

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

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

June 18, 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 12-0069– Real Estate Transactions – Disclosure of  
Heavy-Industrial and Railroad Operations

Dear President and City Council Members:

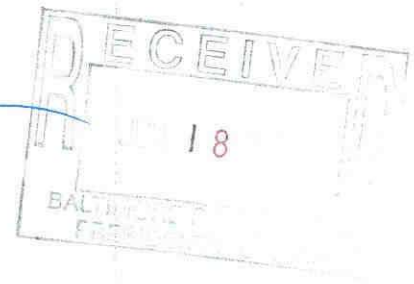
The Law Department has reviewed City Council Bill 12-0054 for form and legal sufficiency. The bill would add several sections to the City Code on Consumer Protections that would require a seller of real property to inform a buyer that the property may be near an M-3 zone or a railroad operation. The buyer is to be referred to Baltimore's CityView website for more detailed information on location. The notification must be made on or before entering into a contract of sale for the property.

The City has the general police and welfare powers to legislate in this area. *See* City Charter, Art. II, §§27, 47. This allows the City "to prescribe, within the limits of the federal and state constitutions, reasonable regulations necessary to preserve the public order, health, safety, or morals." *Tighe v. Osborne*, 149 Md. 349, 356 (1925). One such limit is the constitutional right to be free from burdens on contract. "Freedom of contract is subject to legislative regulation in the interest of public health, safety, morals or welfare. But such legislation must not be unreasonable, arbitrary, or capricious, and the means selected must have a real and substantial relation to the object sought to be attained." *Maryland Bd. of Pharmacy v. Sav-A-Lot, Inc.*, 270 Md. 103, 119-120 (1973)(citation omitted); *see also VNA Hospice v. Dep't of Health & Mental Hygiene*, 406 Md. 584, 601 n.8 (2008). This law avoids a general impairment of the right to freedom of contract by having the disclosure come on or before entering the contract, rather than being a required term in the contract.

The Law Department approves the 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, Assistant Solicitor  
Victor Tervalva, Assistant Solicitor