

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

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

June 21, 2016

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

Re: City Council Bill 16-0679 – Street Encroachment – 201 North Schroeder Street

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 16-0679 which is for the purpose of authorizing a street encroachment on the right-of-way at 201 North Schroeder St.

Generally, projections into the right-of-way would require a franchise or minor privilege. Art. VIII, §3, however, provides that “the right to use the streets, or other public property, by any person for steps, porticoes, bay windows, bow windows, show windows, signs, columns, piers, or other projections or structural ornaments of any character except so far as the same may be prohibited by law, and covered vaults, covered areaways, drains, drainpipes, or any other private purpose not prohibited by law or ordinance and not being a franchise or right requiring a formal grant by ordinance, may be granted by the Board of Estimates for such an amount of money and upon such terms as the said Board may consider right and proper without the necessity of an ordinance or advertising. The applicant for any such right shall make written application therefor to the Board of Estimates, stating therein the use desired and the amount he proposes to pay therefor. Before filing the application with the Board of Estimates, the applicant shall serve copies thereof on the owners of the adjoining properties. The use applied for shall be enjoyed only on the payment of the consideration fixed by said Board and on the terms and conditions prescribed by it in writing, which terms and conditions, including the consideration charged therefor, may be changed from time to time by the Board”

This language would relieve the applicant from the franchise ordinance requirement, if the projection satisfies the criteria in the Charter. City Council 16-0679 provides that the

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encroachment cannot be more than 4 feet into the right-of-way. If this type of encroachment satisfies the Charter requirements and can be approved by the Board of Estimates then the Charter provision above is applicable and the applicant must follow the Board of Estimates process for approval.

The Baltimore City Building Code, however, has an additional requirement. §3201.3.1 provides that no person may encroach on a public right-of-way without first obtaining permission by ordinance, minor privilege or other appropriate permit form the Department of Transportation. This bill is the appropriate method to comply with this requirement.

Provided that the provisions of the Charter, Art. VIII, §3 are complied with, the Law Department can approve Council Bill 16-0679 for form and legal sufficiency.

Sincerely,



Elena R. DiPietro
Chief Solicitor

cc: George Nilson, City Solicitor
Angela C. Gibson, Mayor's Legislative Liaison
Hilary Ruley, Chief Solicitor
Victor Tervalá, Chief Solicitor
Jennifer Landis, Assistant Solicitor