

City of Cambridge

MASSACHUSETTS

WW

M 3 sup to
Have Alex Rodriguez
Come before City Council to Explain his letter

In City Council

3/29

1993

YEA	NAY	ABSENT	PRESENT	
				Mr. Ed Cyr
	✓			Mr. Francis H. Duehay
	✓			Mr. Jonathan S. Myers
✓				Mrs. Sheila T. Russell
✓				Mr. Walter J. Sullivan
✓				Mr. Timothy J. Toomey, Jr.
✓				Mr. William H. Walsh
	✓			Ms. Alice K. Wolf
	✓			Mayor Kenneth E. Reeves
5	4	0	0	

motion to suspend rules - failed



CAMBRIDGE LICENSE COMMISSION CITY OF CAMBRIDGE

831 MASSACHUSETTS AVE., 1ST FLOOR, CAMBRIDGE, MASSACHUSETTS 02139 • TEL. 349-6140

ALEX RODRIGUEZ
Commission Chairman

KEVIN FITZGERALD
Chief-of-Fire Department
Commission Member

HENRY BREEN
Police Representative
Commission Member

RICHARD V. SCALI
Commission Executive Officer

Honorable Alice Wolf
Chair of the Ordinance Committee
Cambridge City Council

Dear Councillor Wolf:

Due to previous commitments it is impossible for any of the Commissioners to present our opposition to "AN ACT PROVIDING FOR THE CAMBRIDGE LICENSE COMMISSION." Therefore, we have asked our Executive Officer, Richard Scali, to read the following into the record.

The Cambridge License Commission opposes any change in the present structure or composition of the Commission under existing law. Our reasons are quite simple; they are:

- a) No one has made a public case as to why the present structure of the Commission should be changed. The Commission feels strongly that the home rule petition process is a process that should be used in a serious and non frivolous manner. Since no one has made a public case as to why the present structure of the Commission should be changed, it can be assumed that this must be a case of change for change's sake. Any observer of the workings of the Massachusetts Legislature knows that frivolous home rule petitions are usually lost at the legislative committee level. Unless some case is made for this Act it will not be taken seriously on Beacon Hill.
- b) If there is a case made at your hearing as to why the Commission structure should be changed the present Commission will be more than happy to respond to that case, but at the present time no citizen, councillor, or any individual has spoken to any staff member or Commissioner as to why they would want to change the structure of the License Commission. Even when a staff member of the Commission was asked to assist in the legal writing of the Act his request to discover why this Act was being considered was met with no response.

Fortunately, the process dictates that someone will one day have to explain why the individuals submitting this act are doing so. We feel that when they explain why they want this change it will be the appropriate time for us to comment on the need for this change. To comment in a vacuum is absurd. It would present the aura of the commission defending itself without first meeting its accuser, which may make for good political theater but not the type in which the Commissioners would voluntarily want to participate.

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c) As to the changes that would be produced by this new Act, the Commission believes that the elimination of the Fire Chief and the Police representative defeats the very purpose that cause them to be mentioned in the Special Act creating the Commission, that of public safety.

Obviously the presence of these two representative from these very important sub-section of city government makes fluid the exchange of information which would be otherwise only obtainable through the Freedom of Information Act. It should be pointed out that even under that Act most information that helps the License Commission protect public safety would not be available to other than Public Safety officials, thus creating a natural information drain that is presently fluid and has led to the revocation of licenses of some notorious establishments.

In a very real sense, just this change would create a danger to the public where none exists today. We do not believe that those proposing this Act intend to endanger the public safety, but they will have to be responsible for the outcomes of their action.

It should also be noted that the very political interference that is obviously intended, but never stated, in the structure of this Act was one of the reasons the Special Act establishing the present Commission with the Fire and Police Chief was passed. The makers of the original Special Act wanted to protect the process from political interference, this Act you are asking us to comment on opens the door to that very interference.

d) We understand that at present many city commissioner post which are voluntary, as those proposed in this Act, go unfilled for months because they are too burdensome for those who attempt to fill them. If this would occur under this new Act, it would severely hurt those who do or would do commerce in the city of Cambridge. Business people understand that time is money and waiting for decisions because of empty seats would be detrimental to all concerned.

e) Lastly, this Act in effect cuts one staff member from the Commission and replaces that person with a volunteer. That staff member cut is the full time paid Chair of the Commission. The authors of the Act under discussion must have some good reason to believe this position is not necessary, even though it's been in existence for years and has repeatedly proven its value. Yet, no one has stated why they believe the position to be unnecessary, and if so, upon what information they base that belief.

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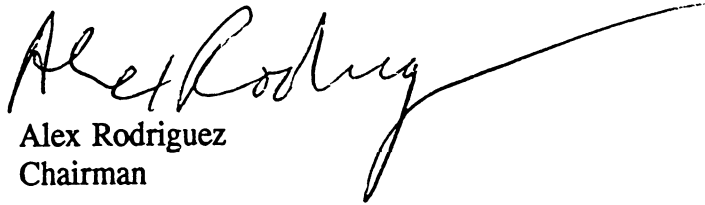
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c.c. Chief Fitzgerald
Captain Breen
Richard Scali
members of the City Council
City Manager

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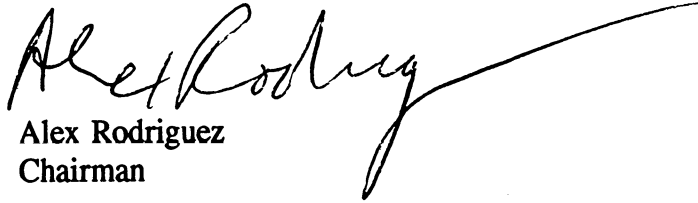
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Richard Scali
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minutes
3/25/93

(1)

The Ordinance Committee held a

public hearing on Thursday, March 25, 1993

beginning at 5:30 p.m. in the Sullivan

Chamber ^{City Hall,} for the purpose ^{of} considering ~~the~~ = proposed

~~legislation~~ legislative ~~bill~~ entitled "an Act providing

for the Cambridge License Commission. Present at the

hearing were C. Alice K. Wolf, Chair of the
Mayor Kenneth E. Keene's

Committee, 1 F.D., T.T., W.S., E.C.

S.R., J.M.

C. Russell covered the hearing and

explained the purpose of the hearing. She explained

that the vein of the proposed statute was

undergone some revision.

C. Cyn moved that the revision be

substituted for the original draft for the purpose

of discussion. The motion carried on a roll call vote.

In response to a question,

Billie Albright said that the my changes to this ~~draft~~ substituted draft appear in Section 6.

C. Russell moved that the matter

be laid on the table by a roll call vote

C. Cyn suggested that there be a

more detailed explanation of the legislation.

C. Urey explained that this is ^{a proposal for} home

rule legislation which must first be voted on

by the City Council and then go to the state legislature for enactment.

