ZIVKOVICH LETTER W/ATTACH. 2008 2008 ZIVKOVICHI LETTER W/ATTACH.

Maryland State Archives Mail Log System 08/18/2008

Tracking No. 09-2584

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Date Received: 08/18/2008

Receipt No:

Amount Received: 0.00

Staff: ECP

Subject: Land Patent Review, Fells Point Recreation Pier, Baltimore

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#### RICH AND HENDERSON, P.C.

ATTORNEYS AT LAW 51 Franklin Street, Suite 300 Annapolis, Maryland 21401

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August 14, 2008

Edward C. Papenfuse, Ph.D State Archivist and Commissioner of Land Patents Maryland State Archives 350 Rowe Boulevard Annapolis, MD 21401

Re:

Land Patent Review

Fells Point Recreation Pier, Baltimore

Dear Dr. Papenfuse:

cc:

It has come to our attention that Gary Setzer, Program Administrator for the Wetlands and Waterways Program of the Maryland Department of the Environment, has requested your assistance in reviewing the validity of land patents discussed in a May 28, 2008 letter from Warren Rich of this firm. If you believe it would be of assistance, we would like to offer you copies of all original source materials referenced in this letter and supporting documents and/or a meeting to review the same information.

Please feel free to contact me at 410-267-5900 or tzivkovich@richlaw.com. Thank you for your assistance.

Very truly yours,

M. Trent Zivkovich

Joseph Clarke, J.J. Clarke Enterprises, Inc.

Gary Setzer, MDE
Jay Sakai, MDE
Adam Snyder, Office of the Attorney General (MDE)

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AUG 18 2009

MARYLAND STATE ARCHIVES

Maryland State Archives Mail Log System 08/22/2008

Tracking No. 09-2954

Zivkovich, Trent
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Annapolis, MD 21401
410-267-5901 tzivkovich@richlaw.com

Staff: ECP

Date Received: 08/22/2008

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Subject: Land Patent Review Fells Point Recreation Pier Baltimore w/CD

#### RICH AND HENDERSON, P.C.

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August 22, 2008

#### VIA HAND DELIVERY

Edward C. Popenfuse, Ph.D State Archivist and Commissioner of Land Patents Maryland State Archives 350 Rowe Boulevard Annapolis, MD 21401

Ret

Land Patent Review

Fells Point Recreation Pier, Baltimore

MARIL NO STATE ALCOHY'S

#### Dear Dr. Papenfuse:

As requested, please find enclosed a compact disk containing copies of original source materials related to the land patents referenced in Warren Rich's May 28, 2008 letter to Secretary Wilson of the Maryland Department of the Environment. The enclosed documents were also provided by this firm to Whitney Bailey Cox & Magnani, LLC ("WBCM"), who then used the information to plot the location of the patent boundaries on a modern day site plan. These documents include the following:

- An April 23, 2008 letter to Geno Cauley of WBCM and its attachments, which include:
  - a. An undated plat of "Fell's First Addition to Baltimore":
  - b. An unnamed plat that accompanied a legal ejection action!;
  - An April 23, 2008 memorandum containing transcriptions of the metes and bounds descriptions from the Island Point (also referred to as Long Island Point), Island Point (Resurvey) and Fell's Prospect patents; and
- d. Copies of the Island Point (Resurvey) and Fell's Prospect patents:
- 2. The published opinion for Casey's Lessee v. Inloes, 1 Gill 430 (1844);
- 3. "A Map of Part of Baltimore Town", dated 1787, showing the layout of Fells Point during that period:

<sup>1</sup> The Maryland State Archives online database indicates this plat is associated with the case of *Peterkin v. Inloes* (1842). However, a review of the opinion issued in *Casev's Lessee v. Inloes*, 1 Gill 430, 30-32 (1844) appears to reference this same plat.

Edward C. Papenfuse, Ph.D., Maryland State Archives
August 22, 2008
Page 2 of 2

- 4. An overlay completed by WBCM with the calls for each of the referenced patents superimposed on a modern day map of Fell's Point. This overlay was used by WBCM in creating Exhibit 2, attached to Mr. Rich's May 28th letter to Secretary Wilson; and
- 5. Exhibit 2 to the May 28, 2008 letter from Warren Rich to Secretary Wilson.

