

File No. 92547

May 6, 1954

Honorable C. Lyman Schueler
Chairman, Rules Committee
City Council of Baltimore
City Hall
Baltimore - 2, Maryland

Dear Mr. Schueler:

In response to your inquiry of May 5, 1954, wherein you request a written opinion as to the authority of a Council Committee in requesting information from a Department Head in any matters concerning his department, please be advised as follows.

Section 22 of the Baltimore City Charter provides:

"22. CITY COUNCIL - PRIVILEGE OF MUNICIPAL OFFICERS. The heads of departments, municipal officers not embraced in a department, commissions and boards shall appear before the City Council if requested by a majority vote of its members and at other times shall have the privilege of the floor of the City Council at its meetings, and shall be entitled to participate in the discussion of matters relating to their respective departments, offices, commissions or boards, but shall have no vote. In the case of a commission or board, the President or Chairman thereof, or a member thereof designated from time to time in writing for that purpose by the President or Chairman, shall be entitled to the privilege provided for in this section."

From a reading of the foregoing section it would appear mandatory upon a Department Head to appear before the City Council if requested by a majority of its members. As a natural consequence of compulsory appearance any City Department Head thus summoned should, by virtue of the office he holds and by virtue of the responsibility, power and authority of the City Council, answer all questions in any way relating to matters concerning his department.

Independently of an absolute compulsory obligation upon a Department Head to appear when summoned in accordance with the section just cited, orderly administration of the City's affairs dictates that any Department Head should appear when requested by a Council Committee, and frankly and fully discuss matters concerning his department.

It is fundamental that the Council cannot pass ordinances contrary to charter powers vested in Department Heads. However, it should be borne in mind that the Council can by resolution initiate charter amendments completely changing the