



February 14, 2020

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

Re: Bill 20-0483 {"Public Ethics Law – Gifts to Elected Officials and Staff"}

You have referred Bill 20-0483 {"Public Ethics Law – Gifts to Elected Officials and Staff"} to the Ethics Board for its comments. As introduced, the bill seeks to clarify a confusing provision of the Ethics Code as it relates to elected officials and their respective staffmembers soliciting or accepting gifts.

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, however it creates undue confusion with respect to elected officials and their staff. 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 bills and resolutions that come before the Council, which would ostensibly be a councilmember's agency. The totality of a councilmember's official interests and activities implicate the activities most, if not all, of 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 the "doing business with", "regulated or controlled by", or "within the jurisdiction of" standard to one's *own agency*.

Accordingly, this bill proposes to apply the same, broader standard to *all* elected officials and their staff by replacing "agency" with "the City" as a whole. This would eliminate the confusion

as to what constitutes an elected official's agency and codify the Board's present guidance to these officials.

Given the clarity that this bill would provide to our elected officials and their respective staff, the Ethics Board strongly supports its passage and enactment into law.

Very truly yours,



Tony DeFranco

cc: The Honorable Eric Costello
Mr. Matthew Stegman
Ms. Nina Themelis
Mr. Caylin Young