

Sayers, Margery

From: joel hurewitz <joelhurewitz@gmail.com>
Sent: Monday, November 18, 2019 12:45 PM
To: CouncilMail
Cc: Kuc, Gary
Subject: CB66-2019 Legalize 2019 Edition of the Howard County Code
Attachments: Howard County's Urban Renewal Law is Constitutionally Defective 2019.pdf; Urban Renewal Comparison.pdf

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Dear Council,

The Urban Renewal sections of CB66-2019 were included in the bill after the suggestion was made to County Solicitor Gary Kuc.

The attached memorandum "Howard County's Urban Renewal Law is Constitutionally Defective" was originally written in January 2016 in response to a letter from the County Solicitor. It explains the special status of urban renewal laws in the Maryland Constitution and how after adoption of the County Charter the powers of the County Commissioners were transferred to the Council and Executive. In addition, the memorandum explains how the urban renewal provisions incorrectly references the "Office of Planning and Zoning" rather than the "Planning Board," and how the six per centum cap on bonds was unlawfully removed in 1980. Making these corrections to the County Code is the proper step as stated in an opinion of the Maryland Attorney General.

I appreciate that the the County Solicitor has taken steps to correct these decades-long errors. However, substantial problems also remain in Section 13.1103. The drafters of the County Code gave these powers to the County Executive. Yet, as shown in the attached Comparison of Urban Renewal Laws, these powers should more appropriately have been given to the County Council.

The provisions for Howard and Montgomery County are substantially similar. Montgomery County adopted its Charter in 1948 prior to the passage of the urban renewal laws, and the General Assembly gave these powers to the Council and not the Executive. Thus, it would appear that Howard County should also have transferred these powers from the County Commissioners to the Council and not to the Executive. Section 13.1103 also includes a reference to the "Office of Planning and Zoning" and outdated state law references.

I understand that the Mr. Kuc believes that state legislation will be necessary to fix all of these problems, and retroactively approve the urban renewal activities of the county, similar to the legislation for Anne Arundel County which is discussed in the memorandum. I hope that this can be addressed in the 2021 General Assembly Session if not sooner in the 2020 Session.

Adding a note in the Code stating that the Urban Renewal Laws is passed pursuant to Section 61 of the Maryland Constitution might also help to deter future improper attempts to amend it.

In addition, I have discussed with Mr. Kuc the need to correct many other outdated and incorrect references in the County Code to COMAR and state law. For example, there are four outdated state law references in Title 28 dealing with Downtown Columbia. I have also discussed the technical errors in Section 4.202 regarding the Surplus School Use Committee. I understand that the intention is to submit amendments to correct these issues.

I again thank Mr. Kuc for his interest in correcting the errors and outdated references in the County Code and look forward to seeing the amendments.

Please let me know if you have questions.

Sincerely,

Joel Hurewitz

HOWARD COUNTY'S URBAN RENEWAL LAW IS CONSTITUTIONALLY DEFECTIVE

ABSTRACT

The Howard County Urban Renewal Law as codified in the Howard County Code is constitutionally defective. It was initially adopted by the General Assembly pursuant to a special grant of power found in the Maryland Constitution. Local governments cannot amend urban renewal laws as enacted by the General Assembly—a principle expressed in an opinion of the Maryland Attorney General. The Constitution has an ambiguity and an unanswered question regarding what to do with the references to county commissioners when a county adopts a charter subsequent to the enactment of a public local law for urban renewal. Howard County has amended the urban renewal law several times, beginning after the adoption of the County Charter in 1968. On at least two instances, these amendments have been substantive in nature: transferring review of the urban renewal plan from the Planning Commission to the Office of Planning and Zoning and removing the interest rate cap on bonds. Anne Arundel County has had a similar history regarding its urban renewal authorization and adoption of a charter, however, the county subsequently received legislative relief and clarification by the General Assembly.

I. THE MARYLAND ATTORNEY GENERAL HAS RECOGNIZED THE UNIQUE STATUS OF THE URBAN RENEWAL PROVISION IN THE MARYLAND CONSTITUTION

The authority for any local government in Maryland to carry out urban renewal projects is found in Article III, Section 61 of the Maryland Constitution. The power provision begins “(a) The General Assembly may authorize and empower any county or any municipal corporation, by public local law: (1) To carry out urban renewal projects . . .” Similarly, the additional powers provision begins “(b) The General Assembly may grant to any county or any municipal corporation, by public local law . . .”

The Maryland Attorney General considered these provisions in a 1995 Attorney General Opinion. Though, the question at issue there dealt with municipal corporations, because Section 61 applies equally to counties and municipalities, the analysis should be analogous.

To paraphrase the Attorney General

Our opinion is as follows: Although all [home rule charter counties] in the State have home rule, an express provision of the Maryland Constitution reserves to the General Assembly alone the power to enact, amend, and repeal urban renewal laws for specific [counties]. In our opinion, therefore the laws in question are still valid as enacted by the General Assembly.

80 OAG 232 (1995). To further paraphrase the opinion:

[Counties] previously authorized by the General Assembly by public local law to carry out urban renewal projects continue to have this authority. The authority under which these laws were enacted, the Urban Renewal Amendment, expressly provides that it prevails over [Article XI-A]. Therefore, a [county] may not in purported exercise [of] its home rule powers, amend or repeal through [code] amendment the urban renewal provisions enacted by the General Assembly.

To the extent that [county charters or codes] have been amended in this respect, these [charters or codes] should be republished by the [county] to restore the urban renewal provisions enacted by the General Assembly.

80 OAG 232, 234. See also 47 OAG 40, 43 (1962) recognizing the limitations on the powers of home rule local governments when acting under Article III, Section 61.

