



City of Cambridge

68.

IN CITY COUNCIL

March 24, 1997.

COUNCILLOR TOOMEY

WHEREAS: In his November, 1995 opinion, the City Solicitor said that it "possible" that the Residency Ordinance could conflict with the City Charter and that there are no cases on point; and

WHEREAS: In his February, 1997 opinion, the City Solicitor appears to now believe there is a "substantial" likelihood that the Residency Ordinance conflicts with the City Charter; now therefore be it

ORDERED: That the City Manager be and hereby is requested to obtain from the City Solicitor a legal opinion as to whether the various ordinances which establish criteria for membership, all of which restrict the City Manager's appointment authority, conflict with the City Charter.

In City Council March 24, 1997

Adopted by the affirmative vote of nine members.

Attest:- D. Margaret Drury, City Clerk.

A true copy;

ATTEST:-

D. Margaret Drury
City Clerk

A handwritten signature in cursive script that reads "D. Margaret Drury".

TT

68.

Whereas: In his November, 1995 opinion the City Solicitor said that it is "possible" that that Residency Ordinance could conflict with the City Charter and that there are no cases in point; and

Whereas: In his ~~to~~ February, 1997 opinion, the City Solicitor appears to now believe there is a "substantial" likelihood that the Residency Ordinance conflicts with the City Charter; now therefore be it

Ordered: That the C.M. be & hereby is requested to obtain from the City Solicitor a legal opinion as to whether the various ~~the~~ ordinances which establish criteria for membership, all of which restrict the City Manager's appointment authority, ~~the~~ conflict with the City Charter.

RESIDENCY QUESTIONS FOR 3/24/97 COUNCIL MEETING

- 1) In the November, 1995 opinion, you cited that it is "possible" that the residency ordinance could conflict with the city charter and that there are no cases in point.. Since November, 1995 have there been any cases "in point"?

In the February, 1997 opinion, it appears that you have somehow discovered several cases that now make you believe that there is "a substantial likelihood" that the residency ordinance conflicts with the city charter. "Why did it take 14 months to discover these cases?"

- 2) How are boards and commissions created and how is the criteria established for membership? Also, what is the legal authority for the city manager to make appointments to boards and commissions?

Refer to Attachment 2.78.160

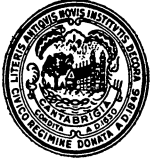
If the logic of your February, 1997 follows, why should the city manager be restricted as to whom he can appoint since MGL Ch. 43, Sec. 104 states "he shall make all appointments and removals in the departments, commissions, boards and offices of the city"? Are the membership requirements of all boards and commissions established by ordinance also in violaion of the city charter?

- 3) MGL Ch. 43, Sec. 106 states that "officers and employees of the city appointed by, or under the authority of, the city manager shall perform the duties required of them by the city manager, under general regulations of the city council." Aren't council approved ordinances, including the residency ordinance, " general regulations of the city council?"

TT

Ordered: That the City Mgo is hereby
requested to seek an opinion
from the City Solicitor as to
whether _____ of the
Conservation Commission Ordinance
and any other ordinances
relative to brands and
commissing violate the
charter

W/9



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68.

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A true copy;

A handwritten signature in cursive script that reads "D. Margaret Drury".

ATTEST:-

D. Margaret Drury
City Clerk

Consent ORder #68

CM-164

Councillor Toomey re: A legal
opinion as to whether the various
ordinances which establish criteria
for membership, conflict with
the City Charter.

In City Council March 24, 1997

ORDER ADOPTED