

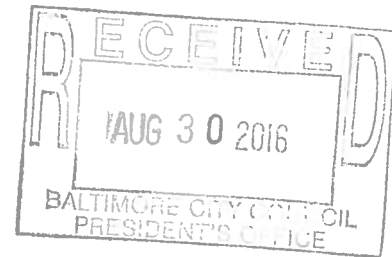
CITY OF BALTIMORE  
STEPHANIE RAWLINGS-BLAKE, Mayor



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

August 30, 2016

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



Re: City Council Bill 16-0735 – Inclusionary and Affordable Housing  
Requirements - Increasing Program Participation

Dear Madame President and City Council Members:

The Law Department has reviewed City Council Bill 16-0735, which would revise existing laws regarding affordable and inclusionary housing to: (1) provide for the establishment and capitalization of the Affordable Housing Fund with a percentage of the revenues from recordation taxes and transfer taxes appropriations from the ordinance of estimates and grants and loans; (2) elimination the Inclusionary Housing Board and create the Fair Hosing Board which will oversee the implementation of both affordable housing and inclusionary housing laws; 93) establishment of permitted uses of the Fund; (4) striking of existing provisions of scope and applicability other than limited exemptions; (5) modification of the inclusionary requirements to require 10% of all residential units be provided at or below a very low rental cost or low ownership cost; (6) certain modifications of the inclusionary housing requirements; and (7) establish density bonus and fee in lieu options.

The Law Department has the following concerns about the bill:


1. Section 2A-5 provides for capitalization of the Affordable Housing Fund with a percentage of revenues from the recordation taxes and the transfer taxes. This provision is unenforceable as the City Council does not have authority to direct revenue due to the City to a specific fund or purpose. Art. VII, Sec. 12 requires that all moneys due the City shall be collected by the Director of Finance and deposited in depositories designated by the Board of Finance. Absent additional authority either in the Charter or State law allowing earmarking of these taxes for the affordable housing fund, the City Council may not do so in this bill.

*Fav w/ Amend,  
addition a) comments*

2. In Sec. 2A-12(A)(2), since the Board has authority over both affordable and inclusionary housing, shouldn't efforts with respect to affordable housing outside of the inclusionary housing process be include in the Board's report?
3. On page 7, line 21, should "affordable be inserted before "units."
4. On page 7, line 22, does this mean tax-base increase due to affordable housing units? Needs clarification.
5. In 2A-13, Board's powers with respect to affordable housing in Subtitle 2A not mentioned in these powers.
6. In Sec. 2A-19 and 2A-20, Art. I, Sec. 10 gives the City Council authority to provide for the use of funds in the Affordable Housing Fund, funds must still be appropriated through the budget process. Art. VI, Sec. 8(b) states that the Ordinance of Estimates shall include all the moneys to be appropriated by the City for all purposes for the fiscal year for which the ordinance is applicable.
7. On page 19, line 31, insert "D" at the end of "PROVIDE."
8. On page 20, line 23, delete "INCLUSIONARY HOUSING BOARD" and insert "FAIR HOUSING BOARD." On line 24 after "grant" insert ", subject to appropriation,".
9. Sec. 2B-24 has not been amended and remains law but makes a reference to Sec. 2B-23 which is deleted by this bill. The same problem occurs in 2B-25.
10. Sec. 2B-63 and 2B-64 are not set forth in the bill but are subject to appropriation as explained in 6. above.

Provided that the issues discussed above are addressed and appropriate amendments adopted, the Law Department would approve Council Bill 16-0735 for form and legal sufficiency. We would be happy to work with the City Council, City agencies, and interested parties to further review and improve the bill.

Sincerely yours,



Elena R. DiPietro  
Chief Solicitor

cc: David Ralph, Acting City Solicitor  
Angela C. Gibson, Mayor's Legislative Liaison  
Victor Tervalo, Chief Solicitor  
Hilary Ruley, Chief Solicitor  
Jennifer Landis, Special Assistant Solicitor