

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

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

May 20, 2015

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 15-0515 – City Streets – Opening – Air Rights  
over a Portion of a 10-Foot Alley in the Rear of 435-439 Lafayette  
Avenue

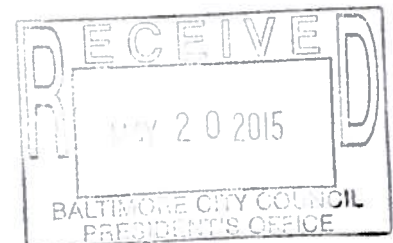
Dear President and City Council Members:

The Law Department has reviewed City Council Bill 15-0515 for form and legal sufficiency. The bill would allow the City to open the air rights over a portion of an alley at the rear of 435-439 Lafayette Avenue.

Section (34) of Article II of the City Charter grants the Mayor and City Council the power to “construct, open, extend, widen, straighten or close streets, bridges, tunnels or approaches to them and other public ways of every kind within the bounds of the City.” Generally “ownership of space above lands and waters is vested in the owners of the surface.” *See, e.g., Macht v. Department of Assessments*, 266 Md. 602, 604 (1972). Section 116(b)(2) of Article VII of the City Charter requires that the Department of General Services (“DGS”) prepare all ordinances for the opening and closing of streets. *See Ordinance 08-0003* (transferring this power to DGS from the Department of Transportation), approved by the voters. Thus, this is the appropriate bill to effectuate the opening of the air rights over a portion of this alley. The Law Department approves 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, General Counsel Division  
Victor Tervala, Chief Solicitor  
Jennifer Landis, Assistant Solicitor

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