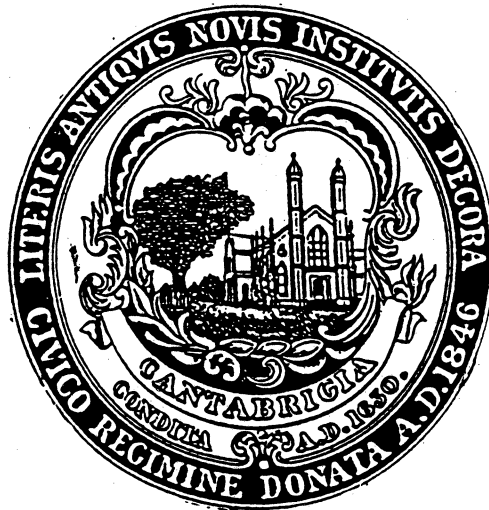


CITY OF CAMBRIDGE ELECTION COMMISSION

Report to the City Council

ETHICS ORDINANCE



BOARD OF ELECTION COMMISSIONERS

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CITY OF CAMBRIDGE

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BOARD OF
ELECTION COMMISSIONERS

TO: Cambridge City Council
FROM: Board of Election Commissioners
DATE: March 30, 1994

This document represents the report of the Board of Election Commissioners regarding the first year implementation of the Ethics Ordinance.

Please note, this report was not produced pursuant to a specific Order from the City Council. Rather, it was the consensus of the Board to provide the Council with an overview of the process and procedures utilized to effectively implement the Ordinance. It represents our efforts to review and fine tune the Ethics policy as we conclude this pivotal first year.

The Board is appreciative of the confidence placed in the Election Commission by entrusting the administering of the Ethics legislation to our department.

We have concluded our report with a recommendation from the Board as well as with comments and suggestions received from others.

Respectfully submitted,

Edward J. Seng Jr.
Sandra Scheir
Artis B. Spears
Danion G. Bonislawski

cc: Office of the City Manager
Office of the City Solicitor
Office of the City Clerk

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INTRODUCTION

On November 4, 1991 the City Council enacted Chapter 2.117 of the Cambridge Municipal Code entitled "Code of Conduct for City Officials and Employees" and, Chapter 2.118 entitled "Statement of Financial Interests by Certain City Officials and Persons Conducting Business within the City", popularly known as the "Ethics Ordinance". The City Council assigned responsibility for its administration and enforcement to the Cambridge Election Commission. As a result the powers and duties of the Commission were expanded beyond voter registration, conducting elections, producing a street list and city census, maintaining voter lists, and administering municipal campaign finance laws.

The Ordinance sets a minimum standard of ethical conduct for certain municipal officials and candidates for City Council and School Committee, and requires them to file a Statement of Financial Interests annually with the Election Commission. (See Attachment 1a,1b.)

While the date of first implementation was in 1993, the first reporting period for which a Statement of Financial Interests (SFI) was required to be filed was calendar year 1992. (See Attachment 2.)

Administration and enforcement of the ordinance resulted in a 100% response rate by municipal officials and municipal candidates, all of whom complied with the Ordinance by filing a SFI with the Cambridge Election Commission.

It should be noted that, while all of the above persons who were required to file have done so, there was one person who refused to provide full disclosure in a SFI.

At the outset, the Board of Election Commissioners was informed that we had responsibility for developing the policy and procedures necessary to effectively implement the Ordinance.

The Board identified two (2) goals as essential to fulfilling its mandate:

1. POLICY DEVELOPMENT

- A). Administration and Enforcement
- B). Statement of Financial Interests (SFI)
- C). SFI Inspection Request
- D). Formal Notice of Filing
- E). Formal Notice of Delinquency
- F). Formal Notice of Hearing
- G). Penalties

2. **INFORMATION TO PERSONS REQUIRED TO FILE**

- A). Ethics information Materials
- B). Ethics information Meetings
- C). Ethics information Goals and Objectives

POLICY DEVELOPMENT

A). **ADMINISTRATION AND ENFORCEMENT**

To achieve effective administration and enforcement the Board of Election Commissioners developed the policy and procedures to provide sufficient information, notice, and an opportunity to be heard to all persons required to file a Statement of Financial Interests. (See Attachment 3.)

Where necessary, the Board narrowly tailored written materials to conform to the specific requirements of the Ethics Ordinance.

Initially, research was conducted to ascertain whether other cities and towns had a similar law which could be referred to as a resource in developing Cambridge's materials. It was the Board's belief that, since we were literally starting from scratch, it would be helpful to draw upon methods and experiences of other communities.

Our research uncovered no other cities having a similar law on its books, although the City of Marlborough did enact a disclosure law several years ago that was subsequently repealed by means of a Home Rule Petition. At that time Marlborough relied on the State Ethics Commission as a resource in administering its local law.

Similarly, the Election Commission also utilized the State Ethics Commission as a resource since it administers the State Ethics Law, MGL, Ch. 268A, 268B, upon which the Cambridge Ordinance is modeled. The Board's efforts included research of the State's administrative and enforcement procedures and meeting with State Ethics officials.

When necessary the Board sought legal opinions from the Office of the City Solicitor. (See Attachments 4a, 4b, 4c, 4d.)

B). **STATEMENT OF FINANCIAL INTERESTS (SFI)**

The Statement of Financial Interests was prepared by the Office of the City Solicitor, and in most respects is taken almost verbatim from the Ordinance. The Election Commission provides each

filer with a Fact Sheet for guidance in filling out the SFI form. Each form once filed, is reviewed by the Executive Director and the Board of Election Commissioners. (See Attachments 5,6.)

At the end of the first year the Board revised the form to better define "Terms of Repayment" in Question 3. Acting pursuant to an opinion of the City Solicitor, the Board amended the SFI to define Terms of Repayment as the "annual interest rate and either the year final repayment is due, or in the case of ongoing credit, the frequency of required payments (e.g.monthly)." (See Attachment 7, Q.2)

C). SFI INSPECTION REQUEST

Since the SFI's are public records anyone may inspect them. Ch.2.118.020(C) requires that requests to inspect be in writing. It is silent however, on what constitutes a "written request", unlike the State Ethics Law which mandates that the requesting person provide a name, organization name, address and identification.

Since the Cambridge Ethics Ordinance grants anonymity only to the Attorney General, Middlesex District Attorney, and the State Ethics Commission, the Board presumed it was the intention of the Ordinance that persons requesting to inspect an SFI should provide a name and address. The Board adopted the format of the Inspection Request form used by the State Ethics Commission. The form is provided to persons requesting to inspect a SFI. (See Attachment 8.)

Pursuant to Ch.2.118.020(C), a copy of the written request is forwarded to the municipal official or candidate whose SFI is requested unless the request comes from the Attorney General, the Middlesex District Attorney or the State Ethics Commission.

D). FORMAL NOTICE OF FILING

The names and positions of municipal officials who must file are provided by the City Manager as the law requires. Candidates for City Council and School Committee are required to file prior to the Municipal election. (See Attachments 9a,9b.)

The Ordinance establishes two (2) categories of persons required to file an SFI, each with a separate filing date. The categories are Municipal Officials and Municipal Candidates.

1. Municipal Officials

Ch.2.118.030(B)(1)(2) requires that a municipal official file an SFI on or before June 1st for the preceding year that such person is a municipal official OR within 30 days of becoming a municipal official, whichever is later. Further, a person who

ceases to be a municipal official must still file for the year preceding departure.

Municipal officials are sent a letter and accompanying informational materials in early May notifying them of the requirement to file a Statement of Financial Interest. (See Attachment 10.)

2. Municipal Candidates

Ch.2.118.030(A) requires every candidate for the office of City Council and School Committee to file an SFI for the preceding calendar year on or before the date on which nomination papers are due. The date on which nomination papers are due is set by the Board of Election Commissioners and traditionally falls on July 31.

Candidates receive in their Candidate's Kit, traditionally made available July 1, a letter and accompanying informational materials notifying them of the requirement to file a Statement of Financial Interests. (See Attachment 11.)

A candidate who conducts a write-in or sticker campaign is also required to file a Statement of Financial Interests no later than fifteen (15) days before the date of the election for which he/she is a candidate. Upon notice, the Election Commission will provide the candidate a letter and accompanying informational materials notifying the candidate of the requirement to file a Statement of Financial Interests. (See Attachment 12.)

E). FORMAL NOTICE OF DELINQUENCY

The Ordinance mandates formal notice to two (2) categories of delinquents:

- 1. Failure to File an SFI (See Attachments 13a,13b,13c.)**
- 2. Filing a Deficient SFI (See Attachment 14.)**

F). FORMAL NOTICE OF HEARING

After receipt of the above notice, if an SFI is not filed, or a deficient SFI is not corrected, a hearing date is scheduled affording the delinquent person an opportunity to be heard in the matter. Notice is by Certified mail, or by Constable if attempts at Certified mail are unsuccessful. (See Attachment 15.)

Hearings were scheduled for November 16, 1993 and March 9, 1994 for those persons who either failed to file an SFI or who filed a deficient SFI. Hearings are held in accordance with the

Open Meeting Law, which permits the public to attend. Subsequent to receiving the above noted hearing notices, all parties, but one, complied by providing the requested information. (See Attachment 16.)

The one person who refused to provide full disclosure pointedly informed the Board and public that the information being requested was "none of your business". (See Attachments 17a,17b.)

A legal opinion from the City Solicitor, reasserting the need for full disclosure, failed to elicit the requested information. As a result, the Board fined the individual \$50.00, and reported him to the Attorney General and Middlesex District Attorney as the law requires. (See Attachment 18.)

Although the individual subsequently resigned his voluntary position on a municipal Advisory Board, it was the consensus of the Board of Election Commissioners not to rescind the fine. The matter was referred to the City Solicitor for enforcement pursuant to Ch.2.008.040(B). The rationale for taking this action was the Board's unwillingness to treat non-compliance lightly by setting a precedent that condoned contempt for City law.

G). PENALTIES

The Board adopted a penalty schedule similar to that imposed by the State Ethics Commission:

1-10 days delinquent:	\$50
11-20 days delinquent:	\$100
21-30 days delinquent:	\$200
31-90 days delinquent:	\$500
Over 90 days delinquent:	\$2000

Having such a schedule clearly sets forth the consequence of delinquency. The rationale for doing so was to adopt a consistent amount rather than a case-by-case discretionary penalty. The Board has considered amending the penalty schedule as follows:

Delete: "Over 90 days delinquent: \$2000"
Amend to: "\$300 per day if delinquent 91-180 days"

INFORMATION TO PERSONS REQUIRED TO FILE

In order to achieve successful implementation of the Ethics Ordinance, the Board recognized the need to brief persons who must file. Our objective was to minimize or eliminate confusion when the time came to file. We accomplished this goal by:

A.) ETHICS INFORMATION MATERIALS

- a). Providing written materials
- b). Requesting legal opinions
- c). Responding to questions

B.) ETHICS INFORMATION MEETINGS

The Board held an informational meeting on November 19, 1992 to which all municipal officials required to file were invited. The Board, City Solicitor's Office and independent counsel, answered questions and provided information to 21 municipal officials in attendance. (See Attachment 19.)

A second meeting was held on December 16, 1992 at the Election Commission office for members of the City Council who were unable to attend the earlier meeting. (See Attachment 20.)

C.) ETHICS INFORMATION GOALS AND OBJECTIVES

1. Municipal Candidate Information Meeting

Initially, the information meeting was conceived as a one time only event in preparation for the first required filing of the Ethics Ordinance on June 1, 1993. The Board has since established it as a yearly event. An information meeting will also be held for municipal candidates in conjunction with meetings the Board regularly conducts regarding campaign and political finance information.

2. Ethics Ordinance Brochure

The Election Commission may produce a brochure similar to that provided by the State Ethics Commission. It would serve as an educational tool to familiarize reporting persons and the public with the Ordinance.

FILING STATISTICS

SENT FORMAL NOTICE OF FILING SFI DURING 1st YEAR FILING
--

Municipal officials:	161
Municipal candidates:	28

Total:	189
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SENT INITIAL FORMAL NOTICE OF FAILURE TO FILE SFI
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Municipal officials:	74
Municipal candidates:	10

Total:	84
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SENT INITIAL FORMAL NOTICE OF DEFICIENCY IN SFI
--

Municipal officials:	42
Municipal candidates:	8

Total:	50
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FILING STATISTICS (continued)

PERSONS SENT FORMAL NOTICE OF HEARING RE: Failure to File OR Deficient SFI	
Municipal officials:	11
Municipal candidates:	0
Total:	11

COMPLYING AFTER RECEIPT OF FORMAL NOTICE OF HEARING	
Municipal officials:	10
Municipal candidates:	0
Total:	10

PERSONS IN VIOLATION AFTER FORMAL HEARING	
Municipal officials:	1
Municipal candidates:	0
Total:	1

PERSONS FILING SFI AT END OF FIRST YEAR FILING	
Municipal officials:	161
Municipal candidates:	28
Total:	189

CONCLUSION

COMMENTS

Comments were received during the first year of implementation from various persons wishing to have their opinions made known to the Election Commission and City Council.

- * Protests were received from volunteer members of Boards and Commissions who objected to being subject to the law's disclosure requirements.
- * Amend the Ordinance to require that Question 2 be expanded to include the filer as well as members of the filer's family.
- * Amend the Ordinance to require municipal candidates to file an SFI for the calendar year in which they are a candidate. Candidates presently file for the year preceding election. (See Attachment 7, Q.1)
- * Amend the Ordinance to include a question relating to business relationships among city employees.
- * Amend the Ordinance to include an Investigation section, similar to that of the State Ethics law.
- * Re: The Ethics Ordinance overreaches as a result of the manner in which it was drafted. (See Attachment 17a.)
- * Re: The Office of the City Solicitor rendering legal opinions on the Ordinance.
- * Re: Anonymity should be allowed for persons requesting to inspect an SFI. (See Section C.)

RECOMMENDATIONS

PENALTIES

That the City Council review the Penalty schedule and advise the Board whether it is acceptable in fulfilling the intent of the Ordinance. (See Section G.)

COMMENTS

That the City Council respond in a manner it deems appropriate.

