

CITY OF BALTIMORE
ORDINANCE _____
Council Bill 07-0716

Introduced by: Councilmembers Reisinger, Curran, D’Adamo, Kraft, Harris, Young, Holton,
Spector, Middleton, Welch, Crider, Clarke, President Rawlings-Blake, Councilmembers
Conaway, Mitchell

Introduced and read first time: June 11, 2007

Assigned to: Labor Subcommittee

Committee Report: Favorable with amendments

Council action: Adopted

Read second time: November 19, 2007

AN ORDINANCE CONCERNING

Labor Peace Agreements for Hotel Projects

FOR the purpose of requiring labor peace agreements for hotel development projects in which the City has a proprietary interest; defining certain terms; specifying the tenor and contents of these labor peace agreements; establishing certain procedures and criteria for determining proprietary interest; providing for certain exceptions; and generally relating to labor peace agreements in hotel development projects.

By adding

Article 11 - Labor and Employment

Section(s) 13-1 through 13-16, to be under the new subtitle heading,

“Subtitle 13. Labor Peace Agreements for Hotel Projects”

Baltimore City Code

(Edition 2000)

SECTION 1. BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF BALTIMORE, That the Laws of Baltimore City read as follows:

Baltimore City Code

Article 11. Labor and Employment

SUBTITLE 13. LABOR PEACE AGREEMENTS FOR HOTEL PROJECTS

§ 13-1. DEFINITIONS.

(A) *IN GENERAL.*

IN THIS SUBTITLE, THE FOLLOWING TERMS HAVE THE MEANINGS INDICATED.

EXPLANATION: CAPITALS indicate matter added to existing law.
[Brackets] indicate matter deleted from existing law.
Underlining indicates matter added to the bill by amendment.
~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from existing law by amendment.

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1 (B) *CONTRACT*.

2 “CONTRACT” ~~MEANS INCLUDES, BUT IS NOT LIMITED TO,~~ A LEASE, MANAGEMENT
3 AGREEMENT, SERVICE AGREEMENT, LOAN, BOND, GUARANTEE, OR OTHER SIMILAR
4 AGREEMENT TO WHICH THE CITY IS A PARTY ~~AND IN WHICH THE CITY HAS A PROPRIETARY~~
5 ~~INTEREST.~~

6 (C) *EMPLOYER*.

7 (1) “EMPLOYER” MEANS ANY PERSON:

8 ~~(1) WHO EMPLOYS INDIVIDUALS AT THE SITE OF A HOTEL DEVELOPMENT PROJECT; AND~~

9 ~~(2) WHOSE ONGOING ECONOMIC PERFORMANCE AND POTENTIAL FOR LABOR-~~
10 ~~MANAGEMENT CONFLICT AT THE SITE MAY SUBSTANTIALLY AFFECT THE CITY’S~~
11 ~~PROPRIETARY INTEREST.~~

12 (2) “EMPLOYER” DOES NOT INCLUDE ANY PERSON:

13 (I) WHO EMPLOYS FEWER THAN THE EQUIVALENT OF 15 FULL-TIME OR PART-TIME
14 EMPLOYEES AT A HOTEL DEVELOPMENT PROJECT;

15 (II) WHO HAS ENTERED INTO 1 OR MORE AGREEMENTS WITH 1 OR MORE LABOR
16 ORGANIZATIONS REGARDING THE EMPLOYEES AT THE HOTEL DEVELOPMENT
17 PROJECT WHO ARE, OR ARE LIKELY TO BE, THE SUBJECT OF UNION ORGANIZING, IF
18 THE CITY DETERMINES THAT THE AGREEMENT PROVIDES PROTECTION FROM THE
19 RISKS OF LABOR-MANAGEMENT CONFLICT THAT IS AT LEAST EQUAL TO THE
20 PROTECTION PROVIDED BY THE MINIMUM TERMS OF A LABOR PEACE AGREEMENT;
21 OR

22 (III) WHOSE ONGOING ECONOMIC PERFORMANCE AND POTENTIAL FOR LABOR-
23 MANAGEMENT CONFLICT AT THE SITE WILL NOT, IN THE CITY’S DETERMINATION,
24 SUBSTANTIALLY AFFECT THE CITY’S PROPRIETARY INTEREST IN THE HOTEL
25 DEVELOPMENT PROJECT.

26 (D) *LABOR ORGANIZATION*.

