

File No. 24706 Continued.

Baltimore City, whose owner or owners shall declare them to be private by placing and maintaining a sign or signs at or near the junction or junctions of such private streets, lanes, alleys, or ways with such public streets, lanes, alleys, or ways on which sign or signs shall be marked the words "Private Way", provided and so long as such owner or owners do not grant in such private streets, lanes, alleys, or ways, for a longer period than twenty-five years, any franchise, right or easement for a railway or for pipes or conduits for supplying electricity, gas, water or steam or for any other use that would be in the nature of a public service franchise."

If this section of the Charter applies it would be necessary to ascertain whether or not the roads were constructed after the passage of the Act, that is, subsequent to 1908. In that event, they cannot be considered dedicated under that Act if the owners have granted franchises for a longer period than twenty-five years, that is, any franchise, right or easement in the nature of a public service franchise or if there is a gate or permanent obstruction or a sign posted at or near the junction or junctions of such roads or streets marked "Private Way". The exceptions thus quoted were amendments to the Acts of 1908, Chapter 582 by the Acts of 1912, Chapter 659.

It is, therefore, clear from this Act that the roads in Roland Park cannot be presumed to be dedicated if there are sewers, water mains, or any other franchises granted in the nature of a public service franchise for a greater period than twenty-five years.

Section 840C, which is Chapter 583 of the Acts of 1908, dedicates streets which were open for one year prior to April 8th, 1908, but this Act does not apply to the new annex under the terms of Section 15 of the Act of 1918.

Sections 840A and 840C, which deal only with dedication, set forth a condition under which dedication will be presumed. I might add, however, that these two sections have not been passed upon by the Court of Appeals.

Dedication is a question of intention. The intention of the owner to dedicate his land to such use is absolutely essential and unless such intention is clearly shown no dedication exists.

Baltimore City vs. Yose, 121 Md. 379,
and cases cited.