

Creating New Urban Commons, a Baltimore Case Study

by K.A. Herrod¹

Abstract: In 2003, Baltimore was a city in distress, with over 14,000 vacant houses and a population that had dropped by more than one-third since 1950. Tired of alleyway crime, residents decided to gate and beautify their alleys, creating common spaces outside their backdoors.

Residents faced significant legal and political challenges before, in April 2007, a landmark ordinance passed allowing for alley gating and greening. This historic legislation culminated from the efforts of government, residents, private sector and nonprofit partners, including Ashoka's Community Greens.

This new ordinance protected the city from frivolous law suits and provided residents with a transparent, reasonable, and replicable process. Dozens of blocks in Baltimore are now taking advantage of this ordinance. Because of the social, environmental, and fiscal benefits it provides, other cities are beginning alley greening programs, customized to their unique needs. None, however, appear as community-driven as Baltimore.

Baltimore's program rests at a unique intersection of grass-roots responsibility (residents must undertake the process primarily on their own including gaining their neighbors' consents and raising funds for improvements) and top-down, municipal authority (a city wide ordinance and application process that must function in order for the program to spread city-wide).

This paper will explore the context for and the challenges of creating Baltimore's alley gating and greening initiative. It will also cover the process residents underwent, the legislation that was ultimately passed and the impact alley gating and greening has had to date. In addition, it will address how other cities' green alley programs are evolving and key elements for replication.

Keywords: alley, gating, greening, urban redevelopment, commons

RAT FISHING AND OTHER CITY JOYS

In the mid-1990's Baltimore had the distinction of having its very own Association of Rat Fisherpersons, a group of hardy folks who threw baited fish hooks out into their alleyways and caught, then clubbed to death, rats. Neglected, abandoned spaces, the

¹ Kate Herrod is the Executive Director of Ashoka's Community Greens initiative. Ashoka: Innovators for the Public is a citizen sector organization that supports the field of social entrepreneurship. It is located in Arlington, Virginia, outside of Washington D.C. (To learn more please go to: www.ashoka.org; www.communitygreens.org.)

alleyways served as a perfect home for the rats. Garbage routinely dumped in the alleys provided a steady source of food and the lack of human activities (only those involved in drug deals or prostitution frequented the alleys) encouraged the rat infestation.

Baltimore's alleys were not always so dysfunctional. In the 1950's when Baltimore's population peaked at 949,708, alleys were occasional gathering places for block-level parties and children's play spaces. However, a gradual decline in economic prosperity and a parallel exodus from the city eroded the city's infrastructure, including alleys. By 2000, after the city lost over 75,000 manufacturing jobs and its population declined by one-third, the same alleys served not only as rat havens but as vectors for all types of crime.

In 2002, Baltimore's mayor announced Project 5,000, an initiative to redevelop 5,000 of the city's approximate 14,000 vacant homes. By 2003, when Ashoka's Community Greens² approached stakeholders in Baltimore about creating new urban commons, the community was anxious for change. Tired of watching their neighborhoods decline, they were ready for innovative and workable solutions.

A group of residents on the Luzerne/Glover blocks in the Patterson Park neighborhood, "the early adopters", decided to reclaim their alleys from criminal elements by gating the space. They also wanted to green the alleyway. Said one resident, "It was very rough back here when I first came here... there were hookers, there were drug deals going on."

Ashoka's Community Greens was eager to help the residents; its mission aligned with their goals of creating new urban commons through the repurposing of public or private property. Ashoka's Community Greens was also eager to explore if this one project could serve as a catalyst for city-wide change.

² *Ashoka is the global association of the world's leading social entrepreneurs—men and women with system changing solutions for the world's most urgent social problems. Since 1981, Ashoka has elected over 2,700 leading social entrepreneurs as Ashoka Fellows, providing them with living stipends, professional support, and access to a global network of peers in more than 70 countries.*

With its global community, Ashoka develops models for collaboration and designs new infrastructure needed to advance the field of social entrepreneurship and with the citizen sector.

Ashoka's Fellows inspire others to adopt and spread their innovations - demonstrating to all citizens that they too have the potential to be powerful changemakers.

The principles emerging from Ashoka Fellows' work have served to stimulate the creation of Ashoka programs, such as Ashoka's Community Greens, where the primary motive is to create new mechanisms which will allow for the creation of new urban commons where both the environment and human condition can simultaneously flourish. Please go to: www.ashoka.org ; www.communitygreens.org.

HOW A DEMONSTRATION PROJECT SPARKED CITY-WIDE LEGISLATION

Undertaking alley gating and greening meant breaking new ground both politically and legislatively, so the Luzerne/Glover group and their partners faced significant challenges.

The first major challenge they confronted was substantial: Baltimore City could not, without use of its police powers, technically allow an alley to be gated.

