

August 16, 2012

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

Re: City Council Bill 12-0061R – Investigative Hearing – Fire Department –  
Company Closures and the Comprehensive Fire Protection Plan

Dear President and City Council Members:

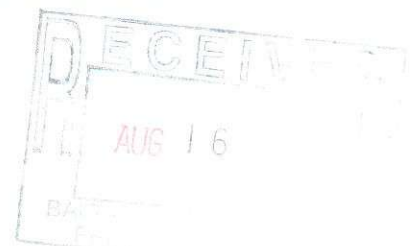
The Law Department has reviewed City Council resolution 12-0061R for form and legal sufficiency. This resolution discusses fire company closures and the Comprehensive Fire Protection Plan (the “Plan”). It also requests that the Fire Chief, Director of Finance and the City Solicitor report to the City Council on these matters.

It should be noted that the Fire Department can close fire companies without regard to the Plan. The Fire Chief is given the power, by Charter, to “supervise and direct” all operations of the Fire Department. Charter, Art. VII, § 48(a).

Although Article 9 of the City Code mandates that the Board of Fire Commissioners (the “Board”) present the Plan (which can only be amended after a hearing), that Plan is only required to be followed by the Board, it does not bind the Fire Chief. Code, Art. 9, § 2-4(1). Therefore, whatever the Plan says about company closures is not binding on the Fire Chief, who can act regardless of the Plan.

The Board of Fire Commissioners has specific duties as outlined in the Charter. Charter, Art. VII, § 51. Most of the Board’s duties concern internal department discipline and appeals for grievances. *Id.* Although the Board does have the duty to advise the Fire Chief, there is no corresponding duty of the Fire Chief to follow the Board’s recommendations. *Id.* at § 51(a).

Nevertheless, even if the Fire Chief intended to be bound by the Plan with respect to closures, the Plan is only required to contain proposed closures and criteria that the Board will use to recommend future closures. Code, Art. 9, § 2-2. Thus, it is certainly possible that a closure would be in accordance with any recommendation that the Board would make pursuant to its listed criteria, and that such closure may not necessitate any amendment to the Plan.



Finally, recently introduced legislation, City Council Bill 12-0115, proposes to modify the City Code to have the Plan be drafted by the Fire Chief and be binding on him. If passed, this bill would affect the procedure for plans to close fire companies.

Since a resolution of the City Council is typically used to address matters of concern to the City or policy matters that impact the City but are outside of the realm of the City Council's authority to act, City Council Bill 12-0061R is the appropriate manner in which to discuss this topic. *See, e.g., Inlet Assocs. v. Assateague House Condominium*, 313 Md. 413, 428 (1988) (quoting *McQuillin Mun. Corp.* § 15:2 (3rd Ed.))(resolutions such as the one embodied in this bill are "an expression of opinion or mind concerning some particular item of business coming within the legislative body's official cognizance..."). The Law Department, therefore, approves the resolution for form and legal sufficiency.

Very truly yours,



Hilary Ruley  
Assistant Solicitor

cc: George Nilson, City Solicitor  
Angela C. Gibson, Mayor's Legislative Liaison  
Elena DiPietro, Chief Solicitor  
Ashlea Brown, Assistant Solicitor  
Victor Tervalva, Assistant Solicitor