



City of Cambridge

130.

IN CITY COUNCIL

August 4, 1997

COUNCILLOR TRIANTAFILLOU
VICE MAYOR BORN
COUNCILLOR DAVIS
COUNCILLOR DUEHAY
COUNCILLOR GALLUCCIO
MAYOR RUSSELL
COUNCILLOR SULLIVAN

ORDERED: That the City Manager be and hereby is requested to report back to the City Council as to the status of resolution of the case involving a non-toxic spill at 113 Antrim Street, and what efforts have been made to compensate the owners of said property.

In City Council August 4, 1997

Adopted by the affirmative vote of nine members.

Attest:- D. Margaret Drury, City Clerk.

A true copy;

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

ATTEST:-

D. Margaret Drury
City Clerk

by fax to (617) 349-4287

#130

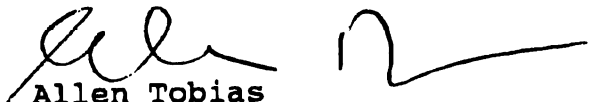
August 4, 1997

Dear Mayor Sheila Russell,

Enclosed is a note of clarification and correction to my recent certified letter received by Mr. Robert Healy, City Manager, a copy of which I faxed to you last week.

Thank you.

Sincerely,



Allen Tobias
(617) 876-1665/864-4345 (fax)

please note especially

Those paragraphs marked X/

AT

113 Antrim Street
Cambridge, MA 02139
August 4, 1997

Mr. Robert Healy,
City Manager
City Hall
Cambridge, MA

by fax (617) 349-4307

Dear Mr. Healy,

I wrote to you last week and know that you have received my certified mail of July 27. Please note the following clarification and correction.

X /
On p. 2 (para 3) of my letter I state: that \$10,000 was demanded of us by a contractor engaged by a city department in its over-reaction to a demonstrably non-toxic and rather small and innocuous spill of a common garden substance called isotox. This is correct. Moreover, attempts were made by city agencies to levy or pass along other charges.

But the record establishes that such actions as were taken were taken without necessity or sufficient basis. That record includes both our formal and informal discussions and correspondence and the tape recording of my "911" call which is in your possession. This is the tape which you played on the occasion of our meeting in this matter, at your office.

To clarify: in consideration of the content of my "911" call, the actions taken, and which proved unnecessary, ought never to have been seriously contemplated. Those actions were conceived in response to my call of approximately 3 or 4 PM. But the actions themselves were commenced only after a long a period of doubt, incommunication and neglect lasting more than twelve hours. It was in this period, presumably, that valuable information, reported by me, was lost. Or failed to be passed on. Or was not presented clearly, or was miscommunicated or missent. Or was forgotten or dismissed. I know not which.

But, I do know that this: there was never any follow-up. Is it possible -- in consideration of the facts and accord with established protocols -- that a timely and fact-driven evaluation of our situation was made? Can actions such as ensued, taken after so long a delay, and based as they were on such miscues and misrepresentations of fact, be said to follow the logic of emergency procedure, or reflect truly on contemporary emergency response systems?

Surely, the contents of my report was lost or neglected for that twelve hour plus interim between calling "911" and the appearance of men and trucks before dawn the next day. Otherwise, in consideration of the data presented by me, a different course of action was mandated and ought to have been commenced. That course should have proceeded rapidly to procure necessary and sufficient information upon which to form a judgment.

No further emergency action of the kind taken ought to have been contemplated, thereupon, let alone performed. Why? Because isotox, the substance in question, is widely known to be harmless. Its presence, even in quantities much larger than that which spilled, is no threat to public safety.

According to data furnished in compliance with the EPA, data readily available by fax or phone from the manufacturer in accord with established protocol, the presence of isotox in relatively small amounts warrants none of the actions taken! It is a simple but conclusive fact that the spill could not have constituted a danger in the actual amounts present or even in much larger amounts.