II. THE CONSTITUTION HAS AN UNANSWERED AMBIGUITY REGARDING THE REFERENCES TO COMMISSIONERS IN A PUBLIC LOCAL LAW AUTHORIZING URBAN RENEWAL AFTER ADOPTION OF A COUNTY CHARTER

The Constitution has an ambiguity regarding how to handle the public local law authorizing urban renewal in a commissioner county subsequent to the adoption of a county charter. While a charter county has power to amend or repeal its public local laws, as discussed above urban renewal is the exception to the rule. In the absence of re-authorization of urban renewal by the General Assembly, neither available option is entirely proper. To do nothing leaves outdated, confusing, and perhaps irrelevant references to commissioners in the county code. On the other hand, amending the law to divvy up the executive, legislative, and administrative responsibilities to the county executive, council, staff and boards usurps the constitutional authority of the General Assembly as expressed in the Attorney General Opinion. Perhaps unaware of this conundrum and with more than a quarter century before the Attorney General Opinion clearly showed that the urban renewal law occupies a special place in the Maryland Constitution, the codifiers of the first Howard County Code chose the later option. Along with all other public local laws, they divided up the responsibilities of the Urban Renewal Law in a *cy presesque* fashion. Without conceding that this overall approach was lawful, this option will be accepted for the sake of further argument here. Yet, in the transition the codifiers erred in a substantive detail which is at issue today with regard to the Long Reach Village Center (LRVC) Urban Renewal.

III. THE CODIFIERS OF THE FIRST COUNTY CODE ERRED AFTER ADOPTION OF THE CHARTER IN 1968 REGARDING REVIEW AND RECOMMENDATION OF THE URBAN RENEWAL PLAN

In 1961, Howard County was granted urban renewal authority pursuant to Article III, Section 61 by the General Assembly with the passage of Chapter 877. In 1968, the County adopted its Charter and transitioned from a commissioner government to a council and executive government. Therefore, it was necessary to draft the County Code.

In the Preface to the 1970 Edition, the Editors of the Code described in detail the guidelines that they used in revising the Howard County Code (1972 Edition):

The transitional provision of the Charter in Article XI, Section 1107 provide: "All references in the Constitution and the laws of this State to the County Commissioners shall, at such time as the elected members of the first Council and first Executive take office, be construed to refer to the Council and the Executive whenever such construction would be reasonable. The Council and Executive shall succeed to all powers vested heretofore in the County Commissioners by the Constitution and laws of this State." In those instances where the reference to County Commissioners would not reasonably refer to both the County Council and County Executive, your Editors have construed the meaning to be either the Council or the Executive as the context of the law would require. In making this determination, a distinction was made between legislative, executive or quasi-judicial functions.

When the term "County Commissioners" in the former Code of Public Local Laws refers to duties which are executive in character, your Editors have inserted the word "County Executive." In those instances where the term refers to duties which are legislative or quasi-judicial in character, the term "County Council" has been inserted except in a few instances where the Charter would require that the "Board of Appeals" would be inserted for quasi-judicial functions.

As stated above, this general approach was acceptable for the regular public local laws. For the Urban Renewal Law, this approach while it may or may not be entirely constitutional for the most part it appears to have created a reasonable law; yet, this does not apply to the provision for approval of the project.

The Preface also states:

In this the first Howard County Code, the Public Local Laws of Howard County, rules regulations, all resolutions of the former County Commissioners and the County Council, having the force and effect of law have been compiled and codified. *Minimum efforts were made to change the existing law except where required by the transitional provisions of Charter, as stated above, or required by coherence and clarity.*

Howard County Code – Preface to 1970 Edition (emphasis added). As will explained below, regarding the approval provision of the Urban Renewal Project, the Editors in fact made a substantive change. The Preface also described the guidelines regarding boards and commissions that were abolished under the new charter:

Many of the provisions of the 1965 Code of Public Local Laws of Howard County made reference to certain Offices, Boards and Commissions under the former County Commissioners government, which were specifically abolished by Article XI, Section 1112 of Charter. *In such cases, your Editors have deleted the references to the abolished Office, Board or Commission and incorporated in the new text the appropriate Office, Department or Board, which under Charter exercises the powers and duties of the abolished Office, Board, or Commission, whenever such construction would be reasonable.*

Howard County Code – Preface to 1970 Edition (emphasis added).

Chapter 877 as enacted by the General Assembly and as set out in the Code of Public Local Laws of Howard County (1965 Edition) regarding public hearing and review of the project appears in relevant part as follows:

330. Public hearing; approval of project.

(a) Prior to final approval of an urban renewal project, the County Commissioners shall:

(b) Submit the plans to the Howard County Planning Commission for its review and recommendation only.

The Planning Commission's recommendations shall be submitted within 60 days after receipt of the plans.

(c) Hold a public hearing on the proposed urban renewal project after 15 days' notice by publication in a newspaper having general circulation in the County, giving the time, place, and date of the hearing, and an opportunity for the public to review the plans.

(d) Make such change or modification as the Commissioners deem desirable in the urban renewal project.

(e) Approve the project by resolution. Upon approval by resolution of such urban renewal project, such plan shall be deemed to be in full force and effect.

Similarly, as the section appears in Chapter 877:

174F. Public Hearing—Approval of Project.

(a) Prior to final approval of an urban renewal project, the County Commissioners shall:

(b) Submit the plans to the Howard County Planning Board COMMISSION for its review and recommendation only. The Planning Board's COMMISSION'S recommendations shall be submitted within 60 days after receipt of the plans.

(c) Hold a public hearing on the proposed urban renewal project after 15 days' notice by publication in a newspaper having general circulation in the County, giving the time, place and date of the hearing, and an opportunity for the public to review the plans.

(d) Make such change or modification as the Commissioners deems desirable in the urban renewal project.