C. Wolf explained that the heart of the legislation is contained in Section One, which would replace the present Commission with an ^{unpaid} Citizen board to be appointed by City Manager, subject to confirmation by the City Council.

C. Cyo suggested amending the language in the 11th paragraph in the sixth through eighth lines ~~to~~ to more simply and directly prohibit conflicting interests.

C. Dushy suggesting adding a ^{request} request that members be residents of Cambridge.

Mr. Reers asked what ^{is} one fundamental purpose for this proposed legislation. C. Wolf said

that it changes the ~~board~~ Commission from paid employees to a volunteer citizen board.

C. Dushy noted that most if not all of the boards of the

City are volunteer citizen boards. This is not to say that input of the fire and police departments ~~and~~ is not important; it is, and so is the input at times of other city departments.

C. Wolf said that at this time the

letter from the License Commission would be

entered into the letter.

V. M. Cyr said that

he was surprised and outraged by the tone of the letter because ^{the consideration of proposed legislation to restructure a Commission} ~~that~~ is ~~not~~ a policy-making

function of the City Council involved; and to call

that political ~~interference~~ interference reflects a

serious misunderstanding of his role and the City

Council's role.

He added that the citizens have expressed much disagreement with the decisions of this License Commission, for example their decision to lift the cap. Therefore the ~~the~~ License Commission should be under the same structure and control as other policy-making boards.

C. Walsh ^{said it is his understanding that} ~~asked whether~~ the Police Comm'n

and Fire Chief get no extra salary and their expertise is valuable. He added that he is concerned about that this is in effect changing the Charter, by making their appointments subject to confirmation by the City Council. It does add more of a political

concern. C. Urey noted that the City Council has

⑥

C-H-A-

confirmatory power w/ regard to the CTA and the

C-R-A-. C. Durbey said this is also true for

the Historical Commission.

C. Wolf noted 3 issues raised

1. Embassy residency

2. No license holder should be eligible to
be a member

3. Whether confirmatory by the CC is
appropriate

C. Wolf noted that this the

other agencies in which the CC has confirmatory

powers are not quasi-judicial, as is the

License Commission

C. Durbey said that there should be a statement in ^{the legislation} Sec. 1 ~~stating~~ that this is a policy-making board

V. M. Cyr ^{note the concern regarding} ~~defined~~ the role of public

safety personnel on the Commission, and asked whether it might be preferable to have ~~three~~ five members and retain police and fire

C. Sullivan said that he believes ^{the LC} ~~it~~ should

~~be~~ remain just as it is. C. Russell said that on the whole, she agrees

Mayor Reers said that he is not clear

what it is about the License Commission that does not work. He does support their decision to lift the cap.

It was also impressed by their decision on the rap concert, ~~and~~ It would value ongoing dialog and ~~structure~~ structure on this issue, but he is not clear about what is not working. It appears to him that there is a value to public safety personnel involvement. There is also an issue re: access to criminal records.

C. Duchay said that he agreed with much of what Mr. Keno said about the cap policy. The major problems he has seen were from failure of junior level commissions to make proper disciplinary decisions, and that has improved. He noted however that Cambridge has a larger number of junior levels than many other communities.

However, zoning decisions should be clearly delineated as such.

There are ways of dealing w/ the criminal records issue.

The fundamental issue is that ~~the~~ ^{rise} decisions should not be being made by paid employees of the City, but rather by citizens who are interested in their community. ~~the~~

~~the~~ City employees is like having the

V. M. Cyn said that the decisions made by

the L.C. ~~is~~ are heavily involved with police /

public safety records. However, ⁱⁿ other communities ~~the~~

~~the~~ L.C. has a close relationship with the police

department without ^{having police} being on the L.C. There is

also the problem of the close relationship of

investigative and decision-making in the present structure

M. Reeves said he is not aware of other communities' arrangements for LCs but he believes what presently exists works rather well.

C. Wolf then requested public testimony

Joe Joseph, 8 Dudley Street, said that the

Charter has to provide for some flexibility, just like any other constitution. There are times when

centralized power is preferable, and times when

it is not. Mr. Newton, representatives of the police and

fire department sit in an advisory capacity on license

issues. He is also concerned about user fees. There

are too many existing licenses already, and it would not

be wise for the City to be dependent on them for revenue.

He supports the notion of a citizen board.

Michael Brandon, 27 Seven Pines Avenue,

stated that this is a complex issue which will require more study, but the current system should be improved to make the License Commission more responsive to the CC and citizens and more accountable. There should be some representation by unpaid citizens. He recommends a larger board of five ~~members~~ citizens. He believes that there should be police and fire representation at all of these meetings, and there should also be ^{systematic involvement of} other departments, such as Traffic + Parking, ^{and} Inspectional Services. He urged the CC to look closely at what other communities do.

C. Dueby moved that the matter be taken
 under advisement and remain in Committee W 19-0

motion that she
 C. Roscoe would like more information
 from the LC on its present procedures.

The meeting was adjourned at 7:24.

For the Com



City of Cambridge

16.
CALENDAR ITEM # 3
IN CITY COUNCIL

February 8, 1993
February 22, 1993

COUNCILLOR DUEHAY
VICE MAYOR CYR

ORDERED: That the attached Home Rule Legislation entitled "**AN ACT PROVIDING FOR THE CAMBRIDGE LICENSE COMMISSION**" be reviewed by the Ordinance Committee and referred back to the full City Council for submission to the legislature.

REFERRED TO THE ORDINANCE COMMITTEE

AN ACT PROVIDING FOR THE CAMBRIDGE LICENSE COMMISSION

SECTION 1. Chapter 83 of the Special Acts of 1919 and Chapter 95 of the Acts of 1922 are hereby repealed and replaced by the following new Act:

Section 1. Cambridge License Commission established; membership

There is hereby established in the City of Cambridge the Cambridge License Commission, which shall be appointed by the City Manager, subject to confirmation by the City Council. The Commission shall consist of three persons, who shall not be engaged, directly or indirectly in the manufacture or sale of alcoholic beverages, and shall not have any interest in real property in Cambridge which is used, directly or indirectly, for the manufacture or sale of alcoholic beverages. If any member of said Commission engages directly or indirectly in such manufacture or sale, or acquires any interest in real property in Cambridge which is used, directly or indirectly, for such manufacture or sale, his office shall immediately become vacant.

Section 2. Terms of office of members

The terms of office of the members first appointed shall commence at the date of their appointment, and shall be so arranged

as to expire at the end of one, two or three years from the first Monday in June in the year of their appointment, the date of the expiration to be specified in their respective commissions. Thereafter, a member shall be appointed for a term of three years from the first Monday in June of the year in which the previous term expires. No member shall serve more than two consecutive three-year terms. All members shall hold office until their respective successors are qualified.