X
On p. 2 (para 3) of my letter I state: that the sum of \$10,000 was originally demanded and that the demand was reduced to \$ 1,000, subsequently. It was subsequent, that is, to a sympathetic intervention.

The fact is that the some of the key demand was reduced even farther from the original \$10,000 to only \$500. In the absence of a response from you, this sum was paid.

I look forward to hearing from you to conclude this matter. Thank you for considering the above alongside the prior communications.

Sincerely,


Allen Tobias

KT.
Ordered

130°

hereby

~~Resolved~~, that the City Manager be and is ~~hereby~~ requested to report back to the City Council as to the status of resolution of the case involving a non-toxic spill at 113 Antrim Street, and what efforts have been made to compensate the owners of said property.

RECEIVED BY
OFFICE OF CITY CLERK
97 JUL 29 PM 4: 44
CAMBRIDGE MA.

113 Antrim Street
Cambridge, MA 02139
July 28, 1997

Kathleen L. Born,
Vice Mayor
City Hall,
Cambridge, MA 02139
by fax 349 4287

Dear Kathy,

I was glad to speak to you in the past, concerning the city's response to my "911" report of a spill of a non-toxic substance at this address.

Indeed, when we last spoke you asked what our expenses had been and whether we had been reimbursed yet by the city manager. As of our last conversation, we had not heard from the city manager and his staff for many months, in spite of his assurances. In the succeeding six months or more, we have heard nothing further.

I enclose a copy of my most recent letter to Robert Healey, city manager. In it, I establish that those actions taken by the city were both massive and unnecessary. I also detail our expenses, \$1,400 in total, none of it reimbursed.

Remembering your past supportive efforts and concern, I urge you to address the need for resolution. I have the greatest admiration for the emergency services staff. What I hope to achieve through your help is closure.

I seek reimbursement of the actual cost to us and our condominium association in this matter, only. It is reasonable and fair that, by error of the city, a property owner is forced into great expense, that property owner should be compensated for his or her actual losses.

That is especially true in our case, when a systems-wide failure of the emergency response system occurred which was an impetus for soul searching, review and positive changes in emergency procedures.

Since I cannot expect to hear from Mr. Healey, I depend on you and your peers for action and redress. I asked for this and no more. I look forward to hearing from you and to fair resolution of this issue.

Sincerely,


Allen Tobias

113 Antrim Street
Cambridge, MA 02139
July 27, 1997

Mr. Robert Healey,
City Manager
City Hall
Cambridge, MA 02139
by certified mail

Dear Mr. Healey,

At our meeting of last June, you promised to respond to my request for closure in the matter of the actions of city departments responding to my "911" report of a spill of a non-toxic substance at this address.

I have followed up our conversation with attempts to reach you, and have placed calls repeatedly to your attorney and staff. But I have received no reply from you or them in the matter of our meeting and conversation.

I would like to clear up and end this matter. I propose that the City of Cambridge reimburse me personally in the sum of \$400 for damage to my property and in addition reimburse the 113 Antrim Street Condominium Association \$1,000 billed for the city ordered and enacted removal of the supposed toxic substance: a substance clearly established and known to be non-toxic and non-threatening.

I ask for no other acknowledgment and require none.

A review of the matter is enclosed. Thank you for your immediate attention.

Sincerely,

Allen Tobias

113 Antrim Street
Cambridge, MA 02139
July 27, 1997

Mr. Robert Healey,
City Manager
Cambridge, MA 02139
by certified mail

Dear Mr. Healey,

Below please find my review in the matter of actions taken by city departments responding to my "911" report of a spill of a non-toxic substance at this address.

As I stated to you at our meeting, the City of Cambridge failed to properly identify a non-toxic substance, isotox, a common garden weed killer. That isotox was the sole content of the spill in question.

We respect and admire the devotion of the emergency services personnel and are grateful to them. But, the "911" emergency services operator who took my call failed to follow-through in a timely way, and/or failed to pass my information up the line or report it for determination, and/or failed to process or investigate my report. Finally, emergency services failed to avail themselves of MA and US protocols to determine the nature of a reported spill.

