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April 30, 2009

The Honorable Martin J. O'Malley
Governor of Maryland
State House
Annapolis, Maryland 21401-1991

RE: Senate Bill 228 and House Bill 865

Dear Governor O'Malley:

We have reviewed and hereby approve for constitutionality and legal sufficiency, Senate Bill 228 and House Bill 865, identical bills entitled "Harford County - Property Tax Credit for Homes Near a Refuse Disposal System." We write to address whether the narrow focus of the bills renders them special laws.

The bills authorize Harford County to grant, by law, a credit for owner-occupied residences completed on or before January 1, 1989 that are located in an area "that consists of Magnolia Road to Trimble Road to Fort Hoyle Road to Magnolia Road" and that is determined by the County to have been adversely affected by its proximity to the refuse disposal system.

Article III, § 33 provides, in relevant part that "the General Assembly shall pass no special Law, for any case, for which provision has been made, by an existing General Law." The Courts have defined a special law as "one that relates to particular persons or things of a class, as distinguished from the general law which applies to all persons, or things of a class." *State v. Good Samaritan Hospital*, 299 Md. 310, 329 (1984). The Courts have further indicated that this rule cannot be applied mechanically and that various factors must be considered, including whether the law applies only to a single individual or entity, whether it is designed to confer special advantages on, or to discriminate against, a particular individual or business, what public needs or interests are being served, and the adequacy of the general law to serve those interests. *Id.* at 230. A "law intended to serve a particular need, to meet some special evil, or to promote some public interest, for which the general law is inadequate, is not a special law within the

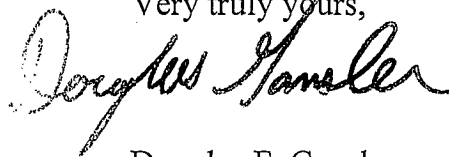
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meaning of that term as used in that section of the Constitution." *Norris v. Mayor and City Council of Baltimore*, 172 Md. 667, 683 (1937).

While Senate Bill 228 and House Bill 865 create tax relief for one limited geographic area, the Fiscal and Policy Note reflects that about twenty residential properties are affected by the bills, so the bills do not affect only a single individual or entity. Moreover, the geographic area in question is the route of trash trucks to an incinerator that converts trash to energy. It is our understanding that the capacity of this incinerator is being significantly increased and that this increase will result in a greater impact on the community. Thus, the credit is designed to serve a specific, unique need of this community and to promote the public interest which will be served by the increased capacity of the incinerator by authorizing the County to respond to ameliorate negative impact on the residences within a carefully defined area with tax relief that corresponds to that negative impact.

As a result, it is our view that the bills do not violate the constitutional prohibition against special laws and may be signed into law.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Douglas F. Gansler", written in a cursive style.

Douglas F. Gansler
Attorney General

DFG/DML/KMR/kk

cc: The Honorable Barry Glassman
The Honorable J.B. Jennings
The Honorable John P. McDonough
Joseph Bryce
Karl Aro