

Mr. Philip Darling, Director, Planning Commission (continued)

From a review of the law relating to restrictions of this nature, in Ordinances, it is my opinion that the inclusion of this provision in the Ordinance in question would make it invalid.

It would appear to me that the Zoning Commissioner or the Board of Municipal and Zoning Appeals, when and if this particular piece of property is zoned First Commercial, would be empowered to require the applicant for the construction of a building thereon, to provide for this 5-ft. planting strip as a requisite to the granting of a permit to erect a structure thereon. (SEE: Bayliss v. Mayor and City Council and Wippert, 148 A. (2d) 429; and Wakfield v. Kraft, 202 Md. 136, 149; 96 A. (2d) 27, 33).

Very truly yours,

/s/ HUGO A. RICCIUTI
City Solicitor

HAR:JBM:rmc

/s/ JAMES B. MURPHY
Assistant City Solicitor

File No. 100860

May 11, 1959

Dr. R. Walter Graham, Jr.
Comptroller
City Hall
Baltimore - 2, Maryland

Dear Dr. Graham:

In compliance with your verbal request that this office investigate and render an opinion on whether the Mayor and City Council of Baltimore is required to pay a tax to the State Insurance Commission for the issuance of an insurance policy from a company not authorized to transact business in the State of Maryland, we present the following facts:

Our cursory examination of the law relative to this matter, led us to feel that the City of Baltimore would be exempt from this tax under Article 81, Section 9 (1) of the Code. Although there are not any specific exemptions spelled out for anyone from pay-