

File No. 13027 Continued.

The right to recover damages depends "upon the ability of the claimant to establish that he is specially and peculiarly damaged" by the closing; that he "suffers an injury different in nature, and not merely in degree, from that suffered by the public at large". **** "Many decisions declare that, as a general rule, only property abutting on the portion of the street closed is specially damaged by the vacation, and that only such abutter can recover damages or compensation for the taking of his property. Hence, if the property of the abutter is located on another street, or on a different part of the same street, he is not entitled to compensation or damages. In other States this limitation is not observed and decisions are to be found to the effect that the owner of the property which does not abut on the part of the street closed is entitled to compensation, provided he is able to prove special and peculiar damage.

3 Dillon, Municipal Corporations, sec. 1160, p. 1842 and note.

To same effect are,

2 L. R. A. (N. S.) 269, note.
30 L. R. A. (N. S.) 637, note.
Myer vs. Richmond, 172 U. S. 83.
Crook vs. Pitcher, 61 Md. 510.

As Maryland is not committed to any definite rule in reference to the subject matter of the inquiry, and as the weight of authority seems to be against allowing damages for injury to property situated beyond the next intersecting street, I am of the opinion that it would be unwise to allow damages for injury to property on Henrietta street west of the west side of Kutaw street or east of the east side of Howard street.

Trusting this will give you the desired information, I beg to be,

Yours respectfully,

(Signed) Benjamin H. McKindless,
Assistant City Solicitor.

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