
CITY OF BALTIMORE

BRANDON M. SCOTT
Mayor



DEPARTMENT OF LAW
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June 30, 2022

The Honorable President and Members
of the Baltimore City Council
Attn: Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 22-0220 – Study and Report – Tax Increment Financing

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 22-0220 for form and legal sufficiency. The bill requires the Director of Finance, the City Administrator, the City Solicitor, the Commissioner for the Department of Housing and Community Development, and the Director of the Office of Equity and Civil Rights, in collaboration with advocates, practitioners, and residents, to submit a report “that details how Tax Increment Financing can be used for community development and eliminating vacant and abandoned properties.” The bill also details topics to be addressed in the report and requires the report to be published at least 30 days before final submission to seek public comment.

The City Council has an inherent power to investigate “in furtherance of its legislative function.” 4 McQuillin Mun. Corp. § 13:7. The City Council may “exercise within the limits of Baltimore City all the power commonly known as the Police Power to the same extent as the State has or could exercise that power within the limits of Baltimore City,” and may “pass any ordinance, not inconsistent with the provisions of this Charter or the laws of the State, which it may deem proper in the exercise of any of the powers, either express or implied, enumerated in this Charter, as well as any ordinance as it may deem proper in maintaining the peace, good government, health and welfare of Baltimore City.” City Charter, Art. II, §§ (27), (47).

Moreover, Section 2(a) of Article VII of the Charter allows for ordinances to give additional duties to “a department, officer, commission, board or other municipal agency” so long as those duties are “consistent with the Charter and subject to the supervision of a superior municipal officer or agency.” Charter, Art. VII, § 2(a).

However, the Bill should be amended to remove all provisions requiring the City Solicitor to collaborate on the report and its recommendations since the report is to be made public. The City Solicitor represents the entity of the Mayor and City Council of Baltimore. Charter, Art. VII, § 24. The Solicitor’s recommendations and interpretations comprise legal advice that is protected by the attorney client privilege and could not be shared with the public without a knowing and

intelligent waiver of that privilege, which cannot happen before knowing the contents of the advice. Anything that requires legal knowledge and skill can be considered legal advice. *Maryland Attorney Grievance Commission v. Shaw*, 354 Md. 636, 649 (1999); 82 Md. Op. Att’y Gen. 15 (1997) (“the county attorney generally does not have an attorney client relationship with members of the public, for they are neither the corporate entity that is the client nor agents of the county authorized by law to act on its behalf.”). Such advice could also comprise a statement used against the City in litigation. Md. Rule 5-803(a)(1). Even a discussion of what rules or policies might be changed would present a problem. 82 Md. Op. Att’y Gen. 15 (1997); *Gravel v. U.S.*, 408 U.S. 606, 616 (1972) (discussing the wide scope of legislative privilege).

Legal advice and recommendations requested could be given outside of the published report, in a manner which preserves the privilege of the legal entity of the Mayor and City Council. Obviously, should any City entity tasked with working on this report need legal assistance, the Law Department would provide it. Charter, Art. VII, § 24.

Subject to the required amendment, the Law Department approves the bill for form and legal sufficiency.

Very truly yours,



Hilary Ruley
Chief Solicitor

cc: James L. Shea, City Solicitor
Nina Themelis, Mayor’s Office of Government Relations
Elena DiPietro, Chief Solicitor, General Counsel Division
Jeffery Hochstetler, Chief Solicitor
Ashlea Brown, Chief Solicitor
D’ereka Bolden, Assistant Solicitor
Michelle Toth, Special Assistant Solicitor

AMENDMENTS TO COUNCIL BILL 22-0220
(1st Reader Copy)

Proposed by: Law Dep't

On page 1, in lines 3 and 11 and on page 2 in line 18, delete "the City Solicitor"