

**Opinion No. 39-3155**

May 29, 1939

**BY:** FILO M. SEDILLO, Attorney General

**TO:** Mr. C. R. Sebastian, State Comptroller, Santa Fe, New Mexico.

{\*56} In your letter of May 26 you make certain inquiries involving extension of sewer systems in municipalities, etc., all based on a letter received by you from Mr. Loren Allen, City Clerk of Portales.

One of your inquiries is whether a municipality may extend its present sewer line to a new point or points within the municipality.

Undoubtedly a municipality may do so. We refer you to Sections 90-2301, et seq., of the New Mexico Statutes Annotated, 1929 Compilation, for the procedure. Sections 90-2309 to 90-2311, inclusive, expressly set out the procedure for extension of sewer systems and the manner of financing the same. In such cases the municipality involved will have to be advised by the counsel and advice of its attorney.

It also appears from your inquiry that the municipality has funds on hand and is desirous of knowing whether such funds may be used for the reconstruction for a portion of the present sewer system, and also whether such funds may be used for the construction of the proposed extension of the sewer line.

I am satisfied that the funds on hand may be used for the maintenance, repair and reconstruction of the present sewer line, but I would not advise the use of such funds for constructing the extension for the simple reason that these funds were not collected for that purpose at all. In other words, the abutting land owners of the present sewer line have paid this money for the maintenance of the line from which they derive benefit and funds so paid by them should not be applied on an extension of a sewer line which will benefit others, but perhaps will not benefit them.

FRED J. FEDERICI,

Asst. Atty. Gen.