

CITY SOLICITOR'S OFFICE

New Report 28

May 1, 1929.

A. Walter Kraus, Esq.,
City Solicitor.

Dear Mr. Kraus:-

The following is a list of the cases in which I participated and in which printed briefs were filed. All but the last of these cases were tried in the Court of Appeals.

1. Duncan vs. Graham

This case involved the validity of the Pension Law. The Court decided the case adverse to us, but the objections to the Pension Law have been cured by legislation.

2. Melane vs. Appeal Tax Court

In this case the Court of Appeals sustained the right of the City to assess for purposes of taxation, the intangible property of a partnership doing business in Baltimore City, notwithstanding the fact that the partners all lived beyond the City limits.

3. Portsmouth Stove Co. vs. City

In this case the Court of Appeals sustained the validity of the Gas Appliance Ordinance.

4. Broening vs. Haley

The Court of Appeals vacated an order for injunction issued by the lower Court restraining the Mayor and City Council from passing an ordinance amending the zoning law.

5. Aejis Company vs. City

The Court of Appeals, in this case, decided that taxpayers desiring a reduction in an assessment carried forward from the preceding year, must apply for the reduction not later than September 1st. Unless application is made to the Appeal Tax Court, then it is appeal to the State Tax Commission

CITY SOLICITOR'S OFFICE

A. Walter Kraus, Esq.

#2.

6. International Union vs. City

This case involved two important questions: the validity of the Eight Hour Law, and the jurisdiction of the equity court to enforce this law by injunction against City officials. This case has been argued in the Court of Appeals, but the Court has ordered a reargument.

7. The rate case of the United Railways and Electric Company before the Public Service Commission of Maryland.

8. Grand Lodge vs. City

Involves tax liability of fraternal order on its land, during construction of building. Also question whether Building Commission with corporate powers of private corporations was entitled to exemption. Argued in Court of Appeals, but not yet decided.

9. Baltimore & Philadelphia S. S. Co. vs. City

This case decided that the statutory exemption of "Coastwise" ships extended to ships going to Philadelphia by way of the Canal.

10. Mortgage Construction Co. vs. City

This is perhaps the most important of nisi prius cases. Judge Owens in this case held that the Board of Estimates, in granting or refusing permits for gasoline stations, was entitled to wide latitude and that their discretion would not ordinarily be controlled by the Courts.

Very truly yours,

SWS:DS.

Deputy City Solicitor.

CITY SOLICITOR'S OFFICE

Report.
53429

May 1, 1929.

A. Walter Kraus, Esq.,
City Solicitor.

Dear Mr. Kraus:-

The following is a list of the cases in which I participated and in which printed briefs were filed. All but the last of these cases were tried in the Court of Appeals.

1. Dunson vs. Graham

This case involved the validity of the Pension Law. The Court decided the case adverse to us, but the objections to the Pension Law have been cured by legislation.

2. Beland vs. Appeal Tax Court

In this case the Court of Appeals sustained the right of the City to assess for purposes of taxation, the intangible property of a partnership doing business in Baltimore City, notwithstanding the fact that the partners all lived beyond the City limits.

3. Portsmouth Stone Co. vs. City

In this case the Court of Appeals sustained the validity of the Gas Appliance Ordinance.

4. Breeding vs. Haley

The Court of Appeals vacated an order for injunction issued by the lower Court restraining the Mayor and City Council from passing an ordinance amending the zoning law.

5. Aejis Company vs. City

The Court of Appeals, in this case, decided that taxpayers desiring a reduction in an assessment carried forward from the preceding year, must apply for the reduction not later than September 1st. *Unless application is made to the Appeal Tax Court, there is no appeal to the State Tax Commission.*

CITY SOLICITOR'S OFFICE

A. Walter Kraus, Esq.

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Very truly yours,

SES:DS.

Deputy City Solicitor. .

CITY SOLICITOR'S OFFICE

New
Report of City
1928

Solicitor

May 3, 1929.

