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FROM	NAME & TITLE	Robert Cename, Chief	CITY of BALTIMORE MEMO	
	AGENCY NAME & ADDRESS	Bureau of the Budget and Management Research Room 432. Citv Hall (410) 396-4941		
	SUBJECT	City Council Bill 18-0196 – Environmental Citations – Default Penalty		

TO

DATE:

The Honorable President and
Members of the City Council
Room 400, City Hall

May 3, 2018

Attention: Ms. Natawna Austin

We are herein reporting on CCB 18-0196, the purpose of which is to modify the procedures and language regarding the default penalty imposed under an environmental citation.

Background

Article 1 Section 40-7 of the Baltimore City Code grants the Environmental Control Board (ECB) the responsibility of developing and defining environmental citations, which can range from housing code enforcement issues to public safety violations. According to the Environmental Control Board Digest of Laws, Rules, and Regulations (Edition 2015), the ECB is comprised of 13 members including the Health Commissioner, the Housing Commissioner, Police Commissioner, Fire Chief, and Director of Public Works, as well as 7 members of the general public appointed by the Mayor.

Separately, Code Enforcement Officers, Baltimore City Police Officers, and other authorized City employees are responsible for issuing citations to residents who violate ECB provisions. The intention of these citations is to improve cleanliness, safety, and quality of life for all residents.

Under the current City Code, an individual who has been cited must first correct the violation, and then either pay the original fine amount or request a hearing within 30 days. Failure to pay within 30 days constitutes admission of liability and triggers an additional default penalty of 3 times the original fine or \$1,000, whichever is lower. Before the default penalty becomes final, the Board must notify the individual and give him or her another 30 days to request a stay of default for good cause shown and a hearing on this request. Failure to pay within this 60 day timeframe or failure to attend the scheduled hearing is considered an admission of guilt, and the default penalty is applied.

In Fiscal 2017, 46,079 citations were issued by authorized City personnel. Of the citations issued, 26,639 were paid and 8,255 ECB hearings were requested. Approximately 42% of citations issued were either not paid, went to tax sale, or were waived by the Board. Total citation revenue was \$7.5 million.

Analysis

The proposed legislation updates the City Code so that it better reflects current practice. While the present legislation imposes a default penalty that is three times the base fine amount, ECB's current practice is to issue a default penalty that is two times the fine amount, so that the total amount due triples. For example, in the current state, a citation with a \$50 base fine increases to \$150 total (\$50 base

+ \$100 default penalty) after 60 days, not \$200 total (\$50 base + \$150 default penalty). The proposed change would have no impact to revenue as it simply aligns the language to reflect existing practice.

The goal of the ECB and the citation process is to affect behavioral changes that will improve the quality of life for all residents. ECB believes this is best accomplished by engaging with individuals who receive environmental violations in order to educate them on the Board’s provisions and the necessity of enforcing them. In the current state, there is little opportunity to do this outside of the formal hearing process. The proposed legislation changes the requirement to give ECB staff the time and option to engage with individuals and make determinations without a formal hearing.

To this end, CCB 18-0196 proposes increasing the penalty amount by 50% of the base fine every 30 days, up to two times the original fine amount or \$1,000, whichever is lower. This would extend the amount of time an individual has to pay the base fine before the total amount due triples. The table below summarizes the current legislation versus the proposed changes to the default penalty structure using a \$50 base fine. The actual fine amounts vary by type of violation.

ECB DEFAULT PENALTY STRUCTURE CURRENT VS PROPOSED LEGISLATION					
Days	30	60	90	120	150
Base Fine	\$50	\$50	\$50	\$50	\$50
<u>Current Legislation</u>					
Current Default Penalty	\$0	\$100	\$100	\$100	\$100
Total Due - Current	\$50	\$150	\$150	\$150	\$150
<u>Proposed Legislation</u>					
Proposed Default Penalty	\$0	\$25	\$50	\$75	\$100
Total Due - Proposed	\$50	\$75	\$100	\$125	\$150

The overall revenue impact of gradually increasing the default penalty amount is uncertain and depends on behavioral changes of those receiving citations as well as the extent to which ECB chooses to enforce the default penalty amounts.

Of the citations paid in Fiscal 2017, for example, 8,312 or 31% were paid within 30 days and received no default penalty notice. Another 5,940 or 22% were paid within 60 days, meaning they received a default notice but paid the fine before it automatically applied. Among the remaining 12,387 or 47% of citations paid that had default penalties applied, ECB estimates that at least 60% had the penalty waived after contacting the ECB, meaning that only the base fine applied. Overall, ECB estimates that fewer than 19% of citations paid after 90 days actually had the default penalty applied.

If the ECB continues waiving the same number of penalties, revenue could decrease by a marginal amount for the 19% of citations that potentially have slightly lower default penalty amounts. Conversely, if the ECB chooses to waive fewer default penalties now that the penalty amount has been reduced, revenue would increase by a marginal amount. Finance does not anticipate a significant impact to revenue in either case.

The overall impact on the quality of life for residents under the proposed bill also depends on how well ECB engages with citation recipients. Under the proposed structure, ECB believes that the smaller

penalties and increased time could lead to more violations being corrected rather than ignored; however, ECB will not be sending out additional notices and has not yet developed a formal outreach plan. ECB should consider developing an operational plan and communications strategy to more efficiently leverage the additional time and reduce the number of citations that are ignored.

Conclusion

City Council Bill 18-0196 reduces the penalty and extends the amount of time an individual is given to pay an environmental citation, which could potentially impact annual revenue by a marginal amount. The proposed bill assumes that these accommodations will allow ECB to educate violators and change behavior over time. Finance recommends developing an approach to track and measure the impact of an intervention strategy to ensure these changes are producing the desired outcome. Beyond this recommendation, the Department of Finance has no objection to City Council Bill 18-0196.

cc: Henry Raymond
Kyron Banks