

December 16th, 1932

R. E. Lee Marshall, Esq.,  
City Solicitor.

In re: File No. 60245 - Estate of Hyman  
Rosenthal - Equitable Trust Company  
and Isaac C. Rosenthal, Executors.

Dear Mr. Marshall:

Mr. Due has requested me to examine the law to determine whether or not leasehold properties constituting part of the estate of a decedent are in custodia legis while the estate is being administered in the Orphans' Court of Baltimore City, and therefore not affected by the statute of limitations with respect to the collection of taxes due thereon. I understand that the Equitable Trust Company has made inquiry regarding this point.

Upon examining the authorities, I fail to find any reported case involving the question of the running of the statute of limitations where the property involved is sought to be sold for taxes, while it is subject to the jurisdiction of the Orphans' Court. The case of Lang, et al., vs. Wilmer, 131 Md. 215, at 227, states that the statute of limitations begins to run as of the date of the judgment, and is not suspended by the death of the judgment debtor, and I am of the opinion that the statute of limitations, with respect to the collection of taxes by the City of Baltimore is not suspended by the death of the owner of the property, nor is it suspended while the property is being administered by an executor under the jurisdiction of the Orphans' Court.

The Orphans' Court of Baltimore City has only limited jurisdiction, as provided by Article 93, Section 271, of the Code, and there is nothing in the Code that would indicate that the statute of limitations would be suspended while any property is under the control of the Orphans' Court.

I might add that this case was referred to this office on December 1st, 1932, by Mr. Charles E. Bishy, Supervisor of Collections, and handled at the time by Mr. J. Francis Ireton, Assistant City Solicitor. Mr. Ireton also examined the law regarding the question of whether or not the properties here involved were in custodia legis. He also discussed this matter with Judge Galloway of the Orphans' Court, who advised Mr. Ireton that the property was not in custodia legis, and that the statute of limitations was not suspended while the properties were