FILE NO. 74546   July 6, 1942

F. Murray Benson, Esq.
City Solicitor
217 Court House

Dear Mr. Benson:

On June 22, 1942, I submitted an opinion in the matter of the
request of Mr. Frank Markiewicz, agent for the Polish Falcons of America, Inc., for a
refund of $25.00 for a special license issued by the Clerk of the Court of Common
Pleas, to sell beer on the premises known as the 3700 block of East Monument Street.
I therein concluded that under the law, Article 2B, Section 23 of the Annotated Code
of Maryland (1939 Edition), as amended by Chapter 849 of the Acts of 1941, there is no
authority to grant this request for a refund as the same did not come within any of
the provisions of the law authorizing a refund.

You have asked me to investigate this matter further and reconsider
the same. It now develops that the license in question was authorized by the Liquor
Board, in error. On May 16, 1942, Mr. James D. Shea, Secretary of the Liquor Board,
seems to have recognized this, because he wrote to Mr. Herbert Fallin, Budget
Director, stating "that the issuance of this license was authorized by us but it later
developed that the club was not qualified for the type of license applied for, and it
was necessary for us to recall the license." Mr. Shea concluded this letter by re-
questing Mr. Fallin to refund to Mr. Markiewicz the $25.00 which he paid for the same.

If this matter is treated as a request for a refund, I am still of
the opinion that there is no authority to grant the same. However, it appears from
my investigation, and further consideration of this matter, that the error authorizing
the issuance of the license was that of the Liquor Board and not the applicant. The
City, therefore, has in its possession money to which it is not entitled; and the
question now resolves itself whether the Board of Estimates will as a matter of simple
equity give back to the applicant the $25.00 for the license erroneously authorized
by the Liquor Board.

Under the circumstances, I have reconsidered the matter and I am of