

M e m o r a n d u m**190.0870**

To: Mr. Robert Nunes

August 19, 1975

From: Glenn L. Rigby

Subject: Septic Tanks

In our conversation of July 28, 1975, you asked our opinion as to whether or not a person who places the septic tank in its final resting place, i.e., the hole, with no further movement to be made of the tank may be regarded as a construction contractor, whether or not he attaches the leach lines to the septic tank.

It is our opinion after reviewing the various annotations concerning construction contractors and the January 29, 1960 letter of Mr. P--- and discussing the matter with him that in the fact situation set forth above, the man placing the septic tank in its final resting place would be regarded as a construction contractor and therefore making an improvement to realty under Regulation 1521. The fact that someone else may attach the leach line to the septic tank or excavate the hole in which the septic tank is placed is immaterial. We basically look to the last act test in determining whether or not the man is or is not a construction contractor.

You will also note that we regard such septic tanks materials rather than fixtures.

GLR:lb