

Senate Bill No. 675—Baltimore City Zoning Powers

AN ACT to repeal and re-enact, with amendments, Section 2.08 (c) of Article 66B of the Annotated Code of Maryland (1970 Replacement Volume), title "Zoning and Planning," subtitle "Zoning in Baltimore City," giving the additional power to the board of zoning appeals to prevent the overcrowding of schools and other public facilities under such rules as may be provided by ordinance of the local legislative body upon the application PURSUANT TO CERTAIN SECTIONS OF THE BALTIMORE CITY CODE of any person who would be adversely affected by proposed RESIDENTIAL construction.

May 28, 1971.

Honorable William S. James
President of the Senate
State House
Annapolis, Maryland 21404

Dear Mr. President:

In accordance with Article II, Section 17, of the Maryland Constitution, I have today vetoed Senate Bill 675.

This bill purports to grant to the Baltimore City Board of Zoning Appeals the power "to prevent overcrowding of schools and other public facilities***."

The purpose of the bill probably was to authorize the Board of Zoning Appeals, when acting upon a zoning application, to consider the availability of school and other public facilities in the area. If this were the purpose, I would be entirely in accord with it. However, the language of the bill does not reflect such purpose. Instead, the Board is given the affirmative power "to prevent the overcrowding of schools and other public facilities." Read literally, this language may empower the Board to disapprove the types or locations of schools or other public facilities planned by the City or the State, on the theory that the type of facility planned, or a facility located in a particular place, would be overcrowded. In fact, the literal language of the bill goes further and might authorize the Board to take direct action of some unspecified type to prevent the overcrowding of public facilities.

The bill does provide that the new "power" being granted to the Board is to be exercised "upon the application pursuant to Sections 34, 36 and 40 of the Baltimore City Code*** of any person who would be adversely affected by proposed residential construction." However, this language does not cure the defects in the wording of Senate Bill 675. Once an application is filed by such a person, the Board's broad power comes into being. The Board is not merely authorized to deny an application; instead, it is empowered "to prevent the overcrowding of schools and other public facilities." Moreover, the reference to Sections 34, 36 and 40 of the Baltimore City Code is also defective, as the Baltimore City Code is divided into Articles, and the bill does not indicate which Article is involved.

While I agree with the probable purpose of Senate Bill 675, I am unable to sign the bill in light of the manner in which the bill was worded.

Sincerely,

/s/ MARVIN MANDEL,

Governor.