



March 4, 2010

The Honorable President and
Members of the Baltimore
City Council
c/o Karen Randle, Executive Secretary
409 City Hall
Baltimore, MD 21202

Re: City Council Bill 08-0055 - Charter Amendment – Sustainability Funds
Proposed Amendments

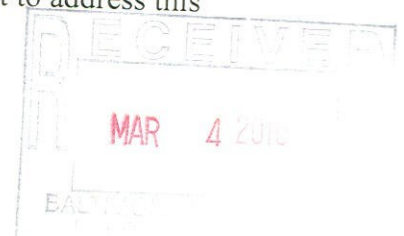
Dear President and Members

The Law Department as reviewed the amendments proposed by Councilman Kraft to City Council Bill 08-0055. The amendments expand the scope of the fund to allow it to be used, in addition to sustainability activities, for maintaining and establishing parks and other open spaces and cleaning and preserving the natural environment in the City.

The Law Department's first concern about the bill (see Report of the Law Department dated April 22, 2008) has been addressed by the amendments that more clearly define the uses of the fund and that strikes the general language on page 2, line 2. The Law Department recommends that due the deletion of page 2, line 2 that the language "and for related purposes" on page 1, line 5 be stricken as well.

The Law Department's second concern has also been addressed by the removal of the language page 2, lines 7-8. This portion of the bill appears to authorize the City Council to, by ordinance, dedicate the proceeds from fines, fees and programs to a sustainability fund. The language can be interpreted as giving the City Council the authority to designate the proceeds from any fines, fees or programs collected by the City to such a fund. This authority would conflict with the power of the Board of Estimates to prepare the Ordinance of Estimates which provides for the financial needs of City agencies and programs for the fiscal year and for the source of funds to meet those needs. As already stated in the bill, money can be appropriated for a sustainability fund in the annual Ordinance of Estimates. To allow the City Council to enact an ordinance diverting funds which are already dedicated to another City agency or program under the Ordinance of Estimates to a sustainability fund will create a deficit in the account to which the money was originally appropriated. Depending on the availability of surplus funds, the City may or may not be able to remedy such a deficit. The amendment is sufficient to address this problem.

F/A



Amendments CC08-0055

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If the amendments are approved, the Law Department would approve the City Council Bill 08-0055 for form and legal sufficiency.

Sincerely yours,



Elena R. DiPietro

Chief Solicitor

cc: Honorable James B. Kraft
Angela Gibson, City Council Liaison
George A. Nilson, City Solicitor
Hilary Ruley
Ashlea Brown