Section 3. Removal of members; review; notice; fee

Commission members may be removed by the City Manager for cause, after charges preferred, reasonable notice thereof, and a hearing thereon; and the City Manager shall, in the order of removal, state the reasons therefor. Any Commission member may, within seven days after notice of removal, apply to the Superior Court for a review of the charges, the evidence submitted thereunder, and the findings thereon by the City Manager. Notice of the entry of such application shall be given to the City Manager by serving upon him an attested copy thereof. The entry fee, costs, and all proceedings upon such application shall be according to the rules regulating the trial of civil causes. The Court, after a hearing, shall affirm or revoke the City Manager's order of removal, and there shall be no appeal from the decision.

If any member who has been removed from office shall apply to the Superior Court for review pursuant to this section, he shall be entitled to a speedy hearing, and the removal shall not take effect until the Court affirms the order of removal. Until such order is

affirmed, the member shall continue to exercise the powers and perform the duties of his office.

Section 4. Chairperson; quorum; vacancies

The City Manager shall designate one member as chairperson. Two members shall be a quorum for the transaction of business. All vacancies shall be filled by the City Manager for the remainder of the unexpired term in the manner provided for an original appointment.

Section 5. Sworn statements

The Commission may require any statement which may be made before it and papers which may be filed with it regarding applications for licenses to be sworn to, and for such purpose any member may administer oaths.

Section 6. Authority of Commission

The Commission shall have authority to issue the following licenses: To be inn-holders or common victuallers; to maintain lodging houses, public lodging houses, intelligence offices, coffee houses or tea houses, vehicles for the sale of food in a public way; to be collectors of, dealers in or keepers of shops for the purchase, sale or barter of junk, old metals or second hand articles; to engage in the business of buying, selling, exchanging or assembling second hand motor vehicles or parts thereof; to carry on the business of pawnbrokers; to sell, rent or lease firearms; to keep a billiard, pool or sippio table or a bowling alley for hire, gain or reward; to establish, keep open and maintain skating rinks, carousels, inclined railways, Ferris wheels and outdoor exhibitions

of fire fighting; to establish, let, keep open and maintain a grove to be used for picnics or other lawful gatherings and amusements for hire, gain or reward; to retail dealers to keep open their place of business on the Lord's Day for the sale of ice cream, confectionery, soda water or fruit; to be hawkers and peddlers or auctioneers; to use a building for the manufacture of fireworks or firecrackers; to use a building or other structure for the keeping, storage, manufacture or sale of articles named in section ten of chapter one hundred and forty-eight of the General Laws, except fireworks, firecrackers and torpedoes; said Commission shall have exclusive authority to grant licenses under the authority of section twenty-two of chapter forty of the General Laws, and under the authority of chapter one hundred and thirty-eight of the General Laws.

SECTION 2. This Act shall take effect upon its passage.



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Page Two

c) As to the changes that would be produced by this new Act, the Commission believes that the elimination of the Fire Chief and the Police representative defeats the very purpose that cause them to be mentioned in the Special Act creating the Commission, that of public safety.

Obviously the presence of these two representative from these very important sub-section of city government makes fluid the exchange of information which would be otherwise only obtainable through the Freedom of Information Act. It should be pointed out that even under that Act most information that helps the License Commission protect public safety would not be available to other than Public Safety officials, thus creating a natural information drain that is presently fluid and has led to the revocation of licenses of some notorious establishments.

In a very real sense, just this change would create a danger to the public where none exists today. We do not believe that those proposing this Act intend to endanger the public safety, but they will have to be responsible for the outcomes of their action.

It should also be noted that the very political interference that is obviously intended, but never stated, in the structure of this Act was one of the reasons the Special Act establishing the present Commission with the Fire and Police Chief was passed. The makers of the original Special Act wanted to protect the process from political interference, this Act you are asking us to comment on opens the door to that very interference.

d) We understand that at present many city commissioner post which are voluntary, as those proposed in this Act, go unfilled for months because they are too burdensome for those who attempt to fill them. If this would occur under this new Act, it would severely hurt those who do or would do commerce in the city of Cambridge. Business people understand that time is money and waiting for decisions because of empty seats would be detrimental to all concerned.

e) Lastly, this Act in effect cuts one staff member from the Commission and replaces that person with a volunteer. That staff member cut is the full time paid Chair of the Commission. The authors of the Act under discussion must have some good reason to believe this position is not necessary, even though it's been in existence for years and has repeatedly proven its value. Yet, no one has stated why they believe the position to be unnecessary, and if so, upon what information they base that belief.

The Commission processes over 2,500 licenses a year; over 500 of these transactions require a site visit which is presently made by the Chair. It should also be pointed out that the Commission functions, albeit stressful, with two fewer staff persons since the appointment of the present Chairman who has redistributed those individuals' job functions to others including himself. This has saved the city over \$60,000 a year, since these savings began, and will continue to save the city that amount.

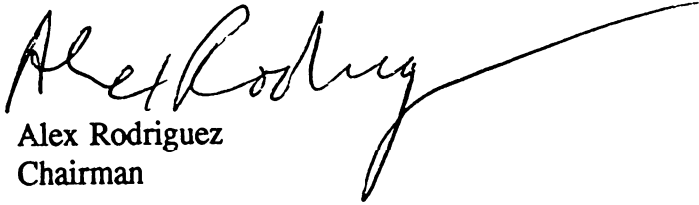
The Council should also be mindful of the fact that the Commission returns two thirds of its revenue to the general fund, an amount that may very well be jeopardized by this proposed Page

Page three

change, if the License Commission decisions are delayed in any way.

Once again we state that it is very difficult to speak to and Act when one has no knowledge as to what problem its makers believe they are solving. Therefore, we reserve the right to comment once again to this committee once we have heard the rationale of the authors of this legislation who, by the way, have had more the ample time to pick up the phone and speak to us, but have chosen not to for reasons best known to them.

Sincerely,

A handwritten signature in black ink, appearing to read "Alex Rodriguez", with a long, sweeping horizontal line extending to the right.

Alex Rodriguez
Chairman

c.c. Chief Fitzgerald
Captain Breen
Richard Scali
members of the City Council
City Manager

3/19/93

License Revs. Stat

Present: Don Dussell, Buzg Albin, Richard Scali
Alice Wolf, RWH, Frank Ducky, DMJ

D. Dussell Taken for special act

RWH. Lowell has special act

License Commis Arthur is scattered through gen'l laws

Ch 138 - 4

Ch 140

Ch 148

F. Ducky - Is there a law in the state that needs to be here
RWH - But there may be Ords that require licenses
that aren't here

R. Scali - What we don't do

? - bed + breakfasts - add for purposes of discussing

not public lodging uses - ?
intelligence offices - ? } what are they

more coffee + tea houses

add Class I, II + III motor vehicles

can refer to Ch 148

delete: renting in leasing firms

firms?

delete: sipper table

pub in automatic ^{ammun} ~~entertainment~~ machines

jukeboxes,

delete skating rink unless required by gen'l law

delete fireworks

open air

Should there be another section to add authority
for noise regulation
AW - yes

AW - Add Sec that Curious can call upon
Fire Dept / Police Dept

R. Duesky - agrees that the expertise must be added
but no need for them to be on the Bd itself

§ 451

REGULATORY POWERS

Ch.

