

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

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

February 9, 2011

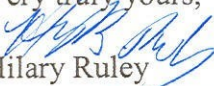
The Honorable President and Members  
of the Baltimore City Council  
Attn: Karen Randle, Executive Secretary  
Room 409, City Hall  
100 N. Holliday Street  
Baltimore, Maryland 21202

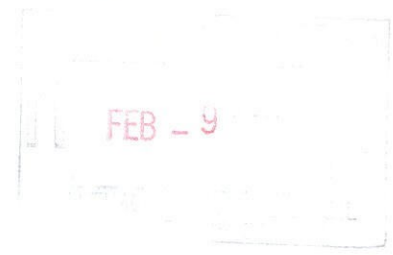
Re: City Council Bill 10-0600 – Inclusionary Housing Requirements – Repeal  
of “Sunset”

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 10-0600 for form and legal sufficiency. The bill would continue the City’s inclusionary housing requirements indefinitely by removing the 5 year sunset language in Ordinance 07-0474, which enacted the program. That ordinance not only created the inclusionary housing requirements in City Code, Article 13, Subtitle 2B, but it also amended Article 28 of the City Code to conform with the 2007 state law that enabled the City to grant a real property tax exemption for certain inclusionary housing projects. *See* 2007 Md. Laws, ch. 578. That state law expired on June 30, 2010 and is no longer effective. *See Id.* at §2 (“at the end of June 30, 2010, with no further action required by the General Assembly, this Act shall be abrogated and of no further force and effect.”); *accord* City Code, Art. 28, §9-7(f) (“The property tax exemption granted by this section is contingent on the enactment and continuation of State legislation that authorizes the exemption.”). The enactment of City Council Bill 10-0600 will not change the fact that since July 1, 2010, the City has been, and will remain, unable to offer the tax incentives for inclusionary housing development that it could have offered previously. However, any tax exemptions created while the state law was in effect remain in force. *See* 2007 Md. Laws, ch. 578 at §1 (state law contemplated potential extensions of tax exemptions for ten year terms). Thus, while the enactment of Bill 10-0600 can continue the inclusionary housing requirements in City developments, the City will be unable to use a real property tax exemption as an incentive for developers.

Nevertheless, the expiration of the state-granted tax exemption does not prohibit the City from enacting this bill to extend the life of its inclusionary housing requirements in Article 13 of the City Code. As there are no legal impediments to repealing this sunset provision, the Law Department approves bill 10-0600 bill for form and legal sufficiency.

Very truly yours,  
  
Hilary Ruley  
Assistant Solicitor



cc: George Nilson, City Solicitor  
Angela C. Gibson, Mayor's Legislative Liaison  
Elena DiPietro, Chief Solicitor  
Ashlea Brown, Assistant Solicitor  
Victor Tervalá, Assistant Solicitor