27 “LABOR ORGANIZATION” MEANS AN ORGANIZATION, AGENCY, OR ~~EMPLOYER~~ EMPLOYEE-
28 REPRESENTATION COMMITTEE OR PLAN:

29 (1) IN WHICH EMPLOYEES PARTICIPATE; AND

30 (2) THAT EXISTS FOR THE PURPOSE, IN WHOLE OR IN PART, OF DEALING WITH
31 EMPLOYERS CONCERNING GRIEVANCES, LABOR DISPUTES, WAGES, RATES OF PAY,
32 HOURS OF EMPLOYMENT, OR CONDITIONS OF WORK.

33 (E) *PERSON*.

34 “PERSON” INCLUDES:

35 (1) AN INDIVIDUAL;

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- 1 (2) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY OF ANY
2 KIND; AND
- 3 (3) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, OR
4 REPRESENTATIVE OF ANY KIND.

5 **§ 13-2. FINDINGS AND DECLARATIONS.**

6 (A) *CITY'S RISKS AND LIABILITIES.*

7 IN THE COURSE OF MANAGING REAL PROPERTY THAT IT OWNS OR OTHERWISE IN CARRYING
8 OUT ITS FUNCTIONS IN THE PUBLIC INTEREST, THE CITY PARTICIPATES IN DEVELOPMENTS,
9 AS A PROPERTY OWNER, LESSOR, PROPRIETOR, LENDER, OR GUARANTOR, FACING SIMILAR
10 RISKS AND LIABILITIES AS THOSE FACED BY OTHER BUSINESS ENTITIES THAT PARTICIPATE
11 IN THESE VENTURES.

12 (B) *PROPRIETARY INTEREST REQUIRES PRUDENT MANAGEMENT.*

13 IN THESE SITUATIONS, THE CITY:

- 14 (I) HAS AN ONGOING PROPRIETARY INTEREST IN THE DEVELOPMENTS AND A DIRECT
15 INTEREST IN THEIR FINANCIAL PERFORMANCE; AND
- 16 (II) MUST MAKE PRUDENT MANAGEMENT DECISIONS, SIMILAR TO ANY PRIVATE
17 BUSINESS ENTITY, TO ENSURE EFFICIENT MANAGEMENT OF ITS BUSINESS
18 CONCERNS AND TO MAXIMIZE BENEFITS AND MINIMIZE RISKS.

19 (C) *RISK OF LABOR-MANAGEMENT CONFLICT.*

- 20 (1) ONE RISK IS THE POSSIBILITY OF LABOR-MANAGEMENT CONFLICT.
- 21 (2) A MAJOR POTENTIAL OUTCOME OF LABOR-MANAGEMENT CONFLICT IS ECONOMIC
22 ACTION BY LABOR ORGANIZATIONS AGAINST EMPLOYERS. EXPERIENCE OF MUNICIPAL
23 AND OTHER INVESTORS DEMONSTRATES, FOR EXAMPLE, THAT ORGANIZING DRIVES
24 UNDER FORMAL AND ADVERSARIAL UNION CERTIFICATION PROCESSES OFTEN
25 DETERIORATE INTO PROTRACTED AND ACRIMONIOUS LABOR-MANAGEMENT CONFLICT.
- 26 (3) LABOR-MANAGEMENT CONFLICT CAN:
 - 27 (I) RESULT IN CONSTRUCTION DELAYS, WORK STOPPAGES, PICKETING, STRIKES,
28 CONSUMER BOYCOTTS, AND OTHER FORMS OF ADVERSE ECONOMIC PRESSURE;
29 AND
 - 30 (II) ADVERSELY AFFECT THE CITY'S FINANCIAL OR OTHER PROPRIETARY BUSINESS
31 INTEREST BY CAUSING DELAY IN THE COMPLETION OF A PROJECT, BY REDUCING
32 THE REVENUES OR INCREASING THE COSTS OF THE PROJECT, AND BY
33 GENERATING NEGATIVE PUBLICITY.

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1 (D) *RISKS HEIGHTENED IN HOTEL INDUSTRY.*

2 (1) THESE RISKS ARE HEIGHTENED IN THE HOTEL INDUSTRY, BECAUSE THIS INDUSTRY IS
3 SO CLOSELY RELATED TO TOURISM, WHICH IS A LINCHPIN OF THE CITY'S ECONOMY.

4 (2) LABOR-MANAGEMENT CONFLICT IN HOTEL DEVELOPMENT PROJECTS IN WHICH THE
5 CITY IS AN ECONOMIC PARTICIPANT CAN JEOPARDIZE THE OPERATION OF RELATED
6 TOURIST AND COMMERCIAL FACILITIES, AS WELL AS THE CITY'S NATIONAL
7 REPUTATION AS A TOURIST AND CONVENTION DESTINATION.

