

File No. 6563 Continued.

OPINION.

the Engineer may direct, or to such other place or places as he may permit, and leave all roads, sidewalks and other places free, clear and in good order".

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A substantially similar provision occurs on page 26, toward the end of Section 2. Under these clauses the City has the right to direct where the material shall be taken, but is under no obligation to do so, and as was done in this case, may waive this right and notify the contractor that he is at liberty to cart away the material to such place as he may lawfully select. In my opinion also, the action of the Chief Engineer as set out in his letter to Mr. David Peoples, under date of July 17th, is clearly justified by Section 14, on page 30 of the specifications therein referred to. The language of that section is too clear to admit of but one interpretation.

Very truly yours,

(Signed) Edgar Allan Poe,

Deputy City Solicitor.

File No. 6563.

LAW DEPARTMENT.

Baltimore, July 19th, 1907.

Calvin W. Hendrick, Esq.,
Chief Engineer of the Sewerage Commission,
City.

Dear Sir:

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I reply to your letter of the 17th inst., relative to clause 41 (p. 17) of Storm-Water Drain Contract No. 2, on which the contractor bases the contention which you bring to my attention. In my opinion, this contention is not maintainable. Under Section 51 (p. 44) and Section 2, (p. 26) of the specifications, the City, in my judgment, has the right to direct where the material shall be taken, but is under no obligation to do so, and, as was done in this case, may waive the right, and notify the contractor that he is at liberty to cart away the material to such place as he may lawfully select. I also approve your action, as set out in your letter to the contractor of the 17th inst., it, in my judgment, being clearly justified by Section 14 (p. 30)