

File No. 36404

Baltimore, October 25, 1924.

Mr. Paul M. Burnett,
15 South Street
Baltimore, Maryland.

Dear Mr. Burnett:

13988 I have your letter of October 23rd, asking my opinion as to the legality of an assessment charge of the City for repaving the footway of the property at #1419 Linden Avenue.

Your case is similar to that of many others arising about the year 1917. As the result of the decision of the Court of Appeals in the case of Johns Hopkins Building Company vs. the Mayor and City Council of Baltimore, in 130 Md., the procedure then followed by the City as to paving footways was held to be improper. Consequently certain charges levied by the City for the paving of footways were not collected and in some instances the City was actually enjoined from attempting to collect the same. To remedy this situation, Ordinance No. 266, approved June 13th, 1917, was passed and it was made retroactive in its terms.

Proceeding under the authority of the Ordinance the Appeal Tax Court informs me that the assessment for paving the sidewalk in front of your property was published in the Baltimore Sun on June 19th, 1917, and no objection being made to the Appeal Tax Court and no appeal being taken to the Baltimore City Court, the assessment became final. The validity of this Ordinance and the procedure thereunder was upheld by the Court of Appeals in the case of the General Dispensary vs. Baltimore City, 143 Md. 527. It follows, therefore, that the assessment in question is a valid charge against the property, unless it is barred by limitations as you suggest. For this, you quote Section 843 of Article 4, limiting the collection of taxes to four years. This provision refers only to taxes imposed on all persons within the territorial limits according to the value of the property in consideration of the protection which the Government affords to all. A local or benefit assessment is an occasional tax based upon a limited class interested in a local improvement and benefited thereby.

The assessment for repaving the footway in question falls within the latter class and is not barred by limitations.