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CAMBRIDGE MA.

THE ATHENAEUM GROUP

Athenaeum House
215 First Street
Cambridge, Massachusetts 02142
617-492-2155

June 20, 1989

COPY

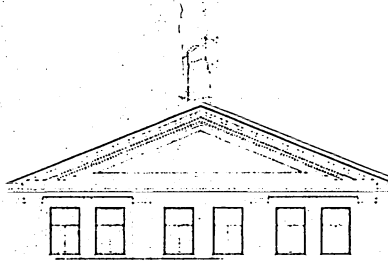
Philip Dowds
48 Banks Street
Cambridge, Massachusetts 02138

Dear Phil,

You owe me an apology, and I expect it to be public and delivered in a City Council forum. Your slanderous comments about me at last night's City Council meeting are factually incorrect and damaging to my reputation and business. My request to the City Council to vote against the McManus petition was public, written, and delivered to each City Councillor and the City Clerk. It is part of the public record.

At no time did I ever attempt or engage in any backroom deal-making. Your televised statements that my actions were improper, shady, and done in smoke-filled rooms out of public view were false and deliberately inflammatory. Moreover, Liza Malenfant, of the Community Development Department, will confirm that I informed her, as staff representative to the Planning Board, what my intentions were prior to the City Council meeting. I exercised my rights as a citizen and for you to imply otherwise is knowingly false.

The Planning Board's 21-day review period expired May 23, 1989. Your rights as a petitioner and their rights as an advisory body were protected by two public hearings--both held in accordance to the statutory requirements of Chapter 40A. It is not inappropriate, especially after waiting three weeks beyond the statutory deadline, to ask the City Council to exercise their rights to take action. At no time did I attempt to circumvent these rights and you were aware of this fact. The McManus petition imposes real financial hardship on some property owners and my rights are not subservient to your political views or zoning opinions. As a registered architect you are qualified to know the legal process and therefore I must presume your false comments were made with intent to harm.



Philip Dowds
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Your slanderous comments regarding my use of the private offices of the City Council is likewise false. I was invited by a City Councillor to the Council anteroom. I resent your comments to the contrary, and I will expect nothing less than a public apology.

I remind you that I am no longer an elected public official and therefore enjoy protection from slander according to the standard for any private citizen. Unless I receive an apology, I will take all legal remedies available to me.

Sincerely,

A handwritten signature in cursive script that reads "David Clem".

David Clem

DEC:rmf
cc: Robert E. McLaughlin, Esquire

R Philip Dowds

48 Banks St, Cambridge, MA 02138 • 354-6094

Monday, June 26, 1989

To: **The Atheneum Group**
215 First Street
Cambridge, MA 02142

Attn: **Mr David Clem**
Re: **Your Letter of 20 June 89**

Dear Mr Clem:

I am in receipt of your letter to me of 20 June 89 (copy enclosed) in which you insist I make public apology for remarks I made concerning you at the Cambridge City Council meeting of 19 June 89. I write in response to your letter.

Most of my remarks to the Council on 19 June concerned the significance of the McManus Zoning Petition, the Council's recent performance regarding zoning reforms for neighborhood protection, and my recommendation that the Council reconsider its vote of 12 June to reject the McManus Petition in advance of any Planning Board report. I did preface my remarks with some references to you, and you seem to feel that in doing so I slandered you. In your letter of 20 June, you don't quote any specific statements of mine, so I am somewhat in the dark as to which of my words you believe to be slanderous. Nonetheless, I do recall having referred to you (and thereby, to the Atheneum Group) in three statements, which went more or less as follows:

- 1 I said that on the evening of 12 June I saw you "running in and out" of the room at the side of the Council Chamber marked as private for City Council and Staff. "Running in and out" is a figure of speech which may have been poorly chosen. In truth, you were not running, but instead walking briskly. If my choice of colloquialism has had the effect of implying undue haste on your part, then I apologize. However, since I truly did see you passing from this room, I cannot apologize for saying that's what you did.

Further, in describing this room, I called it the "smoking room" and "inner sanctum", since I don't know the official title for this room, but have, on at least one occasion, seen Councilor Walsh stick his head out the door of this room with a pipe in his mouth. I presumed that the Council uses this room, among other things, for smoking, just as school teachers use special rooms where they can smoke between classes. I also said, directly to my Councilors, something to the effect that this is "the room where you retire when you feel the need for privacy in the conduct of public business". I said this because, ever since the advent of televised and videotaped Council meetings, I have observed an increasing tendency of the Council to bolt from the camera and head into a smoking room recess when issues get too hot to sort out in front of the public.

