

November 10, 2022

Aaron O. Lavine, Esq.
City of Ithaca Attorney
Office of the City Attorney
108 East Green Street, 4th Floor
Ithaca, New York 14850

Re: Ethics Investigation (Complaint of Cynthia L Brock)

Dear Mr. Lavine:

As you know, this firm serves as counsel for the Tompkins County Ethics Advisory Board (“TCEAB”). We are in receipt of your letter dated November 2, 2022. Please accept the following as our response on behalf of the TCEAB.

It appears that you continue to assert that the TCEAB somehow lacks legal or other authority to investigate the allegations and issues raised in the above-referenced Complaint or are otherwise attempting to limit the scope of its ethics investigation. My previous letter of October 12, 2022 set forth in comprehensive detail the unambiguous legal authority of the TCEAB to investigate several matters raised in the above-referenced complaint. In that regard, the letter provided specific citations to multiple sections of the New York General Municipal Law and the Ithaca City Code, including the Ithaca Code of Ethics, supporting the TCEAB’s jurisdiction in this matter. As such, it remains our firm opinion that the TCEAB has more than ample authority to investigate the above-referenced Complaint. If you have any contrary controlling legal authority to suggest the TCEAB lacks jurisdiction to conduct this investigation, please provide it for our consideration.

It is important to emphasize that the TCEAB is only proceeding in this matter because the above-referenced Complaint was submitted to it. This is not an inquiry commenced by the TCEAB or generated by Tompkins County. Since the City of Ithaca has not established its own board of ethics, the TCEAB is legally required to act with respect to the officers and employees of the City. Gen. Mun. Law § 800(4). The TCEAB is merely seeking to discharge its statutory obligations. Contrary to assertions otherwise, the TCEAB does not “consider itself empowered to investigate and opine on anything brought before it”. Rather, we identified nine (9) limited areas of inquiry legitimately within the legal scope of the Board’s authority and mandate to investigate and otherwise raised within the above-referenced Complaint. Each of those areas of inquiry clearly

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and directly relate to alleged actual, potential and/or appearance of conflicts of interest. The TCEAB has made no determination as to those allegations, which requires further investigation.

As previously indicated, the TCEAB is committed to a full, fair, and unbiased investigation of the aforesaid issues. It remains unclear why you and various other City Officials and employees are unwilling to cooperate in this ethics investigation. However, please be advised that in the absence of cooperation including, but not limited to, appearance for the requested interviews, the TCEAB will be forced to reach its findings based upon information obtained from other sources and adverse inferences taken against the City, its officials, and employees. As you know, an adverse inference permits a finder of fact to conclude that evidence was not produced because it would be unfavorable to the person or entity being asked for the information. The TCEAB sincerely hopes this will not be necessary.

The TCEAB strongly believes that a transparent investigation with the full cooperation of the City, its administration, officials and employees is in the best interest of the public. Accordingly, the TCEAB remains willing to make reasonable opportunities for Mayor Lewis, Alderperson Cantelmo, you, and possibly other City officials and employees to meet with the TCEAB. However, the TCEAB is required to promptly investigate all submitted ethics complaints and must schedule these meeting in the near future.

Thank you for your attention to these matters. Should you have any questions or wish to discuss any matter, please do not hesitate to contact me.

Very truly yours,

COSTELLO, COONEY & FEARON, PLLC



Paul G. Ferrara

PGF/cc