

February 28, 1933

Mr. Walter I. Ettleman,  
Representative of Maricopa County,  
House of Representatives,  
Capitol Building,  
Phoenix, Arizona.

Dear Mr. Ettlemen:

Your request for an opinion as to whether a lien will attach to land in favor of one who furnished trees, shrubs, etc., for improving such land, has been referred to the writer for decision and answer.

Section 2030, Revised Code of 1928, provides as follows:

"Every person who furnishes material, or labors upon any lot in an incorporated city or town, or fills in or otherwise improves the same, or the street in front of or adjoining the same at the request of the owner of such lot, shall have a lien on such lot for his material furnished and labor performed and upon the buildings, structures and improvements thereon situated".

The Supreme Court of Arizona has not had occasion to pass upon the question in hand.

The section of the Arizona Code above is identical with a section of California laws. The Supreme Court of that state, in placing a construction upon such action, held that the furnishing and planting of trees and shrubs is an "improvement" to the land within the meaning of said section (See California Portland Cement Company vs. Wentworth Hotel Company, 116 Pac. 103, re-hearing denied 118 Pac. 113).

Therefore, I am of the opinion that one who furnishes trees and shrubs may have a lien for the price thereof upon the land to which such trees or shrubs are planted.

Yours very truly,

Attorney General

By  
Assistant Attorney General.

PHB:H

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