8 (E) *REDUCING RISK THROUGH LABOR PEACE AGREEMENT.*

9 ONE WAY OF REDUCING THE RISK TO THE CITY'S PROPRIETARY INTERESTS IS TO REQUIRE,
10 AS A CONDITION OF THE CITY'S INVESTMENT OR OTHER ECONOMIC PARTICIPATION IN A
11 HOTEL DEVELOPMENT PROJECT, THAT EMPLOYERS PARTICIPATING IN THE PROJECT SEEK
12 AGREEMENTS WITH LABOR ORGANIZATIONS IN WHICH THE LABOR ORGANIZATIONS AGREE
13 TO FORBEAR FROM ADVERSE ECONOMIC ACTION AGAINST THE EMPLOYERS' OPERATIONS.

14 **§ 13-3. SCOPE OF SUBTITLE.**

15 THIS SUBTITLE DOES NOT APPLY TO:

16 ~~(1) ANY EMPLOYER THAT EMPLOYS FEWER THAN THE EQUIVALENT OF 15 FULL-TIME OR~~
17 ~~PART-TIME EMPLOYEES AT A HOTEL DEVELOPMENT PROJECT;~~

18 ~~(2) ANY EMPLOYER THAT HAS ENTERED INTO ONE OR MORE AGREEMENTS WITH ONE OR~~
19 ~~MORE LABOR ORGANIZATIONS REGARDING THOSE EMPLOYEES AT THE HOTEL~~
20 ~~DEVELOPMENT PROJECT WHO ARE LIKELY TO BE THE SUBJECT OF UNION ORGANIZING,~~
21 ~~IF THE AGREEMENT PROVIDES AT LEAST EQUAL PROTECTION FROM THE RISKS OF~~
22 ~~LABOR-MANAGEMENT CONFLICT AS PROVIDED BY THE MINIMUM TERMS OF A LABOR~~
23 ~~PEACE AGREEMENT;~~

24 ~~(1) (3) A HOTEL DEVELOPMENT PROJECT FOR WHICH THE MAYOR AND CITY COUNCIL~~
25 ~~DETERMINES THAT THE RISK TO THE CITY'S FINANCIAL OR OTHER~~
26 ~~NONREGULATORY INTEREST RESULTING FROM LABOR-MANAGEMENT CONFLICT IS~~
27 ~~SO MINIMAL OR SPECULATIVE AS NOT TO WARRANT CONCERN FOR THE CITY'S~~
28 ~~INVESTMENT OR OTHER NONREGULATORY INTEREST; OR~~

29 ~~(2) (4) A HOTEL DEVELOPMENT PROJECT THAT RECEIVES FOR WHICH THE CITY~~
30 ~~DETERMINES THAT ITS PROPRIETARY INTEREST IS LESS THAN \$100,000 OF~~
31 ~~ASSISTANCE FROM THE CITY.~~

32 **§ 13-4. CONSTRUCTION.**

33 (A) *UNION RECOGNITION.*

34 NOTHING IN THIS SUBTITLE REQUIRES AN EMPLOYER TO RECOGNIZE A PARTICULAR LABOR
35 ORGANIZATION.

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1 (B) *COLLECTIVE BARGAINING AGREEMENT.*

2 NOTHING IN THIS SUBTITLE REQUIRES AN EMPLOYER TO ENTER INTO A COLLECTIVE
3 BARGAINING AGREEMENT ESTABLISHING THE SUBSTANTIVE TERMS AND CONDITIONS OF
4 EMPLOYMENT.

5 (C) *LABOR POLICY.*

6 THIS SUBTITLE IS NOT INTENDED, AND MAY NOT BE INTERPRETED, TO EXPRESS ANY
7 GENERALLY APPLICABLE POLICY REGARDING LABOR-MANAGEMENT RELATIONS OR TO
8 REGULATE THOSE RELATIONS IN ANY WAY.

9 (D) *EMPLOYEE PREFERENCE.*

10 THIS SUBTITLE IS NOT INTENDED TO FAVOR ANY PARTICULAR OUTCOME IN DETERMINING
11 EMPLOYEE PREFERENCE REGARDING UNION REPRESENTATION.

12 **§ 13-5 {RESERVED}**

13 **§ 13-6. DETERMINING NEED FOR AGREEMENT.**

14 (A) *IN GENERAL.*

15 FOR EACH HOTEL DEVELOPMENT PROJECT IN WHICH THE CITY PARTICIPATES OR HAS A
16 FINANCIAL INTEREST, THE ~~MAYOR AND CITY COUNCIL~~ SHALL DETERMINE WHETHER THE
17 CITY HAS A PROPRIETARY INTEREST IN THE PROJECT.

