

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor

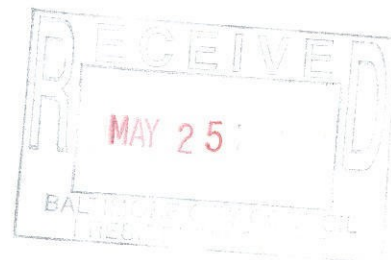


DEPARTMENT OF LAW

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

May 24, 2011

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 11-0684 – Urban Renewal – Waverly Business Area –
Amendment

Dear President and City Council Members:

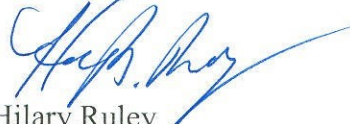
The Law Department has reviewed City Council Bill 11-0684 for form and legal sufficiency. The bill would exclude bail bond agencies from the list of permitted uses in any community business area in the Waverly Business Area Urban Renewal (hereinafter the “UR”), which is zoned B-2-2.

The Zoning Code does not specifically list bail bond agencies as permitted in a B-2-2 zone but the agencies would be permitted in the zone as a type of office. City Code, Zoning, §6-306. However, the fact that bail bond agencies would otherwise be permitted as a generally authorized office use in a B-2-2 zone may not be “taken to be a consent, license, or permit” for a property owner to carry on a bail bond business in any UR that prohibited that use. City Code, Zoning, §1-202. This is because the Zoning Code is clear that use restrictions in any UR govern over less restrictive lists of permitted uses in the Zoning Code. City Code, Zoning, §1-206(b). For these reasons, after enactment of this legislation, anyone seeking a use and occupancy permit (hereinafter “U&O Permit”) for a bail bond agency in this UR must be denied.

It is possible, however, that a bail bond agency could open in an existing office location that has already obtained a U&O Permit as an office. Such a change would not require a new U&O Permit because the premises would still be used as an office. City Code, Zoning, §2-401. Although any bail bond agency that opens after the enactment of this legislation would be prohibited, the UR does not list any penalties for violations of its terms. City Code, Art. 13, §2-6(f)(the Department of Housing and Community Development can enforce any UR). Instead, if bail bonds agencies begin operating under existing office U&O Permits after the enactment of this legislation, enforcement will likely come via the Zoning Administrator notice process described in Title 17 of the Zoning Code. *See also* Md. Code, Art. 66B, §2.10(c)(City may sue to enforce violations of its Zoning Code in addition to any other remedies it may create by ordinance). These enforcement challenges, however, do not prohibit the City from amending this UR to exclude bail bond agencies.

As any change in the UR is required to be made by ordinance under Section 2-6(g)(1) of Article 13 of the City Code, Law Department approves City Council Bill 11-0684 for form and legal sufficiency.

Very truly yours,



Hilary Ruley
Assistant Solicitor

cc: George Nilson, City Solicitor
Councilmember Mary Pat Clarke, 14th District
Angela C. Gibson, Mayor's Legislative Liaison
Elena DiPietro, Chief Solicitor
Ashlea Brown, Assistant Solicitor
Victor Tervalá, Assistant Solicitor