No. 29495-A 57 297 1948

R. GARLAND CHISSELL, ET AL

vs

THE MAYOR AND CITY COUNCIL OF BALTIMORE, A MUNICIPAL CORPORATION

DONALD G. MURRAY MA 2091
CHARLES H. HOUSTON
Sol. for Complainant

apr 9

THOMAS N. BIDDISON
HAMILTON O'DUNNE
Sol. for Respondent

Date	Clerk's Memorandum	No.
1-26-49	Decree dismissing Bill of Complaint	28
2-10-49	Order for Appeal	29
3-24-49	Testimony taken in open Court - Volumes 1 and 2 see other folder	30-31
4-12-49	Designation of Record	32
12-12-49	Mandate from the Court of Appeals of Maryland	33

In The Circuit Court No. 2 of Baltimore City

319

In The Circuit Court No. 2 of Baltimore City

No. 29495-A 57 297 1948

R. GARLAND CHISSELL, ET AL

vs.

THE MAYOR AND CITY COUNCIL OF BALTIMORE, A MUNICIPAL CORPORATION

DONALD G. MURRAY
CHARLES H. HOUSTON
Sol. for Complainant

THOMAS N. BIDDISON
HAMILTON O'DUNNE
Sol. for Respondent

Date	Clerk's Memorandum	No.
6-10-48	Bill of Complaint and for an injunction, etc.	1-2
6-10-48	Subpoena issued (Summoned)	3
6-10-48	Order of Court, etc. (Served on Thomas N. Biddison, Solr.)	4
6-24-48	Demurrer to Bill of Complaint	5
6-29-48	Motion for Hearing	6
6-29-48	Notice as to Hearing (Served on Plaintiffs Solrs.)	7
9-21-48	Order of Court overruling Demurrer, etc.	8
9-21-48	Amended Bill of Complaint	9
9-21-48	Order of Court directing Defendant show cause (Service admitted)	10
9-23-48	Answer to Amended Bill of Complaint	11
9-28-48	Petition and Order to take testimony under 560th Rule (Served on Plaintiffs Solrs.)	12
10-4-48	Notice of Depositions	13
10-4-48	Notice of Depositions	14
10-4-48	Motion and Order to permit the inspection of records	15
10-4-48	Motion and Order to permit the inspection of records	16
10-4-48	Motion and Order to permit the inspection of records	17
10-4-48	Motion and Order to permit the inspection of records	18
10-25-48	Depositions	19
11-5-48	Additional Depositions	20
12-16-48	Depositions and Stipulations	21
12-17-48	Summons issued for Plaintiffs witness (Summoned as marked)	22
12-20-48	Summons issued for Plaintiffs witness (Summoned as marked)	23
12-22-48	Summons issued for Plaintiffs witness (Summoned as marked)	24
12-22-48	Summons issued for Plaintiffs witness (Summoned as marked)	25
1-11-49	Summons issued for Plaintiffs witness (Summoned as marked)	26
1-21-49	Opinion	27

R. GARLAND CHISSELL, et al * CIRCUIT COURT NO. 2

*

VS. OF

*

MAYOR AND CITY COUNCIL OF
BALTIMORE CITY * BALTIMORE CITY

****

Memorandum of Law to the Court

1

A "municipal corporation" is a department of the government of state, created by the Legislature with policital powers to be exercised for the public welfare,------Neuenschwanda v Washington Suburban Sanitary Commission, 187 Md. 67.

2

Right of property owners to a hearing is indefeasible and the hearing must be more than a pro forma exercise without meaning.

City of Baltimore v Scharf 54 Md.499

3

The Plaintiffs here have suffered special damages. As adduced by the evidence they have no administrative relief available as against the increase in their 1947 tax assessments, the public nuisance created by the dirt, noise, and traffic hazards of making these streets one way by Ordinance #169. ******"if the appellants have suffered therefrom an injury different in kind from that suffered by the community generally; or special and particular damage resulting to them by reason of the nuisance then they have the right to their private remedy for such injury."******

Townsend, Grace & Company v Epstein 93 Md. 538,553

4

The control of a municipal corporation over its streets is not an arbitrary one but one held in trust for the benefit use and convenience of the general public. It is not in accord with such trust that the municipality subserve a merely private interest.

Townsend, Grace & Company v Epstein supra 555

5

"The police power is not unlimited and cannot be used to oppress."

Kahl v Consolidated Gas Company 60 A2 754,758

6

Authority to act depends on law at time of action.

" The public can act only through its authorized agents, and it is not bound until all who are to participate in what is to be done have per- their respective duties. The authority of a public agent depends on the law as it is when he acts".

Colen v Cleburne, 131 U.S. 162, 173

7

There is a proper exercise of police power when exerted in accordance with a comprehensive street plan prepared by the proper authorities as set forth in the City charter but only an arbitrary exercise of the same power when no mutual restrictions and prohibitions are imposed upon the citizens affected.

Benner et al v Tribbitt 57 A2d 346

(a) "arbitrary" and "capricious" --without adequate or determining principle; not done according to reason or judgment, depending on the will above, tyrannical; despotic

Central Ga R Co v Mote, 62 S E 164, 170, 131 Ga 166

Council v Swisher County (Tex Civ Abb) 78 SW 2d 1072, 1074

State v Then, 177 A 87, 89, 144 NJ L413

Eureka Bldg. & Loan Assoc. v Myers, 78 P 2d 68, 71, 147 Kan 609

Applicant for certificate of convenience and necessity cannot arbitrarily create a situation, and therefore seek advantage as result thereof, and when Public Service Commission so permits, its action becomes by way of adoption, an arbitrary exercise of its power which is reviewable by the courts.

Dixie Greyhound Lines v Miss Pub Service Commission, 1 So 2d 489, 490, 190 Miss 704

City's plenary power over streets cannot be exercised arbitrarily, capriciously or in bad faith.

City of Norton v Lowden, 84 F2d 663

Respectfully submitted,

Donald G. Murray

Donald G. Murray
Charles H. Houston

DOCKET 57a FOLIO 541
CASE No 29495a
FILED 12 Dec 1949
33

MANDATE

Court of Appeals of Maryland

No. 9, OCTOBER TERM, 19 49

R. Garland Chissell, et al vs. M. & C. C. of Baltimore	Appeal from the Circuit Court No. 2 of Baltimore City Filed: Apr. 19, 1949 Nov. 9, 1949, Decree affirmed, with costs. Opinion filed. Op. Markell, J.

Appellant's Cost in the Court of Appeals of Maryland,

Clerk's Cost	$ 10.00	
Brief	$ 65.42	
Appearance Fee . . .	$ 10.00	
½ Joint Appendix . .	$ 362.42	$447.84

Appellee's Cost in the Court of Appeals of Maryland,

Brief	$ 116.95		
Appearance Fee . . .	$ 10.00		
½ Joint appendix . .	$ 362.41	489.36	$937.20

STATE OF MARYLAND, Sct:

I, Maurice Ogle, Clerk of the Court of Appeals of Maryland, do hereby certify that the foregoing is truly taken from the record and proceedings of the said Court of Appeals.

In testimony whereof, I have hereunto set my hand as Clerk and affixed the seal of the Court of Appeals, this ninth *day of* December *A. D. 19* 49

Maurice Ogle

Clerk of the Court of Appeals of Maryland.

Costs shown on this Mandate are to be settled between counsel and NOT THROUGH THIS OFFICE

January 21, 1949

John:-

The exhibits in the Chissell case are being returned to you and counsel, Hamilton O'Dunne and Donald G. Murray, have been advised that they can be picked up in your office.

V.C.

Memo from

BALTIMORE CITY COURT,

JOHN O. RUTHERFORD, Clerk.

IN RE: _____

MURRAY, DOUGLASS & PERKINS
ATTORNEYS-AT-LAW
1506 PENNSYLVANIA AVENUE
BALTIMORE 17, MARYLAND

DONALD G. MURRAY
CALVIN A. DOUGLASS
ERNEST L. PERKINS

JAMES R. COMPTON

TELEPHONES
MADISON 2091
MADISON 10712

April 12, 1949

Mr. John S. Clarke
Clerk of Circuit Court
Court House
Baltimore 2, Maryland

Dear Mr. Clarke:

Please find enclosed copy of the letter which I have received from Mr. Young of the Court of Appeals in Maryland in which time for filing the record in the Chissell et al vs. Mayor and City Council of Baltimore City has been extended to April 19, 1949.

I am completing the designations and having photostats made of the remaining exhibits. I will try to complete the matter to be needed as soon as possible.

Very truly yours,

Donald G. Murray

Donald G. Murray

DGM/lw
Enc.

C
O
P
Y

COURT OF APPEALS

of Maryland

Annapolis, Md.

Maurice Ogle
Clerk

April 11, 1949

Donald G. Murray, Esquire
Attorney at Law
1506 Pennsylvania Avenue
Baltimore, 17, Maryland

Dear Sir:

This is to advise that Chief Judge Marbury has signed your petition for the extension of time for filing transcript in the case of Chissell, et al vs. M. & C. C. of Baltimore, as per the enclosed copy, granting until April 19, 1949 for filing with the Clerk of this Court.

Very truly yours,

J
L:S
Y

SIGNED BY: J. L. Young

Petition
Copy to above -

DOCKET 579 FOLIO 541
CASE No 29495a
FILED 12 April 1949
32

R. GARLAND CHISSELL, ET AL, * IN THE CIRCUIT COURT NO. 2

Plaintiffs. *

*

VS. FOR

*

THE MAYOR AND CITY COUNCIL *
OF BALTIMORE CITY,

*

Defendants. BALTIMORE CITY

*

* * * * * * * * * *

DESIGNATION OF THE PORTION OF THE RECORD, PROCEEDINGS AND EVIDENCE TO BE CONTAINED IN THE RECORD ON APPEAL, AND AGREEMENT THERETO BY THE SOLICITORS FOR THE RESPECTIVE PARTIES.

The following shall be included in the record in their entirety:

Bill of Complaint
Demurrer
Order
Amended Bill of Complaint
Answer of The Mayor and City Council of Baltimore City
Transcript of testimony on behalf of the plaintiffs
Transcript of testimony on behalf of the defendants
Plaintiffs' exhibits 2, 3, 4, 5, 6, 7, 8, 9, 10 p. 21, 11, 23, 24
Defendants' exhibits 1, 2, 3, 4, 5, and plates 10, 11, 12, 13 of defendants' exhibits 6.

The following shall be omitted from the record, and it is agreed that their purport and substance are as follows:

Plaintiffs' Exhibit No. 1 being a report entitled "Analysis of Traffic Conditions and present and Post-War Requirements" the purport and substance of the relevant material being contained on pages 5, 6, and 7 of the reporters transcript of testimony in this case.

Plaintiffs' Exhibit No. 12 being a letter addressed to the City Council of Baltimore City by the Mayor of Baltimore City, the purport and substance of the relevant material being contained on pages 198, 199, and 200 of the reporter's transcript of testimony in this case.

Plaintiffs' Exhibits 13, 14, 15, 16, 17, 18, 19, 20, 21 which are the tax receipts of Clarence Mitchell, Thomas J. Smith, Lillie M. Jackson, Garland Chissell and Augusta F. Chissell the plaintiffs in this suit and which show the following figures:

Exhibit No.	Year	Name	Assessment	Tax	Property
13	1947	C.M. Mitchell	$3780.00	$128.17	1324 Druid Hill Avenue
14	1948	" " "	5080.00	162.93	" "
15	1947	Thomas J. Smith	4100.00	137.46	1729 McCulloh Street
16	1947	Lillie M. Jackson	4300.00	141.22	1216 Druid Hill Avenue
17	1948	" " "	6040.00	200.86	1627 " " "
18	1946	Garland Chissell	4540.00	159.29	1534 " " "
19	1947	" "	5040.00	173.22	" "
20	1947	Augusta Chissell	3780.00	128.17	1326 "
21	1948	" "	5080.00	162.93	" "

Plaintiffs' Exhibit 22 being Order No. 42685 of October 9, 1946 of the Public Service Commission of Maryland the purport and substance of the relevant material being contained on page 327 of the reporter's transcript of testimony in this case.

Plaintiffs' Exhibit 25 being Rule 41 of the Rules and Regulations of the Department of Recreation and Parks of the City of Baltimore 1948 the purport and substance of the relevant material being contained on pages 366 and 367 of the reporter's transcript of testimony in this case.

It is agreed and stipulated by and between counsel for all parties to this case that the name of Nancy Winkey, a minor complainant in this suit, was inadvertently omitted from the introductory paragraph of both the original bill of complaint and the amended bill of complaint and that for purposes of this designation her name shall be considered so inserted in both the bills nune pro tunc.

It is agreed and stipulated by and between counsel for all the parties to this case that a Report to the Commission on City Plan of the City of Baltimore by the Advisory Engineers dated January 29, 1942, page 64 was offered

in evidence by the plaintiffs but never marked in this case, and the purport and substance of the relevant material being contained on pages 325 and 326 of the reporter's transcript of testimony in this case.

It is also agreed by counsel for all parties that this designation and agreement shall be part of the record in this appeal and shall be one of the papers transferred to the Court of Appeals of Maryland.

Donald G. Murray
Co-Counsel for the Plaintiffs

Hamilton Grume

Ma 2091

DOCKET 579 - 541
CASE No. 29495 a
FILED 10 Feb 1949
29

R. Garland Chissell and Augusta Chissell, his wife; William R. Boykin Sr, and Willie Mae Boykin, his wife; Raymond A. C. Young and Helen B. Young, his wife; Clarence M. Mitchell, Jr. and Juanita Jackson Mitchell, his wife, et al,

vs. Complainants,

The Mayor and City Council of Baltimore

A Municipal Corporation

Respondents,

IN THE

Circuit Court No. 2

—OF—

BALTIMORE CITY

ORDER FOR APPEAL

Mr. Clerk:

Please enter an appeal on behalf of the complainants in the above entitled cause from the decree passed on the 26th day of January, 1949 to the Court of Appeals of Maryland.

Donald G. Murray

Donald G. Murray, Co - *Solicitor for Appellants*

State of Maryland, Baltimore City, to wit:

I hereby certify, that on this 10th day of February, 19 49, before me, the Subscriber, Clerk of the Circuit Court No. 2 of Baltimore City, personally appeared Donald G. Murray, co-solicitor for the appellants and made oath in due form of law that this appeal is not made for the purpose of delay.

John S. Clarke

Clerk of the Circuit Court No. 2 of Baltimore City.

11 agrd

1/24/49 HO'D/db
File No. 82736

DOCKET 529 FOLIO 541
CASE No 29495a
FILED 26 Jan 1949
28

R. GARLAND CHISSELL AND AUGUSTA CHISSELL, his wife; WILLIAM R. BOYKIN, SR., and WILLIE MAE BOYKIN, his wife; RAYMOND A. C. YOUNG and HELEN B. YOUNG, his wife; CLARENCE M. MITCHELL, JR., and JUANITA JACKSON MITCHELL, his wife; et al	:	IN THE
Complainants	:	CIRCUIT COURT NO. 2
vs.	:	OF
THE MAYOR AND CITY COUNCIL OF BALTIMORE, a municipal corporation	:	BALTIMORE CITY
Respondents	:	

. . . . . .

DECREE

The above entitled case having come on for hearing and testimony having been produced by all parties and heard in open court, counsel for each party having been heard and memoranda of the law having been submitted by counsel for all parties, and the testimony, arguments and memoranda having been considered, it is this 26 — day of January, 1949, by the Circuit Court No. 2 of Baltimore City, DECREED, that the Bill of Complaint in the above entitled case be dismissed, the costs to be paid by the Complainants.

Paul Mason
Judge

DOCKET 57A FOLIO 544
CASE No 29495a
FILED 27 Jan 1949

R. GARLAND CHISSELL, et al

vs

THE MAYOR AND CITY COUNCIL OF BALTIMORE, A MUNICIPAL CORPORATION

IN THE CIRCUIT COURT NO. 2 OF BALTIMORE CITY

- -0- -

OPINION

Mason, J.

The Bill of Complaint in this case was filed on June 6th, 1948, by the plaintiffs as citizens, residents and taxpayers of Baltimore City living on Druid Hill Avenue or McCulloh Street. It recites that Druid Hill Avenue and McCulloh Street are residential streets, and prior to the passage of Ordinance No. 169 of the Mayor and City Council of Baltimore City, were safe for pedestrians due to the fact that vehicular traffic on said streets was of moderate or below moderate volume. That because of the density of population, the absence of recreational space, the large number of schools and the many scholars in them, many children of immature age and discretion are forced to cross the two streets. That by Ordinance No. 169 approved March 18, 1948, over the protest of complainants, the respondents designated Druid Hill Avenue and McCulloh Street one way streets for through truck, automobile and bus travel from the outlying sections of Baltimore City to the downtown section of Baltimore City, which has increased the traffic on both streets and rendered them hazardous and dangerous. That the Ordinance will further change the character of the traffic to high speed traffic and increase the noise, noxious fumes and foul odors and deprive the residents and complainants of their right to peacefully and quietly enjoy their respective homes. Complainants then go on to charge that the aforesaid conditions create a public nuisance specially injuring them.

After the foregoing, complainants allege that on or about October 1st, 1947 respondents caused the tax assessments on some of the adult complainants properties to be increased, it being then too late to appeal from said increased assessment. That the respondents had determined to make said streets one way arterial thoroughfares but withheld said information until the assessments were increased, thereby lulling

complainants into inaction until it was too late to appeal the assessments. The Bill prays for an injunction restraining the enforcement of Ordinance No. 169 making said streets one way arterial thoroughfares and restraining the City of Baltimore from collecting any taxes based upon increased assessments in 1947 upon any residential properties located on McCulloh Street and Druid Hill Avenue.

A demurrer was filed to the bill and it was overruled with leave, however, to amend and thereafter an amended Bill was filed which does not differ substantially from the original bill.

On September 23, 1948, respondent filed its answer stating that traffic hazards are incidents of all cities or heavily traveled areas, that the speed is regulated by the police department and that traffic noise and fumes are "indigenous" to all cities. Respondent denied that conditions caused by the one way streets specially injured the complainants or that it acted arbitrarily or capriciously or denied complainants the equal protection of the law.

Respondents admitted that the assessments were increased on or about October 1, 1947, but stated that the increased assessments were not made with any fraudulent intent or timed to deter the complainants from protesting but pursuant to a plan by which one-fifth of all property is revalued and reassessed every year. That the assessment was made independently of any effect which Ordinance No. 169 would have on said property.

Taking the first question that is as to traffic hazards - That there will be increased traffic upon the two streets can hardly be denied. The testimony in the case certainly indicates an increase in traffic. Whether this will produce the hazards to life and limb anticipated by the complainants is another question. The figures on St. Paul and Calvert Streets do indicate a very slight increase in accidents. Common experience indicates an increase in noise and dust. There will also be the disadvantage to the property owners of having restricted parking on the streets. Assuming all these things is the Court justified in enjoining the enforcement of the Ordinance. Although the complainants produced certain testimony in support of above allegations, nevertheless, the traffic experts, employees of the City, whom the complainants called to testify, stated that in their opinion the making of the streets one-way streets would have

the effect of decreasing rather than increasing safety hazards. However, these allegations, even conclusively proven, would not be sufficient to entitle the complainants to the relief which they seek.

In the case of Murphy v State Roads Commission, 159 Md., 7, 15, the Court of Appeals said:

> "Ordinarily the question of whether a proposed highway is required by public necessity is legislative rather than judicial (Elliott on Roads and Streets, sec. 213; Nichols on Eminent Domain, secs. 333, 334); and while the question as to whether the proposed use is public in its nature may ultimately become a judicial one (Ibid., sec. 52; Van Witsen v Gutman, 79 Md., 405), when the Legislature has determined that a proposed improvement is public in its nature, the prima facie presumption is that the use thus declared to be public is public. Nichols, Eminent Domain, sec. 52.)"

Indeed, this Bill of Complaint seems rather conclusively controlled by the case of Baltimore v Himmelfarb, 172 Md. 628. In that case the property owner sought damages against the City for loss of value to his property by reason of deprivation of light and air, and invasion of dust and gases resulting from the erection of a viaduct across St. Paul Place. There was testimony tending to prove that the plaintiff's light and air from the south and west were materially cut off, that shadows darkened his house severely, that whirls or currents of air caused by the construction carried exhaustive dust and gases into his house and diminished the use of it. The Court, however, held that none of these elements entitled the plaintiff to damages against the municipality.

The Court said that in the absence of the actual taking of private property in a situation of this kind there could be no liability on the part of the City. The Court declared at page 631, -

> "There has been no destruction of access or use of the plaintiff's property. The cutting off of light and air as described could not constitute destruction of it, nor could the blowing of dust and gases into it, except by a fiction too far removed from the fact. The light and air are not obstructed directly, or obstructed at all beyond a degree that is common among city buildings. Tall municipal office buildings on both sides of the street might have interfered as much, but would not have given a right to compensation. So a much-traveled highway relocated in front of a house might cause as much dust and gas to enter, but gives no such right. The damages are only consequential. And the case is analogous to that of Mayor, &c. of Cumberland v Willison, 50 Md., 138 in which it was held that damages done to the water power of a mill by means of an increased flow of water carrying debris into the race caused by the grading and paving of a street was not a taking of the property. 'Property thus injured is not in the constitutional sense taken for public use.'

"Public improvements often cause severe incidental damages for which, under this rule, no compensation may be obtained. But it must be remembered, as has been pointed out in other cases, that despite the examples of constitutional amendments and statutes enacted in other jurisdictions to provide the compensation, none have been enacted in this State; and the fact imposes on the courts all the more firmly the duty of observing the limits of the constitutional prohibition. It is not their part to provide otherwise. Garrett v Lake Roland Elec. Co., 79 Md. 277, 283, 29 A. 830; Krebs v State Roads Commission, 160 Md. 584, 594, 154 A. 131."

Another suggestion made by the complainants is that they were not aware of the fact that the Ordinance making the above-mentioned streets one-way streets was being considered or that any consideration was being given to the designation of these streets as one-way streets. Although the record discloses that as early as 1945 rather widespread publication was given to the general plan under consideration, including the publication of a map containing these streets and the contemplated change thereof to one-way streets, nevertheless, even the complete lack of knowledge on the part of the complainants would not be sufficient to justify the Court in enjoining the enforcement of the Ordinance. As the Supreme Court has said in the case of Townsend v Yeomans, 301 U.S., 441, 451, the legislature acting within its sphere is presumed to know the needs of the people of the State. The subject matter, therefore, of streets, being one delegated to the City of Baltimore by Section 6, sub-section 29, of the new Baltimore City Charter, action taken by legislature in this field is presumptively correct. There is also some complaint made by the complainants that the points of view of the residents of the neighborhood were not given proper consideration. Again, however, this contention is answered by the Yeomans case, supra, wherein the appellants contended that certain legislative action was invalid and should be considered as arbitrary because taken without investigation. The Court disposed of this contention and stated:

"There is no principle of constitutional law which nullifies action taken by a legislature, otherwise competent, in the absence of a special investigation. The result of particular legislative inquiries through commissions or otherwise may be most helpful in portraying the exigencies to which the legislative action has been addressed and in fortifying conclusions as to reasonableness."

The Supreme Court has held similarly in the case of Bowles v Willingham, 321 U.S. 503, 519. In the Willingham case the congressional rent control legislation was challenged because there was no provision for a hearing giving landlords a chance to express themselves before a regulation

fixing rents became effective. The Court held that there was no obligation on the legislative body to grant a hearing to those who would be affected by passage of the legislation and quoted from an opinion of Mr. Justice Holmes:-

> "Where a rule of conduct applies to more than a few people it is impracticable that every one should have a direct voice in its adoption. The Constitution does not require all public acts to be done in town meeting or an assembly of the whole. General statutes within the state power are passed that effect the person or property of individuals, sometimes to the point of ruin, without giving them a chance to be heard. Their rights are protected in the only way that they can be in a complex society, by their power, immediate or remote, over those who make the rule."

In reply to this, complainants say that while it may not be necessary for the City Council of Baltimore to hold a hearing on a proposition such as this, when it does announce and hold a hearing it must be in good faith and not pro forma. They further say that in this case the authorities had decided to make the streets one-way before the hearing was held and as proof of that say the City had spent about $400,000.00 upon the driveway around the southeastern perimeter of Druid Hill Park which would be of little use without the one-way streets. The answer to this seems to be that the proposition had been discussed as early as 1945. Plans and reports had been made advocating the change and an ordinance had been introduced in the City Council. This ordinance, however, had not been passed by the Council and, of course, it had not been signed by the Mayor. It is true that the Mayor testified that at the hearing he told some of the complainants or their neighbors that he would sign the ordinance if the Council passed it. Ordinance No. 169 had not been passed or approved when the hearing was held, it was still open, could have been defeated and whatever the convictions of Mr. Holland, Chief Enginner, or the Mayor, one cannot say that the hearing was a farce or fraud.

The complainants have also asked that a permanent injunction be issued to restrain the City from collecting any taxes based upon increased assessments in 1947 upon any of the residential properties located on McCulloh Street and Druid Hill Avenue because of what is alleged

to be the fraudulent manner in which the increased assessments were made by the respondents.

The fraud is said to exist because Ordinance No. 169 was approved after it was too late to take an appeal from the increased assessments. This fact alone would not be sufficient to justify the Court in finding the assessment fraudulent. Mr. Fitzpatrick, the head of the Department of Assessments, was called by the complainants, and he testified that the properties involved were assessed in 1947 pursuant to the plan adopted in accordance with Section 175, sub-section 8 of Article 81 of the Maryland Code, 1939 edition. This last referred to Article directs that for the purpose of assessments for tax purposes the City of Baltimore be divided into five geographical districts, and that the property in each district should be re-assessed or at least reviewed for re-assessment purposes once every five years. Thus, the statutory scheme embraced within that section of the Code just referred to results in a reconsideration for re-assessment purposes of all the property in the City once every five years.

Mr. Fitzpatrick further testified, and the complainants produced no evidence to contradict him, that the property involved in this case was re-assessed in 1947 pursuant to the terms of Article 81, section 175 supra. He testified that this property ~~law~~ was within the geographical district scheduled for reconsideration and re-assessment in 1947 and that none of the property was re-assessed out of the normal order in which it would have been in accordance with Article 81, section 175 of the Maryland Code.

The complainants have produced testimony of owners of property in the vicinity to the effect that the increased traffic on Druid Hill Avenue and McCulloh Streets has rendered the enjoyment of their property less desirable than formerly, and thus decreased the value of their property. However, although the time for appeal to the Board of Municipal and Zoning Appeals for the purpose of contesting the assessment has expired (Section 129, Baltimore City Charter, effective May 20, 1947), nevertheless, the complainants have not availed themselves of the remedy provided by Section 190 of Article 81 of the Maryland Code, 1939 edition. This section of the Code provides that upon the request of a taxpayer the Appeal Tax Court (now the Board of Municipal and Zoning Appeals) shall hold a hearing for the purpose of reconsidering assessments providing the demand be filed

before July 1st preceding the taxable year in question. Although the evidence is clear, that well in advance of last July 1st, 1948, the complainants were made aware of the situation about which they now complain, none of them demanded a reconsideration by the Board for the purpose of re-assessing their property. Thus, it is apparent that as far as the assessments of the complainants' properties are concerned, they had an adequate remedy at law but did not avail themselves of the opportunity to use it. If the complainants are still of the same opinion next spring as they expressed themselves presently to be in the Bill of Complaint, then they may file a demand for a reconsideration of their assessments pursuant to Section 190 of Article 81 of the Maryland Code, but the situation does not seem to be one for interference by a court of equity.

For the foregoing reasons the Bill will be dismissed and a decree may be submitted accordingly.

Paul Mason

January 21st, 1949

12/16 Depositions + Stipulations - 21
12/17 Subm. for Pltffs witness (Sun. co. metal) - 22
12/20 do - 23
12/22 do - 24
— do - 25
1/11 do - 26

DOCKET 57A FOLIO 541

Summons For Witnesses CASE No 29495 A *Docket* _____ *Folio* _____

FILED 17 Dec 1948

In the Circuit Court No. 2 of Baltimore City

22

_____ *Term, 19*

The Sheriff will please summon the following witnesses,

returnable on Tuesday the 21 day of December 19 48 at 10 o'clock A. M.

R. GARLAND CHISSELL, et al	*	IN THE CIRCUIT COURT NO. 2
vs.	*	OF
MAYOR AND CITY COUNCIL OF BALTIMORE	*	BALTIMORE CITY

****

MR. CLERK:

Please summons the following witnesses to appear in the above entitled cause.

