

Department of Legislative Services
Maryland General Assembly
2017 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

Senate Bill 541

(Senator Conway)(By Request - Baltimore City
Administration)

Education, Health, and Environmental Affairs

Environment and Transportation

Baltimore City - Board of Municipal and Zoning Appeals - Appeals Authority

This bill limits the authority of the Baltimore City Board of Municipal and Zoning Appeals to hear and decide appeals alleging an error by an administrative official or unit under State law governing Baltimore City zoning, or any local law adopted under it, to instances when the board is authorized to hear and decide the appeals by the Mayor and City Council of Baltimore City by local law or the city charter. The bill also states that (1) the bill and existing specified State law provisions governing the implementation of Baltimore City zoning do not prohibit an administrative official or unit from making a decision under State law governing Baltimore City zoning, or any local law adopted under it, when authorized by the Mayor and City Council of Baltimore City by local law or the city charter and (2) the bill and existing provisions governing the authority of the board do not alter or impair the right to appeal provided for under specified State law provisions governing the implementation of Baltimore City zoning.

The bill takes effect June 1, 2017.

Fiscal Summary

State Effect: None.

Local Effect: The bill is not expected to directly affect Baltimore City finances.

Small Business Effect: None.

Analysis

Current Law: Under Title 10 of the Land Use Article, which governs Baltimore City zoning, the Mayor of Baltimore City is authorized to provide for the appointment of a Board of Municipal and Zoning Appeals with the advice and consent of the city council. Among other authority granted to the board under Title 10, pursuant to § 10-404(a)(1), the board may hear and decide appeals when it is alleged that there was an error in any order, requirement, decision, or determination made by an administrative official or unit under Title 10 or any law adopted under Title 10.

Background: The Maryland Court of Special Appeals, in an October 2016 opinion (*Viles et al. v. Board of Municipal and Zoning Appeals*), held that § 10-404(a)(1) authorized the Board of Municipal and Zoning Appeals to review a decision of the Baltimore City Planning Commission that was appealed to the board in the case – ruling against the city’s interpretation of the board’s jurisdiction. The court also held that § 10-404(a)(1) prevails over a provision of the Baltimore City Charter (Article VII, § 86), which prohibits the Board of Municipal and Zoning Appeals from being given power to review or alter determinations of the planning commission.

The planning commission’s decision that had been appealed to the Board of Municipal and Zoning Appeals, in *Viles*, modified terms of a planned unit development (PUD) (a large or complex project approved under a unitary development plan by ordinance of the mayor and city council). The Baltimore City Zoning Code authorizes the planning commission to approve minor modifications to PUDs that are limited to design features and interior planning and do not include any changes in applicable density or bulk regulations. The city did not view the Board of Municipal and Zoning Appeals’ jurisdiction as including the hearing and deciding of appeals of planning commission PUD decisions, instead understanding such decisions to be appealable to circuit court rather than to the board.

The bill gives the mayor and city council the ability to determine the jurisdiction of the board, with respect to appeals alleging an error by an administrative official or unit under Title 10 of the Land Use Article or any local law adopted under Title 10.

Additional Information

Prior Introductions: None.

Cross File: HB 447 (Delegate Anderson)(By Request - Baltimore City Administration) - Environment and Transportation.

Information Source(s): Baltimore City; Department of Legislative Services

Fiscal Note History: First Reader - February 10, 2017
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