

Mr. Richard A. Grossman, Zoning Enforcement Officer (continued)

for a resident electrolysis office." Section 11 (d) 2 provides:

"that such office shall be confined to not more than the first floor or the basement of the building."

Very truly yours,

/s/ HUGO A. RICCIUTI
City Solicitor

R/S/A

/s/ JAMES S. SPEKAS
Assistant City Solicitor

File No. 100390

March 6, 1959

Mr. Philip Wagner, Executive Secretary
Employees Retirement System of the City of Baltimore
City Hall
Baltimore - 2, Maryland

Re: Donald L. Kastner

Dear Mr. Wagner:

You have requested an opinion as to whether your Board of Trustees is empowered to grant military leave credit under the provisions of Article 65, Section 88, of the Annotated Code, to a former member of your System, who, after his military service, became a member of the Teachers' Retirement System of the State of Maryland.

You point out that Section 4, subsection 6 of Article 23 of the Baltimore City Code defines the rights of members of the Employees' Retirement System who serve in the armed forces, and that under this Section, Mr. Kastner's membership in the System was terminated on his not being reemployed by the City of Baltimore. However, Article 65, Section 88 of the Annotated Code purports to prescribe rights of returning service-men in "any pension or retirement fund or system under the laws of the State of Maryland, or of the City of Baltimore, or any other political subdivision of this State * * *," and the issue, therefore, is whether this latter section is binding upon the Employees' Retirement System in view of the Home Rule provisions of the State Constitution.