(e) Approve the project by resolution. Upon approval by resolu-

Note that both have the erroneous placement of "(a)" which applies to all subsequent subsections and was corrected as now laid out in the Howard County Code:

Sec. 13.1106. - Public hearing; approval of project.

Prior to final approval of an urban renewal project, the County Council shall:

(a) Submit the plans to the Office of Planning and Zoning, for its review and recommendations only. The Office of Planning and Zoning's recommendations shall be submitted within 60 days after receipt of the plans.

In amending then subsection (b) the Editors failed to follow their own guidelines to make "minimum effort to change the existing law" and to properly incorporate in "the new text the appropriate Office, Department or Board, which under Charter exercises the powers and duties of the abolished [Planning Commission]." The Charter provided in relevant part:

Section 1112. ABOLITION OF CERTAIN OFFICES, BOARDS AND COMMISSIONS. Subject to the conditions, if any, specified in this Section, the following offices, boards, and commissions are abolished:

* * * *

(d) THE HOWARD COUNTY PLANNING COMMISSION. Members of the Howard County Planning Commission in office at the time this Charter becomes effective, except the County Commissioner service ex officio, shall continue in office as members of the Planning Board established by Article IV, Section 407 of this Charter, for the remainder of their term and until their successors are appointed. Not later than May 1, 1969, the Executive and the Council shall take necessary action to appoint a fifth member to the Planning Board as provided for in Article IV, Section 407(a) of this Charter.

Therefore, it is quite clear that the Planning Board succeeded and assumed the responsibilities of the Planning Commission. The Editors should have transferred review of the the urban renewal project to the Planning Board and not to the Office of Planning and Zoning; the Planning Board is the appropriate new board in keeping with the Editors' transition guidelines. Moreover, such a transfer also would be in keeping with the apparent legislative intent by the General Assembly to give another body with other members of the County an opportunity for reflection, a separate public meeting of the Planning Board, and recommendation before the elected officials—then the Commissioners and now the Council—vote on the final plan.

In addition, the language as now part of the County Code is illogical and superfluous. It is generally self-evident that when Planning and Zoning sends matters to the Council it comes with their review and staff recommendations. See for example Howard County Code Sec. 16.801 which provides a non-exclusive list of Duties and Responsibilities of the Department of Planning and Zoning and the relationship with the Council: (c) (2) Subdivision rules and regulations; (c)(3) Zoning map; zoning regulations; (c)(4)(ii) Text amendments; and (c) (8) Sites for public facilities. Thus, the LRVC Urban Renewal Plan is also by its very nature a staff recommendation to the Council.

Finally, the provision as it appears in the Howard County Code is actually circular and illogical. In the case of the LRVC Urban Renewal Project, the Plan was developed by Planning and Zoning. The Urban Renewal Law as actually written would have Planning and Zoning send the Plan to the Council, only to have the Council send it back to Planning and Zoning to review its own plan for up to 60 days to then go back to the Council with a recommendation. Such a scenario does not fulfill the original legislative intent of the General Assembly and serves no real purpose and is in fact generally pointless. On the other hand, as stated review and recommendation by the Planning Board would give the opportunity for valuable input on the Plan to the Council.

IV. HOWARD COUNTY UNCONSTITUTIONALLY AMENDED CHAPTER 877 TO DELETE THE SIX PERCENT CAP ON BONDS

Returning to the additional powers provision of Article III, Section 61 (b) which states:

(b) The General Assembly may grant to any county or any municipal corporation, by public local law, any and all additional power and authority necessary or proper to carry into full force and effect any and all of the specific powers authorized by this section and to fully accomplish any and all of the purposes and objects contemplated by the provisions of this section, provided such additional power or authority is not inconsistent with the terms and provisions of this section or with any other provision or provisions of the Constitution of Maryland.

Pursuant to this authority, the General Assembly gave Howard County the authority to sell bonds in order to carry out an urban renewal project. These provisions as they appear in the Code of Public Local Laws (1965

Edition) comprise “Section 331. Bonds; general obligation.,” “Section 332. Bonds; revenue bonds,” “Section 333. Revenue bonds; tax exempt; security.,” “Section 334. Bonds; how issued.,” “Bonds 335. Bonds; how sold.,” “Section 336. Bonds; signature.,” “Section 337., Bonds; validity.,” and “Section 338. Bonds; investments.” In fact, eight of the fourteen sections of the Urban Renewal Law relate to bonds.

Furthermore, the Constitution also permits the General Assembly to clarify and limit these powers in subsection (d): “The General Assembly may place such other and further restrictions or limitations on the exercise of any of the powers provided for in this section, as it may deem proper and expedient.” One such restriction which the General Assembly chose to place upon Howard County and its authority to sell bonds was a six percent cap on the interest rate. “Section 334. Bonds; how issued.” stated in part that any revenue or general obligation bonds issued “bear interest at such rate or rates, *not exceeding six per centum per annum.*” (emphasis added).

When initially enacted in 1961, a six percent interest rate cap probably did not give anyone a second thought. However, in 1980 with interest rates approaching 20% understandably a six percent cap was an impediment to urban renewal. However, rather than ask the General Assembly for legislative relief, the Howard County Council usurped the General Assembly's Constitutional authority and deleted the six percent limitation. The Council passed CB120-1980. In the prefatory provisions the Bill stated in part:

WHEREAS, it is necessary to clarify the rate of interest at which these bonds may be sold; and
WHEREAS, in order to avoid any confusion as to a legal limit on the interest rates for any Urban Renewal bonds, it is necessary to delete references to a maximum rate of interest.

Thus, the legislative intent was clear: remove the bond cap.

In addition, the first legislative basis for the bill stated:

WHEREAS, the sale of Urban Renewal bonds before the end of 1980 is necessary to the public health, safety and welfare of the County.