As you know, all the above failures constituted a systems failure which led to a massive over-reaction to a well-described, harmless and nonhazardous waste. Its removal from our premises was at enormous cost, and clearly violated the protocols. Indeed, as the "911" call makes clear, I offered to take the isotox to any site specified: it had been secured by me in a closed 55 gal bin prior to calling.

That bin was much later removed by order of the city. Its removal was without clear mandate, and fully twelve hours after my report stated the content accurately. Thus, it becomes clear that the actions taken were in ignorance of established practice for easily determining the properties of isotox. This cost of thousands of dollars and hundreds of man-hours. It was made without due diligence, and constituted a grave threat to my property. All this on the basis of an unconfirmed, mistaken and unsupportable view that the isotox spill constituted a toxic threat to public safety, which it did not.

In support of my view that a systems failure occurred I offer the evidence of the contents of the official recording of my telephone conversation with the City of Cambridge "911" emergency operator. This conversation, which you played and we listened to at our public meeting, took place

about twelve hours prior to the commencement of city actions, as noted above. These serious and emergency actions were taken after a very long lapse in which established facts met with inaction or indifference, while established protocols designed for quick response were ignored.

Those protocols had been put in place in order to assure public safety via prompt and accurate identification and determination. Had they been followed, emergency services ought to have established conclusively that the spill was non-toxic within five minutes of my call at most. No emergency action was required. In view of the enormous and much delayed response, whatever the nature of the lapse is immaterial. But there was a lapse. The indisputable and essentially harmless nature of the isotox itself, and the timing and content of my tape, indicates as much.

My contention that there was a systems failure is also supported by the fact that representative body of the City of Cambridge was forced to meet, and indeed held public meetings, subsequent and in response to the city's failed emergency response and overreaction, both in order to rather change its emergency procedures and thus to put these in line with protocols mandated by MA and US EPAs.

Serious and emergency responses were taken at 113 Antrim Street in ignorance of established facts in the case. In consequence officials of city government insisted that we assume the cost of a cleanup for which we were billed \$10,000. Our homes were closed off by police barrier. Access was barred by policemen posted for nearly 24 hours thereafter. Indeed, we were prevented from returning to our homes until our assumption of financial obligation appeared settled to the satisfaction of various city agencies.

The sum of our indebtedness was subsequently reduced to \$1,000 through the intervention, I was told, of one of the fire captains who understood the injustice of our situation. This redress is another and further confirmation of the embarrassing existence of an all systems failure in our case. Thereupon, the bill was paid.

Thereafter, my additional personal expense was \$400 for repair of the doors, locks, windows and trim destroyed by city officials who acted in response to the failed emergency procedures and directives.

As stated above, I ask for no acknowledgment and require none other than reimbursement of the two sums. Thank you for your immediate attention. I await your reply.

Sincerely,

Allen Tobias



City of Cambridge

130.

IN CITY COUNCIL

August 4, 1997

COUNCILLOR TRIANTAFILLOU
VICE MAYOR BORN

ORDERED: That the City Manager be and hereby is requested to report back to the City Council as to the status of resolution of the case involving a non-toxic spill at 113 Antrim Street, and what efforts have been made to compensate the owners of said property.



City of Cambridge

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August 4, 1997

COUNCILLOR TRIANTAFILLOU

VMB

ORDERED: That the City Manager be and hereby is requested to report back to the City Council as to the status of resolution of the case involving a non-toxic spill at 113 Antrim Street, and what efforts have been made to compensate the owners of said property.

Davis, Duchay, Gallucci, Russell, Sullivan
Consent Order #130

VMB CN-468

Councillor Triantafillou⁺ re: Status
of resolution of the case involving
a non-toxic spill at 113 Antrim Street.

In City Council August 4, 1997

ORDER ADOPTED