APPENDIX OF ATTACHMENTS

1. City of Cambridge "Ethics Ordinance"
 - a.) Chapter 2.117
 - b.) Chapter 2.118
2. Legal opinion, February 19, 1992
3. Cambridge Election Commission Ethics Ordinance Policy
4.
 - a.) Legal opinion, January 26, 1993
 - b.) Legal opinion, April 29, 1993
 - c.) Legal opinion, August 19, 1993,
 - d.) Legal opinion, September 3, 1993
5. Statement of Financial Interests
6. Statement of Financial Interests Fact Sheet
7. Legal opinion, February 15, 1994
8. Inspection Request form
9. City Manager's List(s) of Municipal officials
 - a.) April 28, 1993
 - b.) December 9, 1993
10. Municipal official letter
11. Municipal candidate letter
12. Municipal candidate letter (write-in/sticker)
13. Formal Notice of Failure to File
 - a.) Municipal official
 - b.) Municipal candidate
 - c.) Municipal candidate (write in /sticker)
14. Formal Notice of Deficiency
15. Formal Notice of Hearing
16. Formal Posting of Hearing Notice, November 16, 1993
17.
 - a.) Letter, November 30, 1993
 - b.) Letter, December 15, 1993
18. Legal opinion, December 20, 1993.
19. Legal opinion, December 14, 1992.
20. Legal opinion, January 26, 1993

Report prepared by: Commissioner Darleen G. Bonislowski
Approved by the Board: March 30, 1994

Chapter 2.117

CODE OF CONDUCT FOR CITY
OFFICIALS AND EMPLOYEES

Sections:

- 2.117.010 Introduction.
- 2.117.020 Definitions.
- 2.117.030 Fiduciary duty.
- 2.117.040 Improper influence.
- 2.117.050 City-owned property.
- 2.117.060 Use or disclosure of confidential information.
- 2.117.070 Employment of relatives.
- 2.117.080 Prohibited acts by City Councilors.
- 2.117.090 Prohibited acts by School Committee members.
- 2.117.100 Advisory opinions.
- 2.117.110 Violations and penalties.
- 2.117.130 Other remedies.
- 2.117.140 Relationship with other laws.

2.117.010 Introduction.

This chapter establishes standards of conduct for officials and employees of the City of Cambridge, in addition to those established by Chapter 268A of the Massachusetts General Laws. (Ord. 1128 (part), 1991)

2.117.020 Definitions.

Whenever used in this chapter, the following terms shall have the following meanings:

A. "Agency" means the City Council, any committee or other subdivision thereof, any City department or other administrative unit, commission, board, or other division of the government of the City.

B. "City" means the City of Cambridge.

C. "City contractor" means any person (including its agents or employees acting within the scope of their employment) who is paid from the City treasury or pursuant to City Ordinance, for goods or services provided to any City agency, regardless of

the nature of the relationship of such person to the City for purposes other than this chapter.

D. "Contract management authority" means supervisory responsibility for the formulation, execution or performance of a City contract, including without limitation the preparation of specifications, evaluation of bids or proposals, negotiation of contract terms or supervision of performance.

E. "Economic interest" means a financial interest, whether vested or contingent, legal or beneficial, with a present fair market value greater than two hundred fifty dollars which is distinguishable from that of the public generally.

F. "Employee" means an individual, other than a municipal official, who is employed by the City or any City agency, whether part-time or full-time.

G. "Gift" means a delivery of goods, payment, entertainment, subscription, advance, services or anything of value, unless consideration of equal or greater value is received. If items are furnished or services are rendered for less than the fair market value, the difference between the fair market value and the price shall be treated as a gift. "Gift" shall not include a political contribution reported as required by law, a commercially reasonable loan made in the ordinary course of business, anything of value received by inheritance, or a gift received from a relative of the recipient municipal official or employee within the third degree of consanguinity of the reporting person or of the reporting person's spouse or from the spouse of any such relative.

H. "Municipal official" means:

1. Any individual holding any one of the following positions in the government of the City of Cambridge, whether by election or appointment: Mayor, Councilor, City Manager, Deputy City Manager, Assistant City Manager, City Clerk; Auditor, City Solicitor, School Committee Member, School Superintendent; Police Commissioner; Chief of Police; Chief of Fire Department;

2. The members of boards and commissions, and the executive or administrative head or heads of such boards or commissions, whether elected or appointed, compensated or uncompensated, of a

municipal body or bodies with executive, regulatory, or permitting authority; or

3. Any Category I — IV employee as defined by Section 2.62.010 of the Cambridge Code.

I. "Person" means a business, individual, corporation, union, association, firm, partnership, committee, or other organization or group of persons.

J. "Relative" means a person who is related to a municipal official or employee as spouse, as a descendent of any grandparent of such official or employee whether by the whole- or half-blood or by adoption, or as spouse of any of the foregoing. (Ord. 1128 (part), 1991)

2.117.030 Fiduciary duty.

Municipal officials shall at all times in the performance of, and within the scope of, their public duties owe a fiduciary duty to the City. (Ord. 1128 (part), 1991)

2.117.040 Improper influence.

No municipal official or employee shall make, participate in making or in any way attempt to use such municipal official's or such employee's position, influence or power to influence or effect any City governmental decision or action in which such municipal official or employee knows or has reason to know that such official or employee has any economic interest. Nothing in this section shall be interpreted so as to preclude the Members of the City Council from voting on City Council Salary appropriations. (Ord. 1128 (part), 1991)

2.117.050 City-owned property.

No municipal official, employee or City contractor shall permit the City-owned property under their control to be used in any manner that is inconsistent with any written policy governing the use of such property. (Ord. 1128 (part), 1991)

2.117.060 Use of disclosure of confidential information.

No current or former municipal official or employee shall use or disclose, other than in the performance of his official duties and responsibilities, or

as may be required by law, confidential information gained in the course of or by reason of his position or employment. For purposes of this section, "confidential information" means any information that is not generally available to the general public or could not be obtained from public records pursuant to the Massachusetts Public Records Act, as amended. (Ord. 1128, (part), 1991)

2.117.070 Employment of relatives.

A. No municipal official or employee shall, after November 4, 1991, the date of adoption of the ordinance codified in this chapter, hire or advocate for employment, in any City agency in which said official or employee serves or over which he exercises authority, supervision, or control, any person:

1. Who is a relative of said municipal official or employee; or

2. In exchange for or in consideration of the employment of any said municipal official's or employee's relatives by any other official or employee.

B. No municipal official or employee shall use or permit the use of his position to assist any relative in securing employment or contracts with persons over whom the employee or municipal official exercises contract management authority. (Ord. 1128 (part), 1991)

2.117.080 Prohibited acts by City Councilors.

City Councilors shall not make loans, gifts of value equal to or exceeding two hundred fifty dollars, offers of employment (except when consistent with the discharge of their official duty as Councilor), offers of future employment, or of business or investment opportunities to the City Manager, to Assistant City Managers, to heads of City departments or agencies, to the City Solicitor and Assistant Solicitors, or to members of boards or commissions involved in the granting of variances, permits, licenses or other such discretionary or adjudicatory functions. (Ord. 1128 (part), 1991)

2.117.090 Prohibited acts by School Committee members.

School Committee members shall not make loans, gifts of value equal to or exceeding two hundred fifty dollars, offers of employment or future employment (except within the discharge of their official capacity as a School Committee member), or of business or investment opportunities to the Superintendent, Assistant Superintendents, the Executive Director of Management Services, the executive Director of Human Resources or Personnel Director, the Affirmative Action Officer, the Headmaster of Cambridge Rindge and Latin School, and elementary school principals. (Ord. 1128 (part), 1991)

2.117.100 Advisory opinions.

A. Any employee or municipal official shall be entitled to the opinion of the City Solicitor upon any question arising under this chapter relating to the duties, responsibilities and interests of such person. All requests for such opinions by a subordinate municipal employee shall be made in confidence directly to the City Manager who shall in turn request in confidence such opinion of the City Solicitor on behalf of such person, and all members of boards or commissions and chief officers or heads of municipal agencies may make direct confidential requests for such opinions of their own account. The City Solicitor shall file such opinion in writing with the City Clerk and such opinion shall be a matter of public record; however, no opinion will be rendered by the City Solicitor except upon the submission of detailed existing facts which raise a question of actual or prospective violation of any provision of this chapter.

B. Any person who acts in reliance on an opinion of the City Solicitor shall be exempt from the penalties provided herein if that person has made a good-faith disclosure of all material facts related to the opinion. (Ord. 1128 (part), 1991)

2.117.110 Violations and penalties.

A. Any employee or municipal official who

violates this chapter shall be subject to appropriate discipline, including suspension, termination or censure, consistent with any requirements of the State Civil Service Law and the City Charter, as well as to civil or criminal prosecution under any other applicable State laws.

B. A knowing violation of this chapter shall constitute a misdemeanor, and shall be punishable by a fine of not more than three hundred dollars per offense.

C. All City contracts shall include therein a clause for allowing for termination in the event of a violation of this chapter in connection with the awarding, administration or performance of the contract.

D. A violation of this chapter in connection with the issuance of any permit, license, ruling determination, or other official action shall be grounds for revocation thereof subject to and in accordance with applicable State and federal laws.

E. Ten taxpayers of the City ("the Taxpayers") shall have legal standing to institute a civil action to recover damages on behalf of the City or to implement any other remedy provided for in this chapter only in accordance with the following:

1. The Taxpayers shall first submit to the City Solicitor a written notice of the intention of the Taxpayers to bring such action with a statement of the grounds therefor;

2. Within sixty days of the receipt thereof the City Solicitor shall submit to the Taxpayers a written response thereto;

3. Thereafter the Taxpayers may institute such civil action unless:

a. In his response, the City Solicitor has stated that in his opinion there are no grounds for the institution of such action, with a statement of the reasons for such opinion, or

b. In his response, the City Solicitor has stated that the City itself intends to institute the proposed action and the City does in fact institute such action within one hundred twenty days of the issuance of the City Solicitor's written response to the Taxpayers. (Ord. 1128 (part), 1991)

2.117.130

2.117.130 Other remedies.

The City or any City agency may maintain an action for injunctive relief to enforce any provision of this chapter, and for an accounting for any economic benefit received by any person in violation of this chapter or other law, any may recover damages for violation of this chapter. (Ord. 1128 (part), 1991)

2.117.140 Relationship with other laws.

If this chapter and any State law apply to the same subject, the provision of broadest or most strict coverage shall control. (Ord. 1128 (part), 1991)

Chapter 2.118

**STATEMENTS OF FINANCIAL INTERESTS
BY CERTAIN CITY OFFICIALS AND
PERSONS CONDUCTING BUSINESS WITH
THE CITY**

Sections:

- 2.118.010 Definitions.
2.118.020 Administration.
2.118.030 Statement of interests—
Filing and information
required.
2.118.040 Enforcement.

2.118.010 Definitions.

As used in this chapter, unless the context requires otherwise:

A. "Amount" means a category of value, rather than an exact dollar figure, as follows: greater than one thousand dollars but not more than two thousand five hundred dollars; greater than two thousand five hundred dollars but not more than five thousand dollars; greater than five thousand dollars but not more than ten thousand dollars; greater than ten thousand dollars but not more than twenty-five thousand dollars; greater than twenty-five thousand dollars but not more than fifty thousand dollars; greater than fifty thousand dollars but not more than one hundred thousand dollars; greater than one hundred thousand dollars.

B. "Business" means any corporation, partnership, sole proprietorship, firm, franchise, association, organization, holding company, receivership, business or real estate trust, or any other legal entity organized for profit, nonprofit or charitable purposes.

C. "Business with which a person is associated" means any business in which the reporting person or a family member is an employee, a general partner, limited partner, proprietor, officer, director, trustee or serves in any managerial capacity; and any business more than one percent of any class of outstanding equity of which is beneficially owned

in the aggregate by the reporting person and/or family members.

D. "Candidate" means any individual who seeks nomination or election to the office of City Councilor or School Committee member. For the purposes of this chapter, an individual shall be deemed to be seeking nomination or election to an office if such individual has:

1. Received a political contribution or made an expenditure, or has given such individual's consent for any person or committee to receive a political contribution or make an expenditure, for the purpose of influencing such individual's nomination or election to such office, whether or not the specific municipal office for which such individual will seek nomination or election is known at the time the political contribution is received or the expenditure is made; or

2. Taken action necessary under the law to qualify such individual for nomination or election to such office.

E. "Doing business" is the purchase, lease or sale of goods or services in any transaction with the City or any department, agency, commission or other part thereof.

F. "Election Commission" means the Election Commission of the City.

G. "Equity" means any stock, interests in capital or profits and losses, or similar ownership interest in a business.

H. "Family member" means a spouse, any dependent children residing in the reporting person's household, or a sibling.

I. "Gift" means a delivery of goods, payment, entertainment, subscription, advance, services, or anything of value, unless consideration of equal or greater value is received. If items are furnished or services are rendered for less than the fair market value, the difference between the fair market value and the price shall be treated as a gift. "Gift" shall not include a political contribution reported as required by law, a commercially reasonable loan made in the ordinary course of business, anything of value received by inheritance, or a gift received from a family member or from a relative within the third

degree of consanguinity of the reporting person or the reporting person's spouse or from the spouse of any such relative.

J. "Legislative agent" means any person who for compensation or reward does any act to promote, oppose or influence legislation or any other matter before the City Council or School Committee, or to influence the decision of any member of the City administration where such decision concerns legislation or the adoption, defeat or postponement of a standard rate, rule or regulation pursuant thereto. The term shall include persons who, as any part of their usual employment and not simply incidental thereto, attempt to promote, oppose or influence such matters, whether or not any compensation in addition to the salary for such employment is received for such services.

K. "Municipal body" means any agency, authority, board, bureau, commission, committee, council, department, division, school department, or other legal entity within the government of the City.

