

CITY OF BALTIMORE

SHEILA DIXON, Mayor



DEPARTMENT OF LAW

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

August 26, 2008

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 08-0181 – Environmental and Civil Citations – Building
Code Notices – Service

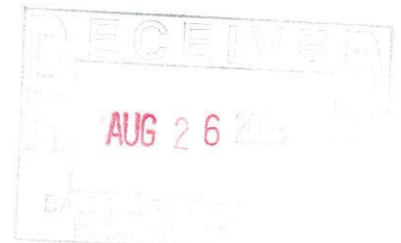
Dear Madame President and City Council Members:

The Law Department has reviewed City Council Bill 08-0181 for form and legal sufficiency. In addition to clarifying existing language, the bill would require service by regular mail and certified mail for environmental and civil citations and International Building Code notices under sections 40-7(c) and 41-6(a) of Article I and section 2-103 of the Building, Fire and Related Codes Article of the Baltimore City Code, respectively.

As written, this bill does not have the clarifying language, “restricted delivery” after the word “certified mail” in any of the sections. Service by certified mail should be by “restricted delivery” because that insures that the mail is only delivered to the named recipient. Certified mail alone, without “restricted delivery” is certified by the post office as having been delivered to the listed address, not as having been delivered to a particular recipient at that address. See <http://www.usps.com/send/waystosendmail/extraservices/certifiedmailservice.htm> (explains that restricted mail is delivered only to the named individual, and a return receipt shows who actually signed for the mail). In Maryland, service of process by certified mail without restricted delivery is insufficient. *Quann v. Whitegate-Edgewater*, 112 F.R.D. 649 (D. Md. 1986)(Maryland District Court construing Maryland state law held that certified mail without restricted delivery is not sufficient service under Maryland Rule 2-121(a)); see also Md. Rule 2-121(a)(service of process proper by three methods, one of which includes mailing by certified mail requesting: “Restricted Delivery – show to whom, date, address of delivery.”).

Therefore, the Law Department does not approve the bill as written. However, the Law Department will approve the bill if the words “Restricted Delivery” are placed after the term “certified mail” in each instance. A proposed amendment effectuating this change is enclosed. Subject to the suggested amendment, the Law Department approves City Council Bill 08-0181 for form and legal sufficiency.

F/A



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Very truly yours,



Hilary Ruley
Assistant Solicitor

Enclosure

cc: George Nilson, City Solicitor
Angela C. Gibson, Mayor's Legislative Liaison
Elena DiPietro, Senior Solicitor
Deepa Bhattacharyya, Assistant Solicitor
Ashlea Brown, Assistant Solicitor

CITY OF BALTIMORE
COUNCIL BILL 08-0181
(First Amendment)

On page 2, Section 40-7 (c) (Environmental Citations), line 9, after “certified mail” insert “–RESTRICTED DELIVERY;”

On page 2, Section 41-6 (a) (Service; copies), line 23, after “certified mail” insert “–RESTRICTED DELIVERY;”

On page 3, Section 123 (Notices), line 14, after “certified mail” insert “–RESTRICTED DELIVERY;”