

CITY OF BALTIMORE

MARTIN O'MALLEY, Mayor



BOARD OF ETHICS
OF BALTIMORE CITY

ROBERT L. BOGOMOLNY, Chairman
AVERY AISENSTARK, Director
626 City Hall
Baltimore, Maryland 21202

April 28, 2006

[REDACTED]
[REDACTED]
Baltimore, Maryland [REDACTED]

Re: Complaint of March 25, 2006

Dear [REDACTED]

The Ethics Board (less one recused member) has reviewed and considered your complaint about "grass roots" lobbying efforts on behalf of the Charles Village Community Benefits District. The Board determined that the facts do not merit further proceedings and, accordingly, has dismissed the complaint pursuant to Ethics Code § 5-5(a). Permit me to explain:

As to the Charles Village Community Benefits District: Ethics Code § 8-31(1) expressly exempts from lobbying regulation,

appearances as part of the official duties of an elected or appointed official or employee of the City, the State, the United States, any other state, or a political subdivision of any of them, to the extent that the appearance is not on behalf of any other person[.]

The CVCBD is a special taxing district, authorized by the General Assembly (Charter Article II, § 63) and established by City law (Code Article 14, Subtitle 6). Special taxing districts are generally regarded as being "political subdivisions". *See, especially*, Attorney General's Opinion No. 92-037 (November 13, 1992). In that Opinion, the Attorney General addressed the status of an entity, the Downtown Management District Authority, that is remarkably similar to the CVCBD in its enabling authorization, purposes, and powers. The Attorney General concluded, rather unequivocally, that the Downtown Management District Authority is a "political subdivision".

We see no authority or other reason to reach a different conclusion with respect to the CVCBD. Thus, efforts by the CVCBD, its officials and employees, to promote its

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To: [REDACTED]
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activities and to seek its reauthorization would appear to fall squarely within the exemption of § 8-31(1).

As to the Charles Village Civic Association: We understand that the Association regularly offers space in its publication, *The Charles Villager*, to various neighborhood associations, without editorial control. It is rather difficult to assume, then, that the provision of space for an article promoting the CVCDB constitutes lobbying (or, even, an endorsement) by the Association itself. In any event...

As to both CVCBD and the Charles Village Civic Association: By all accounts, the activities involved have not reached (and are unlikely to reach) the “grass roots” statutory (§ 8-9) threshold for registering – \$1,000 or more in expenditures.

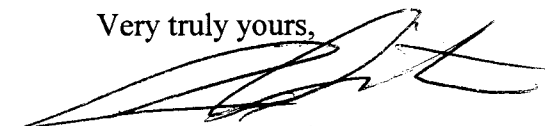
The CVCBD’s publication, *The District Bulletin*, cost about \$500 to print 2,800 copies and perhaps \$1,200 (or less) to mail. The “offending” article took up less than 1/8 of the entire publication. Thus, on a straight prorated basis (there being no evidence to suggest attributing a higher percentage to the article): $\$500 + \$1,200 = \$1,700 \times 1/8 = \212.50 . Even were one to add a prorated portion of the compensation paid the CVCBD’s Executive Director (*see* § 8-1(b)), the total of expenditures would still be substantially less than \$1,000 and, in the event, unlikely to reach even as much as \$600.

The Charles Village Civic Association’s publication, *The Charles Villager*, cost about \$700 to print 5,000 copies, almost all of which are distributed by volunteers. The “offending” article here took up less than 1/12 of the entire publication. $\$700 \times 1/12 = \58.33 . (Indeed, even if one were to attribute the *full cost* of the publication (\$700) to the one advocacy piece, the statutory threshold hasn’t been met.)

We can find no evidence or rationale to warrant aggregating, as you suggested, these two sets of expenses from two different entities. But aggregate, if you will, and the total still fails to reach \$700.

In short, the Board finds no evidence of “grass roots” or other lobbying activity that violates the Ethics Code.

Very truly yours,



Avery Aisenstark

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redacted copy:
Janet Levine, CVCDB
Beth Bullamore, CVCA