

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



BOARD OF ETHICS
OF BALTIMORE CITY

LINDA B. "LU" PIERSON, Chair
AVERY AISENSTARK, Director
626 City Hall
Baltimore, Maryland 21202

December 3, 2012

The Honorable President and Members
of the Baltimore City Council
Fourth Floor, City Hall
Baltimore, Maryland 21202
c/o Karen Randle, Executive Secretary

Re: Bill 12-110 {"Public Ethics Law – Gifts to Elected Officials"}

You have referred Bill 12-110 {"Public Ethics Law – Gifts to Elected Officials"} to the Ethics Board for its comments. As stated in the Title to Bill 12-110, the bill's primary purpose is to:

expan[d] certain provisions to prohibit elected officials from soliciting or accepting certain gifts from any person who does or seeks to do business with the City, [who] engages or seeks to engage in an activity regulated or controlled by the City, or [who] is or recently has been a lobbyist

Currently, Ethics Code §§ 6-26 {"Solicitation prohibited"} and 6-27 {"Acceptance prohibited"}, limit a public servant's ability to solicit or (subject to certain exceptions enumerated in § 6-28) accept gifts from any person who the public servant knows or has reason to know is "do[ing] business with", is "engage[d] in an activity ... regulated or controlled by", or is "a lobbyist with respect to matters within the jurisdiction of" the public servant's *own agency*.

This formula works well for the vast majority of city officials and employees subject to the Ethics Code. But it creates undue confusion with respect to elected officials. Three elected officials, the Mayor, City Council President, and Comptroller, serve *ex officio* on the Board of Estimates, an agency with oversight and regulatory powers over virtually all City business; as such, these officials are already effectively precluded from soliciting or accepting gifts from any person who "does business", etc., *with the City*.

As to the remaining 14 elected officials, the Members of the City Council, their various legislative, constituent, and related interests and official activities similarly go far beyond the discrete bills, resolutions, and contracts that come before the Council-*qua*- "agency" itself – implicating, rather, the activities of any number (if not, at least collectively, most or even all) of

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our City agencies and their day-to-day exercise of their respective powers and duties and their relationships with contractors, executive lobbyists, and regulated businesses.

This legislative oversight role is a valuable, if not indispensable, asset to the City, to be sure. But it also blurs the line when applying a “doing business with”, “regulated or controlled by”, or “within the jurisdiction of” one’s *own agency*.

Accordingly, this bill proposes to apply the same, broader standard to *all* elected officials, extending the gift regulations for elected officials to apply to all persons who the elected official knows or has reason to know “does or seeks to do business with”, etc, *the City*.*

This, then, is to respectfully request your consideration and approval of Bill 12-110.

Very truly yours,



Avery Aisenstark

xc: The Honorable James B. Kraft
Ms. Angela Gibson

* Other changes proposed by this Bill (and by Bill 12-142) are in Ethics Code §§ 6-26 and 6-27 and their descriptions of persons from whom gifts may not be solicited or accepted. These changes are described in the Ethics Board’s report on Bill 12-142.