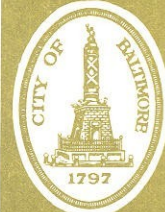


FROM	NAME & TITLE	Theodore Atwood, Director	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Department of General Services 800 Abel Wolman Municipal Building		
	SUBJECT	CITY COUNCIL BILL 11-0792		

DATE: November 9, 2011

TO

The Honorable President and Members
of the Baltimore City Council
c/o Karen Randle
Room 400 - City Hall

I am herein reporting on City Council Bill 11-0792 introduced by Council Members Kraft, Clarke, Henry, D'Adamo, Middleton, Curran, Conaway, Welch and Spector.

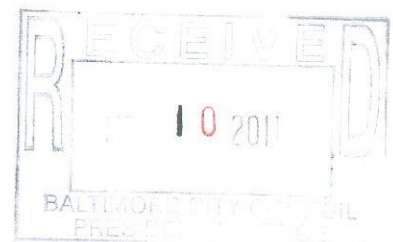
The purpose of the Bill is to extend the alley gating and greening program to include alleys that are abutted primarily by either or both residential and commercial structures; correct certain administrative references to reflect the assumption of jurisdiction over the program by the Department of General Services; and correct clarify, and conform related provisions.

Chapter 423 of the Acts of 2004 of the Maryland General Assembly amended Article II (General Powers) of the Baltimore City Charter to authorize the gating of an alley no longer needed for through pedestrian or vehicular traffic, and to lease a gated alley to "an entity that consists of property owners whose lots abut the alley", now Article II § 35(e) and (f) of the Baltimore City Charter. Prior to these Charter amendments, any person or entity seeking to close an alley to public use must pay an administrative fee to cover advertising costs and legal proceedings, conduct a title search, gain consent from all affected property owners, and have an ordinance enacted to authorize closure. A new Subtitle 8A (Gating and Greening Alleys) of Article 26 of the Baltimore City Code provided for this alternate process to gate and lease alleys provided certain procedures, petitions, consents, reviews, and determinations are met.

City Council Bill 11-0792, if approved, would do the following:

- Create a definition of "Department" to mean the Department of General Services and change the definition of "Director" from Director of Public Works to Director of General Services, to reflect the removal of General Services functions from the Department of Public Works and the creation of the Department of General Services;
- Change the references from Public Works to General Services in various sections of this Subtitle; and
- Add to the standard for authorizing the gating or greening of an alley from structures abutting the alley as predominately residential, to predominately residential, commercial, or a combination of residential and commercial.

F/A



The opportunity to gate an alley was established to provide an alternative to the lengthy legal process and the cost of closing an alley to public use. The intent was to allow residents to gain control of the activities occurring in alleys, provide some measure of security, and later, an opportunity for enhancing quality of life through greening opportunities. Current law provides for gating and greening of alleys where the structures are predominately, but not solely, residential [§ 8A-2(b)(1)]. Petitions to gate an alley must contain the signed consents of at least 80% of the owners of abutting properties, excluding abandoned properties, and an affidavit describing attempts to obtain consents from 100% of the abutting owners [§ 8A-5]. Greening an alley requires the signed consents of 100% of the owners of all occupied properties, and the signed consents must constitute at least 80% of all the properties abutting the alley, excluding abandoned properties. An affidavit is also required for alley greening petitions.

City Council Bill 11-0792 would change the references in the law from the Department of Public Works to the Department of General Services. However, certain references in the law need to remain with Public Works for utility maintenance purposes. Therefore, the following amendments are recommended:

Amendment No. 1:

On Page 3, line 10, remove the brackets around “Public Works” and add “and the Department of”, so that it reads:

“(1) All plans for the design and construction of gates and for any sodding, removal of pavement, or other landscaping of the alley must be reviewed and approved by the Department of {Public Works} and the Department of GENERAL SERVICES.”

Amendment No. 2:

On Page 3, line 11, remove the brackets around “Public Works” and delete “GENERAL SERVICES”, so that it reads:

“(7) If the Department of {Public Works} ~~GENERAL SERVICES~~, its employees, agents, or contractors enter the alley for maintenance, repair, or replacement of City utilities, the Department:”

Amendment No. 3:

On Page 4, line 11, remove the brackets around “Public Works” and delete “GENERAL SERVICES”, so that it reads:

“(6) If the Department of {Public Works} ~~GENERAL SERVICES~~, its employees, agents, or contractors enter the alley for maintenance, repair, or replacement of City utilities, the Department:”

The proposed changing of one of the determining standards for authorizing the gating or greening of an alley to include predominately commercial or a combination of residential and commercial structures, would appear to be excessive. Therefore, the following amendment is recommended:

Amendment No. 4:

On Page 2, on line 12, delete “COMMERCIAL”, so that it reads:

“the structures abutting the alley are predominately residential, ~~COMMERCIAL~~, OR A COMBINATION OF RESIDENTIAL AND COMMERCIAL;”

Finally, § 8A-11(b)(10) requires the Director to remove all gates or other obstructions after a public hearing to terminate an alley lease. However, information could be presented in such a hearing that would cause the Director to not seek lease termination. Therefore, it is recommended that the word “must” be replaced with “may” to provide the opportunity for reconsideration of lease termination.

Amendment No. 5:

On Page 3, line 27, delete the word “must” and replace it with the word “may”, so that it reads:

“The Director [of Public Works] ~~must~~ may after a public hearing, with prior notice as provided in the lease, terminate the lease and order or cause, at the lessee’s sole expense, the removal of all gate and other obstructions and the alley’s restoration if, at any time, the owners of a majority of the abutting properties, not including any abandoned properties, so request in writing.”

The Department of General Services supports passage of City Council Bill 11-0792 as proposed to be amended.



Theodore Atwood
Director

TA/MMC:pat