The original bill before amendment was also declared to be an emergency measure to take effect at the date of enactment. These last two elements were apparently in an attempt to justify the County's authority under the health and welfare provision of the Express Powers Act for Charter Counties. The Express Powers Act has been enacted pursuant to Article XI-A, Section 2 of the Constitution for Charter Counties. Yet, as discussed above regarding the Attorney General Opinion, Article III, Section 61 (e) clearly states “Also, the power provided in this section for the General Assembly to enact public local laws authorizing any municipal corporation or any county to carry out urban renewal projects prevails over the restrictions contained in Article XIA 'Local Legislation.'” Thus, the attempt by Howard County to justify the Council Bill upon the Express Powers Act was *ultra vires* and unconstitutional.¹

Having lifted the interest rate cap, the Council proceeded with establishing the Ellicott City Historic District Urban Renewal Area. CR101-1981. Like the amendment deleting the bond cap, the Council justified the urban renewal as being “necessary in the interest of the public health, safety, morals and welfare of the residents of the County.” CR101-1981 page 1. In addition, the urban renewal project included an Assignment and Security Agreement between the County and the Equitable Trust Company for the sale of \$750,000 in industrial development revenue bonds.

¹ Resolution 2-2015 like CB120-1980 before it erroneously sought to justify its authority under the Express Powers Act by stating: “AND BE IT FURTHER RESOLVED, that the actions authorized by this Resolution are declared to be in the interest of the public health, safety and welfare of the residents of Howard County.” The authority for any urban renewal is under Article III of the Maryland Constitution, not Article XI-A. In fact, CR22-2014 establishing the LRVC Urban Renewal Project also includes the standard reference to it being “necessary in the interest of the public health, safety and welfare.”

Regarding the interest rate, the Security Agreement included the following excerpted provisions:

or any amounts been paid with respect thereto, be automatically increased (i) to a fluctuating rate of interest per annum equal at all times to the commercial prime rate of interest in effect at The Equitable Trust Company, a Maryland banking corporation, plus two (2) percentage points above such commercial prime rate of interest as the same may be in effect from time to time with respect to any of such payments made prior to the Permanent Financing Date, and (ii) to seventeen per centum (17.00%) per annum with respect to all such payments made after the Permanent Financing Date. Any amount of interest past due by reason of such determination shall thereupon become immediately due and payable as provided in the Agreement.

Until the Permanent Financing Date, the Bond shall bear interest on the unpaid principal amount thereof at a fluctuating rate of interest per annum which is at all times equal to 75% of the commercial prime rate of interest in effect from time to time at The Equitable Trust Company, a Maryland banking

On and after the Permanent Financing Date, the Bond shall bear interest on the unpaid principal amount thereof at the rate of thirteen per centum (13.00%) per annum, except as hereinafter provided in Section 204 in the event

Prior to the Permanent Financing Date, in the event any payment on the Bond is not paid within fifteen (15) days from the date on which the same is due and payable, such payment shall continue as an obligation of the Issuer with interest thereon at a fluctuating rate of interest per annum equal at all times to the commercial prime rate of interest in effect at The Equitable Trust Company, a Maryland banking corporation, plus two (2) percentage points above such commercial prime rate of interest as the same may be in effect from time to time. In addition, the Issuer shall pay a late charge in an amount equal to five percent (5.00%) of the amount of any payment of interest or principal as set forth above which is made more than fifteen (15) days after the date on which the same is due and payable.

This is not what was envisioned when the General Assembly limited the interest to six per centum: floating interest rates, 13% rates, 17% rates, and a late charge of 5%--on top of the inflated base rate. If the General

Assembly had intended to permit such high interest rates, they would not have limited Howard County to only 6 *per centum*. In spite of the poor economic conditions extant in 1981, Howard County should have sought an amendment to the Urban Renewal Law from the General Assembly, not unilaterally deleting the interest rate limitation.

V. ANNE ARUNDEL COUNTY RECEIVED LEGISLATIVE ACTION FROM THE GENERAL ASSEMBLY TO CLARIFY AND CORRECT THE URBAN RENEWAL LAW AFTER TRANSITION FROM A COMMISSION COUNTY TO A CHARTER COUNTY

Anne Arundel County had a similar history regarding the adoption of a Charter and the General Assembly's authorization for urban renewal to that of Howard County. Anne Arundel County was first granted urban renewal authority in 1963 with the adoption of Chapter 791, and then the County, like Howard, subsequently adopted its Charter in 1964. <http://msa.maryland.gov/msa/mdmanual/36loc/an/html/an.html>. Thus, like Howard County the references in the urban renewal law were to "Commissioners." Yet, apparently recognizing the constitutional ambiguities and concerns about the legality of the County's urban renewal projects, Anne Arundel County received legislative action from the General Assembly in 1975 which amended Chapter 791 with the passed of Chapter 803, "An Act concerning Anne Arundel County – Urban Renewal Law" which was "For the purpose of clarifying the codification of the Anne Arundel County Urban Renewal Law." Chapter 803 recognized that the Council and Executive succeeded to the powers of the Commissioners:

