixed by the Plumbing Board. See Section 21.34 McQuillin, Municipal Corporations, Vol. 6.

We can see no reason why a municipal corporation could not validly require higher standards than those required by the Board, inasmuch as we note that the Legislature contemplated the Board fixing only the minimum standards, therefore it evidently did not intend to preclude the municipality from fixing higher standards.

By: Paul L. Billhymer

Assistant Attorney General