



City of Cambridge

1.

IN CITY COUNCIL

December 22, 1997

COUNCILLOR DUEHAY
COUNCILLOR DAVIS
COUNCILLOR GALLUCCIO
COUNCILLOR TRIANTAFILLOU

ORDERED: That all items pending before the City Council and not acted upon by the end of the 1997 legislative session be placed in the files of the City Clerk without prejudice, subject to recall by any member, provided that those proposed ordinances which have been passed to a second reading, advertised and listed under "Unfinished Business," and further provided that any items pending in committee may, at the discretion of the committee, be forwarded to the next City Council.

In City Council December 22, 1997.

Adopted by the affirmative vote of eight members.

Attest:- D. Margaret Drury, City Clerk.

A true copy;

A handwritten signature in black ink, reading "D. Margaret Drury". The signature is written in a cursive style with a large, looping "D" and "M".

ATTEST:-

D. Margaret Drury
City Clerk



City of Cambridge

52.

IN CITY COUNCIL

October 20, 1997

COUNCILLOR DUEHAY
VICE MAYOR BORN
COUNCILLOR DAVIS
COUNCILLOR REEVES
MAYOR RUSSELL
COUNCILLOR TRIANTAFILLOU

WHEREAS: The United States House of Representatives Judiciary Committee is now considering the Private Property Rights Implementation Act of 1997 (H.R. 1534) which would expand the ability of developers to successfully sue cities and other local governments in federal court for alleged takings, expose local governments to increased financial liability, and interfere with the ability of local governments to make reasonable, carefully considered land use decisions; and

WHEREAS: The U.S. Senate Judiciary committee is now considering a companion bill entitled the Property Owners Access to Justice Act of 1997 (S.1204); and

WHEREAS: These bills would remove the existing law that requires developers to pursue a takings claim through the state court system before they can proceed to the federal court system; and

WHEREAS: These bills would change the requirement that a case be "ripe" before the federal courts could consider it. Currently, a developer must exhaust all opportunities for waivers, variances or appeals with a local government before filing a takings claim in court. Under the proposed rules, the court would determine what the prospects for success are in the administrative process and if they are reasonably unlikely, immediate court intervention is warranted; and

WHEREAS: The proposed legislation would allow a developer to frame his case as a federal takings issue which would preclude the federal district court from abstaining in favor of the state court system, which is the historical precedent in cases involving local government land use decisions; and

WHEREAS: It would be more difficult for state courts to enforce a consistent, uniform approach to local land use issues due to the greater involvement of federal courts; and

City of Cambridge

- 2 -

WHEREAS: Fewer cases would be dismissed due to the changes in ripeness requirements and the removal of the requirement that all local administrative options be exhausted first, which would result in many more cases further clogging the already overloaded federal court system; and

WHEREAS: Local governments would be forced to endure high litigation and costs, increased liability for takings and payments of attorney fees, making them more vulnerable to developers leverage to challenge local land use decisions and reducing the ability of citizens and their elected representatives to maintain healthy, sustainable communities; now therefore be it

RESOLVED: That the City of Cambridge calls upon our elected representatives in the United States Congress to vote against any regulation, statute or constitutional amendment that would place restrictions on state and local government actions regulating private property or requiring additional compensation beyond the continually evolving judicial interpretations of the Fifth Amendment of the United State Constitution.

RESOLVED: That the City Clerk send copies of this resolution to Senators Kerry and Kennedy, to Congressman Joseph P. Kennedy, Jr. and the entire Massachusetts Congressional delegation.

CHARTER RIGHT EXERCISED BY MAYOR RUSSELL.



City of Cambridge

52.

IN CITY COUNCIL

October 20, 1997

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52,
RECEIVED BY
OFFICE OF CITY CLERK

97 OCT 15 PM 3:06

CAMBRIDGE MA.

COUNCILOR DUEHAY

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WHEREAS: Local governments would be forced to endure higher litigation costs, increased liability for takings and payments of attorney fees, make them more vulnerable to developers leverage to challenge local land use decisions and reduce the ability of citizens and their elected representatives to maintain healthy, sustainable communities; now therefore be it

RESOLVED: That the City of Cambridge calls upon our elected representatives in the United States Congress to vote against any regulation, statute or constitutional amendment that would place restrictions on state and local government actions regulating private property or requiring additional compensation beyond the continually evolving judicial interpretations of the Fifth Amendment of the United States Constitution.

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Born, Davis, Reeves, Russell
Consent Order #52 Triantafyllou *Case 21*
5-817

Councillor Duehay re: 'To vote against
any regulation, statute or constitutional
amendment that would place restrictions
on state and local government actions
regulating private property or requiring
additional compensation beyond the
continually evolving judicial interpretation
of the 5th amendment.

October 27, 1997

Tabled by
Councillor Duehay

December 22, 1997

PLACED ON FILE
Pursuant to Order #1

In City Council October 20, 1997

CHARTER RIGHT
BY Mayor Russell