3 Thomas D'Alesandro, Jr., Mayor
City Hall
Baltimore City
sd

3 Paul Holland, Director of Department of Public Works
Municipal Building
Baltimore, Maryland
sd

3 George A. Carter, Deputy Director Department of Public Works
Municipal Building
Baltimore, Maryland
sd

3 John J. Lang, Deputy Director Department of Public Works
Municipal Building
Baltimore, Maryland
sd

10 Florence Gloster
1522 McCulloh Street
Baltimore, Maryland
sd

3 Charles Murphy, Traffic Engineer
Fayette Street and Fallsway
Baltimore, Maryland
sd

3 Bernard J. Schmidt, Inspector
Fayette and Fallsway
Baltimore, Maryland
sd

3 Jacob J. Elderman
Munsey Building
Baltimre, Maryland
sd

and make the same returnable before his Honored Judge Mason, Circuit Court #2 room 241 on the 21st day of December, 1948 at 10:00 a.m.

Donald G. Murray/lw
Attorney for Defendant

Circuit Court No. 2

541
19 48 DOCKET No. 57a

vs.

Summons for Witnesses

No.

Filed .....*day of* ....., *19*.....

Summons For Witnesses DOCKET 579 FOLIO 541 *Docket* _____ *Folio* _____

CASE NO. 29695

In the Circuit Court No. 2 of Baltimore City

FILED 20 Dec 1948 _____ *Term, 19*

23

The Sheriff will please summon the following witnesses,

returnable on Tuesday the 21 day of December 19 48 at 10 o'clock A. M.

R. GARLAND CHISSELL, et al * CIRCUIT COURT NO. 2

vs. of

MAYOR and CITY COUNCIL * BALTIMORE CITY

* * *

Mr. Clerk:

Please issue subpoenas to the following persons as witnesses in the above entitled cause:

10 Mr. Arnett Frisby NE
1434 Druid Hill Ave.

10 Mrs. Lillie Jackson SP.
1216 Druid Hill Ave.

10 Mrs. Juanita Mitchell Sd
1324 Druid Hill Ave.

11 Mrs. Florence Gloster Sd
-School #120 - Penna. Ave. & Robert St.

10 Mr. Clarence Mitchell Sd
1324 Druid Hill Ave.

11 Mr. Thomas Smith Sd
1729 McCulloh Street

Sd - 11 Mr. Thomas Winkey
2567 McCulloh Street

11 Mr. Raymond Boykin Sd
2566 McCulloh Street

10 Dr. R. G. Chissell Sd
1534 Druid Hill Ave.

10 Mrs. Augusta Chissell SP
1534 Druid Hill Ave.

10 M's. Jessie Peaker Sd
421 Cummings Court

10 Mr. Furman Templeton Sd
1502 McCulloh Street

~~Mr. Wilson K. Barnes~~
~~901 Maryland Trust Building~~

21 M's. Aimee Weber Sd
2624 N. Charles Street

21 M's. Wheeler, Alice Price, Sd
2616 N. Calvert Street

10 Mr. Milton Brown Sd
402 Dolphin Street

10 Mr. Robert Watts Sd
1237 Druid Hill Ave.

13 Mr. Milton Allen Sd
1003 W. Lanvale Street

13 Mr. Wendell Freeland Sd
720 N. Arlington Avenue

10 Mr. Charles Jones SP
School #122 - Preston nr. Druid Hill
School 451 - Lafayette Ave. nr. Druid Hill
School 130 - McCulloh & Lafayette
" 125 - Pennsylvania & Dolphin
" 103 - Division St. nr. Lanvale
" 127 - Biddle nr. Pennsylvania
" 137 - Francis St. nr. Druid Hill Ave.
~~2031 Druid Hill Avenue~~

10 Mr. Reuben Jones SP
10 Mr. John Cotton NE
10 Mr. William N. Parrott SP
10 Mr. Clarence Roberts SP.
10 M's. Lena K. Lee SP.
Sd - 11 Mr. Frank Soreell
~~Mr. Warren Weaver~~

And make same returnable before His Honor, Judge Mason, Circuit Court No. 2, Room 241, on the 21st day of December 1948 at 10:00 A.M.

Donald G. Murray
Donald G. Murray, Solicitor

Circuit Court No. 2

19 48 Docket No. 541 572

.....

.....

vs.

.....

.....

Summons for Witnesses

No.....

Filed .....*day of* ....., *19*.....

R. GARLAND CHISSELL, et al ** CIRCUIT COURT NO. 2

vs. ** of

MAYOR and CITY COUNCIL BALTIMORE CITY

** ** **

Mr. Clerk:

Please issue subpoena duces tecum on Wilson K. Barnes, who is custodian of a brief filed by him as counsel for the Mount Royal Improvement Association in the restrictive covenant cases decided May 1948, by the United States Supreme Court, to bring into Court this brief and make same returnable before His Honor, Judge Mason, Circuit Court #2 - Room 241, on the 21st day of December, 1948, at 10:00 A.M.

Donald G. Murray

Donald G. Murray, Solicitor

(over)

DOCKET 579 FOLIO 541

Summons For Witnesses CASE No 29495 A *Docket* _____ *Folio* _____

FILED Dec 22 1948

In the Circuit Court No. 2 of Baltimore City

24

_____ *Term, 19*

The Sheriff will please summon the following witnesses,

returnable on Wednesday the 22 day of December 19 48 at 10 o'clock A. M.

R. GARLAND CHISSELL, et al	**	CIRCUIT COURT NO. 2
vs.	**	of
MAYOR and CITY COUNCIL	**	BALTIMORE CITY

** ** **

Mr. Clerk:

Please issue subpoena duces tecum on Edward P. O'Malley, Chief Clerk of City Council, City Hall, residing at 4500 La Salle Ave, who is custodian of the journal of the proceedings of the City Council of Baltimore City 1947-1948, to bring into Court this journal and make the same returnable before His Honor, Judge Mason, Circuit Court #2 - Room 241, on the 22nd day of December, 1948, at 11:00 A.M.

24

Donald G. Murray

Donald G. Murray, Solicitor

to testify for Plaintiff

in the case of Chissell et al vs Mayor and

... of Baltimore City.

RECEIVED
SHERIFF'S OFFICE
DEC 22 9 31 AM '48
BALTIMORE CITY, MD.

Circuit Court No. 2

541
19 48 DOCKET No. 579

vs.

Summons for Witnesses

No.

Filed .....*day of* ....., *19*.....

Summons For Witnesses DOCKET 57A F. 541 *Docket* 57A *Folio* 541

CASE No. 28695

In the Circuit Court No. 2 of Baltimore City

FILED 22 Dec 1949 25 *Term, 19*

The Sheriff will please summon the following witnesses,

returnable on Wednesday the 12th day of

January 1949 at 10 o'clock A. M.

Before Judge E Paul Mason

R. GARLAND CHISSELL, et al * IN THE CIRCUIT COURT NO. 2

VS. * OF

MAYOR AND CITY COUNCIL * BALTIMORE CITY

* * *** * *

Mr. Clerk:

Please summon the following witness in the above entitled cause:

John Berry - 704 North Gay Street

And make the same returnable before His Honor Judge Mason, Circuit Court #2, Room 241, on the ~~22nd~~ 12th day of ~~December~~ January, 1949 at ~~2:00 P. M.~~ 10 Am.

Donald G. Murray

Donald G. Murray, Solicitor

Circuit Court No. 2

541

19 48 DOCKET No. 524

vs.

Summons for Witnesses

(24)

No.

Filed 22 *day of* Dec., 19 48

R. GARLAND CHISSELL, et al.	*	IN THE CIRCUIT COURT NO. 2
	*	
VS.		OF
	*	
MAYOR AND CITY COUNCIL	*	BALTIMORE CITY

* * *** * *

Mr. Clerk:

Please issue subpoena duces tecum on R. Brooke Maxwell, Director of Board of Recreation and Parks, who is custodian of the rules and regulations of the Park and to bring with him those rules and regulations, and especially that Park regulation which bans the use of commercial vehicles and trucks in the Park, and make the same returnable before his Honor, Judge Mason, Circuit Court #2 - Room 241, on the ~~22nd~~ 12 day of ~~December~~ January, 1949 at ~~1:00 P.M.~~ 10 A.M.

Donald G. Murray

Donald G. Murray, Solicitor

R. GARLAND CHISSELL, et al. * CIRCUIT COURT NO. 2

*

VS. * OF

* 10

MAYOR AND CITY COUNCIL BALTIMORE CITY

****

Mr. Clerk:

Please issue subpoenas to the following persons as witnesses in the above entitled cause:

10 Mr. Arnet Frisby SP
1434 Pennsylvania Avenue or
13 517 N. Arlington Avenue

11 Mr. Thomas Winkey
2567 McCulloh Street Sd

10 Mr. Milton Brown
402 Dolphin Street SP

4 Dr. Robert W. Wood
1023 St. Paul Street Sd

10 Rev. V. V. K. Stokes
1526 McCulloh Street Sd

8 Paul Holland
City Hall Sd

And make same returnable before his Honor, Judge Mason, Circuit Court No. 2, Room 134, on the 12th day of January, 1949 at 10:00 a.m.

Donald G. Murray

Donald G. Murray, Solicitor

R. GARLAND CHISSELL, et al * IN THE CIRCUIT COURT NO. 2

*

VS. * OF

MAYOR AND CITY COUNCIL * BALTIMORE CITY

*

* * ****** * *

Mr. Clerk:

Please issue subpoena duces tecum on Albert Deen, Executive Secretary Public Service Commission, 1701 Munsey Building who is custodian of the orders of the Public Service Commission of Maryland to bring Volume xxxvii of the Reports of 1946 and especially Order #42685, Case #4789, and make the same returnable before his Honor, Judge Mason, Circuit Court #2-Room 134, on the 12th day of January, 1949 at 10:00 a.m.

3

Donald G. Murray

Donald G. Murray, Solicitor

R. GARLAND CHISSELL, et al.	*	IN THE CIRCUIT COURT NO. 2
	*	
VS.	*	OF
MAYOR AND CITY COUNCIL	*	BALTIMORE CITY

****

Mr. Clerk:

Please issue subpoena duces tecum on Allan Dell, City Hall who is custodian of the minutes of the Board of Estimates of Baltimore City to bring with him, all those minutes or excerpts of minutes in possession of the Board of Estimates which treat monetary appropriations made for traffic signals to be erected on Druid Hill Avenue and McCulloh Streets in the year 1948, and make the same returnable before his Honor, Judge Mason, Circuit Court #2-Room 134, on the 12th day of January, 1949 at 10:00 a.m.

Donald G. Murray

Donald G. Murray, Solicitor

3

Summons For Witnesses DOCKET 579 541 *Docket* _____ *Folio* _____

CASE No 29495a

In the Circuit Court No. 2 of Baltimore City

FILED 11 Jan 1949

26 _____ *Term, 19*

The Sheriff will please summon the following witnesses,

returnable on Wednesday the 13 — day of January 1949 at 10 o'clock A. M. Room 134 Judge Mason

R. GARLAND CHISSELL, et al. * IN THE CIRCUIT COURT NO. 2

*

VS. * OF

*

MAYOR AND CITY COUNCIL * BALTIMORE CITY

*

* * ***** * *

Mr. Clerk:

11 Please issue subpoena duces tecum on R. Brooke Maxwell, Director of Board of Recreation and Parks, who is custodian of the rules and regulations and of the Park and to bring with him those rules and regulations, and especially that Park regulation which bans the use of commercial vehicles and trucks in the Park, and make the same returnable before his Honor, Judge Mason, Circuit Court #2-Room 134, on the 12th day of January, 1949 at 10:00 a.m.

Donald G. Murray

Donald G. Murray, Solicitor

to testify for _____

in the case of Chissell et al vs. Mayor & City Council of Baltimore

John A. Clarke

Clerk of Circuit No. 2 of Baltimore City.

Circuit Court No. 2

19 541/48 DOCKET No. 57a

.....

.....

vs.

.....

.....

Summons for Witnesses

No.....

Filed .....*day of* ....., *19*.....

DOCKET 57 FOLIO 541
CASE NO 29495A
FILED 16 Dec 1948
21

R. GARLAND CHISSELL, et al	:	IN THE
vs.	:	CIRCUIT COURT No. 2
MAYOR AND CITY COUNCIL OF BALTIMORE, a Municipal Corporation	:	OF BALTIMORE CITY

By agreement of counsel, the deposition of Jacob L. Edelman was taken on Tuesday, December 14, 1948, at 11 o'clock a.m., at 335 Munsey Building, Baltimore, Maryland, before Hyman P. Sanders, Notary Public.

APPEARANCES

Donald G. Murray, Esq. on behalf of Plaintiffs

Hamilton O'Dunne, Esq. on behalf of Defendants

STIPULATIONS.

It is stipulated and agreed by and between counsel for the respective parties, that all formalities as to notice are hereby waived; the deposition to be used in the trial of this case with the same force and effect

as if all requirements as to notice had been fully complied with.

It is further stipulated and agreed that the reading and signing of this deposition by the witness are hereby waived.

JACOB L. EDELMAN, a witness called on behalf of the Plaintiffs, being first duly sworn to tell the truth, the whole truth and nothing but the truth, testified as follows:

Examination by Mr. Murray:

Q Will you state your name ?

A Jacob L. Edelman.

Q What is your address, Mr. Edelman ?

A My home address is 1614 Gwynns Falls Parkway; my office is at 335 Munsey Building.

Q Now, in the winter of 1947, in the months of January, February and March, and April, were you Chairman of the Police and Jail Committee at the City Council ?

A Yes.

Q Now, as Chairman of the Police and Jail Committee, did you have before you Ordinance No. 378 at the time before it was passed as Ordinance 169 ?

A Is that an ordinance that was introduced prior to Ordinance 169 ?

Q That's it.

A Well, if it dealt with matters involving regulation of vehicular traffic, it was undoubtedly before my committee.

Q Now, to the best of your recollection, how was it brought before your committee ?

A Are you now speaking of Ordinance 378 ?

Q 378.

A Yes. I have no recollection of the terms of Ordinance 378, but I presume you have reference to an ordinance which was the predecessor of Ordinance 169.

Q That's right.

A Did that deal, incidentally, with McCulloh Street and Druid Hill Avenue ?

Q That's right.

A Well, the introduction of that ordinance, as well as

the introduction of the subsequent ordinance 169, was sponsored by the Police Department, by the Police Commissioner. We generally refer to these ordinances as administration ordinances, as a tie-in with general public interests affecting the whole city, rather than it being purely local in character.

Q Now, did your committee have public hearings on this Ordinance No. 378 later ?

A We always have public hearings of every ordinance that has any importance at all.

Q So that you had hearings on this particular ordinance ?

A Yes.

Q Now, to the best of your recollection, how many hearings did you hold on this particular ordinance ?

A On which one ? Still speaking of Ordinance 378 ?

Q 378.

A I am somewhat at a loss to be able to speak intelligently about Ordinance 378, that is from memory, because I was under the impression that you wanted to interrogate me about 169. I presume you are going to follow that up later on ?

Q That is correct.

A Well, if Ordinance 378 involved McCulloh Street and Druid Hill Avenue, and I don't now have anything before me that would give me an indication of what it was, then we did have public hearings on it.

Q Now, at the public hearings, can you remember any objections of the citizens on the respective streets of McCulloh Street and Druid Hill Avenue ?

MR. O'DUNNE: I will note an objection to that. Under our practices, Mr. Edelman, I can note an objection and the court rules on it later, but you will answer the question anyway.

A Yes. Ordinance 378 had a public hearing, and there were, of course, proponents, as well as opponents present, and each side was given an opportunity to be fully heard.

Q Now, did your committee send telegrams to notify the members who had heard, or the people who had heard the first hearing, that there was to be a later hearing ?

A Telegrams to whom ?

Q Telegrams to --

A To the members of the committee, or to interested parties ?

Q To interested parties ?

A Those are details that I can hardly answer to any degree of certainty. I won't be certain, I recall that we did send out telegrams in connection with these hearings, and the purpose of sending out telegraphic notices were to make sure to indicate the importance of the hearing and to make sure that people who were interested, both sides, the objectors, as well as the supporters of the ordinance, received notice of the time and place of the hearing, and so that they could appear at the hearing and state their view to the Committee on Police and Jail.

Q Now, at the time these telegrams noted the hearing, was there a hearing held on that particular day ?

A Whenever a hearing was scheduled, it was held.

Q Did your committee, at any time, receive any communications from the Traffic Engineering Bureau of the Police Department ?

A Yes, sir.

Q This is a written communication ?

A Typewritten.

Q Did your committee receive any written or oral communication from the Department of Public Works ?

A The Department of Public Works appeared before the committee in person, that is the department heads appeared in person, representing the Department of Public Works at one time. At one of the hearings, I recall we had the Director of the Department of Public Works, as well as his Deputy, and other heads of various departments of the Department of Public Works, who might fall within the status of engineers, and who are conversant with the problems of traffic and whose views we were seeking to obtain for the benefit of the committee, in connection with these ordinances.

Q Did your committee receive any communications of any sort from the City Planning Commission ?

A I cannot at this point recall whether we did or did not receive any written communication from the City Planning Commission. I am inclined to feel that we

may have received such a communication, but I do not have the file or the legislative history, and all the communications incident to this ordinance, or these ordinances, I do not keep in my file; they are generally attached to the ordinances proper and they are held in the custody of the archives of the City Chamber and the clerks take care of all of the correspondence and see to it that they are attached to their proper ordinance, and when we hold such a hearing, we have them before us, and when the hearing is concluded, we return them to the clerk to see to it that they are preserved.

Q So in other words, as I understand it, the communications your committee received would be with the archives, the legislative history of the particular ordinance ?

A Yes, surely.

Q To the best of your recollection, Mr. Edelman, do you remember any discussion on the part of your committee, as to the schools in the neighborhood ?

A Yes.

Q Could you give the gist of that discussion ?

MR. O'DUNNE: Well, I will note an objection to that.

A The opponents to the ordinance offered arguments in opposition to the proposed ordinances pending before the committee on several grounds. One of the grounds upon which they opposed the ordinance was the fact that it would create a traffic hazard to school children, both on McCulloh Street and Druid Hill Avenue. They indicated that children going to school in the morning would have to cross the street towards the school and that in each instance, both McCulloh Street and Druid Hill Avenue being a one-way street for vehicular traffic, would, naturally, carry a great deal of traffic, both in the morning and in the afternoon, and that that would endanger the safety of the children.

The committee very seriously took that phase into consideration, and called upon the authorities of the Police Department, particularly, the Traffic Safety Engineer, and at that time Captain

Schmidt, who is now Inspector Schmidt, we called on them to tell us what measures they could take to provide sufficient safety for the children in the event the committee would pass upon these ordinances and favorably report.

The Police Department told us that they were going to make a study of the situation, taking into consideration the location of each school and the various intersections where children have to cross in order to get to the schools, and that after making such a study, they would arrange for the installation of proper safety devices by installing traffic signals at various and alternating points, thus slowing down traffic, for one thing, and, secondly, providing safety measures for the children to cross when they would have the green light in their favor, and all traffic would have to stop and the children proceed to go to the school, and the same way in the afternoon, on their way from school to their homes.

I might say that the Police Department did submit, after making such a study, a chart to the com-

mittee, which showed how many traffic signals would be installed, and the committee felt quite satisfied that that phase of it was properly dealt with by the Police Department, and that the alleged possible hazards to children would definitely be provided for.

Then there were other objections that were raised by the opponents, in addition to this one, to the effect that one-way streets, if put into effect on McCulloh Street and Druid Hill Avenue, would diminish the property values on these two streets.

Q Mr. Edelman, as far as you can remember, was there any indication from any city official, that this bill should have been passed ?

MR. O'DUNNE: I don't understand the question.

Q Was there any indication from any city official, at the time, that this particular ordinance should be passed, for the benefit of the city ?

A Why, certainly, there was substantial indication by various department heads, who stand in responsible positions within the city government, who urged the

committee to pass these ordinances and their reasons were, of course, stated by them, and the committee requested them to give their reasons, which they did.

Q Now, could you list those ?

A Yes, sir. They pointed out that the City Government spent a rather large sum of money, I don't recall the exact amount at the moment, but I feel,pretty close to the figure that was stated had been spent, upwards of $400,000, to build a dual highway or roadway traversing through Druid Hill Park.

The beginning of this new highway or dual highway commences at Reisterstown Road near, I think, Anoka Avenue, and go through the park, where many trees have been removed. One highway out the dual highway traverses through what was formerly known as Auchentoroly Terrace, and the other dual highway runs through the park. It was carved right out through Druid Hill Park.

Now, we were given to understand that the whole expenditure of this dual highway would be a total loss and a waste, unless it could tie in with

both McCulloh Street and Druid Hill Avenue, to carry the traffic southbound and northbound, respectively, resulting in an alleviation of our present very difficult traffic problem in the city and that part of the city.

The committee recognized the soundness and the validity of these arguments and felt that it was the appropriate thing to do, and, accordingly, acted favorably on these measure.

Q You said that you were given to understand that these arguments were presented and were valid and so forth. Now, could you tell more specifically who presented these arguments ?

A Well, I have already mentioned the Traffic Safety Division of the Police Department, and the representatives of the Department of Public Works of the City of Baltimore, which is headed by Mr. Paul Holland, the Director. I know he was there, I remember he was there; I spoke to him, not only officially at the hearings, but I was personally concerned very seriously with the ordinances, particularly since they ran

through a considerable portion of the district which I represent, and I was satisfied in my mind that it was not only a desirable measure, but synchronized traffic with the areas running all the way into the downtown area, I would say around Orchard Street and Druid Hill Avenue, but it was almost an imperative measure to meet the problem, and when some of these other conditions, particularly relating to the school children, raised by the objectors, we took the position that we must receive full and complete assurance from the Police Department, as well as from the Board of Estimates, that not only will the Police Department place itself on record that these safety measures and devices will be installed, but the City Government, through the Board of Estimates, will provide the necessary sum of money to bring about their installation; at which time we felt satisfied that these problems were met.

Q Did Mayor D'Alesandro ever address any communications to your committee or council in reference to this particular ordinance 378, later enacted as No. 169 ?

A I don't recall receiving any written communication from the Mayor in connection with this ordinance. I recall speaking to him in connection with the necessary expenditures of monies towards the establishment and the installation of proper safety devices, and that I knew at the time ran into a considerable amount of money and I felt that it was my duty to elicit an opinion from his Honor, the Mayor, as to his understanding and his readiness to go along and support the expenditure of the necessary sum of money and I was assured by him that it would be done.

MR. MURRAY: Your witness.

MR. O'DUNNE: I have no questions.

(Examination concluded.)

(With the consent of the witness and by agreement of counsel for the respective parties, the reading and signing of this deposition by the witness is hereby waived).

STATE OF MARYLAND
CITY OF BALTIMORE SS;

I, Hyman P. Sanders, a Notary Public in and for the State and City aforesaid, do hereby certify that the within named, Jacob L. Edelman, personally appeared before me at the time and place herein set out and after having been duly sworn by me according to law, was interrogated by counsel.

I further certify that the examination was recorded stenographically by me and then transcribed from my stenographic notes to the within typewritten matter in a true and accurate manner.

I further certify that the stipulations contained herein were entered into by counsel in my presence.

I further certify that I am not of counsel to any of the parties, nor an employee of counsel, nor related to any of the parties, nor in any way interested in the outcome of this action.

As witness my hand and notarial seal this 16th day of December, 1948, at Baltimore, Maryland.

Hyman P. Sanders
Notary Public.

DOCKET 579 FOLIO 541
CASE No. 29495 A
FILED 5 November 1948
20

I N D E X

----OoO-----

R. GARLAND CHISSELL, et al,	:	
	:	IN THE
Plaintiff		
	:	
vs.		CIRCUIT COURT NO. 2
	:	
MAYOR AND CITY COUNCIL OF BALTIMORE, a Municipal Corporation,	:	OF BALTIMORE CITY
	:	
Defendant		
	:	

Pursuant to notice, the depositions of M. Frank Fitzpatrick, Bernard J. Schmidt and Charles J. Murphy, were taken on Wednesday, October 27, 1948, at 11 o'clock a.m., in the Library of the City Solicitor's Office, at Baltimore, Maryland, before Hyman P. Sanders, Notary Public, said depositions having been continued by agreement of counsel from the date mentioned in the notice.

APPEARANCES

Charles H. Houston, Esq. and Donald G. Murray, Esq.	:	on behalf of Plaintiff
Hamilton O'Dunne, Esq.		on behalf of Defendant

STIPULATION

It is stipulated and agreed by and between counsel for the respective parties, and with the consent of the witnesses to the depositions hereto, that the reading and signing of these depositions be and the same are hereby waived.

M. FRANK FITZPATRICK, called for examination by Complainants, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Examination by Mr. Houston:

Q Will you state your name, Mr. Fitzpatrick ?

A M. Frank Fitzpatrick.

Q And your address ?

A City Hall, Baltimore, Maryland.

Q Your position ?

A Director of the Department of Assessments.

Q How long have you been in that position ?

A Since June of 1937.

Q What are your duties of your business, with respect to re-appraisals of real estate for taxation purposes ?

A We must survey the entire city and tend to arrive at a fair value, and conform to Article 81. Send a notice to the person whose assessment is being changed, to give him opportunity to be heard, and then afterwards, to try to arrive at an assessment according to our best judgment and information.

Q What are the elements going into the determination of the value ?

A Well, we consider three factors; first of all, sales, second, income, and third reproduction costs.

Q Now, reproduction costs have nothing to do with the nature and use of property in the locality, has it ?

A We resort to reproduction costs mainly in industrial buildings, which have an entirely limited market and have been erected merely for the use of the person who has constructed them, and there is never any sales of a similar property, so we have to try to arrive at its value, fair value, by seeing what it would cost under present conditions, allowing for

depreciation, and to consider that as the present reproduction value.

Q Mr. Fitzpatrick, do you use that text of reproduction costs in appraising home property ?

A Seldom do we have to resort to that, it would have to be a high type class of luxury home.

Q Did your office re-appraise the values of property in McCulloh Street and Druid Hill Avenue in 1947 ?

A In 1947, yes.

Q When was the last time before 1947 that these values had been appraised in McCulloh Street and Druid Hill Avenue ?

A Approximately five years prior.

Q Was that an automatic re-appraisal or a routine re-appraisal in 1947 ?

A Yes. We had the city divided into five districts, and that was the district assessed for that year.

Q Did you have any instructions as to any changes in neighborhood in either Druid Hill Avenue or McCulloh Street ?

A No, sir.

Q Can you give us specifically when the property in Druid Hill Avenue and McCulloh Street was re-appraised, prior to the re-appraisal in 1947 ?

A No, I wouldn't be able to say, I would have to look at our records to say that, because prior to an act passed by the General Assembly in 1943, we attempted to cover the entire city in five years, but we selected our own spots. This Act compelled us to divide the city into five districts, either according to class, or according to location, and for that reason, something that may have been assessed four years before, or three years before, could have been within a district that was being assessed in that particular year. Of course, after the first cycle of five years, there won't be any such repetition as that. I could not say specifically, I would have to look at our records, and we would have to know what block exactly, because one block would be Druid Hill Avenue and a certain section of McCulloh Street could have been assessed in one year and another in another.

Q Well, will you furnish us information specifically con-

cerning property as to the 1300 block of Druid Hill Avenue ?

A Both sides ?

Q Both sides.

A Yes.

Q 1200 block of Druid Hill Avenue. 1500 block of Druid Hill Avenue. 2500 block of McCulloh Street. 2400 block of McCulloh Street. 1700 block of McCulloh Street. Those blocks, will you furnish us information as to when those blocks were last re-appraised prior to 1947 ?

A Yes.

Q Did you make any inquiry as to the nature of the use of the streets, whether they were expressways or ordinary neighborhood traffic streets before you re-appraised these properties ?

A No, sir, we consider conditions; for instance, we don't go out for the express purpose of assessing any particular street, or any particular type of street. Men are not instructed to take steps in reference to certain types, they are only supposed to seek infor-

mation, and the sales ordinarily reflect the conditions in the neighborhood, whether or not a type of street would be reflected should have been reflected in the sales of property of that street.

Q Now, all property, generally speaking, has gone up in sales value, all residential property has gone up in sales value in the war years, say from 1940 ?

A It has gone up constantly since about 1940. Our first increase in the basis subsequent to 1931, was a slight increase in 1939, and, of course, it has gone up at a greater ratio since 1939. 1937 was great, but there has been an increase in every year since.

Q Now, does that mean that in 1931, you had a sort of base valuation, and then you adjusted the base valuation again in 1939 ?

A No. What I mean is, that the highest real property basis was in the year 1931, and as a result of our assessing during the thirties, there was a gradual decline all through the thirties, and it was halted for the first time in 1939, when, instead of there being a decline in the total taxable basis, there

was a slight increase. It might be judged, in the nature of the increase, that it was the year 1937 before the same amount was reached, as to the taxable basis as had existed in 1931.

Q What was that taxable basis ?

A At the present time, it's a billion, two hundred and twenty-seven millions; it would be a billion, three hundred million.

Q Now, that takes a totality of assessable property in Baltimore City ?

A Yes, real property.

Q I mean real property in Baltimore City ?

A Yes.

Q Give us the method that your employees used in reappraising values of property. Do they go out on the scene ?

