

File No. 12472 Continued.

Mr. Fendall now wishes to know whether he can place kerb circles and return kerbs, and pave the sidewalks in front of the alleys with a paving appropriate for use by teams, and charge the cost of such work to the abutting owners, - that is, the owners of the alleys. This, I think, Mr. Fendall cannot do at the expense of the abutting owners.

There is no provision in the Charter and no Ordinance specially authorizing the placing of kerb circles and return kerbs, at the expense of abutting owners; and, as to the paving, the City Engineer, under Sec. 28 of Art. 35, in the City Code of 1906, can only require the abutting owners to pave or repair the footways in front of the alleys with a good and sufficient brick pavement. Mr. Fendall states that no brick paving can be laid that will stand the use to which it will be subjected by the carts and wagons passing through the alleys.

Formerly, under Section 99 of Article 25 of the City Code, the City Engineer was able to take action, which, in the end, would secure proper kerbing and proper paving of sidewalks in front of private alleys; but, by reason of the construction placed by the Police Department on Section 4 of Article 4 of the Traffic Ordinance, which provides that nothing contained in the Ordinance shall prevent the riding or driving of horses or vehicles from private property directly across any sidewalk, the City Engineer is really, at this time, powerless to prevent the use of sidewalks by drivers of vehicles.

The Police Department takes the position that Article 25, Section 99 was repealed by Section 4 of Article 4 of the Traffic Ordinance, and therefore, declines to aid the City Engineer in enforcing the provisions of Section 99. This view, I believe, is erroneous for the reasons set forth in the letter of Mr. Wright to you, under date of May 20th, 1909, and it might be well if Mr. Fendall, or this Department, at his suggestion, make some effort to have a new Ordinance passed to relieve the present difficulty.

Truly yours,

(Signed) German H. H. Emory
Assistant City Solicitor.

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