

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

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

May 16, 2012

Honorable President and Members
of the City Council of Baltimore
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Attn: Karen Randle Executive Secretary

Re: City Council Bill No. 12-0037 – Charles Village Community Benefits
District Management Authority- Council Representative on the
Authority Board

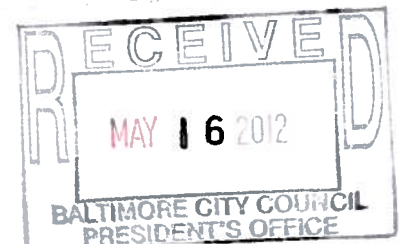
Dear President and City Council Members:

You have requested the advice of the Law Department regarding City Council Bill 12-0037. Bill 37 seeks to amend Article 14, Section 6-6€ of the Baltimore City Code to clarify that the Council members appointed to the Board are voting members of the Board.

Art. II, Sec. 63(c)(4) of the Charter requires that voting members of the Board be eligible to vote under subsection(k) of Sec. 63. Subsection (k) gives the City Council authority to provide for eligibility requirements. Art. 14 Sec 6-15(b) of the City Code establishes the criteria as either owning property in the district that is subject to the tax or being registered to vote in the district.

The City Council also has the authority under Sec. 63(c) to determine the membership of the Board. It exercised that authority by enacting Art. 14, Sec 6-6 which provides for a Board of 14 to 27 members. The minimum requirements for the Board's composition are 1 voting member appointed by the Mayor, 2 members appointed by the President of the City Council (no designation as to voting or non-voting), at least 8 voting members from certain named constituent organizations and at least 6 voting members for another group of named constituent organizations. In addition, the Board may contain 6 more non-voting members from various organizations and 4 at-large voting members. Overall, the Board must have a majority of members that are property owners who are subject to the tax.

Unlike all the other designated Board members, the City Councilmembers are not designated as voting or non-voting. Since the President can appoint any councilmember to these positions, it is possible that the appointees would not be eligible to be voting members. It is possible that this is the reason that the council member appointees were not designated as voting or non-voting in the Code. If the President chooses to appoint council members that are property owners who are subject to the tax or are registered voters in the district, they can be voting members of the Board.



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City Council Bill 12-0037 clarifies the voting status of the City Council members as voting members of the Board. Art. 14, Sec. 6-7(g) of the City Code states that the Board may adopt such bylaws, rules, and regulations as it deems necessary in carrying out the powers of the Authority, so long as the same shall not be inconsistent with the terms of this subtitle or of any ordinance amendatory or supplementary hereof or of the Enabling Legislation. If City Council Bill 12-0037 passes and provides that the City Council members of the Board shall be voting members of the Board, the by-laws cannot contradict the ordinance.

If the intent of the bill is to allow any Council member to be a voting member of the Board regardless of whether they own property that is subject to the tax or are registered to vote in the District, an amendment to Section 6-15 would be appropriate to clarify that the voting rights of the Council member appointees are not subject to those requirements. No amendment is necessary if the intent is to appoint Council members who meet those eligibility requirements. The bill is consistent with the authority of the City Council. Accordingly, the Law Department approves City Council Bill 12-0037 for form and legal sufficiency.

Sincerely yours,



Elena R. DiPietro
Chief Solicitor

cc: George A. Nilson, City Solicitor
Angela Gibson, City Council Liaison, Mayor's Office
Hilary Ruley
Ashlea Brown
Victor Tervala