JENNIFER M. GRANHOLM
GOVERNOR

STATE OF MICHIGAN
OFFICE OF THE GOVERNOR
LANSING

JOHN D. CHERRY, JR.
LT. GOVERNOR

June 3, 2008

VIA MAIL AND FACSIMILE

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Attorney at Law
535 Griswold St., Suite 2632
Detroit, MI 48226

Re: *In the Matter of the Request for the Removal of Kwame M. Kilpatrick from the Office of Mayor of the City of Detroit*, No. EO-2008-004-LO

Dear Counsel:

On Tuesday, May 20th, Governor Granholm received written charges against Mayor Kwame M. Kilpatrick, verified by an affidavit signed by Detroit City Council President Kenneth V. Cockrel, Jr., seeking the removal of Mayor Kilpatrick from office under article 7, section 33 of the Michigan Constitution of 1963 and section 327 of the Michigan Election Law, MCL 168.327. By letter dated May 21, 2008, the Governor asked both Mayor Kilpatrick and President Cockrel to designate counsel or a representative to act for them in this matter. In response, Mayor Kilpatrick designated Ms. McPhail and Mr. Thomas to act on his behalf; President Cockrel has designated Mr. Goodman.

The exercise of the removal power by a governor is a quasi-judicial function, is limited in scope, and must be exercised in strict compliance with the law. Under MCL 168.327, the Governor shall not take an action on charges against a city officer until: (1) the charges have been exhibited to the Governor in writing, verified by the affidavit of the party making them, that he or she believes the charges to be true; and (2) the Governor is satisfied from sufficient evidence submitted that the officer has been guilty of one or more of the following offenses: official misconduct, willful neglect of duty, extortion, habitual drunkenness, conviction of being drunk, or conviction of a felony. As the Michigan Supreme Court has observed, "[t]here must be charges specifying the particulars in which the officer is subject to removal. ... The officer is entitled to know the particular acts of neglect of duty or corrupt conduct, or other act relied upon as constituting

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malfeasance or misfeasance in office; and he is entitled to a reasonable notice of the time and place when and where an opportunity will be given him for a hearing; and he has a right to produce proofs upon such hearing." *Dullum v. Willson*, 53 Mich 392, 407; 19 NW 112 (1884). See also, *Metevier v. Therrien*, 80 Mich 187, 189; 45 NW 78 (1890); *Germaine v. Ferris*, 176 Mich 585, 586; 142 NW 738 (1913).

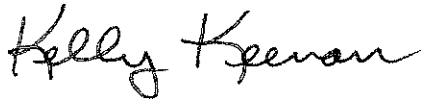
To comply with these requirements of Michigan law, I have recommended that the Governor adhere to a two-step process. First, the parties should be provided with the opportunity to raise and brief any preliminary legal issues relating to the charges submitted before a decision is made on whether a hearing is required under the law. Secondly, upon resolution of any such preliminary legal issues, the Governor will determine whether the materials submitted to her are sufficient to warrant a hearing and, if so, will schedule and conduct a hearing on the charges.

We are currently evaluating how best to structure this process in order to both assure compliance with the legal requirements contained in the statute and safeguard the rights of the persons affected. If you have comments or suggestions regarding the timing or structure of this process, please provide them to me in writing no later than Monday, June 23, 2008.

Finally, the Governor believes that the interests of the parties and of the public will best be served if: (1) all records regarding this matter, including correspondence and legal filings, are made available to the public; and (2) the Governor may engage in *ex parte* contact with the parties, their counsel or representatives, and third parties other than fact witnesses, regarding this matter. It is my understanding that both of these proposals are acceptable to the parties. If my understanding is not correct, and you object to either or both of these proposals, please advise me immediately in writing as to the nature of your objections or concerns.

If you have any questions regarding this letter, please contact me at (517) 335-6847.

Sincerely yours,



Kelly Keenan
Legal Counsel to the Governor

c: Governor Jennifer M. Granholm