

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

GEORGE A. NILSON, City Solicitor
101 City Hall
Baltimore, Maryland 21202

May 19, 2010

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

Re: City Council Bill 10-0484 – Downtown Management District –
Adjustment to Supplemental Tax

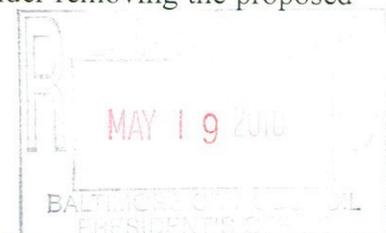
Dear President and City Council Members:

The Law Department has reviewed City Council Bill 10-0484 for form and legal sufficiency. The bill proposes to amend several sections in Article 14 of the City Code pertaining to the Downtown Management District (“DMD”).

The bill would allow the DMD Management Authority Board (hereinafter the “Board”) to create long-term debt (defined as debt that would survive beyond the next renewal period of the DMD) with approval of a majority of the Board, without needing approval of the Board of Estimates. It would also allow that long-term debt to be in an amount up to \$20 Million dollars. Currently, the Board can only authorize up to \$2 Million in long-term debt if approved by the Board of Estimates. Additionally, the bill provides that the supplemental tax could be levied after the termination of the DMD if needed to fulfill any remaining debt service obligations.

It is this last requirement that is not supported by the state’s enabling law, codified in Section (61) of Article II of the City Charter. If the DMD is not renewed, the City would not have the authority to collect the supplemental tax. The bill must be amended to remove the language concerning the collection of taxes if the DMD is no longer in lawful existence (i.e. striking lines 1 through 5 on page 7).

Without this ability to dedicate revenue to the payment of debt service obligations after the termination of the DMD, the long-term debt may become unmarketable as investors would have no assurance as to how the bonds would be managed if the DMD dissolved. This would leave the City in the unenviable position of either letting these bonds default or administering the bonds after the DMD is dissolved even though not required to do so. Although this is not a legal impediment, the Law Department recommends that the Council consider removing the proposed changes to long-term debt proposed by this bill.



The bill would also change the supplemental tax calculation so that it no longer has the current limits that tie it to the DMD's Initial Budget and the cost-of living increases. Instead the tax could be any amount approved by a majority of the Board. If the tax is to increase more than 10%, then 80% of property owner representatives on the Board must approve it. This is consistent with the authority granted to the DMD in Section (61)(a)(3) of Article II of the City Charter that allows the City to specify the amount of benefit assessment charges. Although the current method of determining the supplemental tax limited it, there is no requirement in the DMD enabling legislation that requires these limits.

Finally, the changes to the DMD proposed by this bill would narrow eligibility for the Board to require that a person representing a constituent group be an owner of property subject to the supplemental tax or representative of such an owner. This is consistent with the authority granted to the DMD in Section (61)(b)(9) of Article II of the City Charter that allows it to "establish and elect officers and provide for their terms and duties."

Subject to the amendment discussed herein, the Law Department approves bill 10-0484 for form and legal sufficiency.

Very truly yours,



Hilary Ruley
Assistant Solicitor

cc: George Nilson, City Solicitor
Honorable Councilmember William H. Cole IV
Angela C. Gibson, Mayor's Legislative Liaison
Elena DiPietro, Chief Solicitor
Ashlea Brown, Special Assistant Solicitor
Terese Brown, Assistant Solicitor