

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor

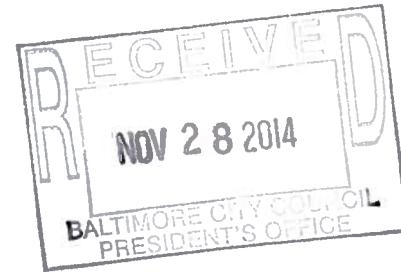


DEPARTMENT OF LAW

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

November 28, 2014

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



Re: City Council Bill 14-0444 – Zoning – Sign Regulations – “Sponsor-a-Road” Signs

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 14-0444 and Planning’s Proposed Amendment to it for form and legal sufficiency. The bill would amend the City’s Zoning Code to create another exemption from sign regulations for “Sponsor-a-Road” signs. Although the City must be careful not to administer the program in a way that violates the First Amendment, there is no legal prohibition to the bill as written. *See, e.g., Robb v. Hungerbeeler*, 370 F.3d 735, 745 (8<sup>th</sup> Cir. 2004)(court held that Mississippi Department of Transportation violated the Civil Rights Act by denying a road sign sponsorship to the Klu Klux Klan even though the group had a history of violence and racism)(*cert. den. Kahn et. al. v. Robb et. al.*, 125 S.Ct. 908 (2005); *see also* <http://www.cnn.com/2012/06/12/us/georgia-klk-highway/> (last visited October 10, 2014).

The requested amendment by Planning, however, is problematic. It seeks to remove the words, “in the right-of-way of a public street or road” from the bill. Although this will allow signs on property adjacent to the right-of-way, it would also allow street-maintenance signs to be placed anywhere in the City. This broad geographic exclusion to the general outdoor advertising sign ban could be seen to be an exception that swallows the ban, thereby making the ban subject to legal challenge for no longer being narrowly tailored, ostensibly for aesthetics. *See e.g., Metro Lights v. City of Los Angeles*, 558 F.3d 898, 903, 913-14 (9<sup>th</sup> Cir. 2009). For this reason, the Law Department would recommend either leaving the language as proposed by the Department of Transportation or inserting “or adjacent to” after the word “in” on line 8 of page 2.

Any amendment to the City’s Zoning Code requires advertisement by publication in a newspaper of general circulation in the City at least 15 days before the hearing. *See* Md. Code, Land Use, §10-303(c); Zoning Code of Baltimore City, §§16-101(d)(2); 16-402(b)(1); 16-402(c)(2). In addition, any Zoning Legislation, such as this bill, requires a hearing before Second Reading and, if it is substantively amended after the conclusion of that hearing, a subsequent hearing is required. *See* Zoning Code of Baltimore City, §§16-401(a); 16-402(a); 16-403.

*fav w/comm*

Assuming this bill was properly advertised and the Council holds the requisite hearings, the Law Department can approve it for form and legal sufficiency.

Very truly yours,



Hilary Ruley  
Chief Solicitor

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