

**WINSTON
& STRAWN**

1700 K Street, N.W.
Washington, D.C. 20006
T + 1 202 282 5000
F + 1 202 282 5100

Abbe David Lowell
PARTNER, WINSTON & STRAWN LLP
202-282-5875
ADLowell@winston.com

BakerHostetler

1050 Connecticut Ave., N.W., Ste 1100
Washington, D.C. 20036
T + 1 202 861 1500
F + 1 202 861 1783

Mark Tuohey
OF COUNSEL, BAKERHOSTETLER
202-861-1654
MTuohey@bakerlaw.com

November 6, 2019

VIA HAND DELIVERY AND EMAIL (pmendelson@dccouncil.us; mcheh@DCcouncil.us)

Chairman Phil Mendelson
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Suite 504
Washington, D.C. 20004

Councilmember Mary Cheh
Council of the District of Columbia
1350 Pennsylvania Avenue, N.W.
Suite 108
Washington, D.C. 20004

Re: Councilman Jack Evans

Dear Chairman Mendelson and Councilmember Cheh:

We are writing to express great concern with the events over the past two days and to ask you to please restore a fair process in the consideration by the Council of Jack Evans' conduct, even if some are saying we can no longer hope for an impartial one.

On Monday, November 4, the Council's outside law firm, O'Melveny & Myers, submitted a 100-page report about the work it did. Without minimizing the issues it addressed, the alleged violations in the report are nowhere as serious as some of Mr. Evans' critics had charged. They range from passing on email requests, to maintaining or repeating votes he had cast many times before, and to ordinary constituent services to individuals and entities who were or became clients of his, consistent with his decades of work. There was no finding that he linked any official action to any financial gain or that, to use the words of some, he sold his office, nor that he had any intention to circumvent the rules. Indeed, your counsel indicated that his errors resulted from a "misunderstanding" of the rules.

Before Mr. Evans or we were given a copy of the Report (which did not occur for a full day), someone to whom you provided the Report improperly leaked it to the media. This was done with malice and with the intent to poison the well of public opinion for the purpose of forcing Mr. Evans to resign or pressuring the Council to expel Mr. Evans without any further consideration. Then, as that person had hoped, in minutes—again before Mr. Evans or we were given the Report or any chance to respond—several of your colleagues called for Mr. Evans to resign.

Chairman Phil Mendelson and Councilmember Mary Cheh

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This drumbeat has continued today with this steamroller now flattening any remote sense of fairness or due process.

As quickly as we could, we submitted a response of our own that: pointed out the type of violation identified versus what had been speculated, demonstrated the selective use of the record for O'Melveny to make its conclusion, explained the after-the-fact interpretation of the rules O'Melveny now imposed on Mr. Evans to make their conclusions. Our response explained how the Report's completely one-sided presentation ignored all the circumstances where Mr. Evans showed his full intent to follow the rules and opposed the interests of his clients, and most importantly, conveyed the views of a very experienced ethics expert that the D.C. government itself employed for many years to provide some context for this inquiry.

That effort should not have been a hollow exercise. Every U.S. and D.C. citizen deserves a fair process and a time and place to explain her or his actions. Mr. Evans' three decades of public service to D.C. earned him at least that.

At the end of a fair hearing and consideration, the Council, editorial writers and the public might still conclude that Mr. Evans violated rules and some consequence should follow. But what would be lost to allow that fair process to occur? To be sure, what is lost if that does not occur—if a person can be accused, tried, condemned and sentenced on the basis of leaks and rushes to resignation demands—is far more important than any one case and any one councilmember.

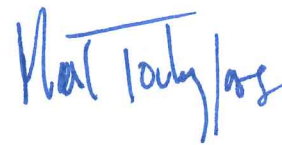
We ask for a slow-down, for some deliberation, for some consideration of the real facts and applicable law. It may be distracting or inconvenient or just tiresome for some on the Council to allow this process to go forward, but the Council has spent too much time and resources to simply allow fatigue or inconvenience to undermine the rule of law.

We appreciate the consideration you are giving our submission and this request.

Sincerely,



Abbe David Lowell



Mark Tuohey