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MUNICIPALITY — PEOPLE LIVING OUTSIDE MUNICIPAL CORPORATION—RECEIVE AND PAY FOR WATER—SECTIONS 3966, 3967 G. C.—NOT ENTITLED TO HAVE MUNICIPAL WATER WORKS DEPARTMENT MAINTAIN FIRE HYDRANTS CONNECTED TO WATER MAINS AND PIPES THAT EXTEND BEYOND CITY LIMITS.

SYLLABUS:

People living outside of a municipal corporation, who are receiving and paying for water in accordance with Sections 3966 and 3967 of the General Code, are not entitled to have the municipal waterworks department maintain fire hydrants that are connected to water mains and pipes that extend beyond the city limits.

Columbus, Ohio, May 9, 1949

Hon. Anthony J. Bowers, Prosecuting Attorney
Allen County, Lima, Ohio

Dear Sir:

Your request for my opinion is as follows:

“In the district surrounding the city of Lima are water mains and water pipes extending from the Lima Water Works beyond the city limits, and on several of the water lines are fire hydrants and the water lines and the hydrants were laid and erected at the expense of the people living outside of the city of Lima, and such pipes were laid and hydrants erected and are now under the control of the Lima Water Works.

“Under General Code 3967 the Lima Water Works is charging for the operation of the water lines to the people to whom water is supplied outside an excess of one-tenth of the amount charged to the citizens of Lima.

“Under General Code 3963 no charge shall be made by the city or village or water works department thereof for extinguishing fires, cleaning fire apparatus, or for furnishing or supplying connections for fire hydrants and keeping them in repair for fire or department purposes, etc.

“Under General Code 3968 the City of Lima has supervision and control of the mains and hydrants which extend beyond the city of Lima.

“The specific question which we would like to have answered is whether or not the people living outside the city of Lima and who are paying an amount of water bill that exceeds one-tenth of the water bills of the citizens within the corporation, are entitled, to have the Lima Water Works maintain and repair the water hydrants that are connected to the water mains and pipes that extend beyond the city limits, without extra assessments?”

As I understand your request you ask whether or not the people living outside the city of Lima, who are receiving and paying for water in accordance with Sections 3966 and 3967 General Code, are entitled to have the Lima Waterworks maintain fire hydrants that are connected to the water mains and pipes that extend beyond the city limits without extra assessment.

Your attention is directed to the case of *Alcorn v. Deckebach*, 31 O. App. 142, 166 N. E. 597, 28 O. L. Rep. 410, motion to certify record overruled March 6, 1929, where in construing Section 3963 General Code, relating to the maintenance of fire hydrants, the second paragraph of the syllabus reads as follows :

“The installation and maintenance of fire hydrants is a fire department rather than a waterworks function.”

Your attention is also directed to Opinions of the Attorney General for 1923, Vol. 1, page 789, which specifically limits the provisions of Section 3963 to residents and property within the municipal corporation.

For these reasons, and in specific answer to your question, it is my opinion that the people living outside the city of Lima who are receiving and paying for water in accordance with Sections 3966 and 3967 General Code, are not entitled to have the Lima Waterworks maintain fire hydrants that are connected to water mains and pipes that extend beyond the city limits.

Respectfully,

HERBERT S. DUFFY,
Attorney General.