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CITY OF BALTIMORE

BRANDON M. SCOTT  
Mayor



DEPARTMENT OF LAW

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October 24, 2024

The Honorable President and Members  
of the Baltimore City Council  
Room 409, City Hall  
100 N. Holliday Street  
Baltimore, Maryland 21202

Re: City Council Bill 24-0608 – Real Property Tax – Affordable and Inclusionary  
Housing – Mandatory Reporting

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 24-0608 for form and legal sufficiency. The bill would add subsection (6) to existing Section 9-6(c) of Article 28 (Taxes) of the Baltimore City Code.

There are several problems with this bill. The first is that Section 9-6 of Article 28 of the City Code, which was enacted by Ordinance 07-474, has sunset and is no longer effective. See City Ordinance 20-367 (extending sunset date for Ordinance 07-474 until June 30, 2022). It was replaced by Ordinance 24-308. The provisions of that Ordinance provide for review of plans for Inclusionary Housing prior to permit issuance. City Code, Art. 13, § 2B-22(c). The City's Affordable Housing program is separate and administered by the Commissioner of the Department of Housing and Community Development. City Code, Art. 13, § 2A-3.

Moreover, Section 9-6 of Article 28, as noted in its subsection (f), restated that the City's ability to grant a property tax exemption is "contingent on the enactment and continuation of State legislation that authorizes the exemption." City Code, Art. 28, § 9-6(f); City Charter, Art. II, § (39)(c)(only home rule exemption power given to the City by the General Assembly is for tools and manufacturing equipment as tangible personal property). In the State Tax-Property Article, "the governing body of the county or of a municipal corporation in those counties or the Mayor and City Council of Baltimore City may authorize, by law, an exemption from county or municipal corporation property tax . . . and provide for a negotiated payment in lieu of the tax" ("PILOT"). Md. Code, Tax-Prop., § 7-501(b). The Tax-Property Article of the Maryland Code is clear that for the Mayor and City Council of Baltimore, the "governing body" is the Board of Estimates. Md. Code, Tax-Prop., § 1-101(n). Thus, the Board of Estimates approves any PILOT agreements. Under the City Charter, it has the authority to determine what documents and information it wishes to review before granting such an agreement. City Charter, Art. VI, §2. Should the Board of Estimates grant a PILOT agreement for real property, then the City's Department of Housing and Community Development ("DHCD") could evaluate its ability to be the source of payment for Inclusionary housing units that would require an Inclusionary Housing Plan. City Code, Art. 13, § 2B-1(h)(2).

If the goal is to have reporting to the City Council about Inclusionary or Affordable Housing programs, then the City Council should amend the laws in effect on those programs. City

Code, Art. 2A, 2B. Currently, the law requires the DHCD Commissioner to report to the Mayor and City Council annually about both the Affordable Housing and Inclusionary Housing Programs. City Code, Art. 13, §§ 2A-6.; 2B-16.

As drafted, the Law Department cannot approve the bill for form and legal sufficiency.

Very truly yours,



Hilary Ruley  
Chief Solicitor

cc: Ebony M. Thompson, Acting City Solicitor  
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