

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

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

April 4, 2014

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 14-0319 – Franchise – Baltimore Red Line

Dear Mr. President and City Council Members:

The Law Department has reviewed City Council Bill 14-319 for form and legal sufficiency. The bill grants franchise rights to the Mass Transit Administration of the Department of Transportation of the State of Maryland for the location, construction, operation, and maintenance in good condition of a Red Line Light Rail System within the boundaries of the City of Baltimore. It sets the terms, conditions, and requirements of the Mayor and City Council pertaining to the location, construction, operation, and maintenance. It authorizes the Mass Transit Administration to make use of streets and other public areas within the City of Baltimore for these purposes, in accordance with the attached plat as prepared by the Mass Transit Administration of the Department of Transportation of the State of Maryland and filed with the Department of Transportation of the City of Baltimore. The bill provides for a special effective date.

The Law Department's concern with this bill focuses on charter requirements for granting franchises. The bill as drafted omits provisions to fix the amount of compensation to be paid the City for use of its public property as required by Article VIII, Section 2 of the City Charter. Section 2 states that the ordinance shall contain "a provision as to the rates, fares and charges, if the grant provides for the charging of rates, fares or charges" and that the Board "shall make diligent inquiry as to the money value of said franchise or right proposed to be granted and the adequacy of the proposed compensation to be paid therefor to the City." The bill as drafted also omits the duration of the franchise, which Article VIII, Section 3 of the City Charter limits to a term of no longer than 25 years. Finally, the bill refers to a plat that describes the locations of the streets and public areas affected by the franchise, but the date of the plat is omitted. The Law Department believes the date should be referenced and the plat should be available to the public in an easily accessible location.

Provided the bill is amended to include the absent provisions, the Law Department will approve the bill for form and legal sufficiency.

F/A



Sincerely,



Victor K. Tervala
Chief Solicitor

cc: George Nilson, City Solicitor
Angela C. Gibson, Mayor's Legislative Liaison
Elena DiPietro, Chief, Opinions & Advice
Hilary Ruley, Chief Solicitor
Jennifer Landis, Assistant Solicitor

**AMENDMENTS TO COUNCIL BILL 14-0319
(First Reader Copy)**

By: At the Law Department's request
{To be offered to the Housing and Community Development Committee}

Amendment No. 1

On page 1, in line 10, after "dated", insert "December 2013"; on page 1, in line 14, after "Article", insert "§ 7-208"; and, on the same page, in line 21, strike "a" and substitute "an approximately".

Amendment No. 2

On page 2, in line 28, after "plat", insert "dated December 2013"; on page 2, in line 29, strike "filed" and substitute "and available to be viewed"; and, on the same page, in lines 29 and 30, strike "on January 13, 2014".

Amendment No. 3

On page 4, after line 8, insert

"SECTION 5. AND BE IT FURTHER ORDAINED, That as compensation for the Franchise, the MTA shall pay to the Mayor and City Council of Baltimore a franchise charge of \$ _____ a year. The franchise charge must be paid annually. The term of the Franchise is 25 years, commencing on the effective date of this Ordinance."

Amendment No. 4

On page 4, in lines 9, 17, and 22, strike "5", "6", and "7", respectively, and substitute "6", "7", and "8", respectively.