A They must go out on the scene, they must check each particular property and examine it, both as to the front and rear, to see if they are similar in construction, or if there are any additions on any particular properties. They do not go into the prop-

erties themselves, they will ask questions at the door, but they will not enter upon the property.

Q But you will go out on the scene and examine front and rear to establish uniformity, is that correct ?

A Yes.

Q Now, are they concerned with prospective use of a property? For example, suppose you have a re-zoning ordinance, which would convert property that had theretofore been restricted residential, into commercial, do they take that into consideration where the zoning ordinance had just been passed ?

Q If the zoning ordinance had just been passed, they would have to wait until sales in the neighborhood indicated change in the value.

Q So that they would take the sales prices as reflecting any changes in valuation ?

A Yes.

Q Was your office aware of any discussions among City officials in 1947, at the time that you made the re-appraisals of these blocks, 1300 block Druid Hill Avenue, 1200 block Druid Hill Avenue, 1500 block

Druid Hill Avenue, 1700 block McCulloh Street, 2400 block McCulloh Street, and 2500 block McCulloh Street, that there was discussion going on about a proposal to name Druid Hill Avenue and McCulloh Street as express highways ?

A There was no discussion.

Q Does your re-appraisal attempt to get actual worth or market value or what ?

A The law compels us to assess at full cash value, and we never attempt to reach the highest sale in the neighborhood, but what seems to be a fair average sale. We can't contravene the law; we must assess at full cash value, at our conception of full cash value.

Q Will you give us the machinery, starting with the man of lowest rank in the office who handles a particular piece of property and trace what he does right straight up until the appraisal becomes final ?

A Well, we have at the present time, 17 men on the street, all of whom are assessing real property.

Q Now, is that the way the machinery is inaugurated ?

A Yes,

Q That is the first step ?

A Yes. Of course, we have the city divided into wards, sections, blocks and lots, of course, as is understood, but a man is given a section. He may be given a section, what we term a section, it might be 17th Ward, 4th Section. That would contain maybe four or five city blocks. He has a card for each particular piece of property. That card contains figures indicating the size of the lot, that is the width and the depth, any improvements that may be on there. He also notes any additional improvements. There is a place for recording sales or rents, or any such things, and after he has considered all this information, he make a recommendation, by entering on the cards his appraisal of the property. That is a preliminary examination by a deputy director, who, if he thinks, they are too low or too high, will send the book back to the appraiser for reconsideration, but after the deputy director's approval, a notice is mailed to the owner of the property, telling him what the existing assessment is, and what the proposed assessment is. At-

tached to this notice, is a set of interrogatories, which enables him to answer the questions as to the time of purchase, the amount of purchase, ground rent, or any other encumberances, whether or not he has made any additions, and his idea of the fee simple value of the property. After all these interrogatories are returned, the book is again taken and the statements of the assessor compared with the notations made on the interrogatories.

Q Who does that ?

A That is usually either Mr. Arthur or myself, we both do that work. As far as the volume of it, it requires the two of us to do it. We suggest any changes and such changes are put through and entered on our books. Then the books are opened for inspection on the first day of October, and anyone not satisfied with the final action of the Department, has the right of appeal to the Board of the Municipal Zoning Appeals.

Q Just what part does income play in determing the value of the property ?

A Income type of property, of course, we consider dif-

ferent types of income. Such buildings as apartment houses, office buildings, we rely exclusively upon income. In the neighbohhood where there are very few home owners, and dwellings are rented, then we will consider what seems the fair rent for those dwellings, but if there are sales in the neighborhood which seem to predominate, our first factor is the sale, but if the neighborhood is entirely a neighborhood that is tenanted by others than the owners of the property, then we are compelled to take the rents and depend upon whether it is a weekly rent or a monthly rent, and we will consider what seems to be a fair return.

Q Then the rental income, as taken, is the basis for appraisal on what you might call investment property ?

A On investment property.

Q And in a predominently residential neighborhood, where a large majority of the persons are home owners, you don't bother with income, is that correct ?

A Well, we will see how it compares with the sales, but we will take the sales in preference to the income

in arriving at the value, particularly at the present time when there is a ceiling price on rent, and we feel that the city should not be made to suffer, or, at least, such hardships that might be experienced by an investor, should not be passed on to the city. For that reason, it is hard to consider the ceiling rents at the present time.

Q The point being that there is an artificial rent ceiling ?

A Yes.

Q Now, suppose, for example, that you have property which is the same physical description as to lot size, and as to improvements, but you find great differences in the matter of sales returns. What do you do in situations like that ?

A You mean, for instance, if we were to be in a block --

Q No, take one block.

A Say in one block, you have three or four sales that varied. Well, we would try to compare sales in other neighborhoods, where they have not varied to any such great extent. We have to use a comparative method

frequently when there is a variance in sales. In other words, you might have a sale of $7000, $5000, and $4000, and we would say, well, now, which one seems to be the fair value? We would have to consider another neighborhood of similar properties and find out what is the average sale in that neighborhood, and find out from that what is the average.

Q Now, the matter of sales price is completely impersonal? All you look at is what price the property brings, is thatcorrect ?

A I just don't understand you.

Q Here's what I'm getting at: What consideration did you give in 1947 to the fact that the Negro neighborhood was bound around, with no possibility of expansion, due to the presence of restrictive covenants and therefore, there was an artificial value ?

MR. O'DUNNE: I'm going to object to that question, Mr. Houston.

MR. HOUSTON: All right, I understand.

Q Therefore, there was an artificial value, due to an artificial restrictive market, and in the same manner

you have an artificial restriction on rents.

MR. O'DUNNE: Well, I am going to caution the witness that if he does not agree with your premise --

MR. HOUSTON: Of course, he does not.

MR. O'DUNNE: -- he can't use those as a basis for his conclusion.

Q Do you understand what I am saying, Mr. Fitzpatrick? The problem is that the Negro in 1947 was artificially restricted by restricted covenants.

A Yes.

Q To a limited sales area which made the demand greatly exceed the supply, even more so than the general shortage of housing in the city. Now, the question is whether --

A Well, our policy is to realize that there is a shelter premium paid in very, very many instances, and we discount that shelter premium. We realize it in restrictive neighborhoods, and in new homes, or sometimes homes in a neighborhood that existed for many years, people will pay a certain premium for shelter, and we discount that, and try to figure what the fair

value would be, if such conditions did not exist.

Q Then you discount shelter premiums in the neighborhoods where there are restricted homes? Do you know whether that shelter premium was discounted in the 1300 block of Druid Hill Avenue, the 1200 block of Druid Hill Avenue, the 1500 block of Druid Hill Avenue, the 1700 block of McCulloh Street, the 2400 block of McCulloh Street, the 2500 block of McCulloh Street?

A I would say it is the practice of the Bureau always to do it. I could not take any particular piece of property.

Q I am just talking about the blocks in general.

A I mean that would be the policy of the Department.

Q You can't say whether it was done, all you can say it would be the policy of the Department ?

A Yes.

Q Now, the procedures which you have outlined, are they incorporated in written instructions, or is it just practice ?

A It is practice, we have no manual.

Q Well, as I understand, Mr. Fitzpatrick, then basically,

in appraising residential property in homeowners' neighborhoods, sales would be just about the determining criterion ?

A That is the primary factor.

MR. HOUSTON: That is all.

Examination by Mr. O'Dunne:

Q Mr. Fitzpatrick, when you say you discount the fact that there might be a shelter premium paid for houses in a particular area, what do you mean by that ?

A I mean this, that we will go back and see what similar type of property sold for in what was considered a fair year from 1926 to 1929. We will consider what it sold for around the year 1942 and 1943. We will consider the prices of those years with the prices at the present time. For instance, if a new home would cost $1 a cubic foot in 1947 and cost only 65 cents in 1942, we would be inclined to say, now, the discount value on this home is about 35 percent.

Q Well, when you say you discount that fact, you don't mean you disregard it ?

A We don't disregard it, we just fell, well, now, if

the person didn't have to buy this property, what would they be willing to pay for a piece of property ?

Q Now, I want to be sure that I understand this. Am I to understand that the assessable value of real property in Baltimore in 1931, approximately equalled that value in 1947 ?

A It was 1947 before we again reached the high year basis of 1931, and during that period, I might say, we had added $147,000,000 worth of new property, but nevertheless, it took so many years to reach the 1931 basis.

Q Now, in making an assessment of property for tax purposes, you mentioned three factors, sales, income and reproduction costs ?

A Yes.

Q Now, as the Director of the Department of Assessments, do you have occasion to condemn property for any uses ?

A Since the new charter, the Department of Assessments also has condemnation of property for street opening.

Q Now, in connection with that work, do you try to arrive at a fair market value of the property being

condemned ?

A Yes.

Q And those enumerated factors, sales, income and reproduction costs, you might consider any one or both or two or all of those factors in arriving at the fair market value ?

A We would, yes.

Q Now, in addition to those factors, is consideration given to the general market condition of real estate property, general market condition of the city ?

A Well, I might say this, that if there were no sales, of course, I speak about the market conditions, if there were no sales except under stress -- in other words, a person like duringthe thirties, was forced to sell just as people are now forced to buy. At that time, we were more likely to rely on reproduction costs, because we felt the distressed conditions caused properties to be sold at less than value. That if there is a scarcity of sales and those sales had taken place, it is evident from the prices paid that the forced sales -- a person may be suffering from finan-

cial difficulties and, why, we are more likely to take the reproduction cost. In other words, we had that difficulty during the thirties. People would say, My property cost so much when the assessment was higher than what they paid for it.

Q Now, Mr. Houston asked you a question whether you were conscious or you were aware of any discussion among municipal officials at the time this re-assessment was made in 1947, and you said there was no discussion. Do you mean by that that you are saying that the municipal officials didn't have any discussion ?

A They didn't have any with me, that is what I mean.

Q There was nothing that you knew about ?

A None that I knew about, none that concerned our department.

MR. O'DUNNE: That is all, sir.

(Examination concluded.)

BERNARD J. SCHMIDT, called for examination by the Complainants, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Examination by Mr. Houston:

Q Will you give us your full name ?

A Inspector Bernard J. Schmidt, Baltimore Police Department.

Q You have been an inspector for how long, sir ?

A Since June 4, 1948.

Q Prior to that ?

A A Captain.

Q In charge of what precinct ?

A Traffic Engineering Bureau.

Q You have been in Traffic how long ?

A Since 1936.

Q Prior to 1948, as Captain, were you in charge of the Traffic Bureau ?

A Yes, sir.

Q Were you in charge of traffic at the time that Mul-

berry was made a one-way express ?

A No, sir.

Q When was that done ?

A I don't know the exact date, I can furnish you with that, if you want the approximate date. I think it would be around 1940 or 1941, 1942.

Q You were in charge, however, when St. Paul and Calvert Streets were made --

A That's right.

Q -- one-way express highways ?

A That is correct. I will qualify that answer, as to express highway.

Q All right.

A It was made one-way through boulevard street.

Q One-way through boulevard ?

A Yes, sir.

Q Now, would that be the classification proposed for McCulloh and Druid Hill ?

A Yes, sir.

Q Now, is a one-way through boulevard street the same thing as an arterial thoroughfare ?

A To what extent do you mean? Do you mean through boulevard street ?

Q Yes.

A Yes, they are the same.

Q Do you have a copy of the ordinance 169 ?

MR. O'DUNNE: I can get it for you.

MR. MURRAY: I think I have one. (producing paper).

Q You are familiar with Ordinance No. 169 (handing to witness) ?

A Yes, sir.

MR. O'DUNNE: Just for the record, can we show that is approved, whatever date it was ?

MR. HOUSTON: Yes.

MR. MURRAY: March 10, 1948.

MR. O'DUNNE: March 18, I believe. How about saying that Ordinance 169 was passed or approved March, 1948 ?

MR. HOUSTON: That is all right.

THE WITNESS: That's close enough.

Q Mr. Schmidt, I would ask you to look at the ordinance,

Section 1-a, and ask you whether the designation of streets in that ordinance, of Druid Hill Avenue, in that ordinance, as a one-way street for vehicular traffic, is the same designation as the designation used in other ordinances for St. Paul and Calvert ?

A That's the general designation, yes, sir.

Q The same answer would also apply as to Section 1-c, McCulloh Street, is that correct ?

A That is correct.

Q Now, did your office make any traffic counts on St. Paul and Calvert prior to the time that they were made one-way through boulevard streets ?

A Yes, sir.

Q Will you give us the datesnwhen St. Paul and Calvert were made on-eway through boulevard streets ?

A June 22, 1947. Is that correct, Mr. Murphy ?

MR. MURPHY: That is right.

Q What traffic counts did your office or your department make of St. Paul and Calvert Streets, prior to June 22, 1947 ?

A I think Mr. Murphy may have those dates.

Q He has those dates, or he has that information ?

A He has that technical information.

MR. HOUSTON: I will address myself to him about those then.

Q Now, your office was taken into consultation on the proposal to make McCulloh Street and Druid Hill Avenue one-way vehicular thoroughfares, is that correct ?

A Yes, sir.

Q Will you state when your office first became acquainted with the proposal ?

A I think in the latter part of the year 1947, November or December, 1947, yes, that is correct, the latter part of the year in December, 1947.

Q Was your office consulted with the proposals with the reconversion of the Transit Company in Baltimore, from street cars to buses ?

A Well, generally, yes.

Q Well, did the first discussion take place with your office concerning the proposed reconversion of the Baltimore Transit Company from street cars to buses ?

A About the same time, that is the latter part of 1947.

Q And at that time, you found that the proposed reconversion had been under consideration how long ?

A I can't answer that.

Q Did you know whether there was any proposal as early as 1947, about the reconversion of the Transit Company from street car to buses ?

A I knew that there had been a general plan published previously to 1947, for the general conversion of fixed-wheel traffic to free-wheel traffic on various lines throughout the city.

Q Now, when you say that, that a general plan had been proposed, can you give us the date, to the best of your recollection, when that general plan was published ?

A No, because at that time I was not in command of the Traffic Engineering Bureau, but I do know that it was some time previous to the year 1947.

Q When did you take over the direction of the Traffic Bureau ?

A In August, the latter part of August, 1946.

Q So that this general plan must have been published

prior to August, 1946 ?

A Prior to August, 1946.

Q Did that general plan include not only the question of changing the Baltimore Transit operations from fixed-wheel to free-wheel traffic, but also include changes in the use of the streets as reflecting changed traffic conditions, which would result from converting from fixed wheel to free wheel ?

A With regard to the use of the street, only to the extent that it would change from a one-way thoroughfare to a two-way thoroughfare.

Q Well, now, do you mean the reconversion from two-way to one-way ?

A From two-way to one-way or vice-versa.

Q So that the general plan also contained proposals for establishing one-way streets, is that correct ?

A It would be contemplated on the basis that one of the reasons for converting from fixed-wheel to free-wheel, would be the inauguration of one-way street movement.

Q So that the proposals for the general discussion of

one-way streets was merely incident to the Baltimore Transit plan of converting from fixed-wheel to free-wheel traffic, is that correct ?

A I wouldn't necessarily say incident. I would say that on some streets unless that conversion were made, that it would not have been practical to convert that to a one-way use.

Q So that it was really to expedite the conversion from fixed wheel to free wheel that the designation of one-way streets was inaugurated ?

A No, that is not true.

Q All right, oorrect me.

A I think the inauguration of one-way streets was to improve the general traffic conditions.

MR. HOUSTON: Let this be off the record.

(There was a discussion off the record).

Q Now, when the matter was discussed of proposed designation of McCulloh Street and Druid Hill Avenue with your department in November, 1947, what department and city officials first brought the matter to your attention ?

A At that time, it was the Chief Engineer's Office which is nowknown as the Department of Public Works.

Q Does that have jurisdiction over the Transit Company ?

A No, sir.

Q Did the Transit Company bring the matter to your attention ?

A Well, yes, because it was a part of a plan that involved the municipality and the Transit Company.

Q When did the Transit Company bring the matter to your attention ?

A At about the same time.

Q Now, in addition to the Chief Engineer's Office, now the Department of Public Works, what other city officials took the matter up with your office ?

A The City Planning Commission.

Q And what time was that ?

A All about the same time.

Q Now, when the City Planning Commission took the matter of the reconversion up, reconversion of Druid Hill Avenue and McCulloh Street, re-designation of Druid Hill Avenue and McCulloh Street, as one-way streets,

did they present to your office an over-all city traffic plan ?

A Well, an over-all city traffic plan, we had other traffic plans under consideration. Now, whether you would term that an over-all, to be more specific, a master plan, I would say no, but a general plan, from time to time, for improvement of traffic in the city.

Q But no master plan at the time ?

A At the time.

Q Is there a master plan now ?

A I don't know, sir.

Q Now, what processing of the proposal did your office do ?

A Well, we would process it to find, first of all, into what --

Q No, I am asking what processing did you actually do on this proposal to change McCulloh and Druid Hill, McCulloh Street and Druid Hill Avenue, to one-way ?

A We received the proposal to designate McCulloh Street as a northbound thoroughfare, and Druid Hill Avenue as a southbound thoroughfare. We studied the proposal

to find where those streets would begin and where they would end, and with certain exceptions we approved that plan.

Q What were the exceptions ?

A We felt that the outlet of Druid Hill Avenue might need further improvements in that vicinity to reach the full benefits of the proposed one-way movement.

Q Now, the outlet would be where ?

A At Eutaw Street.

Q In other words, the expected volume of traffic, expected increase in the volume of traffic was so large that you didn't think that the existing outlet at Eutaw Street would be able to carry it without a bottle-neck ?

A I wouldn't say that the expected volume, I would say that the general traffic movement, plus the volume.

Q All right.

A Was such that we didn't think the outlet would prove satisfactory.

Q What other exception was made ?

A We proposed certain parking restrictions.

Q Where ?

A On Druid Hill and McCulloh.

Q In what nature ?

A In the nature similar to those in effect on St. Paul and Calvert Streets. Now, would you want me to describe them briefly, what they were ?

Q Yes.

A Briefly, on Calvert Street there is no parking, loading or unloading on either side between the hours of 7:30 and 10, and on the east side between 4 and 6, and, conversely, on St. Paul Street, when the evening traffic is heavier, there is no parking on both sides of St. Paul Street, parking, loading and unloading, that is, from 4 to 6, and the west side from the hours of 7:30 and 10. The same restrictions were proposed for Druid Hill Avenue and McCulloh Street.

Q Let me ask you, by no loading or unloading, does that mean no stopping ?

A No, sir, that means that no vehicles shall stop longer than actually necessary to take on or discharge passengers, or passengers' baggage transported on the same vehicle.

Q It does not prohibit a stop, for example, just to let somebody out of your car ?

A No, sir.

Q It does prohibit standing, even though with somebody sitting at the wheel ?

A Yes.

Q The vehicle stopped ?

A Oh, yes, it prohibits parking.

Q Well, sometimes they call it parking when you leave the car and standing when you sit in the car, especially if you are the person who wants to stay in there and stand ?

A Well, in our interpretation, that is parking during those hours.

Q Now, this through traffic has the right of way over intersecting traffic, does it not, on intersecting streets ?

MR. O'DUNNE: That is a very legal question.

A I want to qualify that.

Q Go ahead, let's put it off the record.

(There was a discussion off the record).

Q Let me put it this way: The purpose of establishing one-way streets, such as St. Paul, Calvert, McCulloh and Franklin, is to provide an uninterrupted flow of traffic on the one-way streets as against the intersecting streets, is that not correct ?

A No, that is not correct.

Q All right, explain it.

A For example, along St. Paul --

Q Well, let me add one thing, except at controlled intersections.

A Now, what do you mean by controlled intersections ?

Q Either where there is a traffic light or a police station.

A Well, eliminating whereyou have eithertraffic lights of an officer station --

Q Yes.

A The only other control that you have at the intersection would be the ordinary stop sign.

Q Yes.

A Now, to answer the question qualifiedly, I mean with regard to right of way, the motor vehicle law desig-

nates that as a through boulevard, which grants the right of way over vehicles entering that boulevard from an intersecting street. Now, I say it is qualifiedly, because that question of right of way has many implications.

Q Well, reserving the right to amend your answer in cases brought elsewhere, the purpose of the one-way street is to expedite --

A Expedite the flow of traffic.

Q And to speed traffic ?

A Expedite the flow of traffic.

Q And the objective of the one-way street is obtained in proportion that you get an uninterrupted flow of traffic, isn't that right ?

A That's not the only consideration.

Q All right, but that is one ?

A That is one.

Q Now, will you state the others ?

A Mr. Murphy wanted to bring out about the uninterrupted.

Q Subject to controls ?

A Subject to controls.

Q Which have already been mentioned ?

A Yes.

Q That is correct.

A Which interrupts, naturally, the flow of traffic.

Q Now, you started to give us some other considerations. I was talking about the uninterrupted flow of traffic and you said that was one ?

A Yes.

Q Now, I am asking what are some of the others ?

A The others that you are reducing frictional movement, if I may call it that.

Q I understand.

A Between vehicles moving in the opposite direction, and that you very frequently and usually increase the street capacity. For example, to try to explain that, in a very simple way, you may have two intersections and a light at either side, and with traffic moving in two ways, it is perfectly possible that you would have two lanes of traffic going northbound and a distance between the two lights, for the southbound traffic, would be only occupied by maybe a half a dozen

vehicles, so that in the rush hours, when the directional flow travels at that time, instead of having two lanes for the movement of northbound traffic, you would have three or four lanes.

Q In other words, it also contemplates a more effective use of the street, and a closer approximation to the street carrying its capacity volume of traffic ?

A Yes, sir.

Q Now, has it been the experience of the Department that the effect or designation of a street as a one-way street has increased the volume of traffic on that street ?

A It has increased the volume, and it has generally increased the efficiency of the street and the safe movement of the street.

Q That is the safe movement of the street so far as vehicular traffic is concerned ?

A Vehicular traffic, of course. Pedestrian movement, too. General traffic conditions.

Q Now, as a matter of fact, is it not true that the increased volume of traffic on the street also restricts

proportionately the opportunities of the pedestrians to cross at intersections ?

A No, sir.

Q Why ?

A Well, one reason is that the control of the traffic, you might say, is in a platoon system, and I want Mr. Murphy to give you further details on this. This is generally a general answer that I am giving you, so that a pedestrian, for example, when he is crossing the street only has to look in the traffic from one direction in crossing that street, whereas, if on a two-way street, he has to look in both directions.

Q And you set that over as against the increase in the volume of traffic ?

A That is correct.

Q And the flow ?

A And the flow.

Q Now, when did you approve the proposed plan for designating McCulloh Street and Druid Hill Avenue as one-way streets ?

A On about March 10, 1948.

Q In what form was that approval given ?

A In the form of a report.

Q To whom ?

A To the Highways Engineer and to the City Council Committee, Police and Jail Committee, on the proposed ordinance.

Q May we see the report, please ?

A Yes. (Producing paper). That ordinance No. is 378; in effect, it has the same purpose here.

Q As 169 ?

A As 169.

MR. HOUSTON: I would like to have this marked as Schmidt Exhibit No. 1.

(Report referred to was then marked Schmidt Exhibit No. 1, of this date).

MR. HOUSTON: If you want to furnish us with a copy, we would be just as happy to have a copy.

Q Now, after the report went through, March 10, 1948, from your office, has your office had any further connection with the project ?

A Yes.

Q Will you tell us now what is the next step ?

A Upon approval of the ordinance by the Mayor and City Council, our office has gone through making certain improvements along those streets. Primarily of making provisions for the erection of certain additional traffic control signals and the erection of new parking signs, in accordance with the new regulations.

Q What jurisdiction does your office have over the traffic control in the use of streets, both by vehicles and pedestrians ?

A The general control over the maintenance and installation of the various forms of traffic control. Now, in that word general, I don't want to imply that our department has the authority to make regulations, because all regulations, traffic regulations, in the city, are either embodied in the general Motor Vehicle Laws of the State, or in ordinance of the Mayor and City Council.

Q But so far as execution of policy, execution of policy is under your department ?

A Generally speaking, yes.

Q Now, do you use ordinances and regulations interchangeably or do you use regulations as something which is issued by the head of the Police Department, and ordinances as something which is either passed by the Mayor and City Council --

A I don't understand your question.

Q Well, you have nothing to do with ordinances and regulations ?

A That is correct, they are passed by the Mayor and City Council.

Q I am asking you, are you using the word, regulations, interchangeably with the word, ordinances, or is there a distinction between ordinances and regulations ?

A No, not for all intents and purposes, no. If I may say this, that the ordinance, the only distinction would be that it is strictly local in subject-matter, where a regulation could mean, as I say again, that it is a uniform regulation throughout the State.

Q What authority does the Mayor and City Council have over your office ? In other words, are you under the Mayor and City Council, or are you under the Police

Commissioner, who is a State officer ?

A The Police Commissioner.

Q Then you are not under the Mayor and City Council at all ?

A No, sir.

Q And apart from the work in making provisions for traffic control devices, and also for new signs, has your office had any further contact with the proposal or with the Ordinance No. 169 ?

A No, that would be our only jurisdiction.

Q Also your office and your department would have jurisdiction over the control of traffic as affecting school children on their way to and from school ?

A Yes, sir, along with concurrent control of the general police force.

Q Meaning by that --

A Meaning by that that when you say control, it is not exclusive control, particularly in the matter of school crossings. Where, for example, in many cases, district officers are assigned to those school crossings.

MR. HOUSTON: Mr. O'Dunne.

Examination by Mr. O'Dunne:

Q Mr. Schmidt, I show you a plat marked Holland Exhibit 1-B, dated October 8, 1948, and ask you if you have ever seen this before ? That is a photostat, if you recognize whether you have seen it before ?

A I would say that I have seen this probably on the wall of Mr. Holland's office. I have never been given it for detailed study.

Q Now, I wanted to ask you what you meant by a regulation as opposed to an ordinance ?

A I tried to distinguish there.

Q Is it something that is passed by the City Council ?

A An ordinance is passed by the Mayor and City Council and the regulation may be passed by the General State Legislature, under the general Motor Vehicle Laws.

Q So that a regulation, as I understand it, is passed either by State legislation, or by the Mayor and City Council ?

A That is correct.

Q Now, as far as traffic control is concerned on streets, can the Police Department erect and maintain such con-

trols without authority of an ordinance or regulation ?

A Now, certain types of controls, for example, a stop sign, the department is granted authority by the State Legislature to designate through boulevard streets. Conversely, by the ordinance of the Mayor and City Council, they are authorized to designate what we call stop intersections, which would be a stop sign at a particular intersection.

Q What about the designation of patrolman at intersections ?

A That is exclusive with the department.

Q The Police Department ?

A Yes, sir.

Q You have authority to do that ?

A In most cases, yes, sir.

Q What about traffic control lights ?

A We have authority to install, erect and maintain those.

Q What about speed control signals ?

A We have authority to regulate those.

Q What about the number of motorcycle men patrolling the street ?

A We regulate that.

Q Now, does your deisgnation of a street as a one-way street, one-way stop street, I would call it, does that suspend on that street the operation of speed laws ?

A No, sir.

MR. O'DUNNE: I guess that is all.

Examination by Mr. Houstnn:

Q The authority to put up stop signs means that you have blanket authority from the legislature, which allows you, in your discretion, to determine where stop signs are necessary ?

A Yes, sir. Now, stop signs, to qualify that as to the designation of through boulevard highways.

Q Now, what is the difference between through boulevard highways and this one-way street for vehicular traffic ? As the phrase is contained in this ordinance No. 169 ?

A There is no practical difference between the two. In other words, you could have a one-way street through boulevard highway, or you could have two-way through boulevard highway.

Q But, now, what is the difference between the one-way street and the boulevard highway, that is what I am trying to get at ?

A Well, you could have a one-way street that was not a boulevard, a through boulevard highway.

MR. O'DUNNE: Like Saratoga Street.

Q Now, the through boulevard highway has the same objective as the one-way street, which is to advance the flow of traffic, increase the volume of traffic up to as close capacity of the street as possible and to reduce traffic friction ?

A No, I wouldn't say that, as a general thing, and I want you to refer that question to Mr. Murphy, who probably has some technical information on that.

Q The matter of erecting traffic lights, which do you have blanket authority to do -- do you have blanket authority to do that, in which the decision rests on your judgment, or do you have to go back some place else for approval ?

A The authority rests with the department, to exercise our judgment, and distinction, and when we say judg-

ment and distinction, that is based on engineering studies.

Q Does the erection actually take place through the department workmen, or do you have to make a recommendation, or requisition the Department of Public Works ?

A No, it is through our own department, our own workmen. Now, I want to continue on that for just a minute, and that is the question of the funds, the appropriations.

Q Yes.

A We just don't have an unlimited amount of appropriations that we can use judgment or distinction, where we can or cannot erect these lights. As a practical matter, we are very limited in the matter of the erection of lights, we have to depend on appropriations.

Q Has the appropriation for 1948 been exhausted ?

A Yes, sir.

Q When was it exhausted ?

MR. MURPHY: Yesterday.

Q Prior to yesterday, how much was left ?

A Well, that's a pretty changeable figure.

