

Mr. Howard C. Beck, Jr., City Auditor (continued)

It further appears that these properties which were being newly constructed had not been furnished with proper sewer connections by the City of Baltimore as of October 1, 1958, and even as of this present time the properties are without sewer connections. Due to the fact that the property owner was sent a defective notice of assessment, in that the proper legal notice was not afforded the property owner, and due to the fact that the properties were not properly connected to a City sewer system and should not have been assessed in the first instance, the Department of Assessments abated the taxes on said properties for the year 1959.

It also appears that through an oversight, tax bills were sent out to the property owner, which is a corporation, and a clerk in the owner's office paid them in a routine fashion along with other tax bills forwarded to the corporation. The owner has now applied for a refund of the taxes paid because of the defective notice and the failure of the City to provide proper sewerage connections.

We further understand that the Department of Assessments has authorized the refund requested but that your office has delayed processing the refund until this office renders an opinion as to the power of the Department of Assessments to abate the taxes and authorize the refund.

Section 214 of Article 81 of the Annotated Code of Maryland, 1957 edition, provides as follows:

"Whenever any person shall claim to have erroneously or mistakenly paid to * * * the Mayor and City Council of Baltimore, or the collector for Baltimore City, more money for ordinary * * * City taxes than was properly and legally chargeable to or collectible from such person, he may file with * * * the Appeal Tax Court in Baltimore City a written application for the refund thereof, and if approved by such * * * Appeal Tax Court the * * * Mayor and City Council of Baltimore shall levy and pay to such person any money that was so paid. No refund shall be made or approved in any case where it appears that the assessment upon which such taxes were levied and collected has become final and has not been modified on appeal as provided in this article, and the only basis for the refund is a claim that such assessment was erroneous or excessive. Such claim for refund shall be in such form, verified in such manner, contain such information and be supported