Please feel free to contact me at 410-267-5900 or tzivkovich@richlaw.com if you have questions regarding any of the enclosed information. Thank you for your assistance.

Very truly yours,

M. Frant Ziukovich

Enclosure:

One Compact Disk

cc:

Joseph Clarke, J.J. Clarke Enterprises, Inc. (w/o enclosure)

Gary Setzer, MDE (w/o enclosure)
Jay Sakai, MDE (w/o enclosure)

Adam Snyder, Office of the Attorney General (MDE) (w/o enclosure)

### RICH AND HENDERSON, P.C. ATTORNEYS AT LAW

#### MEMORANDUM

51 Franklin Street, Suite 300 P.O. Box 589 Annapolis, Maryland 21404-0589 (410) 267-5900 (410) 267-5901 facsimite

TO:

Eugene F. Cauley, P.E., Whitney Bailey Cox & Magnani, LLC

FROM:

M. Trent Zivkovich

DATE:

April 23, 2008

SUBJECT:

Exhibit 3 to Letter of April 23, 2008

Calls in Historic Land Patents in Area of

City of Baltimore Recreation Pier, 1715 Thames Street

#### "Island Point" (1671)

Beginning at a bounded locust standing at the head of a round bay, and running down the said bay south-south-west eighty perches to a bounded Spanish oak at the mouth of said bay, and from the said oak up the said branch north-west thirty-six perches, then west-south-west one hundred perches, then west-north-west seventy-two perches to the bottom of Long Island Point, then north-east sixteen perches, then east and by south sixty perches, then north and by east eighty perches to a bounded red oak of a parcel of land laid out for Alexander [Mountenay], then north-north-east by Mountenay's land seventy-six perches, and then to the first bounded tree, containing, and now laid out for one hundred acres of land, more or less, together, &c., in fee, dated 10th July, 1671.

Transcription Source: Casey's Lessee v. Inloes, 1 Gill 430 (Md. 1844).

See also:

Patent for "Long Island Point"

Patent Issued July 10, 1671, to William Poultney MSA S1582-6038, Patent Record 16, p. 155. MSA S1582-6039, Patent Record 16, p. 223.

#### "Island Point Resurvey" (1734)

Beginning at a bounded White oak standing at the head of a round bay on the northwest branch of Patapsco river Said Oak Standing by the Spot Where it is Supposed Stood a bounded Locust the antieul beginning tree of the Said land, Same White Oak bering North four deg. East Sixty Six [perches]from the mouth of the Said bay, And running from the afore White oak South four Deg West Sixty Six [perches], thence South Sixty three Deg West fourteen [perches], thence North forty Deg. West thirty [perches]thence north eighty Seven Deg. West forty two [perches], thence South fifty Deg. West fifty Six [perches], thence South Seventy three Deg. West twenty

four [perches], thence north fifty five Deg. West fifty four [perches], thence north forty five Deg. East Sixteen [perches]thence South eighty Deg. East Sixty four [perches], thence North three Deg. East eighty [perches], thence north north east Seventy Six [perches]and thence by a Straight line to the Said beginning containing and now laid out for eighty five acres of Land more or less by the name of Island point to be hold of the manor of Baltimore.

Source:

Patent for "Island Point"

Surveyed for Charles Carroll, February 20, 1733 by Thomas White.

