

FILE NO. 63991

December 7, 1940

Mr. John L. Alcock  
Mr. J. E. Greiner  
Dr. J. B. Whitehead  
Baltimore, Maryland

Gentlemen:

Under date of June 10, 1940, Mayor Howard W. Jackson requested your assistance in determining the proper interpretation of those provisions of Ordinance No. 748, approved June 27, 1929, which relate to the distribution of cost of projecting "highways which will intersect and cross the line of the Railroad between North Avenue and the northern boundary of Baltimore City". The Railroad and the City mutually agreed to be bound by the duties, obligations, terms, conditions and provisions of this ordinance in a written contract dated September 24, 1929, between the Railroad and the City, a copy of which written contract is attached hereto.

On the one hand, it is contended by the City that the provisions of this Ordinance obligate the Northern Central Railway Company and the Pennsylvania Railroad Company, lessee of the Northern Central Railway Company, to pay one-half of the cost of the 29th Street Bridge exclusive of the cost of the approaches. On the other hand, it is contended by the Railroad that the provisions of this Ordinance impose no liability on the Railroad Company in this connection.

I am taking the liberty of writing you to present the views of the City's Law Department on this question. The City contends (1) that the 29th Street structure is a projected public highway which intersects and crosses the line of the Railroad between North Avenue and the northern boundary of the City; and (2) that the 29th Street structure is a bridge within the meaning of that part of Section 15 of the Ordinance which provides that -

"the cost of said bridges, together with the piers, abutments and/or other supports therefor, shall be borne equally by the City and the Railroad."

Although provisions for the elimination of grade crossings were incorporated in Section 15 of the Ordinance as redrafted by the Commission appointed by