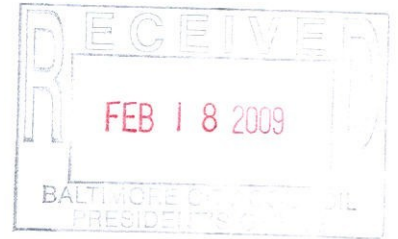




**BALTIMORE
HOUSING**

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: February 18, 2009

Re: **City Council Bill 08-0042 Residential Property - Required Disclosures on Sale or Lease**

The Department of Housing and Community Development (DHCD) has reviewed City Council Bill 08-0042, which was introduced for the purpose of requiring certain disclosures in the sale or lease of certain properties; defining certain terms; increasing certain penalties; imposing certain other penalties; correcting, clarifying, and conforming certain language; and generally relating to the sale or lease of residential property.

The proposed legislation would require that the seller of any residential property must disclose in writing to the prospective buyer, before the execution of any contract of sale, the property's most recent approved land use, zoning district and the property's inclusion in a renewal plan, planned unit development, historic and architectural preservation district, or any other overlay zone. Additionally the seller must notify the potential buyer of any covenants that run with the property. In essence, the bill attempts to provide a buyer with the information of any restriction that could impede the future owner's full use and enjoyment of property.

DHCD supports the concept of this proposed legislation because potential buyers and developers of real estate are better equipped to make informed decisions if all land use controls and restrictions are disclosed prior to purchase. However, we have some suggested amendments to the bill. In particular, §14-10(E) regarding the disclosure of all covenants may prove to be burdensome. It is difficult often for property owners to determine whether their property has covenants or not. Frequently, in older cities such as Baltimore, the standard 60 years search period employed by most title companies may not be sufficient to uncover all covenants. Optimally, the burden of title searching in residential transactions should remain the responsibility of the buyer and not the seller as part of a buyer's due diligence. Consequently, DHCD recommends deleting Sec 14-10(E) from the bill.

Another issue of concern is the penalty provision of the legislation in §14-11. DHCD recommends adding language that clarifies that a person violates the subtitle if they failed to disclose a land use restriction that should have *reasonably*



known or discovered in a search. Therefore the person who did their due diligence but missed discovering a covenant or other restriction is not faced with prosecution.

A final matter that will need to be addressed is providing citizens with a direct and efficient contact point within City government in which they can obtain the specific information required to be disclosed. At present, an individual may have to contact several agencies to get a complete listing of all zoning, historic preservation requirements and other land use restrictions.

The Department of Housing and Community Development supports with amendments the adoption of City Council Bill 08-0042.

PTG:pmd

cc: Ms. Angela Gibson
Ms. Diane Hutchins
Mr. Andrew Frank