

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

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

June 10, 2011

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



Re: City Council Bill 11-0715 – Towing Service – Trespass Towing

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 11-0715, which would modify the composition of the Board of Licenses for Towing Services; authorize the Board to deny, suspend, revoke or refuse to renew a license on receipt, within a certain period, of a certain number of valid complaints of unfair or improper business practices.

First, the Law Department recommends amending Section 22-2 (b)(1)(iv) to comply with Article IV, Section 6 of the City Charter, which gives the Mayor “the sole power of appointment of all municipal officers.”

Second, the Law Department recommends deleting the word “valid” from the purpose clause and on page 3, line 4 to protect against a vagueness or over breadth challenge.

Finally, the term “unfair or improper business practices” must be clarified. Due Process requires that the description of prohibited activity in a statute be sufficiently clear so as to apprise “those who are subject to it what conduct on their part will render them liable to its penalties.” *Neutron Products, Inc. v. Dept. of the Environ.*, 890 A.2d 858, 891-2 (Md. 2006).

The Law Department recommends changing “unfair or improper business practices” to “unfair or deceptive trade practices” which mirrors provisions of Maryland law. “Unfair or deceptive trade practice” should be defined as “any false or misleading oral or written statement or representation of any kind that has the capacity, tendency, or effect of deceiving or misleading consumers, including any omission of material fact that would tend to mislead a consumer.”

Subject to the above, the Law Department would approve Council Bill 11-0715 for form and legal sufficiency.

F/A

Very truly yours,

A handwritten signature in blue ink, appearing to read 'Ashlea H. Brown', with a long horizontal flourish extending to the right.

Ashlea H. Brown
Special Assistant Solicitor

cc: George Nilson, City Solicitor
Angela C. Gibson, Mayor's Legislative Liaison
Elena R. DiPietro, Chief Solicitor
Hilary Ruley, Assistant Solicitor
Victor Tervalva, Assistant Solicitor