
CITY OF BALTIMORE

BRANDON M. SCOTT,
Mayor



DEPARTMENT OF LAW
EBONY M. THOMPSON,
ACTING CITY SOLICITOR
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BALTIMORE, MD 21202

April 3, 2024

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

Re: City Council Bill 23-0395 – Air Rights – Closing – A Portion of Newkirk
Street

Dear President and City Council Members:

The Law Department reviewed City Council Bill 23-0395 for form and legal sufficiency. The bill would allow the City to close the air rights over a portion of the public right of way of Newkirk Street as shown on a plat numbered 337-A-29A, filed with the Department of Transportation. The ordinance would take effect on the date of enactment.

Section (34) of Article II of the City Charter grants the Mayor and City Council the power to “construct, open, extend, widen, straighten or close streets, bridges, tunnels or approaches to them and other public ways of every kind within the bounds of the City.” Generally, “ownership of space above lands and waters is vested in the owners of the surface.” *See, e.g., Macht v. Department of Assessments*, 266 Md. 602, 604 (1972). Section 116(b)(2) of Article VII of the City Charter requires that the Department of Transportation prepare all ordinances for the opening and closing of streets. Therefore, this bill is the appropriate method to effectuate the closing of the air rights over the street. The Law Department approves Council Bill 23-0395 for form and legal sufficiency.

Very truly yours

A handwritten signature in cursive script, appearing to read "Michele M. Toth".

Michele M. Toth
Assistant Solicitor

cc: Nina Themelis
Tiffany Maclin
Stephen Salsbury
Elena DiPietro
Hilary Ruley
Ashlea Brown