Ch. 15

A local ordinance is deemed a state statute for the purpose of invoking jurisdiction of the United States Supreme Court under 28 U.S.C.A. § 1257(2).⁵

§ 452. Table of Municipal Licenses and Permits

Nature	Issuing Authority	MGLA Reference
Airport approach regulations	Administrative agency to whom authorizing delegated	c. 90, § 40E
Alcoholic beverage, sale and manufacture	Licensing board, if any, otherwise aldermen or selectmen	c. 138, § 2
Animal rendering	Board of Health	c. 111, § 154
Animal stables	Board of Health	c. 111, § 155
Auctioneers	Local Auction Permit Agent (In Boston, police commissioner)	c. 100, § 1
Automatic amusement devices	Aldermen, Selectmen (In certain cities, "licensing authorities"; see M.G.L.A. c. 140, § 1)	c. 140, § 177A
Automatic sprinkler systems	Head of Fire Department	c. 148, § 27A
Automobiles		
Class I—New car dealer	Aldermen, Selectmen, in certain cities "licensing authorities"	c. 140, §§ 58, 59
Class II—Used car dealer	Aldermen, Selectmen, in certain cities "licensing authorities"	c. 140, §§ 58, 59
Class III—Junk dealers	Aldermen, Selectmen, in certain cities, "licensing authorities"	c. 140, §§ 58, 59
Automobile graveyards	Aldermen, Selectmen, in Boston, the police commissioner, and in Lowell, the License Commission	c. 140, § 54A
Bathing suit rentals	Aldermen or Selectmen	c. 140, §§ 194-196
Baths, public	Board of Health	c. 140, § 51
Bicycles	Police department, Selectmen	c. 85, § 11A

M.G.L.A. c. 240, § 14A is a remedial statute intended to permit any landowner to petition for a decision concerning the validity or invalidity of any zoning restriction applicable to his land. *Sturges v. Town of Chilmark*, 380 Mass. 246, 402 N.E.2d 1346 (1980).
 5. *Erznoznik v. City of Jacksonville*, 422 U.S. 205, 95 S.Ct. 2268, 45 L.Ed.2d 125 (1975).

Nature
Billiards, pool, six
bowling alleys

Blasting operati

Board and lodg

Boats (conveyar
sengers)

Boats (rental)

Buildings

Burial

Cable televisio

Children, worl

Clubs, associ
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to members

Coasting

Coffee and te

Common day
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Entertainm

Certain wo

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Dairy produ

Dancing sch

Dog kennel

Dogs, colla

Elevators

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MGLA Reference

- c. 90, § 40E
- c. 138, § 2
- c. 111, § 154
- c. 111, § 155
- c. 100, § 1
- c. 140, § 177A
- c. 148, § 27A
- c. 140, §§ 58, 59
- c. 140, §§ 58, 59
- c. 140, §§ 58, 59
- c. 140, § 54A
- c. 140, §§ 194-196
- c. 140, § 51
- c. 85, § 11A
- , 380 Mass. 246, 402
- City of Jacksonville, 422
2268, 45 L.Ed.2d 125

Nature	Issuing Authority	MGLA Reference
Billards, pool, sippio table, bowling alleys	Aldermen or Selectmen (Li- censing board in Boston; Li- cense commission in Lowell)	c. 140, § 177
Blasting operations	Selectmen, City Council, Li- censing Board or Commis- sion (see M.G.L.A. c. 148, § 1)	c. 148, § 19
Board and lodging houses	Aldermen, Selectmen, boards licensing innholders	c. 140, § 23
Boats (conveyance of pas- sengers)	Aldermen, Selectmen	c. 140, §§ 191, 192
Boats (rental)	Aldermen, Selectmen	c. 140, § 194
Buildings	Inspector of buildings	c. 143, §§ 3, 3A
Burial	Board of Health	c. 114, §§ 45, 47
Cable television	City Manager in Plan D or E city, mayor of any other city, Selectmen	c. 166A, § 3
Children, work permits	Superintendent of schools	c. 149, § 69
Clubs, associations dis- pensing food or beverage to members	Aldermen, Selectmen (ex- cept as otherwise provided in M.G.L.A. c. 140, § 1)	c. 140, § 21E
Coasting	Selectmen, Aldermen, or other board in cities having charge of ways	c. 85, § 10A
Coffee and tea houses	Aldermen, Selectmen or Li- censing board	c. 140, § 47
Common day of rest, holi- days		
Entertainment	Mayor or Selectmen	c. 136, § 4
Certain work	Police commissioner, chief of police, board or officer in charge of police department or chairman of board of se- lectmen	c. 136, §§ 7, 15
Common victuallers, res- taurants	Aldermen, Selectmen or Li- censing Board	c. 140, § 2
Dairy products	Inspector of milk	c. 94, § 40
Dancing schools	Mayor or Selectmen	c. 140, § 185H
Dog kennels	City or Town Clerk, or in Boston, the Police Commis- sioner	c. 140, § 137A
Dogs, collar licenses	City or Town Clerk, or in Boston, the Police Commis- sioner	c. 140, § 137
Elevators	Building Inspector	c. 143, § 62

§ 452

REGULATORY POWERS

Nature	Issuing Authority	MGLA Reference
Entertainment provided by innholder or common victualler	Aldermen, Selectmen or Licensing Authority	c. 140, § 183A
Excavation in public way	Officer in charge of maintenance of sewers	c. 83, § 8
Explosives, storage, manufacture, or sale	Selectmen, City Council, or other board (see M.G.L.A. c. 148, § 1)	c. 148, § 13
Ferris wheels	Mayor or Selectmen or, in Lowell, licensing board	c. 140, § 186
Firearms	Chief of Police, or board performing his functions	c. 140, §§ 121-131H
Fires, open	Forest warden or Chief of Fire Department	c. 48, § 13
Fireworks	Chief of Fire Department	c. 148, § 39A
Fishing, hunting, trapping	Town or City Clerk	c. 131, § 12
Food vehicles, lunch carts	Aldermen, Selectmen, or in Boston, street commissioners or Police Commissioner	c. 140, § 49
Fortune tellers	Aldermen, Selectmen or other board provided for in M.G.L.A. c. 140, § 1	c. 140, § 1851
Funeral directors	Board of Health	c. 114, § 49
Furnaces and steam engines	Aldermen or Selectmen	c. 140, § 115
Garbage removal	Board of Health	c. 111, § 31A
Gas appliances	Inspector of Gas Piping	c. 143, §§ 3N, 3O
Gasoline service stations	Local licensing authority (see M.G.L.A. c. 148, § 1)	c. 148, § 13
Gunsmith	Chief of Police	c. 140, § 122
Hawkers, transient vendors	Aldermen or Selectmen	c. 101, §§ 5, 17
Ice cream manufacture	Board of Health	c. 94, § 65I
Junk collector or dealer	Aldermen, Selectmen, or in Boston, the Police Commissioner or, in Lowell, the license commission	c. 140, § 54
Livery stable	Board of Health	c. 111, § 155
Lodging houses	Selectmen, City Council or other licensing authority	c. 140, §§ 23, 30
Marriage	City or Town Clerk	c. 207, § 28
Methyl alcohol	Board of Health	c. 94, § 303A
Milk	Inspector of Milk	c. 94, § 40
Mobile homes park	Board of Health	c. 140, § 32B
Motels	Board of Health	c. 140, § 32B