A. Walter Kraus, Esq.,
City Solicitor.

Dear Sir:

I am hereby submitting my report as Assistant City
Solicitor for the year 1928;

Number of open cases January 1, 1928.....48

Street appeals.....42

Petitions to Condemn Property. 5

Case in the Circuit Court of

Baltimore City in joining the

Mayor and City Council from

collecting a lien of an alley

assessment..... 1

Total.....48

Number of cases added in the year 1928.....39

Case involving a destroyed Will.....1

Case to set aside tax sale of property....1

Petitions to condemn property.....13

Appeals from the Commissioners for Opening

Streets.....21

Cross Appeal..... 1

Pay money in Court under Section 827..... 1

Personal injury case in Baltimore County. 1

Total.....39

Total number of cases December 31st, 1928.....87

The following other cases were tried in the year 1928:

Notice to quit property served on tenant - owned by
the City - for violation of the Volstead Act.

CITY SOLICITOR'S OFFICE

May 3, 1929.

A.W.K.

- 2 -

Circuit Court for Anne Arundel County
removal of sign-board

Ejectment for tenant on Pier 4 - Pratt Street

Agreement drawn - Waterview Avenue

Total number of cases December 31st, 1928.....	87
" " " " settled.....	45
" " " " open on January 1st, 1929.....	42
" " " " in course of settlement.....	35
" " " " to be tried.....	7

The 35 cases which are in course of settlement are as follows:

Case of George E. Rosenbrock had sub curia.....	1
Condemnation case against Dundalk Water Company- Order to hold.....	1
Appeals from the Commissioners for Opening Streets held in abeyance waiting as to whether this portion of Mosher Street is to be closed.....	3
Appeals for the opening of Glenmore Avenue which are to be settled by the closing of this portion of Glenmore Avenue which is now pending before the Commissioners for Opening Streets.....	30
Total	<u>35</u>

The following cases are pending under instructions:

Petition to condemn property for Herring Run for Public
Park, waiting upon the Park Board before proceeding.

2 cases pending in Baltimore County for the condemnation
for Pretty Boy Reservoir.

- o o o -

Number of reports in reference to the status of streets and
properties.....6

Status of alleys upon which special reports were requested by
the Highways Engineer.....12

Number of alleys upon which reports were furnished the Highways
Engineer.....143

In re: Extension permit which the City holds on the Wyeth Estate of
the maintenance of a water main.

CITY SOLICITOR'S OFFICE

May 3, 1929.

A.W.K.

- 3 -

In re: Offer of Mr. & Mrs. Wm. H. Buchler to donate to the Mayor and City Council of Baltimore four (4) acres of ground for an open air theatre for use by School Board.

Number of leases.....	8
Number of deeds.....	4
Number of agreements.....	10
Number of releases.....	1

Furnished the City Solicitor with twenty (20) opinions.

Drew in connection with Mr. Elmer Miller a declaration against the Merchants and Miners Transportation Company for an increase in the rental for the Pier on Pratt Street.

From July 1st to September 8th, 1928, I had charge of Mr. Wyszocki's office, and what was done there will be included in his report.

I trust that the above report is the desired information.

Very truly yours,

Frank Driscoll,
Assistant City Solicitor

FD:LN

CITY SOLICITOR'S OFFICE

*Report of City Solicitor
53429*

June 3rd, 1929

Miss Alice V. Reynolds, Librarian,
Consolidated Gas Electric Light & Power Co.,
Lexington Building,
Baltimore, Maryland.

My dear Miss Reynolds:

Replying to your note of May 29th, I beg to advise you that there is no report of this office for the year 1928. There will be a report covering the activities of this office from October 1st, 1927 to October 1st, 1929.

I shall be very glad to let you have a copy thereof and will also put you on our mailing list for future reports.

Very truly yours,

A.W.K.
R.R.S.

City Solicitor

HERBERT A. WAGNER, PRESIDENT
CHARLES M. COHN, VICE PRESIDENT
CHARLES E. F. CLARKE, VICE PRESIDENT

J. E. ALDRED
CHAIRMAN OF THE BOARD

JOHN L. BAILEY, CONTROLLER
WM. SCHMIDT, JR., SECRETARY & TREASURER

CONSOLIDATED GAS ELECTRIC LIGHT AND POWER COMPANY
OF BALTIMORE

BALTIMORE, MD.,

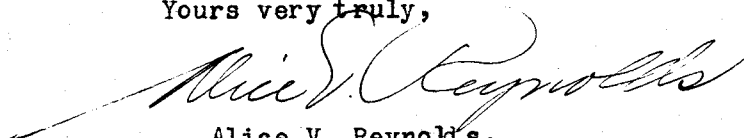
May 29, 1929.