L. "Municipal official" means:

1. Any individual holding any one of the following positions in the government of the City, whether by election or appointment: Mayor; Councilor; City Manager; Deputy City Manager; Assistant City Manager; City Clerk; Auditor; City Solicitor; School Committee Member; School Superintendent; Assistant Superintendent; Police Commissioner; Chief of Police; Chief of Fire Department;

2. The members of boards and commissions, and the executive or administrative head or heads of such boards or commissions, whether elected or appointed, compensated or uncompensated, of a municipal body or bodies with executive, regulatory or permitting authority; or

3. Any Category I — IV employee as defined by Section 2.62.010 of the Cambridge Code.

M. "Person" means a business, individual, corporation, union, association, firm, partnership, committee, or other organization or group of persons;

N. "Political contribution" means a contribution of money or anything of value to an individual, candidate or political committee, or person acting on behalf of any individual, candidate or political com-

mittee, for the purpose of influencing the nomination or election of such individual or candidate, or for the purpose of promoting or opposing a Charter change, referendum question, or other question submitted to the voters, and shall include any of the following:

1. Gift, subscription, loan, advance, deposit of money, or thing of value, except a loan of money to a candidate by a national or State bank made in accordance with the applicable banking laws and regulations and in the ordinary course of business;

2. Transfer of money or anything of value between political committees;

3. Payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to such candidate or committee;

4. Purchase from an individual, candidate or political committee, whether through the device of tickets, advertisements or otherwise, for fund-raising activities, including testimonials, held on behalf of such individual, candidate or political committee, to the extent that the purchase price exceeds the actual cost of the goods sold or services rendered;

5. Discount or rebate not available to other candidates for the same office and the general public; and

6. The forgiveness of indebtedness or payment of indebtedness by another person, but shall not include the rendering of services by speakers, editors, writers, poll watchers, poll checkers or others, nor the payment by those rendering such services of such personal expenses as may be incidental thereto, nor the exercise of ordinary hospitality;

O. "Reporting person" means any person required to file a statement of interests pursuant to Section 2.118.030. (Ord. 1131, 1992; Ord. 1129 (part), 1991)

2.118.020 Administration.

The Election Commission shall:

A. On or before March 1st of each year, request from the City Manager a list of the names and positions of all municipal officials, certified as to correctness and completeness, and the City Manager

shall furnish such a list within sixty days of receipt of such request;

B. Upon receipt of a statement of interests filed pursuant to this chapter, issue to the person filing such statement a receipt verifying the fact that a statement of interests has been filed and a receipted copy of such statement;

C. Make the list of municipal officials and statements of interests filed with the Election Commission pursuant to this chapter available upon written request of any individual for public inspection and copying during regular office hours and make photocopying facilities available at a charge not to exceed the actual cost; the Election Commission shall forward a copy of the request to the individual whose statement has been examined; provided, however, that such requests from the Attorney General of the Commonwealth of Massachusetts, the District Attorney of Middlesex County, or the State Ethics Commission shall be confidential;

D. Compile and maintain an alphabetical index of all filed statements of interests to facilitate public access to the statements;

E. Inspect all filed statements of interests to ascertain whether any reporting person has failed to file a statement as required by law or has filed a statement which is deficient on its face. After inspection, the Election Commission shall list all reporting persons who have failed to file a statement of interests and all reporting persons who have filed a statement of interests which is deficient on its face;

F. Notify each delinquent reporting person that a statement of interests has not been filed or that such a statement which has been filed is deficient. Such notice shall be in writing and shall state in detail each deficiency and the penalties for failure to file a correct statement of interests pursuant to this chapter;

G. Preserve all statements filed with it for six years from the date of receipt. (Ord. 1129 (part), 1991)

2.118.030 Statement of interests—Filing and information required.

A. Every candidate shall file a statement of interests for the preceding calendar year with the Election Commission on or before the date on which nomination papers for such candidate must be submitted to the Election Commission unless the candidate neither files nominating papers nor conducts a sticker or write-in campaign. In the event that the candidate does not file valid nomination papers with the Election Commission on or before the date required by law but subsequently conducts a sticker or write-in campaign, such candidate shall file the required statement of interests with the Election Commission no later than fifteen days prior to the date of the election at which he is to be a candidate.

B. Every municipal official shall file a statement of interests for the preceding year with the Election Commission:

1. On or before June 1st of each year that such person is a municipal official or within thirty days of becoming a municipal official, whichever is later; and

2. On or before June 1st of the year after such person ceases to be a municipal official; provided, however, that no former municipal official shall be required to file a statement of interests for any year in which such former municipal official was a municipal official for less than thirty days.

C. Every statement of interests shall be filed on the form prescribed hereby and shall be signed under penalty of perjury by the reporting person.

D. Every reporting person shall disclose, to the best of such reporting person's knowledge, the following information for such reporting person and every family member for the preceding calendar year:

1. The name and address of and the nature of association with any business from which income in excess of one thousand dollars is received if that business does any business with, has matters pending before or is subject to regulation, supervision or oversight by the agency, department, board, Election Commission or other part of the City which em-

employs the reporting person, or over which he or she has administrative or legislative control;

2. The name of all businesses transacting business in Cambridge as to which more than one percent of the beneficial ownership of which is held directly or indirectly by a family member;

3. The name and address of each creditor, located within or doing business with the City, to which more than one thousand dollars was owed on December 31st of the reporting year, and the original amount, the amount outstanding, the terms of repayment, and the general nature of the security pledged for each obligation; provided, however, that mortgages on the person's primary residence, obligations arising out of retail installment transactions, educational loans, medical and dental expenses, debt incurred in the ordinary course of an active ongoing business, and any obligation to make alimony or support payments shall not be reported; provided, further, that such information need not be reported if the creditor is a relative within the third degree of consanguinity or affinity;

4. The name and address of the source, and the cash value of any reimbursement for expense aggregating more than one hundred dollars in the calendar year if the recipient is a member of a municipal body and the source of such reimbursement is a person having an interest that is distinguishable from the public generally in legislation, legislative action, administrative action, or a matter before that municipal body;

5. The name and address of the donor, and the fair market value, as best determinable, of any gifts aggregating more than one hundred dollars in the reporting year, if the recipient is a member of a municipal body and the source of such gift(s) is a person having a direct interest in legislation, legislative action, or a matter before that municipal body;

6. The description, as appearing on the most recent tax bill of all real property in which direct or indirect financial interest was held, which has an assessed value greater than one thousand dollars; and, if the property was transferred during the year, the name and address of the person furnishing con-

sideration to the reporting person or receiving it from him in respect to such transfer;

7. The name and address of the source, and the fair market value, of any honoraria aggregating more than one hundred dollars, if the source of such honoraria is a legislative agent; or if the recipient is a member of a municipal body and the source of such honoraria is a person having a direct interest in legislation, legislative action, or a matter before that municipal body;

8. The name and address of any creditor who has voluntarily forgiven an indebtedness of over one thousand dollars, and the amount forgiven; provided, however, that no such information need be reported if the creditor is a relative within the third degree of consanguinity or affinity of the reporting person, or the spouse of such a relative;

9. The name and address of any business from which the reporting person is taking a leave of absence;

10. The identity of any equity in a business to which the reporting person is associated which has been transferred to a member of the reporting person's family; provided, however, that a family member who transfers equity to the reporting person need not report such an intrafamily transfer;

11. The date, nature, amount or value of any commercial or business transaction equal to or exceeding two hundred fifty dollars with any municipal official and the official.

E. Nothing in this section shall be construed to require the disclosure of information which is privileged by the law.

F. Failure of a reporting person to file a statement of interests within ten days after receiving notice as provided in subsection A of Section 2.118.040 of this chapter or the filing of an incomplete statement of interests after receipt of such a notice, is a violation of this chapter and the Commission may initiate appropriate proceedings pursuant to the provisions of Section 2.118.040 of this chapter. (Ord. 1129 (part), 1991)

2.118.040 Enforcement.

A. The Election Commission shall determine whether any reporting person has failed to file a statement of interests or has filed a deficient statement. If the Election Commission determines that reporting person has failed to file a statement of interest, or that any such statement filed with the Election Commission does not conform with the requirements of subsection D of Section 2.118.030, then the Election Commission shall notify the delinquent in writing. Such notice shall state in detail each deficiency and the penalties for failure to file a correct statement of interests pursuant to this chapter.

B. If within ten days of the sending of a notice a prescribed by subsection A of this section a statement complying with the requirements of this chapter is not received, after further notice affording the delinquent to be heard, if the election Commission determines that the delinquent has violated the provisions of this chapter, the Election Commission may assess a fine of not more than three hundred dollars for each day after said ten days that such violation has continued. The City may commence a civil action in the Superior Court to collect any such fine. The Election Commission shall also report the failure to file to the Attorney General and the District Attorney for Middlesex County.

C. Every person who filed a false statement of interests under this chapter shall be punished by a fine of not more than three hundred dollars for each offense. Every failure to disclose truthfully any matter required to be disclosed hereunder shall constitute a separate offense.

D. In addition to the penalties provided hereunder, any municipal official who violates this chapter shall be subject to appropriate discipline, including suspension, termination or censure, consistent with any requirements of the State Civil Service Law and City Charter and ordinances. (Ord. 1129 (part), 1991)



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Linda A. Stamper
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Arthur J. Goldberg
Legal Counsel

February 19, 1992

Robert Healy
City Manager
City Hall
Cambridge, MA 02139

Re: Effective Date of Chapter 2.118 Reporting Requirements

Dear Mr. Healy:

This opinion is written in response to inquiries about the effective date of the reporting requirements in Chapter 2.118 of the Cambridge Municipal Code, which is entitled "Statement of Financial Interests by Certain City Officials and Persons Conducting Business with the City."

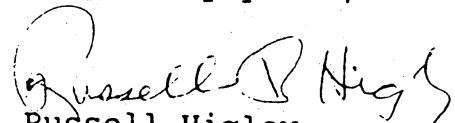
The initial reporting period created by the ordinance is January 1, 1992 to December 31, 1992. The first disclosure statement for the initial reporting period is due by June 1, 1993 for affected municipal officials, and, for local candidates who file nomination papers, by the date in 1993 on which nomination papers must be submitted. See §§2.118.010 and 2.118.030.

The City Council voted that Chapter 2.118 would be effective January 1, 1992. However it is not clear whether by that vote the

Council intended that the ordinance be given a retroactive effect by making 1991 the initial reporting period and 1992 the first year in which the filing of disclosure statements would be required. The general rule is that a legislative intent that a law is to have a retroactive effect will not be presumed. Such an intent must be shown by clear and unequivocal language. 6 McQuillin, Municipal Corporations, §20.69 (3d ed. 1988); Murphy v. Planning Board of Norwell, 5 Mass.App.Ct. 393, 396 (1977). Because any intent that Chapter 2.118 be given retroactive effect was not clearly expressed, such an intent may not be presumed. Verne W. Vance, Esq. of Foley, Hoag & Eliot, the attorney who assisted in the drafting of Chapter 2.118, concurs in this opinion.

I recommend that this opinion be forwarded to the Election Commission for distribution to municipal officials and candidates who will be affected by the disclosure requirements of Chapter 2.118.

Very truly yours,


Russell Higley
City Solicitor

Policy 93.1

ADMINISTRATION OF ETHICS ORDINANCE

1. On or before March 1st of each year the Election Commission shall request from the City Manager a list of the names and positions of all **municipal officials** required to file a **Statement of Financial Interest**.
2. Subsequent to receiving such list, the Commission shall notify in writing those **municipal officials** listed of their obligation to file, and shall provide them with:
 - a) a copy of Chapters 2.117, 2.118 (the "Ethics Ordinance");
 - b) a Statement of Financial Interests Form;
 - c) a Statement of Financial Interests Fact Sheet;
3. **Municipal Candidates** must file a Statement of Interest on or before the date nominating papers are due. Candidate kits shall include a copy of items **2. a,b,c**.
4. Upon notice of a write-in and/or sticker campaign for a municipal office, the Election Commission shall provide the candidate items **2. a,b,c**. The candidate shall file no later than 15 days prior to election day.
5. A receipted copy of the Statement of Interest shall be issued to all persons filing a Statement of Interest.
6. All statements shall be held for six years from the date of receipt.
7. An alphabetical index by last name and a cross-referenced alphabetical index by department or public office shall be compiled of all persons required to file.
8. All requests for the list of persons required to file and for inspection of their financial forms, must be submitted in writing.
9. A copy of the written request to inspect a file and a cover letter shall be forwarded within 10 days of the inspection to the person whose Statement has been examined **unless** the request comes from the Attorney General, the District Attorney of Middlesex County, or the State Ethics Commission.
10. Copies, **not originals**, shall be available for review. Staff shall instruct persons reviewing files that they may not be marked of changed in any way. Persons wishing to see original copies may do so under staff supervision.
11. Photocopies shall be made available at \$0.20 per page.

12. The Commission shall prepare within 5 days after the deadline for filing three (3) lists as follows:
 - (1) A list of municipal officials who fail to file by June 1st or have filed a deficient statement.
 - (2) A list of municipal candidates who fail to file by the date nomination papers are due or have filed a deficient statement.
 - (3) A list of known write-in/sticker municipal candidates who fail to file 15 days prior to election day or have filed a deficient statement.
13. The Commission shall inspect each Statement to ascertain whether or not it is deficient on its face within 10 days of its receipt.
14. Subsequent to determining whether a person has failed to file or has filed a deficient statement the Commission shall notify the delinquent person in writing. Said notice shall state each deficiency in detail and the penalties for non-compliance.
15. After 10 days if the statement is not received, or the deficiency corrected, the Commission shall notify the delinquent person, who shall have the opportunity to be heard.
16. The Commission may assess a fine of up to \$300.00 a day for each day after the expiration of the 10-day notice period.
17. The failure to file shall be reported to the Attorney General and to the District Attorney for Middlesex County.
18. Assessment of fines shall be reported to the City Solicitor in order that the City may commence a civil action in the Superior Court to collect any such fine.
19. There will be maintained an indexed list referenced by subject matter of legal opinions from the City Solicitor. It will be referred to in the event of a filers request for information.
20. In accordance with the opinion of the City Solicitor a 3 day grace period is permitted for filing receipt in the office.
21. Forms pursuant to the policy are attached.



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Linda A. Stamper
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Arthur J. Goldberg
Legal Counsel

January 26, 1993

Robert W. Healy
City Manager
City Hall
Cambridge, MA 02139

Re: Financial disclosure request of Jacqueline S. Sullivan

Dear Mr. Healy:

With its opinion request of December 23, 1992, the Election Commission enclosed a private request for opinion (copy attached) received from an attorney representing Cambridge Redevelopment Authority chairperson Jacqueline S. Sullivan. The attorney, Charles W. Sullivan, Jr. requested an opinion as to whether Ms. Sullivan was required to file a financial disclosure statement pursuant to Chapter 2.118 of the Code of Ordinances.