Ch. 15
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MGLA Reference
. 140, § 183A

. 83, § 8

. 148, § 13

. 140, § 186

. 140, §§ 121-131H

. 48, § 13

. 148, § 39A

. 131, § 12

. 140, § 49

. 140, § 185I

. 114, § 49

. 140, § 115

. 111, § 31A

. 143, §§ 3N, 3O

. 148, § 13

. 140, § 122

. 101, §§ 5, 17

. 94, § 65I

. 140, § 54

. 111, § 155

. 140, §§ 23, 30

. 207, § 28

. 94, § 303A

. 94, § 40

. 140, § 32B

. 140, § 32B

Nature	Issuing Authority	MGLA Reference
Moving buildings in public ways	Selectmen or road commissioners	c. 85, § 18
Parking lots	Selectmen, Aldermen, in Boston, Commissioner of Traffic and Parking, in all cases with approval of head of fire department	c. 148, § 56
Pawnbrokers	Police Commissioner of Boston, License Commission in Lowell, elsewhere, the Aldermen or Selectmen	c. 140, § 70
Picnic groves	Aldermen, Selectmen, in Boston or Lowell, the License Commission or Board	c. 140, § 188
Pinball machines	Aldermen, Selectmen, or License Boards in certain cities	c. 140, § 177A
Plumbing	Inspector of Plumbing	c. 142, § 13
Sales of articles for charitable purpose	Selectmen, board or office in city as designated	c. 101, § 33
Second hand dealers	Aldermen, Selectmen, Police Commissioner in Boston, License Commission in Lowell	c. 140, § 54
Shellfish	Selectmen, Aldermen, City Council	c. 130, § 52
Signs projected over public ways	Board or officer in charge of laying out public ways	c. 85, § 8
Skating rinks	Mayor, Selectmen, License Commission in Lowell	c. 140, § 186
Soft drinks	Aldermen, Selectmen, or Licensing Boards in cities	c. 140, §§ 21A, 21B
Storage and sale of gasoline and other explosives	Selectmen, City Council or other board specified in M.G.L.A. c. 148, § 1	c. 148, § 13
Tanning facilities	Board of Health	c. 111, § 208
Taxicabs	Aldermen, Selectmen, Town Council or other officer designated by ordinance or by-law	c. 40, § 22
Theatrical events, public exhibition	Mayor or Selectmen	c. 140, § 181
Underground storage tank	Fire Marshall or Designee in City or Town	c. 148, § 38A
Wiring	Inspector of Wiring	c. 143, § 32

§§ 453-470 are reserved for supplementary material.

City of Cambridge

The Ordinance Committee held a public hearing on Thursday, March 25, 1993, beginning at 5:30 p.m. in the Sullivan Chamber, City Hall, for the purpose of considering proposed legislation entitled "AN ACT PROVIDING FOR THE CAMBRIDGE LICENSE COMMISSION". Present at the hearing were: Councillor Alice K. Wolf, Chair of the Committee; Mayor Kenneth E. Reeves; Councillor Francis H. Duehay; Councillor Timothy J. Toomey, Jr.; Councillor Walter J. Sullivan; Vice Mayor Edward N. Cyr; Councillor Sheila T. Russell; Councillor Jonathan S. Myers; and Councillor William H. Walsh.

Councillor Wolf convened the hearing and explained the purpose of the hearing. She explained that the version of the proposed statute has undergone some revision and the Councillors now have at their desks the most recently revised version.

Vice Mayor Cyr moved that the revision be substituted for the original draft for the purpose of discussion. The motion carried on a roll call vote.

In response to a question, Birge Albright, Legal Counsel for the City of Cambridge, said that the only changes to this substituted draft appear in Section 6.

Councillor Russell moved that the matter be laid on the table, on a roll call vote, the motion failed of adoption.

Vice Mayor Cyr suggested that there be a detailed explanation of the legislation.

Councillor Wolf explained that this is a proposal for home rule legislation which must first be voted on by the City Council and then go to the State legislature for enactment. Councillor Wolf explained that the heart of the legislation is contained in Section One which would replace the present commission with an unpaid citizen board to be appointed by the City Manager, subject to confirmation by the City Council.

Vice Mayor Cyr suggested amending the language in the first paragraph, the sixth through fifteenth lines, to more simply and directly prohibit conflicting interests of any type.

Councillor Duehay suggested adding a requirement that members be residents of Cambridge.

Mayor Reeves asked what is the fundamental purpose for this proposed legislation. Councillor Wolf said that it changes the commission from paid employees to a volunteer citizen board.

Councillor Duehay noted that most, if not all, of the boards of the city are volunteer citizen boards. This is not to say that

input of the fire and police departments is not important; it is, and so is the input, at times, of other city departments.

Councillor Wolf said that at this time the letter from the License Commissioner would be entered into the record. Vice Mayor Cyr said that he was surprised and outraged by the tone of the letter because the consideration of proposed legislation to restructure a commission is a policy-making function of the City Council; and to call that political interference reflects a serious misunderstanding of his role and the City Council's role. He added that the citizens have expressed much disagreement with the decisions of this License Commission, for example, their decision to lift the cap. Therefore, the License Commission should be under the same structure and control as other policy-making boards.

Councillor Walsh said that it is his understanding that the Police Commissioner and Fire Chief get no extra salary and their expertise is valuable. He added that he is concerned that this is in effect changing the Charter, by making these appointments subject to confirmation by the City Council. It does add more of a political concern. Councillor Wolf noted that the City Council has confirmation power with regard to the Cambridge Housing Authority (CHA) and the Cambridge Redevelopment Authority (CRA). Councillor Duehay said this is also true for the Historical Commission.

Councillor Wolf noted three issues raised by discussion thus far:

1. Cambridge residency;
2. Conflict of interest: No license holder should be eligible to be a member; and
3. Whether confirmation by the City Council is appropriate.

Councillor Walsh noted that the other agencies in which the City Council has confirmation powers are not quasi-judicial, as is the License Commission.

Councillor Duehay said that there should be an explicit statement in the legislation in Section 1 that this is a policy-making board.

Vice Mayor Cyr noted the concern regarding the role of public safety personnel on the commission and asked whether it might be preferable to have five members and retain Police and Fire representation.

Councillor Sullivan said that he believes the License Commission should remain just as it is. Councillor Russell said that on the whole, she agrees.