Patent Issued June 5, 1734 to William Fell

Patented Certificate 2510 (Baltimore County), MSA S1190-2623

#### "Fell's Prospect" (1761)

Beginning at a bounded white oak standing at the head of a round bay on the north side of the north-west branch of Patapsco river, being the same bounded white oak expressed in the former grant to be the beginning of Long Island Point, and running thence bounding on the said round bay the six following courses, viz: south twelve degrees west ten perches, south twenty-three degrees east six perches, south eleven degrees west twentysix perches, south ten degrees east twelve and a half perches, south fifteen degrees west fourteen and a half perches, south fifty-three degrees west six and a half perches, to the bottom of the round bay; then running and bounding on and up the said river the nine following courses, viz: north seventy-six degrees west seven perches, north thirty-six degrees west twenty-two perches, north sixty-five degrees west sixteen perches, west twenty-six perches, south fifty-eight degrees west thirty-eight perches, south forty-six degrees west thirty perches, south eighty-eight degrees west twenty-six perches, north sixty-one degrees west thirty-four perches, north thirty-six degrees west nine perches, to the bottom of Long Island Point, as expressed in the original grant; then running and bounding with the river the ten following courses, viz: north thirty-eight degrees east eight perches, north fifty-eight degrees east seven perches, south sixty-eight degrees east twenty perches, south eighty-six degrees east twenty-eight perches, south seventy-seven degrees east ten perches, north twenty-five degrees east eighteen perches, north eight degrees east ten and a half perches, north nineteen degrees west fourteen and a half perches, north eight degrees east twenty-eight perches, north thirty-three degrees west sixteen and a half perches to the first line of Mountenay's Neck, and running with the said line reversely south sixty-seven degrees and thirty-minutes east eight perches to a post, the beginning of Mountenay's Neck, then running and bounding . . . .

Transcription Source: Casey's Lessee v. Inloes, 1 Gill 430 (Md. 1844) (emphasis added).

See also:

Patent for "Fell's Prospect"

Resurveyed for Edward Fell, March 10,1761, by William Smith

Patent Issued May 20, 1761 to Edward Fell

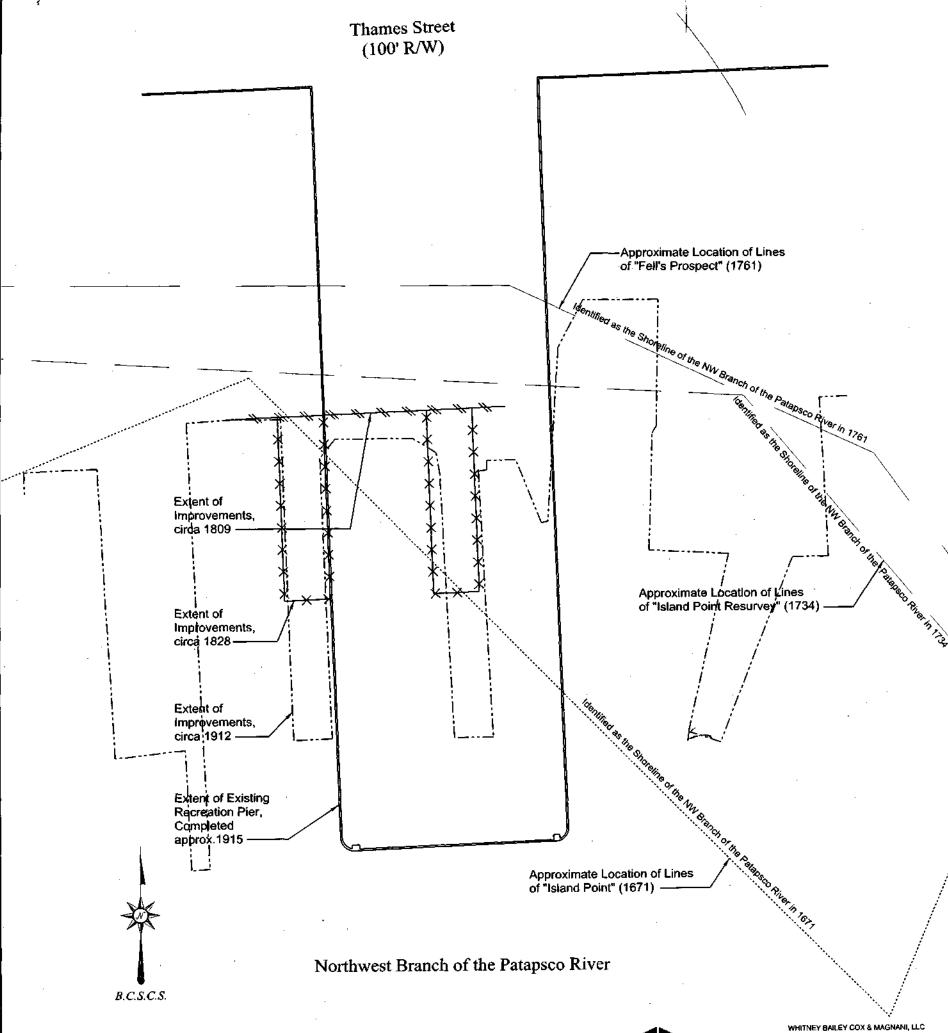
Patented Certificate 1659 (Baltimore County), MSA S1190-1764

