

FILE NO. 7172

June 29, 1942

Morris A. Baker, Esq.
Assistant City Solicitor

RE: MADELENE BARRY VS. CITY

Dear Mr. Baker:

Your inquiry of June 18, 1942, addressed to Mr. Wyszecski, Assistant City Solicitor, relative to the status of the 10-foot alley running north and south between the 3400 block of Roland and Hickory Avenues, has been referred to me for attention.

This alley runs southerly from a 12-foot alley laid out parallel to 36th Street, and 100 feet southerly therefrom, which 10-foot alley continues southerly for a distance of approximately 600 feet, but does not communicate with 34th Street.

On April 4, 1923, File No. 43090, Mr. Frank Driscoll, then Assistant City Solicitor, rendered an opinion that this alley was private. As a result of Mr. Driscoll's opinion the alley was paved by the City and the charges assessed against the abutting property owners. Mr. Driscoll does not give any reasons for his opinion. I assume that he felt that this alley, while undoubtedly dedicated, did not conform sufficiently to the lines of the plan laid down by the Topographical Survey Commission, under the Ordinance of 1898, or that the City had not, at that time, exercised sufficient acts of control over the said alley to constitute an implied acceptance of said dedication.

It is my opinion that said alley is now a public highway of the Mayor and City Council of Baltimore. This alley is in the Old Annex, and was laid out many years ago, it being referred to in deeds as far back as 1889. The bed of this alley was dedicated to public use by the various deeds under which it was laid out and opened. Indeed, had it not been so dedicated, in my opinion the Act of 1908 would no doubt have statutorily dedicated this alley.