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| <b>FROM</b> | <b>NAME &amp; TITLE</b>          | Rebecca Woods, Esq., Executive Director   | CITY of<br><b>BALTIMORE</b><br><br><i>MEMO</i> |  |
|             | <b>AGENCY NAME &amp; ADDRESS</b> | Environmental Control Board<br>1 North Charles Street, 13th Floor,<br>Baltimore, Maryland 21201 |  |  |
|             | <b>SUBJECT</b>                   | City Council Bill # 21-0030<br>Coordinated Multi-Agency Code Inspections                        |  |  |

February 26, 2021

**TO:** The Honorable President and Members  
Of the Baltimore City Council

Dear Mr. President and Members:

The Baltimore City Environmental Control Board (ECB) has been requested to review City Council Bill # 21-0030, Coordinated Multi-Agency Code Inspections. The purpose of the Bill is to require that the City Administrator coordinate a multi-agency code inspection after a commercial property has been issued certain environmental citations; to require that the City Administrator and the Department of Housing and Community Development receive a copy of all environmental citations issued; to specify which agencies must be included in the multi-agency inspection team; to require that the City Administrator provide certain information to councilmembers; to require that the City Administrator submit an annual report detailing the work of the multi-agency inspection team; and to provide for a special effective date.

The ECB is an administrative hearing board that adjudicates contested environmental citations. Environmental citations are issued by various City agencies for specific violations listed under Article 1, Section 40-14. Once issued by a City agency, the cited person, or entity, has approximately thirty (30) days to contest the citation in a hearing. That hearing takes place at the ECB with an Administrative Hearing Officer presiding over the case. This allows for the citation's review to be done by an agency that is independent from the agency issuing the citation.

During that hearing, the issuing agency has an opportunity to present their case and demonstrate, through testimony and evidence, that the cited person/entity violated the City Code. That cited person/entity then has the opportunity to challenge that testimony and evidence, and to present their own case. The ECB's Administrative Hearing Officer ultimately functions as the neutral and impartial fact finder when determining if the issuing agency met its burden.

It is important to note that, in order to maintain its independence and neutrality, the ECB is not involved in the issuance of environmental citations. The ECB does not participate in investigations or inspections; the ECB does not direct agencies to cite particular people or properties; and the ECB does not have any authority over the agencies that issue the citations and/or their staff.

Specific to the proposed bill, the ECB is strongly concerned about the placement of the bill's language within Article 1, Section 40 and its possible impact on the agency's appearance of impartiality. That impartiality is important so that cited persons/entities feel as if their hearing is conducted in a fair forum.

When reviewing the placement of the bill's language, Section 40 does not seem appropriate because that section is specifically dedicated to the Environmental Control Board. It outlines the make up of the Board, its jurisdiction and authority, the requirements for a citation's contents and its proper service, and the general administrative "life" of a citation. Section 40 does not discuss the substance of specific violations, it does not lay out the process of issuance, and it does not mention any other agencies and/or their citing practices. The Section's main purpose is solely limited to its titled agency, the Environmental Control Board.

Further, upon review of the added language, it does not require the ECB take on any role in the coordinated response effort, participate in the inspection, or contribute to the reporting requirement, nor would it be appropriate to do so. It does not seem to require any action by the ECB at all. Due to this, the inclusion of the new language in the Environmental Control Board's Code section, without any intersection with the agency's core functionality, will only serve to blur the lines between the agencies issuing the citations and the ECB's independent adjudication of those citations.

The ECB's concern regarding the possible blurred lines is based on years of correspondence with Baltimore City residents, property owners, and business owners that conflate this agency with the agencies issuing the citations. Most people see the word "environmental" in the title of the agency and assume that the ECB caused them to be cited and/or that the ECB is in partnership with the issuing agencies. This leads cited persons/entities to automatically believe that they would not get a fair hearing. This is an idea that the ECB has to dispel on a daily basis. Due to this, the ECB fears that the newly proposed language will only work against the agency's attempts to highlight its neutrality. Again, that neutrality is what allows for cited persons/entities to feel as if they are receiving a fair and impartial hearing.

Moreover, the Baltimore City Code is vast and outlines many responsibilities for residents, property owners, and business owners within the City limits. However, the jurisdiction of the ECB is limited to the violations listed in Section 40-14. This is because there are different mechanisms in place for the enforcement of other Code violations. For instance, the Department of Housing and Community Development issues Violation Notices and Orders for certain City Code violations.

This is two-fold. There may be a Code requirement that does not allow for a citation to be issued without prior notice, which is why a Violation Notice is issued instead; however, those Violation Notices can then allow for different enforcement options, such as receiverships and injunctions. Further, if the inspector then wants to issue a citation, they can do so.

With the above in mind, limiting the Multi-Agency coordinated effort to environmental citations, and the violations listed in Section 40-14, may hinder the bill's overall purpose to target commercial properties that violate multiple requirements across various sections of the City Code. Further, the ECB's system within the 3270 Mainframe is not coded to include designations between commercial and residential properties. Due to this, the agency would be incapable of providing the data to target commercial properties because the agency's system simply does not carry that information. Instead, the Department of Housing and Community Development may be better able to locate the relevant commercial properties for the inspection team's coordinated efforts.

Overall, it should be underscored that the ECB is not opposed to the creation of a Multi-Agency Inspection Team; however, in order to maintain the agency's neutrality, for the purpose of conducting fair and impartial hearings, the bill's language should not be placed in Article 1, Section 40. Its inclusion in the Environmental Control Board's Code Section will only confuse Baltimore City residents, property owners, and business owners as they seek an equitable process to resolve their citations.

Instead, the ECB would recommend crafting a separate Code section for Coordinated Multi-Agency Code Inspections. It would mitigate any confusion to the public and it would allow for broader enforcement of Code violations outside of the ECB's limited jurisdiction.

*Rebecca A. Woods*

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