#### GENERAL NOTES

- 1. THE EXISTING RECREATION PIER OUTLINE SHOWN HEREON IS BASED UPON A PARTIAL FIELD-RUN PLANIMETRIC SURVEY PERFORMED BY WHITNEY, BAILEY, COX & MAGNANI, LLC (WBCM) IN JANUARY. 2005, UPDATED TO REFLECT A FIELD-RUN TOPOGRAPHIC SURVEY PERFORMED BY WBCM IN APRIL, 2006 AND REFLECTS SITE CONDITIONS AS OF THAT DATE.
- 2. HORIZONTAL COORDINATES AND DIRECTIONS OF SAID SURVEYS BY WBCM ARE REFERRED TO THE MERIDIAN OF THE BALTIMORE CITY SURVEY CONTROL SYSTEM AS DETERMINED FROM THE FOLLOWING B.C.S.C.S. TRAVERSE STATIONS:

STATION # 31744 N -5667.938 E 6602.260 PLUG FOUND STATION # 31745 N -5654.447 E 6962.905 PLUG FOUND

- 3. THE IMPROVEMENTS (PIER/SHORELINES) THAT EXISTED IN 1912 SHOWN HEREON ARE FROM A DIGITAL SCAN OF THE 1912 SURVEY BY S.J.MARTINET REFERRED TO IN NOTE 10 ON A SURVEY BY S.J.MARTINET AND CO.,INC., DATED MAY 5, 2005, ENTITLED "BOUNDARY SURVEY PLAT OF No. 1715 THAMES STREET RECREATION PIER" AS TIED TO THE PLANIMETRIC AND TOPOGRAPHIC SURVEY BY WBCM REFERRED TO IN NOTE 1, ABOVE.
- 4. THE LINES OF THE FOLLOWING THREE LAND PATENTS SHOWN HEREON WERE POSITIONED BASED ON THE LOCATION OF THE CALLED FOR CORNER OF "MOUNTENAY NECK" INDICATED BY THE LETTER "M" SHOWN ON A PLAT WHICH ACCOMPANIED A LEGAL EJECTMENT ACTION, "CASEY'S LESSEE V. INLOES", FILED IN THE MARYLAND STATE
  ARCHIVES AT MSA C2042-205. p. 1 AND ATTACHED TO THE LETTER OF APRIL 23, 2008, FROM M. TRENT ZIVKOVICH OF RICH AND HENDERSON, P.C., TO EUGENE F. CAULEY,
  OF WBCM AS EXHIBIT 2. THE POINT LETTERED "M" WAS POSITIONED APPROXIMATELY WITH RESPECT TO THE STREET LAYOUT. THESE LOCATIONS ARE APPROXIMATE AND NOT
  BASED ON ANY LOCATION BY SURVEY BY WBCM. THE METES AND BOUNDS OF SAID PATENTS WERE BASED ON TRANSCRIPTIONS CONTAINED IN A MEMORANDUM ATTACHED TO THE THE APRIL 23, 2008, LETTER, REFERRED TO ABOVE, AS EXHIBIT 3.
- A) "ISLAND POINT" (1671) SHOWN HEREON WITH A SHORT DASHED LINE
- B) "ISLAND POINT RESURVEY" (1734) SHOWN HEREON WITH A MEDIUM DASHED LINE C) "FELL'S PROSPECT" (1761) SHOWN HEREON WITH A LONG DASHED LINE
- 5. THE EXTENT OF IMPROVEMENTS CIRCA 1809 AND 1828 SHOWN HEREON ARE FROM A SURVEY OF THE EXTENSION OF THE TENANTS WHARF, Ca. 1809 (BCA, RG3, S.1, BOX 11, 1809-177A, INDEX No. 218) AND THE PORT WARDEN'S SURVEY, Ca. 1828 (BCA, RG12, S.6 121) POSITIONED WITH REFERENCE TO THE S.J.MARTINET SURVEYS REFERRED TO IN NOTE 3, ABOVE.



