

File No. 36404 Continued

Inasmuch as the footway is now in a dangerous condition, you ask what notice may be given by your office to the property owner to have the pavement properly laid.

By Ordinance No. 711, approved June 1, 1922, the Highways Engineer is authorized whenever he finds a footway in bad repair or otherwise defective, to serve notice on the owner of the intention of the Engineer to repave the same, and giving such owner an opportunity within five days to show cause why the work should not be done. Provision is made for an appeal to the Appeal Tax Court by a dissatisfied owner within two days after hearing by the Engineer. If there is no appeal from the order of the Engineer, the Engineer may proceed with the work. The ordinance by its terms permits the property owner to contract himself for the work within fifteen days after the receipt of the notice, the same to be done under the supervision of the Highways Engineer.

Instead of the five days notice provided for by the ordinance Mr. Forney states that he actually gave fifteen days notice, running from November 28th and expiring December 13th. Instead of waiting for the date of expiration, I am of opinion that if the highway is dangerous you may immediately serve the five days notice prescribed by the ordinance and in the absence of objections, proceed with the work thereafter. It would appear, however, that the property owner clearly has a right, within fifteen days after the expiration of the five days notice, to do the work himself, and therefore, you should not proceed until the expiration of that period of time.

Very truly yours,

(Signed) Philip B. Perlman,  
City Solicitor.