

January 22, 1980

OPINION LETTER NO. 48
(Answer by Letter-Klaffenbach)

The Honorable Ed Bushmeyer
Representative, 83rd District
905 Lami
St. Louis, Missouri 63104



Dear Mr. Bushmeyer:

This letter is in response to your request for an opinion of this office asking:

Whose responsibility is it to pay for repairs to trunk lines under public property which run from the main water line to private property? Is it the responsibility of the Water Division of the City of St. Louis, or the private property owner?

We first wish to note that your question involves a dispute between a private property owner and the City of St. Louis. In this respect it would be inappropriate for this office to issue an official opinion because this office in the issuance of opinions does not perform the function of a court of law. Gershman Investment Corporation v. Danforth, 517 S.W.2d 33 (Mo. Banc 1974).

We note that the Missouri Court of Appeals, Eastern District, in the companion cases of St. Louis Cty. Water Co. v. Public Ser. Com'n and Beaman v. Conway, 579 S.W.2d 633 (Mo.App., E.D. 1979), concluded that an amendment to Senate Bill No. 583 of the 78th General Assembly, which required that certain underground facilities be fully maintained by the "public utility, municipal corporation or other person providing said service" violated the state constitutional provision, § 23 of Art. III, Mo. Const., requiring that the subject of a bill be clearly expressed in its title, and thus, such portion of the bill was void. It is our understanding that the position of the Law Department of the City of St. Louis with respect to your question is that the city's position is "as it has always been, that it is the responsibility of the property owner to pay for repairs to water service lines." The city counselor's office notes a few exceptions

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to this position, most notably for cases where the damage to the service line was caused by city employees. The apparent basis for the city's position is that water service lines are the property of the owners of the premises which are served by them and that the owner of the premises pays for the installation of the water service line, and it thereafter becomes his property.

It thus seems apparent that the question can only properly be set at rest by a court declaration or by appropriate legislation.

Very truly yours,

JOHN ASHCROFT
Attorney General