#### **Exhibit Showing Historic Shorelines** Recreation Pier - Fells Point

1715 Thames Street Ward 2, Section 6, Block 1872, Lot 1 Baltimore City, MD 21231-3417

2005.0002.02.0





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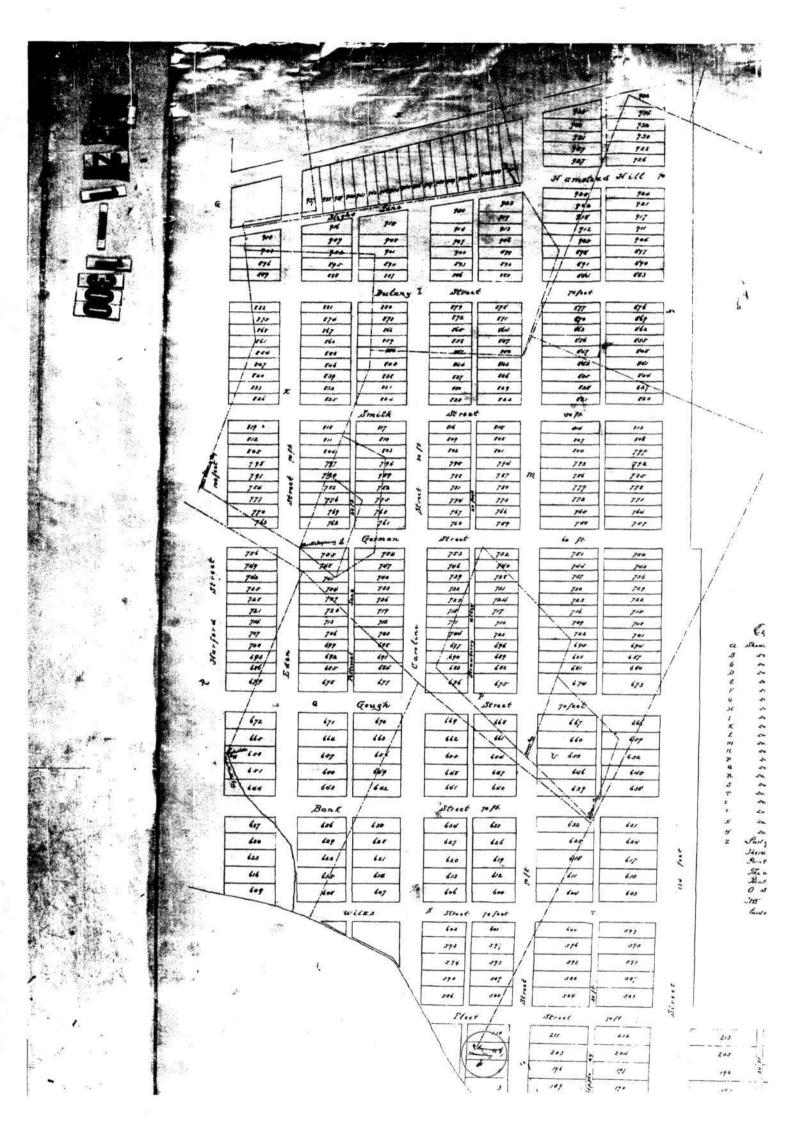


