

Mr. William M. Kinnersley, Jr., Superintendent
of Receipts (continued)

Baltimore County and Baltimore City was first recorded in Baltimore County and approximately ten days later was recorded in Baltimore City. However, before the mortgage was recorded in Baltimore City there was affixed to the instrument Baltimore City recordation tax stamps having a value of \$99.00.

The tax became effective on January 1, 1961, and is imposed upon every instrument of writing conveying title to real or personal property or creating liens or encumbrances upon such property, with certain exceptions not involved in this matter.

However, Section 101 (j) of Ordinance No. 572 provides that:

"Any instrument, or counterpart of any instrument, previously recorded, may be recorded in Baltimore City, or in more than one place in the records of Baltimore City, without the payment of a tax." (Underscoring supplied)

Inasmuch as the mortgage was recorded in Baltimore County before it was recorded in Baltimore City, and both recordings took place after January 1, 1961, we are of the opinion that it was not necessary to affix to the instrument Baltimore City recordation tax stamps.

Section 31 of Article 37 of the Baltimore City Code (1950) provides, in part, that:

"It shall be the duty of the Board of Municipal and Zoning Appeals in all cases, * * * to examine into all claims for a return of taxes alleged to have been paid in error, and upon presentation by any claimant of a cancelled check, money order, receipt, approved bond or other satisfactory evidence, it shall clearly appear to the Board of Municipal and Zoning Appeals that such claim or claims is or are just and well founded, that such taxes have been paid erroneously, the Board shall direct the Bureau of Receipts by order or orders in writing to refund or repay the same and shall reject all such claims as may be considered doubtful or not well founded; provided that the said application shall be filed within three (3) years from the date of the pay-