Mayor Reeves said that he is not clear what it is about the License Commission that does not work. He does support their decision to lift the cap. He was also impressed by their decision on the rap concert. He would value ongoing dialogue and instruction on this issue, but he is not clear about what is not working. It appears to him that there is a value to public safety personnel involvement. There is also an issue regarding access to criminal records.

Councillor Duehay said that he agreed with much of what Mayor Reeves said about the cap policy. The major problems he has seen were from failure of former license commissions to make proper disciplinary decisions, and that has improved. He noted, however, that Cambridge has a larger number of pouring licenses than many other communities. The fundamental issue is that policy decisions should be clearly delineated as such and that these decisions should not be being made by employees of the city, but rather by citizens who are interested in their community. There are ways of dealing with the criminal records issue.

Vice Mayor Cyr said that the decisions made by the License Commission are heavily involved with police/safety records. However, in other communities, the licensing agency has a close relationship with the Police Department without having police on the agency. There is also the problem of the close relationship of investigation and decision-making in the present structure.

Mayor Reeves said he is not aware of other communities' arrangements for License Commissions but he believes what presently exists works rather well.

Councillor Wolf then requested public testimony.

Joe Joseph, 8 Dudley Street, said that the Charter has to provide some flexibility, just like any other constitution. There are times when centralized power is preferable, and times when it is not. In Newton, representatives of the police and fire department sit in an advisory capacity on license issues. He is also concerned about user fees. There are too many pouring licenses already and it would not be wise for the city to be dependent on them for revenue. He supports the notion of a citizen board.

Michael Brandon, 27 Seven Pines Avenue, stated that this is a complex issue which will require more study but the current system should be improved to make the License Commission more responsive to the City Council and citizens and more accountable. There should be some representation by unpaid citizens. He recommends a

larger board of five citizens. He believes that there should be police and fire representation at all of these meetings and there should also be systematic involvement of other departments such as Traffic and Parking and Inspectional Services. He urged the City Council to look closely at what other communities do.

Councillor Duehay moved that the matter be taken under advisement and remain in Committee. This motion carried on a voice vote of nine members.

Councillor Russell noted that she would like more information from the License Commission on its present procedures.

The meeting was adjourned at 7:24 p.m.

For the Committee,

Councillor Alice K. Wolf
Chair

City of Cambridge

MASSACHUSETTS

Ordinance Committee
License Legislation

In City Council March 25, 1993

TO SUBSTITUTE REVISED VERSION OF
PROPOSED LEGISLATION.

YEA	NAY	ABSENT	PRESENT	
				Mr. Ed Cyr
X				Mr. Francis H. Duehay
		X		Mr. Jonathan S. Myers
	X			Mrs. Sheila T. Russell
	X			Mr. Walter J. Sullivan
	X			Mr. Timothy J. Toomey, Jr.
		X		Mr. William H. Walsh
X				Ms. Alice K. Wolf
X				Mayor Kenneth E. Reeves
4	3	2	0	

City of Cambridge

MASSACHUSETTS

In City Council March 25, 1993

Ordinance Committee
License Legislation

TO TABLE THE MATTER

YEA	NAY	ABSENT	PRESENT	
	X			Mr. Ed Cyr
	X			Mr. Francis H. Duehay
		X		Mr. Jonathan S. Myers
X				Mrs. Sheila T. Russell
X				Mr. Walter J. Sullivan
X				Mr. Timothy J. Toomey, Jr.
X				Mr. William H. Walsh
	X			Ms. Alice K. Wolf
	X			Mayor Kenneth E. Reeves
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REVISED

3/25/93

AN ACT PROVIDING FOR THE CAMBRIDGE LICENSE COMMISSION

SECTION 1. Chapter 83 of the Special Acts of 1919 and Chapter 95 of the Acts of 1922 are hereby repealed and replaced by the following new Act:

Section 1. Cambridge License Commission established; membership

There is hereby established in the City of Cambridge the Cambridge License Commission, which shall be appointed by the City Manager, subject to confirmation by the City Council. The Commission shall consist of three persons, who shall not be engaged, directly or indirectly in the manufacture or sale of alcoholic beverages, and shall not have any interest in real property in Cambridge which is used, directly or indirectly, for the manufacture or sale of alcoholic beverages. If any member of said Commission engages directly or indirectly in such manufacture or sale, or acquires any interest in real property in Cambridge which is used, directly or indirectly, for such manufacture or sale, his office shall immediately become vacant.

Section 2. Terms of office of members

The terms of office of the members first appointed shall commence at the date of their appointment, and shall be so arranged

as to expire at the end of one, two or three years from the first Monday in June in the year of their appointment, the date of the expiration to be specified in their respective commissions. Thereafter, a member shall be appointed for a term of three years from the first Monday in June of the year in which the previous term expires. No member shall serve more than two consecutive three-year terms. All members shall hold office until their respective successors are qualified.

Section 3. Removal of members; review; notice; fee

Commission members may be removed by the City Manager for cause, after charges preferred, reasonable notice thereof, and a hearing thereon; and the City Manager shall, in the order of removal, state the reasons therefor. Any Commission member may, within seven days after notice of removal, apply to the Superior Court for a review of the charges, the evidence submitted thereunder, and the findings thereon by the City Manager. Notice of the entry of such application shall be given to the City Manager by serving upon him an attested copy thereof. The entry fee, costs, and all proceedings upon such application shall be according to the rules regulating the trial of civil causes. The Court, after a hearing, shall affirm or revoke the City Manager's order of removal, and there shall be no appeal from the decision.

If any member who has been removed from office shall apply to the Superior Court for review pursuant to this section, he shall be entitled to a speedy hearing, and the removal shall not take effect until the Court affirms the order of removal. Until such order is

affirmed, the member shall continue to exercise the powers and perform the duties of his office.

Section 4. Chairperson; quorum; vacancies

The City Manager shall designate one member as chairperson. Two members shall be a quorum for the transaction of business. All vacancies shall be filled by the City Manager for the remainder of the unexpired term in the manner provided for an original appointment.

Section 5. Sworn statements

The Commission may require any statement which may be made before it and papers which may be filed with it regarding applications for licenses to be sworn to, and for such purpose any member may administer oaths.

Section 6. Authority of Commission

The Commission shall have authority to issue the following licenses and permits: To be innholders or common victuallers (G.L. c. 140, §2); to maintain lodging houses (G.L. c. 140, §§23, 30), vehicles for the sale of food in a public way (G.L. c. 140, §49); to be collectors of, dealers in or keepers of shops for the purchase, sale or barter of junk, old metals or second hand articles (G.L. c. 140, §54); to engage in the business of buying, selling, and exchanging new and second hand motor vehicles and assembling second hand motor vehicles or parts thereof (G.L. c. 140, §§57-59); to carry on the business of pawnbrokers (G.L. c. 140, §70); to sell firearms (G.L. c. 140, §122); to keep a billiard or pool table or a bowling alley for hire, gain or reward (G.L. c.

