

CITY OF BALTIMORE

STEPHANIE RAWLINGS-BLAKE, Mayor



DEPARTMENT OF LAW

GEORGE A. NILSON, City Solicitor
101 City Hall
Baltimore, Maryland 21202

August 22, 2012

The Honorable President and Members
of the Baltimore City Council
Attn: Karen Randle, Executive Secretary
Room 409, City Hall
100 N. Holliday Street
Baltimore, Maryland 21202

Re: City Council Bill 12-0063 – Mayor’s Anti-Animal Abuse Advisory
Commission – Modifications **CORRECTED**

Dear Madame President and City Council Members:

The Law Department has reviewed City Council Bill 12-0063 for form and legal sufficiency. The bill modifies the composition of the Mayor’s Anti-Animal Abuse Advisory Commission. The bill reduces the number of members to 23, 13 appointed by the Mayor and 10 agency representatives. The bill also requires that board members be timely reimbursed for expenses. Finally, the bill allows the Mayor to terminate a board member, if in the opinion of the Mayor and the Chair and without sufficient cause, the member fails to participate in the work of the Commission in the manner normally expected of a board member.

City Council Bill 12-0063 is generally consistent with the authority of the City Council. Section 55-6(c)(2) of the bill, however, does raise concerns about vagueness. Under the Charter, Art. IV, Sec. 6, “except as otherwise provided by law, the Mayor may remove members of boards and commissions established by Charter or other law by majority vote of the members of the City Council. Removal shall date from the time of City Council approval.” Section 55-6(c)(2) of the bill would provide for a different removal authority for the Anti-Animal Abuse Commission. This is specifically authorized by the Charter. The authority articulated in Sec. 55-6(c)(2), however, provides for a vague standard for removal when participation is not as normally expected. In effect, there are no guidelines or criteria for the Mayor and Chair to use to determine what “participation is normally expected of a member.” Furthermore, when participation is not normal, the bill provides no criteria for the Mayor and Chairman to determine if the behavior is excusable. When behavior is excusable, we could assume that sufficient cause for removal does not exist. In contrast, if the behavior is not excusable, sufficient cause for removal exists.

F/A



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If the intent of the bill is to provide for complete discretion in the Mayor and the Chair, then Sec. 55-6(c)(2) should be revised to state that board members are subject to removal upon the determination of the Chair and the Mayor. This is similar to the Charter provision except that both the Mayor and the Chair must agree to remove the member and the language of the bill, as currently drafted, dispenses entirely with City Council approval for removing a member. If the intent is to provide for removal for cause, then the bill must define the behavior that constitutes normal participation and the standards that establish when someone's abnormal participation is excusable. It is noteworthy that most boards and commissions do not have specific removal provisions other than for absences from meetings. In those cases, the Charter removal provisions would apply. The Charter provision gives complete discretion to the Mayor and City Council and does not require a determination of cause for termination.

Subject to amendment as referenced above, the Law Department approves Council Bill 12-0063 for form and legal sufficiency.

Very truly yours,

Elena R. DiPietro
Chief Solicitor

cc: George Nilson, City Solicitor
Angela C. Gibson, Mayor's Legislative Liaison
Hilary Ruley, Assistant Solicitor
Ashlea Brown, Assistant Solicitor
Victor Tervalá, Assistant Solicitor