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CITY OF BALTIMORE

BRANDON M. SCOTT  
Mayor



DEPARTMENT OF LAW  
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September 27, 2021

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

Re: City Council Bill 21-0050R – Informational Hearing – Museum Workers’  
Right to Organize

Dear President and City Council Members:

The Law Department has reviewed City Council Bill 21-0050R for form and legal sufficiency. This resolution is for the purpose of inviting representatives from Baltimore City Department of Human Resources, the Law Department and others to discuss labor relations issues concerning the Walters Art Gallery.

In 1933, the Board of Trustees of the Walters Art Gallery (the “Board”) was incorporated by state law pursuant to the testamentary gift of Mr. Henry Walters. 1933 Md. Laws, ch. 217. That state law gave the Board “full and exclusive power to appoint a director for the Walters Art Gallery, and to appoint or provide for the appointment of such curators, assistances and other employees as may be advisable.” It provided that the “Board shall, generally, have all the powers with respect to the affairs of said corporation which are conferred by the Public General Laws of Maryland upon the directors or managing bodies of Maryland Corporations.” The City adopted what is now Subtitle 14 of Article 18 of the City Code to accept of the testamentary gift and reiterate that the Walters “Trustees have the powers and duties provided in Chapter 217, Laws of Maryland 1933, and this section.” City Charter, Art. 18, § 14-8(a). The City Code Sections do not, nor could they, conflict with the state law. Md. Constitution, Art. 11-A, Sect. 3.

Past solicitor opinions have explained that the Walters is not akin to other agencies of the Mayor and City Council of Baltimore because it “does not possess those attributes which our courts have held are necessary to the make-up of a public corporation,” most importantly because it is not sufficiently subject to government “control, regulation and direction.” 59 Op. City Sol. 372, 376 (1967) (referencing 54 Op. City Sol. 296 (1962)). The City has more control over the Baltimore Museum of Art, Enoch Pratt Free Library and the former Municipal Museum than it does over the Walters. 59 Op. City Sol. at 377. “The employment practices and policies of the Walters are in no wise affected by the Civil Service provisions of the City Charter. This is true with respect to the selection, appointment, promotion and tenure of all employees.” *Id.*

Although starting in 1958 the City paid the “employers’ share of Social Security, health insurance and pension costs,” the “main source of the Walters’ fund is from the endowment established by Henry Walters, gifts, grants, membership dues, and proceeds of Gallery activities.” *Id.* “The ordinance which created a retirement system for the employees of Walters set up the system as a special one which shows that the employees of Walters were not employees of the City.” *Id.* (citing Baltimore City Code, Sections 3 and 15 (1966 ed.)). The City only had the ability to create this special pension system for the Walters’ employees by authority granted by the Maryland General Assembly. City Charter, Art. II, § (24); *Kimball-Tyler Co. v. Baltimore*, 214 Md. 86, 94 (1957) (Article II of the City Charter is state law that can only be changed by the General Assembly); 87 Op. Atty Gen. Md. 187, 191, n. 8 (2002).

The City Solicitor reiterated in a later opinion that “concerning the question of whether the Walters Art Gallery is an agency of the City within the meaning of the City Charter provisions requiring competitive bidding of city contracts, after a detailed analysis and discussion of the history of the Walters Art Gallery and its relationship to the Mayor and City Council of Baltimore, concluded that the ‘Waters Art Gallery is not an agency of Baltimore City within the meaning of the City Charter.’” 61 Op. City Sol. 251, 253 (1969) (citations omitted).

The Law Department cannot advise the Board or the museum employees concerning their labor relations. City Charter, Art. VII, § 24; 82 Md. Op. Att’y Gen. 15 (1997) (a government lawyer “does not have an attorney-client relationship with members of the public, for they are neither the corporate entity that is the client nor agents of the county authorized by law to act on its behalf.”); Md. Rule 19-301.

However, a resolution is an appropriate way for the City Council of Baltimore to conduct an informational hearing. *See, e.g., Inlet Assocs. v. Assateague House Condominium*, 313 Md. 413, 428 (1988). Therefore, the Law Department approves this Resolution for form and legal sufficiency.

Very truly yours,



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Chief Solicitor

cc: James L. Shea, City Solicitor  
Nina Themelis, Mayor’s Office of Government Relations  
Elena DiPietro, Chief Solicitor, General Counsel Division  
Ashlea Brown, Chief Solicitor  
Victor Tervalá, Chief Solicitor