Alleys are public rights of ways, and Baltimore's City Charter³, granted to Baltimore by the Maryland State Legislature, specifically stated that it was the duty of the city to leave all rights of way open for the passage of people and commerce. Although the city occasionally invoked its police powers to gate an alley and a number of blocks gated their alleys without city permission, it was not feasible for the city to widely issue alley gating permits.⁴ The inability to gate was extremely problematic for residents. Gates would allow residents to create defensible, safe spaces that they would design and use according to what their group consensus dictated. Without gates, no efforts at all would be made by residents to reclaim the alleys, so they insisted on having them. The residents had briefly considered buying the alley from the city and privatizing it, which would unquestionably allow them to gate, but they deemed the process too expensive and not one that would be easily replicable throughout the city because of the costs.

The city offered a "temporary" gating permit to the Luzerne/Glover group, which could be revoked at any time. While this temporary permit would have achieved that one block's goal, (for a time), it was not a permanent solution and could not serve the entire Baltimore community. Although the Luzerne/Glover residents were pleased to be offered the permit, they knew their demonstration project needed to catalyze a city-wide ordinance if others were to be afforded the same benefit. Before such an ordinance could be crafted, however, Baltimore's City Charter would need to be amended through the Maryland State Legislature.

In early 2004, State Representative Peter Hammen, with support from the Mayor's Office of Neighborhoods and the alley gating group, including Ashoka's Community Greens, sponsored House Bill 1533, which amended Baltimore's City Charter allowing the city to gate and lease alleys to entities consisting of owners whose properties abut the alleys. (See Appendix I for an excerpt of the charter changes.) Once this charter amendment was passed the alley gating group turned its attention to crafting a local ordinance.

³ The city's charter, given to it by the Maryland State Legislature, outlines the duties and responsibilities of the city.

⁴ Private and public property rights are well established in the United States, derived from English Common Law, and referenced in the United States Constitution. Changing the nature of land usage is therefore difficult and time consuming. Typically alleys are considered in the public domain and were historically used for utility services or trash pick up. In Baltimore alleys are owned by a mix of public and private interests, the city, established Baltimore families, or residents themselves. Only extensive and expensive title searches can reveal the actual ownership pattern in any given alley. Because alleys are adjacent to residents' backyards, the function and state of the alleys directly impact on the health and well-being of residents. Both cultural and legal issues are intermixed with the topic of alley usage.

The second largest challenge emerged when the city stipulated that 100% of the homeowners on any given block would need to agree to the alley gating and greening. The alley group knew it would be nearly impossible to achieve 100% consensus on most blocks due to Baltimore's high percentage of absentee landlords and disengaged citizenry. They sought a lesser provision – a supermajority provision – and declined to support the ordinance, engaging in continued dialogue with the city over a three year period.

Throughout the entire effort, outreach was lead by Ashoka's Community Greens to dozens of civic groups and hundreds of individuals to educate them regarding the benefits of such an ordinance. In addition, Ashoka's Community Greens also played a key role in rallying the core alley group (the Patterson Park Community Development Corporation, the Patterson Park Neighborhood Association, residents of the Luzerne/Glover block, and probono counsel from the University of Maryland School of Law and the Hogan & Hartson law firm), keeping it focused on the larger objective of a city-wide ordinance, and drawing in needed resources such as probono legal counsel and interns.

THE SOLUTION: A HYBRID ORDINANCE

In early 2007 the City Council passed an alley gating and greening ordinance (City Council Bill 05-0034) into law. The new ordinance was an ingenious compromise, which protected the city from frivolous law suits yet also gave residents the transparency they sought and the flexibility they needed regarding non-responsive owners and vacant properties.

An overarching premise of the ordinance is that all alley gating has to be undertaken for the safety, health, and welfare of block residents; that the structures abutting the alley are predominantly residential; and that the alley is no longer needed for through traffic.

The ordinance also proposed a two-tiered system for gating and greening: if the gating and greening (i.e., beautification) allowed traffic to move through the alley, at least 80% of the owners whose properties abutted the alley, not including abandoned property, must consent to the gating; if traffic would be entirely obstructed, 100% of the abutting property owners' consents would be needed. Vacant properties would not necessarily be counted and some provision is provided for non-responsive owners as well, but diligent attempts to gain their consents must be made. Applicants also need to sign an affidavit, made under the penalty of perjury, stating that they followed proper notification and consent procedures. (See Appendix II for a copy of the 2007 Ordinance.)

Although the 80-100% supermajority provision is a steep hurdle, it also has an invaluable benefit: it compels the creation of social capital. Residents must get to know each other and cooperate in order to succeed. Indeed, one of the most enduring aspects of the alley gating and greening is the bond that forms between neighbors as they persuade others to sign consent forms, design the space to their mutual liking,

raise funds to buy needed improvements, and then make and maintain the enhancements over time.

To further reduce the risk of frivolous law suits, the city also requires that: (a) all property owners be informed of the potential alley gating; (b) attempts must be made to obtain written consents from all property owners including both vacant and occupied properties (however, vacant property owners and a limited number of non-responsive owners cannot hold up the process as long as they are known not to object); (c) a public hearing must be held with due advance notice given to all block residents; (d) a lease must be entered into; and (e) if 51% of the residents later determine that gates should be removed (or if a lease default remains uncured) the gates may be removed at the homeowners' expense.