Q Well, let me put it this way: How much of an operation occurred yesterday to exhaust the fund for traffic lights ?

A But I say again that you still can't pin it down to days. For example, you may order material three months ago, and the shipment would just come in yesterday. In other words, you can't put it down to a specific date.

Q Well, are you in a position to erect any more traffic lights in 1948, under the present state of the budget ?

A Out of the police budget, no, but we would be in a position, if additional appropriations were made by the Board of Assessments.

Q Is there any difference between the permissible rate of speed, the permissible maximum rate of speed on through boulevard highways and on ordinary two-way streets in Baltimore City ?

A No, sir, those maximum and minimum speed limits are set by State law.

MR. HOUSTON: Off the record.

(There was a discussion off the record).

Q Then there's no variance in the speed limits ? The limits that are permitted to the municipalities in Maryland ?

A No, that is general and uniform throughout the State.

MR. HOUSTON: Mr. O'Dunne.

Examination by Mr. O'Dunne:

Q Does anybody have authority here like in Washington and certain places, where the ordinary speed limit is, say, 25, for one block and it will be slow down to 10 or 15 miles an hour? Does any authority do that in Baltimore ?

A There is a section which was granted by the Legislature, I think in the last session, with regard to that, but I think it applies primarily to the State highway. I don't know of any specific instance where that has been invoked in the City of Baltimore.

Q How about hospital zones ?

A No, but I think this provision was passed by the State Legislature, and it is possible that that provision may apply to the City of Baltimore, but as yet, I know of no reason for it to be applied.

Q (By Mr. Houston) You don't happen to know that Act, do you ?

A It's in the general Motor Vehicle Laws. I could give you the reference.

Q If you will ?

A Yes.

MR. HOUSTON: I think that is all.

MR. O'DUNNE: That is all.

(Examination concluded.)

CHARLES J. MURPHY, called for examination by the Complainants, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Examination by Mr. Houston:

Q Mr. Murphy, will you state your full name ?

A Charles J. Murphy.

Q And your position ?

A Traffic Engineer, Baltimore Police Department.

Q You have been Traffic Engineer how long ?

A Since March, 1947.

Q Prior to that time, were you connected with the department ?

A I was not.

Q Prior to that time, were you familiar with traffic conditions in the City of Baltimore ?

A I was.

Q How ?

A As a citizen in the City of Baltimore, and for my lifetime I was familiar with traffic conditions here.

Q In any official capacity ?

A No.

Q Now, do you have the record here of traffic counts on Franklin and Mulberry, St. Paul and Calvert, prior to the times when they were designated as one-way streets?

A I have the information pertaining to Calvert and St. Paul, but not of Franklin and Mulberry.

Q All right, will you give us the dates and the information concerning the traffic counts ?

MR. O'DUNNE: I think I would like to note an objection to that, on the ground that when it goes

to court, I think right now I would argue that it was not relevant.

Q Let me ask you, is that a report where all you would do would be to read it ?

A It is pretty hard to state in simple terms and few words, the information contained in this count.

Q Can we see it, and then maybe we can get the figures in? Is it summarized ?

A I have it summarized in the form of flow diagrams. This is before and after counts. The before count was taken May 7, 1947.

Q Which street is this ?

A St. Paul Street. The before count was taken on May 7, 1947, and the after count was taken on October 27, 1947.

Q The same hours ?

A This is a 24-hour count.

Q All right.

A The information pertaining to Calvert Street, the before study was taken on May 9, 1947, and the after study on November 5, 1947.

Q Can we see them, and then we can ask you some questions on it ?

A Yes. (Producing papers).

MR. O'DUNNE: For the record, my objection would go to any questions concerning the traffic count on St. Paul and Calvert Streets.

Q Of course, we will have to have you interpret this for us.

A The volume characteristic of any street varies, of course, from point to point along that street, because you have traffic turning off and turning in.

Q Yes.

A This presents the pattern over a 24-hour period of volume characteristic on Calvert Street. The black shows the forecount and the red indicates the increase at this point after the one-way operation, and up here you note a decrease, and the same situation here, the red is the increase. The total after would be the red plus the black at each point.

Q There is no continuity of increase in Calvert Street, is that correct ?

A According to our records, our studies.

Q You don't have it for Franklin and Mulberry ?

A No, we don't.

MR. HOUSTON: I will ask that this be marked Murphy Exhibit 1, Calvert Street; and Murphy Exhibit 2, St. Paul.

MR. O'DUNNE: I will object to both of those exhibits.

(Traffic count of Calvert Street was marked Murphy Exhibit No. 1; traffic count of St. Paul Street was marked Murphy Exhibit No. 2).

Q Mr. Murphy, for the record, will you please explain the scheme of this traffic flow diagram ?

A Interpret the presentation ?

Q Yes.

A The information presented in the form of a diagram on what is labeled Calvert Street, before and after volume study, represents the volumes at various points along Calvert Street prior to May 9, 1947, as indicated by the black markings on the sheet. The information gathered on November 5, 1947 is noted on this diagram

in the form of a red marking, which indicates an increase in volume where it occurred at various points in the street. Where a decrease occurred, a red stripe mark is shown on the sheet.

Q Do you have any further traffic counts or traffic volume studies on St. Paul and Calvert outside of the before and after studies which have just been introduced into the record ?

A That is all we have on Calvert Street.

Q You haven't taken a traffic volume study or count on either St. Paul or Calvert Street since November, 1947 ?

A There may have been certain intersectional counts, but there was no count taken after that date, for the purpose of evaluating the traffic pattern on St. Paul and Calvert in its entirety, although we are going to do that very shortly, as part of our program of taking volume counts.

Q Can you give us an idea when you expect to take those counts on St. Paul and Calvert ?

A Well, our forces are rather limited, and we have a

backlog of work of this nature, and I can't give you the specific date.

Q Now, you say there have been intersectional counts taken ?

A I say there may have been on requests for traffic signals. We customarily take those.

Q Over what periods are those intersectional counts taken, 24 hours, also ?

A Normally.

Q Would you check in your files to let us have any intersectional counts which may have been taken since November, 1948 ?

A I will.

Q Or advise us if there are none ?

A Yes.

Q Now, have you taken any traffic counts on McCulloh Street or Druid Hill Avenue in 1946 and 1947 and 1948 ?

A Yes, I have that information on McCulloh and Druid Hill.

Q Now, may we have that ?

A This information is not prepared in diagramatic form.

I have it tabulated, a tabulated list of traffic count along those streets.

Q May I see that ?

A Yes. (Producing papers).

Q Do you have more copies of that ?

A I don't know what is the position on this.

MR. HOUSTON: He is going to object to it anyway.

MR. O'DUNNE: If it is introduced, I am going to object to it. Is this regarded as some sort of confidential information ?

MR. SCHMIDT: It is not a public record.

MR. HOUSTON: What about your traffic study ?

THE WITNESS: Well, I wouldn't say that.

MR. SCHMIDT: I wouldn't say that they are public records.

MR. HOUSTON: While not public records, they are not confidential, are they? There is no secret about them ?

MR. SCHMIDT: No, no secret, but I mean usually this information is only given on request.

MR. HOUSTON: It is departmental ?

MR. SCHMIDT: Departmental, and it is given on request of the court, for example.

MR. HOUSTON: Well, we have the court's request right here. Whether it actually gets in or not, I mean we do have a request.

MR. O'DUNNE: I don't see any point at this stage in battling the thing outside of court. You can show it to him subject to my objection as to its admissibility.

THE WITNESS: You may have this copy, however, this is the only copy that I have.

Q We are going to photostat them.

A If you desire those, I will photostat them and forward them to you.

Q What will the photostats do, so far as the black and red is concerned ?

A I think there will be a clear difference there.

MR. SCHMIDT: You can color them up if it doesn't show up. One will probably show up darker than the other.

Q Do you have any more traffic counts ?

A Will you excuse me just a minute? Would you mind summarizing your request in the form of a letter to us so that we will be sure to have them all ?

Q I will be very happy to. Do you have any traffic volume studies on St. Paul and Calvert, prior to May 7, 1947 ?

A No.

Q Now, do I understand that there are no such traffic studies for Mulberry Street or Franklin Street, before and after studies, such as you have given us here ?

A We don't have any before count taken prior to the designation of those streets as one-way streets. We do have some after counts.

Q Now, do you have the traffic accident rates on Calvert Street and St. Paul Street before and after ?

A Yes, I have that information.

Q Could we see that ?

MR. O'DUNNE: I will object to that.

(Witness produced papers).

MR. HOUSTON: Mark those as Murphy Exhibits

3, 4 and 5.

(Papers referred to were then marked Murphy Exhibits Nos. 3, 4 and 5).

MR. O'DUNNE: Note my objection to each one of those.

Q Mr. Murphy, Mr. Atkinson, Police Commissioner, was asked with regard to vehicular traffic flow data on McCulloh Street and St. Paul, and also I ask if you have produced for us all of the traffic flow data on Druid Hill and McCulloh Street that is in your office ?

A Yes.

MR. HOUSTON: All right, I think that is all, Mr. O'Dunne.

MR. O'DUNNE: No questions.

(Examination concluded.)

STATE OF MARYLAND
SS:
CITY OF BALTIMORE

I, Hyman P. Sanders, a Notary Public in and for the State and City aforesaid, do hereby certify that

the within named, M. Frank Fitzpatrick, Bernard J. Schmidt and Charles J. Murphy, personally appeared before me at the time and place herein set out, and after having been duly sworn by me according to law, were interrogated by counsel.

I further certify that the examination was recorded stemgraphically by me and then transcribed from my stenographic notes to the within typewritten matter in a true and accurate manner.

I further certify that the stipulations contained herein were entered into by counsel in my presence.

I further certify that I am not of counsel to any of the parties, nor an employee of counsel, nor related to any of the parties, nor in any way interested in the outcome of this matter.

As witness my hand and notarial seal this 3rd day of November, 1948, at Baltimore, Maryland.

Hyman C. Sauder
Notary Public.

R. GARLAND CHISSELL et al	*	IN THE CIRCUIT COURT NO.2
VS.	*	OF
MAYOR AND CITY COUNCIL OF BALTIMORE, a municipal corporation	*	BALTIMORE CITY

****

NOTICE OF DEPOSITIONS

TO: HAMILTON O'DUNNE
ASSISTANT CITY SOLICITOR
COURT HOUSE ROOM #217
BALTIMORE 2, MARYLAND

PLEASE TAKE NOTICE that at ten thirty a.m. on Friday October 8, 1948 in the library of the City Solicitor's office in the Court House at Baltimore City before a Standing Examiner, or before any other suitable Notary Public, that the testimony of the witnesses named hereafter will be taken on behalf of the Complainants in the above entitled cause pursuant to the General Rules of Practice and Procedure of the Court of Appeals of Maryland, and more particularly the Discovery sections thereof, at which time and place you are notified to attend and which may be continued from day to day as the taking such deposition may be adjourned until the same is completed.

John J. Lang-Planning Commission-Secretary
Municipal Building, Baltimore 2, Md.

Charles J. Murphy-Traffic Engineer
Municipal Building, Baltimore 2, Md.

Jacob Edelman-Munsey Building
Baltimore 2, Md.

Paul L. Holland-Department of Public Works-Director
City Hall, Baltimore 2, Md.

George A. Carter-Department of Public Works-Deputy Director, City Hall, Baltimore 2, Md.

Bernard J. Schmidt-Inspector, Traffic Engineering Bureau
Fayette Street and Fallsway, Baltimore 2, Md.

Arthur D. McVoy-Planning Commision-Director
Municipal Building, Baltimore2, Md.

Donald G. Murray

Charles H. Houston
Solicitors for Complainants

Service of copy admitted the 2nd day of October 1948.

I N D E X

R. GARLAND CHISELL, et al	:	
Complainants	:	IN THE
vs.	:	
		CIRCUIT COURT No. 2
MAYOR AND CITY COUNCIL OF BALTIMORE, a Municipal Corporation,	:	OF BALTIMORE CITY
Defendant	:	

Pursuant to notice, the depositions of Paul L. Holland, George A. Carter and John J. Lang were taken on Friday, October 8, 1948, at 10:30 o'clock a.m., at 217 Court House, Baltimore, Maryland, before Ivan J. Salomon, Notary Public.

APPEARANCES

Charles H. Houston, Esq. and Donald G. Murray, Esq.	:	on behalf of Complainants
Hamilton O'Dunne, Esq.		on behalf of Defendant

STIPULATION

It is stipulated and agreed by and between counsel for the respective parties that the reading and signing of these depositions by the witnesses be and the same are hereby waived.

PAUL L. HOLLAND, called for examination by Complainants, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Examination by Mr. Houston:

Q Will you state your full name, Mr. Holland ?

A Paul L. Holland.

Q Your official position in the City of Baltimore ?

A Director of Public Works.

Q You have been Director of Public Works for how long ?

A Since January 20th of this year.

Q Prior to that time, what was your official position ?

A I was Chief Engineer of the Public Service Commission of Maryland for about 17 years.

Q Were you Chief Engineer of the Public Service Commission when Ordinance No. 169 was first proposed to the City Council ?

MR. O'DUNNE: Can you fix the date on that, Mr. Houston ?

A I don't know that by number, you'll have to give me the date, so that I can tell what my official position was.

Q It was approved March 18, 1948.

A I was Director of Public Works at that time.

MR. O'DUNNE: I don't want any obscurity in this record. You mean you were Director of Public Works on March 18, 1948 ?

A I have been since January 20, 1948.

Q Now, as the Chief Engineer of the Public Service Commission, did your office have anything to do -- did your office give any consideration to the question of naming Druid Hill Avenue and McCulloh Street, as expressways ?

A None whatever.

Q Did the matter, so far you know, come before your office?

A It did not, the Public Service Commission has nothing to do with that.

Q Did you, in any capacity, have anything to do with the consideration of the naming of Druid Hill Avenue and McCulloh Street, as expressways, prior to the time youtook over the directorship of the Department of Public Works ?

A I did not.

Q And you had no official connection with the matter ?

A I did not.

Q Now, as director of the Department of Public Works, what jurisdiction do you have over the streets ?

A None, so far as the traffic on the streets. Our department builds and maintains streets.

Q What instructions have you received, as Director of the Department of Public Works, for work by your department concerning Druid Hill Avenue and McCulloh Street, since January 1, 1948 ?

MR. O'DUNNE: I'll note an objection to that it involves hearsay.

MR. HOUSTON: Hearsay as to what instruc-

tions his department has received ?

MR. O'DUNNE: Yes, he received it from somebody else.

Q What instructions has your department received, to your personal knowledge, concerning Druid Hill Avenue and McCulloh Street, since January 1, 1948 ?

A My department has received no instructions from anybody.

Q What work, if any, has your department done on Druid Hill Avenue and McCulloh Street, since January 1, 1948 ?

A The Bureau of Mechanical Electrical Service has been putting in some conduit systems. The Bureau of Highways has made repairs to the streets.

Q Going back to the matter of the conduits, where have the conduits been put in since January 1st ?

A I can't give you the details.

Q On both streets ?

A I can't answer that question, that's a routine matter handled by the Bureau of Mechanical Electrical Service. I don't know what particular parts of the streets have been covered, either by street lighting or installation

of conduits. I know certain work has been done in connection with the streets.

Q You don't know what, in detail ?

A No.

Q You mentioned something else besides conduits, what was that ?

A Street lights.

Q Do you know the details as to that ?

A I do not.

Q Do you have the measurements of the width of McCulloh Street and Druid Hill Avenue ?

A They are on file in the department.

Q You don't know it yourself ?

A No.

Q What is the first time that the proposition about making McCulloh Street and Druid Hill Avenue expressways first came to your personal attention ?

A I can't give you the exact date. It was sometime after I took office in January, that there was discussion in my office about the two arteries. I can't give you the exact date.

Q And will you tell us with whom you had that discussion ?

A I discussed it with my deputy, Mr. George Carter, and I have discussed it from time to time with the Real Estate Department, with reference to the proposed acquisition of property between Eutaw and Howard Streets necessary to continue the one-way operation of Druid Hill, into Centre Street. A number of times we have had discussions with that particular property owner, several conferences, looking to the acquisition of that property, but I can't give the dates.

Q About the acquisition of the property, and where is that located ?

A It's a vacant lot immediately west of Howard Street and towards the western end of Centre Street, and the lot extends from Howard to Eutaw, known as the Boumi Temple property.

Q And your deputy is Mr. Carter ?

A Mr. George Carter, Deputy Director.

Q With what other persons have you discussed the proposition ?

A Oh, I can't say. We have discussed it a number of times.

Q With what city officials, let me put it that way ?

A I discussed it with the Highways Engineer, with the Deputy Highways Engineer, with the Deputy Comptroller and, I presume, with others. I could not give the definite dates, nor would I be perfectly sure in naming others.

Q What State officials ?

A Inspector Smith.

Q Inspector Smith of the Police Department ?

A Yes. Mr. Murphy, Traffic Engineer of the Police Department. I don't know of any other State official with whom I have discussed it.

Q Have you discussed it with the Mayor ?

A No, I don't remember ever discussing that particular problem with him. I won't say I have not, but I don't recollect definitely that it has been discussed.

Q The City Solicitor ?

A I think that I have discussed it with a representative of the City Solicitor's office, only in connection

with the acquisition of this particular piece of property. The actual discussion of one-way operation, I don't think came up, except, perhaps, merely in passing.

Q Have you discussed it with anybody in the Planning Division ?

A I think it has been discussed in a general way at one or more meetings of the Planning Commission.

Q By you ?

A Yes, I am a member, an ex-officio member of that Commission. I think it has come up for discussion on a couple of occasions, and I might add that in connection with the work of the Planning Commission, I think that the subject has been discussed very generally in the presence of the Chairman of the State Roads Commission, of the Chief Engineer of the State Roads Commission, and with officials of the Public Roads Administration in Washington, but only in very general terms, no specific details brought out, except the fact that it was designed as an arterial highway or expeditious method of handling traffic to the northern

part of the City and the downtown area.

Q Are you acquainted with the number of schools in that particular area, say from North Avenue down to Biddle Street ?

A I have ridden those streets, but I can't say I am familiar in detail. I couldn't tell you exactly how many schools were located on it, nor churches.

Q How many traffic control signaldevices, either lights, signs or other devices, exist between -- on Druid Hill Avenue from the park down to Biddle Street ?

A I do not know.

Q The same question as to McCulloh Street ?

A I do not know.

Q Does that come under your department ?

A It does not.

Q Now, as a member of the City Planning Commission, do you know what the density of population is in that particular area ?

A I do not. It is heavily built up, just as many other parts of the downtown area, practically built up solidly.

Q But beyond a matter of the buildings, you don't know the what/actual living density is there, do you ?

A No, I do not.

Q And you have not given that consideration in anything that you have considered, or in any of your discussions concerning this projected expressway ?

A No special consideration to that particular feature, as it would affect one-way operation. Pedestrian movement, which is prominent to all such streets is, of course, given consideration in the location of such streets and traffic control signals, always.

Q As far as you know, are there any records in your department concerning this project, written records and documents ?

A Oh, yes, there's a record of a report made by my predecessor, Mr. Nathan L. Smith, certain recommendations made back in 1946, I think.

Q Mr. Nathan Smith --

A Formerly Chief Engineer, and later Director of Public Works, my immediate predecessor.

Q Let me ask you if he was the Chief Engineer of the

Public Service Commission ?

A No, he had no connection with the Public Service Commission.

Q Chief Engineer --

A Of the City of Baltimore, I think that was his title at the time that report was made.

Q All right, sir. May I have any other records in your office that we can have put on the record here ?

A There are maps in the Planning Commission, I think there is -- I know there are maps of the Planning Commission, on which these two streets are designated, marked as one-way streets, but nothing in connection therewith of import, that I know of.

Q Do you have the record of the report of Mr. Smith with you ?

A Yes, the report entitled, Analysis of Traffic Conditions Present and Post-War Highway Requirements, by Nathan L. Smith, Chief Engineer, Department of Public Works, dated May 21, 1945. I believe I said 1946.

Q It's May what ?

A May 21, 1945.

Q May I ask whether you have more than one copy in the office? The reason I was going to ask you that is to whether we can have it as a permanent exhibit ?

A The map can go as a permanent exhibit, but the report is the only one we have.

Q Could we see that, please ?

(Report was then handed to counsel).

Q This is 1944.

A That's just the date on the map, the basic map. The black lines you see on the map were put on at the time the report was issued in 1945.

(Discussion off the record).

Q Now, as I understand it, the broad line represents the expressway ?

A That was the proposed one at that time, not a definite location.

Q I'm trying to follow the diagram.

A At that time it was proposed to bring this expressway from Washington, the first part which is under construction up here, and go up northwest and go east with a possible tunnel or bridge, and expressways

heading in all directions.

Q I'm trying to find it. You have this one-way street on Druid Hill and Madison, which would indicate or point out that these are proposed one-way streets ?

A Not on the legend on this map, no. The report indicates --

Q Yes, I understand it from there, but I was trying to tie the report and map together. May we ask that the report of Nathan L. Smith, Chief Engineer, Department of Public Works, May 21, 1945, entitled, Analysis of Traffic Conditions and Present and Post-War Highway Requirements, page 29, the section entitled, Northwest Connection, together with the map of Baltimore City, prepared and issued by the Commission on City Plans, 1944, be introduced as Exhibits Holland 1-A and 1-B ?

MR. O'DUNNE: I will note an objection to that, unless the entire report is going to be in.

MR. HOUSTON: I have no objection to the entire report being introduced. As a matter of fact, I would rather have it. Let me introduce this entire

report.

(Report entitled, Analysis of Traffic Conditions and Present and Post-War Highway Requirements was then filed marked Holland Exhibit 1-A, and map of Baltimore City, dated 1944, was filed marked Holland Exhibit 1-B).

Q Mr. Holland, having dealt with this report and map, are there any other records in your office dealing with the proposal to make Druid Hill Avenue and McCulloh Street one-way expressways ?

A Let me ask my deputy, I don't know just what is available. This has to do with that portion of the park where a dual highway was constructed the early part.

Q Does any of that correspondence reflect or contain a discussion of the expressways? I have no objection to your examining it, or taking all the time you wish.

(File was then examined by the witness).

A There's a copy of an article in the Northwestern Suburban News, Friday, July 7, 1947, it has some reference there to one-way operation on McCulloh Street.

Q You have no letters of protest from citizens ?

A I'm just looking. The Suburban News of June 27, 1947, refers to Druid Hill expressway will speed up traffic. That just refers to future plans there. Here's one from Mrs. Florence Snowden, which is acknowledged by the Chief Engineer on November 8th. One from Mr. Addison V. Pinkney, Executive Secretary of the National Association for the Advancement of Colored People, it was acknowledged October 7, 1946. It was received by the Mayor and forwarded to the Chief Engineer and acknowledged by him. In the Sun papers of September 30, 1946, was a diagram showing the proposed expressway along the edge of the park. No reference in the sketch to McCulloh or Druid Hill, but in the caption, "Proposed Park Boulevard requires the possible use of Reisterstown Road, McCulloh Extension, Druid Hill" and so forth. There's not much in there. A letter from Mr. R. Brooke Maxwell to Mr. Nathan L. Smith, in regard to the park road, which he refers to as connecting McCulloh Street and Druid Hill Avenue. Nothing about one-way operation in it, though.

Q May we see that, however ?

(Handed to counsel).

A That seems to be the only thing in this file on that subject. Probably the most exhaustative treatise we have in our whole file is the Riders' Digest, publichsed by the Transit Company, a copy of which I presume, you have, of November, 1945. On page 19, as the No. 2 project, Druid Hill Avenue-McCulloh Street one-way, which is, perhaps, about as elaborate a discourse on the proposed operation as you will find.

MR. HOUSTON: Now, I should like to have introduced as Exhibit 2 to the Holland deposition, correspondence between the Director of Parks and the Department of Public Works, dated September 10, 1946.

(Letter from Department of Public Parks and Squares, dated September 10, 1946, was then filed as Exhibit 2).

MR. HOUSTON: The reply letter, from Nathan L. Smith, Chief Engineer, to Mr. R. Brooke Maxwell, dated September 26, 1946, as Holland Exhibit 2-A.

(Letter from Department of Public Works

dated September 26, 1946, was then filed marked Exhibit 2-A).

MR. HOUSTON: I should like to have the diagram from the Morning Sun of September 30, 1946 marked Holland Exhibit 3.

(Diagram from Morning Sun of September 30, 1946, was then filed marked Holland Exhibit 3).

MR. O'DUNNE: I object to this, but the court can rule on it.

MR. HOUSTON: I would like to introduce in evidence correspondence between the Mayor of the City of Baltimore and Mrs. Florence Snowden, President of the Northwestern Residential Protective Association, letter dated November 4, 1946.

MR. O'DUNNE: I'll object to this first letter, except insofar as it contains a protest to the Mayor, as far as to the conclusions as to the extending of McCulloh Street through Druid Hill Park, I object to as conclusion of the writer.

MR. HOUSTON: I'll ask that be marked Exhibit 4-A.

(Letter from Northwestern Residential Protective Association, dated November 4, 1946, was then filed marked Exhibit 4-A).

MR. HOUSTON: Letter from the Mayor to Mr. Nathan L. Smith, Chief Engineer, dated November 7th, as Exhibit 4-B.

(Letter from Mayor's office, dated November 7, 1946, was then filed as Exhibit 4-B).

MR. HOUSTON: Letterfrom the Chief Engineer to Mrs. Florence Snowden, dated November 8, 1946, as Exhibit 4-C.

(Letter from Chief Engineer's office dated November 8, 1946, was then filed marked Exhibit 4-C).

Q Mr. Holland, is there any record in your office showing any further action taken on Mrs. Snowden's letter, except what has already been introduced in evidence ?

A No.

MR. HOUSTON: I would like now to introduce letter from Addison V. Pinkeny, Executive Secretary, Baltimore Branch, National Association for the Advancement of Colored People to the Mayor, dated September

30, 1946, as Holland Exhibit 5-A.

(Letter from Addison V. Pinkney, dated September 30, 1946, was then filed marked Exhibit 5-A).

MR. HOUSTON: Letter from the Mayor to Nathan L. Smith, dated October 4, 1946, as Exhibit 5-B.

(Letter's from Mayor's office, dated October 4, 1946, was then filed marked Exhibit 5-B).

MR. HOUSTON: Letter from the Chief Engineer to Addison V. Pinkney, dated October 7, 1946, as Exhibit 5-C.

(Letter from Chief Engineer's office dated October 7, 1946, was then filed marked Exhibit 5-C).

Q I ask you, Mr. Holland, whether there are any records in your office, which show any further action taken on the letter from Mr. Pinkney, other than what you have here produced ?

A Not that I know of.

Q I ask you now if there are any other records concerning the expressway project on Druid Hill Avenue and McCulloh Street, in your office, which have not yet been produced ?

A None that I know of. Perhaps Mr. Carter can answer that question in his own deposition more accurately than I can. I know of no other records.

Q Just one further question: You have no further personal information concerning the project, other than what you have testified to this morning ?

A I have knowledge of the ordinances which have been introduced in the Council in regard to it, and along with the whole traffic, general traffic plan, the contents of the Riders' Digest to which I referred a few moments ago. Of course, I have personal knowledge and hearsay knowledge of various items, but nothing that bears directly on that street.

MR. HOUSTON: All right, that's all.

(Examination concluded.)

GEORGE A. CARTER, called for examination by Complainants, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Examination by Mr. Houston:

Q Will you state your full name, Mr. Carter ?

A George A. Carter.

Q And your official position with the City ?

A Deputy Director of Public Works.

Q You have been Deputy Director for how long ?

A I think since October -- no, January, 1948.

Q Prior to that time, you were what, sir ?

A Assistant Chief Engineer -- Deputy Chief Engineer.

Q And, as Deputy Chief -- you were Deputy Chief Engineer how long, sir ?

A Oh, October, 1943, until I assumed office as Deputy Director.

Q Now, who was the Chief Engineer during the period from October, 1943 to January, 1948 ?

A Nathan L. Smith.

Q Is Mr. Smith now living or dead ?

A He's living, he's now Chief Engineer of the Baltimore County Metropolitan District.

Q Now, you heard Mr. Holland testify, did you not, as to the limitations on the office of Public Works con-

cerning the traffic conditions, and whatnot ?

A Yes.

Q And you subscribe to that testimony ?

A I certainly do.

Q Now, is the Chief Engineer under the Director of Public Works ?

A The Chief Engineer was abolished. The post of Chief Engineer was abolished by the charter change recently approved by the voters in the last mayorality election in 1947.

Q Prior to the time of the charter change, what was the jurisdiction of the Chief Engineer ?

A The same, they were synonymous, the Chief Engineer assumed the duties of Director of Public Works, just a change in title.

Q Then, according to your statement, the Chief Engineer had nothing to do with traffic conditions, is that correct ?

A Well, the Chief Engineer does have the responsibility of trying to solve traffic conditions in collaboration with the Commission on City Plans, and the Police De-

partment.