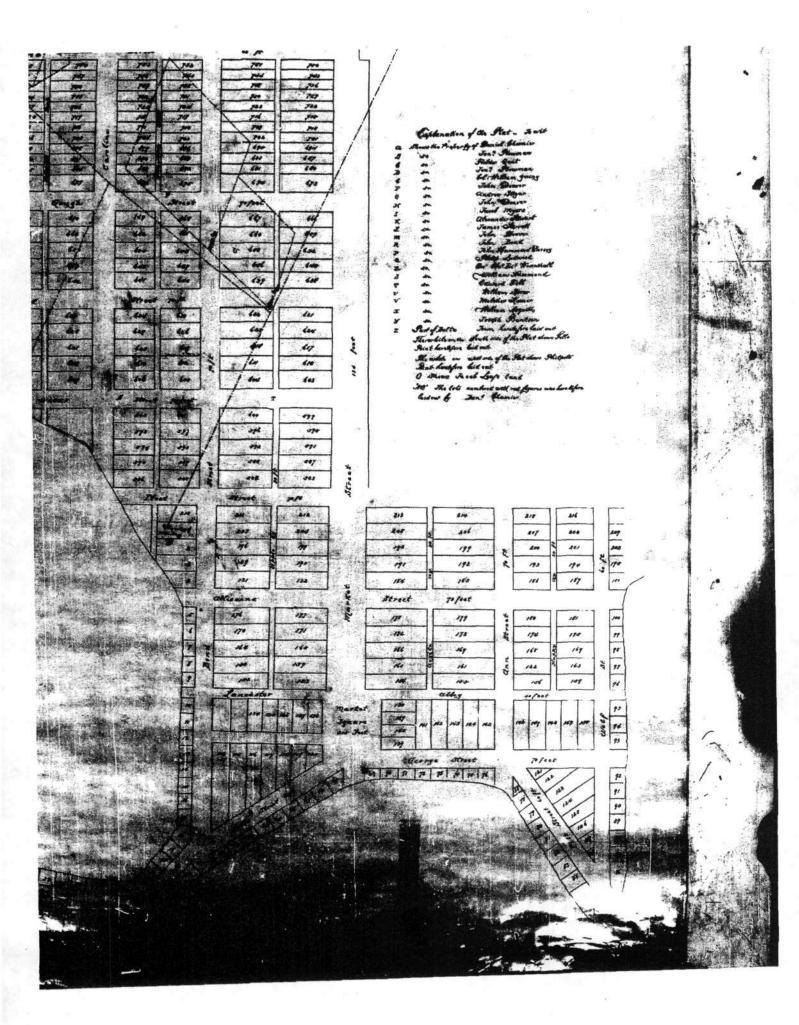
Exhibit 1- Fell's First Addition to Baltimore Baltimore City Archives, BCA 206 (microfilm), M2211-1300.

