



OFFICE OF THE MAYOR

TONI N. HARP

50th Mayor of New Haven Connecticut



March 31, 2014

Hon. Michael Stratton
c/o Office of Legislative Services
165 Church Street
New Haven, CT 06510

Dear Alder Stratton,

I hope this letter finds you well. I write in response to your letter of March 11, 2014, in which you accuse the city of illegally budgeting over \$100 million annually. We received your letter not on personal or aldermanic stationery, but on letterhead from your legal firm StrattonFaxon. Because of this I referred your letter to Corporation Counsel for review to ensure the city is protected from any legal action resulting from your accusations. Please understand if this delayed our response.

After careful review, our counsel found no legal basis for your accusations and has written a separate letter to that effect. As a former Alderwoman and co-chair of the legislature's Appropriations Committee I appreciate the passion and energy you bring to your first budget process, but I would encourage you to spend time learning the details of our budget and asking questions before making criminal accusations through your law firm. You are always welcome to meet with our budget staff for help answering your questions, and you have tremendous resources available in both your aldermanic finance committee staff and colleagues on the Board, if you choose to use them.

I remain concerned with both the direction and tone of your recent accusations, which sensationalize serious discussions and play fast and loose with key budget details. Our proposed budget is a carefully researched document that balances legal and contractual obligations, critical programs for the city, and the realities of our current financial situation. Raising taxes and cutting spending are tough decisions, but the choices we face require a real discussion of solid facts – not theatrics.

I am also concerned that in your approach it seems you think our schools are somehow separate from our communities, that education cuts are somehow separate from real-life impacts, and that our students are somehow separate from our children. I agree with many that there may be ways to 'spend smarter' on education, but the glee with which you approach cutting tens of millions of dollars from our schools seems callous to the needs of New Haven's children and families.

I understand your strong desire to lower taxes and I share it. But we cannot balance our budget at the expense of our children. Your proposals casually impose devastating cuts on youth programs, senior services, classroom supplies, homeless care, and school nurses – all of them services upon which New Haven residents rely. I fear your focus on legally mandated minimum

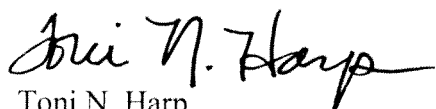
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education support has blinded you from what the real consequences of your education cuts would be. I believe we must not shortchange our children.

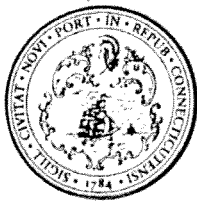
During my time in office we have worked to make the city's budget as transparent as possible, with accessible budget visualization online at newhavenct.opengov.com. We want input from all corners of the city as our budget process advances, but there is a difference between an open discussion of what is best for our children and legal threats about the absolute least we could spend on education. I believe we 'owe' our children more than that.

We have referred your law firm's more recent letter to the Office of Corporation Counsel for review and will respond to it and the rest of your proposals as we are able. As my administration works with you and your colleagues to develop a final budget, let's have an honest dialogue – I believe our city is worth it.

Sincerely,

A handwritten signature in black ink, reading "Toni N. Harp". The signature is fluid and cursive, with the first name "Toni" and last name "Harp" clearly legible.

Toni N. Harp
Mayor



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New Haven



2008

Victor A. Bolden
Corporation Counsel

March 31, 2014

BY ELECTRONIC AND REGULAR MAIL

Michael Stratton, Esq.
Stratton & Faxon
59 Elm Street
New Haven, Connecticut 06510

Re: City of New Haven budgetary process

Dear Honorable Michael Stratton:

I am in receipt of your letter of March 26, 2014 to the City of New Haven's ("City") Controller, Daryl Jones, as well as electronic correspondence to the City's Budget Director, Joe Clerkin, sent on Saturday, March 29th.

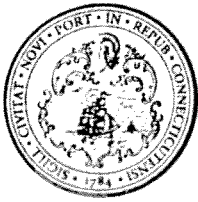
Since this correspondence is on either your law firm's letterhead or your law firm's e-mail address, it raises a threshold question of whether you are undertaking these activities in your capacity as a member of the Board of Alders or in your capacity as a lawyer. If it is the latter and the correspondence is intended as part of activities in furtherance of a potential legal claim, then I would ask that you correspond directly with me, since both Mr. Jones and Mr. Clerkin are clients.

In any event, your correspondence repeatedly makes allegations with respect to the City engaging in illegal activity with respect to the funding of matters relating to the Board of Education. These allegations cannot be sustained. Indeed, your correspondence reflects a very flawed understanding of the City's Charter, the City's budgetary process as well as state law. Please allow me to explain.

First, in your March 26th letter to Mr. Jones, you assert that "cases and state statutes all make it very clear that the board of education is not a city department, it is an independent state agency." I am not sure how you came to that conclusion, but that is just plain wrong. The City's Charter is clear that the Board of Education is a city department. In fact, Article VII, Section 3(A)(6) of the Charter requires that the Board of Education for budgetary purposes provide detail for the City's budget "as fully and in like detail as shall be required of *other* departments, offices, and agencies of the City government."

Moreover, no less authority than the Connecticut Supreme Court has made clear that, while local boards of education have legal obligations to the State, they "are also agents of the municipalities that they serve." *Board of Education of the City of New Haven v. New Haven*, 237 Conn. 169, 181 (1996). As a result, "local boards of education must comply with the municipality's charter, ordinances and established fiscal procedures." *Id.* In short, your basic premise – that the board of education is "an independent state agency" – is an erroneous one.

Second, at various points, you have raised questions about budgetary expenditures relating to the following items: debt service, pension, workers' compensation and health care costs. Each of these items, however, are



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Corporation Counsel

properly accounted for in the City's 2013-2014 budget and thus, are permissible expenditures, made consistent with the City's Charter. Perhaps, there is confusion about how the City's budget works. So, I will explain.

As noted above, under Article VII, Section 3(A)(6), the Board of Education is required to submit a budget "as fully and in like detail as shall be required of *other* departments, offices, and agencies of the City government." As the most cursory examination of the City's current budget for 2013-2014 will reveal, the expenditures for debt service, pension, workers compensation and health care costs for every *other* department, office or agency of the City government is not broken down by department, but is subsumed within the overall expenditures under these line items for the entire City. For example, the City's proposed budget does not list the City's health care costs for Department of Public Works employees alone. Likewise, for budgetary purposes, at least with respect to the City's budget, the City does not list the health care costs for just Board of Education employees, although the Board of Education properly notes the availability of these funds in its budget. In that way, the City is faithfully following the command of the Charter with respect to the Board of Education.

Now, having allocated these expenditures in the 2013-2014 budget, the City is legally obligated to make payments consistent with the budget duly adopted by the Board of Aldermen last fiscal year. Article VIII, Section 2(B) of the Charter makes that point clear: "The Controller shall not authorize any expenditure to be made from any appropriation except on the basis of the approved allotments." Thus, rather than the City having no legal authority to spend money allocated for the health care, pension, workers compensation and debt service needs of the Board of Education, the City instead has a legal obligation to spend this money in precisely that way this fiscal year.

As always, I am happy to discuss the underlying law with a fellow member of the Bar. Hopefully, this letter clarifies the nature of the City's budgeting process and the applicable law.

Thank you for your attention to this matter.

Very truly yours,

Victor A. Bolden