

Charles C. G. Evans, Esq., City Solicitor (cont'd)

either in person or by written notice, in the manner prescribed in Section 54 of the Charter, that the said privilege has been revoked and that it must be removed within thirty days. If the said temporary privilege is not removed within thirty days or such additional period of time as the Manager of the Bureau of Receipts may authorize, the Mayor and City Council of Baltimore is authorized to remove the same and dispose thereof sixty days after such removal, and the cost of such removal when recorded among the lien records of the Bureau of Receipts shall be and continue to be a lien against the property at which the said temporary minor privilege was located; . . . . ."

"Temporary minor privileges are those in the nature of awnings, barber poles, signs, skids, clothes racks, sidewalk displays and vending machines and the like, which can be removed without a material alteration of the property where the said privilege is located."

It will be noted that sidewalk displays are specifically mentioned in the enumeration of Temporary Minor Privileges and there can be no doubt that speaking generally the charges for such minor privileges are liens upon the property.

It is, however, my opinion that the ordinance assumes that the sidewalk display has conferred a benefit upon the owner of the property or the tenant of the property, or in other words, that there must be some casual connection between the business carried on in the property and the sidewalk display, or rent paid to the owner or tenant by the operator of the sidewalk display.

In this case neither the owner or any tenant of the building has ever received any benefit from this stand, which has been operated as an independent business by the fruit vendor, who was licensed by the City without the consent of the present owner or present tenant of the building, and I do not believe that an equity court would allow the lien to stand on a theory of presumed benefits to the property in view of the actual facts of the situation.

Following the receipt of this memorandum, Mr. John Smith of the Minor Privilege Bureau, at my suggestion, summoned the fruit vendor and advised me that the 1940 Minor Privilege charge was paid on November 22, 1940, so that the present inquiry is now a moot question.

I have advised Mr. Dealey, in view of the payment, that I did not feel that this department was required to make any ruling.