
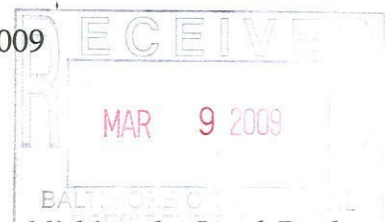


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| FROM | Name & Title | Joan M. Pratt, CPA, Comptroller <i>JM Pratt</i> | CITY OF BALTIMORE MEMO |  |
| | Agency Name & Address | Office of the Comptroller Room 204 – City Hall 100 N. Holliday Street | | |
| | Subject | City Council Bill 09-0261 | | |

To: Honorable President and Members
of the City Council
c/o Karen Randle, Executive Secretary
Room 409 – City Hall

Date: March 5, 2009



As requested, I have reviewed City Council Bill 09-216 for the purpose of establishing the Land Bank Authority of Baltimore City; providing for the Authority's powers, duties, and limitations; providing for a Board of Directors, for the selection and terms of the Board's members, and powers and duties of the Board; providing certain immunities; providing certain tax exemptions; and generally relating to the establishment and operation of a Land Bank Authority, as authorized by State law.

There is a need to diminish the blight in our City, to improve the viability of our neighborhoods and to create safe and affordable housing. Therefore, in concept some of the functions that a Land Bank Authority may perform have some appeal. However, the proposed City Council Bill raises several major concerns. Under Section 22-44 (B) the Land Bank Authority may acquire, hold title in its name, execute mortgages, leases, and convey to third parties without needing any approval of the Mayor and City Council, specifically, the City Council and the Board of Estimates.

It is the position of the Office of the Comptroller that Board of Estimates approval is necessary in order to preserve the checks and balances that are vital for accountability in government. By eliminating this step it strips both the Board of Estimates and the City Council of its fiduciary responsibility that the citizens have bestowed upon its elected officials to assure that our communities are developing, thriving and that the use of City resources have the most beneficial impact on the lives of our citizens.

If there is a Land Bank Authority the responsibilities of elected officials can not be abdicated to persons yet to be determined, who were not elected by the citizens of Baltimore to protect their interests. The recommendations of a Land Bank Authority, as with those of the Baltimore Development Corporation and the Parking Authority of Baltimore City, should require approval of the Board of Estimates. The activities of acquiring, disposing, foreclosing, mortgaging, deeding, leasing, abating or releasing liens or taking other actions pertaining to real property must continue in the purview of the Board of Estimates, if we are to exercise due diligence and maintain the public trust. Similarly, the Land Bank Authority should be not be allowed to by-pass the City Council in matters that require City Council approval.

This Bill in Section 22-55 (b) (2) only provides for the submission of an audit to the Board of Estimates by the Land Bank Authority and it fails to allow for an audit by the Department of Audits. Section 22-42 (11) allows the Land Bank Authority to contract with the City to provide acquisition, management and sales services. This provision would allow for further diminution of services that the City should be providing and further removal of transactions from review and approval by the City Council and the Board of Estimates.

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It was reported in the Baltimore Land Bank Authority Task Force Recommendations dated, 11/21/08 on page 7, that the fiscal impact of the creation of the Land Bank Authority will be "largely budget neutral". This is not plausible because the funds used will be City funds – funds from the Department of Housing and Community Development Land Resources and Disposition Division. This Division is being financially supported by sales proceeds – that is the proceeds from the sale of City owned properties. The acquisition pool that is recommended will also be from public funds. The use of public funds is not budget neutral. Given the current state of the economy, with real estates sales on the decline, the prudence of the enactment of a Land Bank Authority which will require City funding and the loss of revenue to the City is very questionable.

The Land Bank Authority, unlike the City will not be required to board and clean derelict buildings to preserve the public safety by preventing access to these buildings. Section 22-45 (6) of this Bill allows the Land Bank Authority to establish a for-profit LLC which could develop and market the properties and Section 22-53(B) allows the Land Bank Authority to retain all proceeds. This section further exemplifies the risks to the City. The City's assets and the interests of the citizens are at 100% risk, while the Land Bank Authority does not have any assets at risk. If the Land Bank Authority fails, the citizens will still look to the elected officials for not discharging their responsibilities under the City Charter. The City Charter created the Board of Estimates as the entity with fiscal oversight on behalf of the City of Baltimore.

Section 22- 32 (A) (1) states that the Authority is exempt from the requirement to pay State or Local taxes or assessments on the Authority's properties or on any revenue from those properties or activities. This will certainly result in the loss of tax revenue for the City of Baltimore. In addition, Section 22-50 (A) allows the Land Bank Authority with the approval of the Department of Finance to accept a deed on a tax delinquent property instead of foreclosing on the property for the delinquent taxes. This also has the potential for loss of significant taxes that would otherwise be due to the City of Baltimore. The powers that will be given to a Land Bank Authority will result in the total usurpation of the duty of the Board of Estimates to assure the fiscal prudence of transactions that may result in the loss of revenue to the City. A Land Bank Authority, as proposed will result in significant erosion in the responsibilities of the Board of Estimates and the City Council pertaining to real property, taxes and revenue.

The Office of the Comptroller does not support the passage of this Bill. It is not in the best interest of the City or the citizens of Baltimore.

cc: Ms. Angela C. Gibson