

Opinion No. 56-6470

June 15, 1956

BY: RICHARD H. ROBINSON, Attorney General

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

We have your letter of June 7th in which you request an opinion from this office upon the following question:

Does the law require that a licensed plumber install the complete sewer system, including the making of the connection to the main sewer line for a house or building within a municipality?

Section 67-22-1 (F) N.M.S.A., 1953 Compilation, Pocket Supplement, reads as follows:

"The word 'plumbing' shall mean the installing, altering and repairing of all plumbing fixtures, fixture traps, and soil, waste, supply and vent pipes with their devices, appurtenances and connections, through which water, waste, sewage, oil and air are carried within or adjacent to the building or other structures in or **upon premises of the consumers.**" (Emphasis supplied)

From this it can be seen that plumbing as used in this Act refers to work done in and upon the premises of the consumer. In other words, this Act concerns itself only with the work actually upon the premises of the person having the plumbing done. The State Plumbing Board would have no concern with any plumbing or plumbing type work which was to be done or was necessary off the premises of the consumer.

We are therefore of the opinion that the actual connection of the sewer system to the main sewer line, would not be the concern of the State Plumbing Board. Under the provisions of Section 14-40-9, N.M.S.A., 1953 Compilation, sewer construction is left to the discretion of the municipality, and by this section the various municipalities are authorized to construct sewers and maintain sewage disposal facilities. When such municipalities take steps to construct the sewer system, it becomes apparent that such sewer system belongs to and is owned by the municipality. As pointed out in Volume 11, McQuillin on Municipal Corporations, 3rd Ed., Section 31,-30, the authority to construct a sewer necessarily carries with it the power to make reasonable regulations for tapping and connecting with such sewer.

We conclude that the actual tapping of the main sewer system is subject to the control of the municipality and it is the obligation of the municipality to determine who shall connect to such sewer line. It is quite possible for the municipality to require that a licensed plumber make this connection. However the State Plumbing Board has no

concern with the actual connecting of such sewer. Its only concern is the plumbing on the consumer's property.

You ask the further question:

Should such sewer connection be inspected by a municipal or State Plumbing Inspector?

As heretofore pointed out, this being a question for the municipality, it would be for the municipality to determine what type of inspection should be made.

You next state that frequently in the installation of new water and gas mains the Contractor finds it necessary to cut sewer connections. You ask the question whether the re-connection of such sewers should be made by a licensed plumber and whether the same should be inspected by a plumbing inspector.

We assume that the cutting of these house sewer lines are made in the street or alley, inasmuch as the installation of gas and water mains are usually in such locations. Since this part of the sewer system, namely the main sewer line and any connections up to the property line, is the property of the municipality, we are of the opinion that the method of repair of such connections and the person authorized to do the same would be under the control of the municipality. It would be up to the municipality to see that such connections were properly made. The municipality would also have the authority to determine who was to do the work and who was to inspect such work. It would not be the concern of the State Plumbing Board. McQuillin on Municipal Corporations, Volume 11, 3rd Ed., Section 31.29.

Trusting we have answered your questions, we remain

By: Paul L. Billhymer

Assistant Attorney General