- 2 I said that I was (on 12 June) surprised at your presence at the Council (that evening was devoted principally to rent control issues and hearings), since you "didn't care about rent control". Indeed, I've seen you in public on a number of occasions, and have yet to hear you speak of rent control one way or the other.

However, it may be premature of me to assume that you don't care about rent control just because you and I have not had opportunity to discuss it. You may, in fact, care deeply about rent control, either pro or con; you may have been at Council

on 12 June in part to express your support for some part of the rent control proceedings. If this is the case, please tell me, and if necessary and appropriate, I will apologize for having attributed indifference to you when I lacked adequate information about your attitudes.

- 3 I said that you were there (on 12 June) to make sure that the Council killed the McManus Petition prior to receipt of the Planning Board report. Your own letter to me of 20 June confirms that indeed was at least one of your purposes, and I feel no need to apologize for having said so.

And that's it. I do not recall having made any other remarks on the evening of 19 June about you or the Atheneum Group. My remaining remarks were to, and about, the City Council.

However, your letter of 20 June insists that I have "slandered" you by saying or implying that you did something "improper" or "shady" (your words, not mine). I neither said nor implied anything of the sort. You used, in your letter, the words "smoke-filled room" to describe the Council's private room, but I never did (see 1 above). Nor did I say or imply that your use of the smoking room was improper or illegal: I certainly did not say that you forced entry, or snuck in when no one was looking. Quite the contrary, I both presumed and implied that you were there on business, and your letter of 20 June confirms you were invited there by one of the Councilors. But if this is an important point for you, perhaps you should seek further opportunity to say which Councilor invited you, and for what purpose.

Further, I never said nor implied that you were out of line in requesting prompt action from the Council once the Planning Board's statutory 21-day review period had expired. In general, I think government moves too slowly on critical time-contingent issues, and I believe that you and I may agree that *prompt* closure of important issues should sit high(er) on the public agenda. On other significant occasions, however, I've seen the Council *refuse* to act on zoning legislation explicitly *because* the Planning Board report was not yet available, and I did want to make the point (on 19 June) that Council behavior with respect to the McManus Petition was inconsistent and thereby inappropriately responsive to your special interests. Nor did I deny that you had made any formal written request to the Council, nor did I say or imply that you had somehow by-passed proper channels; your written request (unseen by me so far, but also undisputed) was no doubt entirely legitimate, and in any event was irrelevant to the points I was making.

Let me be yet more clear: I neither claimed nor implied improper behavior on your part because I do not believe that you engaged in any. In general, I believe that you have, as citizen and businessman, the right to petition and lobby our City Council and City Administration for almost anything. In particular, I believe that you (including the Atheneum Group) have the right to ask Cambridge to quash legislation which would inconvenience you; to adopt legislation you find advantageous; to issue you special permits and variances as provided for by zoning law; to enforce laws you feel are not properly interpreted or adequately enforced; to triple the FAR permissible on your property; to abate all your property tax obligations; and to give you a personal parking space at City Hall. I would hope you agree that I have the same rights of request, petition, and appeal.

What concerns me, as a Cambridge resident, voter and taxpayer, is not what you ask for, but rather what my City chooses to grant you. I have said in public before that I believe Cambridge has become unduly solicitous of the interests of the development and real estate industry, and correspondingly inattentive to the needs and concerns of ordinary citizens and residents. I used your name, and your actions as observed on 12 June, to illustrate the

point that the Council often grants better access to developers than to ordinary citizens during its proceedings. I felt you were a good and appropriate illustration of this point, in part because I considered this information relevant to evaluating the Council's 12 June actions regarding the McManus Petition, and in part because I saw you doing just the same thing (walking briskly in and out of the smoking room) on the night of the Binney Street Garage hearings last fall. Notwithstanding any of this, I have never challenged, and never will challenge, your right to request access to the Council, or to accept access if it is offered to you. The responsibility of fair, equitable and ethical access is the Council's burden, not yours.

