



COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF COMMUNITY & ECONOMIC DEVELOPMENT

VIA EMAIL & FIRST-CLASS MAIL

Frank R. Emmerich, Jr., Esquire
ECKERT SEAMANS CHERIN & MELLOTT, LLC
50 South 16th Street, 22nd Floor
Philadelphia, Pennsylvania 19102

Dear Mr. Emmerich:

Thank you for your letter on behalf of the Chester County Board of Commissioners dated April 21, 2020, regarding the Chester Water Authority. I appreciate the opportunity to clarify an issue that has caused concern in recent days.

Under Sections 604 and 703 of Act 47 of 1987, as amended, the authority of the Governor, the Department of Community and Economic Development, and the Office of the Receiver extends only to the “assets of a distressed municipality.” Both the exit plan issued by the Act 47 Coordinator for the City of Chester in 2018 and the Concise Statement of Facts supporting the Governor’s Declaration of Fiscal Emergency last week state that the water system is owned by the Chester Water Authority.

Since the City entered the Act 47 Program in 1995, DCED and the DCED-appointed Act 47 Coordinator have worked diligently to restore the City’s financial stability. But for the COVID-19 pandemic, the City stood ready to exit Act 47 in October 2021. To the best of our knowledge, at least as far back as 1995, neither DCED nor the Act 47 Coordinator has ever promoted a sale of the Authority or any of the City’s assets. This assertion can be independently verified by a review of the 1995 Recovery Plan, subsequent amendments, the 2018 exit plan, and the Emergency Action Plan issued on April 23, 2020. We recognize that the City may be pursuing a sale of its asserted interest in the Authority and that the issue is currently the subject of litigation between the City, the Authority, and other interested parties. However, we have only ever advised, and continue to advise, the City to retain its own counsel and professionals in order to help the City formulate its own legal positions with respect to the Authority.

If you have any additional questions or concerns, please do not hesitate to contact me. I look forward to the commissioners’ continued support as Governor Wolf and I attempt to put the City on the path toward fiscal recovery.

Sincerely,

Dennis M. Davin
Secretary

cc: The Honorable Marion D. Moskowitz, Commissioner
The Honorable Josh Maxwell, Commissioner
The Honorable Michelle H. Kichline, Commissioner
Thomas L. Whiteman, Esquire