18 (B) *GOVERNING CRITERIA.*

19 THE CITY IS DEEMED TO HAVE A PROPRIETARY INTEREST IN A HOTEL DEVELOPMENT
20 PROJECT IF THE ~~MAYOR~~ CITY DETERMINES THAT ~~THE CITY~~:

- 21 (1) THROUGH A LEASE OF REAL PROPERTY THAT IS OWNED BY THE CITY AND USED FOR
22 THE PROJECT, THE CITY RECEIVES ONGOING REVENUE, EXCLUDING GOVERNMENT
23 FEES, TAX REVENUE, ASSESSMENT REVENUE, OR SIMILAR FEES AND REVENUES,
24 EXCEPT FOR TAX REVENUE UNDER THE CIRCUMSTANCES SPECIFIED IN ITEMS (2)
25 AND (3) OF THIS SUBSECTION;
- 26 (2) ~~RECEIVES ONGOING REVENUE~~ REVENUES FROM THE PROJECT, INCLUDING
27 INCREMENTAL TAX REVENUES GENERATED BY THE PROJECT, ARE USED TO REPAY
28 LOANS PROVIDED BY THE CITY TO ASSIST THE DEVELOPMENT OF THE PROJECT;
29 ~~INCLUDING INCREMENTAL TAX REVENUES GENERATED BY THE PROJECT;~~
- 30 (3) ~~RECEIVES ONGOING REVENUE~~ REVENUES FROM THE PROJECT, INCLUDING
31 INCREMENTAL TAX REVENUES GENERATED BY THE PROJECT, ARE USED TO PAY
32 DEBT SERVICE ON BONDS PROVIDED BY THE CITY TO ASSIST THE DEVELOPMENT OF
33 THE PROJECT, INCLUDING INCREMENTAL TAX REVENUES GENERATED BY THE
34 PROJECT;

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1 (4) THE CITY HAS SIGNIFICANT ASSETS AT RISK BECAUSE IT HAS AGREED TO
2 UNDERWRITE OR GUARANTEE THE DEVELOPMENT OF THE PROJECT OR LOANS
3 RELATED TO THE PROJECT; OR

4 (5) THE CITY HAS A SIGNIFICANT ONGOING ECONOMIC AND NONREGULATORY
5 INTEREST THAT IS AT RISK IN THE PROJECT'S FINANCIAL SUCCESS AND IS LIKELY TO
6 BE ADVERSELY AFFECTED BY LABOR-MANAGEMENT CONFLICT, EXCEPT THAT NO
7 INTEREST IS CONSIDERED "ECONOMIC AND NONREGULATORY" IF IT ARISES FROM
8 THE EXERCISE OF REGULATORY OR POLICE POWERS, SUCH AS TAXATION (EXCEPT
9 AS SET FORTH IN ITEMS (2) AND (3) OF THIS SUBSECTION), ZONING, OR THE
10 ISSUANCE OF PERMITS OR LICENSES.

11 **§ 13-7. AGREEMENT REQUIRED.**

12 (A) "ECONOMIC PARTICIPATION" DEFINED.

13 IN THIS SECTION, "ECONOMIC PARTICIPATION" MEANS A LEASE, LOAN, FINANCING,
14 UNDERWRITING, GUARANTEE, OR OTHER FINANCIAL BENEFIT DESCRIBED IN § 13-6(B) OF
15 THIS SUBTITLE.

16 (B) WHEN CITY TO REQUIRE.

17 IF THE ~~MAYOR~~ CITY DETERMINES THAT ~~THE CITY~~ IT HAS A PROPRIETARY INTEREST ~~AT~~
18 ~~RISK~~ IN A HOTEL DEVELOPMENT PROJECT, ~~ALL CITY CONTRACTS RELATED TO THAT~~
19 ~~PROJECT MUST INCLUDE:~~

20 ~~(1) A PROVISION THAT, AS AN ESSENTIAL CONSIDERATION FOR THE CITY'S ENTERING INTO~~
21 ~~THE CONTRACT, REQUIRES ALL EMPLOYERS THEN IT SHALL REQUIRE, AS A CONDITION~~
22 ~~OF THE CITY'S ECONOMIC PARTICIPATION, THAT EACH EMPLOYER ON THE PROJECT TO~~
23 ~~ENTER INTO 1 OR MORE LABOR PEACE AGREEMENTS WITH THE 1 OR MORE LABOR~~
24 ~~ORGANIZATIONS THAT REPRESENT, OR REASONABLY MIGHT SEEK TO REPRESENT,~~
25 ~~WORKERS ON THE PROJECT; AND~~

26 ~~(2) A PROVISION THAT, IN THE EVENT OF A FAILURE OF THIS CONSIDERATION, THE CITY~~
27 ~~MAY AT ITS OPTION RESCIND THE CONTRACT OR RECOVER THE PRESENT VALUE OF ITS~~
28 ~~INVESTMENT OR OTHER ECONOMIC PARTICIPATION IN THE PROJECT.~~

29 (C) DEFAULT, ETC., PROVISIONS.