2 A. ANNE ARUNDEL COUNTY, MARYLAND, SUCCEEDED TO ALL POWERS HERETOFORE VESTED IN THE COUNTY COMMISSIONERS OF ANNE ARUNDEL COUNTY BY THIS SUBHEADING ON THE EFFECTIVE DATE OF THE ANNE ARUNDEL COUNTY CHARTER ADOPTED PURSUANT TO ARTICLE XI-A OF THE CONSTITUTION OF MARYLAND. ACCORDINGLY, WHENEVER THE TERMS "BOARD OF COUNTY COMMISSIONERS" OR "BOARD" OR "COUNTY" ARE USED OR REFERRED TO IN THIS SUBHEADING AS ENACTED BY CHAPTER 791 OF THE LAWS OF MARYLAND OF 1963, THEY SHALL BE DEEMED TO REFER TO ANNE ARUNDEL COUNTY, MARYLAND. LEGISLATIVE POWERS OF ANNE ARUNDEL COUNTY, MARYLAND CONFERRED BY THIS SUBHEADING SHALL BE VESTED IN AND EXERCISED BY THE COUNTY COUNCIL IN ACCORDANCE WITH THE ANNE ARUNDEL COUNTY CHARTER. NO REFERENCE IN THIS SUBHEADING TO THE ACCOMPLISHMENT OF ACTIONS BY ORDINANCE OR RESOLUTION IS INTENDED TO MODIFY ANY REQUIREMENTS OF THE ANNE ARUNDEL COUNTY CHARTER THAT ACTION BE TAKEN BY ORDINANCE. EXECUTIVE OR ADMINISTRATIVE POWERS OF ANNE ARUNDEL COUNTY, MARYLAND CONFERRED BY THIS SUBHEADING SHALL BE VESTED IN AND EXERCISED BY THE COUNTY EXECUTIVE.

Chapter 803, Section 1. In addition, the law provided "That the provisions of this Act shall control over erroneous references contained in The Code of Anne Arundel County, Maryland and appropriate changes to reflect the provisions of this Act shall be made in The Code of Anne Arundel County, Maryland as presently codified." Chapter 803, Section 2. Finally, the Act ratified the constitutionality and legality of the urban renewal activities taken by the County Executive and County Council and defined Urban Renewal Area One and Urban Renewal Area Two. Chapter 803, Section 1.

CONCLUSION

Howard County's Urban Renewal Law legally remains as it was enacted by the General Assembly in 1961. The County's past amendments to the provisions for review of projects and the tax cap were without authority and unconstitutional. Nevertheless, to ratify Howard County's urban renewal activities and the changes to the Urban Renewal Law, a request should be made to the General Assembly to reenact Howard County's urban renewal authority similar to that done for Anne Arundel County. In addition, to make clear its status under the Constitution, the public local law should contain a provision stating that it was enacted pursuant to "Article III, Section 61 of the Maryland Constitution and may not be amended or repealed by the Howard County Council."

Joel Hurewitz
Columbia, MD

January 2016
Updated November 2019

URBAN RENEWAL LAW COMPARISONS

Howard County Code of Public Local Laws 1965

Howard County Code - MunCode 2019

Montgomery County Code - American Legal Publishing Corporation 2019

328. Powers; authority.

(a) The County Commissioners for Howard County are hereby authorized and empowered to carry out and effectuate the purposes and provisions of this act:

(1) To carry out urban renewal projects, which shall be limited to slum clearance in slum or blighted areas and redevelopment thereof, or the rehabilitation of slum or blighted areas.

(2) To acquire in connection with such projects, within Howard County, Maryland, land and property of every kind and any right, title, interest, franchise, easement, or privilege therein, including land or property or any right therein already devoted to public use by purchase, lease, gift, option, condemnation, or any other legal means, for development or redevelopment purposes, including, but not limited to, the demolition, comprehensive renovation or rehabilitation thereof, provided, however, that any land or property owned by the State of Maryland shall not be acquired without the prior consent of the State.

(3) To mortgage, pledge, or otherwise encumber or dispose of any real property, provided that statutory provisions with respect to the acquisition, clearance, demolition or disposition of property by public bodies shall not apply to an Urban Renewal Project and related activities unless the legislature shall specifically so state.

(4) To develop or redevelop, including, but not limited to, the comprehensive renovation, or rehabilitation of any and all land or property acquired by any of the methods hereinbefore mentioned.

(5) To apply for and accept from the United States of America, the State of Maryland, or any department, or agency thereof, or any other source, any loan, grant, gift, contribution or aid of any kind.

(6) To make and execute all contracts, agreements, deeds, leases, franchises, or other legal instruments, for such term and under such conditions as may be necessary or convenient to carry out the provisions of this Act, notwithstanding any limitations as to the term of years imposed by other laws on said contracts, agreements, deeds, leases or franchises.

(7) To plan, replan, install, construct, reconstruct, repair, open, close, abandon, or vacate streets, roads, sidewalks, public utilities, parks, playgrounds, and other public improvements in connection with an urban renewal project.

(8) To enter into any building or property in any urban renewal area in order to make inspections, surveys, appraisals, soundings or test borings.

(9) To hold, improve, clear or prepare for redevelopment any property acquired in connection with urban renewal projects; to insure or provide for the insurance of any real or personal property or operations of the county against any risks or hazards, including the authority to pay premiums on any such insurance.

(10) To make or have made all surveys and plans necessary to the carrying out of the purposes of this Act and to adopt or approve, modify and amend such plans, which plans may include, but are not limited to: (1) plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements; (2) plans for the enforcement of codes and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements; and (3) appraisals, title searches, surveys, studies, and other plans and work necessary to prepare for the undertaking of urban renewal projects and related activities; and to apply for, accept and utilize grants of funds from the Federal Government for such purposes.

(11) To prepare plans for the relocation of persons (including families, business concerns and others) displaced from an urban renewal area, and to make relocation payments to or with respect to such persons for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of such payments financed by the Federal Government.

(12) To generally organize, coordinate and direct the administration of the provisions of this Act in order that the objective of remedying slum or blighted areas and preventing the causes thereof within Howard County may be most effectively promoted and achieved.

(13) To formulate a "workable program" for utilizing the powers and authority authorized by the Constitution of Maryland and public general laws, in order to promote development and redevelopment in an Urban Renewal Area.

Sec. 13.1103. - Powers, Authority [of County Executive].

The County Executive for Howard County is hereby authorized and empowered to carry out and effectuate the purposes and provisions of this statute:

(a) To carry out urban renewal projects, which shall be limited to slum clearance in slum or blighted areas and redevelopment thereof, or the rehabilitation of slum or blighted areas.