She is. As either chairperson or a member of the Cambridge Redevelopment Authority, she is required to file a disclosure statement. I note that Ms. Sullivan was on the list of municipal officials certified by you to the Election Commission on June 9, 1992 as being subject to the disclosure requirements by virtue of her membership on the Cambridge Redevelopment Authority.

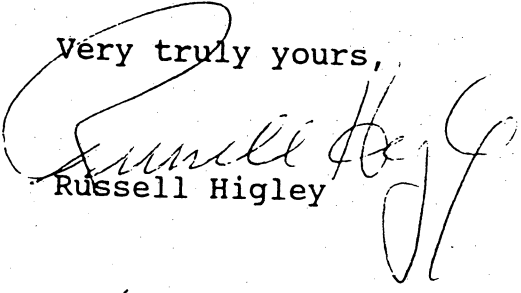
§2.118.030(B) provides that every "municipal official" shall file a statement of interests. The definition of "municipal official" in §2.118.010(L)(2) applies here. It provides that municipal officials include, "The members of boards and commissions, and the executive or administrative head or heads of such boards or commissions, whether elected or appointed, compensated or uncompensated, of a municipal body or bodies with executive, regulatory or permitting authority." §2.118.010(K) defines "municipal body" to include "any agency, authority, board, bureau, commission, committee, council, department, division, school department, or other legal entity within the government of the City."

Attorney Sullivan reads the somewhat confusing language of §2.118.010(L)(2) quoted above to mean that only members and heads of boards and commissions fall within the definition of "municipal official." While it is true that the definition is not entirely clear, it is my opinion that the proper reading of it does not exempt members of agencies, authorities, bureaus, committees, councils, departments, divisions, the school department, or other legal entities from being municipal officials subject to the disclosure requirements. Attorney Sullivan's reading of the definition would exempt such members by only including board and commission members from the list of entities under the definition of "municipal body." It is my opinion that the intent of the language defining "municipal official" was to include members of all "municipal bodies" with executive, regulatory or permitting

authority such as the Cambridge Redevelopment Authority.

The City Council may wish to clarify the language by amending the ordinance to delete the words "of boards and commissions" at both places they appear in §2.118.010(L)(2).

Very truly yours,


Russell Higley

cc. Darlene Bonislowski, Election Comm'n. ✓
Verne Vance, Esq.
Charles W. Sullivan Jr., Esq.

*Election
Commission*



93 APR 26 AM 9:33

CITY OF CAMBRIDGE

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Arthur J. Goldberg
Legal Counsel

Robert W. Healy
City Manager
City Hall
Cambridge, MA 02139

April 29, 1993

Re: Financial disclosure requirements of Chapter 2.118

Dear Mr. Healy:

The Election Commission raised the following question concerning the financial disclosure requirements of Chapter 2.118 of the Code of Ordinances:

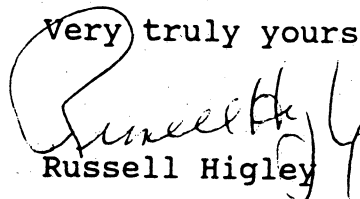
What is the definition of a direct interest and an indirect interest as those terms are used in questions 2 and 6 of the Statement of Financial Interests Form? Question 2 requires information as to businesses in which direct or indirect beneficial ownership is held. Question 6 requires information concerning real property in which direct or indirect financial interest is held.

No definition of these terms is given in the ordinance. It is best for a reporting person to err on the side of disclosure, but an opinion may be requested on any particular situation. Opinions

will be given on a case by case basis.

Presumably, direct interests are readily identifiable. Indirect beneficial ownership of a business would include stock or bond ownership, or ownership by way of a partnership or trust agreement through which some benefit is received. Indirect financial interest in realty would include the circumstance where a benefit is received by way of a partnership or trust agreement, where a mortgage is held, or, for instance, where the reporting person is a parent who puts property in a child's name while continuing to make the mortgage payments on the property and while still using the property.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Russell Higley". The signature is written in dark ink and is positioned above the typed name.

Russell Higley



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Linda A. Stamper
Legal Counsel

Arthur J. Goldberg
Legal Counsel

August 19, 1993

Joseph F. Tulimieri
Executive Director
Cambridge Redevelopment Authority
Four Cambridge Center
Cambridge, MA 02124

Re: Chapter 2.118 of the Cambridge Municipal Code

Dear Mr. Tulimieri:

Thank you for forwarding a copy of the legal opinion rendered by Herbert Berman, Esq. that concludes that members and employees of the Cambridge Redevelopment Authority are not subject to the financial disclosure requirements of Chapter 2.118 of the Cambridge Municipal Code (copy attached). For the following reasons, I disagree with Mr. Berman's conclusion.

The filing requirements of Chapter 2.118 apply to municipal officials. At §2.118.010(L)(2), the ordinance defines "municipal official" as:

The members of boards and commissions, and the executive or administrative head or heads of such boards and commissions, whether elected or appointed, compensated or uncompensated, of a municipal body or bodies with executive, regulatory or permitting authority;

"Municipal body" is defined at §2.118.010(K) as:

...any agency, authority, board, bureau, commission, committee, council, department, division, school department, or other legal entity within the government of the City.
(Underlining added)

Mr. Berman states that in his view the Redevelopment Authority is neither an agent nor department of the City and cites a Supreme Judicial Court case from 1943 (Johnson-Foster Co. v. D'Amore Construction Co.) for the proposition that the Redevelopment Authority is a completely separate and independent entity from the City.

However, the line of distinction is not nearly as clear as he states. In Forbes & Wallace, Inc. v. Springfield, 21 Mass.App.Ct. 268 (1985), the Court states:

[V]arious provisions of c.121B, e.g. ss.19 and 20, contemplate that a city, by proper action pursuant to any necessary authority given by its legislative body, may participate extensively in the work of a redevelopment agency within its borders. Id. at 274.

G.L.c.121B, s.5 provides that the City's chief executive shall appoint 4 of the 5 Redevelopment Authority members. G.L.c.121B, s.6 provides, with some conditions, for the removal of such members by City officials for "inefficiency, neglect of duty or misconduct in office...." The reference to misconduct in office gives City officials some oversight over the ethical behavior of Redevelopment Authority members.

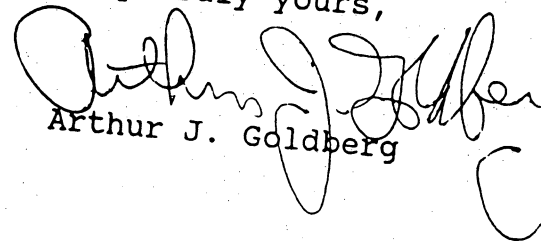
Most significantly, G.L.c.121B, s. 7 speaks to the issue of the classification of Redevelopment Authority members for purposes of the state laws governing the conduct of state, county and municipal public officials and employees. It provides:

For the purposes of chapter two hundred and sixty-eight A [entitled Conduct of Public Officials and Employees]..., each housing and redevelopment authority shall be considered a municipal agency...and each member of such an authority...shall be considered a special municipal employee.

This provision clearly provides that, with reference to compliance with ethical laws, Redevelopment Authority members are to be treated like special municipal workers.

Based on these provisions, it is my opinion that the members and Executive Director of the Cambridge Redevelopment Authority are municipal officials for purposes of Chapter 2.118 and are subject to the disclosure requirements of Chapter 2.118.

Very truly yours,


Arthur J. Goldberg

cc. Robert W. Healy, City Manager
Herbert Berman, Esq., Foley, Hoag & Eliot
Teresa Neighbor, Election Comm'n.

PSC	EMS	HLE
AJC	MCS	MA
MED	TJT	FST
NG	WFT	PPR
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FOLEY, HOAG & ELIOT

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 WASHINGTON, D.C. 20036
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HERBERT L. BERMAN

July 22, 1993

Mr. Joseph F. Tulimicri
 Executive Director
 Cambridge Redevelopment Authority
 Four Cambridge Center
 Cambridge, MA 02124

Dear Joe:

I have received the materials distributed by the Board of Election Commissioners, including a copy of Chapter 2.118 of the Cambridge Municipal Code.

This Chapter requires certain filings to be made by "municipal officials" and by candidates for election to the City Council and School Committee. Paragraph L of Section 2.118.010 defines "municipal official" to mean:

1. Any individual holding any one of the following positions in the government of the City, whether by election or appointment: Mayor, Councilor, City Manager, Deputy City Manager, Assistant City Manager, City Clerk, Auditor, City Solicitor, School Committee Member, School Superintendent, Assistant Superintendent and Principals, Police Commissioner, Chief of Police, Chief of Fire Department.

2. The members of board and commissions, and the executive or administrative head or heads of such boards or commissions, whether elected or appointed, compensated or uncompensated, of a municipal body or bodies with executive, regulatory or permitting authority, or

3. Any Category I - IV employee as defined by Section 2.62.010 of the Cambridge Code.

In my view, a member or employee of the Redevelopment Authority is not a "municipal official." While the Redevelopment Authority is an instrumentality of government, it is neither the City nor an agent or department of the City. In a case dealing with a statute which required officers or agents who contract in behalf of a city or town to take certain action, the Supreme

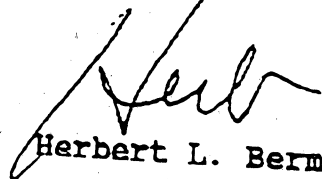
Mr. Joseph F. Tulumieri
July 22, 1993
Page -2-

Judicial Court held that the statute did not extend to officers of a local housing authority (which is created under the same statute and in the same fashion as a local redevelopment authority) and stated:

"... the housing authority was not itself a county, city or town, and it was not the agent or a department of the City of New Bedford. The statutes establishing housing authorities make it plain that such an authority, although organized by and in each city and town in cooperation with the State, is nevertheless, when organized, a complete corporate entity in itself, distinct from the municipal corporation within where tentatively it is set up, and exercising its powers in its own independent right." Johnson - Foster Co. v. D'Amore Construction Co, 314 Mass. 416,419 (1943).

Accordingly, it is my view that no filing is required under Chapter 2.118 of the Cambridge Municipal Code by members or employees of the Redevelopment Authority unless such person is a candidate for election to the City Council or School Committee.

Very truly yours,



Herbert L. Berman

HLB:cmm

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10

PSC	EMS	HLE
AJC	MCS	MA
MED	TJT	FST
NG	WT	PPR
AAH	JPY	

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HERBERT L. BERMAN

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2. The members of board and commissions, and the executive or administrative head or heads of such boards or commissions, whether elected or appointed, compensated or uncompensated, of a municipal body or bodies with executive, regulatory or permitting authority, or
3. Any Category I - IV employee as defined by Section 2.62.010 of the Cambridge Code.

In my view, a member or employee of the Redevelopment Authority is not a "municipal official." While the Redevelopment Authority is an instrumentality of government, it is neither the City nor an agent or department of the City. In a case dealing with a statute which required officers or agents who contract in behalf of a city or town to take certain action, the Supreme

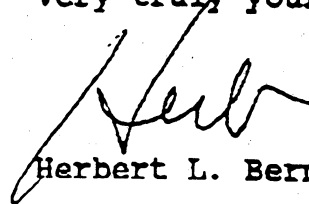
Mr. Joseph F. Tulumieri
July 22, 1993
Page -2-

Judicial Court held that the statute did not extend to officers of a local housing authority (which is created under the same statute and in the same fashion as a local redevelopment authority) and stated:

"... the housing authority was not itself a county, city or town, and it was not the agent or a department of the City of New Bedford. The statutes establishing housing authorities make it plain that such an authority, although organized by and in each city and town in cooperation with the State, is nevertheless, when organized, a complete corporate entity in itself, distinct from the municipal corporation within where tentatively it is set up, and exercising its powers in its own independent right." Johnson - Foster Co. v. D'Amore Construction Co, 314 Mass. 416,419 (1943).

Accordingly, it is my view that no filing is required under Chapter 2.118 of the Cambridge Municipal Code by members or employees of the Redevelopment Authority unless such person is a candidate for election to the City Council or School Committee.

Very truly yours,



Herbert L. Berman

HLB:cmm



CITY OF CAMBRIDGE

Office of the City Solicitor
City Hall

795 Massachusetts Avenue
Cambridge, Massachusetts 02139

Tel. (617) 349-4121

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Michael C. Costello
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Birge Albright
Legal Counsel

Gail S. Gabriel
Legal Counsel

Diane Wynshaw-Boris
Legal Counsel

Laura H. Yager
Legal Counsel

Linda A. Stamper
Legal Counsel

Arthur J. Goldberg
Legal Counsel

September 3, 1993

Vincent J. Panico, Esq.
O'Neill, Conrigan, Russian, Greenberg & Panico
2343 Massachusetts Avenue
Cambridge, MA 02140

Re: Inquiry regarding Statement of Interests

Dear Mr. Panico:

I am writing in response to your August 23 inquiry (copy attached) about the statement of financial interests you filed pursuant to Chapter 2.118 of the Code of Ordinances. You based your question on the following facts:

You are the Chairman of the Traffic and Parking Commission and an attorney in private practice in Cambridge. You state that you represented the White Hen Pantry on Massachusetts Avenue in their application for a liquor license before the Cambridge License Commission. During your representation, an issue arose regarding curb cuts which was addressed by Lauren Preston in the Traffic Department. You have no financial interest in White Hen Pantry other than your legal representation of them.

You ask whether these facts subject you to the disclosure requirements of §2.118.030(D)(1) which requires disclosure of:

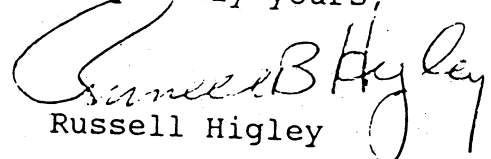
The name and address of and the nature of association with any business from which income in excess of one thousand dollars is received if that business does any business with, has matters pending before or is subject to regulation, supervision or oversight by the agency, department, board, Election Commission or other part of the City which employs the reporting person, or over which he or she has administrative or legislative control.

I will assume that you have received income in excess of one thousand dollars from White Hen Pantry. The issue to be resolved then is whether White Hen Pantry "has matters pending before or is subject to regulation, supervision or oversight by" the Traffic and Parking Commission by virtue of the issue concerning the size of its curb cuts. Based on the facts stated, it does not appear that it does.

