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Julie Lott Hardesty  
First Assistant

February 11, 2019

Ellen Hesen  
Deputy Mayor and Chief of Staff  
527 W. Jefferson Street  
Louisville, KY 40202

Dear Ms. Hesen:

This letter is in response to your letter dated February 7, 2019. Your February 7 letter has attached to it a January 24, 2019, email written by Jeff T. Noble. Mr. Noble is the Legislative Aide to Councilman Brent T. Ackerson.

In the January 24 email, Mr. Noble notes that Councilman Ackerson is chair of the Louisville Metro Council's Government Oversight and Appointments Committee (the GO&A Committee). Mr. Noble goes on to state, "Councilman Ackerson will be requiring the presence of any appointee to appear at the committee at which their appointment is to be heard. The appointments of persons not present will be passed to the next meeting date." It is unknown whether Councilman Ackerson consulted with his fellow Council members upon his imposed "requirement" but no vote concerning this "requirement" has been taken by the Council.

In your letter, you ask the County Attorney's Office to analyze this issue and inform the Mayor's Office as to the procedures and legal issues related to Councilman Ackerson's proposal. This letter responds to that request.

As our office understands, this proposal would be a new practice for the Louisville Metro Council. Currently, there is no Metro Council rule or Metro ordinance requiring individuals appointed to agencies, boards, commissions, and committees to appear before the GO&A Committee. As our office understands, the practice has been for a representative of the Mayor's Office to appear before the GO&A Committee to present the name of the Mayor's appointees and to provide information about those individuals to the Committee. It appears this has been the longtime standard practice between the Louisville Metro Council and the Louisville Metro Mayor.

As you are aware, Louisville Metro Government was established by and operates under the terms of KRS Chapter 67C. KRS 67C.139 is titled "Authority over appointments upon establishment of consolidated local government." That section has a number of directives about how appointments to committees, commissions, agencies, and boards are accomplished for Louisville Metro. Various powers and duties are set out that apply to the Louisville Metro Mayor and the Louisville Metro Council.

KRS 67C.139(2)(c) provides the answer to the immediate question. That subsection states:

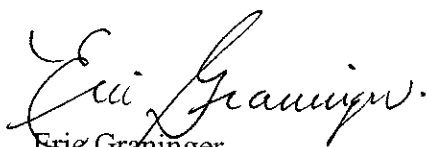
The legislative council shall enact an ordinance setting out the role of the legislative council, if any, in the appointment process for each individual agency, board, and commission created by statute. Only one (1) agency, board, or commission shall be addressed per ordinance. Such ordinance shall require a vote of the majority of the entire membership of the legislative council for approval and shall be subject to mayoral veto and legislative override pursuant to KRS 67C.103(13)(a) and 67C.105(5)(i) ....

KRS 67C.139(2)(c)

It is the opinion of our office that the procedure in KRS 67C.139(2)(c) must be followed in order to institute the new proposal set out in Mr. Noble's January 24 email. That statutory procedure notes that it is a decision of the full legislative council to establish the role of the Metro Council in the appointment process and that this is accomplished by ordinance. The statute goes on to note that not only does the ordinance require a majority vote of the entire Metro Council it is also subject to mayoral veto and a legislative override of that veto. It is

interesting that the General Assembly chose the requirement of an ordinance to establish the Metro Council's appointment process and that it went on to note the possibility of a mayoral veto and a Metro Council override of that veto. In setting this out with such specificity, it appears the General Assembly intended these appointment processes to be subject to the give and take of the municipal legislative process. In order for Mr. Ackerson's "requirement" to be mandated, an ordinance must be adopted.

Sincerely,



Eric Graninger  
Assistant Jefferson County Attorney  
Assistant Director of the Civil Division

Copy to:

Matt Golden  
Second Assistant Jefferson County Attorney  
Director of the Civil Division