(b) To acquire in connection with such projects, within Howard County, Maryland, land and property of every kind and any right, title, interest, franchise, easement or privilege therein, including land or property or any right therein already devoted to public use by purchase, lease, gift, option, condemnation or any other legal means, for development or redevelopment purposes, including, but not limited to, the demolition, comprehensive renovation or rehabilitation thereof, provided, however, that any land or property owned by the State of Maryland shall not be acquired without the prior consent of the State.

(c) To mortgage, pledge or otherwise encumber or dispose of any real property, provided that statutory provisions with respect to the acquisition, clearance, demolition or disposition of property by public bodies shall not apply to an urban renewal project and related activities unless the legislature shall specifically so state.

(d) To develop or redevelop, including, but not limited to, the comprehensive renovation or rehabilitation of any and all land or property acquired by any of the methods hereinbefore mentioned.

(e) To apply for and accept from the United States of America, the State of Maryland, or any department or agency thereof or any other source, any loan, grant, gift, contribution or aid of any kind.

(f) To make and execute all contracts, agreements, deeds, leases, franchises or other legal instruments, for such term and under such conditions as may be necessary or convenient to execute and carry out the provisions of this statute, notwithstanding any limitations as to the term of years imposed by other laws on said contracts, agreements, deeds, leases or franchises.

(g) To plan, replan, install, construct, reconstruct, repair, open, close, abandon or vacate streets, roads, sidewalks, public utilities, parks, playgrounds and other public improvements in connection with an urban renewal project.

(h) To enter into any building or property in any urban renewal area in order to make inspections, surveys, appraisals, soundings or test borings.

(i) To hold, improve, clear or prepare for redevelopment any property acquired in connection with urban renewal projects; to insure or provide for the insurance of any real or personal property or operations of the county against any risks or hazards, including the authority to pay premiums on any such insurance.

(j) To make or have made all surveys and plans necessary to the carrying out of the purposes of this statute and to adopt or approve, modify and amend such plans, which plans may include, but are not limited to:

(1) Plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements;

(2) Plans for the enforcement of codes and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition or removal of buildings and improvements; and

(3) Appraisals, title searches, surveys, studies and other plans and work necessary to prepare for the undertaking of urban renewal projects and related activities; and to apply for, accept and utilize grants of funds from the Federal Government for such purposes.

(k) To prepare plans for the relocation of persons (including families, business concerns and others) displaced from an urban renewal area, and to make relocation payments to or with respect to such persons for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of such payments financed by the Federal Government.

(l) Generally to organize, coordinate and direct the administration of the provisions of this statute in order that the objective of remedying slum or blighted areas and preventing the causes thereof within Howard County may be most effectively promoted and achieved.

(m) To formulate a "workable program" for utilizing the powers and authority authorized by the Constitution of Maryland and public general laws, in order to promote development and redevelopment in an urban renewal area.

§ Sec. 56-10. Powers and authority of council generally.

(a) The county council for Montgomery County is hereby authorized and empowered to carry out and effectuate the purposes and provisions of this article:

(b) *Generally*: To carry out urban renewal projects, which shall be limited to slum clearance in slum or blighted areas and redevelopment thereof, or the rehabilitation of slum or blighted areas.

(c) *Acquisition of land and property*: To acquire in connection with such projects, within Montgomery County, Maryland, land and property of every kind and any right, title, interest, franchise, easement, or privilege therein, including land or property of any right therein already devoted to public use by purchase, lease, gift, option, condemnation, or any other legal means, for development or redevelopment purposes, including, but not limited to, the demolition, comprehensive renovation or rehabilitation thereof; provided, however, that any land or property owned by the State of Maryland shall not be acquired without the prior consent of the state.

(d) *Mortgage disposal, etc., of real property*: To mortgage, pledge, or otherwise encumber or dispose of any real property; provided, that statutory provisions with respect to the acquisition, clearance, demolition or disposition of property by public bodies shall not apply to an urban renewal project and related activities unless the legislature shall specifically so state.

(e) *Development, etc., of property*: To develop or redevelop, including, but not limited to, the comprehensive renovation, or rehabilitation of any and all land or property acquired by any of the methods hereinbefore mentioned.

(f) *Loans, grants, gifts, etc.*: To apply for and accept from the United States of America, the State of Maryland, or any department or agency thereof, or any other source, any loan, grant, gift, contribution or aid of any kind.

(g) *Contracts, deeds, leases, etc.*: To make and execute all contracts, agreements, deeds, leases, franchises, or other legal instruments, for such term and under such conditions as may be necessary or convenient to execute and carry out the provisions of this article, notwithstanding any limitations as to the term of years imposed by other laws on said contracts, agreements, deeds, leases or franchises.

(h) *Public improvements*: To plan, replan, install, construct, reconstruct, repair, open, close, abandon, or vacate streets, roads, sidewalks, public utilities, parks, playgrounds, and other public improvements in connection with an urban renewal project.

(i) *Right of entry*: To enter into any building or property in any urban renewal area in order to make inspections, surveys, appraisals, soundings or test borings.

(j) *Holding, improving, insuring, etc., property acquired*: To hold, improve, clear or prepare for redevelopment any property acquired in connection with urban renewal projects; to inspect or provide for the insurance of any real or personal property or operations of the county against any risks or hazards, including the authority to pay premiums on any such insurance.