The power of the Traffic and Parking Commission is limited to voiding regulations proposed by the Traffic Director only if a petition of fifty voters is filed with it challenging the regulations and only after a public hearing on the issues is held. Chapter 455, Acts of 1961, Section 3(a); Article II, section 2.10 of the Cambridge Traffic Regulations. There is no indication in the facts presented that the White Hen Pantry's curb cuts were ever an issue before the Traffic and Parking Commission or subject to regulation, supervision or oversight by the Commission.

Therefore, disclosure is not required by §2.118.030(D)(1).

Very truly yours,


Russell Higley

cc. Teresa Neighbor, Election Commission

LAW OFFICES

O'NEILL, CONRAGAN, RUSSIAN, GREENBERG & PANICO
PROFESSIONAL ASSOCIATION

HERBERT S. O'NEILL
ARAM K. CONRAGAN, JR.
HRANT H. RUSSIAN
VINCENT J. PANICO
MICHAEL D. GREENBERG

2343 MASSACHUSETTS AVENUE · CAMBRIDGE, MASSACHUSETTS 02140
AREA CODE (617) · 876-2020

August 23, 1993

Russell B. Higley, Esq.
323 Broadway
Cambridge, MA 02139

RE: City of Cambridge
Election Commission, Statement of Interests

Dear Russ:

I represent White Hen Pantry on Massachusetts Avenue in North Cambridge in their application for a liquor license before the Cambridge Licensing Commission.

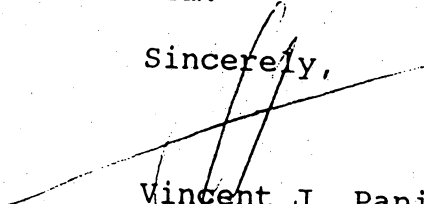
During the hearing period, an issue arose regarding the size of the curb cuts. Lauren Preston from the Traffic Department was contacted by the North Cambridge Community Organization which sought his opinion regarding the curb cuts. Eventually, no changes were made to the curb cuts.

As you know, I am Chairman of the Traffic and Parking Commission. When I submitted my Statement of Financial Interests form in Paragraph 1), I indicated that I did not receive \$1,000 income from any legal entity which was subject to regulation, etc. of any board I was serving on.

I have no financial interest in White Hen Pantry other than my legal representation of them as an attorney. Therefore, I answered "None" to the inquiries in Paragraph 1) on the Statement of Interests.

If you have a contrary opinion, would you please let me know and if necessary I will amend the form.

Sincerely,


Vincent J. Panico

VJP/ja

**CITY OF CAMBRIDGE
ELECTION COMMISSION**

For Official Use Only

**STATEMENT OF FINANCIAL INTERESTS
FOR CALENDAR YEAR 1993**

This form is prepared pursuant to Chapter 2.118 of the Cambridge Municipal Code.

Filing period
January 1, 1993 - December 31, 1993

When properly stamped by the Cambridge Election Commission, this will constitute receipt for filing for 1993.

Name: _____
Address: _____
Title: _____

Attach additional pages if more space is needed.

1. State the name and address of each business (defined as any legal entity organized for profit, non-profit or charitable purposes) from which income in excess of one thousand dollars (\$1,000.00) is received and the nature of your or your family's association with each business.

This information need not be provided unless the business has matters pending before, does any business with, or is subject to regulation, supervision or oversight by the agency, department, board, election commission or other city office which employs you, or over which you have administrative or legislative control.

payor	address	association
[] not applicable		

2. State the name and address for each business transacting business in Cambridge for which more than one percent (1%) of the beneficial ownership is held directly or indirectly by a family member.

[] not applicable

3. State the name and address of each creditor located within or doing business with the City of Cambridge to which more than one thousand dollars (\$1,000.00) was owed on December 31 of the reporting year, the original amount owing, the amount outstanding, the general nature of the security pledged for each obligation, and the terms of repayment (the annual interest rate and either the year final repayment is due or in the case of ongoing credit, the frequency of required payments, e.g. monthly).

The following need not be reported: mortgages on the primary residence, obligations on retail installment transactions, educational loans, medical and dental expenses, debt incurred in the ordinary course of an active ongoing business, alimony or support obligations, and any obligation in which the creditor is related within the third degree of consanguinity or affinity.

creditor	address	original amount	amount owing	terms rate/time	security
[] not applicable					

4. If you are a member of a municipal body (defined to include any agency, committee, council, board, department or other legal entity within city government), state the name and address of any person who reimbursed you for any expense aggregating more than one hundred dollars (\$100.00) during the reporting period and the cash value of such reimbursement.

This information need not be reported unless the reimbursor has an interest that is distinguishable from the public generally in legislation, legislative action, administrative action, or a matter before that municipal body.

reimbursor	address	amount
[] not applicable		

5. If you are a member of a municipal body, state the name and address of any donor of gifts aggregating more than one hundred dollars (\$100.00) during the reporting period and the fair market value of such gifts as best determinable.

This information need not be reported unless the donor is a person with direct interest in legislation, legislative action, or a matter before that municipal body.

donor	address	value
[] not applicable		

6. Describe (using the description on the most recent tax bill), including address, all real property in which direct or indirect financial interest was held which has an assessed value greater than one thousand dollars (\$1,000.00). If the real property was transferred during the reporting period, state the name and address of the person furnishing consideration to, or receiving it from, you.

realty	transferor/transferee (if during reporting period)
<input type="checkbox"/> not applicable	

7. If a legislative agent (a person who is compensated for acting to promote, oppose or influence local legislation) is the source of honoraria aggregating more than one hundred dollars (\$100.00), state the agent's name and address and fair market value of the honoraria.

If you are a member of a municipal body, such honoraria shall only be reported if the source is a person having a direct interest in legislation, legislative action, or a matter before that municipal body.

agent paying honoraria	address	value
<input type="checkbox"/> not applicable		

8. State the name and address of any creditor who voluntarily forgave a debt of over one thousand dollars (\$1,000.00) and the amount forgiven.

This information need not be provided if the creditor is your relative within the third degree of consanguinity or affinity, or your spouse.

creditor	address	amount forgiven
<input type="checkbox"/> not applicable		

9. State the name and address of any business from which you are taking a leave of absence.

<input type="checkbox"/> not applicable

10. Identify the equity (defined as any stock, interests in capital or profits and losses, or similar ownership interest) in any business with which you are associated that has been transferred to a member of your family. A family member who transfers equity to you need not report such an intrafamily transfer.

equity transferred	recipient family member
<input type="checkbox"/> not applicable	

11. State the nature, amount, and date of any commercial or business transaction worth two hundred and fifty dollars (\$250.00) or more between any municipal official and you.

transaction	amount	name of official	date
<input type="checkbox"/> not applicable			

I swear under the pains and penalties of perjury that the information in this Statement of Interests, and on any attached pages, is true to the best of my knowledge. I understand that filing a deficient or false Statement of Interests may result in legal action being taken against me.

Signature _____

Date _____

STATEMENT OF FINANCIAL INTERESTS FACT SHEET**Municipal Ordinance Chapter 2.118****1. WHO MUST FILE ?**

Each year, by April 30, the Cambridge Election Commission receives from the City Manager a certified list of names of all municipal officials specified in the ordinance who must file a Statement of Interests form with the Election Commission.

In addition to the people named on that list, all candidates for City Council and School Committee must file.

Note: Where "family" appears in the ordinance on the Statement of Financial Interests form, it includes persons who are officially recognized as "domestic partners" by the City, i.e. who have registered at City Hall.

2. WHAT ARE THE DEADLINES FOR FILING ?

Municipal officials must file on or before June 1 of each year, providing information concerning the preceding calendar year. Newly appointed officials must file by June 1 or within 30 days of their appointment, whichever is later. Departing officials must file by June 1 of the year following their departure unless they served less than 30 days during their last year.

Candidates must file on or before the date that nomination papers are due to be filed with the Election Commission, providing information concerning the preceding calendar year. Sticker or write-in candidates must file no later than 15 days prior to election day.

3. WHAT IS THE FILING PROCEDURE ?

a) The required form is provided by the Election Commission.

b) Upon filing, the reporting person will be given a receipted copy of the form verifying the fact of the filing.

c) Each completed form will be inspected by the Election Commission for any deficiencies. A list of delinquent and deficient filers will be compiled by the Commission.

d) Delinquent and deficient filers will be notified in writing. They must correct the problem, or they may be subject to being fined and reported to the Attorney General and the Middlesex District Attorney.

4. MUST FILERS FILL IN ALL THE BLANKS ON THE STATEMENT OF INTERESTS FORM FOR THE FORM TO BE DEEMED COMPLETE ?

Yes. If a question does not apply to a filer, the filer should indicate in writing on the form that the question does not apply. Leaving a question blank is an inadequate means of indicating that the question does not apply.

5. WHO HAS ACCESS TO THE COMPLETED FORMS ?

Any individual may request in writing the list of municipal officials and may inspect and copy (at cost) any Statement of Interests form on file with the Election Commission. An alphabetical index will be available to ease public access. A copy of such a written request will be sent to the official or candidate whose form has been examined, except when the inquiring party is the Attorney General, the Middlesex District Attorney, or the State Ethics Commission. Statements will be held for 6 years from the date of receipt.



CITY OF CAMBRIDGE

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City Hall

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Cambridge, Massachusetts 02139

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Laura H. Yager
Legal Counsel

Linda A. Stamper
Legal Counsel

Arthur J. Goldberg
Legal Counsel

February 15, 1994

Robert W. Healy
City Manager
City Hall
Cambridge, MA 02139

Re: Financial Disclosure Ordinance Questions

Dear Mr. Healy:

This is a response to questions raised by the Board of Election Commissioners in a memo dated February 3, 1994 (copy attached).

Question 1 is an inquiry by an unsuccessful candidate for the City Council in the 1993 election who asks whether he is required to file a Statement of Financial Interests in 1994 for calendar year 1993. He filed a Statement on July 30, 1993 for the 1992 calendar year.

He is not required to file another Statement in 1994 for calendar year 1993. Section 2.118.030(A) of the Code of Ordinances requires every candidate to file a Statement for the preceding year on or before the date on which nomination papers for such candidate must be submitted. There is no other requirement in the ordinance obligating a candidate to file. According to the Election

Commission, July 30, 1993 was the date on which nomination papers for candidates had to be submitted for the November, 1993 municipal election. Therefore, candidates in the November, 1993 election were obligated to file for calendar year 1992. According to the Election Commission, the next date on which nomination papers for candidates must be submitted is July 30, 1995 for the next municipal election in November, 1995. Therefore, the next date by which candidates must file is July 30, 1995 for calendar year 1994. This is so even though the person meets the definition of candidate in Section 2.118.010(D) during the year between elections, in this case calendar year 1993.

Question 2 asks what is meant by "the terms of repayment" in Section 2.118.030(D)(3) which requests information concerning creditors to which more than \$1,000 was owed on December 31 of the reporting year. The phrase is not defined in the ordinance. The word "term" has different meanings. Black's Law Dictionary defines term in many different ways including, "a specified period of time," and defines "terms" in many different ways including, "conditions, obligations, rights, price, etc., as specified in contract or instrument." When a word is not well-defined in the ordinance, the benefit of the doubt should be given to a reporting person who gives information that could be construed as responsive. Question 2 does not contain any specific example of a questionable response.

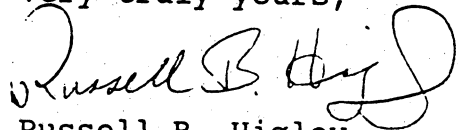
The State Ethics Commission construes the phrase "terms of repayment" on its Statement of Financial Interests to mean the

annual interest rate and either the year final repayment is due or, in the case of ongoing credit, the frequency of required payments (e.g. monthly). However, the state form specifically defines terms of repayment as requiring that information.

The vagueness in the Cambridge form could be remedied by an amendment to the ordinance by the City Council, or by an administrative determination by the Election Commission, that the interest rate and year for repayment are required to be disclosed to adequately describe the terms of repayment. Any ordinance amendment or administrative determination should be clearly communicated to reporting people.

Please contact me if I can be of further assistance.

Very truly yours,



Russell B. Higley

cc. Teresa Neighbor, Election Comm'n.

CITY OF CAMBRIDGE

Chapter 2.118 - Statement of Financial Interests

— INSPECTION REQUEST —

FOR OFFICIAL USE ONLY

STATEMENT OF FINANCIAL INTERESTS TO BE INSPECTED:

FILER'S NAME: _____

YEAR(S): _____

REQUESTER'S NAME: _____
(PLEASE PRINT)

AFFILIATION (PERSON OR ORGANIZATION ON WHOSE BEHALF YOU ARE OBTAINING THIS REPORT) IF ANY _____

REQUESTER'S ADDRESS: _____

REQUESTER'S SIGNATURE: _____ DATE: _____

A COPY OF THIS WILL BE SENT TO THE PERSON WHOSE SFI HAS BEEN INSPECTED.

TYPE OF IDENTIFICATION: _____

DATE PROCESSED: _____

BY: _____

INITIALS



CITY OF CAMBRIDGE

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Cambridge, Massachusetts 02139

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Legal Counsel

Paul S. Gabriel
Legal Counsel

Diane Wynshaw-Boris
Legal Counsel

Laura H. Yager
Legal Counsel

Linda A. Stamper
Legal Counsel

Arthur J. Goldberg
Legal Counsel

April 28, 1993

Theresa Neighbor
Executive Director
Election Commission
362 Green Street
Cambridge, MA 02139

Re: Financial disclosure ordinance §2.118

Dear Theresa:

Enclosed is the certified list of city officials who are subject to the financial disclosure ordinance. The list does not include candidates, who will be subject to the disclosure ordinance as well.

01 6 17 08 AM '93.
ELECTION COMMISSION
100 STATE STREET

Very Truly Yours,

A handwritten signature in cursive script that reads "Arthur J. Goldberg".

