

**CITY OF BALTIMORE**  
STEPHANIE RAWLINGS-BLAKE, Mayor



**DEPARTMENT OF LAW**  
GEORGE A. NILSON, City Solicitor  
101 City Hall  
Baltimore, Maryland 21202

December 8, 2015

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

RE: City Council Bill 15-0590 – Demolition etc. of City Property - Amendments  
REVISED VERSION

Dear President and Members

In its November 16, 2015 bill report on the above captioned bill, the Law Department informed the City Council of its concerns about the bill and advised that the bill could not be approved for form and legal sufficiency. Counsel to the City Council provided an alternative interpretation. While the alternative showed substantial thought, its rationale for authorizing the bill does not overcome the fact that the Charter unequivocally grants authority with respect to demolition to the Department of General Service and the Department of Public Works of city owned buildings and structures under their auspices. The Law can approve the proposed amendments except of §20-3(c) which requires an ordinance to override an objection to a demolition by a councilmember.

As stated in the bill report, there are several different provisions of law involved with demolition of City –owned buildings. The City’s Express Powers, codified in Art. II of the City Charter, grant the Mayor and City Council authority to regulate the location, construction, use, operation, maintenance and removal of buildings and structures, or any part thereof, of every kind. Art. II, §1. The general grant of authority language that precedes this section provides that “the Mayor and City Council of Baltimore shall have full power and authority to exercise all of the powers heretofore or hereafter granted to it by the Constitution of Maryland or by any Public general or Public Local Laws of the State of Maryland; and in particular, without limitation upon the foregoing, shall have power by ordinance, or such other method as may be provided for in its Charter, subject to the provisions of said Constitution and Public General Laws.”

With respect to its Art. II, §1 demolition authority, the City Council has exercised that authority by ordinance by providing for procedures for demolition of buildings in the Building Code and by ordinance seeking an amendment to the City Charter to grant authority to DPW and

DGS to provide for demolition of City-owned buildings and structures. The rules of statutory construction require that these two provisions be interpreted to give meaning to both. In this case, that would result in interpreting the Charter provisions as giving the agencies authority to decide what structure will be demolished and the Code provisions provide for the procedures for demolition. *Thomas v. Field*, 143 Md. 128(1923) (Assuming that the mayor and city council of Baltimore City may, by appropriate action, amend the city charter defining the powers of other departments, they can do so only by some clear, direct, and explicit action indicating the plain intention to change the law; and in the absence of clear evidence of such intention it will be assumed, should such construction be reasonable, that their acts were intended to be in harmony with, and in furtherance of, existing laws.) *Nickens v. Mount Vernon Realty Group, LLC*, 429 Md. 53, 54 A.3d 742 (2012)(Various consistent and related statutes, although made at different times and without reference to one another, nevertheless should be harmonized as much as possible.); *Miller v. Mathias*, 428 Md. 419, 52 A.3d 53 (2012) (Statutes on the same subject are to be read together and harmonized to the extent possible, reading them so as to avoid rendering either of them, or any portion, meaningless, surplusage, superfluous or nugatory.)

“The charter of Baltimore City is not a mere collection of local laws loosely strung together with no definite coherence or interrelation. It is, and must be regarded as, a single act, providing a complete and entire plan for the complex and intricate government of a great municipality; and each and every part of it bears a definite and often necessary relation to the whole as well as to every other part.” *Thomas v. Fields*, 143 Md. 128 (1923):

“(A) charter or form of government’ (the terms being equivalent), which the voters of Baltimore City or any county may adopt under Art. XI-A, s 1 is, in effect, a local constitution which forms the framework for the organization of the local government; it is “the instrument which establishes the agencies of local government and provides for the allocation of powers among them.. A charter, in essence ‘creates the body politic and corporate, contains the municipal powers and gives the form of municipal organization, locates the corporate boundaries and wards or other subdivisions, classifies and distributes the powers and duties of the various departments, boards and officers, and provides the manner in which the several powers shall be exercised”” *Cheeks v. Cedlair*, 287 Md. 595 (1980)(citations omitted).

“A charter is thus a permanent document intended to provide a broad organizational framework establishing the form and structure of government in pursuance of which the political subdivision is to be governed and local laws enacted. It is the organic, the fundamental law, establishing basic principles governing relationships between the government and the people, and among the various governmental branches and bodies.” *Cheeks v. Cedlair*, 287 Md. 595 (1980)(citations omitted).

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Given that the City Council chose to exercise its authority by enacting a Charter amendment that was approved by the voters which vested demolition authority in DGS and DPW, it cannot amend that action without amending the Charter, The Md. Constitution provides that “[a]mendments to any charter adopted by the City of Baltimore or by any County of this State under the provisions of this Article may be proposed by a resolution of the Mayor of Baltimore and the City Council of the City of Baltimore, or the Council of the County, or by a petition signed by not less than 20% of the registered voters of the City or County .... An amendment so proposed shall be submitted to the voters of the City or County at the next general or congressional election occurring after the passage of the resolution or the filing of the petition. If at the election the majority of the votes cast for and against the amendment shall be in favor thereof, the amendment shall be adopted and become a part of the charter of the City or County....” See Md. Constitution, Art. XI-A, §5.

These provisions clearly establish that the Charter cannot be amended by passage of a simple ordinance nor can the authority granted in the Charter be nullified by such an ordinance. Only an ordinance proposing a Charter amendment that is approved by the voters can alter the language of an existing Charter. Similarly, a Charter cannot be interpreted to nullify the language contained in it but must be interpreted in harmony with other laws to give meaning to all.

Based on the foregoing the Law Department cannot approve the proposed amendments to City Council Bill 15-0590 for form and legal sufficiency. Absent a Charter amendment, the bill cannot be applied to City-owned buildings and structures that fall under the definitions in the bill.

Sincerely yours,



Elena R. DiPietro  
Chief Solicitor

cc: George A. Nilson, City Solicitor  
Angela Gibson, City Council Liaison  
Vic Tervalo, Chief Solicitor  
Jennifer Landis, Assistant Solicitor  
Hilary Ruley, Chief Solicitor  
Nicholas Blendy  
Honorable Bill Henry