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June 9, 2008



Mr. Matthew E. Creamer
Council Administrator
Wicomico County, Maryland
P.O. Box 870
Salisbury, MD 21803-0870

Dear Matt:

I represent the Wicomico County Liquor Control Board, and the Board has referred your letter of May 28, 2008 to me for a response. That letter refers in turn to your letter to the Board dated April 18, 2008, and so this response deals with that letter also.

The Liquor Control Board has repeatedly attempted to answer the financial and other questions that certain County Council members have raised. The Board has met on several occasions with interested Council members, and has also made its accounting firm available for a couple of additional meetings, to answer Council members' questions and concerns. One Council member continues to assert that one of the Liquor Control Board members violated conflict of interest rules when his firm carried out certain renovation work to one of the dispensary's stores, even though other vendors provided higher quotes for the work or could not deliver in timely fashion and even though the law (Section 15-208 of Article 2B) does not address this situation at all - that section prohibits members or employees of a liquor control board from having any financial interest only in the manufacture or sale of the alcoholic beverages. In addition, financial information provided to the County Council by the Board has been leaked to certain local businesses who are critics of the dispensary system, potentially compromising sensitive price or other confidential and proprietary information of the Board. Further, at least one of the Council members has injected herself into a confidential personnel matter between the Board and one of its former employees, by repeatedly contacting or attempting to contact that person, aggravating an already difficult situation.

All of these efforts by the Board to respond to the issues raised by County Council members only seem to prompt more questions and criticism of the way in which the Board has

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conducted the dispensary's operations. It now appears clear that, for at least some Council members, the real agenda is not to increase the efficiency of the Liquor Control Board or raise more money for Wicomico County, but to find fault with the dispensary system and create a political issue as to whether Wicomico County should even continue to have a dispensary system at all.

These actions on the part of certain Council members represent a form of attempted micromanagement, and even harassment, of the Liquor Control Board, as well as improper interference in a confidential personnel matter affecting the Board, that would not be tolerated if the Liquor Control Board were an administrative agency within County government. Section 314 of the County Charter makes it clear that neither the County Council nor any of its members shall attempt to supervise, direct, administer or interfere with any of the functions or the personnel of the executive branch of county government. Still less should the County Council or any of its members interfere with the Liquor Control Board, an independent agency created by and operated in accordance with state law.

As just indicated, the Wicomico County Liquor Control Board is an autonomous state board created and administered under state law (Article 2B of the Maryland Annotated Code). The three members of the Control Board are appointed by the Governor with the advice and consent of the State Senate. Although there are some provisions of Article 2B which contemplate the interaction of the Liquor Control Board with the Wicomico County government, some members of the County Council may not fully understand the independent status of the Liquor Control Board. In addition, it is our opinion that, now that Wicomico County has converted to the executive form of government, the Liquor Control Board is supposed to interact, in those instances where interaction is required by Article 2B, with the County Executive or one of the administrative departments of the county under his control rather than the County Council.

In your letter of April 18, 2008, you indicated that the Liquor Control Board should resume the reporting as required by Article 2B, Section 15-206. If these reports have not been submitted as required by state law, the Liquor Control Board will resume doing so at once, but it appears these reports should be submitted to the County Department of Finance. Of course, the state law also requires the Liquor Control Board to pay its net profits to the county, also a matter to be handled by the finance department. In the Wicomico County Charter, Section 505, it is directed, among other things, that the Director of Finance shall have charge of the administration of the financial affairs of the county, including:

2. The collection of...fees and other revenues, and funds of every kind due to the county....

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3. The custody and safekeeping of all funds and securities belonging to or by law deposited with, distributed to or handled by the county.

4. The keeping and supervision of all accounts.

6. The accounting for county funds and property...and the making of reports thereon.

7. The preparation of a monthly statement of the receipts and expenditures of the county during the preceding month and such other information as the County Executive shall request, which statement shall be made public.

9. The preparation of annual financial reports, which shall be made public.

10. The performance of such other duties, not inconsistent with those herein enumerated, as may be required by the County Executive or by law.

Wicomico County Charter, Section 505.B.2, 3, 4, 6, 7, 9, 10.

The language of Article 2B, Section 15-206, which you cite in your letter, is antiquated and refers to the Wicomico County Commissioners. This means that the language predates the 1964 charter for Wicomico County, much less the extensive changes to the charter converting to an executive form of government which took effect in December of 2006. Obviously, the reporting required by Section 15-206 is an administrative or executive function of the kind assigned to the Department of Finance in the quoted sections of the County Charter.

For the foregoing reasons, I have advised the Liquor Control Board not to supply the additional information requested. An extensive financial review has already been afforded to interested Council members, and it is patently unreasonable to expect the Board to furnish four years of detailed disbursements from all accounts that it maintains. The more fundamental point, however, is that the Liquor Control Board is an independent state agency which is not directly answerable to the County government. In general, the County has no jurisdiction over the Board or any right to supervise its operations. In those instances where Article 2B requires reporting or payment to or other interaction with Wicomico County, that interaction should be with the Department of Finance rather than the County Council under the County Charter. The County Council is a legislative body under the Charter, and although there may be questions of a legislative nature concerning the affairs of the Liquor Control Board, those issues are not for the

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County Council but for the Maryland General Assembly, which has the exclusive right under the Federal and State Constitutions to regulate matters involving alcoholic beverages.

I trust that this letter is responsive to your letters dated April 18 and May 28, 2008. Please do not hesitate to contact me if you or the Council should have any questions in regard to this matter.

Sincerely,


Victor H. Laws, III

VHLIII:bfl

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pc: Ms. Cecelia G. Dennis, WCLCB
pc: Mr. Ronald G. Alessi, Sr., WCLCB
pc: Mr. Justin Collis, General Manager
pc: Mr. John Stern, CPA
pc: The Honorable Richard M. Pollitt, Jr., County Executive
pc: Edgar A. Baker, Esquire, County Attorney