Q Were you present at any discussions of the project to make Druid Hill Avenue and McCulloh Street a one-way highway during the time that you were Deputy Chief Engineer ?

A I'm sure I was, but I couldn't definitely tie the dates up, but I am positive I sat in on numerous conferences.

Q Will you tell us who those conferences were held with ?

A Officials of the PoliceDepartment and officials of the Planning Commission and officials of the Department of Public Works.

Q Will you tell us, to the best of your knowledge, when the first such conference was held ?

A Generally, around the original date of the report by Mr. Smith, his analysis of traffic conditions and present and post-war highway requirements.

Q Youwould say the conferences began approximately about that time ?

A That report resulted from those conferences.

Q Now, were you the representative of the Chief Engineer's office, or did Mr. Smith take that personally on him-

self ?

A Mr. Smith personally, in the preparation of that report.

Q No, I'm talking about the matter of the handling of the project, Druid Hill Avenue and McCulloh Street as one-way streets, did he delegate that to you, as far as the functions of the Chief Engineer ?

A I don't think there was any line of demarcation between that, we both handled it, partly he and partly myself.

Q I'll ask you, Mr. Carter, whether this report in the Suburban News on July 11, 1947, on page 12, purporting to quote you, is an accurate quotation ?

A I think so.

MR. HOUSTON: I'll ask that be marked as Exhibit Carter No. 1.

(Article in Suburban News, dated July 11, 1947, was then filed marked Carter Exhibit No. 1).

Q Mr. Carter, I'll ask you if at a hearing onthe proposed ordinance before the City Council, you stated you had no knowledge of the number of schools and their location in this area, from North Avenue down

to Biddle Street ?

A I believe I did say that, sir.

Q And youhad no knowledge of the neighborhood, except --

A I deny saying I had no knowledge of the neighborhood.

Q -- that you had no knowledge of the number of churches in the neighborhood and their location ?

A Except general knowledge riding up and down McCulloh Street. I did not make such a statement. I've ridden McCulloh Street to and from work for many years.

Q So that your knowledge of the neighborhood is limited to riding up and down McCulloh Street for a number of years ?

A Yes.

Q Are you familiar with the report prepared by Mr. Smith, and other members of the Chief Engineer's office, which discussed the future development of Baltimore City, with regard to the traffic, and which also mentioned the road connections with Druid Hill Park ?

A There was a plan -- a book or report prepared by three consultants to the Commission on City Plan, back in the late thirties.

Q What was the name of that ?

A The official title I couldn't tell you, sir. Mr. Lang, if you are taking a deposition from him, it was the report made to him.

Q Who is Mr. Lang, sir ?

A He's the Deputy Director of the Planning Commission.

Q Was Mr. Lang one of the consultants ?

A No.

Q Who were the consultants ?

A Nathan L. Smith, Dr. Abel Wolman, and Gustav Requardt.

Q And that's 1936 ?

A I'm not sure of that date.

Q Will you tell us where that is on file ?

A The Planning Commission.

Q Not in your office ?

A It's an official report to the Planning Commission.

MR. HOUSTON: That's all.

Examination by Mr. O'Dunne:

Q Mr. Carter, the Director of Public Works, does he have the same general supervision over traffic, insofar

as helping solve traffic problems and conditions as the Chief Engineer had ?

A Yes.

By Mr. Houston:

Q Just one more question, Mr. Carter, that refers to the correspondence introduced in the Holland deposition from Mrs. Snowden and Mr. Pinkney, which I think you produced for Mr. Holland's benefit here this morning. Do you know of any records in the Director's office or in the former office of the Chief Engineer, which reflects further action taken on that correspondence ?

A No, I know of none.

By Mr. O'Dunne:

Q But you don't know there was no further action ?

A No.

MR. HOLLAND: May I amplify one of my answers a little bit, I don't want to be misunderstood. You asked if the Public Service Commission had any jurisdiction over traffic. The Public Service Commission does approve or disapprove the routing of mass transportation vehicles, such as the buses and trol-

leys of the Transit Company, either on one-way or two-way streets, and the director of Public Works, I presume, and his predecessor, the Chief Engineer of the City, consulted with the Police Department and the City Planning Commission in solving traffic problems. But the point I wanted to make, the Chief Engineer is charged directly with the construction of streets, rather than handling of traffic on the streets.

(Examination concluded.)

JOHN J. LANG, called for examination by Complainants, being first duly sworn to tell the truth, the whole truth, and nothing but the truth, testified as follows:

Examination by Mr. Houston:

Q Mr. Lang, will you state your full name, please ?

A John J. Lang.

Q Your official position ?

A Deputy Director of the Department of Planning.

Q And you have been that how long ?

A I've been Deputy Director since February of this year, but Senior Engineer of the Commission since 1939.

Q Let me get that straightened out.

A When the Commission was appointed in 1939 --

Q That's the Planning Commission ?

A It was the Planning Commission from 1939 to September, 1947, when the new charter went into effect, and it became the Planning Commission, Department of Planning.

Q Well, now, under the Planning Commission, what was the function of the Planning Commission, with regard to the designation of streets, as either one-way expressways, arterial highways, or what ?

A Those particular matters would be studied and worked out jointly with the other municipal agencies, the Transit Company, Public Service agencies, and being, we would say, a part of the traffic and highway matters, it would come to our Commission for approval.

Q Did the Commission have a map, an over-all map covering the flow of traffic in Baltimore, an over-all traffic map ?

A There is such a map available, it was made by the Police Department, a traffic flow map, that is available.

Q You do not have a copy of it here, do you ?

A I was just going to see if it was reproduced in one of these transit reports. No, but that report is available, I think it's dated 1938.

Q With regard to this particular project of designating Druid Hill and McCulloh Streets as one-way expressways, will you state, to your knowledge, the first time the City Planning Commission considered the matter ?

A To give you a specific date, when that kind of matter was discussed, it would be almost impossible because traffic and one-way streets was discussed in general, then the matter of re-converting or changing the transit system over to buses -- for a long time there were ordinances in the Council, beginning the one-way street system, when they started with St. Paul and Calvert Streets, and this was just another phase of the reconversion, probably, by the transit company. It was studied by the transit company and the Department of

Public Works, and came to us.

Q Did it first start, then, with the Transit Company ?

A I'd say the Transit Company and the Department of Public Works.

Q Can you give us an approximate idea of when you first had knowledge that the Transit Company was considering the designation of McCulloh Street and Druid Hill Avenue as a one-way street ?

A When their coordinated plan came out for traffic and transit improvements in Baltimore City, that's these two documents here, of which you have copies, probably, and it was further brought out in the October report of the Riders' Digest. The first formal way it came to the Planning Commission is when the Transit Company submitted their plan to the Planning Commission.

Q That's the coordinated plan ?

A Yes.

Q When was that plan submitted ?

A Mr. Nolan mentioned that in his letter. It says on page 2: "The company is happy to report that it can accomplish both the requests of the Council and of

Mr. Smith, and is forwarding you, herewith, copy of its report, which has been submitted to Mr. Smith and the City Plan Commission."

Q May I see the report, I don't think we have a copy of it ?

A It's the same as the Riders' Digest. This is, I'd say, an exact duplicate of the first report, I mean I haven't found any difference in it. The maps and plats and all the pages -- of course, this is in the form of a letter.

Q The date appears as November 1, 1945, as the date on which it was transmitted, and this is the No. 2 project ?

A Yes.

MR. HOUSTON: I'll ask that be marked as Lang Exhibit 1.

(Coordinated planning for traffic and transit improvement in Baltimore, was then filed marked Lang Exhibit No. 1).

MR. HOUSTON: I'll ask that the Riders' Digest be marked as Exhibit 2 to the Lang deposition.

MR. O'DUNNE: He says it's the same thing.

Q It is verbatim, the same thing ?

A I haven't found any difference in it myself. Maybe a close examination, page by page -- both are available, it's a public record, they are all over the City.

Q You say that this proposition concerning the naming, designation of Druid Hill and McCulloh Street, first reached the Planning Commission after the report of the Baltimore Transit Company ?

A Well, it came to us in connectinn with another matter. When we approved a part of the plan for one-way streets and re-bouting of traffic, it was the action of September 25, 1946, where we approved a plan for the development of the Auchentoroly cut-off, which is in connection with the Druid Hill and McCulloh Street plan. That's the outlet of the two streets at Cloverdale Road.

Q Now, between November, 1945, and September 25, 1946, who, in the office of the Planning Commission, was directly in charge of considering the project, you orwas it some other ?

A The Commission, as a whole.

Q Who did the technical work on it ? By that I mean who did the actual office work on it and prepared the matter for submission to the Commission, as a whole ?

A Well, the detail of that, I don't see how we could charge the detailed study of that thing to our Commission for the reason it came to us through the Department of Public Works.

Q So that the Planning Commission itself, so far as you know, made no detailed study, but accepted the material submitted to it by the Transit Company and the Department of Public Works ?

A More or less, I think that's a fair statement to make.

Q Do you have the material submitted to you now by the Department of Public Works ?

A Yes, we could say in the form of the report, Mr. Smith's report of 1945, that is the detailed and factual material the Commission reviewed and studied.

Q The Commission took no other testimony, or had no other material before it, except the Transit Company's report, and the report of Mr. Smith ?

A And the material we have in our own general files.

Q Tell us what material you have in your own general files ?

A Well, I don't see how I could cite that, because we have all sorts of material.

Q Youdidn't let me finish. Will you state to us what material you have in the general files concerning the density of population in the areas which would be traversed by these one-way proposed one-way expressways ?

A Of course, when I refer to our maps that are available, and our general maps of the City, which is a 200-foot scale map of the City, we know the general picture of the City by reference to those maps, and, of course, we have available to us the 1940 census maps with the population density of these districts.

Q Did the Planning Commission make any personal investigation of the area before it passed on these two reports, I mean personal inspection ?

A No, not that I know of.

Q Did it hear from anybody who had made a personal in-

spection of these two areas before it passed on these two repobts ?

A I don't recall of anything coming to our office officially, outside of the Transit Company and the Department of Public Works, and the Police Department.

Q So that the extent of your files on this matter of the proposition or project of Druid Hill Avenue and McCulloh Street, as one-way streets, consists of the two reports which you have mentioned, and such other general material, City maps, as you have indicated ?

A Well, we do have a map, in fact, two maps that we -- gives additional information and we compared the routes which were already in effect. For instance, we made a study of the St. Paul-Calvert Street area along with this, and we indicated where schools and institutional properties were located, along the various routes, adjacent to the various streets.

Q Where is that ?

A In our office.

Q Can you furnish us with a copy ?

A It's only the one original copy.

Q What is the date ?

A Oh, this will be on the two maps.

Q And you don't have any special designation for the maps ?

A There's a legend indicating the material delineated. The maps are dated and it's in original form, there are no copies available, because it's colored on the maps.

Q What information did the City Planning Commission have concerning the traffic flow at the time it was considering these two reports ?

A They had available the traffic flow maps, which I referred to, prepared by the Police Department.

Q But, as far as you know, that's the only material it had ?

A In that particular case.

MR. HOUSTON: That's all.

Examination by Mr. O'Dunne:

Q Mr. Lang, when you say this Transit report was submitted to you by the Department of Public Works --

A No, the Transit Company, they submitted it to the Commission.

Q The Transit Company submitted it to the Commission ?

A Yes. I can check the date and the time that was submitted. It was brought to us by a group of transit officials, we had a joint meeting of the Commission and the transit officials.

Q Was I correct in understanding you to say some information was submitted to you by the Department of Public Works ?

A Mr. Smith's report of 1945, I think it's dated May, I think you have a copy of it.

Q Do you know who submitted that ?

A Mr. Nathan L. Smith.

Q Mr. Smith himself ?

A Yes.

Q When you say that the Department of Public Works didn't have before it any information from anyone who had seen the McCulloh Street and Druid Hill Avenue personally --

A I meant -- he asked me if our Commission -- the question

asked me wasdid the Commission have any. I don't know what material the Engineering Department had before it.

Q As far as the Commission is concerned, these maps of the City that the Commission uses, they, of course, were made up by persons who have personal knowledge of the neighborhood, weren't they ?

A Well, they are made up by a group of men, it's a continual process in the office, to keep these up to date. It's a series of maps, it takes a hundred of them to cover the City.

Q These maps, then, are based on personal information of persons personally acquainted with the neighborhood?

A That's right. I mean the maps themselves can be readily understood and interpreted by anyone who can read a map.

Q And you also had information furnished you by the Police Department ?

A Yes, in a general way.

MR. O'DUNNE: All right, sir.

Examination by Mr. Houston:

Q But you just testified the only thing you had from the Police Department were traffic-flow maps, didn't you ?

A Well, from time to time they were making recommendations on ordinances for one-way streets, and those records were available, I mean they made recommendations on, for instance, the St. Paul and Calvert Street, when we converted the 17 line over to buses. We knew their attitude in those particular problems.

Q Did the Police Department make any recommendation concerning McCulloh Street and Druid Hill Avenue ?

A Not that I know of.

MR. HOUSTON: All right.

Examination by Mr. O'Dunne:

Q You don't know, do you, whether the members of the Planning Commission personally inspected the neighborhood or not, as individuals ?

A I wouldn't know that, for the reason that we function through committees, and whether these men on their own time, had made personal investigations, we wouldn't know that in the office, but most of the Commission

men are pretty familiar with most of these problems and acquainted with most sections of the City.

MR. O'DUNNE: Thank you.

By Mr. Houston:

Q You state that, as a general observation ?

A Yes.

MR. HOUSTON: I think that's all. I would like to offer this copy of excerpt from minutes of meeting of Commission on City Plan, dated September 25, 1946.

(Excerpt from minutes of meeting of Commission on City Plan, dated September 25, 1946, was then filed marked Lang Exhibit No. 2).

(Examinatinn concluded.)

STATE OF MARYLAND
SS:
CITY OF BALTIMORE

I, Ivan J. Salomon, a Notary Public in and for the State and City aforesaid, do hereby certify that the within named, Paul L. Holland, George A. Carter and

John J. Lang, personally appeared before me at the time and place herein set out, and after having been duly sworn by me according to law, were interrogated by counsel.

I further certify that the examination was recorded stenographically by me and then transcribed from my stenographic notes to the within typewritten matter in a true and accurate manner.

I further certify that the stipulation contained herein was entered into by counsel in my presence.

I further certify that I am not of counsel to any of the parties, nor an employee of counsel, nor related to any of the parties, nor in any way interested in the outcome of this action.

As witness my hand and notarial seal this 15th day of October, 1948, at Baltimore, Maryland.

Frank Halborn

Notary Public.

DOCKET 579 FO. 541
CASE No. 29495a
FILED 4 October 1948

R. GARLAND CHISSELL, ET AL. * IN THE CIRCUIT COURT NO. 2

*

VS. OF

*

MAYOR & CITY COUNCIL OF BALTIMORE,
A MUNICIPAL CORPORATION * BALTIMORE CITY

* * * * * * * * * * * *

MOTION AND ORDER

A Notice to take Deposition on October 8, 1948 having been served by the Complainants on the Respondents pursuant to the General Rules and Procedure of the Court of Appeals of Maryland and more particularly the Discovery section thereto in the above entitled cause.

Complainants hereby move that Jacob Edelman, one of the Deponents, be ordered to produce at the time of the taking of depositions as hereinbefore indicated any and all of their records, papers, minutes, report, and/or letters in his custody which show (1) any reference or any action taken by the City Council in the matter of making Druid Hill Avenue and McCulloh Streets one way streets as later enacted in Ordinance #169 (1948); and your Complaints further state that they believe the information requested may constitute and/or contain evidence material to matters involved in the above entitled proceedings.

Donald G. Murray
Donald G. Murray

Charles H. Houston
Charles H. Houston

O R D E R

IT IS THEREUPON this 4 day of October, 1948, ordered by the Circuit Court No. 2 of Baltimore City that Jacob Edelman, one of the Deponents in the case of R. Garland Chissell et al. vs. Mayor and City Council of Baltimore City, a municipal body corporate produce and permit the inspection of any and all of his records, papers, minutes, reports, and/or letters in his custody which show (1) any reference or any action taken by the City Council in the matter of making Druid Hill Avenue and McCulloh Streets one way streets as later enacted in Ordinance #169 (1948); at the deposition to be held on Friday, October 8, 1948.

Paul Mason

DOCKET 579 FOLIO 297
CASE No 29495
FILED 4 October 1948
17

R. GARLAND CHISSELL, ETC. IN THE CIRCUIT COURT NO. 2

*

VS. OF

*

MAYOR & CITY COUNCIL OF BALTIMORE, BALTIMORE CITY
A MUNICIPAL CORPORATION

*

* * * * * * * * * * * * * * *

MOTION AND ORDER

A Notice to take Deposition on October 8, 1948 having been served by the Complainants on the Respondents pursuant to the General Rules of Practice and Procedure of the Court of Appeals of Maryland and more particularly the Discovery section thereto in the above entitled cause.

Complainants hereby move that Arthur D. McVoy and John J. Lang, two of the Deponents, be ordered to produce at the time of the taking of depositions as hereinbefore indicated any and all of their records, papers, minutes, report, and/or letters in their custody which show (1) any reference or any action taken by their department in the matter of making Druid Hill Avenue and Mc Culloh Streets one way streets as later enacted in Ordinance #169 (1948); and your Complainants further state that they believe the information requested may constitute and/or contain evidence material to matters involved in the above entitled proceedings.

Donald G. Murray
Donald G. Murray

Charles H. Houston
Charles H. Houston

O R D E R

IT IS THEREUPON this 4 day of October, 1948, ordered by the Circuit Court No. 2 of Baltimore City that Arthur D. McVoy and John J. Lang, two of the Deponents in the case of R. Garland Chissell et al. vs. Mayor and City Council of Baltimore City, a municipal body corporate produce and permit the inspection of any and all of their records, papers, minutes, reports, and/or letters in their custody which show (1) any reference or any action taken by their department in the matter of making Druid Hill Avenue and McCulloh Streets one way streets as later enacted in Ordinace #169 (1948); at the deposition to be held on Friday, October 8, 1948.

Paul Mason

DOCKET 57a FOLIO 297
CASE No. 29495a
FILED 4 October 1948
16

R. GARLAND CHISSELL, ET AL. * IN THE CIRCUIT COURT NO. 2

VS. * OF

MAYOR & CITY COUNCIL OF BALTIMORE, *
A MUNICIPAL CORPORATION BALTIMORE CITY

* * * * * * * *

MOTION AND ORDER

A Notice to take Deposition on October 8, 1948 having been served by the Complainants on the Respondents pursuant to the General Rules of Practice and Procedure of the Court of Appeals of Maryland and more particularly the Discovery section thereto in the above entitled cause.

Complainants hereby move that Charles J. Murphy and Bernard Schmidt, two of the Deponents, be ordered to produce at the time of the taking of the depositions as hereinbefore indicated any and all of their records, papers, minutes, report, and/or letters in their custody which show (1) any traffic accident rates on McCulloh Street and Druid Hill Avenue in 1946, 1947, and 1948; (2) which show the vehicular traffic rate by traffic count in 1946, 1947, 1948 on the said streets; (3) which show the traffic accident rates on Calvert Street, St. Paul Street, Mulberry Street, Franklin Street, for the year immediately prior to the conversion of each of these streets to one-way streets and for the years subsequent to their conversion; (4) which show the vehicular traffic rate for each of the said streets in (3) above for the year prior to the conversion of each of these streets to one-way streets and for the years subsequent to their conversion; (5) which show any reference to making Druid Hill Avenue and McCulloh Street one-way streets as later enacted in Ordinance #169 (1948); and your Complainants further state that they believe the information requested may constitute and/or contain evidence material to matters involved in the above entitled proceedings.

Donald G. Murray
Donald G. Murray

Charles H. Houston
Charles H. Houston

O R D E R

IT IS THEREUPON this 4 day of October, 1948, ordered by the Circuit Court No. 2 of Baltimore City that Charles J. Murphy and Bernard Schmidt, two of the Deponents in the case of R. Garland Chissell et al. vs. Mayor and City Council of Baltimore City, a municipal body corporate produce and permit the inspection of any and all of their records, papers, minutes, reports, and/or letters in their custody which show (1) any traffic accident rates on McCulloh Street and Druid Hill Avenue in 1946, 1947, and 1948; (2) which show the vehicular traffic rate by traffic count in 1946, 1947, 1948 on the said streets; (3) which show the traffic accident rates on Calvert Street, St. Paul Street, Mulberry Street, Franklin Street, for the year immediately prior to the conversion of each of these streets to one-way streets and for the years subsequent to their conversion; (4) which show the vehicular traffic rate for each of the said streets in (3) above for the year prior to the conversion of each of these streets to one-way streets and for the years subsequent to their conversion; (5) which show any reference to making Druid Hill Avenue and McCulloh Street one-way streets as later enacted in Ordinance #169 (1948); at the deposition to be held on Friday, October 8, 1948.

Paul Mason

DOCKET 57a FOLIO 297
CASE No 29495a
FILED 15 October 1948

R. GARLAND CHISSELL, ET AL. * IN THE CIRCUIT COURT NO.2

*

VS. * OF

*

MAYOR & CITY COUNCIL OF BALTIMORE, * BALTIMORE CITY
A MUNICIPAL CORPORATION

*

* * * * * * * * * *

MOTION AND ORDER

A Notice to take Deposition on October 8, 1948 having been served by the Complainants on the Respondents pursuant to the General Rules of Practice and Procedure of the Court of Appeals of Maryland and more particularly the Discovery section thereto in the above entitled cause.

Complainants hereby move that Paul Holland and George Carter, two of the Deponents, be ordered to produce at the time of the taking of depositions as hereinbefore indicated any and all of their records, papers, minutes, report, and/or letters in their custody which show (1) any reference or any action taken by their department in the matter of making Druid Hill Avenue and McCulloh Streets one way streets as later enacted in Ordinace #169 (1948); and your Complainants further state that they believe the information requested may constitute and/or contain evidence material to matters involved in the above entitled proceedings.

Donald G. Murray
Donald G. Murray

Charles H. Houston
Charles H. Houston

ORDER

IT IS THEREUPON this 4 day of October, 1948, ordered by the Circuit Court No. 2 of Baltimore City that Paul Holland and George Carter , two of the Deponents in the case of R. Garland Chissell et al. vs. Mayor and City Council of Baltimore City, a municipal body corporate produce and permit the inspection of any and all of their records, papers, minutes, reports, and/or letters in their custody which show (1) any reference or any action taken by their department in the matter of making Druid Hill Avenue and McCulloh Streets one way streets as later enacted in Ordinance #169 (1948); at the deposition to be held on Friday, October 8, 1948.

Paul Mason

DOCKET 57 FOLIO 297
CASE No 29495a
FILED 4 October 1948
14

R. GARLAND CHISSELL et al

VS.

MAYOR AND CITY COUNCIL OF BALTIMORE, a municipal corporation

IN THE CIRCUIT COURT NO. 2

OF

BALTIMORE CITY

****

NOTICE OF DEPOSITIONS

Mr. Clerk:

A notice having been served on the Respondents in the above entitled cause by the Solicitors for the Complainants that the Complainants intend to take testimony of certain witnesses before a Standing Examiner, or before any other suitable Notary Public in the library of the City Solicitor's office at ten thirty a.m. Friday October 8, 1948 will you please issue subpoena's for the following witnesses to appear at the library in the City Solicitor's office , Courthouse, attend for the purpose of giving their depositions in the above cause, in accordance with the notice aforesaid and pursuant to the General Rules of Practice and Procedure adopted by the Court of Appeals of Maryland, and more particularly the Discovery Sections thereto.

John J. Lang-Planning Commission-Secretary
Municipal Building, Baltimore 2, Md.

Charles J. Murphy-Traffic Engineer
Fayette Street and Fallsway, Baltimore 2, Md.

Arthur D. McVoy-Planning Commission-Director
Municipal Building, Baltimore 2, Md.

Jacob Edelman-Munsey Building
Baltimore 2, Maryland

Paul L. Holland-Department of Public Works-Director
City Hall-Baltimore 2, Md.

George A. Carter-Department of Public Works-Deputy Director, City Hall, Baltimore 2, Md.

Bernard J. Schmidt-Inspector, Traffic Engineering Bureau, Fayette Street and Fallsway, Baltimore 2, Md.

Donald G. Murray
Donald G. Murray

Charles H. Houston
Charles H. Houston
Solicitors for Complainants

579 FOLIO 297
CASE No 29495a
FILED 4 October 1948
13

R. GARLAND CHISSELL et al	*	IN THE CIRCUIT COURT NO.2
VS.	*	OF
MAYOR AND CITY COUNCIL OF BALTIMORE, a municipal corporation	*	BALTIMORE CITY

****

NOTICE OF DEPOSITIONS

TO: HAMILTON O'DUNNE
ASSISTANT CITY SOLICITOR
COURT HOUSE ROOM #217
BALTIMORE 2, MARYLAND

PLEASE TAKE NOTICE that at ten thirty a.m. on Friday October 8, 1948 in the library of the City Solicitor's office in the Court House at Baltimore City before a Standing Examiner, or before any other suitable Notary Public, that the testimony of the witnesses named hereafter will be taken on behalf of the Complainants in the above entitled cause pursuant to the General Rules of Practice and Procedure of the Court of Appeals of Maryland, and more particularly the Discovery sections thereof, at which time and place you are notified to attend and which may be continued from day to day as the taking such deposition may be adjourned until the same is completed.

John J. Lang-Planning Commission-Secretary
Municipal Building, Baltimore 2, Md.

Charles J. Murphy-Traffic Engineer
Municipal Building, Baltimore 2, Md.

Jacob Edelman-Munsey Building
Baltimore 2, Md.

Paul L. Holland-Department of Public Works-Director
City Hall, Baltimore 2, Md.

George A. Carter-Department of Public Works-Deputy Director, City Hall, Baltimore 2, Md.

Bernard J. Schmidt-Inspector, Traffic Engineering Bureau
Fayette Street and Fallsway, Baltimore 2, Md.

Arthur D. McVoy-Planning Commission-Director
Municipal Building, Baltimore 2, Md.

Donald G. Murray
Donald G. Murray
Charles H. Houston
Charles H. Houston
Solicitors for Complainants

Service of copy admitted the 2nd day of October 1948.
Hamilton O'Dunne atty for respondent -

DOCKET 57 FOLIO 297
CASE No. 29695 a
FILED 28 Sept 1948
12

R. GARLAND CHISSELL et al.

vs.

MAYOR AND CITY COUNCIL OF BALTIMORE,
a municipal corporation

IN THE

Circuit Court No. 2

—OF—

BALTIMORE CITY.

To the Honorable the Judge of the
Circuit Court No. 2 of Baltimore City:

The ~~Plaintiff~~ Defendant in this case respectfully shows unto your Honor

That he desires to examine orally, in open Court and in the presence of your Honor, certain witnesses who can testify to the facts and matters relevant to the allegations in the Bill of Complaint filed in this case.

Your Petitioner therefore prays your Honor to pass an order, according to the Statutes for such cases made and provided.

And as in duty bound will ever pray.

Hamilton O'Dunne
Solicitor for Plaintiff.

Upon the foregoing Petition and Application it is this 28 day of September, A. D. 1948, Ordered that the Petitioner have leave to take testimony as prayed and that the testimony to be offered be taken as required by the ~~30~~ 56th Rule of this Court. And it is further Ordered that a copy of this Petition and Order be served on the Plaintiff or ~~their~~ Solicitors on or before the 4 day of October, 1948

Paul Mason

363 15

SERVE ON

Donald G. Murray
Charles H. Houston
Odho
1506 Pennsylvania Ave

Donald G. Murray
Charles H. Houston
Oct 1, 1948

RECEIVED
SHERIFF'S OFFICE
SEP 29 3 18 PM '48
BALTIMORE CITY, MD.

Mad
2091

Circuit Court No. 2

297 19 48 Docket No. 57a

R. GARLAND CHISSELL et al.

vs.

MAYOR AND CITY COUNCIL OF BALTIMORE

(21)

Petition and Order to Take Testimony Under ~~30th~~ 560 Rule.

Mad

No.

Filed 19

9

Copy of the within Petition and Order of Court served on Donald G. Murray and Charles H. Houston Solicitors on the 1st day of October 1948 on the premises of Robert Kent

Jos. A. Lyons
Sheriff

HO'D/db 9/22/48
File No. 82736

DOCKET 57a FOLIO 297
CASE No 29495a
FILED 23 Sept 1948
11

R. GARLAND CHISSELL and AUGUSTA CHISSELL, his wife;	:	
WILLIAM R. BOYKIN, SR. and WILLIE MAE BOYKIN, his wife;	:	IN THE
RAYMOND A. C. YOUNG and HELEN B. YOUNG, his wife;	:	
CLARENCE M. MITCHELL, JR. and JUANITA JACKSON MITCHELL, his wife;	:	CIRCUIT COURT NO. 2
et al.	:	OF
Complainants	:	
	:	BALTIMORE CITY
VS.	:	
THE MAYOR AND CITY COUNCIL OF BALTIMORE, a municipal corpoation,	:	
Respondent	:	

. . . . . .