140, §177); to establish, keep open and maintain roller skating rinks, carousels, inclined railways or Ferris wheels (G.L. c. 140, §186); to be hawkers and peddlers (G.L. c. 101, §§5, 17) or auctioneers (G.L. c. 100, §§1, 2); to use a building or other structure for the keeping, storage, manufacture or sale of explosives and inflammable materials (G.L. c. 148, §9, 13); to engage in the business of maintaining an open-air parking space or spaces (G.L. c. 148, §56).

Said Commission shall have exclusive authority to grant licenses pursuant to G.L. c. 40, §22 (taxicabs); G.L. c. 138 (alcoholic beverages); G.L. c. 140, §181, 183A (theatrical exhibitions, public amusements and other entertainment); G.L. c. 140, §177A (automatic amusement devices).

In addition to the authority specifically granted in this section, the Commission shall have the authority to grant a license or permit where such authority is given by any general or special law to municipalites or their "licensing authorities," and also any authority given by ordinance. The Commission shall also have all express or implied powers of investigation and enforcement granted by law, including the power to subpoena witnesses.

SECTION 2. This Act shall take effect upon its passage.



CAMBRIDGE LICENSE COMMISSION CITY OF CAMBRIDGE

831 MASSACHUSETTS AVE., 1ST FLOOR, CAMBRIDGE, MASSACHUSETTS 02139 • TEL. 349-6140

ALEX RODRIGUEZ
Commission Chairman

KEVIN FITZGERALD
Chief-of-Fire Department
Commission Member

HENRY BREEN
Police Representative
Commission Member

RICHARD V. SCALI
Commission Executive Officer

Honorable Alice Wolf
Chair of the Ordinance Committee
Cambridge City Council

Dear Councillor Wolf:

Due to previous commitments it is impossible for any of the Commissioners to present our opposition to "AN ACT PROVIDING FOR THE CAMBRIDGE LICENSE COMMISSION." Therefore, we have asked our Executive Officer, Richard Scali, to read the following into the record.

The Cambridge License Commission opposes any change in the present structure or composition of the Commission under existing law. Our reasons are quite simple; they are:

a) No one has made a public case as to why the present structure of the Commission should be changed. The Commission feels strongly that the home rule petition process is a process that should be used in a serious and non frivolous manner. Since no one has made a public case as to why the present structure of the Commission should be changed, it can be assumed that this must be a case of change for change's sake. Any observer of the workings of the Massachusetts Legislature knows that frivolous home rule petitions are usually lost at the legislative committee level. Unless some case is made for this Act it will not be taken seriously on Beacon Hill.

b) If there is a case made at your hearing as to why the Commission structure should be changed the present Commission will be more than happy to respond to that case, but at the present time no citizen, councillor, or any individual has spoken to any staff member or Commissioner as to why they would want to change the structure of the License Commission. Even when a staff member of the Commission was asked to assist in the legal writing of the Act his request to discover why this Act was being considered was met with no response.

Fortunately, the process dictates that someone will one day have to explain why the individuals submitting this act are doing so. We feel that when they explain why they want this change it will be the appropriate time for us to comment on the need for this change. To comment in a vacuum is absurd. It would present the aura of the commission defending itself without first meeting its accuser, which may make for good political theater but not the type in which the Commissioners would voluntarily want to participate.

Page Two

c) As to the changes that would be produced by this new Act, the Commission believes that the elimination of the Fire Chief and the Police representative defeats the very purpose that cause them to be mentioned in the Special Act creating the Commission, that of public safety.

Obviously the presence of these two representative from these very important sub-section of city government makes fluid the exchange of information which would be otherwise only obtainable through the Freedom of Information Act. It should be pointed out that even under that Act most information that helps the License Commission protect public safety would not be available to other than Public Safety officials, thus creating a natural information drain that is presently fluid and has led to the revocation of licenses of some notorious establishments.

In a very real sense, just this change would create a danger to the public where none exists today. We do not believe that those proposing this Act intend to endanger the public safety, but they will have to be responsible for the outcomes of their action.

It should also be noted that the very political interference that is obviously intended, but never stated, in the structure of this Act was one of the reasons the Special Act establishing the present Commission with the Fire and Police Chief was passed. The makers of the original Special Act wanted to protect the process from political interference, this Act you are asking us to comment on opens the door to that very interference.

d) We understand that at present many city commissioner post which are voluntary, as those proposed in this Act, go unfilled for months because they are too burdensome for those who attempt to fill them. If this would occur under this new Act, it would severely hurt those who do or would do commerce in the city of Cambridge. Business people understand that time is money and waiting for decisions because of empty seats would be detrimental to all concerned.

e) Lastly, this Act in effect cuts one staff member from the Commission and replaces that person with a volunteer. That staff member cut is the full time paid Chair of the Commission. The authors of the Act under discussion must have some good reason to believe this position is not necessary, even though it's been in existence for years and has repeatedly proven its value. Yet, no one has stated why they believe the position to be unnecessary, and if so, upon what information they base that belief.

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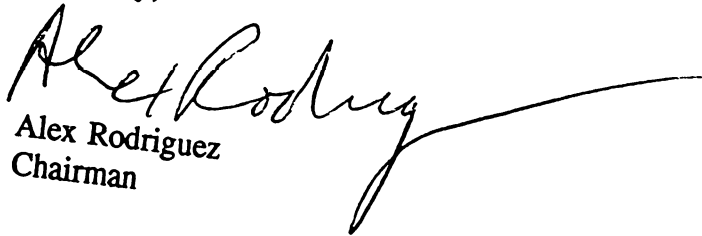
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Once again we state that it is very difficult to speak to and Act when one has no knowledge as to what problem its makers believe they are solving. Therefore, we reserve the right to comment once again to this committee once we have heard the rationale of the authors of this legislation who, by the way, have had more the ample time to pick up the phone and speak to us, but have chosen not to for reasons best known to them.

Sincerely,

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Alex Rodriguez
Chairman

c.c. Chief Fitzgerald
Captain Breen
Richard Scali
members of the City Council
City Manager

City of Cambridge

MASSACHUSETTS

Ordinance Committee
License Legislation

In City Council March 25, 1993

TO SUBSTITUTE REVISED VERSION OF
PROPOSED LEGISLATION.

