



CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • TEL. 876-6800

LAW DEPARTMENT

EDWARD D. MCCARTHY
ACTING CITY SOLICITOR

ROWENA E. TAYLOR
ASSISTANT CITY SOLICITOR

CHARLES WATSON
LEGISLATIVE AGENT

May 10, 1974

The Honorable City Council
Cambridge
Massachusetts

Dear Councillors:

General Laws, Chapter 43, Section 100 provides "In time of public danger or emergency, as determined by the City Council, he may, (the Mayor) take command of the police, maintain order and enforce the laws..."

In my opinion, a situation would have to exist similar to a state of emergency which warrants the activation of the National Guard or imposition of martial law. There would also have to be a factual determination by the Council that the police were not maintaining order or enforcing the laws. General Laws, Chapter 43, Section 104 provides that the City Manager shall "act as chief conservator of the peace within the city "and shall" see that within the city the laws of the Commonwealth and the ordinances, resolutions and regulations of the City Council are faithfully executed..."

It is the obvious intent of the Charter that the City Manager be the Chief Executive of the City for almost all purposes. Therefore, there would have to be a like determination by the Council, subject to judicial review, that the Manager was not performing his duties in times requiring the immediate preservation of peace.

The Honorable City Council

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May 10, 1974

The circumstances as outlined in your order of April 29th exist within the confines of non City owned property and do not warrant the declaration of a public emergency of the nature I have described.

Furthermore, it would be a violation of the Municipal Finance Law and General Laws, Chapter 40, Section 5 for the City to appropriate money to be expended for property owned by the Cambridge Housing Authority, a separate legal entity.

Very truly yours,

A handwritten signature in cursive script, reading "Edward D. McCarthy".

Edward D. McCarthy
City Solicitor

EDMcC:cas

#14
Opinion from the City Solicitor re: to a
state of emergency.

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In City Council,

May 13, 1974

5/13/74

Filed

-Record in Fundaries-