

MAINE STATE LEGISLATURE

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STATE OF MAINE

REPORT
OF THE
ATTORNEY GENERAL

For the Years
1967 through 1972

commutations and pardons, except in cases of impeachment, upon such conditions, and with such restrictions and limitations as may be deemed proper, subject to such regulations as may be provided by law, relative to the manner of applying for pardons. Such power to grant reprieves, commutations and pardons shall include offenses of juvenile delinquency.”

We find in this broad grant to the Governor of the pardon and commutation power no restrictive language requiring a convicted offender to be in execution of sentence before such pardon or commutation power might be exercised. Absent such restrictive language we are of the opinion that the Governor with the advice and consent of the Council may grant an inmate at the Maine State Prison a commutation of a sentence imposed, but of which he is not yet in execution.

COURTLAND D. PERRY
Assistant Attorney General

December 15, 1970
Environmental Improvement Comm.

William R. Adams, Director

Minimum Lot Size for Residential Purposes

SYLLABUS:

A lot or parcel of land which is served by a private community sewer may be used for single family residential purposes without conforming to the 20,000 square feet minimum size otherwise required by 12 M.R.S.A. § 4801 (P.L. 1969, c. 365, §1).

FACTS:

A land developer proposes to subdivide a lot or parcel of land into lots upon which single family residences will be erected. The individual lots will be less than 20,000 square feet in size. The developer proposes to lay a pipe from each lot or residence leading to a private community sewer pipe which in turn will lead to a large private community septic tank and leaching field.

QUESTION:

May a land developer subdivide a parcel of land into lots of less than 20,000 square feet per lot when each lot will be served by a pipe leading to a private collector pipe within the meaning and intent of 12 M.R.S.A. § 4801 (P.L. 1969, c. 365, § 1)?

ANSWER:

Yes.

REASONING:

12 M.R.S.A. § 4801 (P.L. 1969, c. 365, § 1) provides:

“In all areas of the State . . . a lot or parcel of land which is *not served by public or private community sewer* . . . shall not be used for single family

residential purposes unless such lot or parcel of land is at least 20,000 square feet in size” (Italics supplied.)

The obvious intent of this law is to prohibit the disposal of sewage on lots considered by the Legislature to be inadequate in size for that purpose (to wit, lots of less than 20,000 square feet) when such lots are not served by public or private community sewers. When sewage is not disposed of on site, but rather is carried away from the site by a “public or private community¹⁾ sewer”²⁾ for disposal at a second site, there is no reason to insist upon a minimum lot size of 20,000 square feet to insure adequate sewage disposal.

This opinion in no way relates to any other State or local minimum lot size requirements that may be applicable, nor does it relate to any requirements applicable to the site at which sewage is finally being disposed.

E. STEPHEN MURRAY
Assistant Attorney General

December 23, 1970
Cultural Building Authority

Niran C. Bates, Chairman

Authority of Electrician’s Examining Board to Require Construction Changes

SYLLABUS:

Even though the electrical plan of the Cultural Building had been State approved, the Electrician’s Examining Board could require changes to meet State standards. The contractor is entitled to additional payment for previously unspecified work. There is no basis for recovery from the architect since there is no indication of failure to exercise reasonable care nor as to extent the ultimate cost would have been less if the initial plan had incorporated the additional requirement.

FACTS:

On June 1, 1967, the Maine State Cultural Building Authority (hereinafter, Authority) entered into an agreement with Walker O. Cain & Associates (hereinafter, Architect) for the preparation of plans and specifications and supervision of the construction of the Maine State Cultural Building. The plans and specifications for such a building, including the electrical plan prepared for the architect by their consulting engineers, Jansen & Rogan, were submitted for final review on January 30, 1969, and were finally approved by the Authority, the Bureau of Public Improvements, (hereinafter, BPI), Insurance Department (signed by the person who was the Director of the Fire Prevention Division and Executive Secretary of the Electrician’s Examining Board), and the Bureau of Health, on March 18, 1969. Thereafter, bids were solicited

- 1) Black’s Law Dictionary (4th Ed. 1951), *Community*, “Neighborhood; vicinity, synonymous with locality. . . People who reside in a locality in more or less proximity. . .”
- 2) Black’s Law Dictionary (4th Ed. 1951), *Sewer*, “. . . an artificial (usually underground or covered) channel used for the drainage of two or more separate buildings. . .”