(k) *Plans, surveys, etc.*: To make or have made all surveys and plans necessary to the carrying out of the purposes of this article and to adopt or approve, modify and amend such plans, which plans may include, but are not limited to:

(1) Plans for carrying out a program of voluntary or compulsory repair and rehabilitation of buildings and improvements;

(2) Plans for the enforcement of codes and regulations relating to the use of land and the use and occupancy of buildings and improvements and to the compulsory repair, rehabilitation, demolition, or removal of buildings and improvements; and

(3) Appraisals, title searches, surveys, studies, and other plans and work necessary to prepare for the undertaking of urban renewal projects and related activities; and to apply for, accept and utilize grants of funds from the federal government for such purposes.

(l) *Relocation of displaced persons, etc.*: To prepare plans for the relocation of persons (including families, business concerns and others) displaced from an urban renewal area, and to make relocation payments to or with respect to such persons for moving expenses and losses of property for which reimbursement or compensation is not otherwise made, including the making of such payments financed by the federal government.

(m) *Organization, coordination, etc., generally*: To generally organize, coordinate and direct the administration of the provisions of this article in order that the objective of remedying slum or blighted areas and preventing the causes thereof within Montgomery County may be most effectively promoted and achieved.

(n) *Formulation of "workable program" to promote development, etc.*: To formulate a "workable program" for utilizing the powers and authority authorized by the Constitution of Maryland, and public general laws, in order to promote development and redevelopment in an urban renewal area.

(6) To appropriate such funds and make such expenditures as may be necessary to carry out the purposes of this Act, and to expend such funds as may be available for the payment of any and all costs and expenses incurred in connection with, or incidental to, the demolition, removal, relocation, reconstruction, construction or alteration of lands, buildings, streets, highways, sidewalks, alleys, public utilities or services, parks, playgrounds, and other structures or improvements; and to levy taxes and assessments for such purposes; to borrow money; and to give such security as may be required therefore; to invest any urban renewal funds held in reserve or sinking funds or any such funds not required for immediate disbursement, in property or securities which are approved by the County Commissioners of Howard County.

(7) To create, appoint, and vest jurisdiction or authority to exercise or perform all or any part of the powers contained in this article, in a suitable board, agency or commission; to designate the number, term, compensation and duties of said commission; to require that no officer, official employee or member of such Commission, of the Planning Commission or of the County Commissioners, shall become financially interested in any way in any land or property which may be acquired for an urban renewal project.

(8) To authorize and empower the Planning Commission of Howard County, as the agent of said County Commissioners to do and perform anything or all things which may be necessary and desirable in connection with the proper and efficient administration of any project authorized under this subtitle, including, but not limited to, the making of surveys, studies and other plans, the preparation of and submission to the County Commissioners of reports and recommendations based upon such work and the instituting of any urban renewal project.

(9) To condemn land or property, including improvements, and all other rights, title and interest therein, in the name of Howard County for said urban renewal project, pursuant to Article 33A, Maryland Code, 1957 Edition.

(10) To operate, manage and maintain temporarily any property acquired by Howard County in an urban renewal area, or for an urban renewal project, pending disposition of said property as authorized by this Act, as may be deemed desirable even though not in conformity with the urban renewal plan.

(11) To sell, lease, convey, transfer or otherwise dispose of or retain any of said land or property, regardless of whether or not it has been developed, redeveloped, altered or improved and irrespective of the manner or means in or by which it may have been acquired, to any private, public or quasi public corporation, partnership, association, public or quasi public corporation, partnership, association, person or other legal entity. Any lease or rental agreement entered into pursuant to this Act, for any of the purposes or objectives contemplated by this Act, is hereby declared to be exclusively for business or commercial purposes and the fee, interest, rent, or charge reserved to be paid shall not be subject to redemption by the lessee, tenant or their successors in title, except to the extent and in the manner set forth in such lease agreement. Such property shall be subject to such covenants, conditions and restrictions, including covenants running with the land as the County Commissioners may deem to be necessary or desirable to assist in preventing the development or spread of future slums or blighted areas or to otherwise carry out the purposes of this Act. The purchasers or lessees and their successors and assigns shall be obligated to devote such real property only to the uses specified in the urban renewal plan, and may be obligated to comply with such other requirements as the County Commissioners may determine to be in the public interest, including the obligation to begin

within a reasonable time any improvements on such real property required by the urban renewal plan. Such real property or interest therein shall be retained, sold, leased, or otherwise transferred at not less than its fair value for uses in accordance with the urban renewal plan. In determining the fair value of real property for uses in accordance with the urban renewal plan, considerations shall be given to the uses provided in such plan; the restrictions upon, and the covenants, conditions and obligations assumed by the purchaser or lessee or by the County Commissioners retaining property; and the objectives of such plan for the prevention of the recurrence of slum or blighted areas. The conveyance to a private purchaser or lessee may provide that such purchaser or lessee shall be without power to sell, or encumber, or lease, or otherwise transfer the real property without the prior written consent of the County Commissioners.

(12) To exercise all or any part or combination of powers granted herein.

(13) To expend such funds as may be available for the payment of any and all costs and expenses incurred in connection with, or incidental to, the demolition, removal, relocation, reconstruction, construction or alteration of lands, buildings, streets, highways, sidewalks, alleys, public utilities or services, parks, playgrounds, and other structures or improvements; to invest any urban renewal funds held in reserve or sinking funds or any such funds not required for immediate disbursement, in property or securities.

(14) To create, appoint, and vest jurisdiction or authority to exercise or perform all or any part of the powers contained in this subtitle in a suitable Board, Agency or Commission; to designate the number, term, compensation and duties of said commission; to require that no officer, official or employee of Howard County, or member of such Commission, shall become financially interested in any way in any land or property which may be acquired for an urban renewal project.

(15) To authorize and empower the Office of Planning and Zoning, as the agent of said County, to do and perform anything or all things which may be necessary and desirable in connection with the proper and efficient administration of any project authorized under this subtitle, including, but not limited to, the making of surveys, studies and other plans; the preparation of and submission to the County Executive of reports and recommendations based upon such work and the instituting of any urban renewal project.

