

## ***SUMMARY from BALTIMORE BREW***

*To accompany our submission for:*

*The James S. Keat Freedom of Information Award*

*For efforts during 2023 to gain access to public records*

*Fern Shen, editor/publisher*

The stage was set for ethical trouble and the Baltimore Board of Ethics, in 2022, officially recognized the problem:

The board ruled that City Council President Nick Mosby had violated ethics rules by accepting cash from “controlled donors” – persons doing business with the city – through the Mosby 2021 Trust, also known as the Mosby 2021 Defense Fund.

This was a legal defense fund set up for Mosby and his wife, State’s Attorney Marilyn Mosby, amid a federal probe into the couple’s charitable donations and an investigation that eventually led to charges of perjury and mortgage fraud against Marilyn Mosby.

After contesting the ruling for nearly a year, Nick Mosby finally complied with the Board’s order that he provide information about the fund.

But when the Ethics Board released the donation list, there were 130 dollar amounts and dates on it, but no names – they had all been redacted.

Asked by *The Brew* to release the names, the Ethics Board refused.

They defended their action, saying that failure to redact would have revealed information about the “finances” of the donors in violation of one of the exceptions in the Maryland Public Information Act (MPIA).

*Baltimore Brew* quickly filed a complaint to another board - the MPIA Compliance Board in Annapolis.

*The Brew’s* Fern Shen did this on behalf of the news organization – a small newsroom, with a small budget.

We participated in a mediation process with an ombudsman, but the complaint could not be resolved in that manner. Eventually, our legal arguments went to the full Compliance Board.

The city Law Department submitted a response to our complaint.

In the end, the Compliance Board sided with us. (And with the *Baltimore Sun*, which also filed a complaint about the redactions.)

But the City Solicitor - a mayoral appointee - had a quick response to our favorable opinion from the Compliance Board:

The City was appealing it.

We decided to, in effect, appeal their appeal.

The process in Maryland leaves complainants like us to fight back on our own at this point – the Compliance Board does not defend its own decisions. So, we have teamed with *The Sun* and hired a lawyer to respond to the City’s “petition for judicial review.”

As I write this, we are girding for our lawyer and the City to present their cases to a Baltimore City Circuit Court judge today (1/29/24).

Why is *The Brew* fighting so hard on this matter? (In addition to pursuing this complaint, we have published seven news stories or op-eds on the matter.)

The answer is, we believe fundamental principles of transparency and good government are at stake and that the public and media organizations must push back.

- How can citizens be sure government is the level playing field it should be unless they are aware of potential efforts to buy influence?
- How are donations like these – one of which was for \$5,000 and is one of the ones confirmed to have come from a person who does business with the city – any different from campaign contributions, which *are* made public?
- How can citizens contemplating Nick Mosby’s 2024 re-election effort - to one of the most influential offices in city government – to make an informed decision without knowing who may be seeking to influence him?

- City residents' faith in the political process - after two recent Baltimore mayors have been convicted on corruption charges – is already low. How can it not plummet further with a decision like this?

The MPIA Compliance Board saw it clearly.

We hope - for the sake of the public when issues like this arise with other public officials, in Baltimore or in other jurisdictions – that their interpretation prevails.

Here is how we put it in our 9/6/23 story about their decision:

*The Brew argued that the names of donors to the prominent couple were not shielded from disclosure by that part of the act and the information requested more closely resembled political contributions, which are public.*

*The state panel agreed, concluding that the provision cited by lawyers for the city does not shield the redacted information from disclosure.*

*“Campaign finance activity,” the ruling noted, “is not ordinarily protected financial information.”*

*“We think that donations like these – donations that are made to support elected officials in their political capacities – are much more akin to that sort of financial activity, which is commonly accepted as disclosable,” the board found.*

*“The donations are relevant to understanding who might be seeking to curry favor with powerful elected officials.”*

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