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BALTIMORE CITY BOARD OF ETHICS

May 7, 2021

The Honorable President
Members of the City Council
c/o Natawna Austin, Executive Secretary
Room 409, City Hall
100 N. Holliday St.
Baltimore, MD 21202

Re: City Council Bill 21-0067 (“Baltimore City Residency Requirements – Prohibition Against Purposeful Evasion”)

Dear President and City Council Members:

You have referred City Council Bill 21-0067 (“Bill”) to the Ethics Board for comment. The Bill prohibits a person from reorganizing or otherwise shifting intra-agency staff reporting assignments to purposefully evade the residency requirements in City Code, Article 1, Section 7-10. The Bill also provides that a violation would constitute an ethics violation enforceable by the Baltimore City Board of Ethics under City Code, Article 8, Subtitle 9. As explained more fully below, the Ethics Board respectfully **opposes** the Bill because it is inconsistent with the City Charter, the City Ethics Law, and the State Ethics Law.

First, the Bill’s provisions do not fall within the letter or spirit of the Baltimore City Public Ethics Law, contained in Article 8 of the City Code. The City Ethics Law is modeled upon the Maryland Public Ethics Law, contained in Title 5 of the General Provisions Article of the Maryland Code, which requires the City’s law to be similar to the State’s law in three areas related to public ethics: (1) conflicts of interest; (2) financial disclosure; and (3) lobbying. Md. Code Ann., General Provisions Art. (“GP”), § 5-807; *see also* City Code, Art. 8, § 1-2. The internal staff reporting and organizational decisions targeted by the Bill do not fall within the realm of public ethics as contemplated by the State Ethics Law, and therefore are inconsistent with the intent and parameters of the similar City Ethics Law.

Second, relatedly, the Ethics Board does not have authority under the City Charter to police the internal staff reporting and organizational decisions targeted by the Bill. The Ethics Board is established under Article VII, Section 105 of the City Charter to administer the City ordinances that “execute the provisions of ‘the Maryland Public Ethics Law’ of the Annotated Code of Maryland.” City Charter, Art. VII, § 105. *See also* City Charter, Art. II, § (68) (referencing the

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City's power and authority to establish local public ethics provisions as granted by Subtitle 8 of the Maryland Public Ethics Law); Md. Code Ann., GP, § 5-806 ("The express powers contained in . . . Article II of the Charter of the City of Baltimore are intended and shall be deemed to incorporate and include the power and authority contained in this part."). As discussed, neither the Maryland Public Ethics Law nor the derivative City Ethics Law govern the kinds of internal organizational decisions targeted by the Bill, so the Ethics Board has no authority to monitor or investigate those decisions. Instead, the Ethics Board's enforcement authority is limited to the public ethics realm established by the Maryland Public Ethics Law and envisioned by the Charter: (1) conflicts of interest; (2) financial disclosure; and (3) lobbying. *See* City Code, Art. 8, §§ 9-1 *et seq.*

By seeking to expand the jurisdiction of the Ethics Board over an arena that is unrelated to public ethics, the Bill is inconsistent with the City Charter, the City Ethics Law, and the Maryland Public Ethics Law. Therefore, the Ethics Board **opposes** City Council Bill 21-0067.

Sincerely,



Jeffrey Hochstetler
Director, Ethics Board

cc: Stephan Fogleman, Ethics Board Chair
Members of the Ethics Board
Isabel Cumming, Ethics Board Executive Director
Nina Themelis, Mayor's Office of Government Affairs

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