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CITY OF BALTIMORE

BERNARD C. "JACK" YOUNG  
Mayor



DEPARTMENT OF LAW  
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September 9, 2020

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 19-0433 – City Streets – Opening – Air Rights over a  
Portion of the Public Right of Way of the 200 Block of North Broadway

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 19-0433 for form and legal sufficiency. The bill would allow the City to open the air rights over a portion of the public right of way of the 200 block of North Broadway.

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. Thus, this is the appropriate bill to effectuate the opening of the air rights over the street. The Law Department approves it for form and legal sufficiency.

Sincerely,

Ashlea Brown  
Assistant Solicitor

cc: Dana Moore, Acting City Solicitor  
Matt Stegman, Mayor’s Legislative Liaison  
Caylin Young, President’s Legislative Director  
Elena DiPietro, Chief Solicitor, General Counsel Division  
Hilary Ruley, Chief Solicitor  
Victor Terval, Chief Solicitor