



BALTIMORE HOUSING

SHEILA DIXON
Mayor

PAUL T. GRAZIANO
Executive Director, HABC
Commissioner, HCD

MEMORANDUM

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

From: Paul T. Graziano, Commissioner

Date: December 15, 2008

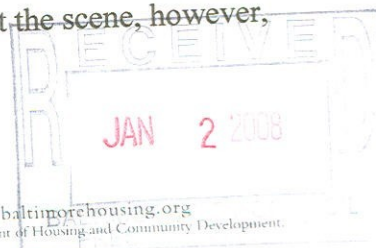
Re: **City Council Bill 08-0214 Illegal Dumping - Penalties - Enforcement**

The Department of Housing and Community Development (DHCD) has reviewed City Council Bill 08-0214, which was introduced for the purpose of adding to the penalties for and otherwise enhancing the enforcement of the provisions governing waste disposal; authorizing the Health Commissioner to abate violations and collect costs, expenses, and penalties from the persons responsible; establishing a reward program for persons who provide information that leads to a finding of illegal dumping; requiring contracts awarded by the City to specify illegal dumping as constituting a breach of contract; conforming related provisions; and generally relating to the disposal of waste and other material.

This proposed legislation, if adopted, would authorized the Health Commissioner to issue written violation notices to potential illegal dumpers that sets a deadline to abate the violation. A violator who fails to abate the notice would incur a civil penalty that is equal to or double the expense for City to remove the illegally discarded material. Further, City Council Bill #08-0214 would mandate that the Health Commissioner establish a hotline to receive anonymous reports of illegal dumping or other violations. In the event that information obtained by a caller leads to a conviction, issuance of a civil or criminal fine, the caller may be rewarded equal to 50% of all costs, expenses, and penalties collected and all fines and penalties collected under Article 1, Subtitles 40 and 41 of the Code. Finally, every service contract awarded by the City would be required to include a provision that any violation of this subtitle would constitute a breach of that contract.

The successful adjudication of violators depends ultimately on obtaining a fundamental component of any criminal prosecution - a direct evidentiary link from the illegal activity (i.e.: discarded debris) to a perpetrator. More than likely, establishing this link would require testimony of an eyewitness in a legal proceeding. To that end, the Department of Public Works (DPW) created an Environmental Crimes Unit (ECU) and, in support of our peer agency's efforts, DHCD has referred evidence of illegal dumping to ECU for further investigation. Absent an eyewitness or some other incriminating evidence at the scene, however,

Comments



additional fines or powers granted to any City official may prove to be ineffectual towards apprehending illegal dumpers.

City Council Bill #08-0214 appears to exclusively assign additional enforcement responsibilities to the Health Commissioner and therefore does not directly impact DHCD or our Housing Code Enforcement Division. However, DHCD raises the following issues with this proposed legislation:

- Presently, all calls to 311 may be regarded as anonymous and therefore an additional hotline to address illegal dumping may be unnecessary.
- Anonymous information is unlikely to lead to a conviction in a courtroom without specific eyewitness testimony. The proposed ordinance does not yet provide additional tools to secure a witness willing to testify at trial.
- Any cash reward incentive program should only be used after the City has been reimbursed for all expenses incurred to remove illegally dumped material.

With these items discussed, the Department of Housing and Community Development defers to reports of the Departments of Health and Public Works for further comment on City Council Bill 08-0214.

PTG:pmd

cc: Ms. Angela Gibson
Mr. Andrew Frank
Mr. Demaune Millard