
CITY OF BALTIMORE

BRANDON M. SCOTT,
Mayor



DEPARTMENT OF LAW
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September 12, 2024

The Honorable President
Members of the City Council
c/o Natawna Austin, Executive Secretary
409 City Hall
Baltimore, MD 21202

RE: City Council Bill 23-0362 In Rem Foreclosure – Scope of Subtitle

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 23-0362, which would amend City Code, Article 28 Subtitle 8.1 {"In Rem Foreclosure – Vacant and Abandoned Property"} to permit a Land Bank Authority of Baltimore City to initiate and participate in certain in rem foreclosure proceedings on behalf of the Mayor and City Council of Baltimore City; and provide for a contingent effective date.

The Land Bank is not an agency of the City and should not be referred to as an agency. Although it is described in some instances as an instrumentality, it is a separate legal entity that can hold land in its own name. The state enabling law for the proceeding which authorizes the City to initiate an in rem tax foreclosure is 14-873 *et. seq.* which makes no mention of the Land Bank.

The Charter provides:

§ 1. Corporate entity. The inhabitants of the City of Baltimore are a corporation, by the name of the "Mayor and City Council of Baltimore," and by that name shall have perpetual succession, may sue and be sued, may purchase and hold real, personal and mixed property and dispose of the same for the benefit of the City, as herein provided, and may have and use a common seal, which may be altered at pleasure. § 2. Definitions. As used in this

Charter, unless the context otherwise requires: (a) City. "City" means the Mayor and City Council of Baltimore, the body corporate as established by Section 1 of this Article I.

Because the Land Bank is not an agency of the City, the Law Department cannot approve the bill without state authorization adding the Land Bank to the in rem proceeding (and adding this power to the express powers of the Land Bank in Art. II of the Charter). Although the Land Bank has broad powers to accomplish its goals, because it is expressly authorized to stand in the shoes of the City in the tax sale process (City Charter, Art. II § 65 (j)(1) "The Authority may exercise the powers granted to Baltimore City under §§ 14-825 through 14-831 of the Tax - Property Article of the Annotated Code of Maryland.") this implies that it is *not* authorized to do so in other procedures like judicial in rem. This conclusion is required under the principles of statutory construction. *Hylton v. Mayor and City Council of Baltimore*, 268 Md. 266, 282 (1972) ("the maxim '*expressio unius est exclusio alterius*' . . . meaning that the expression of one thing implies the exclusion of another thing not mentioned, is not a rule of law, but merely an auxiliary rule of statutory construction"); *see also Mayor & City Council v. Bunting*, 168 Md. App. 134, 141 (2006) ("Charters are subject to the 'same canons of statutory construction that apply to the interpretation of statutes.'") (citations omitted).

Thus, until the state law (either the judicial in rem proceeding in the Tax Property Article or Article II of the Charter) is amended to add the Land Bank to the judicial in rem proceeding, the Law Department cannot approve Council Bill 23-0362 for form and legal sufficiency.

Very truly yours,



Ashlea Brown
Chief Solicitor

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