City Solicitor of Baltimore,
Baltimore, Maryland.

Gentlemen:

Please send us a copy of your Annual Report
for 1928 and place the name of the Library on your mailing
list for future reports.

Yours very truly,



Alice V. Reynolds,
Librarian.

AVR:P

CITY SOLICITOR'S OFFICE

10/17/29
53479
File

September 16th, 1929.

Mr. A. Walter Kraus,
City Solicitor.

Dear Sir:

Among the larger transactions made in this office from October 1st, 1927 to June 30th, 1929, belong, first, the airport which required the examination of some twenty properties, however, the City only purchased six, comprising 130.7 acres, more or less, including riparian rights, wharves, etc. Five of the said properties, having 119 acres, more or less, were purchased for the sum of \$265,000.00. The other property, belonging to Marie J. Stenger, was acquired by arbitration for the sum of \$222,500.00, making a total outlay of \$487,500.00.

For the public library the City acquired eight pieces of property at a total purchase price of \$400,000.00. One of the properties had to be condemned and the jury awarded the owner \$75,000.00. The owner has taken an appeal to the Court of Appeals, which appeal is still pending.

For the Reservoir at Pretty Boy Dam the City acquired twenty-four additional tracts of land for the sum of 180, 34.66.

Another large project was the site for the East Baltimore Colored Junior High School at Jefferson and Caroline Streets. Seventy-five separate properties already have been acquired and condemnation proceedings against three are pending, which would complete the purchase of this site.

The Hanover Street Viaduct required the purchase of blocks of houses which were paid for by the Baltimore and Ohio Railroad and the Western Maryland Railroad. Under an agreement made with the railroad companies, the City has to acquire all properties needed in the above improvements. There are still pending some negotiations for the approach from Charles Street. The City also had to institute proceedings for the closing of streets lying South of McComas Street to the water edge.

Mr. A. Walter Kraus,

-2-

9/16/1929.

The location of the Western Electric Company plant at Point Breeze or Riverview, required the re-location of streets and negotiations with the United Railways for its car tracks, which have been completed.

Very truly yours,

ALFRED von WYSZECKI
Assistant City Solicitor

AVW/E.

COPY

CITY SOLICITOR'S OFFICE

Report 29
#

File 53429

September 15th, 1929.

Mr. W. W. Rynhart,
Assistant City Solicitor,
Court House, City.

Dear Sir:

As per your request, I beg to submit here-
with the following report:

No. of settlements from January 1st, 1929 to June 30th, 1929	215
No. of street openings - same date	30
Amount of money which went through the "City Solicitor Settlement Account" - same date	\$ 969,759.65

Very truly yours,

ALEPSONO von WISZECKI,
Assistant City Solicitor.

AWW/E.

No. of settlements from January 1st, 1929 to
June 30th, 1929

215

No. of street openings

30

Amount of money paid through property settle-
ment account

999,739.65

CITY SOLICITOR'S OFFICE

Report
129
53429

September 21st, 1929.

A. Walter Kraus, Esq.,
City Solicitor.

Dear Mr. Kraus:

In the early part of 1928, this office, at the request of the Department of Health, completed the preparation of the draft of a plumbing code embodying the regulations previously prescribed by that Department. This draft was duly submitted to the Health Department and after conference held by Doctor Jones with representatives of the Association of Master Plumbers, at which representatives of this office were present and at which the provisions of the proposed plumbing code were discussed in detail, the final draft was prepared for submission to his Honor, the Mayor. About a year later, this draft having, in the meantime, been submitted to the careful scrutiny of the Chief Engineer and the Chiefs of the Bureaus of Water and Sewerage, was transmitted by the Mayor to this office with certain suggested changes.

The matter of these changes was taken up with the Health Department and as a result a new draft, satisfactory to the Commissioner of Health and to the Committee of the Association of Master Plumbers, was sent to the Mayor by whom it was, as I understand, transmitted to Mr. Ellison of the City Council and by him introduced in that body which now has it under consideration.

Very truly yours,

LCS-R.

Assistant City Solicitor.

CITY SOLICITOR'S OFFICE

September 23rd, 1929.

