



BALTIMORE HOUSING

SHEILA DIXON
Mayor

PAUL T. GRAZIANO
Executive Director, HABC
Commissioner, HC'D

MEMORANDUM

To: The Honorable President and Members of the Baltimore City Council
c/o Karen Randle, *Executive Secretary*

From: Paul T. Graziano, *Commissioner*

Date: September 30, 2009

Re: **City Council Bill 09-0387 - Zoning - Conditional Uses - Suspension, Revocation, etc.**

The Department of Housing and Community Development (DHCD) has reviewed City Council Bill 09-0387, which was introduced for the purpose of authorizing the non-renewal, modification, suspension, or revocation of a conditional use for failure to comply with a condition, restriction, or limitation imposed on that use; providing for the automatic lapse of a conditional use that has been discontinued for a certain continuous period; authorizing the grant of a conditional use subject to a time limit and periodic renewal; and generally relating to the imposition and enforcement of conditions, restrictions, and limitations on conditional uses.

This proposed legislation would permit the City Council and/or the Board of Municipal and Zoning Appeals (BMZA) to establish periodic renewal requirements when granting a conditional use for a specific property. Further, the legislation would authorize the BMZA to revoke or opt to not renew a property's conditional use if the Board finds that the applicant has been in substantial or repeated violation of the restrictions, conditions, or limitations that were imposed at the time that use was granted.

The Zoning Administrator believes that a revocation process is an essential tool in order to put teeth in the enforcement of conditional use restrictions. City Council Bill 09-0387 would create an administrative remedy to abate the nuisance of property owners and operators that exceed or defy the very limitations placed upon them to safeguard the surrounding community. However, we recommend that the bill be amended to provide a mechanism for neighboring property owners and community residents the ability to directly petition the BMZA for a review hearing.

DHCD also requests that §14-502 and §14-503(A) of the bill be amended to remove the requirement that the Zoning Administrator must attempt an informal resolution of the violation prior to issuing a notice of proposed revocation. It is the regular practice for the Zoning Administrator to attempt to resolve these issues

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informally, but we do not believe that this policy should be codified as it will potentially create administrative due process issues. We recommend that the Administrator issue a notice upon learning that there is a violation regardless of any informal discussions that may or may not occur.

The Department of Housing and Community Development supports the adoption of City Council Bill 09-0387 with amendments and will work with the Board of Municipal and Zoning Appeals to implement its provisions.

PTG:pmd

cc: Ms. Angela Gibson, *Mayor's Office of Government Relations*
Ms. Diane Hutchins, *Mayor's Office of Government Relations*
Mr. Andrew Frank, *First Deputy Mayor*
Mr. Geoffrey Veale, *Zoning Administrator*