ANSWER TO AMENDED BILL OF COMPLAINT

The Mayor and City Council of Baltimore, a municipal corporation, by Thomas N. Biddison, City Solicitor, and Hamilton O'Dunne, Assistant City Solicitor, in answer to the Amended Bill of Complaint in the above entitled case, represents unto this Honorable Court:-

1. In answer to Paragraph 1 of the Amended Bill of Complaint, your Respondent admits the allegations therein except that your Respondent has no knowledge whether the Complainants sue as representatives of a class of citizens, residents and taxpayers and children living on McCulloh Street and Druid Hill Avenue.

2. In answer to Paragraph 2 of the Amended Bill of Complaint,

the allegations therein are admitted.

3. In answer to Paragraph 3 of the Amended Bill of Complaint, your Respondent states that the description of the neighborhood therein is so described as to be a characterization thereof by the Complainants, and, so as not to disclose to the Respondent sufficient facts to allow your Respondent either to admit or to deny the allegations therein, the Complainants allege that Druid Hill Avenue and McCulloh Street have developed into "a high desirable area" containing homes of "substantial character", and such expressions can only evidence the subjective determination of the Complainants and do not constitute facts capable of affirmance or denial. In further answer to said Paragraph, your Respondent denies that prior to the passage of Ordinance No. 169, approved March 18, 1948, the vehicular traffic on McCulloh Street and Druid Hill Avenue was local traffic of persons resident in or visiting the neighborhood. The allegations therein that this traffic was "of moderate or below moderate volume" and that persons "were comparatively safe in using said streets and intersections due to the fact that the vehicular traffic on the said streets was of moderate or below moderate volume" again represent conclusions of the Complainants and there are no standards by which said descriptions can be interpreted so as to be rendered capable of affirmance or denial. Therefore, all of said statements are neither admitted nor denied by said Respondent but proof thereof is demanded so that the meaning thereof may be determined by your Respondent.

4. In answer to Paragraph 4 of the Amended Bill of Complaint, the allegations therein with respect to number and location of schools and the number of children attending, are admitted, but the allegation

that "on the said streets the population density is far above the average population density of the remainder of Baltimore City" is so vague, indefinite and intangible as to be incapable of being answered by your Respondent, and thus this allegation is neither admitted nor denied but strict proof thereof is demanded so that the meaning thereof may be determined by your Respondent.

5. In answer to Paragraph 5 of the Amended Bill of Complaint, the allegations therein are admitted.

6. In answer to Paragraph 6 of the Amended Bill of Complaint, it is admitted that Ordinance No. 169, approved March 18, 1948, designated Druid Hill Avenue and McCulloh Street one-way streets. In further answer, your Respondent states that the Complainants have no vested right to have their children play in the public streets of Baltimore City entirely free from traffic hazards and that traffic hazards are necessarily present on streets where there is a flow of traffic, but that this is a necessary hardship which must be borne by persons living in Cities or heavily traveled areas.

7. In answer to Paragraph 7 of the Amended Bill of Complaint, your Respondent states that the speed of traffic will continue to be regulated by the police and that although increased traffic does increase traffic noise and traffic fumes, such noise and fumes are indigenous to all Cities where there is motorized traffic and that to that extent the Complainants have no vested right to live in their homes in the City entirely free from traffic noises and fumes.

8. In answer to Paragraph 8 of the Amended Bill of Complaint, the allegations therein are denied.

9. In answer to Paragraph 9 of the Amended Bill of Complaint, the allegations therein are admitted.

10. In answer to Paragraph 10 of the Amended Bill of Complaint, your Respondent states that the increased assessments complained of were not made with any fraudulent intent or so timed as fraudulently to deter the Complainants from protesting the assessments, but were made pursuant to a plan adopted according to law by which one-fifth of all property in the City of Baltimore is re-valued and re-assessed every year and that the increase complained of was based on the determination of a general increase in property values in the area in which the said properties were located and that the assessment was made independently of any effect which the passage of Ordinance No. 169, approved March 18, 1948, would have on said property. The Respondent vigorously and vehemently denies that the assessments were increased with any fraudulent or nefarious purpose and further denies that by reason of such assessments the Complainants have been deprived of any Constitutional rights.

11. In answer to Paragraph 11 of the Amended Bill of Complaint, it is admitted that the Complainants received the advice which the said Paragraph alleged they received.

12. In answer to Paragraph 12 of the Amended Bill of Complaint, your Respondent denies the allegation therein.

WHEREFORE, having fully answered, your Respondent prays the Amended Bill of Complaint be dismissed with costs.

Thomas N. Biddison
City Solicitor

Hamilton O'Dunne
Assistant City Solicitor

Solicitors for Respondent

STATE OF MARYLAND, CITY OF BALTIMORE, to wit:

I HEREBY CERTIFY, that on this 23rd day of September 1948, before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore City, aforesaid, personally appeared HAMILTON O'DUNNE, Assistant City Solicitor, and made oath in due form of law that the matters and facts therein set forth are true to the best of his knowledge, information and belief.

AS WITNESS my hand and Notarial Seal.

Dora Becker
Notary Public

Copy mailed to Donald G. Murray, Esq., Attorney for Plaintiffs, 1506 Pennsylvania Avenue, this 23rd day of September, 1948.

Hamilton O'Dunne

DOCKET 57A FOLIO 297
CASE No 2969 SA
FILED 21 Sept 1948
10-11
9-10

R. GARLAND CHISSELL AND AUGUSTA CHISSELL, his wife; WILLIAM R. BOYKIN SR. AND WILLIE MAE BOYKIN, his wife; RAYMOND A. C. YOUNG AND HELEN B. YOUNG, his wife; CLARENCE M. MITCHELL JR. AND JUANITA JACKSON MITCHELL, his wife; et al, Complainants,	*	IN THE CIRCUIT COURT NO. 2 OF BALTIMORE CITY
VS.	*	
THE MAYOR AND CITY COUNCIL OF BALTIMORE, A MUNICIPAL CORPORATION, Respondents.	*	

* * * * * * * * * * *

AMENDED BILL OF COMPLAINT

The Amended Bill of Complaint of your Complainants, R. Garland Chissell and Augusta Chissell, his wife; William R. Boykin Sr. and Willie Mae Boykin, his wife; Raymond A. C. Young and Helen B. Young, his wife; Clarence M. Mitchell, Jr. and Juanita Jackson Mitchell, his wife; Thomas J. Smith and Maseolia J. Smith, his wife; George Mercer Smith and Harriet S. Smith, his wife; Thomas H. Winkey, Sr. and Alease H. Winkey, his wife; Thomas H. Winkey Jr.; a minor by his next friend and parent, Thomas H. Winkey, Sr., and Nancy Winkey; a minor by her next friend and parent, Thomas H. Winkey, Sr., by their Solicitors Donald G. Murray and Charles H. Houston, respectfully represent unto your Honor:

1. That each of the adult complainants is a citizen and resident of the United States of America and the State of Maryland, and as such entitled to all the rights guaranteed them by the Constitution and the laws of the United States, particularly the Fourteenth Amendment and the Federal Civil Rights Law 8 U.S.C.A. Sections 41 and 43; that each of the adult Complainants is a resident and taxpayer of Baltimore City, living on Druid Hill Avenue or McCulloh Street where they have made their homes since the date of the acquisition of their properties, photostatic copies of the deeds by which each of the Complainants acquired their title, or the receipted tax bills covering the same being attached to the original Bill of Complaint and prayed to be considered herewith designated as Complainants' Exhibits #1 to 7. inclusive; that some of the adult Complainants are parents of the individual minor Complainants who are under their care and protection as part of their respective households. All the Complainants sue in their own rights and as representatives of a class of citizens, residents, and taxpayers, and children living on McCulloh Street and Druid Hill Avenue. This class is

too large for all its members to be brought individually before this Court but their interests are fairly and adequately represented herein.

2. That the Respondents constitute the Mayor and City Council of the City of Baltimore, a municipal corporation, and have all the rights, duties and obligations of the Mayor and City Council of Baltimore City by virtue of the provisions of the City Charter approved by the voters of Baltimore City on November 6, 1946 and by its terms effective May 20, 1947, and as such have supervision, control and management of the streets of Baltimore City and the Collection of Taxes of Baltimore City.

3. That Druid Hill Avenue and McCulloh Street since years long past have been developed into a high desirable area containing approximately one thousand (1,000) homes of substantial character; that both McCulloh Street and Druid Hill Avenue have been zoned, in the blocks where Complainants' properties are located, residential use districts since years long past; that such few business areas as are on either or both of the streets are predominantly local corner store consumer businesses, such as grocery, drug, restaurant, confectionary, etc., that prior to the passage of Ordinance #169 approved March 18, 1948 the vehicular traffic on McCulloh Street and more particularly Druid Hill Avenue, was local traffic of persons resident in or visiting the neighborhood and of moderate or below moderate volume; that the adult resident pedestrians, and the minor or child resident pedestrians prior to the passage of the said Ordinance #169, were comparatively safe in using said streets and intersections due to the fact that the vehicular traffic on the said streets was of moderate or below moderate volume.

4. That on the said streets the population density is far above the average population density of the remainder of Baltimore City; that there is no adequate playground and recreational space on or near these two streets for the children residing in this area which forces the children residing in this area to play on the sidewalks and in the streets on both Druid Hill Avenue and McCulloh Street; further that there are three Negro schools with a total enrollment of approximately two thousand, two hundred children (2,200) located on Druid Hill Avenue and Lafayette Avenue, Druid Hill Avenue near Biddle Street, and McCulloh Street and Lafayette Avenue; there are six (6) more Negro schools within one (1)

or two (2) blocks of McCulloh Street or Druid Hill Avenue with a total enrollment of approximately one thousand, nine hundred children (1,900) located at Division Street near Lanvale Street, Preston Street near Druid Hill Avenue, Pennsylvania Avenue and Dolphin Street, Pennsylvania Avenue and Robert Street, Biddle Street near Pennsylvania Avenue, and Francis Street near Pennsylvania Avenue. That hundreds of Negro school children of immature age and discretion are forced to cross and recross Druid Hill Avenue and McCulloh Street every school day to get to and from said nine (9) schools, and for other purposes. That further, all the Negro school children living in the northwest section of Baltimore City east of McCulloh Street and Druid Hill Avenue are forced to cross these streets and intersections because there are no schools for Negro children in this communal area east of McCulloh Street.

5. That the minor Complainants are pupils of the public schools in this area resident on McCulloh Street and have to cross one or both the said streets to attend school.

NAME	RESIDENCE	SCHOOL	CROSSES TO ATTEND SCHOOL
Thomas H. Winkey Jr.	2567 McCulloh Street	P. S. 120	Druid Hill Avenue & McCulloh Street
Nancy Winkey	2567 McCulloh Street	P. S. 120	Druid Hill Avenue & McCulloh Street

6. That by said Ordinance #169, approved March 18, 1948, over the vehement protest of Complainants and other residents and taxpayers living on Druid Hill Avenue and McCulloh Street, the Respondents designated Druid Hill Avenue and McCulloh Street one-way streets for through truck, automobile and bus travel from the outlying sections of Baltimore City to the downtown section of Baltimore City; that the effect of such designation, has already been to increase the traffic on both streets to the extent that it has become hazardous and dangerous for the minor Complainants to cross the streets to school and for other purposes, and to play on the sidewalks and about the streets as before; that the traffic load on the said streets will progressively increase until traffic becomes a continuous and ever present hazard not only to minors but also to adults; and your Complainants specifically point out that the peak of the morning traffic load comes during the very time that the minor Complainants and other children are forced to cross the said

streets to get to their respective schools.

7. That the effect of the said Ordinance will be to change the character of the traffic from local traffic to high speed through traffic, further endangering the safety of the residents of the said streets; that upon abandonment of fixed rail traffic as provided by the ordinance, busses are proposed to travel on Druid Hill Avenue which still further increase the noise, the noxious fumes and foul odors in the air from the volume of traffic creating hazards to the health of the residents and Complainants and depriving the residents and Complainants of their rights to peacefully and quietly enjoy their respective homes.

8. That the aforesaid conditions create a public nuisance specially injuring the Complainants and the class they represent; that the Respondents acted in the premises arbitrarily and capriciously and with utter disregard for the health, welfare, comfort, and safety of the Complainants and the class they represent; and the Respondents by so acting denied your Complainants and the class they represent the equal protection of the law guaranteed them by the Fourteenth Amendment to the Constitution of the United States.

9. That the Respondents on or about October 1, 1947 caused the tax assessments on some of the adult Complainants' properties to be increased, said increase being predicated on the use and value of said properties as residences and for residential purposes exclusively; that under the law, the time for appealing from said increased assessment has expired and they are final and binding.

NAME	PROPERTY	OLD DATE	NEW DATE
Clarence M. Mitchell, Jr.	1324 Druid Hill Avenue	$3780 - 1947	$5080 - 1948

10. That when the Respondents caused the tax assessments to be increased, they had already decided to change Druid Hill Avenue and McCulloh Street to one-way arterial thoroughfares and had secretly put city machinery to work to that end; and they further well knew that the effect of making these streets one-way arterial thoroughfares for through traffic would be to decrease materially the value of the Complainants' properties as residences and for residential purposes. Notwithstanding, in order to lull the Complainants into inaction against said increase in tax assessment, and to deprive and conceal from them the fact that they

had already decided on action which would decrease substantially the value of the Complainants' properties for residential purposes, the Respondents did withhold public action on making said streets one-way arterial thoroughfares, and did increase said assessments for residential purposes until after the statutory time for appealing from the said increase in assessments had expired and only then did the Respondents officially designate said streets as one-way arterial thoroughfares; thereby fraudently representing to the Complainants that they had no present plans to destroy the value of the Complainants' property and lulling the Complainants into quiesence. The Complainants say that if they had known Druid Hill Avenue and McCulloh Street had already been programmed as one-way arterial thoroughfares, they would have protested the tax increase, but being ignorant of that fact and relying on the good faith of the Respondents not to destroy the value of their properties as residences or for residential purposes, they took no action as provided by law to resist the said tax increase. They are without remedy against said increase except by injunctive relief in this Court, and say that the increase of said assessments leaves the Complainants completely without remedy. The increase of said assessments under these circumstances constitutes depriving the Complainants of their property without due process of law as guaranteed them by the Fourteenth Amendment of the Constitution of the United States of America.

11. That your Complainants are advised that individually and as specially interested citizens and taxpayers of Baltimore City and on behalf of other citizens and taxpayers having similar rights, duties and obligations, they are entitled to restrain the Respondents from enforcing this ordinance.

12. That because of the said action or threatened action, your Complainants allege that they are or will be irreparably injured and damaged and that they have no adequate remedy by law, and that unless this Honorable Court intervenes by way of injunction, your Complainants and others will be deprived of their lawful rights to enjoy the peace and quiet of their respective homes.

TO THE END, THEREFORE THAT:

Your Complainants respectfully pray that this Court set the date for a full hearing in this case as expeditiously as possible, so that the Complainants

may be fully and finally heard, and upon and after hearing upon the merits:

(a) That this Honorable Court issue a permanent injunction restraining the Respondents from enforcing Ordinance #169 making the said streets one-way arterial thoroughfares to the great detriment and irreparable damage and harm to your Complainants.

(b) That your Honorable Court declare this ordinance illegal and void and all acts, measures and things done or to be done thereunder or in consequence thereof be restrained or enjoined forever.

(c) That your Honorable Court issue a permanent injunction restraining the Respondents from collecting any taxes based upon increased assessments in 1947 upon any of the residential properties located on McCulloh Street and Druid Hill Avenue because of the fraudulent manner in which such increased assessments were made by the Respondents.

MAY IT PLEASE YOUR HONOR to grant unto your Complainants the Writ of Subpoena directed to the Respondents in their official capacities and comprising the Mayor and City Council of Baltimore City, directing them and each of them to be and appear in this Honorable Court on some certain date to be named therein to answer and abide by such order or orders that may be passed therein.

And to grant such other and further relief as the nature of the Complainants' case may require.

AND, AS IN DUTY BOUND, ETC.

Donald G. Murray
DONALD G. MURRAY

Clarence M. Mitchell Jr.
Clarence M. Mitchell, Jr.

Charles H. Houston
CHARLES H. HOUSTON

Mrs. Juanita Jackson Mitchell
Mrs. Juanita Jackson Mitchell

SOLICITORS FOR COMPLAINANTS

STATE OF MARYLAND, CITY OF BALTIMORE, to wit:

I HEREBY CERTIFY, that on this 16th day of September, 1948, before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore City, aforesaid, personally appeared Clarence M. Mitchell Jr. and Juanita Jackson Mitchell, his wife, two of the Complainants in the aforeoing Amended Bill of Complaint, and made oath in due form of law that the matters and facts therein set forth are true to the best of their knowledge, information and belief.

SUBSCRIBED and sworn to before me this 16th day of September, 1948.

George A. Carroll
NOTARY PUBLIC

Clarence M. Mitchell, Jr.

Mrs. Juanita Jackson Mitchell

AFFIANTS

R. GARLAND CHISSELL AND AUGUSTA CHISSELL, his wife; WILLIAM R. BOYKIN SR. AND WILLIE MAE BOYKIN, his wife; RAYMOND A.C. YOUNG AND HELEN B. YOUNG, his wife; CLARENCE M. MITCHELL JR. AND JUANITA JACKSON MITCHELL, his wife, et al.	*	IN THE CIRCUIT COURT NO. 2
Complainants.	*	OF
VS.	*	
THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY,	*	
Respondents.	*	BALTIMORE CITY

* * * * * * * * *

Upon the aforegoing Amended Bill of Complaint, Exhibits and Affidavits, it is by the Circuit Court No. 2 of Baltimore City this 21 day of September, 1948,

ORDERED, That the Respondents, The Mayor and City Council of Baltimore City, show cause on or before the 7 day of October, 1948, why the relief prayed for should not be granted.

PROVIDED That a copy of the said Amended Bill of Complaint, Exhibits and Affidavit shall be served upon the Respondents on or before the 27 day of September, 1948.

John J. Prince
JUDGE

Service admitted
9-21-48
Hamilton O Denne
Chief City Solicitor

DOCKET 57a FOLIO 297
CASE No 29495a
FILED 21 Sept 1948

R. GARLAND CHISSELL AND AUGUSTA CHISSELL, his wife; WILLIAM B. BOYKIN SR. AND WILLIE MAE BOYKIN, his wife; RAYMOND A. C. YOUNG AND HELEN B. YOUNG, his wife; CLARENCE M. MITCHELL JR. AND JUANITA JACKSON MITCHELL, his wife; et al, Complainants	*	IN THE CIRCUIT COURT NO. 2 OF BALTIMORE CITY
VS.	*	
THE MAYOR AND CITY COUNCIL OF BALTIMORE, A MUNICIPAL CORPORATION, Respondents.	*	

* * * * * * * * *

O R D E R

THE ABOVE ENTITLED CAUSE, having been heard before me on oral argument on the Demurrer on the 11th day of September, 1948, it is, this 21st day of September, 1948, by the Circuit Court No. 2 of Baltimore City, and by the Authority of this Court, Adjudged, Ordered and Decreed, that the Demurrer be hereby overruled and leave given to Complainants to amend their Bill of Complaint.

John Jeffries

HO'D/db 9/10/48
File No. 82736

MEMORANDUM TO THE COURT

Re: R. Garland Chissell et al. vs. Mayor and City Council of Baltimore

The Complainants, alleging that they are taxpayers and residents of Baltimore City, living on Druid Hill Avenue or McCulloh Street, seek an injunction to restrain the City of Baltimore from enforcing Ordinance No. 169, approved March 18, 1948. The Bill of Complaint recites that this Ordinance designated Druid Hill Avenue and McCulloh Street one-way streets and that the effect of changing the streets to one-way from two-way streets increased the traffic on both streets to the extent that it has become hazardous and dangerous for children in the vicinity to cross the streets to school and for other purposes. The City has demurred to this Bill of Complaint.

It is clear that the Mayor and City Council of Baltimore is given broad powers to control by Ordinance the use of the streets within the City. The Baltimore City Charter, effective May 20, 1947, Section 6, sub-section 29, in addition to granting other broad powers with respect to street, empowers the City of Baltimore to enact Ordinances -

> "(d) To regulate the use of streets and public ways by persons, animals and vehicles; to prohibit the use of such streets and public ways by any or all motor vehicles under such circumstances or upon such conditions as it may, from time to time, by ordinance, deem necessary or expedient in theinterest of the public. Any such regulation shall not involve any charge of any kind for the use of such street or public way, other than reasonable charges for parking within areas set aside exclusively for that purpose;".

50 and 138

Indeed, logic would seem to require, inasmuch as a municipality is charged with the responsibility for keeping its streets in a reasonably safe condition, the failure to fulfil such obligation rendering it liable in a tort action, Mayor and City Council vs. Bassett, 132 Md. 427, Baltimore vs. Terio, 147 Md. 330, that even in the absence of such broad Charter powers the City could not be divested of absolute control over its streets.

The control over the streets having definitely been delegated by the State Legislature to the City Council of Baltimore ~~definitely placed~~ the manner in which such control shall be exercised is thus placed within the legislative branch of the City government. Thus, it is axiomatic that the court cannot concern itself with the wisdom of the legislative pronouncement and substitute its judgment for that of the City Council, but on the contrary, the presumption is in favor of the validity of the Ordinance. Ellicott vs. Baltimore, 180 Md. 176.

The Complainants allege that prior to the enactment of Ordinance No. 169, which is challenged in these proceedings, the traffic in the neighborhood affected was moderate in volume and that the residents were comparatively safe in the use of the streets and intersections. The complaint is made that if the Ordinance is enforced, making the streets one-way, that there will be an increased volume of traffic, thus rendering the streets more hazardous. ~~However,~~ However, this is no sufficient reason to enjoin the enforcement of the Ordinance and to preclude the City from passing Ordinances re-routing traffic in a manner deemed appropriate by the City Council. The Court of Appeals has recognized that public improvements often cause severe

incidental damages for which the person damaged is not even allowed compensation. Baltimore vs. Himmelfarb, 172 Md. 628. Just as the court recognized in the Himmelfarb case, supra, that curtailment of light and air, and the presence of noise and traffic fumes ~~and the presence of vibration are~~ are all hazards to which the City dweller is subjected, so, also, is an increase in the flow of traffic on the street abutting a man's property one of the hardships which he must suffer without compensation for the benefit of the public at large.

Respectfully submitted,

Hamilton O'Dunne

HAMILTON O'DUNNE
Assistant City Solicitor

DOCKET 579 FOLIO 297
CASE No. 29495a
FILED 29 June 1948

R Garland Chissell et al

vs.

The Mayor and City Council of Baltimore

IN THE

Circuit Court No. 2

—OF—

BALTIMORE CITY

Upon application made by the Solicitor for the defendant the above entitled cause has been placed upon the Trial Calendar in accordance with the provisions of the First Equity Rule, and the same will stand for hearing on demurrer

when reached in due course on the said calendar.

JOHN S. CLARKE,
Clerk Circuit Court No. 2.

SERVE ON 1506 Pennsylvania Ave

Donald G. Murray
Charles H. Houston
Jr.

Donald G. Murray
Charles H Houston
June 30, 1948

RECEIVED
SHERIFF'S OFFICE
JUN 29 3 24 PM 1948
BALTIMORE CITY, MD.

Circuit Court No. 2

297 19 48 DOCKET No. 57a

C

Chissell

vs.

Mayor City Council

NOTICE AS TO HEARING

121

No.

Filed ....., 19....

12

Copy of the within Notice served on Donald G. Murray and Charles H. Houston Solicitors on the 30 day of June 1948 in the presence of Robert Lee

Joseph C Keegan
Sheriff

Fee $1.50

DOCKET 57a FOLIO 297
CASE No 29495a
FILED 29 June 1948

B. GARLAND CHISSELL AND AUGUSTA CHISSELL, his wife; WILLIAM R. BOYKIN SR. AND WILLIE MAE BOYKIN, his wife; RAYMOND A.C. YOUNG AND HELEN B. YOUNG, his wife; CLARENCE M. MITCHELL JR. AND JUANITA JACKSON MITCHELL, his wife; et al,

Complainants

vs.

THE MAYOR AND CITY COUNCIL OF BALTIMORE, a municipal corporation,

Respondent

IN THE

Circuit Court No. 2

—OF—

BALTIMORE CITY.

The Respondent by Hamilton O'Dunne

Solicitor, applies to have the above entitled cause placed in the

Trial Calendar for a hearing on Demurrer.

In conformity with the First Equity Rule.

Hamilton O'Dunne

Solicitor for Respondent

327

109

Circuit Court No. 2

19 Docket No.....

.....

.....

vs.

.....

.....

Motion for Hearing

No......

Filed.....*day of*....., *19*.....

HO'D/db 6/24/48

DOCKET 514 FOLIO 297
CASE No 29495 A
FILED 24 June 1948

R. GARLAND CHISSELL and AUGUSTA CHISSELL, his wife;	:	
WILLIAM R. BOYKIN, SR. and WILLIE MAE BOYKIN, his wife;	:	IN THE
RAYMOND A. C. YOUNG and HELEN B. YOUNG, his wife;	:	
CLARENCE M. MITCHELL, JR., and JUANITA JACKSON MITCHELL, his wife;	:	CIRCUIT COURT NO. 2
et al,	:	
Complainants	:	OF
Vs.	:	
	:	BALTIMORE CITY
THE MAYOR AND CITY COUNCIL OF BALTIMORE, a municipal corporation,	:	
Respondent	:	

. . . . . .

DEMURRER

TO THE HONORABLE, THE JUDGE OF SAID COURT:

The Mayor and City Council of Baltimore, a municipal corporation, by Thomas N. Biddison, City Solicitor, and Hamilton O'Dunne, Assistant City Solicitor, demurs to the Bill of Complaint in the above entitled case and for reasons therefor states:

1. The Bill of Complaint states no grounds sufficient to justify the relief which it seeks.

2. The relief sought by the said Bill of Complaint seeks to enjoin action on the part of the City, the exercise of which action is a matter to be determined by the sound discretion of the legislative body of the Mayor and City Council of Baltimore.

3. The Bill of Complaint seeks to have an Ordinance of the Mayor and City Council of Baltimore declared null and void, and the Bill shows

on its face that it is within the power of the Mayor and City Council of Baltimore to legislate on the subject matter of the said Ordinance.

4. And for other good and sufficient reasons to be shown at the hearing.

Thomas N. Biddison

Thomas N. Biddison, City Solicitor

Hamilton O'Dunne

Hamilton O'Dunne, Asst. City Solicitor

Attorneys for the Mayor and City Council of Baltimore.

STATE OF MARYLAND, CITY OF BALTIMORE, to wit:

I HEREBY CERTIFY that on this 24th day of June 1948, before me, the subscriber, a Notary Public of the State of Maryland, in and for the City of Baltimore, aforesaid, personally appeared HAMILTON O'DUNNE, Assistant City Solicitor, and made oath in due form of law that the matters and facts set forth in the aforegoing Demurrer are true to the best of his knowledge, information and belief and that the said Demurrer is filed in good faith and is not taken for purposes of delay.

AS WITNESS my hand and Notarial Seal.

Dora Becker

Dora Becker - Notary Public

Copy of the within Demurrer mailed to Donald G. Murray, Esq., Attorney for Complainants, 1506 Pennsylvania Ave., this 24th day of June, 1948.

EQUITY SUBPOENA

DOCKET 57A FOLIO 297
CASE No. 29495a
FILED 10 June 1948
3

The State of Maryland

To

The Mayor & City Council of
Baltimore, a municipal corporation

of Baltimore City, Greeting:

WE COMMAND AND ENJOIN YOU, That all excuses set aside, you do within the time limited by law, beginning on the first Monday of July, next, cause an appearance to be entered for you, and your Answer to be filed to the Complaint of

R.Graland Chissell,etal

against you exhibited in the CIRCUIT COURT No. 2 of BALTIMORE CTY.

HEREOF fail not, as you will answer the contrary at your peril:

WITNESS, the Honorable W. CONWELL SMITH, Chief Judge of the Supreme Bench of Baltimore City, the 3 day of May, 19 48

Issued the 10 day of June, in the year 19 48

John D. Clarke
Clerk.

MEMORANDUM:

(General Equity Rule 11.)

You are required to file your Answer or defense in the Clerk's Office, Room No. 235, in the Courthouse, Baltimore City, within fifteen days after the return day, [redacted] named in the above subpoena. Personal attendance in Court on the day named is not necessary, but unless you answer or make other defense within the time named, complainant(s) may obtain a decree pro confesso against you which upon proper proof may be converted into a final decree for the relief demanded.

P 808

Circuit Court No. 2

297

19 48 Docket No. 57A

R. Graland Chissell, etal

vs.

The Mayor & City Council of Baltimore

SUBPOENA TO ANSWER BILL OF COMPLAINT

cop y Pd

No.

