

Memorandum

To: David Martin, President
Board of Representatives
CC: Mayor Dannel P. Malloy
Gerald Fox, Chair, Board of Finance
Thomas Hamilton, Director of Administration
Tim Curtin, Director of Operations

From: Thomas M. Cassone, Director of Legal Affairs

Date: April 24, 2003

Re: Board of Finance Budget Actions

While you did not request an opinion by yours of April 23, 2003, it was important for me to review the issues that you have raised prior the Board of Representatives budget vote. As we have already discussed, for the reasons that follow, and without discussing their propriety or potential effect, I believe that your proposed actions are not necessary at this time.

To that end, I studied relevant sections of the Code of Ordinances, and the Charter including those you have cited in your memorandum. I have also reviewed Connecticut case law, specifically *Lyons v. Serrani* 1991 WL 127159 (Conn. Super., Lewis, J.) Lastly, I have reviewed the budget actions taken by the Board of Finance on April 9th with particular reference to those cuts recited in your memorandum.

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Despite the colloquy by the Board of Finance contained in the transcript that you provided, as I understand it, the Board of Finance only cut line items for Contracted Services in Recycling (\$722,250.00), Transfer Station Overtime and Social Security (\$26,913.00), and Contracted Services, Overtime and (associated) Social Security under Collection (\$219,925.00). As you correctly point out, there is not a line item for "Backyard Garbage Pickup", rather, funding for that operation is contained under Solid Waste Collection (page 120), notably under Salaries and associated benefits line items, which were not cut. Were it possible to cut that service by budget action alone, additional steps, perhaps in the nature of transfers, would still have to be taken. In short, the actions of the Board of Finance left "Backyard Garbage Collection" funded, and unless and until your Board determines to amend the ordinance and alter the funding, the service will necessarily be provided (and the C-S and A districts appropriately taxed for it). It may be that the above line items that were actually cut have been left under funded by the Board of Finance's actions, but that is an issue for which there are other recognized budgetary procedures.

In summary, the actions of the Board of Finance did not violate any ordinance because no mandated service was cut. While you may yet find yourself between a rock and a hard place, I believe this one has been sidestepped. Should you have any questions, please call.