

File No. 26208 Continued.

But where the difference in cost is so great as here, and has the effect, as found, of making performance impracticable the situation is not different from "that absence of the earth and gravel".

From the above authorities, my opinion is that the City is not liable as outlined in first paragraph.

Very truly yours,
(Signed) George Eckhardt, Jr.
Assistant City Solicitor.

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File No. 25998

Baltimore, February 13, 1920.

Charles J. Hull, Esq.,
211 N. Calvert Street,
City.

Dear Mr. Hull:

I have your letter of the 11th instant making inquiry with reference to the right to operate an oil refinery and supply station in the Upper Spring Gardens, now a part of Baltimore City. I refer you to Paragraph 8 of Section 47 of the Building Code, which, provides, among other things, that no building shall be constructed or re-constructed, altered or repaired, within the limits of Baltimore, to be used for the purpose of "the refining of petroleum or any of its products". The Building Code of Baltimore was extended to the territory annexed to Baltimore City by Chapter 82 of the Act of 1918, and this prohibition, therefore, covers the territory to which you refer. If this industry is of substantial size, it may be that by ordinance it could be exempted from the prohibition of the Building

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