

Phone interview with Bangor's attorney

Bangor Daily News reporter Sawyer Loftus spoke with David Szewczyk, the attorney for Bangor, on May 31 about a letter he sent to a Bangor resident regarding her concerns with sewer lines on her property. A portion of the phone call is excerpted here:

BDN: What I'm trying to understand here is that if you're not arguing that the city owns those private sewer lines, and you're not trying to prove that there are other easements in place between the original property owners, I'm trying to understand why a private citizen would then not be allowed to do work on their private property to disconnect sewer lines that do not have the appropriate permissions to be there?

Szewczyk: I'm not saying that they don't have the appropriate easements. The easements between the private property owners is not really our consideration. What I'm talking about is what's in the code of ordinances and what is required, and that is a permit before certain work can be allowed to be done.

BDN: And in your letter, though, you said that you would never grant a permit. So would theoretically then —

Szewczyk: I didn't use the word never. But I did say the city would not issue a permit to a contractor to go in and disconnect other citizens' sewer lines, if for some reason they are located under her property.

BDN: So even if she is the actual owner of that land and there are no easements between two pieces of property, say you know her next door —

Szewczyk: But there are, there is an easement between her and the city.

BDN: Yes, but they're not between her private property and the surrounding other properties that have their sewer lines that run into the public sewer main on her property.

Szewczyk: How do you know that?

BDN: Do you have the easements to show that they're there?

Szewczyk: I am not going to be sending you those. But I don't know that they don't. I don't know that they don't exist, that those were not easements that I, that we needed to find, in order to ascertain that what she's trying to do would violate city ordinances.

BDN: But I guess what I'm trying to understand here, though, is the city's blanket refusal to allow a private individual to maintain her private property when the city has no proof that she is touching something that is not hers, that is on her property.

Szewczyk: What she would be touching would be either to public sewer, and its connection to a private sewer or a private sewer line that leads to the public sewer. Either way, that's why I cited the two ordinances. One says one thing, one says the other. Whatever it is that she's touching down there, she needs a permit to do work on. Right? And the city would not be, would not issue a permit to allow her to disconnect sewer lines from the main sewer.

BDN: Why? What are the reasons —

Szewczyk: Well, let me ask you this. If someone wanted to disconnect your sewer line from your house from the city sewer, would you want the city to do that?

BDN: You're not answering my question —

Szewczyk: That sewer has been operating since the 1800s in that location, and it's been, it's been inspected in 2021 in response to her —

BDN: I'm aware of the history. What I'm asking you is legally what the justification is.

Szewczyk: What, the justification for my letter?

BDN: No, I'm asking why the city would not approve a private property owner disconnecting something that runs through her property that there is no easement in place for.

Szewczyk: There are easements in place.

BDN: Then why won't you send them to me?

Szewczyk: There is an easement in place between her —

BDN: That doesn't apply to the other property; that doesn't apply between her property and another person's property. So if those other easements exist, and you have them, I'm just wondering why you wouldn't just clear it up by sending those easements along.

Szewczyk: I don't have them in front of me. I have not searched for them. I was not the person that searched for these. So I will send you what I have. And I'm explaining to you that if she wants a contractor to do work on her private sewer line under her property, she has to get a permit from the city.

BDN: But the other private sewer laterals crossed through her property before they connect to the public sewer main. So is the city saying in its letter that they would not allow her to dig those sewer laterals that cross into her property, dig those lines up, before they reach the public sewer main?

Szewczyk: You would have to talk to other people in the city regarding whether or not they would, the reasoning for ... when they would or wouldn't issue permits.

BDN: But you're the person that signed the letter saying you know "if you have other questions let's, let's follow up here," and so I'm wondering, as the city's lawyer, what the legal justification for that is?

Szewczyk: It's because the city would not want other neighbors' properties to be disconnected from the main when they paid their sewer assessment fee, and they have every right to be connected to that main.

BDN: But what about her rights as an individual property owner?

Szewczyk: Her rights are subject to the city ordinances, and the city ordinance says if she wants to do work on her private line, she has to get a permit for that. OK, this is going to have a permit. ...

BDN: Why would she need permission if a portion of the sewer line from those private homes crosses onto her private property without the appropriate easement between the two pieces of property in place? Why would she need permission? That is what I'm asking.

Szewczyk: There aren't easements between the property owners. I don't know, and you don't know. OK. So there could very well be easements between the property owners. I don't know. Secondly, with regard to work on sewer lines, and if you want to go into the specific details on those sorts of things, you probably need to talk to Amanda Smith, John Terrio, the city engineer, or the sewer department director.

BDN: Yup, I'm more concerned about the legal part of it.

Szewczyk: And I've explained to you the legal part as best I can.

BDN: OK, so it just sounds like you don't know. You don't know.

Szewczyk: Don't know what?

BDN: Well, if you don't know that there are easements in place —

Szewczyk: I know that there are easements between her and the city.

BDN: Yes.

Szewczyk: ... And where those connections are, I don't know where they all are. But there are maps that show certain things. And I'm not going to give you an opinion as to where certain connections are.

BDN: I don't care where the connections are. I've seen them on a map. What I'm asking for is the legal justification, why the city would deny a private citizen the right, you know, to get a permit for work to disconnect something, a structure that runs on their property, when there is not an easement between two property owners.

Szewczyk: The city would not be inclined to grant a permit for someone to go down and disconnect let's say four or five neighbors' sewers from the sewer main.

BDN: But why? Can you tell me the reasons?

Szewczyk: Because then there would be sewage going into the ground.

BDN: So it sounds like —

Szewczyk: And right now we have a sewer system that's working. There are no significant defects that anybody is aware of. That's why.

BDN: But there's not a legal justification?

Szewczyk: There is a legal justification. I gave it to you in my letter. I have given it to you as best I can now, and, you know, you just keep pounding on me. And I'm just telling you what I know.

BDN: You're not giving me a straight answer. And I'm asking you pretty clear questions, but if you know, there's not a straight answer, that's fine. And you know, I'd be happy to get whatever you can send me.

Szewczyk: Well, I have to disagree with you. ... I'm not failing to give you a straight answer. I think that's an opinion, and I think it's an incorrect opinion. I'm giving you a direct answer to the questions that you've been giving me. And I'm doing the best I can to tell you why. She would need a permit. She doesn't have a permit, and I was just giving her a heads up that the city wouldn't be inclined to issue such a permit. If she submits an application for a permit and it has a bunch of things in it that I'm not aware of, you know, maybe she would get a permit. But, you know, there would have to be certain things in it in order for the permit to be granted. And one of those things would be that we're not going to be disconnecting — that she's not going to be disconnecting people's perfectly working sewers from the sewer main. Is that straight enough?

BDN: What I've been seeking here is the legal justification for that last bit you said right there. If there is no easement between the abutting property where that private lateral starts and the property that that lateral goes on to, what is the city's legal justification for denying a private property owner the right to remove a structure that does not have proper permission to be on her property? That's what I'm trying to understand.

Szewczyk: You're asking me to give justification for denial that hasn't happened. There hasn't been an application. Secondly, she is perfectly welcome to go to court to deal with her neighbors and whatever easements they may or may not have, OK? But she's not going to be justified from disconnecting people's sewer lines that are working perfectly fine, for people that have given the city easements, including herself, to be connected to the sewer and paid their sewer assessment fee to be connected to the sewer. It seems pretty obvious to me why the city would not be inclined to grant such a permit. But again, the application hasn't been filed. I was just giving her a heads up. Gotcha. You know, I'm trying to be as helpful and kind as possible. And that's all I'm trying to do.