

Continued

The purpose of tearing down and removing the buildings in question is to clear the way for the construction of the East and West Thoroughfare, including the Viaduct. By the terms of the Charter, the Highways Engineer, subject to the authority of the Chief Engineer, has control and supervision of the construction of highways (Sections 85-A and 86). Demolishing these buildings is but an incident to the construction of this highway, and falls naturally and properly under the Department of Public Works, of which the Bureau of Highways is a part.

My conclusion is:

First: That Section 17 of Article 8 of the Baltimore City Code is not applicable to the present situation. Indeed, it may be questioned whether that Section of the Code has not been superseded by the provisions of the Charter establishing the Bureau of Stores and providing that that Bureau shall take charge of and hereafter be responsible for the reclamation of useless materials and supplies and the disposal of salvage. (Section 85, Page 128, Baltimore City Charter, 1927 Edition). Moreover, I am advised that the requirement that "persons having city property under their charge, shall set aside, on or before the first day of each month, such old metal and other materials as mentioned in the preceding (17) section, and hand the same over to the Comptroller," has long since fallen into disuse.

Second: That there is no legal objection in the instant case to the procedure outlined by the Chief Engineer in his letter of September 21st, 1932. If the materials in the buildings to be torn down are to become the property of the contractor removing them, I take it, the price which the City pays the contractor will be reduced to the extent of the value of such materials; and if the value of the materials in the buildings is greater than the cost of tearing down and removing them, the contractor will pay the City the difference.

Very truly yours,

(signed) ALLEN A. DAVIS

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Assistant City Solicitor