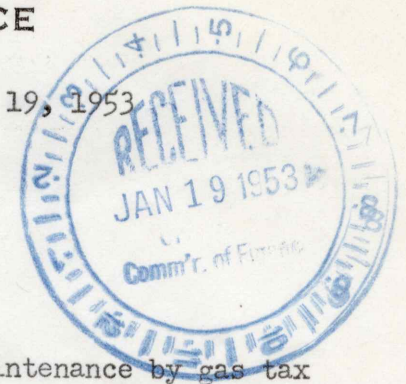


CITY OF PORTLAND
INTER-OFFICE CORRESPONDENCE
(NOT FOR MAILING)

January 19, 1953



From Dept. of Finance, Bureau of Parks
To Dept. of Finance
Addressed to Commissioner Ormond R. Bean
Subject Inclusion of two additional landscaped areas for maintenance by gas tax

Dear Commissioner Bean:

As you know, the Bureau of Parks maintains certain landscaped areas in streets and highways on a requisition basis from the Department of Public Works, and reimbursement is made from the "Gas Tax" fund.

There are two streets that have center plantings that have always been maintained directly out of the park budget yet, as far as can be determined, are street area.

These are:

Reed College Place from S.E. Woodstock to S.E. Crystal Springs;
and

3633
4

N. Omaha Avenue from N. Killingsworth Avenue to N. Portland Blvd.

2428
4

It is requested, therefore, that the landscape maintenance costs for these areas be also paid on a reimbursement basis from the "Gas Tax" fund.

Very truly yours,

Harry B Buckley
Superintendent of Parks

HBB:mb

*Ord # 27913 - parking strips
Reed College
lines for
"the 2 portions
of 1st separate
by the 30-ft
parking or center
strip"*
10/15/1913

*Gays Add ded for
park betw
Killingsworth &
Ainsworth*

*Albion Add does
not ded park or
park grounds but
does denominate "Park"
in plat*

Omaha betw Ainsworth - Portland Blvd.

~~1913~~
1927

Parks

City Attorney

Public Works

Commissioner Bowes

April 8, 1953

Dear Commissioner Bowes:

You have requested an opinion with regard to the legality of maintaining from gas tax funds landscaped areas in the strips in S.E. Reed College Place between S.E. Woodstock Street and S.E. Crystal Springs Boulevard, and in N. Omaha Avenue between W. Killingsworth and W. Portland Boulevard.

Chapter 217, Oregon Laws 1951, which amended Section 4 of Chapter 371, Oregon Laws 1943, as subsequently amended in 1947, limits the use of gas tax funds to the construction, reconstruction, maintenance, improvement or repair of city streets. This statute defines "maintaining city streets" to include the cleaning of streets and the removal of snow and debris therefrom and also permits the purchase and acquisition of machinery and equipment as may be necessary for such purpose. Therefore, the question of whether or not the City may use gas tax funds to maintain the landscaped area in the streets above mentioned depends upon whether or not those areas are a part of the streets.

We have checked the original dedication plats of the area involved. The original plat of a portion of Eastmoreland including the area between S.E. Claybourne and S.E. Woodstock does not contain S.E. Reed College Place. Shortly thereafter a plat of an additional area of Eastmoreland was recorded on June 16, 1911 which shows Reed College Place between S.E. Claybourne and S.E. Crystal Springs Boulevard. This plat shows a center strip in Reed College Place which is designated "park" on the original plat. The dedication section of the plat does not specifically include parks or public grounds but merely dedicates street area. The plat of property to the east, being Blocks 52-78 Eastmoreland, designated center strips as "park" but does not specifically dedicate these areas to public use.

A replat of the area between S.E. Claybourne and S.E. Woodstock was recorded January 13, 1912 and this replat lays out S.E. Reed College Place between S.E. Claybourne and S.E. Woodstock. In this plat which was actually a replat, the center strip in S.E. Reed College Place is shown but is not designated "park" nor is there a specific dedication in the dedicatory portion of the plat. However, from the acceptance

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of park jurisdiction and the designation as "park" by the same dedicator and subdivider on adjacent plats, it would seem that the center strip in S.E. Reed College Place is park area. Such use and de facto dedication to the public has been accepted by the City as we understand ever since the original platting.

North Omaha Avenue between N. Killingsworth and N. Portland Boulevard was established by two plats. The first plat, Gay's Addition, shows a center strip in N. Omaha Avenue between N. Killingsworth Avenue and N. Ainsworth Avenue which is denominated "park". The dedication language dedicates not only streets but public grounds. Therefore this area of N. Omaha Avenue would appear to designate and also dedicate as public park area the center strip in N. Omaha.

Albion Addition was platted shortly after Gay's Addition. This addition covers N. Omaha Avenue between N. Ainsworth Avenue and N. Portland Boulevard. In this subdivision plat the center strip in N. Omaha Avenue is also shown but is not denominated park nor is there a dedication of parks or public grounds in the dedicatory language. However, this was obviously intended to be a continuation of the street and center strip established by Gay's Addition, and therefore might properly be deemed to carry a de facto dedication for park purposes.

To add to the confusion, the City of Portland by Ordinance No. 27913 passed by the Council October 13, 1913 re-established curb lines for the "two portions of street separated by the thirty foot parking or center strip", in the area covered by Gay's Addition. Despite this denomination by the City of the center strip area as "parking strip", acceptance and use by the City for park purposes, together with the dedication of public grounds and park would seem to make this into park area rather than street area.

From the foregoing it is the opinion of this office that there is not a sufficient showing that the center strip areas in S.E. Reed College Place and in N. Omaha Avenue are actually street area to substantiate expenditure of gas tax funds for the maintenance of such landscaped area. Therefore, we are constrained to hold that the maintenance of these areas is a matter for park funds rather than gas tax funds.

Very truly yours,

M. C. RUSHING
Chief Deputy City Attorney

MCE:gm