



THE ATTORNEY GENERAL OF TEXAS

AUSTIN 11, TEXAS

JOHN BEN SHEPPERD
ATTORNEY GENERAL

October 8, 1953

Hon. James A. Bethea, M. D.
Executive Director
Board for Texas State Hospitals
and Special Schools
Austin, Texas

Opinion No. S-102

Re: Authority of the Board
for Texas State Hospi-
tals and Special Schools
to pay the cost of curbs
and gutters on city streets
adjacent to State institu-
tions.

Dear Dr. Bethea:

You have requested an opinion of this office concern-
ing the validity of the payment of costs for curbs and gutters on
city streets adjacent to State institutions under your supervision.

Articles 3174 and 3174b, Vernon's Civil Statutes, vest
the general control, management and direction of the affairs, prop-
erty and business of the institutions named in Section 3 of Article
3174b in the Board for Texas State Hospitals and Special Schools.
Rights, privileges, powers and duties incident to this authority in-
cluding building, design and construction are also conferred on the
Board.

It cannot be questioned that the paving of streets adja-
cent to State property with companion curbing and gutters is an im-
provement to that property. It is equally as certain that the Board's
authority cited above includes the power to so improve the property
entrusted to its care if it so desires. Participation in the joint plan
with the City of Austin, whereby the Board supplies the cost of in-
stallation of curbs and gutters, is within the Board's discretion.

Of course, authority to make the expenditure is subject
to appropriation for that purpose.

With only minor exceptions, each appropriation for the
institutions under the Board for Texas State Hospitals and Special
Schools includes an item for "other operating expenses" and an item
for "capital outlay." (Article II, Chapter 31, Acts 53rd Legislature,
1953, General Appropriation Bill.) Section 3 of that same Article II,

in defining the various line item terms refers to the current classification of accounts by the Comptroller of Public Accounts. Included in both the quoted items above is code group number 5130 which covers among other things "cost of sidewalks, streets and roads."

A balance in either the "other operating expenses" or the "capital outlay" item could be utilized for the proposed expenditure.

SUMMARY

The Board for State Hospitals and Special Schools has authority to contribute the cost of curbs and gutters as a part of a paving project on city streets adjacent to institutions under the Board's jurisdiction.

APPROVED

Willis E. Gresham
Public Affairs Division

John Atchison
Reviewer

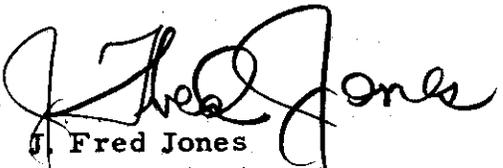
Robert S. Trotti
First Assistant

John Ben Shepperd
Attorney General

Yours very truly,

JOHN BEN SHEPPERD
Attorney General

By


J. Fred Jones
Assistant

JFJ:da