

FROM	NAME & TITLE	Steve Sharkey, Director
	AGENCY NAME & ADDRESS	Department of General Services 800 Abel Wolman Municipal Building
	SUBJECT	CITY COUNCIL BILL 14-0418

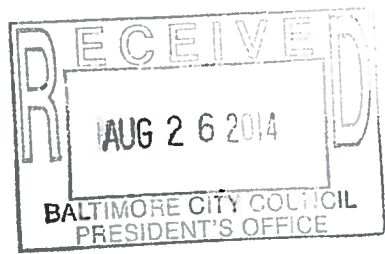
CITY of
BALTIMORE
MEMO



TO

DATE:
August 25, 2014

The Honorable President and Members
of the Baltimore City Council
c/o Natawna Austin
Room 400 – City Hall



I am herein reporting on City Council Bill 14-0418 introduced by the Council President on behalf of the Administration (Department of General Services).

The purpose of the Bill is to clarify and simplify the law governing and procedures for alley gating and alley greening projects; lower the percentage of abutting property owners required to initiate a petition to gate and alley; simplify the process to obtain review of petitions by the Police and Fire Departments; clarify the different requirements for gating but not greening an alley, gating and greening an alley, and greening an alley for which gating has already been approved; consolidate and conform repetitive requirements that are common to all processes; correct, clarify and conform related provisions, and generally relating to the gating, greening, and leasing of alleys under the authority of City Charter Article II, § 35(e) and (f).

Chapter 423 of the Acts of 2004 of the Maryland General Assembly amended Article II (General Powers) of the Baltimore City Charter to authorize the gating of an alley no longer needed for through pedestrian or vehicular traffic, and to lease a gated alley to “an entity that consists of property owners whose lots abut the alley”, now Article II § 35(e) and (f) of the Baltimore City Charter. Prior to these Charter amendments, any person or entity seeking to close an alley to public use must pay an administrative fee to cover advertising costs and legal proceedings, conduct a title search, gain consent from all affected property owners, and have an ordinance enacted to authorize closure. Ordinance 07-409 established a new Subtitle 8A (Gating and Greening Alleys) of Article 26 of the Baltimore City Code which provides for this alternate process to gate and lease alleys provided certain procedures, petitions, consents, reviews, and determinations are met. Ordinance 11-580 clarified the law to attribute the Department of General Services as the agency administering the alley gating process as this process was part of the transfer of duties when the Department was created.

The opportunity to gate an alley was established to provide an alternative to the lengthy legal process and the cost of closing an alley to public use. The intent was to allow residents to gain control of the activities occurring in alleys, provide some measure of security, and later, an opportunity for enhancing quality of life through greening opportunities. Current law provides for gating and greening of alleys where the structures are predominately, but not solely, residential. Petitions to gate an alley must contain the signed consents of at least 80% of the owners of abutting properties, excluding abandoned properties, and an affidavit describing attempts to obtain consents from 100% of the abutting owners. Greening an alley requires the signed consents of 100% of the owners of all occupied properties, and the signed consents must

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constitute at least 80% of all the properties abutting the alley, excluding abandoned properties. An affidavit is also required for alley greening petitions.

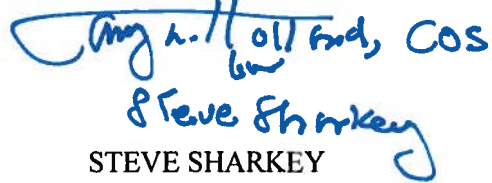
City Council Bill 14-0418, if approved, would do the following:

1. Remove repetitive language and conditions which apply to gating an alley, gating and greening an alley, and greening an alley that is already gated. For example, the same standards must be met to consider an alley for gating, gating and greening, or greening a gated alley: the abutting properties are predominately residential; the alley is no longer needed for pedestrian access or through traffic; and the public health, safety and welfare will be promoted. Likewise, abutting property owners must sign petitions to signify their consent to the requested action and, if approved, must enter into a lease with the City via the Board of Estimates.
2. Clarify the different standards for gating an alley and for greening an alley. Alley greening has a higher standard for property owner consents as it creates a greater change to an alleyway than just gating the access points to an alley. Greening activities are presumed to include removal of paving, therefore the leasing entity will be required to enter into a Developer's Agreement with General Services before the greening work can commence.
3. Transfer the responsibility for determining support for the gating or greening of an alley by the Commissioners of Police and Fire from the petitioner to the Department of General Services. The Department felt it is more appropriate and expedient to assume responsibility for contacting and requesting the reports from these department heads for alley gating petitions.
4. Clarify the types of entities that may enter into a gating lease. In addition to the abutting property owners, neighborhood associations or other nonprofit entities that represent the area in which the alley and its abutting properties are located may be the lessee. This change would allow for existing neighborhood organizations to fulfill the lessee role for property owners that may not want or be able to create an entity structure for entering into a leasing arrangement with the City.
5. Lower the percentage of required consents to gate an alley from 80% to 75%. Current law requires 80% of abutting property owners to consent to gating an alley (not including vacant structures). While it is important to have a significant majority of property owners to consent, this modest reduction to 75% may make the petitioning process a little easier while still ensuring that most of the abutting property owners support the gating action.

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The Department of General Services believes the changes and clarifications proposed in City Council Bill 14-0418 are reasonable and prudent and therefore supports its passage.

Respectfully,

Handwritten signature in blue ink that reads "Steve Sharkey" and "COS" with a flourish.

STEVE SHARKEY
DIRECTOR

SS/MMC:ela