Arthur J. Goldberg

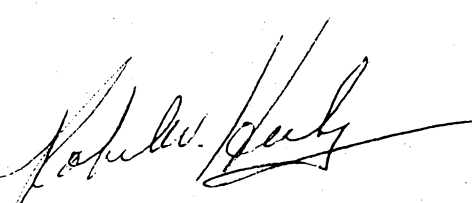


CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

TEL. 349-4300
FAX. 349-4307

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

TO: Cambridge Election Commission
FROM: Robert W. Healy, City Manager 
DATE: April 28, 1993
RE: List of positions and names to which the financial disclosure ordinance (§2.118) applies

<u>POSITIONS</u>	<u>NAMES</u>
1. Mayor	Kenneth Reeves
2. Councillors	Edward Cyr, Timothy Toomey, Jr., Jonathan Myers, Alice Wolf, Francis Duehay, William Walsh, Sheila Russell and Walter Sullivan
3. City Manager	Robert W. Healy, Jr.
4. Deputy City Manager	Richard Rossi
5. Assistant City Managers	Geraldine Herold, Michael Rosenberg, and James Maloney, Jr.
6. City Clerk (former) City Clerk	Joseph Connarton; Margaret Drury
7. City Auditor	Arthur Libitz
8. City Solicitor	Russell B. Higley

9. School Committee Members
Kenneth Reeves, E.
Denise Simmons,
Henrietta Davis,
Alfred Fantini, James
Rafferty, David Maher
and Larry Weinstein
10. School Superintendent
Mary Lou McGrath
11. Assistant Superintendent
Sandra Spooner and
Patrick Murphy
12. Police Commissioner
Perry Anderson, Jr.
13. Chief of Fire Department
Kevin Fitzgerald
14. Hospital Administrator
John O'Brien
15. Commissioner of Health
and Hospitals
Melvin Chalfen, M.D.
16. Commissioner of Public Works
David Haley
17. a. Managing Director and Acting
Commissioner of Inspectional
Services
Robert Bersani
b. Commissioner of Inspectional
Services
Joseph Cellucci
18. Director of Traffic and Parking
George Teso
19. Director of Personnel and
Labor Relations
Michael Gardner
20. a. Director of Library and
Communications
Joseph Sakey
b. Acting Director of Library
and Communications
Susan Flannery
21. Administrator of Neville Manor
Anthony Paul Hollings
22. Water Superintendent
Nancy Barnes
23. City Engineer
Ann Daughaday
24. Principal Assessor
Sally Powers
25. Budget Director
Louis DePasquale
26. City Electrician
George Fernandes

27. a. Purchasing Agent (former)
b. Purchasing Agent
- Barbara Duffy
Diane Wynshaw-Boris
28. Director of Rent Control
- Terrence Morris
29. Director of Veterans' Services
- William Cabral
30. License Commission Chairperson
- Alex Rodriguez
- {Boards or Commissions with permitting authority, and their executive or administrative head}
31. Conservation Commission members
- Dorothy Altman,
William C. Brandon,
Ingeborg Hegemann
Clark, George
Ehrenfried, Stuart
Lesser, Cymie Payne
and Bette Woody
- Director (former)
Director
- Elizabeth Epstein
Alex Strysky
32. Zoning Board of Appeals members
- Lauren Curry, Michael
Wiggins, John Miller,
Charles Pierce, George
Spartachino, Arch
Horst, Susan Spurlock,
John O'Connell and
Theodore Hartry
33. Planning Board members
- Acheson Callaghan,
Alfred Cohn, Paul
Dietrich, Carolyn
Mieth and Hugh
Russell, Hugo Salemmme,
Venita Mathias
34. License Commission members
- Alex Rodriguez, Chief
Kevin Fitzgerald and
Henry Breen
35. Interim Parking Control Committee
members
- Edward McNulty,
William Corkery and
Debra McManus

{Boards or Commissions with regulatory authority, and their executive or administrative head (if not already listed)}

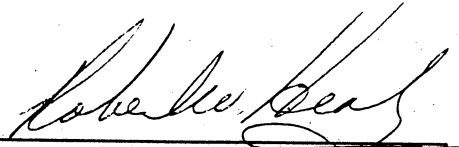
36. Rent Control Board members
 Alfred Cohn, Tim Connor, Florrie Darwin, Eric Pfeufer and Joshua Jacks
 Executive Director Terrence Morris
37. Retirement Board members
 Joseph Connarton, Arthur Libitz and Sheila Tobin
38. Board of Assessors members
 Sally Powers, Faith MacDonald and Kevin McDevott
39. Police Review and Advisory Board members
 Dennis Kelly, Gina Milani, Cosmo Cremaldi, Louie Costa and Marie Jo Luc
 Executive Secretary Malvina Monteiro
40. Human Rights Commission members
 Lorenzo Parra, Irlet Anderson, Rev. Vernon Carter, Laurence Pierce, Steven Gelinas, Mercedes Sherrod Evans and Sylvia Sahvedra-Keber, John Francis, Nilgun Gokgur, Susan Rich, Rev. Jephtet Roseme
 Executive Director Janice Platner
 Acting Executive Director Heidi Arnao
41. Cambridge Historical Commission members
 William King, Alison Crump, Charles Eliot, II, Dorothy LeMessurier, Robert Neiley, Joseph Sakey, Helen Moulton, M. Willis Bibbins, Suzanne Green and Anthony Platt
 Executive Director Charles Sullivan

42. Election Commission members
 Executive Director
 Darleen Bonislawski,
 Edward Samp, Jr.,
 Sondra Scheir and
 Artis Spears
 Theresa Neighbor
43. Cambridge Consumer Advisory
 Executive Director
 James Caragianes,
 Susan Caulfield,
 Roslyn Shoy, Robert
 Laffin and Alex
 Rodriguez
 Paul Schlaver
44. Animal Control Commission members
 Director
 Melvin Chalfen, M.D.
 and Henry Breen
 Mark McCabe
45. Cambridge Biohazards Committee
 members
 Melvin Chalfen, M.D.,
 Oliver Farnum and
 Alan Steinert, Jr.
46. Board of Survey
 Kevin Fitzgerald,
 Ann Daughaday and
 Lino Patti
47. Mid Cambridge Neighborhood
 Conservation District Commission
 Half Crown Neighborhood
 Conservation District Commission
 Paul Andrew, M. Wyllis
 Bibbins, Steven Cohen,
 John Moot, Andrew
 Oldham, Martha Osler
 and Anthony Platt
 Kenneth Cleary,
 Catherine Hayden,
 Dorothy LeMessurier,
 A. Curtiss Pollari,
 Esther Pullman, Anna
 Strobel and Elizabeth
 Zagaroff
48. Traffic Board
 Vincent Panico and
 John Pitkin

{Boards or Commissions with executive authority, and their
 executive or administrative head (if not already listed)}

49. Water Board members
Thomas Begley, Ruth
Collins Birkhoff,
Donald Hornig and
Paul Flynn
50. Cambridge Housing Authority
Gerald Clark, Juanita
Daniels, Warren
McManus, Ruth Peltier
and James Stockard,
Jr.
51. Cambridge Redevelopment Authority
Alan Bell, Jacqueline
Sullivan, Manuel
Rogers, Jr., and Karen
Swain
52. Cambridge Industrial Development
Financing Authority
Sharon Anderson, David
Entin, John L. Hage
and Morris J. Weinberg

I certify that this list is correct and complete to the best of my knowledge.



Robert Healy, City Manager



CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

TEL 349-4300
FAX 349-4307

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

December 9, 1993

Teresa Neighbor
Executive Director
Election Commission
362 Green Street
Cambridge, MA 02139

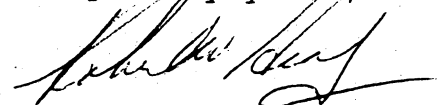
Re: Additional people subject to financial disclosure

Dear Ms. Neighbor:

Enclosed is a list of people omitted from the certified list I submitted on 4/28/93 of city officials subject to the financial disclosure ordinance (§2.118) for reporting year 1992. Please inform the three officials named that they are required by ordinance to file a Statement of Interests for reporting year 1992. Because they are only now being informed of their obligation to file, they should not be deemed delinquent filers unless they fail to file completed forms after some reasonable time period set by the Election Commission, perhaps 30 days.

Thank you for your cooperation.

Very truly yours,



Robert W. Healy

C2



CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139

TEL 349-4300

Fax 349-4307

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

TO: Cambridge Election Commission
FROM: Robert W. Healy, City Manager
DATE: December 9, 1993
RE: Supplemental list of names to which the financial disclosure ordinance (§2.118) applies for reporting year 1992

POSITION

NAME

License Commission
Executive Director

Richard Scali

Cambridge Housing Authority
Executive Director

Daniel Wuenschel

Cambridge Redevelopment Authority
Executive Director

Joseph Tulimieri

I certify that this supplemental list is correct and complete to the best of my knowledge.


Robert W. Healy, City Manager



CITY OF CAMBRIDGE

362 GREEN STREET, CAMBRIDGE MASSACHUSETTS 02139 • TEL (617) 349-4361

BOARD OF
ELECTION COMMISSIONERS

EDWARD J. SAMP, JR.
SONDRA SCHEIR
ARTIS B. SPEARS
DARLEEN G. BONISLAWSKI
Commissioners

TERESA S. NEIGHBOR
Executive Director

Date

Name
Position
Address

Dear

Pursuant to the Cambridge Municipal Code, Chapter 2.118 entitled "Statement of Financial Interests by Certain City Officials and Persons Conducting Business with the City", you are required to submit a financial disclosure statement for the 1993 calendar year by June 1, 1994. In your capacity as (position), your name was given to us by City Manager Robert Healy as the law requires him to do.

To acquaint you with the ordinance and facilitate preparation of the disclosure statement, the following materials are enclosed.

- * a copy of Chapter 2.118;
- * a Statement of Financial Interests Fact Sheet;
- * a Statement of Financial Interests form;

If you have any questions concerning the enclosed materials, you are respectfully requested to submit them to the Board in writing.

Sincerely yours,

BOARD OF ELECTION COMMISSIONERS

3 enclosures

3/23/94



CITY OF CAMBRIDGE

362 GREEN STREET, CAMBRIDGE MASSACHUSETTS 02139 • TEL. (617) 349-4361

BOARD OF
ELECTION COMMISSIONERS

EDWARD J. SAMP, JR.
SONDRA SCHEIR
ARTIS B. SPEARS
DARLEEN G. BONISLAWSKI
Commissioners

TERESA S. NEIGHBOR
Executive Director

Date

Name
Address

Dear

Pursuant to the Cambridge Municipal Code, Chapter 2.118 entitled "Statement of Financial Interests by Certain City Officials and Persons Conducting Business with the City", as a candidate for local office you are required to submit a financial disclosure statement for the previous calendar year on or before (date), the day on which nomination papers are due.

To acquaint you with the ordinance and facilitate preparation of the disclosure statement, the following materials are enclosed.

- * a copy of Chapter 2.118;
- * a Statement of Financial Interests Fact Sheet;
- * a Statement of Financial Interests form;

If you have any questions concerning the enclosed materials, you are respectfully requested to submit them to the Board in writing.

Sincerely yours,

BOARD OF ELECTION COMMISSIONERS

3 enclosures



CITY OF CAMBRIDGE

362 GREEN STREET, CAMBRIDGE MASSACHUSETTS 02139 • TEL (617) 349-4361

BOARD OF
ELECTION COMMISSIONERS

EDWARD J. SAMP, JR.
SONDRA SCHEIR
ARTIS B. SPEARS
DARLEEN G. BONISLAWSKI
Commissioners

TERESA S. NEIGHBOR
Executive Director

Date

Name
Address

Dear

Pursuant to the Cambridge Municipal Code, Chapter 2.118 entitled "Statement of Financial Interests by Certain City Officials and Persons Conducting Business with the City", as a candidate for local office who is conducting a sticker or write-in campaign you are required to submit a financial disclosure statement for the previous calendar year no later than 15 days prior to the date of the election.

To acquaint you with the ordinance and facilitate preparation of the disclosure statement, the following materials are enclosed.

- * a copy of Chapter 2.118;
- * a Statement of Financial Interests Fact Sheet;
- * a Statement of Financial Interests form;

If you have any questions concerning the enclosed materials, you are respectfully requested to submit them to the Board in writing.

Sincerely yours,

BOARD OF ELECTION COMMISSIONERS

3 enclosures

3/23/94



CITY OF CAMBRIDGE

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BOARD OF
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DARLEEN G. BONISLAWSKI
Commissioners

TERESA S. NEIGHBOR
Executive Director

FORMAL NOTICE OF FAILURE TO FILE (Officials)

Date

Name
Address

Dear (Name):

As of this date, the Cambridge Election Commission has yet to receive your Statement of Financial Interests (SFI) for Calendar year 1992. As you have been informed, Chapter 2.118 of the Cambridge Municipal Code requires that this Statement be submitted by June 1, 1993.

Please be aware that failure to file the required SFI within 10 days of the above date on this Notice is a violation of Chapter 2.118 of the Cambridge Municipal Code. The Election Commission may assess a fine of up to \$300.00 per day for each day the violation continues after expiration of the 10 day period.

The Election Commission hopes to avoid such a situation and we therefore urge you to respond promptly to this Notice.

Thank you for your cooperation.

Very truly yours,

Board of Election Commissioners



CITY OF CAMBRIDGE

362 GREEN STREET, CAMBRIDGE MASSACHUSETTS 02139 • TEL. (617) 349-4361

BOARD OF
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DARLEEN G. BONISLAWSKI
Commissioners

TERESA S. NEIGHBOR
Executive Director

FORMAL NOTICE OF FAILURE TO FILE (Candidates)

Date

Name
Address

Dear (Name):

As of this date, the Cambridge Election Commission has yet to receive your Statement of Financial Interests (SFI) for Calendar year 1992. As you have been informed, Chapter 2.118 of the Cambridge Municipal Code requires that this Statement be submitted by July 31, 1993.

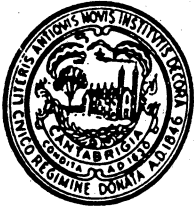
Please be aware that failure to file the required SFI within 10 days of the above date on this Notice is a violation of Chapter 2.118 of the Cambridge Municipal Code. The Election Commission may assess a fine of up to \$300.00 per day for each day the violation continues after expiration of the 10 day period.

The Election Commission hopes to avoid such a situation and we therefore urge you to respond promptly to this Notice.

Thank you for your cooperation.

