

**CITY OF BALTIMORE
COUNCIL BILL 07-0716
(First Reader)**

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

REFERRED TO THE FOLLOWING AGENCIES: City Solicitor, Department of Public Works,
Department of Finance, Labor Commissioner, Baltimore Development Corporation, Department
of Transportation, Bureau of Purchases, Baltimore Hotel Corporation, Baltimore Area
Convention and Visitors Association, Minority and Women’s Opportunity Office

A BILL ENTITLED

1 AN ORDINANCE concerning

2 **Labor Peace Agreements for Hotel Projects**

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

8 By adding

9 Article 11 - Labor and Employment
10 Section(s) 13-1 through 13-16, to be under the new subtitle heading,
11 “Subtitle 13. Labor Peace Agreements for Hotel Projects”
12 Baltimore City Code
13 (Edition 2000)

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

16 **Baltimore City Code**

17 **Article 11. Labor and Employment**

18 **SUBTITLE 13. LABOR PEACE AGREEMENTS FOR HOTEL PROJECTS**

19 **§ 13-1. DEFINITIONS.**

20 (A) *IN GENERAL.*

21 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.

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1 (B) *CONTRACT*.

2 “CONTRACT” MEANS A LEASE, MANAGEMENT AGREEMENT, SERVICE AGREEMENT, LOAN,
3 BOND, GUARANTEE, OR OTHER SIMILAR AGREEMENT TO WHICH THE CITY IS A PARTY AND
4 IN WHICH THE CITY HAS A PROPRIETARY INTEREST.

5 (C) *EMPLOYER*.

6 “EMPLOYER” MEANS ANY PERSON:

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

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

11 (D) *LABOR ORGANIZATION*.

12 “LABOR ORGANIZATION” MEANS AN ORGANIZATION, AGENCY, OR EMPLOYER
13 REPRESENTATION COMMITTEE OR PLAN:

14 (1) IN WHICH EMPLOYEES PARTICIPATE; AND

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

18 (E) *PERSON*.

19 “PERSON” INCLUDES:

20 (1) AN INDIVIDUAL;

21 (2) A PARTNERSHIP, FIRM, ASSOCIATION, CORPORATION, OR OTHER ENTITY OF ANY
22 KIND; AND

23 (3) A RECEIVER, TRUSTEE, GUARDIAN, PERSONAL REPRESENTATIVE, FIDUCIARY, OR
24 REPRESENTATIVE OF ANY KIND.

25 **§ 13-2. FINDINGS AND DECLARATIONS.**

26 (A) *CITY’S RISKS AND LIABILITIES*.

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

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

2 IN THESE SITUATIONS, THE CITY:

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

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

- 9 (1) ONE RISK IS THE POSSIBILITY OF LABOR-MANAGEMENT CONFLICT.
- 10 (2) A MAJOR POTENTIAL OUTCOME OF LABOR-MANAGEMENT CONFLICT IS ECONOMIC
11 ACTION BY LABOR ORGANIZATIONS AGAINST EMPLOYERS. EXPERIENCE OF MUNICIPAL
12 AND OTHER INVESTORS DEMONSTRATES, FOR EXAMPLE, THAT ORGANIZING DRIVES
13 UNDER FORMAL AND ADVERSARIAL UNION CERTIFICATION PROCESSES OFTEN
14 DETERIORATE INTO PROTRACTED AND ACRIMONIOUS LABOR-MANAGEMENT CONFLICT.

15 (3) LABOR-MANAGEMENT CONFLICT CAN:

- 16 (I) RESULT IN CONSTRUCTION DELAYS, WORK STOPPAGES, PICKETING, STRIKES,
17 CONSUMER BOYCOTTS, AND OTHER FORMS OF ADVERSE ECONOMIC PRESSURE;
18 AND
- 19 (II) ADVERSELY AFFECT THE CITY'S FINANCIAL OR OTHER PROPRIETARY BUSINESS
20 INTEREST BY CAUSING DELAY IN THE COMPLETION OF A PROJECT, BY REDUCING
21 THE REVENUES OR INCREASING THE COSTS OF THE PROJECT, AND BY
22 GENERATING NEGATIVE PUBLICITY.

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

- 24 (1) THESE RISKS ARE HEIGHTENED IN THE HOTEL INDUSTRY, BECAUSE THIS INDUSTRY IS
25 SO CLOSELY RELATED TO TOURISM, WHICH IS A LINCHPIN OF THE CITY'S ECONOMY.
- 26 (2) LABOR-MANAGEMENT CONFLICT IN HOTEL DEVELOPMENT PROJECTS IN WHICH THE
27 CITY IS AN ECONOMIC PARTICIPANT CAN JEOPARDIZE THE OPERATION OF RELATED
28 TOURIST AND COMMERCIAL FACILITIES, AS WELL AS THE CITY'S NATIONAL
29 REPUTATION AS A TOURIST AND CONVENTION DESTINATION.

