



THE PRINCE GEORGE'S COUNTY GOVERNMENT

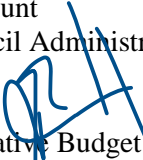
Office of Audits and Investigations


June 17, 2020

MEMORANDUM

TO: Robert J. Williams, Jr.
Council Administrator

William M. Hunt
Deputy Council Administrator

THRU: Josh Hamlin 
Senior Legislative Budget and Policy Analyst

FROM: Arian Albear 
Legislative Budget and Policy Analyst

RE: Policy Analysis and Fiscal Impact Statement
CB-036-2020 (DR-1)

CB-36-2020 (*Proposed and presented by:* The Chair of the Council at the request of the County Executive)

Assigned to the Committee of the Whole

AN ACT CONCERNING ADMINISTRATIVE HEARINGS FOR THE PURPOSE OF MODIFYING THE PROVISIONS for administrative hearings by authorizing the adjudication of matters involving violations of the Building Code, Housing Code and violations of the laws concerning rental licenses and by authorizing the Department of Permitting, Inspections and Enforcement to abate violations that have been duly adjudicated through the administrative hearing process and to assess the costs of abatement to responsible parties.

Fiscal Summary

Direct Impact:

Expenditures: Potential slight increase in enforcement expenses. Potential decrease in expenditure due to decrease in judge and board caseloads, which may positively affect other duties.

Revenues: Potentially positive due to increase revenue through fees and fines.

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Indirect Impact:

Likely positive.

Legislative Summary

CB-36-2020, proposed by the Council Chair at the request of the County Executive, was presented on June 09, 2020 to the County Council and referred to the Committee of the Whole. CB-36-2020 would authorize the Administrative Hearing Unit to entertain appeals from violations involving single-and multi-family rental licenses, short-term rental license, property standards and building code infractions. It would also allow an eligible party to seek judicial review of an administrative decision without having to first raise an appeal through the Nuisance Abatement Board. Finally, the legislation would also allow the Department of Permitting, Inspections and Enforcement (DPIE) to have greater authority and more flexibility in abating duly adjudicated violations in the event that a responsible party fails to comply with an administrative order.¹

Current Law/Background:

Currently, all appeals to citations involving Building Code, Housing Code, and short-term rental license violations must go through a lengthy judicial review process under the Board of Administrative Appeals under the jurisdiction of the Board of Appeals and the Circuit Court. An application for review must be “filed within fifteen (15) days after the decision is rendered.”² Scheduling a hearing can be a lengthy and cumbersome process and results in DPIE not enforcing all violations and bringing about corrective action expeditiously.

Resource Personnel:

Melinda Bolling, Director, Department of Permitting, Inspections, and Enforcement

Discussion/Policy Analysis:

Policy Analysis

CB-36-2020 forms part of a set of bills that streamline and grant DPIE greater power to adjudicate and enforce legislation. This bill dovetails into the “administrative citations” created under CB-35-2020 and CB-37-2020 by providing the Director of DPIE an in-house administrative appeals mechanism through the “Administrative Hearing Unit.” This, together with the removal of the Circuit Court as the final say in the issuing of fines, effectively eliminate the Board of Appeals as an additional step in enforcement and adjudication.

CB-36-2020 allows the director of DPIE to impose civil penalties and take direct action rather than waiting through the judicial review process. Violators may still apply for appeal; however, these must be based on

¹ [CB-036-2020 Transmittal from the County Executive.](#)

² [County Code, Subtitle 4. – Building., Division 1. – Building Code., Subdivision 2. – Amendments to the International Building Code., Sec. 4-119. – Administration; Section 113, Board of Appeals.](#)

“a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted.”³

Under current law, DPIE is able to issue between 100 to 130 citations and fines per month. This is restricted by space availability in the District Court as the Department is allotted one half-day per month to present cases. Were DPIE able to bypass this requirement and directly issue citations and fines as well as take appeals to the Administrative Hearing Unit rather than the Board of Appeals, the aforementioned range would increase significantly.⁴

Modifications to Existing Code

If enacted, CB-36-2020 would:

- Replace the Prince George’s County Board of Appeals with the Administrative Hearing Unit as the primary appeals authority to enforce provisions in the Code and issue citations and fines.
- Establish the decision of the Hearing Administrator as the final decision of the Administrative Hearing Unit.
- Allow for an application of appeal only on the claim that the true intent of the code or the rules have been incorrectly interpreted.
- Provide that, upon appeal, the Director shall have the initial burden to establish the basis for the determination from which the appeal was taken. The appellant shall have the burden to establish by a preponderance of evidence that the Director has misconstrued or wrongly interpreted the intent and meaning of the Code.
- Provide that a petition for judicial review by the Circuit Court does not automatically grant a stay unless specifically granted by the Circuit Court.
- Provide that, where the full amount due to the County for the costs of abatement is not paid by the Respondent within thirty (30) days after written notice, the Department shall cause to be recorded with the Director of Finance a sworn statement showing the cost and expense incurred for the work, the date the work was done, and the location of the property on which said work was done. Recordation of such statement shall constitute a lien on such property and shall be collected in the same manner as other County real estate taxes.” (Page 20, lines 12-18)
- Allow the Department to use law enforcement, including the Police Department, to undertake any abatement action authorized.
- Provide for electronic filing of required documents.

Fiscal Impact:

Direct Fiscal Impact

Enactment of CB-36-2020 may result in additional expenses associated with enforcement; however, these would likely be offset, and potentially surpassed by the collection of additional civil penalties. Granting DPIE enforcing and adjudicating authority would increase revenue from increased capacity to issue fines. This would, in turn, decrease caseloads in the Circuit Courts and Board of Appeals, thereby freeing time and resources for other judicial review matters in other County government functions.

³ [CB-036-2020 Draft No. 1](#)

⁴ Personal Communication from DPIE officials, 16 June 2020.

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By switching from certified mail with a return receipt to first-class mail, DPIE will also save the additional expense of \$6.40 per issuance.⁵ from \$3.55 (certification) + \$2.85 (return receipt).

Indirect Fiscal Impact

To the extent that the bill reduces Housing Code and Building Code infractions, enactment of CB-36-2020 may result in indirect positive economic impacts related to County beautification efforts and community-building by allowing DPIE to enforce the Housing and Building Codes more effectively and expeditiously.

Effective Date of Proposed Legislation

Forty-five (45) calendar days after it becomes law.

If you require additional information, or have questions about this fiscal impact statement, please call me.

⁵ [USPS](#) Pricing: \$3.55 (Certification) + \$2.85 (Return Receipt).