

CITY OF BALTIMORE

CATHERINE E. PUGH, Mayor



DEPARTMENT OF LAW

ANDRE M. DAVIS, City Solicitor
101 City Hall
Baltimore, Maryland 21202

May 3, 2018

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 18-0196 – Environmental Citations – Default Penalty

Dear President and City Council Members:

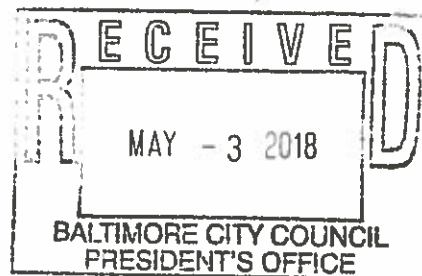
The Law Department has reviewed City Council Bill 18-0196 for form and legal sufficiency. The bill would modify the procedures for and maximum amounts of the default penalty imposed under an environmental citation on a person cited who neither pays the citation's prescribed prepayable fine nor requests a hearing on the violation cited or who, having requested a hearing, fails appear at the designated hearing.

Article II, Section 48 of the City Charter gives authority to impose civil penalties for code violations up to \$1000. Modifying the procedure for imposing those penalties is within the authority of City Council. The bill also modifies the procedure for requesting a stay of the default by replacing the current hearing on the request (which does not address the underlying issues of the citation) with a "determination" on the request made by the Executive Director which allows for a full hearing and relief of default penalties if good cause is shown. Since there is no right to a hearing at this point in the procedure, this modification does not violate due process. The respondent at this point is in default and has waived the original right to a hearing. *Bringe v. Collins*, 274 Md. 338, 349 (1975) (the right to a hearing may be waived or forfeited for failure to contest in the time allotted).

The Law Department approves the bill for form and legal sufficiency.

Very truly yours,

Ashlea H. Brown
Assistant Solicitor



cc: Andre M. Davis, City Solicitor
Karen Stokes, Director, Mayor's Office of Government Relations
Kyron Banks, Mayor's Legislative Liaison
Elena DiPietro, Chief Solicitor, General Counsel Division
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