

THE CHARTER BOARD OF THE CITY OF READING

IN RE: Charter Art. IV, Concerning : Request Received October 27, 2010  
the Timing of the :  
Appointment of Managing :  
Director Upon Vacancy : Advisory Opinion No. 21

**ADVISORY OPINION**

**I. PROCEDURAL HISTORY AND QUESTION PRESENTED**

By letter dated October 20, 2010 the President of Council of the City of Reading, Vaughn D. Spencer, (“Spencer”) requested that the City of Reading Charter Board (“Board”) issue an advisory opinion. Spencer presents two questions to the Board. First, Spencer asks whether the requirement for the Mayor to hire a new Managing Director within 180 days<sup>1</sup> applies when a vacancy in that position arises. Second, Spencer inquires whether, in the instance where a vacancy arises in the position of Managing Director, the requirement for City Council to fill the position applies when the Mayor fails to hire a new Managing Director within 180 days.<sup>2</sup>

The Board answers both questions in the affirmative.

**II. DISCUSSION AND ANALYSIS**

A. Pertinent Charter Provisions

Article IV of the Charter addresses the Managing Director. Specifically, Charter §§ 401(a), (d) and (e) address the timing of the appointment of the Managing Director. Section 401(a) provides that “[w]ithin ninety (90) days of taking office, the Mayor . . . shall appoint a Managing Director . . . .” Section 401(d) provides that if the Mayor cannot fill the position of Managing Director, then the “Mayor may appoint a Temporary Managing Director for a period of time not to exceed ninety (90) days.” Finally, Section

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<sup>1</sup> See Charter §§ 401(a), (d), (e) and 403.

<sup>2</sup> *Id.*

401(e) provides that if the Mayor “has not filled the position of Managing Director within one hundred eighty (180) days of taking office, City Council shall, within ninety (90) days thereafter, hire a Managing Director.”

Charter § 403 provides that if “the position of Managing Director becomes vacant at any time, the provisions of Section 401 shall apply to the hiring of a replacement.”

Spencer’s inquiries turn on whether the time limits set forth in Charter § 401(a), (d) and (e) apply where the position of Managing Director becomes vacant.

B. Analysis

The Board interprets Charter § 401(a) and (d), when read together, to give the Mayor one hundred and eighty (180) days to hire a Managing Director from the time of taking office. Therefore, the 180 day period stated in Section 401(e) is the sum of the two 90 day periods in Section 401(a) and (d).

In the case of a vacancy, under Section 403, the Mayor again has the same 180 day period in which to hire a Managing Director. Charter § 401(a) and (d). After that 180 day period is expired, “City Council, shall, within ninety (90) days . . . hire a Managing Director.” Charter § 401(e) (emphasis added). This is a mandated duty of City Council which must be completed within 90 days. In keeping with the Charter’s other provisions emphasizing the importance of the Managing Director’s position, *see* Charter, Art. IV, *generally*, Sections 401 and 403 are clearly constructed to ensure that any vacancy at this top managerial level be filled as expeditiously as possible. If the Mayor fails to fulfill this task within 180 days, then the duty to hire a Managing Director passes to City Council with a strict 90 day period for completion.

**III. OPINION OF THE BOARD**

The Opinion of the Board is that:

a. under Charter § 401(a) and (d), the total period of time in which the Mayor has to hire a Managing Director is 180 days, and in the situation where the Mayor is filling a vacancy of that position, the 180 day period begins on the date the vacancy arises; and

b. after the above 180 day period expires, City Council shall, within 90 days thereafter, hire a Managing Director, including in the situation where there exists a vacancy of the position of Managing Director.

CITY OF READING CHARTER BOARD

By: *Susan T. Gibson*  
Susan Gibson, Chair

Date: November 9, 2010