JMay 17, 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 20-0529- Property Tax – In Rem Foreclosure and Sale – Vacant and Abandoned Property

President and City Council Members:

 The Law Department has reviewed City Council Bill 20-0529 for form and legal sufficiency. The bill would allow the Mayor and City Council of Baltimore to utilize a process known as In Rem Foreclosure to sell properties that are abandoned and vacant and have a large delinquent tax burden. The process would take qualifying properties out of the tax sale process and allow for a more streamlined process.

 The use of the in rem foreclosure process was made possible by the passage of a new State enabling law in 2019. In the Md. Ann. Code, Tax Property Art., Title 14 Part V, the General Assembly authorizes local governments to provide by law for the use of the in rem process. The authorizing legislation requires that the local government provide for date aftere which the property may be subject to the in rem process, criteria for qualifying properties, authorizing the local government to file a complaint to initiate the process and adopt administrative rules and procedures.

 The bill provides that qualifying properties must be vacant or improved but subject to citations for being vacant and unsafe or unfit for habitation if the time for appeal has expired or an appeal was decided in favor of the building official on the underlying violations. There are robust requirements to ensure effort is made to find the property owner and notice of the complaint for in rem foreclosure must be given by summons served by mail in accordance with Title 14, Subtitle 8,Part III, by publication or any other means that result in actual notice of the in rem proceedings. Hearings are held in the circuit court.

 The state enabling legislation came about as a result of recommendations made by the Task Force to Study Tax Sale in Maryland. In its report, the Task Force made the following recommendation:

“Enable jurisdictions to voluntarily create the judicial In Rem tax sale system recommended by the Center for Community Progress, with additions that provide constitutionally defensible language for jurisdictions to select which properties go

through this system. The In Rem system is for vacant properties. In essence, it allows jurisdictions to use a deed sale system to address vacant properties, not a tax sale certificate system, in which clear and insurable title is delivered at the completion of the deed sale system.

Under this new system, if the jurisdiction chooses to do so, the jurisdiction would establish a date certain by which property owners would either have to pay off delinquent taxes (or, if eligible, enter into a payment plan) or face foreclosure. The jurisdiction would then auction off the deed and, in the absence of any bidder, would assume ownership of the property. In cases where jurisdictions will establish land banks, the property can be transferred to the land bank for disposition and redevelopment.

In 2017, the General Assembly gave land banks the power of lien release and updated other aspects of the land bank statute to make land banks a better tool for blight elimination.”

 City Council Bill 20-0529 is consistent with the enabling legislation. The Law Department, therefore, approves the bill for form and legal sufficiency.

 Sincerely,

 

 Elena R. DiPietro

cc: Dana P. Moore, Acting City Solicitor

 Matthew Stegman, Mayor’s Office of Government Relations

 Caylin Young, President’s Legislative Director

 Nina Themilis, MOGR

 Dominic Mcalily

 Ashlea Brown, Assistant Solicitor

 Hilary Ruley, Chief Solicitor

 Victor Tervala, Chief Solicitor