

CITY OF BALTIMORE

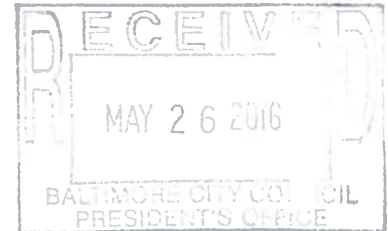
STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

GEORGE A. NILSON, City Solicitor  
101 City Hall  
Baltimore, Maryland 21202

May 26, 2016



The Honorable President and Members  
of the Baltimore City Council  
Attn: Natawna B. Austin, Executive Secretary  
Room 409, City Hall  
100 N. Holliday Street  
Baltimore, Maryland 21202

Re: City Council Bill 16-0651 – Property Tax Exemption – Community-  
Managed Open Space

Dear Mr. President and City Council Members:

The Law Department has reviewed City Council Bill 16-0651 for form and legal sufficiency. The bill exempts certain properties containing community-managed open space from the City's real property tax. It defines certain terms, sets requirements for properties to qualify for the real property exemption, and provides for a special effective date.

The State has given the Mayor and City Council of Baltimore City the power to exempt from local property tax any property owned by a community-managed open space management entity. Md. Tax-Prop. Code Ann. § 7-519(b). In providing for such an exemption, the City may enact regulations, procedures, and any other provision necessary to carry out the exemption. § 7-519(c).

Section 9-8(e) of the bill, found on page 3, lines 21-25, states that “a COSME acquiring land transferred to it from the City must include language in any deed for property exempted under this provision that grants the City a right of first refusal for the land in the event that the COSME seeks to sell or transfer the land.” A right of first refusal to purchase property is commonly known as a “preemptive right.” *Ayres v. Townsend*, 324 Md. 666, 674-75 (1991). It is an “an interest in property, and not merely a contractual right, whereby the preemptor acquires an equitable right in the property, which vests only when the property owner decides to sell.” *Id.* Some rights of first refusal permit the owner of the right to purchase property at a fixed price if the property owner should choose to sell, while other types permit the purchase at market rate, or at a price equal to any bona fide offer that the owner wishes to accept. 19A M.L.A., Sales of Realty § 5. This bill requires only that “language” regarding the right of first refusal be included in the deed. Since the right of first refusal is an agreement between the parties, its terms must be reviewed and approved by the appropriate City representative when the

*F w/ amendment*

property is transferred to the COSME. *See David A. Bramble, Inc. v. Thomas*, 396 Md. 443, 456 (2007) (“A right of first refusal is an agreement between the property owner (“grantor”) and a holder (preemptioneer”) whereby the receipt of an offer from a third-party purchaser to buy the subject property “triggers” the right of first refusal which, in turn, “ripens” into an option to buy on part of the pre-emptioneer.” **Therefore, the Law Department recommends an amendment to insert “approved by the Department of Real Estate in the Comptroller’s Office or the Board of Estimates per Article 5, Subtitle 17 of the Baltimore City Code,” after the word “language” on page 3, line 23.**

Council Bill 16-0651 is the appropriate vehicle for carrying out the exemption. Therefore, with the recommended amendment, the Law Department approves the bill for form and legal sufficiency.

Sincerely,



Jennifer Landis  
Assistant Solicitor

cc: George Nilson, City Solicitor  
Angela C. Gibson, Mayor’s Legislative Liaison  
Elena DiPietro, Chief Solicitor, General Counsel Division  
Hilary Ruley, Chief Solicitor  
Victor Terval, Chief Solicitor