ENSURING OPTIMAL ORDINANCE IMPLEMENTATION

After the ordinance was passed, the city's Department of Public Works (DPW) (now the Department of General Services) became responsible for overseeing the entire alley gating process. The amount of new work they undertook was substantial. They had to:

- respond to residents' general inquiries;
- help market the program to the general public;
- craft a new system for processing applications within DPW including the creation of new consent forms for both residents and city agencies;
- design an "early-kill" process to identify those blocks that due to traffic or safety concerns would never be able to gate their alleys;
- deal with residents who were either prematurely happy or overly angry at the prospect of their alleys being gated or greened;
- hold public hearings once residents achieved the needed threshold of consents; and
- help craft, execute and monitor leases the homeowners would sign.

In retrospect, most of the community's energy was spent on ensuring that an ordinance would pass. The community did not give much thought regarding how the ordinance would be handled by government once it did pass and could have worked more closely with the city to ensure greater efficiency and ease of use in the resulting program.

To Baltimore City's credit, it centralized responsibility for the alley gating program in one person, which was crucial. They also created a web site and had a dedicated email and phone for the program. They printed flyers publicizing the effort and even went on local television to market the program. Ashoka's Community Greens continued with its outreach to residents and other civic organizations to make citizens aware of the opportunity. It also stepped in whenever possible to assist with the burden of implementing what could easily be a full time job for one or two people by providing part-time graduate student interns.

When crafting such a program with a city governmental department, practitioners should consider the following:

- Will the city have adequate staffing and other resources to ensure the success of the program?
- Does a dedicated source of funding need to be allocated to the program?
- Is the program a central goal of the department and one that staff at all levels support?
- Will staff handling this work, be dedicated to this work alone, or will the work be added on to an already overly burdensome work load?
- Will the responsible department have metrics for success such as the time it takes to process applications and the number of blocks that ultimately succeeded in gating their alleys?
- Will the department be responsible for outreach and marketing of the program? If not, which department will?
- Will there be other sources of support, from civic organizations or student interns, to help operationalize and maintain the program?

Answering these questions adequately will make the difference between success and failure in the operational phase.

IMPACT OF THE GATING & GREENING TO DATE

According to the Department of General Services, several footpaths and blocks have been approved for gating and/or greening⁵ and another 100 or so blocks are seeking the city's assistance in getting their projects underway. The earliest block to undertake this process and the furthest along is the Luzerne/Glover block. This is the first block where Ashoka's Community Greens has conducted post-greening interviews. The change there is nothing short of transformational.

The Luzerne/Glover alley went from a neglected place where crimes were often committed to a communal outdoor space graced with lawn furniture, garden planters, and murals. (See Appendix III for Before & After pictures.) Some Luzerne/Glover residents have even replaced their six foot high cinder block fencing with iconic, four foot high, white picket fences, making the alley a de facto extension of their backyards. Children now play in the alley; adults hosts parties in the alley; and this block is coveted by potential home buyers. Random garbage dumping has been eliminated and residents who first began working on this block have assisted other blocks, thus expanding their own civic participation. The residents are proud of what they have created.

⁵ Some blocks are just gating their blocks and not making substantial improvements. Others are beautifying with plants, lawn furniture and the like. Still others have plans to remove sod and put in permeable pavers or sod. Because of the expense involved most residents are making beautification improvements and not yet removing sod or planting trees down the middle of the alley.

Anecdotal evidence suggests that blocks with gated alleys are more appealing to homebuyers. On the Luzerne/Glover block, two prospective homeowners chose to purchase on the block long before gates were up. They had heard that residents were attempting to gate and green the alley and although they could afford to live in a more affluent neighborhood, chose that block because of the community they felt it would afford. Real estate agents also say the block is sought after.

Whether most other blocks will have the same success is yet to be assessed. Early indications are positive but to measure these impacts (or lack thereof) accurately, Ashoka's Community Greens is undertaking original sociological research, measuring quantitative and qualitative changes in residents' lives pre- and post-gating. This research is nearing its halfway point and initial indications are that by far the biggest impact of the Baltimore gating is the sense of safety and community it provides.

Below is a representative sampling of answers to specific research questions from residents who live on the (gated and greened) Luzerne/Glover block:

When describing the block post-gating a resident said, *"Well, the gating has helped a lot... you come on this block and it just feels different. We have people that walk their dogs down our block because they like this block better than the other streets."*

When asked how they would compare their block with others in the neighborhood, a typical response was: *"Better, absolutely. We have that sense of community; I know most of the people up and down this stretch of the block. If I go out on my deck, I can see them and talk to them. It's nice. I don't think that exists in a lot of the other alleyways. They seemed more closed. Even though we're more closed-off, it's like we're closed in together. So I think it is nice, the sense of community."*

When probed about how people use the alley, residents responded: *"I think people basically think of the alley as an extension of their yard, so if they need to say something to someone on the other side, they just walk through. And they put potted plants out there."*