(16) To condemn land or property, including improvements, and all other rights, title and interest therein, in the name of Howard County for said urban renewal project, pursuant to article 33A, Maryland Code, 1957 Edition, as amended.

(17) To operate, manage and maintain temporarily any property acquired by Howard County in an urban renewal area, or for an urban renewal project, pending disposition of said property as authorized by this subtitle, as may be deemed desirable even though not in conformity with the urban renewal plan.

(18) To sell, lease, convey, transfer or otherwise dispose of or retain any of said land or property, regardless of whether or not it has been developed, redeveloped, altered or improved and irrespective of the manner or means in or by which it may have been acquired, to any private, public or quasi public corporation, partnership, association, person or other legal entity. Any lease or rental agreement entered into pursuant to this subtitle, for any of the purposes or objectives contemplated by this subtitle, is hereby declared to be exclusively for business or commercial purposes and the fee, interest, rent, or charge reserved to be paid shall not be subject to redemption by the lessee, tenant or their successors in title, except to the extent and in the manner set forth in such lease agreement. Such property shall be subject to such covenants, conditions and restrictions, including covenants running with the land, as the County Executive may deem to be necessary or desirable to assist in preventing the development or spread of future slums or blighted areas or to otherwise carry out the purposes of this subtitle. The purchasers or lessees and their successors and assigns shall be obligated to devote such real property only to the uses specified in the urban renewal plan, and may be obligated to comply with such other requirements as the County Executive may determine to be in the public interest, including the obligation to begin, within a reasonable time, any improvements on such real property required by the urban renewal plan. Such real property or interest therein shall be retained, sold, leased or otherwise transferred at not less than its fair value for uses in accordance with the urban renewal plan. In determining the fair value of real property for uses in accordance with the Urban Renewal Plan, consideration shall be given to the uses provided in such plan; the restrictions upon, and the covenants, conditions and obligations assumed by the purchaser or lessee or by the County Executive retaining property; and the objectives of such plan for the prevention of the recurrence of slum or blighted areas. The conveyance to a private purchaser or lessee may provide that such purchaser or lessee shall be without power to sell, or encumber, or lease, or otherwise transfer the real property without the prior written consent of the County Executive.

(19) To exercise all or any part or combination of powers granted herein.

Sec. 13.1104. - Powers of County Council.

The County Council, authorized and empowered by appropriate laws, may be authorized to carry out the purposes of this subtitle to levy taxes and assessments for such purposes to borrow money and to give such security as may be required therefore.

(H&T, Ch. 821, § 1-C, 5A, 2014)

(e) *Fiscal matters generally.* To appropriate such funds and make such expenditures as may be necessary to carry out the purposes of this article, and to levy taxes and assessments for such purposes; to borrow money, and to give such security, as may be required therefore; to invest any urban renewal funds held in reserve or sinking funds or any such funds not required for immediate disbursement, in property or securities which are legal investments for other municipal funds.

(f) *Creation, appointment, etc., of urban renewal commission, etc.* To create, appoint, and vest jurisdiction or authority to exercise or perform all or any part of the powers contained in this article, in a suitable board, agency or commission; to designate the number, term, compensation and duties of said commission; to require that no officer, official or employee of such commission, or the county council, shall become financially interested in any way in any land or property which may be acquired for an urban renewal project.

No similar Montgomery County provision

(g) *Condemnation.* To condemn land or property, including improvements, and any other rights, title, and interest therein, in the name of the County for an urban renewal project, under Title 12, Subtitle 1 of the Real Property Article of the Maryland Code.

(h) *Temporary operation, management, etc., of property acquired.* To operate, manage and maintain temporarily any property acquired by Montgomery County in an urban renewal area, or for an urban renewal project, pending disposition of said property as authorized by this article, as may be deemed desirable even though not in conformity with the urban renewal plan.

(i) *Sale, lease, etc., of property acquired.* To sell, lease, convey, transfer or otherwise dispose of or retain any of such land or property, regardless of whether or not it has been developed, redeveloped, altered or improved and irrespective of the manner or means in or by which it may have been acquired, to any private, public or quasi-public corporation, partnership, association, person or other legal entity. Any lease or rental agreement entered into pursuant to this article, for any of the purposes or objectives contemplated by this article, is hereby declared to be exclusively for business or commercial purposes and the fee, interest, rent, or charge reserved to be paid shall not be subject to redemption by the lessee, tenant or their successors in title, except to the extent and in the manner set forth in such lease agreement. Such property shall be subject to such covenants, conditions and restrictions, including covenants running with the land as the county council may deem to be necessary or desirable to assist in preventing the development or spread of future slums or blighted areas or to otherwise carry out the purposes of this article. The purchasers or lessees and their successors and assigns shall be obligated to devote such real property only to the uses specified in the urban renewal plan, and may be obligated to comply with such other requirements as the county council may determine to be in the public interest, including the obligation to begin within a reasonable time any improvements on such real property required by the urban renewal plan. Such real property or interest therein shall be retained, sold, leased, or otherwise transferred at not less than its fair value for uses in accordance with the urban renewal plan. In determining the fair value of real property for uses in accordance with the urban renewal plan, consideration shall be given to the uses provided in such plan; the restrictions upon, and the covenants, conditions and obligations assumed by the purchaser or lessee or by the county council retaining property; and the objectives of such plan for the prevention of the recurrence of slum or blighted areas. The conveyance to a private purchaser or lessee may provide that such purchaser or lessee shall be without power to sell, or encumber, or lease, or otherwise transfer the real property without the prior written consent of the county council.

(j) *Miscellaneous.* To exercise all or any part or combination of powers granted herein. (Mont. Co. Code 1965, § 26-4-1961, ch. 821, § 1; 2010 M.C. ch. 49, § 1)