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TO: The Honorable Detroit City Council

FROM: David Whitaker, Director  
Legislative Policy Division Staff

DATE: July 17, 2025

RE: **MEMO REGARDING POTENTIAL CONFLICTS FOR APPOINTMENT TO BOTH  
THE BOARD OF ZONING APPEALS AND THE DETROIT WAYNE JOINT  
BUILDING AUTHORITY**

City Council Member Latisha Johnson has requested the Legislative Policy Division (LPD) to provide an analysis of whether a conflict exists that would prevent an individual from serving on both the Board of Zoning Appeals (BZA) and the Detroit Wayne Joint Building Authority (DWJBA).

The Michigan Zoning Enabling Act (MZEa) provides for the creation of local zoning boards of appeals by legislative bodies of cities, which may also establish rules to govern their procedures. The MZEa says the following with regard to membership requirements for zoning boards of appeals:

(4) ... In a city or village, 1 of the regular members of the zoning board of appeals may be a member of the zoning commission, or of the planning commission if the planning commission is functioning as the zoning commission, unless the legislative body acts as the zoning board of appeals under subsection (2)...

(5) The remaining regular members of a zoning board of appeals, and any alternate members under subsection (7), shall be selected from the electors of the local unit of government residing within the zoning jurisdiction of that local unit of government or, in the case of a county, residing within the

county but outside of any city or village. The members selected shall be representative of the population distribution and of the various interests present in the local unit of government.

(6) Subject to subsection (2), 1 regular or alternate member of a zoning board of appeals may be a member of the legislative body. Such a member shall not serve as chairperson of the zoning board of appeals. An employee or contractor of the legislative body may not serve as a member of the zoning board of appeals.<sup>1</sup>

The language of the MZEA does not prohibit a member of the BZA from also serving on the DWJBA. The 2019 Detroit City Code references the MZEA provision stating that no more than one member of the City Planning Commission may serve on the BZA, but the Code does not provide any additional requirements or limitations.<sup>2</sup>

The Incompatible Public Offices Act (IPOA) prohibits certain public officials and public employees from simultaneously holding public offices that are incompatible with one another.<sup>3</sup> Under the IPOA, “incompatible offices” is defined as “public offices held by a public official which, when the official is performing the duties of any of the public offices held by the official, results in any of the following with respect to those offices held: (i) the subordination of 1 public office to another; (ii) the supervision of 1 public office by another; (iii) a breach of duty of public office.” Given the duties of both the BZA and the DWJBA, there does not appear to be a risk of subordination, supervision, or breach of duty that would trigger the IPOA.<sup>4</sup>

If a conflict were to arise, both the MZEA and the City Code require members of the BZA to disqualify themselves from a vote where a conflict of interest exists. Failure to do so would be grounds for removal from the BZA by the legislative body.

Please let us know if we can be of further assistance.

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<sup>1</sup> MCL 125.3601.

<sup>2</sup> 2019 Detroit City Code, Section 50-2-63.

<sup>3</sup> MCL 15.181 *et seq.*

<sup>4</sup> Ideally, these types of analysis regarding potential conflicts should be avoided whenever possible by conducting a broad search that prioritizes candidates that do not already serve on another board or commission. This would allow the City to benefit from a broader base of expertise from qualified members of the public while also providing members of the public with opportunities to engage with and participate in local government. City officials with appointment authority should consider maintaining a running, consolidated list of potential candidates and increasing public outreach regarding open positions, as LPD is unable to locate any posting regarding the open DWJBA seat.