When asked if the alley gating and greening has affected the conditions and appearance of the entire block in any way, a representative response was: *"It has improved it and it has made it safer. You don't get people walking in the back, along your alleyway, so you don't have to worry about your patio furniture and your grill disappearing. So I think that it's cut down on crime. It's a good deterrent."*

When asked if the alley green has affected civic participation, they mentioned: *"There has always been civic participation, but now people are meeting more. They meet in the alley and have potlucks..... The fact that the alley has been gated made people want to fix up their back patios.... There will be contests for best patios. This gets publicized in the neighborhood fliers and you win a little award.... There are also the fall house tours, having people come through and seeing what you've done to the house."*

When speaking with residents who hope to gate and green their alleys, they have positive expectations: *“I think it will enhance the neighborhood and cause other folk to think about that option. It will give other people the idea that the neighborhood is interested in maintaining a certain level of quality of life. I think for some folk it’s going to irritate them a little at first because it will be inconvenient. But I think people will recognize that here is a block that is not going to lay down and accept drugs and any type of activity and ... we have an investment and that you can get on board or ... or get on board and go!”*

When block residents begin this process there is no guarantee that they will complete it. Sometimes an enduring discord develops and residents can not and will not see eye to eye, thereby eliminating any opportunity to gate or green their alley. In other instances, the attempt at co-creation, if done well and without rancor, can bring residents together and create a better sense of community even if they do not achieve the gating and greening.

The research will reveal the extent of pre- and post- gating impacts. Once this research is completed, it will be made widely available through Ashoka’s Community Greens’ website and other venues.

THE EVOLUTION OF GREEN ALLEYS

Baltimore’s green alleys are highly community-driven. As other cities look toward green alleys to solve various problems, they are also discovering what Baltimore has accomplished and adapting the Baltimore experience to their own needs.

Recently Washington D.C. (W.D.C.) Department of Transportation and Environment officials visited Baltimore to learn about its green alleys. That visit, along with synchronistic work of W.D.C. residents, sparked a W.D.C. pilot project whose main focus is storm water management.

Unlike in the Baltimore alleys, this pilot alley will be ungated, serving as an ADA⁶ approved pedestrian pathway built with low impact development techniques⁷ and showcasing educational displays. Also distinct from Baltimore, the improvements to this alley will be paid for and the construction process overseen by the city.

⁶ According to the U.S. Equal Employment Opportunity Commission, U.S. Department of Justice, Civil Rights Division: *The Americans with Disabilities Act gives civil rights protections to individuals with disabilities similar to those provided to individuals on the basis of race, color, sex, national origin, age, and religion. It guarantees equal opportunity for individuals with disabilities in public accommodations, employment, transportation, State and local government services, and telecommunications. Citation: <http://www.ada.gov/q%26aeng02.htm>. ADA approved spaces allow for the easy passage of individuals with disabilities through the use of ramps, curb cuts and other mechanisms.*

⁷ Low Impact Development is a storm water management technique that is modeled after nature and uses on-site micro-scale controls. For more information about LID please go to: http://www.lid-stormwater.net/background.htm#What_is_LID

However, just like in Baltimore, this project began due to residents' concerns. Worried about storm water soil erosion in the alley (rather than crime), one neighbor started the process by applying to the city for grant funds to improve the alley. Enlisting help from Ashoka's Community Greens as well as university landscape architecture students who provided draft drawings, the residents convinced the city to set aside funds for it. Once built by the city, the community will maintain the space.

Another project jumpstarted by the Baltimore experience is launching in Milwaukee, Wisconsin. Learning of the Baltimore story, planners are crafting a draft alley gating ordinance similar to that of Baltimore. This process is still in its nascent phase.

Meanwhile, other cities are taking green alleys in a new direction. Los Angeles, with the help of the University of Southern California's Center for Sustainable Cities, has for a number of years been exploring repurposing its alleys and is converting them to green infrastructure for hiking, biking, and children's play spaces. With only 7.8% of its land area in parkland, Los Angeles wants to increase greenspace and the city's 900 miles of alleys provide a potentially vast resource.

Chicago's government-initiated green alley program is well-known. The city is converting many of its 1,900 miles (3,500 acres) of alleyways into permeable surfaces to assist with storm water management. However, there is little communal focus or ability to repurpose the space since Chicago alleys are lined with garages and heavily trafficked by cars.

Other cities such as San Francisco and Melbourne have enlivened alleys by making them retail and outdoor dining areas, along with slow passageway for traffic, but these again are driven more from a governmental process rather than a grass-roots greening perspective.

Amongst all the cities mentioned here, Baltimore's green alleys appear to be the most heavily influenced by the community, both in their creation and maintenance. In Baltimore, residents must coalesce and agree to reclaim the space; determine what purpose the space should have; design the space accordingly; pay for and install the improvements and maintain them over time. Most other cities' efforts are primarily top-down.

