

File No. 10117 Continued.

OPINION.

in conformity with Code, Article 35, Section 85, etc.

7784

The entire street is now paved, but the paving on the south half thereof was not properly laid, and the nuisance which exists is due to this fact. The paving on the north half is all right, and does not need to be relaid. For this reason, the abatement of the nuisance only requires the repaving of the street upon the south side thereof, and the question is whether the property which binds on the north side of the street, and opposite which the street is not to be repaved, should be assessed its proportionate cost of the work.

Section 85 of the Ordinance provides that the amount expended in paving or repaving a street "shall be recovered from the owner or owners of the property fronting thereon in proportion to the amount expended in front of said property".

Section 86 provides for notice, and a hearing, to determine the amount to be assessed upon "all property binding on any street", etc.

7785

I think that this Ordinance contemplates that the property on both sides of the street shall be assessed only when the entire street is repaved. I think that property does not bind or front upon the street within the contemplation of the ordinance, unless the portion of the street immediately adjacent to the property is to be paved. If only the southern half, or south half of the street in question is to be repaved, then it can hardly be said that any proportion of the cost is to be expended in front of the property on the north half, because the paving in front of that property is not to be touched at all.

7786

It does not seem to me fair that when one-half of the street is in good condition that the property holders binding upon it should be required to contribute to the cost of repaving the other half, and thus to diminish the obligations of the property holders who front and bind upon the only side of the street which is in a state of nuisance.

I, therefore, think that the property on the north side of Belt street, which appears on the plat as standing in the name of Benjamin Hamilton, and as embracing lots A to O, should not be assessed for any proportion of the cost of repaving the south half of Belt street.

Very truly yours,

(Signed) Albert C. Ritchie,

Assistant City Solicitor.