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November 30, 2020

**VIA E-MAIL AND REGULAR MAIL**

Brian J. Aloia, Esq., Corporation Counsel  
City of Hoboken, Office of the Mayor  
94 Washington Street  
Hoboken, New Jersey 07030

Re: Hoboken Board of Education - 770 Jackson PILOT Funds  
Our File No.: 012378:077329

Dear Mr. Aloia:

As you are aware, this office is counsel to the Hoboken Board of Education (the "Board"). We write in connection with the continuing discussions and debate regarding distribution of the 770 Jackson Street PILOT payment (the "PILOT Funds") under the City's Resolution, dated July 6, 2016 (the "Resolution"), and specifically to address the City's on-going failure to turn over such PILOT Funds to the Hoboken Public School District (the "District") in a timely manner in accordance with the Resolution. As you know, the District is the only lawful recipient of the PILOT Funds in the first instance and, as such, we now demand, on behalf of the Board, turnover of such PILOT Funds.

The basis for this demand is clear. First, by letter dated August 20, 2020, we informed your office that the Board is not legally permitted to turn over any portion of the PILOT Funds directly to Hoboken's charter schools. Additionally, this office and the Board have provided ample and established legal authorities indicating that it would be both unlawful for the City of Hoboken to issue PILOT Funds directly to the charter schools and unlawful for the charter schools to accept any such PILOT Funds directly from the City. Your office's own October 19 memorandum affirmed these points. Over these past several months, and in all communications, we have maintained that the City of Hoboken must follow the law in its handling of the PILOT Funds. Thus, the City must issue the PILOT Funds designated for the "Hoboken School District" to the Board in accordance with law and the Resolution, which remains in full effect.

Moreover, the City's published budgetary information shows that the City has, in fact, anticipated such revenue, set forth as "700-732 Jackson BL80 L1.01," on sheet 4(c) of the introduced 2020 budget to be turned over to the District. To the extent there is sentiment calling for some portion of the PILOT Funds to be turned over to any or all of Hoboken's charter schools, it is and should be abundantly clear that the only lawful course by which that can occur is for the Board to receive the entirety of the PILOT Funds on behalf of the "Hoboken

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School District," and for the New Jersey Department of Education ("NJDOE") to be the ultimate arbiter of how those PILOT Funds are treated as part of the funding formulas in calculating the Hoboken charter schools' tuition in accordance therewith. To demonstrate the Board's commitment, upon receipt of the PILOT funds, the Board will assume an active role in any and all discussions with the NJDOE, together with the Hoboken charter schools' representatives, to determine if and how the Hoboken charter schools can share in the PILOT Funds if the State funding formula were to be changed in a way that does not harm the District. If the NJDOE chooses to incorporate PILOT funds into the statewide charter funding formula, the Hoboken Board of Education would dutifully pay the charter tuition as directed. We are sure that the City Council will be kept apprised of the result of these discussions and any developments.

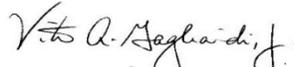
As you know, the Board has maintained consistently that it would not object to the charter schools' efforts with respect to the PILOT Funds at the NJDOE level, so long as any such allowances, regulations and/or statutes ultimately proposed to or by the NJDOE are not harmful to the Hoboken Public School District and the community it serves.

The Board feels that it is necessary to make this demand for the PILOT Funds to be turned over now due, in part, to various public statements made by one or more City Council members that (i) misrepresent the representations and discussions among the many constituents, (ii) mislead the public regarding the basis for why certain courses of action have been or may not be taken at the City Council level (including ignoring the illegality of certain actions), and/or (iii) purport to deny the PILOT Funds altogether or in part and repurpose them for the City to use. The ongoing comments by Council Members give the Board great concern. The Board and this office feel that these comments and misrepresentations belie an inability to honor the process.

The City is required by law to make payment to the Board. Pursuant to the Resolution, the City must include in its annual Municipal Budget an appropriation to the Hoboken School District of a portion of the referenced PILOT revenue, which requirement was to become effective as of the commencement of receipt of payments under the PILOT. Accordingly, per the plain language and intent of the Resolution, the City must furnish the PILOT Funds to the Board no later than December 31, 2020. A failure to remit the PILOT Funds during calendar year 2020 would cause such amount to remain as a liability on the City's balance sheet for calendar year 2021, and the Council may not re-direct lawfully allocated funds either before or after the end of the current fiscal year.

In order to ensure that the PILOT Funds earmarked for public education are distributed lawfully, we hereby demand payment of the PILOT funds on or before December 16, 2020. If the Board does not receive the PILOT Funds by December 16, 2020, the Board expressly reserves its rights to take any legal action necessary to ensure that the funds intended to benefit Hoboken students are obtained. We look forward to receipt of the PILOT Funds.

Sincerely,

  
Vito A. Gagliardi, Jr.

cc: Guillermo C. Artiles, Esq. (via electronic mail)