In some locales (San Francisco, California; Albany, New York; Takoma Park, Maryland), residents have taken a very grass-roots approach to creating communal green spaces by simply removing their rear yard fencing. These efforts are generally unique, have yet to spread city-wide, and are totally driven by the individual needs and desires of the involved individuals. These activities are completely bottom-up and are isolated pockets of activity rather than system-changing endeavors. This approach is opposite that of the cities mentioned above, which repurpose municipal property across wide areas primarily from the top down and with less citizen input.

Baltimore rests at the intersection of these two extremes. Baltimore's alley gating represents a citizen-driven initiative that needs the help of government in order to effectively spread and impact the city on a wide scale. It represents both a system-change and a grass roots approach. The very nature of the legislation reflects its community-bias; it was designed to represent a supermajority of the community's interest. Although it must be implemented by the community, it cannot do so without city government as its daily partner.

KEY ELEMENTS FOR REPLICATION

Although private and municipal property laws are devised by society, they can feel as immutable as gravity. The many legal and political hurdles to repurposing property necessitate a perseverance that many citizen sector groups may not have. However, community-wide conviction that laws can and must be changed in order to achieve system-changing impact is essential for both starting and successfully completing such endeavors.

In the case of Baltimore, without the steady hand and unwavering conviction of many organizations--most notably the Patterson Park Community Development Corporation, the Patterson Park Neighborhood Association, the Mayor's Office of Neighborhoods, Ashoka's Community Greens, and the pro bono assistance from the University of Maryland School of Law and the Hogan & Hartson law firm--the Baltimore effort would have failed.

This core group spent four years passing legislation that now benefits all of Baltimore City and serves as a model for other cities. One citizen-based group also spent four years attempting to install four gates, for safety reasons, on two alleys. At the end of their four years, they were allowed to install one gate on each alley. A systems-change perspective and approach allowed the core alley gating group to have a broad impact.

In addition to having a commitment to and vision for change, other key elements for replication include:

- creating a broad coalition of stakeholders;
- having dedicated sources of funding or deep pocketed partners to sustain the process and also pay for improvements;
- planning for a multi-year process;
- ensuring that all levels of the city bureaucracy are true partners will be held to performance goals;
- remaining adaptable to others' needs but holding firm regarding the primary goal (in this case: supermajority vote of property owners);
- having clear outreach and marketing plans;
- carefully crafting block-level organization and outreach so as to minimize discord and build excitement.

OTHER COMMON SPACES IN UNLIKELY PLACES

Green alleys are not the only potential communal spaces that can be created “out of thin air”. Neighbors can easily remove rear yard fencing and create one-block commons. Indeed, in Berkeley, California a professor bought an entire block of homes in the 1970’s and as he renovated them, he removed the fencing but did not change the underlying plat ownership. To this day, the interior block commons remains open.

In Davis, California the N Street Co-Housing Group wanted to assure that their rear yards would never be re-enclosed. They passed an ordinance⁸ converting their existing block into a planned unit development and instituted a provision in their co-housing rules stating that any home that is part of the community cannot erect a fence.

In Langley, Washington city leaders were concerned about the lack of affordable housing, so they allowed small housing units (less than 1,000 square feet each) to be built in neighborhoods that typically boasted of much larger units. They allowed these houses to be clustered, but only if these clustered units contained common green space. This Cottage Housing Code⁹, as it became known, required that 400 square feet of common green space was provided per unit. It also stipulated that at least 50% of the cottage units abut the common space, that all of the cottages be within 60 feet walking distance of the common green, and that the green has cottages abutting on at least two sides.

In other communities around the country, such as Greenwood Common in Berkeley, California or Chandler’s Yard in Baltimore, Maryland, green space was either purchased and preserved as open space from the community’s inception, or homeowners voluntarily and permanently contributed parts of their private, small backyards in order to create a large community green accessible by all on the block.

In all instances, the surrounding homeowners determine the use and maintenance of their commons.

SUMMARY

Ultimately, the Baltimore alley gating and greening ordinance is a civil means of asserting community rights and interests. It leads to the collective creation of cleaner and greener spaces. It advances residents’ health, well-being and safety; enhances property values; stewards the management of trash and storm water runoff; reduces

⁸ The ordinance amended Chapter 40 of the Davis Municipal Code, rezoning property located on lots 166-180 of David Manor Subdivision from R-1-6 to planned development. It provides for continual rear access and Section F reads: “No restrictions are allowed on passage through the rear 32’ of all lots unless such restrictions are agreed to with immediate neighbors.”

⁹ Section 18.22.180 of the Langley Municipal Code

demands on certain city services related to crime and dumping; and promotes citizenship, civic participation, equality, and human dignity.

The alley legislation is particularly noteworthy because it affords such transformational opportunities to low-wealth neighborhoods, something which high wealth neighborhoods can more easily accomplish through market mechanisms such as buying an alley and vacating its status as a right of way.

In addition--as Ashoka's Community Greens saw with the Luzerne/Glover block--a virtuous cycle can be started wherein residents create stronger bonds with each other, new home buyers are drawn to these now safer and more friendly blocks, home values increase over time, thereby giving cities the tax resources to undertake other improvement projects.

