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City of Westminster
Date of Public Notice: 10/5/15

Pursuant to §5-812(a)(1) of the Maryland Public Ethics Law (Md. Code Ann., Gen Prov. Title 5 (2014)) (“Public Ethics Law”), the State Ethics Commission advises the public and the City of Westminster that the jurisdiction has not complied with and has not made good faith efforts toward compliance with the requirements of Subtitle 8 of the Public Ethics Law.

The City of Westminster adopted revisions to its local ethics ordinance (Ordinance 852) on April 13, 2015 and forwarded a copy of Ordinance No. 852 to the State Ethics Commission for review and approval on June 11, 2015. Prior to April 2015, the City of Westminster had forwarded other draft ethics ordinance revisions to the State Ethics Commission for review and comment. Prior to April 2015, the State Ethics Commission provided recommendations on required changes and suggested language for revisions to the City of Westminster’s Ethics Ordinance in order for the local ethics law to be approved by the State Ethics Commission as compliant with the requirements of Subtitle 8 of the Public Ethics Law and COMAR 19A.04. The City of Westminster adopted its ethics ordinance without making the necessary amendments required by the State Ethics Commission for compliance.

At its June 18, 2015 meeting, the State Ethics Commission did not approve the City of Westminster’s enacted law (Ordinance 852) as meeting the requirements of Subtitle 8 of the Public Ethics Law and COMAR 19A.04. The State Ethics Commission advised the City of Westminster by letter on June 24, 2015 that its local ethics ordinance did not receive the Commission’s approval. The State Ethics Commission’s June 24, 2015 letter also provided notice to the City of Westminster of several changes to the local ethics ordinance required in order to be approved by the State Ethics Commission as compliant with Subtitle 8 of the Public Ethics Law and COMAR 19A.04. The City of Westminster’s enacted ethics ordinance does not meet the requirements of Subtitle 8 of the Public Ethics Law and COMAR 19A.04 in the following areas:

1. The current definitions of a “Gift” and “Interest” in §16-2 of enacted City of Westminster’s Ethics Ordinance will affect the administration of the conflict of interest and financial disclosure provisions. The enacted definitions adversely affect the level of transparency that allows the citizens of Westminster to evaluate potential conflicts of interest for their local elected officials. The Commission recommends that the City of Westminster adopt the language of these definitions in the Public Ethics Law or the Model Ethics Law provided by the State Ethics Commission. The Commission further recommends that the City of Westminster include a separate definition of “Financial Interest” that captures both direct and attributable interests held by local elected officials, employees and appointed officials for the purposes of both the administration of the conflict of interest and financial disclosure provisions.
2. The enacted secondary employment and financial interest restrictions in §16-4(B) of the City of Westminster’s Ethics Ordinance are limited employment or interests with any entity that is doing business with the City. The secondary employment and financial interest restriction does not include entities that are subject to the authority of the official or employee, the City or City department with which the official or employee is affiliated as required by the Public Ethics Law. The enacted provision has lessened the required restrictions on its employees and officials.

3. The enacted financial disclosure provisions for elected local officials and candidates for local office in §16-5(1)(A) of the City of Westminster's Ethics Ordinance restricts the disclosure of interests in real property to property located in the City or property that has some nexus to an individual or entity that have done business with the City in the preceding five (5) years. This enacted provision also lessens the disclosure requirements of the identity of any person to whom a property interest is transferred or the identity of the individual from whom the local elected official acquired an interest in property. The Public Ethics Law requires all interests in real property wherever located and the identity of both individuals to whom property has been transferred or from whom property has been acquired to be disclosed.
4. The enacted financial disclosure provision §16-5(E)(2)(a) of the City of Westminster's Ethics Ordinance removed the disclosure of any interest in any corporation, partnership, limited liability partnership, or limited liability corporation regardless of whether it has any business relationship or nexus to the City. The enacted Ethics Ordinance only requires the disclosure of interests in business entities business entities that are regulated by the City, doing business with the City or have done business with the City in the last five years. The Public Ethics Law requires any interest in any corporation, partnership, limited liability partnership, or limited liability corporation regardless of whether it has any business relationship or nexus to the City. The enacted definition of "Interest" in the City of Westminster's Ethics Ordinance further limits the disclosure under this requirement.
5. The enacted financial disclosure provision §16-5(E)(2)(B)(iii) of the City of Westminster's Ethics Ordinance includes insufficient disclosure of information related to the transfer of any interest of a business entity listed under this provision. The Public Ethics Law does not limit disclosure of the amount of consideration the filer receives from a transfer to situations where the individual or business entity to which the interest has been transferred has some business or regulatory relationship with the City.

In September 2012, the City of Westminster requested that the State Ethics Commission grant a modification to the financial disclosure requirements for its local elected officials to allow for lesser disclosures of information related to interests in real property, corporations and partnerships and sources of income for local elected officials and their immediate family members. The State Ethics Commission denied the City of Westminster's financial disclosure modification request on September 13, 2012 and advised the City of Westminster to include all financial disclosure provisions required by Subtitle 8 of the Public Ethics Law and COMAR 19A.04 for local elected officials in its local ethics ordinance. The State Ethics Commission has been providing the City of Westminster with recommendations related to its local ethics ordinance since September 2012 and reviewed at least two proposed draft ethics law ordinances from the City of Westminster prior to its enactment of its current Ethics Ordinance in April 2015.

The City of Westminster enacted its current Ethics Ordinance after notice from the State Ethics Commission that several of the provisions did not meet the requirements of State law. The State Ethics Commission advised the City of Westminster by letter on June 24, 2015 of the required revisions to the enacted local ethics law and requested a revised draft ethics law for review and approval.

The City of Westminster has not provided the State Ethics Commission with a revised draft ethics law incorporating the recommended changes and has failed to make a good faith effort toward compliance with the requirements of Subtitle 8 of the Maryland Public Ethics Law and COMAR 19A.04.