Very truly yours,

Board of Election Commissioners



CITY OF CAMBRIDGE

362 GREEN STREET, CAMBRIDGE MASSACHUSETTS 02139 • TEL. (617) 349-4361

BOARD OF
ELECTION COMMISSIONERS

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DARLEEN G. BONISLAWSKI
Commissioners

TERESA S. NEIGHBOR
Executive Director

FORMAL NOTICE OF FAILURE TO FILE (Write-In/Sticker Candidates)

Date

Name

Address

Dear (Name):

As of this date, the Cambridge Election Commission has yet to receive your Statement of Financial Interests (SFI) for Calendar year 1992. As you have been informed, Chapter 2.118 of the Cambridge Municipal Code requires that this Statement be submitted no later than 15 days prior to the date of the election.

Please be aware that failure to file the required SFI within 10 days of the above date on this Notice is a violation of Chapter 2.118 of the Cambridge Municipal Code. The Election Commission may assess a fine of up to \$300.00 per day for each day the violation continues after expiration of the 10 day period.

The Election Commission hopes to avoid such a situation and we therefore urge you to respond promptly to this Notice.

Thank you for your cooperation.

Very truly yours,

Board of Election Commissioners

3/23/94



CITY OF CAMBRIDGE

362 GREEN STREET, CAMBRIDGE MASSACHUSETTS 02139 • TEL (617) 349-4361

BOARD OF
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EDWARD J. SAMP, JR.
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Commissioners

TERESA S. NEIGHBOR
Executive Director

FORMAL NOTICE OF DEFICIENCY

Date

Name
Address

Dear (Name):

Thank you for submitting your Statement Of Interests (SFI) form for Calendar Year 1992. Please note, we have reviewed your SFI and have found it to be deficient as follows:

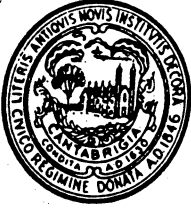
Please be aware that failure to correct an SFI within 10 days of the above date on this Notice is a violation of Chapter 2.118 of the Cambridge Municipal Code. The Election Commission may assess a fine of up to \$300.00 per day for each day the violation continues after expiration of the 10 day period.

The Election Commission hopes to avoid such a situation and we therefore urge you to respond promptly to this Notice.

Thank you for your cooperation.

Very truly yours,

Board of Election Commissioners



CITY OF CAMBRIDGE

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DARLEEN G. BONISLAWSKI
Commissioners

TERESA S. NEIGHBOR
Executive Director

FORMAL NOTICE OF HEARING

DATE:
NAME:
ADDRESS:

CERTIFIED MAIL

DEAR:

As of this date, the records of the Cambridge Election Commission indicate that you have failed to adequately respond to the notice previously sent to you of either your delinquency in filing, or failure to correct, your Statement of Interests for calendar year 1992 pursuant to Chapter 2.118 of the Cambridge Municipal Code.

It appears that you have:

- () Failed to File a Statement of Interests for 1992;
- () Failed to Correct your Statement of Interests for 1992;

Please be advised that a hearing will be held in this matter before the Election Commission at the offices of the Election Commission, on Wednesday, (Date) at 1 o'clock p.m. at which time you may speak on your behalf, and should you choose, be represented by counsel. You are encouraged to either file your delinquent Statement or correct the deficiencies on it prior to the hearing so that the hearing will not need to be held.

If after a hearing, the Election Commission determines that you have violated the requirements of Chapter 2.118 by either failure to file or failure to correct your Statement of Interests, you are subject to the following:

(1) The Election Commission may fine you from the date of its determination after hearing according to the following schedule:

1-10 days delinquent:	\$50
11-20 days delinquent:	\$100
21-30 days delinquent:	\$200
31-90 days delinquent:	\$500
Over 90 days delinquent:	\$2000

(2) The Election Commission shall report you to the Attorney General and the District Attorney for Middlesex County.

(3) A municipal official shall be subject to appropriate discipline, including suspension, termination or censure, consistent with any requirements of the State Civil Services Law and City Charter and ordinances.



CITY OF CAMBRIDGE

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**BOARD OF
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SONDRA SCHEIR
ARTIS B. SPEARS
DARLEEN G. BONISLAWSKI**
Commissioners

TERESA S. NEIGHBOR
Executive Director

NOTICE NOTICE NOTICE

The Board of Election Commissioners will hold a hearing in accordance with Chapter 2.118 of the Cambridge Municipal Code for Failure to File or Correct Statements of Financial Interests for calendar year 1992, on Tuesday, November 16th at 1:00 P.M. at the Election Commission Office, 362 Green St., Room 308, Cambridge, MA 02139.

ALAN STEINERT JR
32 ASH STREET
CAMBRIDGE, MA 02138-4841
(617) 354-7192

November 30, 1993

Letters to the Editor
Cambridge Chronicle
P.O. Box 312
Somerville, MA 02144

Dear Editor:

In 1992, my wife and I had the great fortune to give birth to a magnificent granddaughter, our second of what we hope will be a long line of such successes. In celebration of that event, we gave her one share of publicly traded stock, stock in a large national company with no business in Cambridge. Because I am a member of the Health Policy Board of the City of Cambridge, the Governing Board of The Cambridge Hospital (where I am chair of its finance subcommittee), the governing board of Neville Manor, the Cambridge Bio-Safety committee, all on a pro bono basis, the City of Cambridge under a recent ordinance demands to know about that transaction, that gift to our baby granddaughter. I say that it is none of the city's business.

Because of my stubbornness, the city proclaims through the Election Commission, the enforcers of this draconian ordinance, that I am subject to a fine of \$300 per day, accruing since July 25, 1993, if I don't disclose the details of the gift. As of today, I am facing a potential fine of \$35,700.00, according to the FORMAL NOTICE OF DEFICIENCY that I received dated July 12, 1993. Additionally, I am subject to another \$2,000, if the election commission, an august judicial body to be sure, finds me guilty. Furthermore, I will be reported to the Middlesex County District Attorney, the Attorney General of the commonwealth of Massachusetts, and I will be subject to suspension, termination, or censure from my unpaid jobs by the city of Cambridge.

It's scary. Indeed, it could be said that trying to be of service to Cambridge is hazardous to one's health. I do not enjoy having these threats hanging over my head.

The logic behind the ordinance makes sense: there should be public disclosure of all situations or potential situations where there is or could be the slightest possibility of a conflict of interest between an individual's and the public's interests. I enthusiastically and wholeheartedly endorse that concept. Indeed, as a state worker, I had to fill out an incredibly exhaustive, detailed disclosure form and it is today a matter of public record, accessible to anyone who is curious enough to ask for it. Yet, even the commonwealth respects the limits of public disclosure and the rights of privacy. The city of Cambridge ordinance overreaches. And I believe it is the result of sloppy workmanship on the part of the drafters, whoever they were.

C2

November 20, 1993 (cont.)

The purpose of the ordinance, I believe, is to prevent any person who has a privileged relationship with the city from improperly benefitting financially from that relationship. It is not to find out everything there is to know about the individual who holds the position. It is not a fishing expedition into the private affairs of private people who are donating their time and experience for the benefit of the city. At my inquisition before the election commission, I gave the hypothetical example of my owning a corner drug store in Oshkosh, Wisconsin, or wherever, that I might have inherited. Is that any of Cambridge's business, a situation that has no interaction or possibility of interaction with the city? My answer is no.

The ordinance and, especially the questionnaire that results from the ordinance, should be recast. They should call for disclosure of activities that have something to do with the business of Cambridge. They should ask for existing or prospective financial relationships with individuals, their relatives and affiliated organizations, who are elected or appointed to official positions in Cambridge. The questionnaire should be more explicit in its language by finding better words than "associated" to indicate a relationship between an individual and a business, even though there is a glossary in the arcanna of the ordinance itself and the reams of descriptive literature that exists. Question 1 is a fine example of the proper way to do it; question 10, the one to which I take exception, is the way not to do it. Further, question 6, referring to real estate ownership, is overreaching, failing to focus on relationships with Cambridge, asking the individual to reveal real estate holdings anywhere in the world, purchased or involving anyone at all, not just Cambridge people or organizations.

In summary, I believe the basic intentions of the city council were proper and appropriate. I believe that the execution of the language of the ordinance and of the questionnaire went beyond those intentions. I think that revisiting the language of the questionnaire would be substantially more productive than having the election commission cast a chilling pall over public service in Cambridge, a community that is known for its involved and public spirited citizenry. I predict that when additional miscreants are put upon by the election commission (who claim to be innocent bystanders, just following orders), the number of willing hands to serve as fiduciaries and advisors in Cambridge will be significantly reduced over time. I would hate to see that happen, although I am sure there are those public officials, elected and appointed, who would be glad to get the citizenry out of their hair. This certainly is one way.

Sincerely,

cc: Robert Healy
✓ Election Commission



CITY OF CAMBRIDGE

362 GREEN STREET, CAMBRIDGE MASSACHUSETTS 02139 • TEL. (617) 349-4361

BOARD OF ELECTION COMMISSIONERS

EDWARD J. SAMP, JR.
SONDRA SCHEIR
ARTIS B. SPEARS
DARLEEN G. BONISLAWSKI
Commissioners

TERESA S. NEIGHBOR
Executive Director

December 15, 1993

John Breneman, Editor
Cambridge Chronicle
360 Summer Street
Somerville, MA 02143

Dear Mr. Breneman:

We are writing in response to the letter of Alan Steinert, Jr., a member of the Cambridge Biohazards Committee, who is required to file a disclosure statement pursuant to city ordinance. In doing so we hope to provide information about the ordinance and address the issues Mr. Steinert has raised.

In 1991 the Cambridge City Council enacted Chapter 2.118 of the Cambridge Municipal Code entitled "Statement of Financial Interest of Certain City Officials and Persons within the City", popularly known as the "Ethics Ordinance". The City Council assigned responsibility for its administration and enforcement to the Cambridge Election Commission. We have received legal opinions and guidance from the Office of the City Solicitor and are satisfied that the procedures we have developed and implemented provide sufficient information, notice, and an opportunity to be heard to all persons required to file.

The ordinance sets a standard for ethical conduct for certain municipal officials and candidates for local office, and requires them to file a Statement of Interest questionnaire with the Election Commission. Since these disclosure forms are public records any person may inspect the forms. Hearings are held pursuant to the Open Meeting Law which permits any member of the public to attend.

The Election Commission does not decide who must file. The names and positions of municipal officials who must file are provided to us by the City Manager, as the law requires him to do. Candidates for City Council and School Committee are required to file at election time.

Mr. Steinert has expressed his reservations with respect to the Ethics Ordinance and the questionnaire. It should be noted, the questionnaire was drafted by the City Solicitor's Office and the language contained within it is taken almost verbatim from the ordinance. Mr. Steinert has been advised by the Board of Election Commissioners, that since he believes the "ordinance overreaches... as a result of sloppy workmanship on the part of the drafters", he should bring his concern to the City Council whose authority it is to enact and amend city law.

Mr. Steinert's response to Question 10 was "N.O.Y B." which apparently means "None Of Your Business". We believe that a judge, the Internal Revenue Service, the State Ethics Commission, or the state agency which employs Mr. Steinart, would not likely accept such a response to a legal requirement, and we too are unable to accept such a response.

We would also like to correct misinformation that appeared in Mr. Steinert's letter. While it is true the ordinance permits a discretionary fine of \$300.00 per day for violation of the law, the Board adopted a fine schedule modeled after the State Ethics Law which allows for a \$2000.00 maximum penalty. Mr. Steinert was provided this information.

Further, we wish to correct the unfair characterization that he was subjected to an "inquisition" at the November 16, 1993 hearing. Attending the hearing were the Board of Election Commissioners, the Executive Director and Arthur Goldberg of the City Solicitor's Office. In fact, Mr. Steinert was treated professionally and courteously and given every opportunity to speak on his behalf. He in turn, while presenting his opinion forcefully, was equally professional and courteous.

While we recognize Mr. Steinert's personal decision to engage in an act of civil disobedience we are fulfilling our mandated responsibility to uphold the law of the City of Cambridge and shall continue to do so.

Very truly yours,

BOARD OF ELECTION COMMISSIONERS



CITY OF CAMBRIDGE

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EDWARD J. SAMP, JR.
SONDRA SCHEIR
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Commissioners

TERESA S. NEIGHBOR
Executive Director

December 20, 1993

Alan Steinert Jr.
32 Ash Street
Cambridge, MA 02138-4841

Dear Mr. Steinert:

This is the Election Commission's decision concerning your intentional failure to complete question 10 of the Statement of Interests promulgated pursuant to Chapter 2.118 of the Cambridge Code of Ordinances. You were afforded a hearing before the Election Commission on November 16, 1993 pursuant to section 2.118.040(B) of the ordinance.

A. BACKGROUND

By virtue of your membership on the Cambridge Biohazards Committee you were identified by the City Manager as a municipal official required to complete and file a Statement of Interests with the Election Commission for reporting period January 1, 1992 to December 31, 1992. You completed the form (except for question 10) and filed it prior to the June 1, 1993 deadline. A copy of your form is attached. The Election Commission issued a Formal Notice of Deficiency to you dated July 12, 1993 (copy attached) stating that your response to question number 10 was blank and that

failure to correct the form within 13 days was a violation of ordinance subject to penalty. You wrote a letter dated July 20, 1993 to the Executive Director of the Election Commission (copy attached) in which you stated that your response to question 10 was "N.O.Y.B.," which apparently stands for "None Of Your Business." By letter dated August 13, 1993 (copy attached), the Election Commission responded to you that it had no discretion to accept your incomplete form despite your objections to the scope of the information required. A Formal Notice of Hearing dated October 29, 1993 was sent to you by the Election Commission setting the November 16 hearing date to afford you the opportunity to speak directly to the Election Commissioners about your reasons for not completing question 10 of your Statement of Interests.

B. ISSUES RAISED

At the hearing, you argued that: (1) Question 10 on the Statement of Interests does not correspond closely enough to the section of the ordinance on which it was based (i.e. §2.118.030(D)(10)), and that therefore Question 10 should be more narrowly drawn; and (2) Even if Question 10 does reflect the ordinance, it seeks information irrelevant to your public duties and is therefore an invasion of your privacy.