In order for this type of movement to be successful and reach its potential, both the citizen base and governmental entities must share common goals.

It is no wonder that many are learning from what Baltimore is now pioneering. It has come a long way from rat fishing.

APPENDIX I
Excerpt from the Charter of Baltimore City

For the most up to date Baltimore City Charter please see:
Article II, § (35) Streets, lanes, and alleys at
[http:// www.baltimorecity.gov/LinkClick.aspx?fileticket=dTWvNqw0j1s%3d&tabid=159](http://www.baltimorecity.gov/LinkClick.aspx?fileticket=dTWvNqw0j1s%3d&tabid=159)

ART. II, § 35A BALTIMORE CITY CHARTER

CHARTER OF BALTIMORE CITY
(As Last Amended by Res. 10-024; Ch. 645, Acts of 2010)

ARTICLE II
GENERAL POWERS

Editor’s Notes: Article II contains the “express powers” of the Mayor and City Council of Baltimore, as enacted and amended over the years by the Maryland General Assembly. Enactments since the 1964 Revision are indicated in the parentheses at the end of the affected sections.

The Mayor and City Council of Baltimore shall have full power and authority to exercise all of the powers heretofore or hereafter granted to it by the Constitution of Maryland or by any Public General or Public Local Laws of the State of Maryland; and in particular, without limitation upon the foregoing, shall have power by ordinance, or such other method as may be provided for in its Charter, subject to the provisions of said Constitution and Public General Laws:

.....

§ (34) Streets, bridges, and tunnels.....

(e) Gated alleys – authorized.

To close or gate an alley that is no longer needed for through pedestrian or vehicular traffic, in order to promote the public health, safety, or welfare; and

(f) Gated alleys – leasing.

To lease a closed or gated alley to an entity that consists of property owners whose lots abut the alley.

(Ch. 423, Acts of 2004.)

11/04/10

APPENDIX II
A Copy of Baltimore’s Alley Gating and Greening Ordinance

Article 26 as passed in 2007

Updated versions can be found at:

[http:// www.baltimorecity.gov/Government/CityCharterCodes.aspx](http://www.baltimorecity.gov/Government/CityCharterCodes.aspx)

SUBTITLE 8A
GATING AND GREENING ALLEYS

§ 8A-1. Definitions.

(a) *In general.*

In this subtitle, the following terms have the meanings indicated.

(b) *Abandoned property.*

“Abandoned property” means:

(1) an unoccupied structure or vacant lot on which taxes are in arrears for at least 2 years; or

(2) a building that:

(i) is unoccupied by an owner or tenant;

(ii) is unfit for habitation;

(iii) has deteriorated to the point at which:

A. it is structurally unsound; or

B. the cost of rehabilitating the building would significantly exceed the building’s post-rehabilitation market value; and

(iv) has been the subject of a violation notice or order from the City that requires the owner to:

A. rehabilitate the building to conform to minimum code habitability requirements; or

B. demolish the building for health and safety reasons.

(c) *Director.*

“Director” or “Director of Public Works” means the Director of the Department of Public Works or the Director’s designee.

(d) *Greening.*

(1) “Greening” means any alteration to an alley, beyond mere gating, that newly restrict vehicular access to or in the alley.

(2) “Greening” includes, but is not limited to, the installation of a fixed object, plant, or tree that newly restricts vehicular access to or in the alley.

(3) “Greening” does not include any sodding, seeding, or pavement removal that does not restrict vehicular access to or in the alley.

(Ord. 07-409.)

§ 8A-2. In general.

(a) Scope.

This subtitle governs the procedures for gating, greening, and leasing alleys under the authority of City Charter Article II, § 35(e) and (f).

(b) Standard.

The Director of Public Works may authorize the gating and, if applicable, the greening of an alley if, on petition, public notice, and hearing as provided in this subtitle, the Director determines that:

(1) the structures abutting the alley are predominantly residential;

(2) the alley is no longer needed for through pedestrian or vehicular traffic; and

(3) the gating and, if applicable, the greening will promote the public health, safety, or welfare.

(c) Rules and regulations.

(1) The Director of Public Works shall adopt rules and regulations to carry out this subtitle.

(2) These rules and regulations may set reasonable fees to cover the costs incurred by the Department of Public Works in processing a petition under this subtitle.

(3) A copy of these rules and regulations must be filed with the Department of Legislative Reference before they take effect.

(Ord. 07-409.)

§ 8A-3. Record of abutting owners.

At the request of any person interested in the gating or greening of an alley, the Department of Public Works shall provide that person with a list of the names and addresses, as then shown on the Department’s records, of the owners of all properties abutting that alley.

(Ord. 07-409.)

§ 8A-4. Petition by abutting owners – General.

(a) *In general.*

To initiate a proceeding under this subtitle, a petition must be submitted to the Director of Public Works.

(b) *Form.*

The petition must be in the form and contain the information that the Director requires.
(*Ord. 07-409.*)

§ 8A-5. Petition by abutting owners – Consents for gating.

