

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

The Davidson case is authority for my opinion in regard to both elements of the question involved in this matter, namely: (1) There is power in the municipal corporation to change the use of Venable Park, and (2) that power is vested in the Mayor and City Council, acting by ordinance. In this connection see also Gotlieb-Knabe Co. vs. Macklin (1909), 109 Md. 429, where it was held that the Mayor and City Council of Baltimore had the power to rent an unused building owned by it to the Field Officers of the Fourth Regiment Infantry, Maryland National Guard, for the purpose of an armory for the Regiment, the officers, with the consent of the City, having power to sublet the building from time to time to private persons for concerts and other amusements, the proceeds from the renting being divided between the City and the Regiment. See also Hanlon v. Levin (1935) 168 Md. 674, wherein it was held by the Court of Appeals of Maryland that the Board of Park Commissioners had, under the City Charter, no power to lease for a radio broadcasting station property acquired by the Mayor and City Council of Baltimore which had become part of the City parks and was so dedicated to the public use. The clear inference from the decision is that the power to lease or convey park property is vested in the Mayor and City Council of Baltimore. See pages 678-679 of the opinion.

In connection with the question of where the power resides to determine when a change of use is desirable, it should be borne in mind that Section 6, Paragraph 16 of the Charter vests in the Mayor and City Council the power "to establish, maintain, control and regulate parks or squares in the City of Baltimore for the recreation and benefit of its citizens". Section 1 of the Charter gives power to the Mayor and City Council of Baltimore to "purchase and hold real, personal and mixed property and dispose of the same for the benefit of said City * * *". Section 13 provides that nothing in the Charter shall prevent the Mayor and City Council of Baltimore, "from in any manner disposing of any building or parcel of land no longer needed for public use * * *", provided that such disposition shall be authorized and provided for by ordinance and shall be approved by the Commissioners of Finance, * * *; nor from renting for fixed and limited terms any of its property not needed for public purposes, on approval of the Commissioners of Finance." Section 2 of the Charter provides that "all the property and franchises of every kind belonging to or in possession of the Mayor and City Council of Baltimore are vested in said corporation * * * and the said corporation may dispose of, in the manner and upon the terms in this Charter provided, any property belonging to it."