

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

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

March 20, 2015

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

Re: City Council Bill 15-0490 – City Streets – Opening – Air Rights over a
Portion of Lovegrove Street

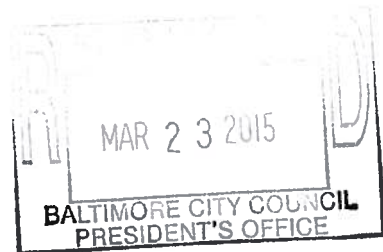
Dear President and City Council Members:

The Law Department has reviewed City Council Bill 15-0490 for form and legal sufficiency. The bill would allow the City to open the air rights over a portion of Lovegrove Street.

Section (34) of Article II of the City Charter grants the Mayor and City Council the power to “construct, open, extend, widen, straighten or close streets, bridges, tunnels or approaches to them and other public ways of every kind within the bounds of the City.” Generally “ownership of space above lands and waters is vested in the owners of the surface.” *See, e.g., Macht v. Department of Assessments*, 266 Md. 602, 604 (1972). Section 116(b)(2) of Article VII of the City Charter requires that the Department of General Services (“DGS”) prepare all ordinances for the opening and closing of streets. *See Ordinance 08-0003* (transferring this power to DGS from the Department of Transportation), approved by the voters. Thus, this is the appropriate bill to effectuate the opening of the air rights over the street. The Law Department approves it for form and legal sufficiency.

Very truly yours,

Hilary Ruley
Chief Solicitor



cc: George Nilson, City Solicitor
Angela C. Gibson, Mayor's Legislative Liaison
Elena DiPietro, Chief Solicitor, General Counsel Division
Victor Tervalá, Chief Solicitor
Jennifer Landis, Assistant Solicitor

