

Opinion No. 31-202

July 8, 1931

BY: E. K. Neumann, Attorney General

TO: Mr. J. H. Jackson, City Attorney, Artesia, New Mexico.

{*83} In your letter of July seventh 1931 you ask whether or not a municipality by ordinance might legally assess a frontage tax against lots and blocks in a sewer district for sewer maintenance.

I doubt that a "frontage tax" for such purpose in that particular language, could be legally imposed, for the statutes use the words "special assessments" and refer to "lots and land" without reference to frontage.

Sub-Section 77 of Sec. 90-402, 1929 Code is as follows:

"Sewer -- Assessments for maintenance. Seventy-seventh. That municipal corporations having sewers shall have the right by general ordinance to levy special assessments upon improved and unimproved lots and land adjoining streets and alleys through which sewer pipes are laid, and upon premises and improvements otherwise situated but having sewer connection, such as may be just and reasonable, for the purpose of defraying the expense of maintaining, operating and keeping in repair said sewers: Provided, said levy of special assessment on unimproved lots or lands shall not exceed fifty per cent. of the rate of assessment levied upon improved lots or land."

From the above, it is my opinion that a municipality may, by ordinance, levy a special assessment upon lots and land within a sewer district for maintenance, operation and repair of sewers within such district, limited as provided for in said statute.

Apparently, also, the law contemplates a just and reasonable assessment, equally distributed between areas, whatever the base unit may be.

With best wishes, I am