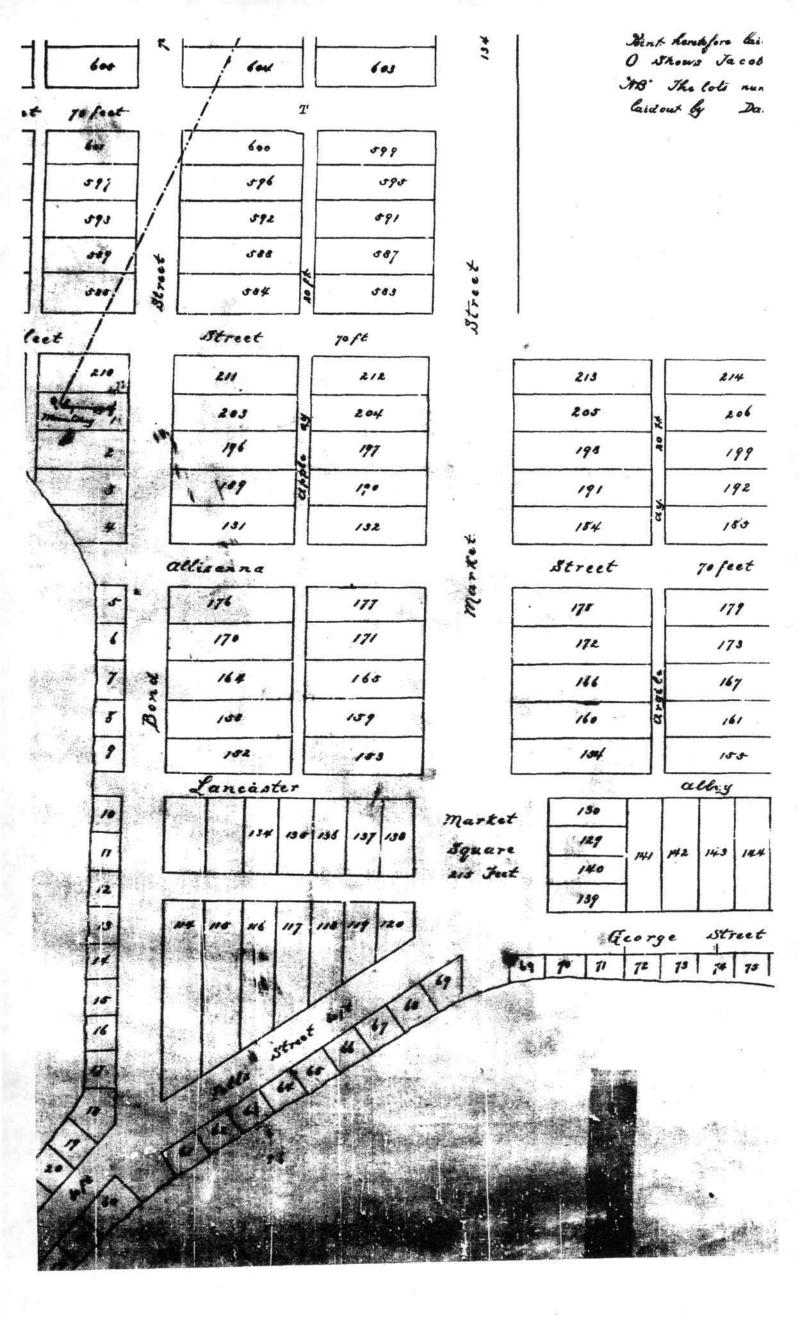
# FELL'S First Addition to BALTIMORE

Explanation of the Plat - Towit

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Shows the Property of Deniel Chamier
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                         bel Hilliam grung
                         John Dearer
                        andrew Stepar
                         John Doaver
IXIMR
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                         James Sarrett
                                Diane
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R.
                         William Hammond
18
                         Octavera Fill
T
                          William Bour
                         Meloker Komer
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      The white on wood side of the Stat chains Philipote
      Sint heretifore laid out
      O Shows Jacob Leaps land
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       laidout by Dan! Chamier
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## 2510

## BALTIMORE COUNTY.

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Acres
SURVEYED FOR
Feb. 20 1733
Returned
Ex'd. and Passed May 16 1734
Comp. \$ Pd.
PATENTED TO
ufon Fell
June 5- 17/34
Rec. of Cert. Ed. Mo. 3 fo 344
Rec. of Patent

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1659

BALTIMORE COUNTY.

Fells Prospect

Acres 340

SURVEYED FOR

Edward Fell

10th March 1761

Returned ...

