

CITY OF BALTIMORE

SHEILA DIXON, Mayor



DEPARTMENT OF LAW

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

March 30, 2009

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

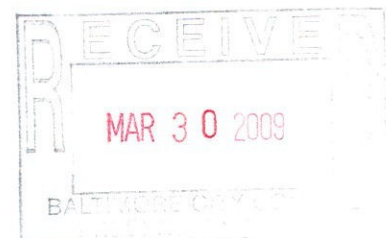
Re: City Council Bill 09-0301 – Property Tax – Partial Exemption for Aircraft  
Landing Strips and Areas

Dear Madame President and City Council Members:

The Law Department has reviewed City Council Bill 09-0301 for form and legal sufficiency. This bill would create an exemption to the City's property tax in Article 28 of the City Code. The exemption would be for any aircraft landing area that is located on private property, used by the public, licensed by the State Transportation Article and identified in the Maryland Aviation System Plan as essential to its air transportation system. Receipt of a local tax exemption is a prerequisite for a similar State tax exemption and for eligibility in a State Department of Transportation program to assist private airports. *See* Md. Code, Tax-Prop. § 7-303(b); COMAR 11.03.08.02.

The State has given the City the power to exempt from local property tax any landing area located on private property, used for a public purpose and licensed by the State Transportation Article. Md. Code, Tax-Prop. § 8-302. The fourth requirement that the landing strip also be identified in the Maryland Aviation System Plan as essential to its air transportation system is *not* found in the State's authorizing legislation. Rather, it is one of the requirements for eligibility in the State Department of Transportation's program to assist private airports. *See* COMAR 11.03.08.02. Since this requirement is not part of the State law authorizing this local tax exemption, this requirement should be removed from the bill so that the City is not creating an additional condition for receipt of this exemption. *See City of Baltimore v. Hughes' Adm'r*, 1 G. & J. 480, 1829 WL 579, \*11 (1829) (In implementing this type of local tax, Baltimore City "must act within the limits of its delegated authority, and cannot go beyond it."); *see also Church Home and Infirmary of City of Baltimore v. Mayor and City Council of Baltimore*, 178 Md. 326, 333 (1940)("[I]n the absence of express authorization, a municipality has no power to exempt land and other property from special assessment.")(cited with approval in 63 Md. Op. Atty. Gen. 612 (1978)(opining that a county has only the power to grant tax exemptions authorized in State legislation)). An appropriate amendment is attached.

F/A



Subject to the suggested amendment, the Law Department approves the City Council Bill 09-0284 for form and legal sufficiency.

Very truly yours,



Hilary Rulley  
Assistant Solicitor

cc: George Nilson, City Solicitor  
James Kraft, Councilmember, 1<sup>st</sup> District  
Angela C. Gibson, Mayor's Legislative Liaison  
Marcia Collins, Department of Public Works  
Elena DiPietro, Chief Solicitor  
Deepa Bhattacharyya, Assistant Solicitor  
Ashlea Brown, Special Assistant Solicitor



CITY OF BALTIMORE  
COUNCIL BILL 09-0301  
(First Amendment)

On page 2, delete lines 2 and 3.