

**State Board of Health, Power to Abate Nuisances. Nuisances, Detrimental to Public Health and Safety. Board of Health, Local, Under Supervision of State Board of Health.**

The state board of health has general supervision of local boards of health, and also all matters pertaining to the general health and safety of the public, and may investigate conditions in any part of the state, with a view to their betterment, or abatement, if found to the best interest of the public health and safety

Helena, Montana, May 16, 1910.

Hon. Thomas D. Tuttle,  
Secretary State Board of Health,  
Helena, Montana.

Dear Sir:

I am in receipt of your favor of May 15th, 1910, together with the protest of certain property holders in the vicinity of the intersection of Alaska and Granite streets, in the city of Butte, being the site of what is known as the "Langlois Barn." You ask my opinion as to whether the state board of health has authority to issue an order directed against the continuance of the conditions alleged in the protest, and you are advised that section 1844 of the revised codes provides for the establishment and organization of local boards of health in incorporated cities and towns, which statute makes it mandatory upon towns having a population of more than five thousand to provide for the organization of such a board. Section 1489, revised codes, prescribes the powers and duties of local boards of health, and the conditions referred to in your letter and concerning which protest is made clearly come within the jurisdiction and authority of the local board of health of the city of Butte. However, if, as your letter seems to indicate, the local board of health believes the existing conditions to be safe and not a menace to public health or a nuisance, and the property owners and residents of the vicinity hold an opposite view, section 1475 is, in my opinion, sufficient authority for the state board of health, under the general supervision of the work of local and county boards therein conferred upon the state board of health, to either, as a board, or by the designation of a properly qualified agent, investigate the conditions as they exist, and upon such investigation your board has authority to direct an order to the local or city board of health calling upon it to suppress or remove

the unsanitary conditions, if your board should find such conditions existing. In the event your board, upon investigation, should reach the same conclusion as the local board, no order or other action would of course be necessary.

Very truly yours,

ALBERT J. GALEN,

Attorney General.