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and also an annual rent ought to pay less rent than the man who simply rents from the City, investing no capital in the stall. To remedy this was the purpose of Section 13, and so submit it was a wise and just purpose." (page 30)

This purpose has never been accomplished. More than ten years after the Wollman case was decided, we find City Solicitor Perlman, in writing to the Mayor under date of April 10th, 1924, saying:

"In 1913 the City Council passed an ordinance under the provisions of which it was contemplated that the City would increase the rents on the stalls owned by it. This has not been done, according to the information given me by the Superintendent of Markets. Therefore, the man who rents directly from the City pays the same rent to the City as the man who paid a valuable consideration for his stall, although the former has no capital investment whatever. In other cases the present occupant is a sub-lessee, and pays rents to the owner as well as to the City. Manifestly this situation is inequitable." (Opinions of City Solicitor, Vol. 26, page 7674).-

I may add that, in my judgment, the use of the word "rent" in some of the foregoing ordinances and opinions is misleading and confusing. Strictly speaking, the City really receives no "rent" for the use of its market stalls. What it charges and collects is an annual license fee. The private owners of market stalls do collect rents, and in addition, they, or their tenants, pay an annual license fee. There seems to be no legal reason why the City should not charge and collect a rent for the use of the stalls it owns just as do private owners, and in addition, collect an annual license fee.

Answering the specific inquiry of the Committee of the Grand Jury, I advise that so long as the Lexington Market is maintained at its present location, there is, in my opinion, no legal way in which the City can deprive the original purchaser of a market stall therein, his legal representatives or assigns, of his property rights therein, except by the exercise of the power of eminent domain.

Very truly yours,

(signed) ALLEN A. DAVIS

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Assistant City Solicitor