the sale of the property. In the event that the party asserting the lien does not intervene, he would then be required to bring an independent action to establish such lien in the county where the property is located, and in the event the court should find that he has a valid lien, said lien would attach to the proceeds derived from the sale of such property.

ALCOHOL BEVERAGE COMMISSION: Parks, authority of Commission over the granting of permits for the location of taverns near parks in the City of Indianapolis.

December 11, 1940.

Mr. Hugh A. Barnhart, Chairman,
Alcoholic Beverages Commission,
State House,
Indianapolis, Indiana.

Dear Sir:

I have before me your letter of December 4, 1940, which reads as follows:

"Kindly note the attached letter from the Attorney of the Indianapolis Park Board, with references, and advise us whether or not the Park Board has jurisdiction as they evidently believe they have, or if the Alcoholic Beverages Act supersedes the statutes to which they refer.

"Have we a right to issue a permit within five hundred feet of a park or boulevard in the face of their protest, or are we estopped by law from so doing when they issue a formal objection, as they have in this letter?"

Presenting a question predicated on certain facts, that are presented to your commission by a letter from the Department of Law, representing the Board of Park Commissioners of the City of Indianapolis, which reads as follows:

"This letter is written at the request of the Board of Park Commissioners of the City of Indianapolis who, at their last meeting on Thursday, September 12, 1940, requested the undersigned to write you in refer-
ence to a tavern operated by Mr. Tony Laurenzana at 2529 Shelby Street in the City of Indianapolis.

"Said tavern is located directly across the street from Garfield Park and is within five hundred (500) feet of said park. It is the Board’s opinion and desire that such tavern is objectionable to the surrounding neighborhood and that the permit granted by the Commission should not be renewed after the present term has expired.

"We are informed that the license for this tavern expires on November 1, 1940.

"We quote below from Section 48-5302, Burns’ 1933 Anno. Statutes which authorizes the Park Board to regulate, restrict and forbid certain commercial enterprises within five hundred (500) feet of any park, parkway or boulevard to-wit:

"

"* * * Whenever it shall be considered necessary by such board of park commissioners, in order to promote public health, safety, morals or general welfare, such board shall have the power, by general order or resolution, to abate, restrict, forbid or regulate any horse-racing, gambling, offensive or dangerous business or amusement, and to regulate, restrict and forbid the location of trades, industries and commercial enterprises and the location of buildings or "devices," designed for uses which, in such order or resolution, are specified as injurious to the public health, safety, morals or general welfare, within five hundred (500) feet of any such park, parkway or boulevard * * *.

"We trust you will take the Board’s recommendation and objection into consideration in determining whether the license for said tavern should be renewed."

The above letter, quoted from the Department of Law, representing the Board of Park Commissioners of the City of Indianapolis, does not state that the Park Board, acting in pursuance of Section 48-5508, Burns’ Ind Stat. Ann. 1933, quoted in our letter, made a general order or resolution prohibiting the operation of a tavern within 500 feet of all city parks in the City of Indianapolis.
It is my opinion, that it is necessary for the Park Board, acting in pursuance of the above quoted section to pass a general order or resolution prohibiting the operation of taverns within the distance of 500 feet of Garfield Park before they would have any legal right to raise any objection to the location of such tavern.

Section 48-5508, Burns' Ind. Stat. Ann. 1933, which is Section 8 of Chapter 144 of the Acts of 1919, as amended by the Special Session of 1920, Sec. 1, Chapter 32 of said Acts. The above section was not specifically repealed by the Alcoholic Beverages Act of 1935. Repeals by implication are disfavored and are never recognized in the absence of irreconcilable repugnancy.

This particular provision of the statute, pertaining to the powers of the Park Board, has been before the Supreme Court of Indiana, in the case of Goldsmith, et al. v. City of Indianapolis, et al., 208 Ind. 465. In this case the court upheld this statute giving the Park Board jurisdiction over park properties.

It is my opinion that, the above act can be reconciled with the Alcoholic Beverages Commission Act, and it is further my opinion that if the Park Board of the City of Indianapolis has taken the proper steps by general order or resolution, as indicated above in this opinion, then, in that event, their jurisdiction would be superior to that of the Alcoholic Beverages Commission, and the Alcoholic Beverages Commission should, in that event, honor their request. In the event the Park Board of the City of Indianapolis has not passed a general order or resolution prohibiting the operation of a tavern within 500 feet of Garfield Park, their mere objections would not prohibit the Alcoholic Beverages Commission from renewing the permit in question.