



State of New Jersey

DEPARTMENT OF COMMUNITY AFFAIRS
101 SOUTH BROAD STREET
PO Box 803
TRENTON, NJ 08625-0803

CHRIS CHRISTIE
Governor

KIM GUADAGNO
Lt. Governor

CHARLES A. RICHMAN
Commissioner

October 11, 2016

VIA ELECTRONIC AND REGULAR MAIL

Hon. Donald A. Guardian
City of Atlantic City
1301 Bacharach Blvd
Atlantic City, NJ 08401

Dear Mayor Guardian:

To date, the City has not introduced a Calendar Year 2016 ("CY'16") budget for submission to the Division of Local Government Services (the "Division") and adoption by the Local Finance Board (the "Board"). As you are aware, the Local Government Supervision Act requires the City to submit and the Board to adopt the City's annual budget. N.J.S.A. 52:27BB-87. A draft budget was sent to my attention some time ago and I sent an e-mail response on August 24th outlining some fundamental concerns with the document that had been received. To date, I have not received a response to this e-mail and am writing in an attempt to resume progress on this matter. I understand that the City has been focused on preparing its Recovery Plan for submission to the Commissioner, but the City's legal obligation to submit a budget to the Division exists independent of the Municipal Stabilization and Recovery Act, and moreover, the Board will need to adopt a balanced budget for the City at its November 9th meeting in order for the City to issue tax bills to ensure collection of fourth quarter taxes before December 31, 2016. I therefore ask that you and your team reconvene on this matter immediately and send a revised budget to my attention no later than October 17th.

As a threshold matter, I note that the City's draft budget did not contain a tax increase of any kind. This is very troubling given the City's precarious financial condition, the requirements of the Transitional Aid program and the fact that the City had not imposed a tax increase last year. The Division's application for Transitional Aid states as a criterion for eligibility that, "The levy in the introduced budget must contain a tax increase of no less than the maximum permitted by the levy cap workbook or 6%, whichever is less." Further, the City – by virtue of a declining ratable base – actually submitted a budget that would collect less tax revenue than was received in CY'15. While no elected official desires to increase taxes, it is irresponsible not to maintain the current levy let alone not increase the rate in a way that brings in additional revenue, notwithstanding the fact that a zero tax increase is non-compliant with the requirements of the terms of the Transitional Aid application.

Also, there has been a lingering disconnect this budget season between the City and the Division as it relates to the amount of Transitional Aid to be received by the City. The City's draft budget utilized a total Transitional Aid amount of \$37M, which is far more than the Division has available to provide to the



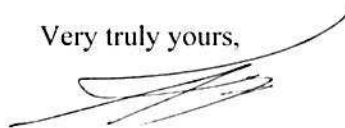
City or ever indicated that the City should expect to receive.¹ I have been told that the City may be able to identify additional appropriation cuts if it does not receive the full amount of Transitional Aid set forth in the draft budget. The City should identify and specify all available appropriation cuts before the Division will provide a final Transitional Aid number. Transitional Aid is money of last resort.

Further, the City's submitted draft budget does not appear to make adequate provisions for pending tax appeal settlements and certain current tax settlements. While the City established a reserve for tax appeals and a refund of overpayments, I don't believe the City's budget has made sufficient provision for the entirety of the amounts that may be owed for CY'16. It is certainly understood that the City (with my direct involvement) has been trying to settle the Borgata matter and a final number remains unknown. However, the City has not booked anything (beyond the 2009/2010 judgment).

The City must address these issues and submit a revised budget document for review by the Division before ultimate adoption by the Local Finance Board. It is my understanding that in prior years, the City has not "introduced" a budget as a formal action of Council. However, in order to ensure the full participation of the public, I highly recommend that the City at least schedule a budget hearing to explain the construction and provisions of its proposed budget to its residents and afford them an opportunity to be heard on the components therein.

Please know that the Division shares the concerns of you and your staff as it relates to the issuance of tax bills and the resultant effect on cash flow. I have been informed by your staff that the City may face a liquidity shortfall by early November 2016 if there are further delays with the budget process and issuance of final 2016 tax bills. Upon submission of a revised draft budget, the team from the Division would be happy to meet with you to discuss the document such that it can be placed on the Board's November meeting agenda.

Very truly yours,



Timothy J. Cunningham, Director
Department of Community Affairs

C: C. Richman, Commissioner
J. Holt, Business Administrator
C. Filiciello, Chief of Staff
A. Swan, City Solicitor
M. Stinson, Finance Director
C. Lindsay, Comptroller

¹ The Division, as a matter of courtesy, allows towns participating in the Transitional Aid program to introduce budgets using 85% of the prior year award. Based on a CY'15 award of \$13M, the City should have only anticipated \$11,050,000.