

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor

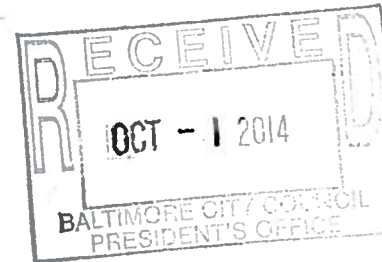


DEPARTMENT OF LAW

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

September 30, 2014

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 14-0420 – Property Tax Credits Urban Agriculture

President and City Council Members:

The Law Department has reviewed City Council Bill 14-0420 for form and legal sufficiency. The bill provides for a property tax credit for urban agriculture property, establishes the amount, duration and possible early termination of the credit, imposes certain limitations, conditions, and qualifications, provides for the administration of the credit and requires the credit to be repaid under certain circumstances.

Section 9-253 of the Tax- Property Article of the Annotated Code of Maryland permits local governments such as Baltimore City to grant, by law, a local property tax credit for urban agricultural property. The State statute defines urban agricultural property as real property that is:

- (i) at least one-eighth of an acre and not more than 5 acres;
 - (ii) located in a priority funding area, as defined in § 5-7B-02 of the State Finance and Procurement Article; and
 - (iii) used for urban agricultural purposes.
- “Urban agricultural purposes” is defined as:
- (i) crop production activities, including the use of mulch or cover crops to ensure maximum productivity and minimize runoff and weed production;
 - (ii) environmental mitigation activities, including stormwater abatement and groundwater protection;
 - (iii) community development activities, including recreational activities, food donations, and food preparation and canning classes;
 - (iv) economic development activities, including employment and training opportunities, and direct sales to restaurants and institutions; and
 - (v) temporary produce stands used for the sale of produce raised on the premises.

The Law Department has several concerns regarding the bill. First, in §10-18(c)(1)(I)(B), one of the qualifications for the credit that does not appear in the enabling legislation is that the land may not be used for any other for-profit purpose that would subject the parcel to property

F w/Amend



tax liability. While the enabling legislation does allow the City to provide for additional qualification criteria, this requirement may conflict with the definition of "urban agricultural purpose" which allows for the parcel to be used for direct sales to restaurants and institutions and sales at temporary produce stands. If these activities are for-profit activities that subject the parcel to property tax liability then there is a conflict that needs to be remedied. Since the City Council may not amend the enabling legislation's definition of "urban agricultural purposes," it must amend §10-18(c)(1)(I)(B) to exclude activities specifically allowed under the definition.

Second, the bill requires that if at any time during the five year term of the credit or any renewal term, the property ceases to be used for urban agricultural purposes, the owner of the property shall be liable for all property taxes that would have been imposed during the five year term had the credit not been granted. There will likely be enforcement difficulties with this provision if a property owner sells the property during the term of the credit to someone who ceases to use the property in a manner that qualifies for the credit. If that occurs, does the former owner become liable for the full property tax on the property for the years it was owned by that person? This language comes from the enabling legislation but nevertheless could cause issues for enforcement.

Third, on page 3, line 19, strike "imposed" and insert "due." This language will more accurately reflect the value to be used to calculate the credit.

Provided that Council Bill 14-0420 is amended to cure the problems mentioned above, the Law Department will approve the bill for form and legal sufficiency.

Sincerely yours,



Elena R. DiPietro
Chief Solicitor

cc: George Nilson, City Solicitor
Angela C. Gibson, Mayor's Legislative Liaison
Hilary Ruley, Chief Solicitor
Victor Tervala, Chief Solicitor
Jennifer Landis, Assistant Solicitor