

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

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

August 3, 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 12-0075 – Tax Credits – Information to Owners of Residential Property

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 12-0075 for form and legal sufficiency. This bill seeks to require that sellers of residential real property in the City provide to a buyer of that property, at or before closing a list of potential residential real property tax credits. The bill also requires that the Department of Finance make public on a website a list of such credits, and update the list periodically. This list supplied by the Department of Finance is the list that buyers are supposed to supply to sellers at or before closing.

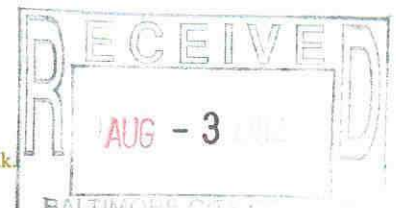
Although the Department of Finance can agree to make such a list available on a website, this bill's disclosure requirement is preempted by the Maryland Public Information Act, codified in sections 10-611, *et seq.* of the State Government Article of the Maryland Code (hereinafter "MPIA"). The MPIA defines document to include any information "in any form, including," "a computerized record" and lists of government information. *See* MPIA §10-611(h). The Attorney General has made clear that the MPIA occupies the entire field of law concerning any state or local government's release of documents to the public. *See, e.g.*, 86 Md. Op. Ag. 94, 107 (2001)(municipalities cannot create laws that determine what information is available to the public because, "a contrary interpretation 'would allow...local entities at their election to undermine the [PIA]. ... [H]ad the General Assembly intended to give this effect to a ... local ordinance, [local ordinances] would have been included in the list in SG §10-615...'")(citing Office of the Attorney General, Public Information Act Manual 15 (8 ed. 2000); 71 Opinions of the Attorney General 297, 299-300 (1986)). Thus, the City is expressly prohibited from making a law concerning publishing government information because there is a clear "legislative purpose to preempt [this] entire field of law." *Talbot County v. Skipper*, 329 Md. 481, 488 (1993); *see also Allied Vending v. Bowie*, 332 Md. 279, 297 (1993).

Therefore, the bill should be amended to reflect that such a list, if voluntarily posted by the Department of Finance, must be given to buyers by sellers at or prior to the closing of the

F/A



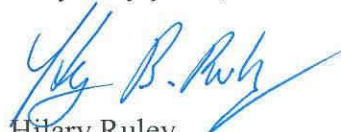
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sale of residential real property. Proposed amendments that can effectuate the necessary change are attached to this report.

Provided the bill is amended as stated herein, the Law Department can approve this bill 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, Special Assistant Solicitor
Victor Tervalo, Assistant Solicitor

**CITY OF BALTIMORE
COUNCIL BILL 12-0075
(Amendments)**

On page 1, in line 3, strike “the Department of Finance” through “requiring”

On page 1, in line 5, strike “that” and substitute “CERTAIN TAX CREDIT”

On page 1, in line 5, after “buyer” insert “IF THE DEPARTMENT OF FINANCE MAKES SUCH INFORMATION AVAILABLE ON A WEBSITE”

On page 2, in line 28, strike “to” and substitute “may”

On page 3, in lines 1, 4 and 13, strike “shall” and substitute “may”

On page 3, in line 24, strike the period and insert “IF SUCH A LIST IS POSTED AS OF MIDNIGHT THE NIGHT BEFORE THE CLOSING.”