

File No. 12470 Continued.

Building Inspector to refuse the permit which has been applied for.

Section 79 of the Charter provides that the Building Inspector shall have the supervision of the construction of all buildings erected in the City and shall see that the building laws are complied with, and further, shall perform such other duties as shall be prescribed by Ordinance.

By Section 82 he is directed to enforce all existing or hereafter enacted building regulations.

Section 6, sub-section 1 gives authority to the City to regulate the erection of buildings in many respects, with particular reference to safety and to the prevention of undue encroachment by private property owners on the public highways.

Pursuant to this authority an elaborate building code has been passed, containing many provisions as to the erection and construction of buildings. In neither the building code nor in the provisions of the Charter is the Building Inspector authorized to withhold a permit for any such consideration as that above set forth. His powers are to regulate the construction of buildings.

My opinion, therefore, is that the Building Inspector may not lawfully withhold the permit applied for upon any such ground set forth in the numerous protests lodged with him.

If an Ordinance is passed, however, directing the opening of this street, which fact shall be known to the builder who proposes to erect the houses under the permit, and if it cannot be disputed or doubted that the street will be forthwith opened as rapidly as possible in accordance with the provisions of law on the subject, it would appear to be most unjust that a builder should proceed with his buildings directly in the line of the improvements, having no other possible object in view than to compel the City to pay him for such improvements.

Nevertheless there does not appear to be any provision of law by which the proposed building operations may be stopped.

This opinion is in agreement with that contained in File No. 5414 by former Assistant City Solicitor Ritchie.

In the case of *Norris vs. Baltimore*, 44 Md., 596, in which it was held that the City was not responsible for losses due to delay occurring in opening a street after condemnation proceedings had