C. ANALYSIS

1. In response to your first argument, Question 10 is virtually identical to the ordinance section on which it is based.

It could not be more narrowly drawn. Question 10 states:

Identify the equity (defined as any stock, interests in capital or profits and losses, or similar ownership interest) in any business with which you are associated that has been transferred to a member of your family. A family member who transfers equity to you need not report such an intrafamily transfer.

The ordinance section on which Question 10 is based, §2.118.030(D)(10) states:

Every reporting person shall disclose, to best of such reporting person's knowledge, the following information for such reporting person and every family member for the preceding calendar year:

...(10) The identity of any equity in a business to which the reporting person is associated which has been transferred to a member of the reporting person's family; provided, however, that a family member who transfers equity to the reporting person need not report such an intrafamily transfer.

2. In response to your second argument, you have not shown that the the ordinance seeks information illegally. Unless the ordinance is illegal, you must comply with it unless and until it is amended by the City Council. The City Council is the body that enacts local law based on its determination of what is sound public policy. The Election Commission does not have authority to invalidate a duly enacted ordinance after a debate of its merits with another municipal official, as you would have them do. You are required to provide the information sought in Question 10.

You argued that Question 10 is overreaching, yet you state that you completed the Commonwealth's Statement of Financial Interests as you were required to do because of your employment with the state. Question 7 of the 1992 Commonwealth's Statement of Financial Interests is virtually identical to Question 10 of the Cambridge form. Question 7 states:

Identify any EQUITY in a BUSINESS (reported in Question 5 or 6) with which you are associated, if you transferred EQUITY to any IMMEDIATE FAMILY MEMBERS during the calendar year. You should report any EQUITY whether the FAIR MARKET VALUE was more or less than \$1,000. You need not, however, report the transfer of any such EQUITY made by an IMMEDIATE FAMILY MEMBER.

It is difficult to understand your objection to the Cambridge form, if you have already completed the Commonwealth's form.

The Commonwealth's Question 7 is based on Massachusetts General Laws, Chapter 268B, section 5, paragraph 10. If the Election Commission were to accept your argument that Question 10 on the Cambridge form is illegally overreaching, it would have to make the implicit finding at the same time that Chapter 268B, section 5, paragraph 10 is unconstitutional as an overreaching invasion of privacy.

As a general matter, a public official has a significantly diminished privacy interest with respect to information relevant to the conduct of his office. George W. Prescott Publishing Co. v. Register of Probate for Norfolk County, 395 Mass. 272, 278 (1985). The ordinance makes clear in its definition section (and it has been previously explained to you) that Question 10 requires disclosure only concerning "businesses with which you are associated" as defined in §2.118.010(C). Those are businesses in which the reporting person or a family member is an employee, etc. or owns more than one percent of any class of outstanding equity. By limiting the information sought to such businesses, the question does concern information that may be relevant to the conduct of your public office. The transfer of equity in such businesses

could mask a reporting person's substantial interest in a business that could benefit from a reporting person's official position with the City of Cambridge. The City's effect on that business might not be presently apparent, but the possibility that it might arise in the future justifies the requirement of full disclosure.

D. CONCLUSION

The Election Commission therefore determines that your intentional failure to complete Question 10 of your Statement of Interests constitutes a violation of Chapter 2.118 of the Cambridge Code of Ordinances. If you fail to complete Question 10 and file your response with the Election Commission within 10 business days of your receipt of this decision, you will be fined \$50.00 and your non-compliance will be reported to the Attorney General and the Middlesex District Attorney. Additional fines may be levied according to the schedule you received in your Formal Notice of Hearing if compliance is not achieved.

The Board of Election Commissioners

**CERTIFIED MAIL
RETURN RECEIPT REQUESTED**



CITY OF CAMBRIDGE

Office of the City Solicitor
City Hall

795 Massachusetts Avenue
Cambridge, Massachusetts 02139

Tel. (617) 349-4121
Fax. (617) 349-~~4307~~ 4134

Russell B. Higley
City Solicitor

Donald A. Drisdell
Deputy City Solicitor

Michael C. Costello
Assistant City Solicitor

Birge Albright
Legal Counsel

Gail S. Gabriel
Legal Counsel

Diane Wynshaw-Boris
Legal Counsel

Laura H. Yager
Legal Counsel

Linda A. Stamper
Legal Counsel

Arthur J. Goldberg
Legal Counsel

December 14, 1992

Robert W. Healy
City Manager
City Hall
Cambridge, MA 02139

Re: Financial Disclosure Required by Ordinance Chapter 2.118

Dear Mr. Healy:

This opinion responds to questions raised by the Election Commission and by City officials at the informational meeting held on November 19, 1992 regarding the financial disclosure ordinance, Chapter 2.118. Copies of the questions are attached.

Question 1: On number 3 of the statement of financial interests form, is the City of Cambridge Credit Union included as a creditor about which debt terms must be disclosed?

Answer 1: Yes. It is not expressly excluded by the ordinance from the disclosure requirements and there is no evidence that when the ordinance was enacted the Credit Union was meant to be given special status.

Question 2: On number 6 of the statement of financial interests form which requires disclosure of all real property in which direct or indirect financial interest is held, is a person's primary residence included?

Answer 2: Yes. It is not expressly excluded from the disclosure requirements in number 6, even though there is a specific exclusion in number 3 that does not require disclosure of information relating to one's mortgage on a primary residence.

Question 3: In the ordinance, which definition of "candidate" governs--the broader definition in the "definitions" section of the ordinance (§2.118.010(D)) or the less inclusive definition given in §2.118.030(A)?

Answer 3: The broader definition governs. The broad definition in §2.118.010(D) was clearly intended to define "candidate" because it appears in the "definitions" section of the ordinance. The mention of candidates in §2.118.030(A) is meant to define when people who fall within the broad definition are required to file their disclosure statements.

Question 4: What businesses are "subject to regulation" by the Board of Zoning Appeals for purposes of Chapter 2.118?

Answer 4: All local businesses are not subject to regulation by the BZA simply because it is possible that they could petition the BZA for zoning relief. Businesses that actually do come before the BZA are subject to its regulation.

The authority of the BZA is delineated in Article 10.000 of the Zoning Ordinance. In essence, the BZA has power over variances, certain special permits, and appeals by aggrieved parties from decisions of the Commissioner of Inspectional Services. The City Council enacts zoning ordinance provisions and the Commissioner of Inspectional Services is the primary enforcement official of state and local zoning and building requirements.

Question 5: Are school Principals in the Cambridge School Department included in the categories of municipal officials required to report?

Answer 5: No. Section 2.118.010(L)(1) was amended to delete the requirement that school Principals be required to report.

Question 6: Does the requirement for disclosure of all real estate owned (item 6 on the form) refer only to the reporting person or to family members as well?

Answer 6: This issue could be clarified by an ordinance amendment. As the ordinance now reads, it appears that item 6, as well as the other items, require disclosure for family members, as well as the reporting person. See §2.118.030(D). "Family member" is defined by the ordinance as "a spouse, any dependent children residing in the reporting person's household, or a sibling."

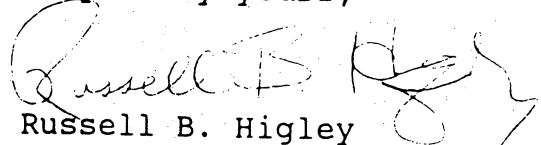
The issue is not entirely clear because the language in §2.118.030(D)(6) concerning the disclosure of real estate refers at

one point to payment made or received for the property by the reporting person.

Question 7: Does the requirement in item 5 on the form to report gifts aggregating more than \$100.00 supersede or affect the state law requirement in G.L.c.268A, §3(b) that it is illegal for a present or former municipal employee to accept anything of substantial value (i.e. worth over \$50.00--Commonwealth v. Famigletti, 4 Mass.App.Ct. 584, 587 (1976)) for him/herself for or because of any official act within his/her official responsibility?

Answer 7: No. Both laws apply.

Very truly yours,


Russell B. Higley

cc. Darlene Bonislowski, Election Commission
Verne Vance, Esq.

Area Code 617
742-2150

Sullivan, Lorgi and Dimmock
Attorneys and Counsellors at Law
Fifty Staniford Street

Fax: 227-4507

at
(Government Center - Charles River Plaza)
Boston, Massachusetts 02114-2517

- Charles W. Sullivan*
- Peter Lorgi*
- Edward F. Hoard*
- Charles W. Sullivan, Jr.*
- David C. Lorgi*
- Also members of the Florida Bar*

December 9, 1992

City of Cambridge
Board of Election Commissioners
362 Green Street
Cambridge, MA 02139

Dear Sir/Madam:

Please be advised that this firm represents Jacqueline S. Sullivan, of 10 Rogers Street, Unit 602, Cambridge, Massachusetts.

Mrs. Sullivan has delivered to our office the materials she received from your Board regarding the ethics ordinance. She has asked us to review said materials and determine whether she must file the Statement of Financial Interest Form for 1992 by June 1, 1993.

Mrs. Sullivan was appointed by the Governor to serve as a member of the Cambridge Redevelopment Authority and she was subsequently elected by the members of the Authority to be the Chairperson. Mrs. Sullivan does not receive any compensation for serving as the Chairperson or as a member of the Authority.

In reviewing the Ethics Ordinance, Chapter 2.118, 2.118.010K. defines "municipal body" to include any authority, board or commission as well as other bodies. 2.118.010L.2. defines "municipal official" to mean a member and/or head of a board or commission, whether elected or appointed, compensated or uncompensated, of a municipal body with executive, regulatory or permitting authority. 2.118.030B. provides that every "municipal official" shall file a statement of interests.

Mrs. Sullivan, being a member of the Cambridge Redevelopment Authority, is a member of a "municipal body". However, it does not appear that Mrs. Sullivan is a "municipal official" as defined in 2.118.010L.2. since she is not a member

City of Cambridge

December 9, 1992

of a board or a commission. I do not know whether she is a "municipal official" within the meaning of 2.118.010L.3. Assuming she is not a "municipal official", it appears that she would not be required to file the statement of interests.

Would you kindly review this letter with your legal counsel and advise us whether Mrs. Sullivan must file the statement of interest because of her current position. Assuming she is required to file, please advise us whether she would still be required to file if she resigned as Chairperson but continued to serve as a member of the Cambridge Redevelopment Authority.

Thank you for your cooperation in this matter. If you have any questions, please do not hesitate to call.

Very truly yours,

SULLIVAN, SORGI and DIMMOCK

BY *Charles W Sullivan Jr*

CWSjr:jr



CITY OF CAMBRIDGE

Office of the City Solicitor
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January 26, 1993

Robert W. Healy
City Manager
City Hall
Cambridge, MA 02139

Re: Financial disclosure ordinance implementation

Dear Mr. Healy:

This opinion responds to questions raised by the Election Commission and by City Councillors at the informational meeting held on December 16, 1992 regarding the financial disclosure ordinance, Chapter 2.118. Copies of the questions are attached.

Question 1. Are City Councillors required to report reimbursement they receive for expenses incurred in conducting city business?

Example: Participation in the recent League of Cities conference in New Orleans.

Response 1. Pursuant to §2.118.030(D)(4), Councillors are required to report the name and address of the source, and the cash value of any reimbursement for expenses aggregating over \$100.00 if

the source of such reimbursement has an interest distinguishable from the public generally in legislation, legislative action, administrative action, or a matter before the City Council. It does not appear that the League of Cities has any distinguishable interest in action that the City Council may take, so reimbursement by the League need not be reported.

Question 2. Are Councillors required to report reimbursement they receive for expenses incurred as participants in other activities?

Example: Councillor Frank Duehay attended a conference in Idaho addressing health care matters which was designed to bring people together to focus on health care issues. Most of the participants were not municipal officials. Councillor Duehay was reimbursed by the conference for his expenses.

Response 2. See Response 1 above. As long as the reimbursing party had no distinguishable interest from the public generally in action that the Councillor may take on the City Council, the reimbursement need not be reported.

Question 3. Are City Councillors and School Committee members required to file a financial disclosure form twice--once as a candidate and again as a municipal official?

Response 3. No. A second filing of the exact same information for the same time period would be superfluous. However, the filing should be made on the earlier of the two filing

deadlines for those years in which Councillors and School Committee Members are both candidates and officials.

Question 4. Is there a procedure for amending responses to a financial disclosure form after they have been filed?

Response 4. There is no procedure set out in the ordinance for amending a form after it has been filed. There is also no prohibition against a person from correcting a form that has been filed that the filer later finds out was in error. There is an implied obligation on the filer to correct good faith errors of which he/she becomes aware. The Election Commission may create an amendment procedure not inconsistent with the ordinance as an administrative matter.

Question 5. The passage of the Domestic Partnership ordinance has expanded the definition of family member. Should §2.118.010(H) of the financial disclosure ordinance, which defines family members, be amended or is it sufficient that §2.119.130 of the Domestic Partnership ordinance contains language that incorporates other city ordinances by reference?

Response 5. §2.119.130 of the Domestic Partnership ordinance broadens the definition of "family member" in §2.118.010(H) of the financial disclosure ordinance to include domestic partners. An amendment of the financial disclosure ordinance is not required to achieve that end.

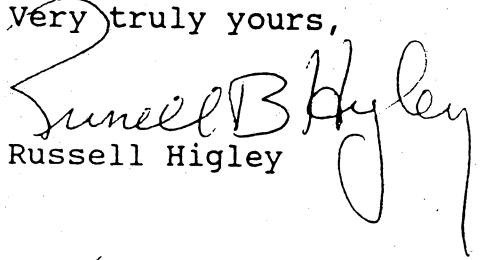
However, the City Council may, as a matter of policy, wish to

amend the financial disclosure ordinance to make clear within that ordinance that domestic partners are included within the definition of family members so that domestic partners are fully on notice as to their obligations under that ordinance. It is a policy judgment as to how best to ensure that domestic partners are on notice of their obligations under the financial disclosure ordinance.

Question 6. Do filers have to fill in all blanks on the financial disclosure form for the form to be deemed complete?

Response 6. Yes. If a question does not apply to a filer, the filer should indicate in writing on the form that the question does not apply. Leaving a question blank is an inadequate means of indicating that the question does not apply.

Very truly yours,


Russell Higley

cc. Darlene Bonislawski, Election Comm'n. ✓
Verne Vance, Esq.

5-144
Report from the Election Commission
regarding the Ethics Ordinance.

S-144

Filed In the Office

April 4, 1994