(a) *Required consents.*

(1) A petition to gate, but not to green an alley must be accompanied by the signed consents of at least 80% of the owners of all abutting properties, not including abandoned properties.

(2) These consents must be in the form and tenor that the Director requires.

(b) *Statement of diligent attempts.*

If 1 or more abutting owners has not consented in writing to the proposed gating, the petition must be accompanied by an affidavit, made under the penalties of perjury, that describes and substantiates diligent attempts made by the petitioners to obtain the consents of 100% of the owners of all abutting properties.

(*Ord. 07-409.*)

§ 8A-6. Petition by abutting owners – Consents for greening.

(a) *in general.*

(1) Except as provided in subsection (b) of this section, a petition to gate and green an alley, or a petition to green an alley for which gating already has been approved, must be accompanied by the signed consents of 100% of the owners of all abutting properties.

(2) These consents must be in the form and tenor that the Director requires.

(b) *Excepted properties.*

If 1 or more abutting properties are unoccupied or abandoned and, notwithstanding due diligence, their owners have not been found, the petition may still be filed and considered if:

(1) the petition is accompanied by the signed consents of 100% of the owners of all occupied properties abutting the alley;

(2) the properties for which signed consents have been obtained constitute at least 80% of all of the properties, not including any abandoned properties, abutting the alley; and

(3) the petition is accompanied by an affidavit, made under the penalties of perjury, that:

(i) describes and substantiates diligent attempts made by the petitioners to obtain the consents of 100% of the owners of all unoccupied properties and abandoned properties abutting the alley; and

(ii) affirms that no owner of any abutting property has refused to sign a consent or otherwise is known to object to the petition.

(Ord. 07-409.)

§ 8A-7. Petition by abutting owners – Showing of public health, safety, or welfare.

(a) *Gating petition.*

A petition to gate, but not green, an alley must be accompanied by:

(1) a statement that specifies how the gating would promote the public health, safety, or welfare; and

(2) if the petitioners anticipate that they will seek to green the alley in the future, a statement that specifies how the greening would promote the public health, safety, or welfare.

(b) *Greening petition.*

A petition to gate and green an alley, or a petition to green an alley for which gating already has been approved, must be accompanied by a statement that specifies how granting the petition would promote the public health, safety, or welfare.

(Ord. 07-409.)

§ 8A-8. Petition by abutting owners – Police and Fire reviews.

The petition must be accompanied by a letter from the Police Commissioner and the Fire Marshall indicating that each has reviewed the proposed petition and has no objection to it.

(Ord. 07-409.)

§ 8A-9. Public hearing.

(a) *Director to conduct.*

The Director of Public Works shall conduct a public hearing on the petition.

(b) *Posting notice.*

(1) At least 10 days before the date for which the hearing is scheduled, the petitioners shall post a notice of the hearing at each end of the alley.

(2) The notice must be of the size and contain the information that the Director requires.

(c) *Mailed notice.*

At least 10 days before the hearing, the petitioners shall mail notice of the hearing to the owners of all properties abutting the alley, as then shown on the Department's records.

(Ord. 07-409.)

§ 8A-10. Decision.

(a) *In general.*

(1) The Director of Public Works shall issue a written decision on the Petition within 30 days of the hearing.

(2) A copy of the written decision shall be sent to a person designated by the petitioners.

(b) *Additional finding for gating petitions.*

(1) If the petitioners request to gate, not green, the alley, but indicate that they might seek to green the alley in the future, the director shall make a written finding that:

- (i) the potential greening would promote the public health, safety, or welfare;
- (ii) the potential greening would not promote the public health, safety, or welfare; or
- (iii) more information would be needed in order to determine whether the potential greening would promote the public health, safety, or welfare.

(2) If, subsequent to the issuance of the Director's decision on gating, the petitioners submit a petition to green the alley, the Director may rely on his or her earlier finding of whether the greening would promote the public health, safety, or welfare.

(Ord. 07-409.)

§ 8A-11. Required lease – Gating.

(a) *In general.*

The approval of any petition to gate, but not to green, an alley is subject to the entry into a lease, in the form and on the terms approved by the Board of Estimates, between the City, as lessor, and an entity that consists of property owners whose lots abut the alley, as lessee.

(b) *Terms.*

The lease shall include, at a minimum, provisions to the following effect:

- (1) All plans for the design and construction of gates and for any sodding, removal of pavement, or other landscaping of the alley must be reviewed and approved by the Department of Public Works.
- (2) All costs related to the preparation of these plans, to the purchase, installation, and maintenance of gates, to landscaping, including the removal of pavement, and to general maintenance of the alley, including all fees for building, fire, or related permits, are at the

lessee's expense.

(3) The lessee may not cause or permit the "greening" of the alley. That is, the lessee may not make or permit any alteration to the alley, beyond mere gating, that would newly restrict vehicular access to or in the alley.

(4) Access to the alley must be available to fire, police, public works, and other appropriate agencies of the City and to all companies that have utilities lawfully located in the alley.