A. Walter Kraus, Esq.,
City Solicitor.

Dear Mr. Kraus:

In the course of the last two years, this office has been called upon to defend the action of the Board of Zoning Appeals in a considerable number of cases which have been brought into court, the greater part of these cases having been decided by that Board under the provisions of Ordinance No. 826, approved October 1st, 1926, which relates to the use of property. The decisions of the Board, under this Ordinance, were at first attacked by mandamus proceedings and in one or two instances, by injunction proceedings, the impression prevailing among the members of the bar being that an appeal to the Baltimore City Court, under the provisions of Ordinance No. 922, approved May 19th, 1923, did not apply to cases of this character. The contrary was decided by the Court of Appeals in the case of Applestein, et al., vs. Hammond, et al., in an opinion holding that an appeal did lie to the Baltimore City Court and that mandamus was not, therefore, an appropriate remedy. The result has been that since that decision the action of the Zoning Board in numerous cases has been attacked by appeal to the Baltimore City Court and, as no further appeal is provided, the decision of certain questions has depended upon the view of the law entertained by the several judges assigned to that Court. One of these judges, for instance, has expressed a dictum upon the view that because of certain expressions in the Applestein case, above mentioned, no store could be kept out of a residential neighborhood in the absence of evidence tending to show that that particular store would be so conducted as to cause a nuisance to the public security, health or morals. The practical impossibility of proving this fact before the operation of the store had begun, is clearly apparent.

The lack of uniformity in decisions which is implicit in the above mentioned conditions has led to the belief that it would be well to terminate the right of appeal in these cases and to leave any one dissatisfied with a decision of the Zoning Board to test such decision by way of mandamus or injunction proceedings, so that the un-

CITY SOLICITOR'S OFFICE

A. Walter Kraus, Esq.

#2.

successful party in those proceedings may be able to have the points of law raised therein determined by the Court of Appeals so that greater uniformity may exist. An ordinance so amending Ordinance No. 825 as to provide that the decision of the Board of Zoning Appeals shall be final, has accordingly been drafted for presentation to the City Council at the termination of its summer recess.

A further question has been raised as to whether his Honor, the Mayor, the members of the Zoning Board and the Buildings Engineer, should be made parties to these appeals, the Mayor having had no opportunity to pass upon the question before the appeal is taken, and the other parties not being interested in the result of the appeal, and being in no way connected with the case except as having passed upon the questions thereby presented. Generally speaking, the decisions of the Baltimore City Court have been adverse to the City on these points, and an appeal from one of these decisions is now pending in the Court of Appeals and will shortly be argued before that Court.

I understand that the Zoning Commission, appointed under the provisions of the Enabling Act of 1927, will probably report an ordinance to the City Council within a short time, but it has been thought advisable to prepare the ordinance for amendment of No. 825 and to press the above mentioned case in the Court of Appeals in order that the inconveniences to which I have adverted may, if possible, be obviated, it being, of course, impossible to say how long the Council may find it necessary to consider the proposed ordinance of the Zoning Commission, as it is also impossible to prophesy the result of their deliberations with regard thereto.

Very truly yours,

LSE-R.

Assistant City Solicitor.

CITY SOLICITOR'S OFFICE

September 23rd, 1929.

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City Solicitor.

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In the course of the last two years, this office has been called upon to defend the action of the Board of Zoning Appeals in a considerable number of cases which have been brought into court, the greater part of these cases having been decided by that Board under the provisions of Ordinance No. 825, approved October 1st, 1926, which relates to the use of property. The actions of the Board, under this Ordinance, were at first attacked by mandamus proceedings and in one or two instances, by injunction proceedings, the impression prevailing among the members of the bar being that an appeal to the Baltimore City Court, under the provisions of Ordinance No. 922, approved May 19th, 1925, did not apply to cases of this character. The contrary was decided by the Court of Appeals in the case of Applestein, et al., vs. Hammond, et al., in an opinion holding that an appeal did lie to the Baltimore City Court and that mandamus was not, therefore, an appropriate remedy. The result has been that since that decision the action of the Zoning Board in numerous cases has been attacked by appeal to the Baltimore City Court and, as no further appeal is provided, the decision of certain questions has depended upon the view of the law entertained by the several judges assigned to that Court. One of these judges, for instance, has expressed a dictum upon the view that because of certain expressions in the Applestein case, above mentioned, no store could be kept out of a residential neighborhood in the absence of evidence tending to show that that particular store would be so conducted as to cause a menace to the public security, health or morals. The practical impossibility of proving this fact before the operation of the store had begun, is clearly apparent.

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