Filed ..... day of ....., 19.....

Donald G. Murray
Charles H. Houston
1506 Penna. Avenue

Solicitor

3

Address.

Summoned the Mayor and City Council of Baltimore a Municipal Corporation and a copy of the Process left with Thomas N. Buckhaw City Solicitor

6/14/48
Fowler

Joseph L. Geyer
Sheriff

Geo A. Fowler

SERVICE OF COPY ADMITTED
THIS 14th DAY OF June 1948
Thomas N. Buckhaw
City Solicitor

RECEIVED
SHERIFF'S OFFICE
JUN 11 2 15 PM '48
BALTIMORE CITY, MD.

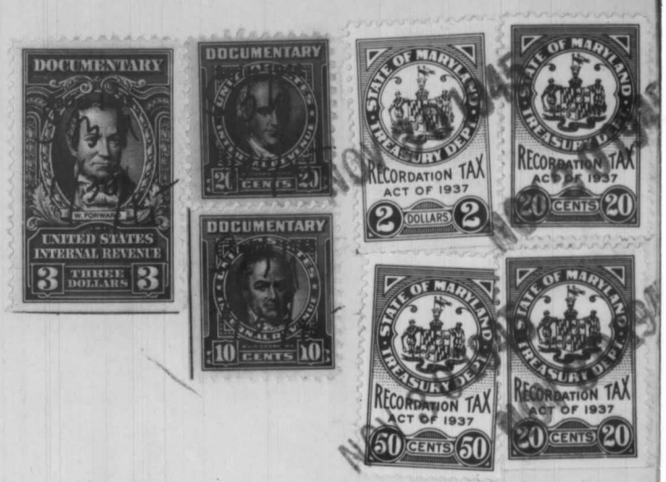
US. 3.30
State 2.90

ASSIGNMENT—CODE—CITY OR COUNTY—33

This Deed, Made this 30 day of November - - - - -
in the year one thousand nine hundred and forty-five - - - - - - - - - by and between
- - - - - - - - - - - - SIDNEY B. NEEDLE and EVELYN C. NEEDLE, his wife, - - -

of the City of Baltimore - - - - - - - in the State of Maryland, of the first part, and
- - - - - - - THOMAS H. WINKEY, Sr. and ALEASE H. WINKEY, his wife, - - - -
of the same City and State,

of the second part



Witnesseth, That in consideration of the sum of Five Dollars ($5.00) and other good and valuable considerations, receipt whereof is hereby acknowledged,

- - - - - - - - - - - - - - - - - the said GRANTORS - - - - - - - - - - - -

do th grant and convey unto the said THOMAS H. WINKEY, SR. AND ALEASE H. WINKEY, his wife, as tenants by the entireties, their assigns and unto the survivor of them, his or her -

personal representatives and assigns, all that lot - - - - - - - - - - of ground situate in the City of Baltimore - - - - - - aforesaid, and described as follows, that is to say:

Beginning for the same on the northeast side of McCulloh Street at the distance of one hundred ninety-eight feet six inches southeasterly from the southeast side of Cloverdale Road, and at a point in line with the centre of the partition wall between the house erected on the lot now being described and the one erected on the lot next adjoining thereto on the northwest and running thence southeasterly binding on the northeast side of McCulloh Street twelve feet ten inches to a point in line with the centre of another partition wall there erected, thence northeasterly to and through the centre of said wall and continuing the same course in all one hundred feet to the southwest side of an alley fifteen feet wide, there situate, thence northwesterly binding on the southwest side of said alley with use thereof in common twelve feet ten inches to a point in line with the centre of the partition wall in this description first mentioned and thence southwesterly to and through the centre of said wall and continuing the same course in all one hundred feet to the place of beginning. The improvements thereon being known as No. 2567 McCulloh Street.

Together with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in any wise appertaining.

To Have and To Hold the said described lot of ground - - - - - - - - - - - - - - and premises, unto and to the use of the said THOMAS H. WINKEY, SR. AND ALEASE H. WINKEY, his wife, as tenants by the entireties, their assigns and unto the survivor of them, his or her - personal representatives and assigns, for all the residue of the term of years yet to come and unexpired therein, with the benefit of renewal forever; subject to the payment of the annual rent of Forty ($40.00) Dollars, payable half-yearly on the 26th days of March and September in each year.

And the said parties of the first part hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property hereby granted; and that they will execute such further assurances of the same as may be requisite.

Witness the hands and seals of said grantors.

Test:

Etta L.Sandler

Etta L. Sandler

Sidney B. Needle (SEAL)
Sidney B. Needle

Evelyn C. Needle (SEAL)
Evelyn C. Needle

State of Maryland, City of Baltimore, to wit:

I HEREBY CERTIFY, That on this 30th day of November - - - - - - in the year one thousand nine hundred and forty-five before me, the subscriber, a Notary Public of the State of Maryland, in and for the City of Baltimore - - - - - - - aforesaid, personally appeared SIDNEY B. NEEDLE and EVELYN C. NEEDLE, his wife, the grantors named in the above Deed, and they acknowledged the aforegoing Deed to be their - - - - - - - act.

AS WITNESS my hand and Notarial Seal.

Etta L. Sandler
Etta L.Sandler Notary Public.

-1-

ASSIGNMENT

FROM

SIDNEY B. NEEDLE AND WIFE,

TO

THOMAS H. WINKEY, SR. AND WIFE.

Property - 2567 McCulloh St.

BLOCK NO. 3418

Received for Record NOV 30 1945 19,

at 2 52 o'clock P M. Same day recorded

in Liber MLP No 6831 Folio 557 &c.,

one of the Land Records of

Baltimore City and examined per

M. Luther Pittman, Clerk.

Cost of Record, $

Sidney B. Needle, Atty.,
1219 Munsey Bldg.,
Baltimore, 2, Md.

The Daily Record Co., Baltimore, Md.

10 - 252

3 50
50
400

THIS DEED, Made this Twentieth day of April in the year one thousand nine hundred and twenty-seven by and between Henry Byrd and Nancy Byrd, and Nancy Byrd, his wife of the City of Baltimore in the State of Maryland, of the first part and George Mercer Smith and Harriet S. Smith, his wife, of the said City and State, of the second part.

WITNESSETH, That in consideration of the sum of five dollars($5.00) and other good and valuable considerations, the receipt whereof is hereby acknowledged, the said Henry Byrd and Nancy Byrd, his wife, doth grant and convey unto the said George Mercer Smith and Harriet S. Smith, his wife, as tenants by the entireties, their assigns, the survivor of them and his or her personal representatives and assigns, all that lot of ground situate in Baltimore City aforesaid, and described as follows, that is to say: Begining for the same on the northeast side of McCulloh Street at the distance of ninety feet and six inches northwesterly from the corner formed by the intersection of the northeast side of McCulloh Street and to the northwest side of Whitelock Street, which place of beginning is at the intersection of the said side of McCulloh Street, and the northwest side of an alley eight feet, six inches, wide there laid out; thence northwesterly, binding on the northeast side of McCulloh Street fifteen feet to the center of a partition wall there erected; thence northeasterly through the center of the said wall and parallel with Whitelock Street one hundred feet to the southwest side of an alley fifteen feet wide there laid out; thence southeasterly, binding on said side of said last mentioned alley, with the use of the same in common, fifteen feet to the northwest side of said first mentioned alley; and thence southwesterly, binding on the northwest side of said first mentioned alley, with the use of the same in common with others, one hundred feet to the place of beginning. Being the property now known as No. 2413 McCulloh Street.

BEING the same lot of ground, which by deed, dated the 28th day of February, 1923, and recorded among the Land Records of Baltimore City in Liber S.C.L. No. 3973 folio 550 etc, was granted and conveyed by W. Conwell Smith to the said Henry Byrd and Nancy Byrd.

TOGETHER with the buildings thereupon; and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the said described lot of ground and premises, unto and to the use of the said George Mercer Smith and Harriet S. Smith, his wife, as tenants by the entireties, their assigns, the survivor of them, and his or her personal representatives and assigns, for all the residue of the term of years yet to come and unexpired therein, with the benefit of renewal forever; subject to the payment of the annual rent of eighty-five dollars, payable half-yearly on the first days of August and February in each and every year.

AND the said parties of the first part hereby covenant that they have not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that they will warrant specially the property hereby granted; and that they will execute such further assurances of the same as may be requisite.

WITNESS the hands and seals of said grantors.

Test: Armstead M. Webb

Henry Byrd (Seal)

Nancy Byrd (Seal)

STATE OF MARYLAND, CITY OF BALTIMORE, to wit:

I HEREBY CERTIFY, That on this 20th day of April in the year one thousand nine hundred and twenty- seven, before me the subscriber, a Notary Public of the State of Maryland, in and for the City of Baltimore, aforesaid, personally appeared Henry Byrd and Nancy Byrd, his wife, the grantors named in the above Deed and they acknowledged the aforegoing Deed to be their act.

AS WITNESS my hand and Notarial Seal.

Armstead M. Welch

Notary Public.

177

DEED

From

Henry Byrd and Wife

To

George Mercer Smith and

and Wife.

3418

RECEIVED FOR RECORD
APR 27 1927 AT 2 51 O'CLOCK.
M. SAME DAY RECORDED IN LIBER
S. C. L. No. 4728 FOL 102 444 &c
ONE OF THE Land RECORDS OF
BALTIMORE CITY AND EXAMINED
PER Stephen C. Little CLERK

WARNER T. McGUINN
ATTORNEY AT LAW
215-217 ST. PAUL PLACE
BALTIMORE, MD.

FILED

The Daily Record Co. Print, Balto., Md.

10 251 275

This Deed is made this 3rd day of ~~April~~ May 1913, by Carrie E. Young, widow, and

Witnesseth that in consideration of the sum of five dollars and other valuable considerations, the said Carrie E. Young doth grant and assign unto Thomas J. Smith and Mascelia J. Smith, his wife, as tenants by entireties, all that lot of ground situate in Baltimore City and described as follows, that is to say;

Beginning for the same on the northeast side of McCulloh street at a point distant ninety feet southeasterly from Laurens street and running thence southeasterly along the northeast side of McCulloh street fifteen feet thence northeasterly parallel with Laurens street about one hundred and five feet to an alley twenty feet wide thence northwesterly along said alley fifteen feet and thence westerly parallel with Laurens street about one hundred and five feet to the place of beginning.

Being the same lot of ground as that assigned to the said Carrie E. Young by deed from Mary E. Requardt and husband, dated April 25th. 1904 and recorded among the Land Records of Baltimore City in Liber R.O. No. 2076 folio 108 &c., subject to the payment of the annual rent of One hundred and thirty dollars, payable in equal half-yearly instalments on the first days of April and October in every year. 9070

Together with the buildings and improvements thereupon, and all the rights, alleys, ways, waters, privileges and appurtenenaces and advantages to the same belonging or in anywise appertaining.

To Have and To Hold thesaid described lot of ground unto and to the use of the said Thomas J. Smith and Mascelia J. Smith, his wife, as tenants by entireties, their personal representatives and assigns for all the residue of the term of years yet to come and unexpired therein, with the benefit of renewal forever, subject, however to the payment of the ground rent aforesaid.

And the said party of the first part herebycovenants that she will warrant specially the property hereby conveyed and that she will execute such further assurances of the same as may be requisite.

Witness the hand and seal of the said party of the first part.

TEST:

George A. Drager

Carrie E. Young (SEAL)

State of Maryland, Baltimore City, S.S.

I hereby certify that on this 3rd day of ~~April~~ May 1913, before me, the subscriber, a Notary Public, of the said State, in and for ~~the~~ Baltimore County personally appeared Carrie E. Young, and acknowledged the foregoing deed to be her act.

As Witness my hand and Notarial Seal

George A. Drager
Notary Public

1/164

DEED

from

CARRIE E. YOUNG

to

THOMAS J. SMITH and
MASCELIA J. SMITH
his wife

341

Received for Record
MAY 5 1913 at 9 45 o'clock, A.M. same day recorded in Liber S.C.L. No. 2816 Folio, 267, &c. one of the Land Records of Baltimore City and examined, per Stephen C. Little Clerk.

7.50

9.45

1.75

To STATE of MARYLAND—MAYOR and CITY COUNCIL of BALTIMORE, Dr.

REAL PROPERTY TAX BILL

MAKE CHECKS PAYABLE TO CITY TREASURER - BALTIMORE

SEND POSTAGE IF RECEIPT IS WANTED

POSTAL ZONE - 2

1948

CASHIER'S STUB

NAME AND ADDRESS	ASSESSMENT	STATE TAX	CITY TAX	LEGEND	TOTAL TAX
C M MITCHELL JR & WF	5080	565	14478	RP	15043
1324 DRUID HILL AV 17	15-3×90			W	1250
					16293

WARD	SECT.	VOL.	BLOCK	LOT
1701			396--	7---

DESCRIPTION — TOTAL TAX AMOUNT

LEGEND		DISCOUNT	INTEREST AND PENALTY
RP REAL PROP.	STATE	NONE	
W WATER (FLAT RATE)	CITY		
	TOTAL		
SP SPECIAL PAVING	TOTAL TAX INCLUDING DISCOUNT OR INTEREST AND PENALTY		

FOR 1948 TAXES ONLY

	DISCOUNT					INTEREST AND PENALTY						
	JAN.	FEB	MAR	APR.	MAY	JUNE	JULY	AUG.	SEPT	OCT	NOV	DEC
STATE										%	1%	1½%
CITY	1%	1%	¾%	½%	¼%			1½%	3%	4½%	6%	8½%

READ BACK OF BILL

DO NOT DETACH THIS STUB

To STATE of MARYLAND—MAYOR and CITY COUNCIL of BALTIMORE, Dr.

REAL PROPERTY TAX BILL

1947

MAKE CHECKS PAYABLE TO CITY COLLECTOR - BALTIMORE

SEND POSTAGE IF RECEIPT IS WANTED

POSTAL ZONE - 2

TAXPAYER'S COPY

NAME AND ADDRESS	ASSESSMENT	STATE TAX	CITY TAX	LEGEND	TOTAL TAX
C M MITHCELL JR & WF	2780	3 78	111 89	W	115 67
2384 DRUID HILL AV 17	1250			W	12 50
					128 17

1324 Tel Book

DEPARTMENT OF THE TREASURER-BUREAU OF RECEIPTS.
Municipal Office Building, Baltimore - 2 - Maryland.
Bills may be paid from 8:30 A. M. to 3:30 P. M.
Mondays through Fridays. CLOSED SATURDAYS.
Save time by paying your taxes by mail.
Make checks or money orders payable to CITY TREASURER.
DO NOT SEND CASH THROUGH THE MAIL.

←DESCRIPTION — TOTAL TAX AMOUNT→

WARD	SECT.	VOL.	BLOCK	LOT
2701			396--	7---

FOR 1947 TAXES ONLY

	DISCOUNT					INTEREST AND PENALTY						
	JAN.	FEB.	MAR.	APR.	MAY	JUNE	JULY	AUG.	SEPT.	OCT.	NOV.	DEC.
STATE										½%	1%	1½%
CITY	1%	1%	¾%	½%	¼%			1½%	3%	4½%	6%	8½%

READ BACK OF BILL

LEGEND		DISCOUNT	INTEREST AND PENALTY
RP REAL PROP.	STATE	NONE	
W WATER (FLAT RATE)	CITY		
	TOTAL		
SP SPECIAL PAVING	TOTAL TAX INCLUDING DISCOUNT OR INTEREST AND PENALTY		

PAID — THE MAYOR AND CITY COUNCIL OF BALTIMORE

JUL-15-47 5966 9 — CKK 12817

JUL-15-47 9 CKK 12817

TRUSTEE'S DEED—Leasehold—City or County—Chancery Form.—36

This Deed, Made this 19th day of March in the year one thousand nine hundred and forty-two between Robert N. Baer and Josiah F. Henry, Jr.

Trustees as hereinafter mentioned, of the first part, and Clarence M. Mitchell, Jr. and Juanita Jackson Mitchell, his wife, of the second part.

WITNESSETH, whereas by a decree of the Circuit Court No. 2 of Baltimore City dated on the 16th day of July in the year one thousand nine hundred and forty-one and passed in a cause in said Court, between Ethel W. Henry,

Complainant and Melvin S. Braxston, individually and as administrator of the estate of Gertrude F. Braxston, deceased, et al,

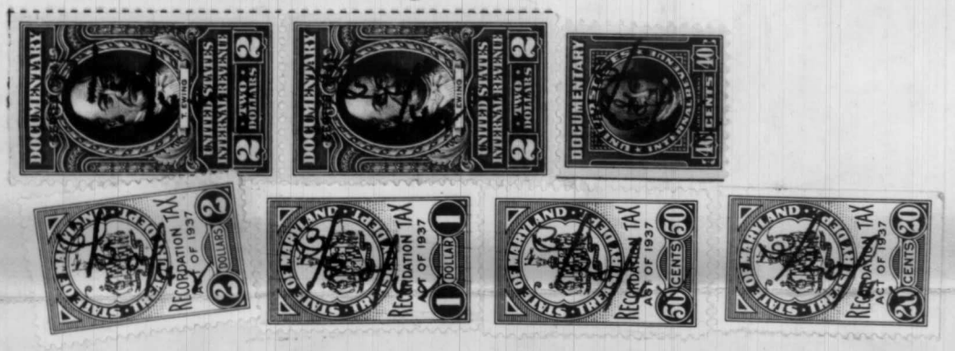
Defendants, Docket 50-A folio 27, the above named Robert N. Baer and Josiah F. Henry, Jr.

were appointed Trustees with authority to sell the leasehold property in the proceedings in said cause mentioned; and the said Trustees, after complying with all the previous requisites of the decree, did, on or about the second day of February in the year one thousand nine hundred and forty-two sell unto the said Clarence M. Mitchell, Jr. and Juanita Jackson Mitchell, his wife,

at and for the sum of Thirty-seven Hundred ($3700.00) Dollars, current money, the aforesaid leasehold property, situate in City of Baltimore and State of Maryland, thus described:

BEGINNING, - for the same on the southwest side of Druid Hill Avenue at the distance of one hundred fifty-three feet six inches southeast from Townsend Street and running thence southeasterly bounding on the southwest side of Druid Hill Avenue fifteen feet three inches, thence southwesterly parallel with Townsend Street one hundred feet to the southwest side of an alley ten feet wide, thence northwesterly along said alley with the use thereof in common fifteen feet three inches and thence northeasterly parallel with Townsend Street one hundred feet to the place of beginning. Known as No. 1324 Druid Hill Avenue.

BEING same property described in deed dated April 22, 1937 and recorded among the Land Records of Baltimore City in Liber S.C.L. No. 5787, folio 106, from Sarah J. Ambers to Gertrude Braxston and Ethel Waters Henry. See also the aforesaid equity proceedings.



AND WHEREAS, the aforesaid sale has been duly reported to, and ratified and confirmed by the said Circuit Court No. 2 of Baltimore City,

and the purchase money aforesaid has been fully paid and satisfied to the said Trustees, they were authorized by the said decree to execute these presents.

NOW THIS DEED WITNESSETH, that the said

Trustees as aforesaid, for and in consideration of the premises, and of the sum of Thirty-seven Hundred ($3700.00) - - - - - - - - - - - - - - - - - - Dollars, current money, to them in hand paid by the said Clarence M. Mitchell, Jr. and Juanita Jackson Mitchell, his wife, at and before the sealing and delivery of these presents, the receipt of which is hereby acknowledged, do grant unto the said Clarence M. Mitchell, Jr. and Juanita Jackson Mitchell, his wife, as tenants by the entireties, the survivor of them, their assigns and the personal representatives and assigns of the survivor, ~~successors, personal representatives and assigns~~, all the aforesaid leasehold property hereinbefore described, with its appurtenances, and all the right, title, interest and estate of the parties to the aforesaid decree, both at law and in equity, in and to the same.

TO HAVE AND TO HOLD the aforesaid leasehold property, with its appurtenances unto the said Clarence M. Mitchell, Jr. and Juanita Jackson Mitchell, his wife, as tenants by the entireties, the survivor of them, their assigns and the personal representatives and assigns of the survivor, ~~successors, personal representatives and assigns~~, for all the residue and remainder of the term of years yet to come, and unexpired therein, with the benefit of renewal thereof from time to time forever, subject, however, to the payment of the annual rent of $95.00 on the first days of January and July, in each and every year.

Witness the hands and seals of the said Trustees.

TEST:

Dorothea B. Marling
Dorothea B. Marling

Robert N. Baer [SEAL]
Robert N. Baer Trustee.

Josiah F. Henry, Jr. [SEAL]
Josiah F. Henry, Jr. Trustee.

STATE OF MARYLAND, CITY OF BALTIMORE, TO WIT:

I HEREBY CERTIFY, that on this 19th. day of March in the year one thousand nine hundred and forty-two before me, the subscriber, a Notary Public of the State of Maryland, in and for City of Baltimore aforesaid, personally appeared Robert N. Baer and Josiah F. Henry, Jr. Trustees, grantors herein, and they acknowledged the foregoing Deed to be their act. as such Trustees.

AS WITNESS my hand and Notarial Seal. Dorothea B. Marling
Dorothea B. Marling Notary Public

Trustee's Deed

FROM

Robert N. Baer and Josiah F. Henry,

Jr., Trustees

TO

Clarence M. Mitchell, Jr. and

Juanita Jackson Mitchell, his wife.

BLOCK NO. 396

Received for Record MAR 20 1942 193

at 2 57 o'clock M. Same day recorded

in Liber MKP No. 6290 Folio 252 &c.,

one of the Land Records of

Balto. City and examined per

Mildred Pittman, Clerk.

Cost of Record, $

2.75

The Daily Record Co. Print, Baltimore, Md.

10 - 2.57 - 5 - 2.75

THIS DEED, Made this 19th day of February, in the year one thousand nine hundred and forty-one between Ralph M. Branson, of the City of Baltimore, State of Maryland, of the first part, and Raymond A. C. Young and Helen B. Young, his wife, of the same City and State, of the second part.

WITNESSETH, that in consideration of the sum of Five Dollars and other good and valuable considerations, the receipt of which is hereby acknowledged, the said Ralph M. Branson, doth grant and convey unto the said Raymond A. C. Young and Helen B. Young, his wife, as tenants by the entireties, their personal representatives and assigns, all that lot of ground situate in Baltimore City aforesaid, and described as follows, that is to say:

BEGINNING for the same on the northeast side of Druid Hill Avenue at the distance of eighty-five feet northwesterly from the corner formed by the intersection of the northeast side of Druid Hill Avenue and the northwest side of Clendenin Street which place of beginning is designed to be at the center of the partition wall between the house erected on a lot of ground and now being described and the house erected on the lot next adjacent thereto on the southeast thence running northwesterly binding on the northeast side of Druid Hill Avenue fifteen feet thence northeasterly with Clendenin Street eighty feet to the southwest side of an alley ten feet wide there situate thence southeasterly binding on the southwest side of said alley with the use thereof and of all other alleys communicating therewith in common fifteen feet to intersect, a line drawn northeasterly from the place of beginning through the center of the partition wall mentioned in the description of this lot and thence southwesterly reversing the line so drawn and bounding thereon parallel with Clendenin Street eighty feet to the place of beginning. The improvements thereon being known as 2323 Druid Hill Avenue.

BEING the same lot of ground which by Deed of Assignment dated March 19th, 1934 and recorded among the Land Records of Baltimore City in Liber S.C.L. No. 5417, Folio 51 &c was granted and conveyed by Hurley Theresa Fonseca to the said Ralph M.

Branson, the Grantor herein.

TOGETHER with the buildings thereupon, and the rights, alleys ways, water, privileges, appurtenances and advantages thereto belonging, or in anywise appertaining.

TO HAVE AND TO HOLD the said described lot of ground and premises, unto and to the use of the said Raymond A.C. Young and Helen B. Young, his wife, as tenants by the entireties, their personal representatives and assigns, for all the residue of the term of years yet to come and unexpired therein, with the benefit of renewal forever; subject to the payment of the annual rent of Seventy ($70.00) Dollars, payable half-yearly on the first days of March and September in each year. Subject also to the operation and effect of a mortgage dated March 19th, 1934 from the said Ralph M. Branson to the Home Owners' Loan Corporation, the balance due on which is approximately Sixteen Hundred Twenty-five ($1625) Dollar

AND the said party of the first part hereby covenants that he has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that he will warrant specially the property hereby granted; and that he will execute such further assurances of the same as may be requisite.

AS WITNESS THE HAND AND SEAL OF SAID GRANTOR.

Ralph M. Branson (SEAL)
RALPH M. BRANSON

TEST:
Sarah J. Ambers
SARAH J. AMBERS

STATE OF MARYLAND, CITY OF BALTIMORE, TO WIT:-

I HEREBY CERTIFY, that on this 19th day of February, 1941, before me, the subscriber, a Notary Public of the State of Maryland, in and for the City aforesaid, personally appeared Ralph M. Branson, the Grantor named in the above Deed, and acknowledged the aforegoing Deed to be his act.

AS WITNESS MY HAND AND NOTARIAL SEAL.

Sarah J. Ambers
SARAH J. AMBERS
NOTARY-PUBLIC

D.L. 262

DEED

FROM:

RALPH M. BRANSON

TO:

RAYMOND A.C. YOUNG
and wife

#2323 Druid Hill Ave

3416.

RECEIVED FOR RECORD
FEB 20 1941 AT 11 O'CLOCK,
M. SAME DAY RECORDED IN LIBER
M.L.P. No. 6131 FOLIO 337 & 357
One of the Land RECORDS OF
BALTIMORE CITY AND EXAMINED.
PER
M Sutton Pittman CLERK
Superior Court of Baltimore City

JOSIAH F. HENRY, JR., ATTY.
22 ST. PAUL STREET
BALTIMORE, MD.

FILED

2.50

RELIEF TAX 50¢

HOLC FORM 21 E
REVISED 9-16-44
(NEW YORK)

19 47 $165.45

HOME OWNER'S LOAN CORPORATION

To Home Owner:- The following tax items

HAVE BEEN PAID BY H. O. L. C.

This notice is for your information only.
Receipts when received will be held in our files.

1-11
18-2
A-4932
4D-M

WILLIAM R.BOYKIN
2566 MC CULLOH ST.
BALTIMORE,MD. 17

2-14-47 C

$3,228.70 7-34 287

YEAR	DESCRIPTION OF TAXES, ASSESSMENTS OR OTHER ITEMS														INTEREST & PENALTIES	AMOUNT
	TOWN	COUNTY	STATE	CITY	FLAT WATER	REAL ESTATE	SCHOOL	VIL-LAGE	BORO	SEWER	FRONT-AGE	STATE & CO.	FIRST HALF	SECOND HALF		
1947			X	X	X											165.45
															TOTAL	

S

HOLC FORM 21 E
REVISED 9-16-44
(NEW YORK)

HOME OWNER'S LOAN CORPORATION

To Home Owner:- The following tax items

HAVE BEEN PAID BY H. O. L. C.

This notice is for your information only.
Receipts when received will be [illegible] your files.

3-1
18-2
WILLIAM R.BOYKIN A-4932 2/12/46 C
2566 MC CULLOH ST. 4D-4
BALTIMORE,MD. 17

$3,228.70 7-34 CH B1 1RA

YEAR	DESCRIPTION OF TAXES, ASSESSMENTS OR OTHER ITEMS														INTEREST & PENALTIES	AMOUNT
	TOWN	COUNTY	STATE	CITY	FLAT WATER	REAL ESTATE	SCHOOL	VIL-LAGE	BORO	SEWER	FRONT-AGE	STATE & CO.	FIRST HALF	SECOND HALF		
1946			X	X	X											166.95

ASSIGNMENT—CODE—CITY OR COUNTY—33

No Consideration

This Deed, Made this 1st day of June

in the year one thousand nine hundred and forty-three, by and between

WILLIAM R. BOYKIN JR.,

of the City of Baltimore, in the State of Maryland, of the first part, and

WILLIAM R. BOYKIN and WILLIE MAE BOYKIN, his wife, of the same City and State,

of the second part.

Witnesseth, That in consideration of the sum of FIVE ($5.00) DOLLARS, and other good and valuable considerations, the receipt whereof is hereby acknowledged,

the said WILLIAM R. BOYKIN, JR.,

do es grant and convey unto the said WILLIAM R. BOYKIN AND WILLIE MAE BOYKIN, his wife, as tenants by the entireties, the survivor thereof and the heirs, personal representatives and assigns of the survivor,

~~personal representatives and assigns~~ all --- that lot ---------- of ground situate in Baltimore City, State of Maryland, aforesaid, and described as follows, that is to say: Beginning for the same at a point on the west side of McCulloh Street at the distance of one hundred and ninety-two feet and five inches southerly from the southwest corner of McCulloh Street and Druid Hill Terrace and at the centre of the partition wall there situate; and running thence southerly bounding on the west side of McCulloh Street fourteen feet to the centre of the partition wall there situate; thence westerly through the centre of said last mentioned partition wall and at right angles to McCulloh Street one hundred feet to the east side of an alley fifteen feet wide there laid out; thence northerly bounding on the east side of said alley, with the use

thereof in common, fourteen feet, and thence easterly and through the centre of the partition wall first above mentioned one hundred feet to the place of beginning. IMPROVEMENTS BEING KNOWN AS NO. 2566 MCCULLOH STREET.

