

Legislation Text

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**TO THE PRESIDENT AND MEMBERS OF THE
COUNCIL OF THE CITY OF PHILADELPHIA:**

I am returning herewith Bill Number 010659, without my signature. Council passed this bill at its meeting on June 6, 2002. I cannot sign this bill at this time, in light of the many competing spending priorities of the City and the limited resources we have to meet those priorities. Although I am allowing this bill to become law without my signature, I have been advised by the City Solicitor that the provisions of this bill go beyond Council's power of legislation and are unenforceable, and, therefore, the City will not be providing the services called for in this bill, as we can ill afford them in our current financial situation.

Bill 010659 would amend The Philadelphia Code to make condominiums, cooperatives and buildings with six or fewer occupied units "eligible" for municipal trash collection. As you know, the City has a long-standing policy, long predating my Administration, of picking up trash only from residential properties with six or fewer units. Contrary to the suggestion of the bill, the City already collects trash from condominiums and cooperatives, as long as the building structure does not contain more than six residential units. By passing Bill 010659, I therefore understand Council to be attempting to require the City to collect trash from all cooperatives and condominiums, regardless of the size of the building.

I fully understand the desire of those who live in condominiums and cooperatives to have the City pay for the cost of their trash removal. I also understand why Councilmembers seeking to be responsive to segments of their constituencies would support this bill. As Mayor, however, I must look at the bigger picture. And in view of that bigger picture, where resources are scarce and needs must be prioritized, I cannot now support the policy behind this bill.

Collection from row-houses and other single-family homes, duplexes and smaller apartment buildings involves a specific, standardized method of trash collection: the removal of a limited number of bags or the contents of a few small receptacles that are set out on the sidewalk in the front or back of the property through the use of standard garbage trucks. This type of pick-up can be safely and efficiently handled on a weekly basis. Notably, the City can, *and does*, limit the volume of trash it will pick up using this method. This is the type of pick-up required by the vast majority of City residents and is a type of pick-up for which the City has long been equipped.

Pick-up from buildings with large numbers of units generally requires an entirely different type of service, for which the City simply is not equipped, and would impose significant new costs upon our budget. Trash from large residential buildings is typically collected in dumpsters or large compactors. Emptying of the dumpsters or compactors requires entirely different equipment than removal of bags, because trucks fitted with particular equipment are needed to do the work. Significant expenditures for new equipment and to train City workers to use such equipment would therefore be required. Furthermore, pick-up with existing equipment from large buildings would be impractical, because it would require the placement of large volumes of bags and receptacles on the sidewalk; such heavy concentrations of trash on the sidewalk would present significant health and safety problems.

Collection from large buildings is also different in other respects. The schedules for pick-up are often very different than the once-a-week schedule used by the City for most residential collection. In fact, representatives from several condominium associations testified at the public hearing on this bill that their trash is picked up six times a week. It would also be difficult to monitor or limit the volume of trash collected at such locations. Moreover, the location of a dumpster or compactor in a building (in an underground loading area, for example) can present additional safety and liability issues that raise the costs of such collection.

Officials in the Streets Department estimate that the added cost of trash collection from larger condominiums and cooperatives in the first year, for equipment, labor, training and other costs, would equal in excess of \$3.7 million and in future years would equal roughly \$1.7 million per year. Notably, these numbers reflect a downward revision from what the Administration initially thought the costs would be. More recently, however, the Department of Streets has engaged in an in-depth study of the issue and was able to

develop more precise cost estimates. Despite these more conservative estimates, the costs are still too great for the City's budget to bear.

Moreover, I have no doubt that if such services were extended to condominiums and cooperatives, owners of other apartment buildings would insist on similar collection at their buildings too. It has been argued that because condominiums and cooperatives are "owner-occupied," they are different from residential apartments that are rented out and operate like "businesses." This distinction appears to me to be based on a false premise. Many condominium and cooperative units are not owner-occupied. Many such units, particularly condominiums, are leased out by their owners and are operated on the same business basis as other rental properties. The extension of the policy of Bill 010659 to large apartment buildings would significantly increase the costs to the City. If the City were to collect trash from all large apartment buildings, as well as from condominiums and cooperatives, my Administration estimates that the added first year costs would be \$13.3 million and costs in additional years would be \$6.3 million per year.

We live in a world of limited resources and limited budgets - every day, my Administration must make difficult choices about how to stretch limited resources fairly, efficiently and productively throughout the City. As you are aware, the City, like much of the country, is no longer in the same period of dynamic economic growth as it was 18 months ago. The weak economy has led to a substantial downturn in tax revenues. The weakness in the stock market has hurt our pension fund earnings, likely necessitating an increase in City contributions of \$27 million annually. Unreimbursed security expenses resulting from our heightened security vigilance are likely to cost the City approximately \$20 million. Combined with other pressures, including the cost of the recent police arbitration award, the likelihood of a similar award for the firefighters, the cost of our successful Safe Streets program, increased City support to the schools, and the recent wage tax cuts, we are currently looking at a projected deficit of \$482 million at the end of the current Five Year Plan. Yet, as written, this bill would require the City to begin the provision of these new, expensive services immediately. Such services would simply not be affordable under the existing appropriations to the Streets Department set forth in the operating budget approved by Council.

Some have argued that the bill eliminates an alleged unfairness, because while certain property owners pay real estate taxes, they are not receiving the same exact level of services received by others. In few aspects of City government, however, do the taxes we pay precisely equal the services we receive. We all pay for the services of the Health Department. Although we all benefit from Health Department activities, some benefit more directly than others. We all pay for the schools. Although we all benefit from the education of our youth, some of us have our own children in the schools and some do not. Those living in apartment buildings may on average benefit from certain City services more than those who live in row homes. When living in as large a community as ours, there simply cannot be as great precision between taxes paid and particular services received as the proponents of this bill would like.

Over the next year, we as a government will be required to do a thorough review of the services we do, and do not, provide to our citizens, and the costs of these services. I am committed to reviewing new services that need to be added, as well as services that could be provided more effectively and more efficiently. As we conduct our analysis, reviewing all of our service priorities and the associated costs, we may determine that the extension of trash collection to condominiums and cooperatives is a service we should be providing; should our financial condition improve significantly, we should seriously consider this option. But in our current financial situation, and without a comprehensive review of all City services, we cannot afford this step now.

Finally, the City Solicitor has advised me that this bill, if adopted, would not be enforceable, because it exceeds Council's powers under the Home Rule Charter. Under the Charter, City Council does not have the power to direct how a City operating department will carry out its activities and may not require the City Administration to spend funds on a particular activity. Rather, the Charter vests in the Streets Department, and ultimately in the Mayor as chief executive officer of the City government, the power to determine City trash collection policy. I therefore cannot approve this bill, which intrudes into the powers vested in the Executive Branch of government.

I am aware that owners of condominiums, cooperatives and apartments have filed suit in United States district court, claiming a federal constitutional *right* to municipal trash collection. I also am aware that a district judge of that court recently ruled in favor of the condominium and cooperative owners. The City intends to vigorously contest this decision on appeal, because it is wrong as a matter of law, because the City cannot afford to spend its limited resources in this way, and because, respectfully, it is not the business of the federal courts to determine trash collection policy in the City of Philadelphia. Cases in other federal courts have consistently recognized this. Predictably, owners of rental apartments also have appealed, claiming that the federal court of appeals should direct the City to collect trash from their buildings, too. While I certainly respect and carefully consider the views of the court *and* this Council, it ultimately is my responsibility to decide how best to spend those limited resources, within the confines of the budgets that you and I enact together.

Respectfully submitted,

John F. Street
Mayor