

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT

OF THE

ATTORNEY GENERAL

for the calender years

1961 - 1962

A real estate broker's home may be his place of business if in fact he maintains an office in his home where he conducts his real estate business.

RICHARD A. FOLEY

Assistant Attorney General

February 8, 1962

To: Lloyd K. Allen, Commissioner of Economic Development

Re: Jacobs Pay Plan, Seniority provisions of

We have your request of January 18, 1962, for an opinion as to whether or not the seniority provisions of the Jacobs Pay Plan were adopted by the 100th Legislature and if you should consider these seniority pay increases as part of your budget planning for the coming biennium.

Chapter 199 of the Private & Special Laws of 1961 provides for an allocation for a pay plan which pay plan must be approved by the State Personnel Board. Section 5 of this same chapter indicates that the intent of the 100th Legislature was to adjust the compensation of the state salary plan to reflect competitive wages as indicated in the compensation plan dated October 1960. Although the intent as expressed in Section 5 would indicate that the Jacobs Plan had been adopted in full, the limitation of Section 1 providing that such plan must be approved by the State Personnel Board, being a specific rather than a general provision, is controlling. The State Personnel Board has never adopted the seniority provisions of the Jacobs Pay Plan. This is because the 100th Legislature did not appropriate the money necessary to effectuate this section of the plan. For this reason it is our opinion that the seniority provision of the Jacobs Plan has never been put into effect and that you should not consider these seniority pay increases as part of the budget planning for the next biennium.

THOMAS W. TAVENNER

Assistant Attorney General

February 8, 1962

To: Kermit S. Nickerson, Deputy Commissioner of Education

Re: Snow Plowing of School Driveways

This is in answer to your questions relative to the responsibility for plowing the snow from school property.

Question No. 1: "Is it the duty of a municipality to plow the driveways giving access to school buildings?"

Answer: Revised Statutes of 1954, Chapter 41, § 54, describes the duties of the superintending school committee and school directors.

Paragraph I of Section 54 provides:

"The management of the schools and the custody and care, including repairs and insurance on school buildings, of all school property in their administrative units."

If the driveways leading up to the school buildings of the public schools are

public streets, then it is the responsibility of the municipality to plow such streets.

Question No. 2: "Is the school committee authorized to expend funds for plowing or to reimburse a town or city for such service?"

Answer: The school committee is authorized to expend funds for plowing but only of school property. If the town does the plowing of the school property, they have no right to reimbursement since it is public property of the town.

Question No. 3: "Would there be any difference in the answers to the above questions if a school were operated by an administrative district?"

Answer: The answer to question No. 2 above would be different in that the directors of a school administrative district could reimburse the town for plowing the school property such as playgrounds, parking lots, driveways owned by the district but not public streets leading up to the school property.

RICHARD A. FOLEY

Assistant Attorney General

February 14, 1962

To: Scott K. Higgins, Director of Aeronautics Commission

Re: Control of Structures Near Airports — L. D. #418

You have asked our interpretation of the language contained in Section 3, Paragraph I, of L.D. #418, "An Act Relating to Control of Structures Near Airports," which bill was referred to the Legislative Research Committee by the 100th Legislature.

"Sec. 3. Limitation on structure. Until a permit therefor has been issued by the commission, no person shall erect, add to the height of or replace any structure:

"I. Near airports. Within an area lying 1500 feet on either side of the extended center line of a runway or landing strip for a distance of 2 miles from the nearest boundary of any approved airport which will result in a structure extending to a height of more than 150 feet above the level of such runway or landing strip; nor, within that portion of such areas that is within a distance of 3,000 feet from such nearest boundary, that will result in a structure extending higher than a height above the level of such runway or landing strip determined by the ratio of one foot vertically to every 20 feet horizontally measured from such nearest boundary.

"II. Height. At any other place within the State which will result in a structure extending more than 500 feet above the highest point of land within a one-mile radius from such structure."

The first part of Paragraph I specifies a restriction of structural height of 150 feet within an approach and landing zone of a width of 3000 feet, the center line of which is the center of the runway or landing strip, and a length or distance of 2 miles from a designated airport boundary. The second part of Paragraph I, after the semi-colon, refers to the first part of Paragraph I by the language "nor, within that portion of *such areas* . . ." (Emphasis ours) indicating that the 3000 foot distance is within the area of the aforementioned approach and landing