

File No. 10571 Continued.

OPINION.

8308

information is contained in a letter from E. B. Hunting, dated October 9th, 1909, and addressed to the City Engineer.

City Code, Article 35, Section 14, provides as follows:

"Within the territory known as the Burnt District, all sidewalks or footways hereafter laid or relaid or repaired to the extent of more than one half of their original value".

shall be constructed of concrete or other improved pavement, in accordance with specifications to be furnished by the City Engineer.

If the information contained in Mr. Hunting's letter is correct and if less than one half of the sidewalk is paved (the balance not being paved at all) the matter, in my opinion, may be dealt with as follows:

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The City Engineer may undoubtedly require the property owner to pave the sidewalk and the expense of such paving will, necessarily, be more than one half of the original value of that now laid. Therefore, in complying with the order of the City Engineer, the property owner, Mr. Gittings, must also comply with the above quoted Section of the Code and lay an improved pavement.

The City Engineer, therefore, seems to have a clear right to notify the property owner to pave the premises in front of his property, in accordance with the usual practice, and also to call his attention to the Ordinance in respect to the Burnt District sidewalks, to the end that he shall comply with same and lay an improved pavement.

8310

The difficulty which existed in the case of Seeger vs. the Mayor and City Council of Baltimore, which was considered by this Department last summer, arose from the fact that the pavement in front of the Seeger property was paved in a good and substantial manner, and, therefore, did not come within the terms of the above Ordinance, inasmuch as it was not necessary to lay a pavement or relay it or to repair it to the extent of more than one half its original value.

As I understand the facts in this case, we are not embarrassed by that situation, nor are we embarrassed by the other trouble which existed in the Seeger case, to wit: the fact that the City Engineer had consented to the construction, by Seeger and others, of brick sidewalks in the Burnt District, contrary to the provisions of the above Ordinance.