BEING THE SAME LOT OF GROUND, which was conveyed to WILLIAM R. BOYKIN JR., by deed of a prior date hereof and recorded among the Land Records of Baltimore City.

Together with the buildings thereupon, and the rights, alleys, ways, waters, privileges, appurtenances and advantages thereto belonging, or in any wise appertaining.

To Have and To Hold the said described lot of ground and premises, unto and to the use of the said WILLIAM R. BOYKIN AND WILLIE MAE BOYKIN, his wife, as tenants by the entireties, the survivor thereof and the heirs personal representatives and assigns of the survivor,

~~personal representatives~~

~~and assigns~~, for all the residue of the term of years yet to come and unexpired therein, with the benefit of renewal forever; subject to the payment of the annual rent of ---$120.00---- Dollars, payable half-yearly on the first days of January and July of each and every year.

And the said party of the first part hereby covenants that he has not done or suffered to be done any act, matter or thing whatsoever, to encumber the property hereby conveyed; that he will warrant specially the property hereby granted; and that he will execute such further assurances of the same as may be requisite.

Witness the hand and seal of said grantor

Test:

Minnie B. Lewis
Minnie B. Lewis

William R. Boykin Jr. (SEAL)
WILLIAM R. BOYKIN JR.

..... (SEAL)

State of Maryland, ~~xx~~ Baltimore City---, to wit:

I HEREBY CERTIFY, That on this 1st day of June in the year one thousand nine hundred and forty-three, before me, the subscriber, a Notary Public of the State of Maryland, in and for the City of Baltimore, aforesaid, personally appeared WILLIAM R. BOYKIN, JR., the grantor named in the above Deed, and he acknowledged the aforegoing Deed to be his act.

AS WITNESS my hand and Notarial Seal.

Minnie B. Lewis
Minnie B. Lewis Notary Public.

For Record

154 204

ASSIGNMENT

FROM

WILLIAM R. BOYKIN JR.,

TO

WILLIAM R. BOYKIN &
WILLIE MAE BOYKIN,
his wife.

BLOCK NO. 3417

Received for Record APR 30 1947 19,
at 2 15 o'clock P M. Same day recorded
in Liber MHP No. 7630 Folio 233 &c.,
one of the Land Records of Balto
City and examined per
M Luther Pittman, Clerk.
Cost of Record, $

The Daily Record Co. Print, Baltimore.

3.50

To STATE of MARYLAND—MAYOR and CITY COUNCIL of BALTIMORE, Dr.

REAL PROPERTY TAX BILL

MAKE CHECKS PAYABLE TO CITY TREASURER - BALTIMORE

SEND POSTAGE IF RECEIPT IS WANTED

POSTAL ZONE - 2

1948

TAXPAYER'S COPY Revised Williams

NAME AND ADDRESS	ASSESSMENT	STATE TAX	CITY TAX	LEGEND	TOTAL TAX
Dr R G Chissel	5040	5 61	143 64	RP	149 25
1534 Druid Hill Ave				W	14 00
17					
DESCRIPTION			TOTAL TAX AMOUNT		163 25

WARD	SECT.	VOL.	BLOCK	LOT
14	12		362	13

FOR 1948 TAXES ONLY

	DISCOUNT					INTEREST AND PENALTY						
	JAN	FEB	MAR	APR	MAY	JUNE	JULY	AUG	SEPT	OCT	NOV	DEC
STATE										½%	1%	1½%
CITY	1%	1%	¾%	½%	¼%			1½%	3%	4½%	6%	8½%

READ BACK OF BILL

LEGEND		DISCOUNT	INTEREST AND PENALTY
RP REAL PROP	STATE	NONE	1 yr 1948 Shortness
W WATER RENT RATE	CITY		
	TOTAL		1 44
S P SPECIAL PAVING	TOTAL TAX INCLUDING DISCOUNT OR INTEREST AND PENALTY		

PAID CITY TREASURER AND CITY COUNCIL OF BALTIMORE Treasurer

FEB 26-48 7 14 8 Bls CHA 16181

FEB 26-48 7 14 8 Bls CHA 16181

To STATE of MARYLAND—MAYOR and CITY COUNCIL of BALTIMORE, Dr.

REAL PROPERTY TAX BILL

MAKE CHECKS PAYABLE TO CITY COLLECTOR - BALTIMORE

SEND POSTAGE IF RECEIPT IS WANTED

POSTAL ZONE - 2

1947

Jan 1947 Sandy

TAXPAYER'S COPY

NAME AND ADDRESS	ASSESSMENT	STATE TAX	CITY TAX	LEGEND	TOTAL TAX
GARLAND CHISSELL	5040	504	14918	R	16422
15 DRUID HILL AV 17	20x113-3			W	1900

WARD	SECT.	VOL.	BLOCK	LOT
14	12		362--	13---

FOR 1947 TAXES ONLY

	JAN.	FEB.	MAR.	APR.	MAY	JUNE	JULY	AUG.	SEPT.	OCT.	NOV.	DEC.
	DISCOUNT					INTEREST AND PENALTY						
STATE										1%	1%	1½%

←DESCRIPTION

TOTAL TAX AMOUNT→ 17322

LEGEND		DISCOUNT	INTEREST AND PENALTY
RP REAL PROP.	STATE	NONE	
W WATER (FLAT RATE)	CITY		
S	TOTAL		

149

TOTAL TAX INCLUDING DISCOUNT OR 17173

PAID — THE MAYOR AND CITY COUNCIL OF BALTIMORE

JAN 27-47 717 7BLs CN J 17173

JAN 27-47 717 7BLs CN J 17173

City Collector

157.93

157.93

To STATE of MARYLAND—MAYOR and CITY COUNCIL of BALTIMORE, Dr.

REAL PROPERTY TAX BILL

MAKE CHECKS PAYABLE TO CITY COLLECTOR - BALTIMORE

SEND POSTAGE IF RECEIPT IS WANTED

POSTAL ZONE - 2

1946

TAXPAYER'S COPY

NAME AND ADDRESS	ASSESSMENT	STATE TAX	CITY TAX	LEGEND	TOTAL TAX
R GARLAND CHISSELL	4540	4 54	135 75	RP	140 29
1534 DRUID HILL AV 17	20X113-3			W	19 00
					159 29

1/25/46

WARD	SECT.	VOL.	BLOCK	LOT
14	12		362--	13---

← DESCRIPTION — TOTAL TAX AMOUNT →

FOR 1946 TAXES ONLY

	DISCOUNT					INTEREST AND PENALTY						
	JAN.	FEB.	MAR.	APR.	MAY	JUNE	JULY	AUG.	SEPT.	OCT.	NOV.	DEC.
STATE										½%	1%	1½%
CITY	1%	1%	¾%	½%	¼%			1½%	3%	4½%	6%	8½%

READ BACK OF BILL

LEGEND		DISCOUNT	INTEREST AND PENALTY	
RP REAL PROP.	STATE	NONE		
W WATER (FLAT RATE)	CITY	136		136
SP SPECIAL PAVING	TOTAL			
	TOTAL TAX INCLUDING DISCOUNT OR INTEREST AND PENALTY			157 93

PAID — THE MAYOR AND CITY COUNCIL OF BALTIMORE

JAN 25-46 2416

JAN 25 46 2416

To STATE of MARYLAND—MAYOR and CITY COUNCIL of BALTIMORE, Dr.

REAL PROPERTY TAX BILL

1945

MAKE CHECKS PAYABLE TO CITY COLLECTOR - BALTIMORE

SEND POSTAGE IF RECEIPT IS WANTED

POSTAL ZONE - 2

TAXPAYER'S COPY

1/25/45 Paid

NAME AND ADDRESS	ASSESSMENT	STATE TAX	CITY TAX	LEGEND	TOTAL TAX
R GARLAND CHISSELL	4540	545	13121	RP	13666
1534 DRUID HILL AV 17	20x113-3			W	1900
←DESCRIPTION			TOTAL TAX AMOUNT→		15566

WARD	SECT.	VOL.	BLOCK	LOT
14	12		362--	13---

FOR 1945 TAXES ONLY

	DISCOUNT					INTEREST AND PENALTY						
	JAN.	FEB.	MAR.	APR.	MAY	JUNE	JULY	AUG.	SEPT.	OCT.	NOV.	DEC.
STATE										½%	1%	1½%
CITY	1%	1%	¾%	½%	¼%			1½%	3%	4½%	6%	8½%

READ BACK OF BILL

LEGEND
RP — REAL PROP.
W — WATER (FLAT RATE)
SP — SPECIAL PAVING

	DISCOUNT	INTEREST AND PENALTY	
STATE	NONE		
CITY	1.31		31
TOTAL			
TOTAL TAX INCLUDING DISCOUNT OR INTEREST AND PENALTY			15435

PAID — THE MAYOR AND CITY COUNCIL OF BALTIMORE — City Collector

JAN 25-45 5071 9BLs CKB 15435

JAN 25-45 5071 9BLs 15435

THIS DEED, made this 21 day of March, in the year one thousand nine hundred and sixteen, between Cornelius C. Fitzgerald of the first part and R. Garland Chissell and Augusta Chissell, his wife of the second part, all of Baltimore City State of Maryland.

WITNESSETH, that in consideration of the sum of five dollars the receipt whereof is hereby acknowledged, the said party of the first part doth grant and assign unto the said parties of the second part, as tenants by the entireties, the survivor of them, their assigns. and the personal representatives and assigns of such survivor, all those nine lots of ground situate in Baltimore City, in the State of Maryland, and described as follows, that is to say;

BEGINNING for the first four thereof on the line of the South side of Fourth street (now 23rd, street) at the respective distances of forty one feet, fifty four feet and three inches, eighty feet and nine inches and one hundred sixty feet three inches, West of York Road each having a front on said street thirteen feet three inches with a depth of ninety feet more or less to an alley ten feet wide. For title see Liber R.O. NO. 2326, folio 279, S.C.L NO 2703 folio 444, S.C.L. NO. 2787. folio 72. 2936 folio 97.

BEGINNING for the fifth thereof on the west side of Boone street atv the distance of one hundred and three feet South from the southwest corner of Oxford Avenue and Boone street and running thence South bounding on the West side of Boone Street thirteen feet, thence west parallel with Oxford ~~street~~- Avenue eighty feet to the east side of a ten foot alley thence north bounding on the East side of said alley with the use thereof in common thirteen feet thence East parallel with Oxford Avenue to the place of beginning.

BEGINNING for the sixth thereof on the north side of Twenty third street. at the distance of one hundred and forty nine feet five inches west from the corner formed by the intersection of the north side of Twenty third street and the west side of the York Turnpike Road, thence running westerly on the north side of Twenty third street, thirteen feet seven inches, thence northerly, and parallel with said York Turnpike Road eighty nine feet ten inches to

the south side of an alley ten feet wide there situate;thence easterly on the south side of said alley with the use thereof in common thirteen feet seven inches,and thence southerly and parallel with said York Turnpike Road eighty nine feet two inches to the place of beginning.

BEGINNING for the seventh and eighth thereof on the North side of an alley twenty feet wide,(which alley is laid out between First and Second Streets,and located one hundred and fifty feet north from first street.and running through from North street to Barclay street) beginning at the respective distances of one hundred and two and fourteen feet Easterly from the northeast of North street and said Twenty foot alley.each lot having a front on said alley of twelve feet by a depth of fifty feet more or less to an ally.

BEGINNING for the ninth thereof at the intersection of the southwest side of Druid Hill Avenue and the southeast side of McMechen Street, at the corner thereby formed and running thence southeastwardly bounding on the southwest side of Druid Hill Avenue nineteen feet four and one half inches,thence southwestwardly parallel with McMechen Street one hundred twenty three feet three inches thence northwestwardly parallel with Druid Hill Avenue nineteen feet four and one halh inches to McMechen street, and thence northeastwardly bounding on the southeast side of McMechen street one hundred and twenty three feet three inches to the place of beginning out of which said lot on the southwest an alley ten feet wide has been laid out connecting with a like ally reserved from the rear of the contiguous lots making an alley ten feet wide reserved for the use of the property on both sides thereof. BEING the same nine lots of ground,which by deed of even date herewith were conveyed by R.Garland Chissell to the said Cornelius C. Fitzgerald,recorded or intended to be recorded prior hereto among the Land Records of Baltimore City.

TOGETHER with the buildings thereupon; and the rights,alley ways,waters.privileges.appurtenances and advantages thereunto belonging or in anywise appertaining.

TO HAVE AND TO HOLD the said lots of ground and premises unto and to the use of the said R.Garland Chissell and Augusta Chissell,his wife,as tenants by the entireeties,the survivor of them,their assigns,and the personal representatives and assigns of such survivor,for all the residue of the term of years yet to come and unexpred therein ,with the benefit of renewal forever, subject to the payment of the respective ground rents viz..$72.88 on the four lots firstly described,$70.00,on the lot sixthly described,$30.00 on the lots seventhly and eightly described,$45.50 on the lot fifthly described and $87.50 on the lot ninthly described.

AND the said party of the first part doth hereby covenant that he will warrant specially the property hereby granted and conveyed and that he will execute such further assurances of the same as may be requisite.

WITNESS the hand and seal of the said grantor.

Cornelius C. Fitzgerald (SEAL)

TEST:
John T Fardy

STATE OF MARYLAND,BALTIMORE CITY,TO WIT.

I hereby certify that on this the 21 day of March, 1916,before me the subscriber a Notary Public of the State of Maryland,in and for Baltimore City aforesaid,personally appeared, Cornelius C.Fitzgerald,the grantor named and acknowledged the foregoing deed to be his act.

In testimony whereof I hereunto set my hand and notaril seal.

John T Fardy

Notary Public.

No 2

ASSIGNMENT.

FROM

CORNELIUS C. FITZGERALD

TO

R. GARLAND CHISSELL

AUGUSTA CHISSELL.

3672 - 3806 - 3815

3824 - 4070

Received for Record
MAR 23 1916 at 11 56 o'clock, a
M. same day recorded in Liber
W. C. L. No. 3035 Folio, 523 &c.
one of the land Records of
Baltimore City and examined,
per
Stephen S. Little Clerk.

21 50 11 56 4 00

CORNELIUS C. FITZGERALD
Law and Real Estate
37-39-41 Courtland Building
215 COURTLAND STREET
BALTIMORE, MD.

FILED

DOCKET 579 FOLIO 297
CASE No. 29495A
FILED 10 June 1948
1-4

R. GARLAND CHISSELL AND AUGUSTA CHISSELL, his wife; WILLIAM R. BOYKIN SR. AND WILLIE MAE BOYKIN, his wife; RAYMOND A.C. YOUNG AND HELEN B. YOUNG, his wife; CLARENCE M. MITCHELL JR. AND JUANITA JACKSON MITCHELL, his wife; et al, Complainants.	*	IN THE CIRCUIT COURT NO. 2 OF BALTIMORE CITY
VS.	*	
THE MAYOR AND CITY COUNCIL OF BALTIMORE, A MUNICIPAL CORPORATION, Respondents.	*	

* * * * * * * * * *

BILL OF COMPLAINT

The Bill of Complaint of your Complainants, R. Garland Chissell and Augusta Chissell, his wife; William R. Boykin Sr. and Willie Mae Boykin, his wife; Raymond A.C. Young and Helen B. Young, his wife; Clarence M. Mitchell, Jr. and Juanita Jackson Mitchell, his wife; Thomas J. Smith and Mascelia J. Smith, his wife; George Mercer Smith and Harriet S. Smith, his wife; Thomas H. Winkey, Sr. and Alease H. Winkey, his wife; Thomas H. Winkey Jr.; a minor by his next friend and parent, Thomas H. Winkey, Sr., by their Solicitors Donald G. Murray and Charles H. Houston, respectfully represent unto your Honor:

1. That each of the adult Complainants is a citizen and resident of the United States of America and the State of Maryland, and as such entitled to all the rights guaranteed them by the Constitution and the laws of the United States, particularly the Fourteenth Amendment and the Federal Civil Rights Law 8 U.S.C.A. Sections 41 and 43; that each of the adult Complainants is a resident and taxpayer of Baltimore City, living on Druid Hill Avenue or McCulloh Street where they have made their homes since the date of the acquisition of their properties, photostatic copies of the deeds by which each of the Complainants acquired their title, or the receipted tax bills covering the same being attached herewith and prayed to be considered herewith designated as Complainants' Exhibits # 1 to 7. inclusive; that some of the adult Complainants are parents of the individual minor

Complainants who are under their care and protection as part of their respective households. All the Complainants sue in their own rights and as representatives of a class of citizens, residents, and taxpayers, and children living on McCulloh Street and Druid Hill Avenue. This class is too large for all its members to be brought individually before this Court but their interests are fairly and adequately represented herein.

2. That the Respondents constitute the Mayor and City Council of the City of Baltimore, a municipal corporation, and have all the rights, duties and obligations of the Mayor and City Council of Baltimore City by virtue of the provisions of the City Charter approved by the voters of Baltimore City on November 6, 1946 and by its terms effective May 20, 1947, and as such have supervision, control and management of the streets of Baltimore City and the Collection of Taxes of Baltimore City.

3. That Druid Hill Avenue and McCulloh Street since years long past have been developed into a highly desirable residential area containing approximately one thousand (1,000) homes of substantial character; that both McCulloh Street and Druid Hill Avenue have been zoned, in the blocks where Complainants' properties are located, residential use districts since years long past; that such few businesses as are on either or both of the streets are predominantly local corner store consumer businesses, such as grocery, drug, restaurant, confectionery, etc., that prior to the passage of Ordinance #169 approved March 18, 1948 the vehicular traffic on McCulloh Street and more particularly Druid Hill Avenue, was local traffic of persons resident in or visiting the neighborhood and of moderate or below moderate volume; that the adult resident pedestrians, and the minor or child resident pedestrians prior to the passage of the said Ordinance #169, were comparatively safe in using said streets and intersections due to the fact that the vehicular traffic on the said streets was of moderate or below moderate volume.

4. That on the said streets the population density is far above the average population density of the remainder of Baltimore City; that there is no adequate playground and recreational space on or near these two streets for the children residing in this area which forces the children residing in this area to

play on the sidewalks and in the streets both on Druid Hill Avenue and McCulloh Street; further that there are three Negro schools with a total enrollment of approximately two thousand, two hundred children (2,200) located on Druid Hill Avenue and Lafayette Avenue, Druid Hill Avenue near Biddle Street, and McCulloh Street and Lafayette Avenue; there are six (6) more Negro schools within one (1) or two (2) blocks of McCulloh Street or Druid Hill Avenue with a total enrollment of approximately one thousand, nine hundred (1,900) children located at Division Street near Lanvale Street, Preston Street near Druid Hill Avenue, Pennsylvania Avenue and Dolphin Street, Pennsylvania Avenue and Robert Street, Biddle Street near Pennsylvania Avenue, and Francis Street near Pennsylvania Avenue. That hundreds of Negro school children of immature age and discretion are forced to cross and recross Druid Hill Avenue and McCulloh Street every school day to get to and from said nine (9) schools, and for other purposes. That further, all the Negro school children living in the northwest section of Baltimore City east of McCulloh Street and Druid Hill Avenue are forced to cross these streets and intersections because there are no schools for Negro children in this communal area east of McCulloh Street.

5. That the minor Complainants are pupils of the public schools in this area resident on McCulloh Street and have to cross one or both the said streets to attend school.

NAME	RESIDENCE	SCHOOL	CROSSES TO ATTEND SCHOOL
Thomas H. Winkey Jr.	2567 McCulloh Street	P.S. 120	Druid Hill Avenue & McCulloh Street
Nancy Winkey	2567 McCulloh Street	P.S. 120	Druid Hill Avenue & McCulloh Street

6. That by said Ordinance #169, approved March 18, 1948, over the vehement protest of Complainants and other residents and taxpayers living on Druid Hill Avenue and McCulloh Street, the Respondents designated Druid Hill Avenue and McCulloh Street one way streets for through truck, automobile and bus travel from the outlying sections of Baltimore City to the downtown section of Baltimore City;

that the effect of such designation, has already been to increase the traffic on both streets to the extent that it has become hazardous and dangerous for the minor Complainants to cross the streets to school and for other purposes, and to play on the sidewalks and about the streets as before; that the traffic load on the said streets will progressively increase until traffic becomes a continuous and ever present hazard not only to minors but also to adults; and your Complainants specifically point out that the peak of the morning traffic load comes during the very time that the minor complainants and other children are forced to cross the said streets to get to their respective schools.

7. That the effect of the said Ordinance will be to change the character of the traffic from local traffic to high speed through traffic, further endangering the safety of the residents of the said streets; that upon abandonment of fixed rail traffic as provided by the ordinance, busses are proposed to travel on Druid Hill Avenue which will still further increase the noise, the noxious fumes and foul odors in the air from the volume of traffic creating hazards to the health of the residents and Complainants and depriving the residents and Complainants of their rights to peacefully and quietly enjoy their respective homes.

8. That the aforesaid conditions create a public nuisance specially injuring the Complainants and the class they represent; that the Respondents acted in the premises arbitrarily and capriciously and with utter disregard for the health, welfare, comfort, and safety of the Complainants and the class they represent; and the Respondents by so acting denied your Complainants and the class they represent the equal protection of the law guaranteed them by the Fourteenth Amendment to the Constitution of the United States.

9. That the Respondents on or about October 1, 1947 caused the tax assessments on some of the adult Complainants' properties to be increased, said increase being predicated on the use and value of said properties as residences and for residential purposes exclusively; that under the law, the time for appealing from said increased assessment has expired and they are final and binding.

NAME	PROPERTY	OLD DATE	NEW DATE
Clarence M. Mitchell Jr.	1324 Druid Hill Avenue	$3780 - 1947	$5080 - 1948

10. That when the Respondents caused the tax assessment to be increased, they had already decided to change Druid Hill Avenue and McCulloh Street to one-way arterial thoroughfares and had secretly put city machinery at work to that end; and they further well knew that the effect of making these streets one-way arterial thoroughfares for through traffic would be to decrease materially the value of the Complainants' properties as residences and for residential purposes. Notwithstanding, in order to lull the Complainants into inaction against said increase in tax assessment, and to deprive and conceal from them the fact that they had already decided on action which would decrease substantially the value of the Complainants' properties for residential purposes, the Respondents did withhold public action on making said streets one-way arterial thoroughfares, and did increase said assessments for residential purposes until after the statutory time for appealing from the said increase in assessments had expired and only then did the Respondents officially designate said streets as one-way arterial thoroughfares; thereby fraudently representing to the Complainants that they had no present plans to destroy the value of the Complainants' property and lulling the Complainants into quiesence. The Complainants say that if they had known Druid Hill Avenue and McCulloh Street had already been programmed as one-way arterial thoroughfares, they would have protested the tax increase, but being ignorant of that fact and relying on the good faith of the Respondents not to destroy the value of their properties as residences or for residential purposes, they took no action as provided by law to resist said tax increase. They are without remedy against said increase except by injunctive relief in this Court, and say that the increase of said assessments leaves the Complainants completely without remedy. The increase of said assessments under these circumstances constitutes depriving the Complainants of their property without due process of law as guaranteed them by the Fourteenth Amendment of the Constitution of the United States of America.

11. That your Complainants are advised that individually and as specially interested citizens and taxpayers of Baltimore City and on behalf of other citizens and taxpayers having similar rights, duties and obligations, they

are entitled to restrain the Respondents from enforcing this ordinance.

12. That because of the said action or threatened action, your Complainants allege that they are or will be irreparably injured and damaged and that they have no adequate remedy by law, and that unless this Honorable Court intervenes by way of injunction, your Complainants and others will be deprived of their lawful rights to enjoy the peace and quiet of their respective homes.

TO THE END, THEREFORE THAT:

1. That your Honorable Court issue a preliminary injunction restraining the Respondents from enforcing Ordinance #169 making the said streets one-way arterial thoroughfares to the great and irreparable damage and harm to your Complainants until the hearing of the case and further order of this Court upon this petitioner giving such bond and complying with such other requirements as to the Court shall seem fit.

2. Or that if this Honorable Court shall see it unfit to grant relief prayed for by your Complainants in Paragraph One of the prayers immediately above, your Complainants respectfully pray that this Court set the date for a full hearing in this case as expeditiously as possible, so that the Complainants may be fully and finally heard.

3. That this Honorable Court issue a permanent injunction restraining the Respondents from enforcing Ordinance #169 making the said streets one-way arterial thoroughfares to the great detriment and irreparable damage and harm to your Complainants.

4. That your Honorable Court declare this ordinance illegal and void and all acts, measures and things done or to be done thereunder or in consequence thereof be restrained or enjoined forever.

5. That your Honorable Court issue a permanent injunction restraining the Respondents from collecting any taxes based upon increased assessments in 1947 upon any of the residential properties located on McCulloh Street and Druid Hill Avenue because of the fraudulent manner in which such increased assessments were made by the Respondents.

MAY IT PLEASE YOUR HONOR to grant unto your Complainants the Writ of Subpoena directed to the Respondents in their official capacities and compris-

ing the Mayor and City Council of Baltimore City, directing them and each of them to be and appear in this Honorable Court on some certain date to be named therein, to answer and abide by such order or orders that may be passed therein.

And to grant such other and further relief as the nature of the Complainants' case may require.

AND, AS IN DUTY BOUND, ETC.

Clarence M. Mitchell, Jr.

Mrs. Juanita Jackson Mitchell

Donald G. Murray
DONALD G. MURRAY

Charles H. Houston
CHARLES H. HOUSTON

SOLICITORS FOR COMPLAINANTS

STATE OF MARYLAND, CITY OF BALTIMORE, to wit:

I HEREBY CERTIFY that on this 9th day of June, 1948, before me, the subscriber, a Notary Public of the State of Maryland, in and for Baltimore City, aforesaid, personally appeared Clarence M. Mitchell Jr. and Juanita Jackson Mitchell, his wife, two of the Complainants in the aforegoing Bill of Complaint, and made oath in due form of law that the matters and facts therein set forth are true to the best of their knowledge, information and belief.

SUBSCRIBED and sworn to before me this 9th day of June, 1948.

Eunice G. Young
NOTARY PUBLIC

MY COMMISSION EXPIRES May 2, 1949

Clarence M. Mitchell, Jr.

Mrs. Juanita Jackson Mitchell
AFFIANTS

R. GARLAND CHISSELL AND AUGUSTA CHISSEL, his wife; WILLIAM R. BOYKIN SR. AND WILLIE MAE BOYKIN, his wife; RAYMOND A.C. YOUNG AND HELEN B. YOUNG, his wife; CLARENCE M. MITCHELL JR. AND JUANITA JACKSON MITCHELL, his wife, et al.

Complainants.

VS.

THE MAYOR AND CITY COUNCIL OF BALTIMORE CITY,

Respondents.

* IN THE CIRCUIT COURT NO. 2 OF BALTIMORE CITY

* * * * * * * * *

Upon the aforegoing Bill of Complaint, Exhibits and Affidavits, it is by the Circuit Court No. 2 of Baltimore City this 10th day of June, 1948,

ORDERED, That the Respondents, The Mayor and City Council of Baltimore City, show cause on or before the 25 day of June, 1948 why the relief prayed for should not be granted.

PROVIDED That a copy of the said Bill of Complaint, Exhibits and Affidavit shall be served upon the Respondents on or before the 15 day of June, 1948.

Paul Mason
JUDGE

Ordered this_____day of_____, 19 by the Circuit Court No. 2 of Baltimore City, that the defendant show cause within_____days from this date why the relief prayed in the proposed order should not be granted, PROVIDED a copy of the proposed order together with a copy of this order, be served on defendant or his Solicitor of record, on or before_____, 19

Judge.

RECEIVED
SHERIFF'S OFFICE
JUN 11 2 16 PM '48
BALTIMORE CITY, MD.

Before Order

3

Copy of the Within Bill of Complaint and Order of Court served on Thomas N Biddison City Solicitor for the Mayor and City Council of Baltimore a Municipal Corporation on the 14th day of June 1948 in the Presence of William Fowler

Joseph L Deegan
Sheriff

Fee $0.25

JUNE 5, 1948

I, Thomas H. Winkey, Sr., 2567 McCulloh Street, Baltimore, Maryland, authorize Donald G. Murray and Charles H. Houston, my Solicitors, to represent my minor children Thomas H. Winkey, Jr. and Nancy Winkey in a suit to be filed with them as two of the Complainants , in their names with me as their next friend and parent, in the Circuit Court No. 2 of Baltimore City against the Mayor and City Council of Baltimore City; and I hereby represent that I have freely and voluntarily given said Solicitors my consent and authorization to represent them for this purpose.

Thomas H. Winkey Sr.

THOMAS H. WINKY SR.