

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

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

April 12, 2010

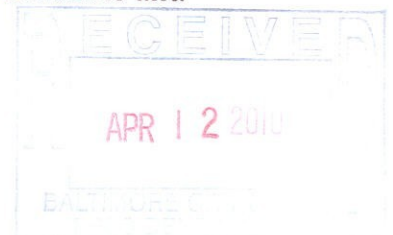
The Honorable President and Members
of the Baltimore City Council
Attn: Karen Randle, Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 10-0475 – Bed Capacity Fee

Dear Mr. President and City Council Members:

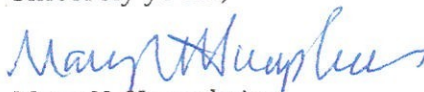
You have asked the Law Department to review City Council Bill 10-0475 for form and legal sufficiency. The bill adds sections 30-1 through 30-13 to Article 28 of the City Code to impose a \$350 tax on every overnight accommodation a private, post-secondary educational institution makes available to a student and on every bed licensed under title 19 of the State Health General Article to a hospital, if the educational institution or hospital is not subject to City property taxes. Covered institutions must file an annual report and pay the tax by November 1 of each year. Failure to pay the tax may result in assessment of interest and penalties, constitutes a lien on the property of any person liable for their payment, and is a misdemeanor. The Director of Finance has the authority to adopt rules and regulations to implement the bill.

The State of Maryland has granted the Mayor & City Council of Baltimore broad taxing powers. Article II, Section 40 of the Baltimore City Charter gives the City the power "to have and to exercise, within the limits of Baltimore City, in addition to any and all taxing powers heretofore granted by the General Assembly of the Maryland to the Mayor and City Council of Baltimore, the power to tax to the same extent as the State of Maryland has or could exercise said power within the limits of Baltimore City as a part of its general taxing power; and to provide by ordinance for the imposition, assessment, levy and collection of any tax or taxes authorized by this subsection; and from time to time to grant exemptions and to modify or repeal existing or future exemptions...." The Mayor and City Council has exercised this power by enacting numerous tax provisions. While local governments are generally prohibited from enacting sales tax measures, an excise tax is within the broad taxing powers of the City. § 11-102(a) of the Tax General Article. The tax proposed in Bill 10-0475 -- a tax on the privilege of offering overnight accommodations to students and patients -- is a valid excise tax.



The Law Department approves Bill 10-0475 for form and legal sufficiency.

Sincerely yours,



Mary N. Humphries
Chief Solicitor

cc: Honorable Jack Young
Angela Gibson, City Council Liaison
George A. Nilson, City Solicitor
Ashlea Brown, Assistant Solicitor
Hilary Ruley, Assistant Solicitor
Terese Brown, Assistant Solicitor