

FROM

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AGENCY NAME & ADDRESS	ENVIRONMENTAL CONTROL BOARD 200 E. Lexington Street, Suite 100
SUBJECT	CITY COUNCIL BILL NO. 12-0012R -(INVESTIGATIVE HEARING-BALTIMORE CITY ENVIRONMENTAL CONTROL BOARD)

CITY of
BALTIMORE
MEMO



TO

The Honorable Bernard C. Young
President
City Council of Baltimore
400 City Hall

DATE:
March 8, 2012

The Environmental Control Board welcomes the opportunity to address City Council Bill 12-0012R.

The thirteen-member Baltimore City Environmental Control Board (“ECB”) was created in 1998, by Section 40-2 of Article 1 of the Baltimore City Code, as an independent agency of City Government¹. The Board provides for hearing officers and panels of Board members to conduct hearings on contested environmental citations,² and an opportunity to appeal to the Board or to a panel of the Board from the decision of a hearing officer.³ With the assistance of its Executive Director and staff, the Board also is responsible for the collection of fines imposed under Section 40; and for all bookkeeping, accounting, and revenue reconciliations.⁴

The ECB does not issue citations. However, it has “full authority to enforce, in accordance with the provisions of the Baltimore City Code Article 1, § 40, the sanitation, environmental, safety, and other quality-of-life provisions of law listed in § 40-14....including any rules and regulations adopted under them.” City Code, Art. 1, § 40-5.

The list of offenses in Section 40-14 has expanded over the years to include laws pertaining to licensing and regulation of certain dwellings, water and sanitation laws, building and fire codes,

¹ § 40-2. Board established.

(a) *In general.*

The Environmental Control Board of Baltimore City is established as an independent agency of City Government.

(b) *Composition.*

(1) The Board comprises 13 members.

(2) 6 are the following ex officio members, or their respective designees:

- (i) the Commissioner of Health;
- (ii) the Commissioner of Housing and Community Development;
- (iii) the Police Commissioner;
- (iv) the Fire Chief;
- (v) the Director of Public Works; and
- (vi) a member of the City Council, to be appointed by the President of the City Council.

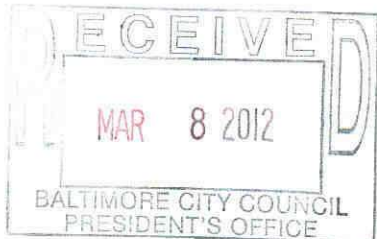
(3) 7 members are appointed by the Mayor in accordance with Article IV, § 6 of the City Charter.

² An “Environmental citation” means a pre-payable citation for violation of any provision of law or regulation under the jurisdiction of the Board. City Code, Art. 1, § 40-1(d.)

³ City Code, Art. 1, § 40-3.

⁴ City Code, Art. 1, § 40-3(c).

Comments



nuisance laws, and three provisions of the Zoning Code. Violation of these laws may result in an environmental citation issued by any of several City agencies: Animal Control (Health Department), the Fire Department, the Department of Housing and Community Development, the Health Department Tobacco Enforcement, Police Department, Department of Public Works, Recreations and Parks, and Zoning City Code. City Code, Art. 1, § 40-1(d).

A citation issued by one of these City agencies is due 30 days after issuance. The citation contains notice of the recipient's appeal rights. If the citation is not paid, and a hearing is not requested, the Bureau of Treasury Management issues a bill informing the citation's recipient that the fine may triple if it is not paid in 90 days. City Code, Art. 1, § 40-8. If no payment is received within 90 days, a second bill is sent, tripling the fine amount as a penalty for non-payment. All bills give notice that recipients have 30 days from the date of the letter to contact ECB's Director in writing regarding the penalty.

The laws governing ECB, and its regulations, are posted on ECB's webpage and are filed with The Baltimore City Department of Legislative Reference. To further familiarize the community with its rules and procedures, ECB representatives attend community meetings to present and explain them.

ECB employs three attorneys to serve as administrative law judges ("ALJs"), who conduct hearings on contested citations.⁵ Hearings are held daily, with two or three dockets per day beginning at 9:00, 11:00 and 1:30. The ALJs issue written decisions immediately upon conclusion of the hearings. Each decision contains a description of the recipient's rights of appeal. A recipient who is dissatisfied with the ALJ's hearing decision may request that the full Board review the decision, on the record. For each case reviewed by the Board, ECB staff prepares the record in the case, including a transcript of the hearing. After conducting its review, the Board issues a written decision.

A recipient who is dissatisfied with the Board's decision, may file a petition for judicial review in the Circuit Court for Baltimore City within 30 days from the date of the Board's written decision⁶ This 30-day period for filing a petition for judicial review does not begin to run until the Board issues its written decision.

⁵ § 40-9. Administrative adjudications.

(a) *In general.*

The Board, acting by or through its hearing officers, panels of the Board, and other authorized agents:

(1) must conduct hearings and other proceedings for adjudicating violations of the laws, rules, and regulations enforced by it; and

(2) has full authority to render decisions and orders, as well as impose the civil penalties provided by law for those violations.

(b) *Unappealed decision of hearing officer or panel.*

Unless otherwise specified by the Board, every decision of a hearing officer or panel of the Board from which no timely appeal is taken to the Board constitutes a final decision of the Board.

⁶ § 40-10. Judicial and appellate review.

(a) *Judicial review.*

Any person who, after having exhausted all administrative remedies available, is aggrieved by a final decision of the Board 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.