

File No. 46845

Baltimore, November 20, 1926

Dr. J. Frederick Hempel
Assistant Commissioner of Health
City Hall Annex
Baltimore, Maryland

Dear Sir:

14221

In your letter of the 10th you ask me to advise you whether Hollen Road, running east from York Road for a distance of two blocks, is a public or private street. Depending on my answer to that opinion, you ask if the street may be paved upon the written request of 70% of the abutting owners, or without such request may the street be paved at the expense of the abutting owners?

Hollen Road at the point mentioned is situate in the New Annex and was laid out in the development of York Road by J. Elmer Weisheit. The latter in some instances reserved title to the street, and in other instances reserved it from dedication.

But the status of the street is now controlled by Section 840-A, Article 4, Public Local Laws, (Acts of 1912, Chapter 659, Section 1) and because of the application of the provisions of that section to the status of the thoroughfare it may, I think, safely be said to have become dedicated to public use. The dedication alone, however, does not make it a public highway. In addition to the dedication there must be acceptance. This acceptance may be actual or constructive. Actual acceptance may be made by an ordinance of the Mayor and City Council of Baltimore. No ordinance has been passed. Constructive acceptance may be through the city's act in lighting the thoroughfare with lamps, having the benefit of street cleaning service, patrolling by police, serving with municipal water by the installation of water pipes by the city and general use of the thoroughfare for the usual highway purposes. (Canton Co. vs. Seal, 144 Md., 174).

I do not know the existence of the street as measured by these acts, and consequently cannot say whether the dedication because of those acts has been accepted so as to make the street public. You are in a better position to ascertain those facts, and when ascertained application