30 ANY CONTRACT BETWEEN THE CITY AND THE BENEFICIARY OF THE CITY'S ECONOMIC
31 PARTICIPATION IN A PROJECT MAY INCLUDE PROVISIONS GOVERNING DEFAULT, DAMAGES,
32 OR RESCISSION THAT THE CITY CONSIDERS APPROPRIATE TO ASSURE THAT THE
33 REQUIREMENTS OF THIS SECTION ARE FULLY SATISFIED.

34 **§ 13-8. TENOR AND CONTENTS OF AGREEMENT.**

35 (A) TO BE ENFORCEABLE UNDER LMRA.

36 THE LABOR PEACE AGREEMENT SHALL BE A WRITTEN AGREEMENT ENFORCEABLE
37 BETWEEN THE EMPLOYER AND THE LABOR ORGANIZATION UNDER § 301(A) OF THE LABOR
38 MANAGEMENT RELATIONS ACT OF 1947, 29 U.S.C. § 185(A).

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1 (B) *MINIMUM CONTENTS.*

2 THE LABOR PEACE AGREEMENT SHALL CONTAIN, AT A MINIMUM, A PROVISION
3 PROHIBITING THE LABOR ORGANIZATION AND ITS MEMBERS FROM ENGAGING IN ANY
4 PICKETING, WORK STOPPAGE, BOYCOTT, OR OTHER ECONOMIC INTERFERENCE WITH ANY
5 OF THE EMPLOYER'S OPERATIONS IN WHICH THE CITY HAS A PROPRIETARY INTEREST, FOR
6 THE DURATION OF THAT INTEREST.

7 **§ 13-9. VIOLATION OF AGREEMENT BY UNION.**

8 AN EMPLOYER THAT PERFORMS ITS OBLIGATIONS UNDER A LABOR PEACE AGREEMENT IS
9 RELIEVED OF FURTHER OBLIGATION UNDER THE AGREEMENT IF THE LABOR ORGANIZATION
10 ENGAGES IN ADVERSE ECONOMIC ACTION SUCH AS STRIKING, PICKETING, OR BOYCOTTING THE
11 EMPLOYER.

12 **§§ 13-10 TO 13-15 {RESERVED}**

13 **§ 13-16. NOTICE OF SUBTITLE.**

14 (A) *NOTICE REQUIRED.*

15 A REQUEST FOR PROPOSALS, INVITATION TO BID, OR SIMILAR DOCUMENT ISSUED BY THE
16 CITY REGARDING A HOTEL DEVELOPMENT PROJECT MUST INCLUDE A REFERENCE TO AND
17 SUMMARY OF THIS SUBTITLE.

18 (B) *NO EXEMPTION FOR OMISSION.*

19 FAILURE TO INCLUDE A REFERENCE OR SUMMARY IN A DOCUMENT DOES NOT EXEMPT AN
20 EMPLOYER OTHERWISE SUBJECT TO THE REQUIREMENTS OF THIS SUBTITLE.

21 **SECTION 2. AND BE IT FURTHER ORDAINED,** That all provisions of this Ordinance are
22 severable. If a court determines that a word, phrase, clause, sentence, paragraph, subsection,
23 section, or other provision is invalid or that the application of any part of the provision to any
24 person or circumstances is invalid, the remaining provisions and the application of those
25 provisions to other persons or circumstances are not affected by that decision.

26 **SECTION 3. AND BE IT FURTHER ORDAINED,** That the catchlines contained in this Ordinance
27 are not law and may not be considered to have been enacted as a part of this or any prior
28 Ordinance.

29 **SECTION 4. AND BE IT FURTHER ORDAINED, That this Ordinance does not apply to any**
30 **economic participation granted by the City before the effective date of this Ordinance.**

31 **SECTION 4 5. AND BE IT FURTHER ORDAINED,** That this Ordinance takes effect on the 30th
32 day after the date it is enacted.

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Certified as duly passed this _____ day of _____, 20__

President, Baltimore City Council

Certified as duly delivered to Her Honor, the Mayor,
this _____ day of _____, 20__

Chief Clerk

Approved this _____ day of _____, 20__

Mayor, Baltimore City