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**TO:** Detroit City Council

**FROM:** David Whitaker, Director   
Legislative Policy Division

**DATE:** September 13, 2019

**RE:** **City Council Appointment to the Detroit Land Bank Authority Board of Directors**

The Legislative Policy Division (LPD) has been requested by Council Member Castañeda-López to provide a report with regard to the ability of the City Council to make an appointment to the Detroit Land Bank Authority (DLBA), Board of Directors.

The Board of Directors of the DLBA is made up of five (5) board members that are selected pursuant to the intergovernmental agreement between the City of Detroit (City) and the Michigan Land Fast Track Authority and also as outlined in the bylaws of the DLBA. Under the First Amended and Restated Intergovernmental Agreement, appointment of the five (5) board members were appointed as follows:

- (a) One (1) member appointed by the City Council.
- (b) One (1) member appointed by the Mayor
- (c) One (1) member appointed by the Mayor, selected from a list of five (5) individuals submitted by the Detroit Economic Growth Corporation, subject to approval by City Council. However, if the City Council does not disapprove of the appointment within thirty (30) days after submission by the Mayor, the appointment is confirmed.
- (d) One (1) member appointed by the Executive Director of the Michigan State Housing Development Authority.

- (e) One (1) member appointed by the Chief Executive officer of the Michigan Economic Development Corporation.

This was the initial manner in which the members of the DLBA Board were appointed. Under this construct, City Council had a direct appointment of a member of the board. However, in 2013 the City and the Michigan Land Fast Track Authority entered into the Second Amended and Restated Intergovernmental Agreement. This amended agreement under Section 401 provides for the appointment of the DLBA Board of Directors as follows:

- (a) Four (4) members appointed by the Mayor notwithstanding any charter, ordinance, or resolution to the contrary, subject to approval by City Council. However, if the City Council does not disapprove of the appointment within thirty (30) days after submission by the Mayor, the appointment is confirmed.
- (b) One (1) member appointed by the Executive Director of the Michigan State Housing Development Authority.

In addition to the Second Amended and Restated Intergovernmental Agreement providing for the manner of appointment of DLBA Board members, the Second Amended and Restated Bylaws of the Detroit Land Bank Authority mirrors the intergovernmental agreement requirements for appointment of the DLBA Board.

The original manner in which the board members were selected would reflect how City Council had a direct appointment to the DLBA Board. The amendments with regard to the board now show that all four (4) city originating appointments are made by the Mayor, subject to City Council approval within thirty (30) days of submission by the Mayor. LPD has been unable to identify any written agreement between the Mayor and City Council which in effect modifies the aforementioned documents so as to reflect the Mayor's delegation of one of his DLBA Board appointments to City Council. However, it is LPD's understanding that a gentlemen's agreement has been reached whereby the Mayor delegates an individual, City Council's nominee to the DLBA Board, for the Mayor's appointment. This individual like the other three Mayoral appointees would need to be approved by City Council within thirty (30) days of the submission for approval.

Due to the fact that the manner for appointment of the DLBA Board is set forth in the document establishing the DLBA (intergovernmental agreement) and the DLBA Bylaws, any modification of the manner in which the DLBA Board is appointed would have to be done by amending these documents to reflect a new reality.

With regard to the recent appointment to the DLBA Board, the selection was subject to the approval of City Council and needed to be acted upon within thirty (30) days of the submission. Since no action was taken within the thirty (30) day period, the appointment was confirmed automatically by operation of the controlling language in the aforementioned documents. The City Council may like to try to avail themselves of the unwritten agreement with the Mayor regarding appointing a board member recommended by City Council. This Honorable Body may wish to inquire if the Mayor would be willing to exercise his removal authority under the intergovernmental agreement and

**DLBA Bylaws by removing the recently appointed person or one of the other currently appointed board members and appoint a new City Council nominee for service on this important board!<sup>1</sup>**

**If we can be of further assistance please call upon us.**

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<sup>1</sup> Section 4.03 of the intergovernmental agreement provides that a board member appointed by the Mayor can be remove at anytime by the Mayor without cause. This language is also mirrored in the DLBA Bylaws.