(5) A Knox box must be placed on each gate for access by authorized vehicles and pedestrians.

(6) No utilities in the alley may be disturbed or built upon, and all easements for utilities must be preserved.

(7) If the Department of Public Works, its employees, agents, or contractors enter the alley for maintenance, repair, or replacement of City utilities, the Department:

(i) is responsible, on completion of its work, for restoring the alley to grade; but

(ii) is not responsible for any other work in the alley or for any other costs incurred in restoring the alley.

(8) Nothing in the lease is to be construed to affect any person's private rights in the alley.

(9) The Director of Public Works may terminate the lease and may order or cause, at the lessee's expense, the removal of all gates and other obstructions and the alley's restoration if:

(i) at any time, the lessee is in default of any term of the lease and has failed to cure that default in accordance with the terms of the lease; or

(ii) after a public hearing, with prior notice as provided in the lease, the director determines that:

- A. the alley is needed for through pedestrian or vehicular traffic; or
- B. the gating no longer promotes the public health, safety, or welfare.

(10) The Director of Public Works must after a public hearing, with prior notice as provided in the lease, terminate the lease and order or cause, at the lessee's sole expense, the removal of all gates and other obstructions and the alley's restoration if, at any time, the owners of a majority of the abutting properties, not including any abandoned properties, so request in writing.

(Ord. 07-409.)

§ 8A-12. Required lease – Greening.

(a) *In general.*

The approval of any petition to gate and green an alley, or to green an alley for which gating

already has been approved, is subject to the entry into a lease, in the form and on the terms approved by the Board of Estimates, between the City, as lessor, and an entity that consists of property owners whose lots abut the alley, as lessee.

(b) *Terms.*

The lease shall include, at a minimum, provisions to the following effect:

(1) All plans for the design and construction of gates, for the greening of the alley, and for any sodding, removal of pavement, or other landscaping of the alley must be reviewed and approved by the Department of Public Works.

(2) All costs related to the preparation of these plans, to the purchase, installation, and maintenance of gates, to greening, to landscaping, including the removal of pavement, and to general maintenance of the alley, including all fees for building, fire, or related permits, are at the lessee's expense.

(3) Access to the alley must be available to Fire, Police, Public Works, and other appropriate agencies of the city and to all companies that have utilities lawfully located in the alley.

(4) A Knox box must be placed on each gate for access by authorized vehicles and pedestrians.

(5) No utilities in the alley may be disturbed or built upon, and all easements for utilities must be preserved.

(6) If the Department of Public Works, its employees, agents, or contractors enter the alley for maintenance, repair, or replacement of City utilities, the Department:

(i) is responsible, on completion of its work, for restoring the alley to grade; but

(ii) is not responsible for any other work in the alley or for any other costs incurred in restoring the alley.

(7) Nothing in the lease is to be construed to affect any person's private rights in the alley.

(8) The Director of Public Works may terminate the lease and may order or cause, at the lessee's expense, the removal of all gates and other obstructions and the alley's restoration if:

(i) at any time, the lessee is in default of any term of the lease and has failed to cure that default in accordance with the terms of the lease; or

(ii) after a public hearing, with prior notice as provided in the lease, the director determines that:

A. the alley is needed for through pedestrian or vehicular traffic; or

B. the gating or greening no longer promotes the public health, safety, or welfare.

(9) The Director of Public Works must, after a public hearing, with prior notice as provided in the lease, terminate the lease and order or cause, at the lessee's sole expense, the removal of all gates and other obstructions and the alley's restoration if, at any time, the owners of a majority of the abutting properties, not including any abandoned properties, so request in writing.

(Ord. 07-409.)

§ 8A-13. Restoration of alley by utility companies.

If a company that has utilities lawfully located in a leased alley enters the alley for maintenance, repair, or replacement of the utilities, the company:

(1) is responsible, on completion of its work, for restoring the alley to grade; but

(2) is not responsible to the lessee for any other work in the alley or for any other costs incurred in restoring the alley.

(Ord. 07-409.)

§ 8A-14. Judicial and appellate review.

(a) Judicial review.

A person aggrieved by a final decision of the Director of Public Works under this subtitle may seek judicial review of that decision by petition to the Circuit Court for Baltimore City in accordance with the Maryland Rules of Procedure.

(b) Appellate review.

A party to the judicial review may appeal the court's final judgment to the Court of Special appeals in accordance with the Maryland Rules of Procedure.

(Ord. 07-409.)

APPENDIX III

Before and After Photos of the Luzerne/Glover block in Patterson Park, Baltimore

Before:



The alley in its original neglected condition.



A typical backyard fence.



Rats used to be rampant in the alley.

After:



The new beautified alley!



Young residents enjoying the alley transformation!



Residents and homeowners enjoy their safer, cleaner community space!



TO LEARN MORE CONTACT:

**Kate Herrod, Executive Director
Ashoka's Community Greens
1700 North Moore Street, suite 2000
Arlington, VA 22209
Ph: 703 600 8224
www.communitygreens.org
www.ashoka.org**