Your letter of 20 June stresses your view that I need to make an "apology" public. Accordingly, I am sending your letter, and this response, to the City and the press as identified below. If you see yourself as "vindicated" by my response, please feel free to show this letter to anyone, or to quote from it in public.

You also suggest that I deliver my "apology" in "a City Council forum", meaning, I presume, that I return to Council Chambers to say on TV that you've done nothing illegal or unethical in accepting private access to Councilor(s) during Council proceedings. I am already on record stating the Council makes poor use of its public meeting time. In this instance, I cannot recommend to the Council that they schedule limited and valuable public time to allow me to speak in response to your letter of 20 June, and I will not make this request. However, you are quite free to petition the Council to make time for such an event, and if the Council grants *your* request, I will appear -- either on my own, or with you, whichever you prefer.

Hopefully, you find this response to be adequate to your needs. However, if you continue to believe that I've slandered you, then I suggest we meet at your One Kendall Square headquarters to review Continental Cablevision's tapes of my remarks, so we may both have a complete and detailed understanding of exactly which of my statements you find unacceptable, and/or inconsistent with what I've said in this letter. After that review, I will make further written and/or public response as appropriate.

I may have occasion to speak of you and the Atheneum Group again in public. If and when this occurs, I hope you will take a less personal and more objective view of what I say; as a former City Councilor, you should have a more sophisticated interpretation of the issues salient to public due process. In the meantime, please feel free to contact me at work (782-6162) or at home (354-6094). If I hear no more from you, I will consider this matter closed.

Sincerely,



R Philip Dowds

cc w/ enclosures:

Al Vellucci, Mayor
Alice Wolf, Vice Mayor
Joe Connarton, City Clerk
Bill Premo, Cambridge Tab
Zack Gaulkin, Cambridge Chronicle

R Philip Dowds

48 Banks St, Cambridge, MA 02138 • 354-6094

Monday, June 26, 1989

To: **Vice-mayor Alice Wolf**
City Hall
Cambridge, MA 02139

Re: **Access to the Smoking Room**

Dear Vice-mayor Wolf:

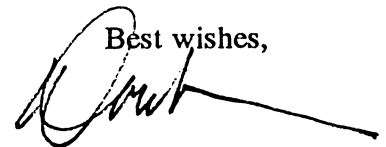
Transmitted herewith is some correspondence between me and David Clem. It should be self-explanatory. As my letter to Mr Clem expressed, I think access to Councilors during Council meetings is a significant public policy issue -- particularly so for complex matters like zoning, where the self-interest, and legal and technical expertise, of those with access during the session can have immediate and decisive impact on Council motions and votes. We recently saw this, for instance, in the reconsideration of your amendments to the Harvard Motor House disposition motions, which certainly appeared (from where I was sitting) to have been successfully orchestrated in-session and on-the-spot by a negotiation between Carpenter Company and Walter Sullivan.

In defending his presence in the Council smoking room, a room plainly signed as private, for Councilors and staff only, Mr Clem points out that he was there at the invitation of *one* of the other Councilors. For me, this raises an interesting question: Just what are the rules and protocols for access to this room? Is it really true that any *individual* Councilor can invite any private party into this room at any point during Council proceedings, for any purpose he/she chooses? (And so I need not call it the smoking room any more: What's the right name for this room anyway?)

If it is true that any Councilor can invite anyone in at any time, then this letter constitutes my formal request to you that you issue to me, in writing, a standing invitation to enter this room at times Council is in session, whenever I feel that it is in the public interest to make direct observation of what is transpiring therein. If it is *not* true that individual Councilors have unilateral control over access to a private room serving the Council as a whole, then you will probably have to deny my request.

In any event, I'd like to hear from you (or the City Clerk) soon in clarification of just what the public purposes and rules of access for this room are. Perhaps you could send a copy of your response to Mr Clem as well. Hopefully, all this can be resolved quickly and simply, without the need for a full scale public hearing on the topic.

Best wishes,



R Philip Dowds

cc :

David Clem, the Atheneum Group
Al Vellucci, Mayor
Joe Connarton, City Clerk
Bill Premo, Cambridge Tab
Zack Gaulkin, Cambridge Chronicle

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Comm. from David Clem, The Athenaeum Group,
trasnmitting for informational purposes a copy
of his letter to R. Philip Dowds, Re: the
McManus petition.

In City Council,

June 26, 1989

6-26-89

Placed on file.