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

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

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1 **§ 13-3. SCOPE OF SUBTITLE.**

2 THIS SUBTITLE DOES NOT APPLY TO:

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

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

11 (3) A HOTEL DEVELOPMENT PROJECT FOR WHICH THE MAYOR AND CITY COUNCIL
12 DETERMINES THAT THE RISK TO THE CITY'S FINANCIAL OR OTHER NONREGULATORY
13 INTEREST RESULTING FROM LABOR-MANAGEMENT CONFLICT IS SO MINIMAL OR
14 SPECULATIVE AS NOT TO WARRANT CONCERN FOR THE CITY'S INVESTMENT OR OTHER
15 NONREGULATORY INTEREST; OR

16 (4) A HOTEL DEVELOPMENT PROJECT THAT RECEIVES LESS THAN \$100,000 OF ASSISTANCE
17 FROM THE CITY.

18 **§ 13-4. CONSTRUCTION.**

19 (A) *UNION RECOGNITION.*

20 NOTHING IN THIS SUBTITLE REQUIRES AN EMPLOYER TO RECOGNIZE A PARTICULAR LABOR
21 ORGANIZATION.

22 (B) *COLLECTIVE BARGAINING AGREEMENT.*

23 NOTHING IN THIS SUBTITLE REQUIRES AN EMPLOYER TO ENTER INTO A COLLECTIVE
24 BARGAINING AGREEMENT ESTABLISHING THE SUBSTANTIVE TERMS AND CONDITIONS OF
25 EMPLOYMENT.

26 (C) *LABOR POLICY.*

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

30 (D) *EMPLOYEE PREFERENCE.*

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

33 **§ 13-5 {RESERVED}**

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§ 13-6. DETERMINING NEED FOR AGREEMENT.

(A) IN GENERAL.

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

(B) GOVERNING CRITERIA.

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

- (1) THROUGH A LEASE OF REAL PROPERTY THAT IS OWNED BY THE CITY AND USED FOR THE PROJECT, RECEIVES ONGOING REVENUE, EXCLUDING GOVERNMENT FEES, TAX REVENUE, ASSESSMENT REVENUE, OR SIMILAR FEES AND REVENUES, EXCEPT FOR TAX REVENUE UNDER THE CIRCUMSTANCES SPECIFIED IN ITEMS (2) AND (3) OF THIS SUBSECTION;
- (2) RECEIVES ONGOING REVENUE FROM THE PROJECT TO REPAY LOANS PROVIDED BY THE CITY TO ASSIST THE DEVELOPMENT OF THE PROJECT, INCLUDING INCREMENTAL TAX REVENUES GENERATED BY THE PROJECT;
- (3) RECEIVES ONGOING REVENUE FROM THE PROJECT TO PAY DEBT SERVICE ON BONDS PROVIDED BY THE CITY TO ASSIST THE DEVELOPMENT OF THE PROJECT, INCLUDING INCREMENTAL TAX REVENUES GENERATED BY THE PROJECT;
- (4) HAS SIGNIFICANT ASSETS AT RISK BECAUSE IT HAS AGREED TO UNDERWRITE OR GUARANTEE THE DEVELOPMENT OF THE PROJECT OR LOANS RELATED TO THE PROJECT; OR
- (5) HAS A SIGNIFICANT ONGOING ECONOMIC AND NONREGULATORY INTEREST THAT IS AT RISK IN THE PROJECT'S FINANCIAL SUCCESS AND IS LIKELY TO BE ADVERSELY AFFECTED BY LABOR-MANAGEMENT CONFLICT, EXCEPT THAT NO INTEREST IS CONSIDERED "ECONOMIC AND NONREGULATORY" IF IT ARISES FROM THE EXERCISE OF REGULATORY OR POLICE POWERS, SUCH AS TAXATION (EXCEPT AS SET FORTH IN ITEMS (2) AND (3) OF THIS SUBSECTION), ZONING, OR THE ISSUANCE OF PERMITS OR LICENSES.

§ 13-7. AGREEMENT REQUIRED.

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

- (1) A PROVISION THAT, AS AN ESSENTIAL CONSIDERATION FOR THE CITY'S ENTERING INTO THE CONTRACT, REQUIRES ALL EMPLOYERS ON THE PROJECT TO ENTER INTO LABOR PEACE AGREEMENTS WITH THE LABOR ORGANIZATIONS THAT REPRESENT, OR REASONABLY MIGHT REPRESENT, WORKERS ON THE PROJECT; AND

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

4 **§ 13-8. TENOR AND CONTENTS OF AGREEMENT.**

5 (A) *TO BE ENFORCEABLE UNDER LMRA.*

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

9 (B) *MINIMUM CONTENTS.*

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

15 **§ 13-9. VIOLATION OF AGREEMENT BY UNION.**

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

20 **§§ 13-10 TO 13-15 {RESERVED}**

21 **§ 13-16. NOTICE OF SUBTITLE.**

22 (A) *NOTICE REQUIRED.*

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

26 (B) *NO EXEMPTION FOR OMISSION.*

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

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

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

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