May 28, 2020

The Honorable President and Members

of the Baltimore City Council

Attn: Natawna B. Austin, Executive Secretary

Room 409, City Hall, 100 N. Holliday Street

Baltimore, Maryland 21202

Re: City Council Bill 20-0487 - Zoning – Conditional Use – Amending Ordinance 18-170

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 20-0487 for form and legal sufficiency. The bill amends Ordinance 18-170, as enacted by Ordinance 14-206 and amended by Ordinance 16-469 and last amended by Ordinance 18-170, to reauthorize and continue the permission for the establishment, maintenance, and operation of a parking lot for the parking of 4 or more automobiles on the property known as 4001 Roland Avenue. It provides for the automatic termination of this Ordinance and provides for a special effective date.

This bill purports to amend Ordinance 18-170. That ordinance, however, terminated as of April 19, 2020 by the express terms of Ordinance 18-170. The termination of the conditional use authorization ordinarily would require the introduction and adoption of a new conditional use ordinance to authorize the parking lot established by Ordinance 14-206, and as reauthorized by Ordinances 16-469 and 18-170. On the other hand, an option may exist to cure the inadvertent lapse of Ordinance 18-170 with a retroactive effective date of Council Bill 20-0487. Maryland courts have upheld retroactive effect of a statute when the legislature intends to cure an inadvertent defect, had the authority to enact the law at the time of the defect, and when retroactive application does not interfere with vested rights. Waters v. Montgomery Co., 337 Md. 15, 28-29 (1994).

In any event, neither of these actions is needed. The termination of Ordinance 18-170 on April 19, 2020 has been extended by the Governor’s Executive Order of March 12, 2020. That order extended “licenses, permits, registrations and other governmental authorizations…that would otherwise expire during the state of emergency and catastrophic health emergency [declared March 5 2020] under applicable laws and regulations [if they were] renewable during the state of emergency and catastrophic health emergency…” According to the Executive Order, the expiration date of these authorization is “30 days after the date the by which the state of emergency is terminated and the catastrophic health emergency is rescinded.”

Thus, under the terms of the Governor’s Executive Order of March 12, 2020 and given the fact that the state of emergency remains in effect as of today’s date, Ordinance 18-170 remains in effect as of today’s date. Moreover, if Council Bill 20-0487 becomes law before the extended deadline expires for government authorizations in accordance with the March 12, 2020 Executive Order, Council Bill 20-0487 can amend Ordinance 18-170 as the bill provides.

For the above reasons, the Law Department is prepared to approve Council Bill 20-0487 for form and legal sufficiency, provided the bill becomes law before the extended deadline for government authorizations expires in accordance with the Governor’s March 12, 2020 Executive Order.

Sincerely,



Victor K. Tervala

Chief Solicitor

cc: Dana Moore, Acting City Solicitor

Matt Stegman, Mayor’s Legislative Liaison

Caylin Young, President’s Legislative Director

Elena DiPietro, Chief Solicitor, General Counsel Division

Hilary Ruley, Chief Solicitor

Ashlea Brown, Assistant Solicitor