

Charles E. Bichy, Esq., Deputy Collector (cont'd)

OPINION

In my opinion, it is not necessary for the Consolidated Gas, Electric Light & Power Company of Baltimore, or the Court Square Building, Incorporated, to obtain a license, pursuant to Ordinance No. 534, approved July 17, 1941, for their respective lots.

REASON FOR OPINION

At the 1941 Session of the General Assembly of Maryland, certain sources of revenue heretofore used by the State of Maryland, were allocated to the City of Baltimore. In furtherance of this change in policy, Chapter 467 of the Acts of 1941, eliminated "open air garages" from the provisions of Article 56, Section 264, of the Annotated Code of Maryland (1939 Edition). It was contemplated that the City of Baltimore would impose a license fee upon open air garages, and as a result of this legislation, Ordinance No. 534 was passed by the City Council. It is to be noted, that the language of Ordinance No. 534, follows precisely in every way (except for a new method of calculating the amount of license), that of Article 56, Section 264, which State law contained the same ambiguity in regard to applicability, as does Ordinance No. 534. The first sentence of both the Ordinance and the statute, recites that no person shall keep an open air garage "for the hire, storage, or sale of automobiles", until they have obtained a license. Both the Ordinance and the statute define an open air garage as "a place of storage for hire, or a place where is kept for hire, any automobile, locomobile, or any vehicle of any kind, the motive power for which shall be electric, steam, gas, gasoline, or any other motive power except animals and aircraft, whether such automobile, locomobile, or vehicles is kept therein permanently or temporarily". It is apparent from the above quotations, that the definition restricts the application of both the statute and the Ordinance to the storage of automobiles for hire, but the preliminary recital indicates a broader coverage, namely, open air garages "for the hire, storage, or sale of automobiles."

The questions presented by your letter of July 10, 1942, were raised by some Department of the City during the summer of 1941. At that time, at the request