

BRIAN E. FROSH
ATTORNEY GENERAL

ELIZABETH F. HARRIS
CHIEF DEPUTY ATTORNEY GENERAL

CAROLYN A. QUATTROCKI
DEPUTY ATTORNEY GENERAL



THE ATTORNEY GENERAL OF MARYLAND
OFFICE OF COUNSEL TO THE GENERAL ASSEMBLY

SANDRA BENSON BRANTLEY
COUNSEL TO THE GENERAL ASSEMBLY

KATHRYN M. ROWE
DEPUTY COUNSEL

SHAUNEE L. HARRISON
ASSISTANT ATTORNEY GENERAL

JEREMY M. MCCOY
ASSISTANT ATTORNEY GENERAL

DAVID W. STAMPER
ASSISTANT ATTORNEY GENERAL

February 1, 2022

The Honorable Jessica Feldmark
Maryland General Assembly
216 House Office Building
Annapolis, Maryland 21401

Re: Howard Co. 05-22

Dear Delegate Feldmark:

This letter confirms email advice given to you last December. David Stamper and I discussed Howard Co. 05-22, related to the establishment of the Housing Opportunities Trust Fund. We believe that it does not violate Howard County's home rule. The bill appears to be a budgeting law or a law regulating appropriations, as it does not authorize or provide for any new local revenues but simply creates a special fund and restricts how the County may use money in the fund. The Court of Appeals has said that because a county's authority to budget and appropriate money is an inherent power, and not an "express power," Art. XI-A, § 4 does not preclude the General Assembly from enacting a local law for a charter county regulating appropriations. *See City of Annapolis v. Anne Arundel County*, 347 Md. 1, 14-15 (1997).

Moreover, even if there is a viable argument that the General Assembly cannot enact a public local law regulating appropriations if the law would be inconsistent with the county charter—which is not clearly a valid argument—we do not see how your bill would be inconsistent with the budgeting provisions in the County charter. The bill does not direct County revenues to a particular purpose nor require that the County appropriate money for a particular purpose. It creates a special fund to hold money appropriated by the County (if the County chooses to appropriate money for that purpose) or received as a gift or grant for the fund.

Sincerely,

A handwritten signature in black ink, appearing to read "Sandra Benson Brantley".

Sandra Benson Brantley
Counsel to the General Assembly