

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

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

October 17, 2012

The Honorable President and  
Members of the Baltimore  
City Council  
c/o Karen Randle, Executive Secretary  
409 City Hall  
Baltimore, MD 21202



RE: City Council Bill No. 12-0102 – Residential Permit Parking Program

You have requested the advice of the Law Department regarding City Council Bill 12-0102. City Council Bill 12-0102 provides for modifying the procedures and requisites for including an area in a new or existing Residential Permit Parking Area; modifying the procedures for amending a Residential Permit Parking Plan; adding certain vehicle types to those eligible for parking permits in a Residential Permit Parking Area; qualifying permit eligibility for residents of dwelling units added to an existing Residential Permit Parking Area; limiting parking durations for non-permit holders; establishing progressive fines for parking, stopping, standing in violation of Residential Parking Area restrictions; modifying the composition of the Residential Permit Parking Advisory Board; and providing for the election of Advisory Board officers.

The Mayor and City Council was given the power to create a parking authority by the State under Art. 41, Title 14, Subtitle 3 of the Maryland Code. The Parking Authority is not specifically authorized by that law to provide for a residential permit parking program. That power is vested in the City Council by virtue of Art. II, Sec. 34 and 35, regarding the regulation of streets. The City Council may delegate ministerial authority with regard to the administration of the residential permit parking program but may not delegate discretionary decision-making authority to the Parking Authority. If guidelines are provided for the exercise of discretion, the delegation is not unlawful. See Andy's Ice Cream v City of Salisbury, 125 Md. App. 125 (1999)

There are a few areas in the bill that grant discretion to the Authority. In sections 10-19(b)(2)(VI) and 10-13(a)(5), the bill provides that the Authority is the "sole judge" of the validity of signatures on a petition. In order to provide guidelines for the exercise of discretion, the bill should be amended to state that the "The Authority shall determine the validity of the signatures on a petition by confirming the identity and address of the person signing." In addition, in 10-24(c)(3), the Authority is given the sole discretion to determine if new residential developments in an existing RPP will be issued permits. In order, to provide guidelines to the

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exercise of discretion by the Authority, the bill should be amended to remove “in its sole discretion” and substitute “after consultation with and recommendations by the Department of Planning and the Department of Transportation.

Subject to these amendments, the bill is consistent with the authority of the City Council. The Law Department can approve City Council Bill 12-0102 for form and legal sufficiency.

Sincerely yours,



Elena R. DiPietro  
Chief Solicitor

cc: George A. Nilson, City Solicitor  
Angela Gibson, City Council Liaison  
Ashlea Brown, Assistant Solicitor  
Hilary Ruley, Assistant Solicitor  
Victor Tervalá, Assistant Solicitor