Ex'd. and Passed 20 th May 1761

comp. \$ Pd. 20th May 1761

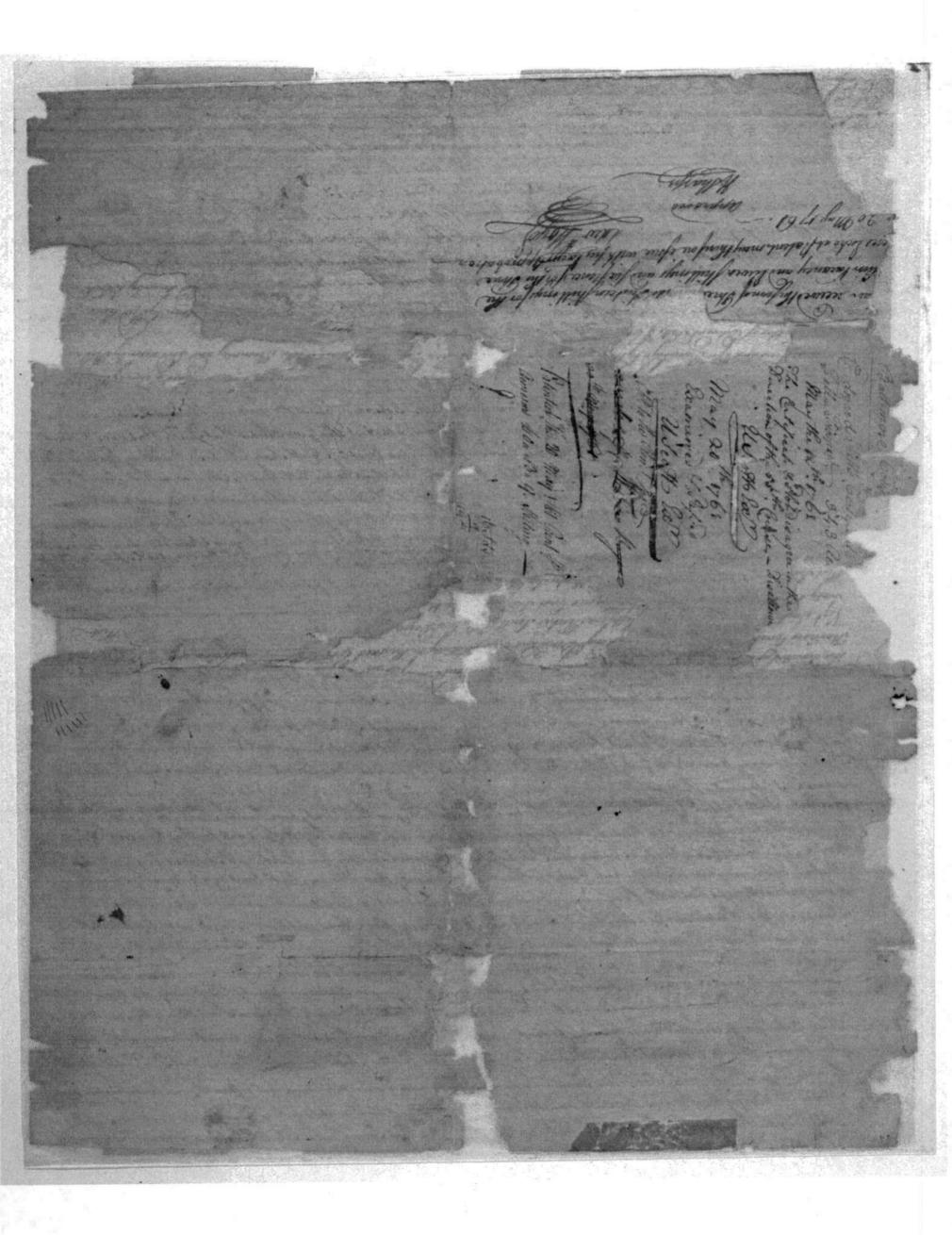
PATENTED TO

Edward Fell

20th May 1761

Rec. of Cert. BERS. no.21 folio 14

Rec. of Patent Bels no. 17 folio 634



County for a lity Seeles of a paint Haward Granted Out of the Sedelipe land of fine Being dat & date the 23 Fine Dome 17 60 to Ly only or Estand Vell of Bollower soon town weeder the Stand Organist . Har were Briginally watcher Comer for 100 Hour worder Nins Pl 1974 General John Carles for 100 Horse strong line dent and southett the And Some top to Good and Milliam Sell . Salice the Tilling any Friend and which when I style Prime and all seins this post where who I Bounded Squet the Briganit Boursell Chin Corches Hot Will Theren to Verthe But hate Sicher Cant by Jost heary Sicher North by Gast gray to a led Tale y afrest of fine called the wor link then North York Court by Mountary Neck South Le The Out for One hundred News more or & you and for the This Wast or Block of Soil Bearing date the of Bay of Some 173 to as by Pottint, to sgin At the Cake Storeing at the Had of a Hound Dog a the Sortathet Branch of & Capper new Cart Sely for Becher, No the North North Gast Seventy Sto Hickes then 18960UT Degram the Beginning Contain a of Mouper Valachine a he to a tom sup local of Long Wand Count and Thoch, Tricked to a Rounded bounded something ted Oak & Lit a Some tothe Boyumany Continuing & Land Sur South Sinity Les Perches, Rounding on Compar Addition them with a street On himmer time Carter Delate Pagen rivers mes Cast One windered I therby Prober South Sighty Swen Fresh and ronning therew York Just, Sinker, North Sweening his South Sughteen Synce West Worth by fair Richer exercing Containing & food out for the hourds More or John Vinhello Sulds, Degenoring at a tred Bak to Sweety three Centre Couts Bast by South forty Sweet Cinter and mening theres North North Cast Bru Ministe Said But for Bightern there men er life which is Home withantheight limbs the Preginning Containing Thirty three Hors part there of a laker away by Alder Sun Variette of Fond Contains on the whole There herd out & the sil to the Residue of the said Stracts have by House and Left in Navigable Habe which have Charlised I have land and thousand of coulert on part of Jong telms North Hest Branch of Stapwied Plever Benny White Oak Copy feel in the Some Grand to be the Busines Long Setand Saint and newery thene Rounding on here, South boundy three Degrees East Var Broken welve I'm half The ober South foften Lynn Histolianten gan Sucher South Sifty the Stepow Hart Swan ahart From wof the French Bay theor running & bourn Tico Line the has deen nog of war hat Weeth Sweeth in Post Swen Perhin North That you Dogwood Hat when

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