

**OPINION**  
**55-54**

April 5, 1955           (OPINION)

ELECTRICIANS

RE: State Board - Jurisdiction

Your letter of April 1, 1955, requesting an opinion from this office has been received.

You state that your board is making an inspection of electrical wiring in a certain section of Cass County. The mechanics of the program are being handled by the R.E.A. Cooperatives, but the inspection is being made by inspectors of the State Electrical Board.

Your specific question is as follows: Suppose one of the inspectors finds a condition that is dangerous to the safety of life and property and notifies the property owner and the R.E.A. of such condition and the condition is not corrected and as a result injuries are sustained by some person, would any legal liability for such injury attach to either the State Board of Electricians or the local R.E.A. Cooperatives?

Section 43-0921 of the 1943 North Dakota Revised Code provides that all electrical wiring shall comply with the rules and regulations of the electrical board, the public service commission, the commissioner of insurance and the state fire marshal for the safety of life and property, and also provides that no electrical installation shall be connected for use until proof is furnished to the person, firm or corporation supplying electrical energy that such regulations have been complied with.

Section 43-0922 provides that the board shall have jurisdiction over electrical installations and shall provide inspection for all electrical installations. Inspectors authorized by the board may condemn installations hazardous to life and property and may order service thereto discontinued. Such action may not be taken except after notice to the owner of property and shall be subject to the owner's right to appeal to the board. No condemned installation shall be reconnected for service until proof has been furnished that the installation has been brought up to the standards required.

While the above sections of the law perhaps refer primarily to new installation, we believe that where an owner voluntarily submits to inspection that the board, whenever it finds hazardous conditions, should advise the person, firm, or corporation furnishing energy to such owner and order the service disconnected to such installation. The primary reason for requiring inspection is to provide safety to persons and property and it certainly remains the duty of the electrical board to safeguard and protect life and property whether the inspection is on a new or old installation. While this is a duty of the board, we do not think liability for torts arising out of defective installations could be imputed to the board. The board is engaged in a purely governmental function of government and thus is

not liable for torts of its agents.

The R.E.A. Cooperatives are engaged in a business of generating and selling electrical energy. Each Rural Electrical Association is a corporation organized under the laws of this state and not a branch of the government and therefore could be liable in a civil suit if they furnished energy to a place where the electrical installation has been condemned and they have knowledge of such hazardous condition and condemnation, and injury to third persons results.

We would suggest that your board in any case where you find defective wiring or any other hazardous condition due to electrical installation notify the R.E.A. or whatever other person, firm, or corporation that furnishes electrical energy to such installation of such condition and order them to cease furnishing energy to such installation until the hazard is removed.

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