YEA	NAY	ABSENT	PRESENT	
X				Mr. Ed Cyr
X				Mr. Francis H. Duehay
		X		Mr. Jonathan S. Myers
	X			Mrs. Sheila T. Russell
	X			Mr. Walter J. Sullivan
	X			Mr. Timothy J. Toomey, Jr.
		X		Mr. William H. Walsh
X				Ms. Alice K. Wolf
X				Mayor Kenneth E. Reeves
4	3	2	0	

City of Cambridge

MASSACHUSETTS

In City Council March 25, 1993

Ordinance Committee
License Legislation

TO TABLE THE MATTER

YE A	NAY	ABSENT	PRESENT	
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X				Mr. Timothy J. Toomey, Jr.
X				Mr. William H. Walsh
	X			Ms. Alice K. Wolf
	X			Mayor Kenneth E. Reeves
4	4	1	0	

REVISED

3/25/93

AN ACT PROVIDING FOR THE CAMBRIDGE LICENSE COMMISSION

SECTION 1. Chapter 83 of the Special Acts of 1919 and Chapter 95 of the Acts of 1922 are hereby repealed and replaced by the following new Act:

Section 1. Cambridge License Commission established; membership

There is hereby established in the City of Cambridge the Cambridge License Commission, which shall be appointed by the City Manager, subject to confirmation by the City Council. The Commission shall consist of three persons, who shall not be engaged, directly or indirectly in the manufacture or sale of alcoholic beverages, and shall not have any interest in real property in Cambridge which is used, directly or indirectly, for the manufacture or sale of alcoholic beverages. If any member of said Commission engages directly or indirectly in such manufacture or sale, or acquires any interest in real property in Cambridge which is used, directly or indirectly, for such manufacture or sale, his office shall immediately become vacant.

Section 2. Terms of office of members

The terms of office of the members first appointed shall commence at the date of their appointment, and shall be so arranged

as to expire at the end of one, two or three years from the first Monday in June in the year of their appointment, the date of the expiration to be specified in their respective commissions. Thereafter, a member shall be appointed for a term of three years from the first Monday in June of the year in which the previous term expires. No member shall serve more than two consecutive three-year terms. All members shall hold office until their respective successors are qualified.

Section 3. Removal of members; review; notice; fee

Commission members may be removed by the City Manager for cause, after charges preferred, reasonable notice thereof, and a hearing thereon; and the City Manager shall, in the order of removal, state the reasons therefor. Any Commission member may, within seven days after notice of removal, apply to the Superior Court for a review of the charges, the evidence submitted thereunder, and the findings thereon by the City Manager. Notice of the entry of such application shall be given to the City Manager by serving upon him an attested copy thereof. The entry fee, costs, and all proceedings upon such application shall be according to the rules regulating the trial of civil causes. The Court, after a hearing, shall affirm or revoke the City Manager's order of removal, and there shall be no appeal from the decision.

If any member who has been removed from office shall apply to the Superior Court for review pursuant to this section, he shall be entitled to a speedy hearing, and the removal shall not take effect until the Court affirms the order of removal. Until such order is

affirmed, the member shall continue to exercise the powers and perform the duties of his office.

Section 4. Chairperson; quorum; vacancies

The City Manager shall designate one member as chairperson. Two members shall be a quorum for the transaction of business. All vacancies shall be filled by the City Manager for the remainder of the unexpired term in the manner provided for an original appointment.

Section 5. Sworn statements

The Commission may require any statement which may be made before it and papers which may be filed with it regarding applications for licenses to be sworn to, and for such purpose any member may administer oaths.

Section 6. Authority of Commission

The Commission shall have authority to issue the following licenses and permits: To be innholders or common victuallers (G.L. c. 140, §2); to maintain lodging houses (G.L. c. 140, §§23, 30), vehicles for the sale of food in a public way (G.L. c. 140, §49); to be collectors of, dealers in or keepers of shops for the purchase, sale or barter of junk, old metals or second hand articles (G.L. c. 140, §54); to engage in the business of buying, selling, and exchanging new and second hand motor vehicles and assembling second hand motor vehicles or parts thereof (G.L. c. 140, §§57-59); to carry on the business of pawnbrokers (G.L. c. 140, §70); to sell firearms (G.L. c. 140, §122); to keep a billiard or pool table or a bowling alley for hire, gain or reward (G.L. c.

140, §177); to establish, keep open and maintain roller skating rinks, carousels, inclined railways or Ferris wheels (G.L. c. 140, §186); to be hawkers and peddlers (G.L. c. 101, §§5, 17) or auctioneers (G.L. c. 100, §§1, 2); to use a building or other structure for the keeping, storage, manufacture or sale of explosives and inflammable materials (G.L. c. 148, §9, 13); to engage in the business of maintaining an open-air parking space or spaces (G.L. c. 148, §56).

Said Commission shall have exclusive authority to grant licenses pursuant to G.L. c. 40, §22 (taxicabs); G.L. c. 138 (alcoholic beverages); G.L. c. 140, §181, 183A (theatrical exhibitions, public amusements and other entertainment); G.L. c. 140, §177A (automatic amusement devices).

In addition to the authority specifically granted in this section, the Commission shall have the authority to grant a license or permit where such authority is given by any general or special law to municipalites or their "licensing authorities," and also any authority given by ordinance. The Commission shall also have all express or implied powers of investigation and enforcement granted by law, including the power to subpoena witnesses.

SECTION 2. This Act shall take effect upon its passage.



CAMBRIDGE LICENSE COMMISSION

CITY OF CAMBRIDGE

831 MASSACHUSETTS AVE., 1ST FLOOR, CAMBRIDGE, MASSACHUSETTS 02139 • TEL. 349-6140

ALEX RODRIGUEZ
Commission Chairman

KEVIN FITZGERALD
Chief-of-Fire Department
Commission Member

HENRY BREEN
Police Representative
Commission Member

RICHARD V. SCALI
Commission Executive Officer

Honorable Alice Wolf
Chair of the Ordinance Committee
Cambridge City Council

Dear Councillor Wolf:

Due to previous commitments it is impossible for any of the Commissioners to present our opposition to "AN ACT PROVIDING FOR THE CAMBRIDGE LICENSE COMMISSION." Therefore, we have asked our Executive Officer, Richard Scali, to read the following into the record.

The Cambridge License Commission opposes any change in the present structure or composition of the Commission under existing law. Our reasons are quite simple; they are:

a) No one has made a public case as to why the present structure of the Commission should be changed. The Commission feels strongly that the home rule petition process is a process that should be used in a serious and non frivolous manner. Since no one has made a public case as to why the present structure of the Commission should be changed, it can be assumed that this must be a case of change for change's sake. Any observer of the workings of the Massachusetts Legislature knows that frivolous home rule petitions are usually lost at the legislative committee level. Unless some case is made for this Act it will not be taken seriously on Beacon Hill.

b) If there is a case made at your hearing as to why the Commission structure should be changed the present Commission will be more than happy to respond to that case, but at the present time no citizen, councillor, or any individual has spoken to any staff member or Commissioner as to why they would want to change the structure of the License Commission. Even when a staff member of the Commission was asked to assist in the legal writing of the Act his request to discover why this Act was being considered was met with no response.

Fortunately, the process dictates that someone will one day have to explain why the individuals submitting this act are doing so. We feel that when they explain why they want this change it will be the appropriate time for us to comment on the need for this change. To comment in a vacuum is absurd. It would present the aura of the commission defending itself without first meeting its accuser, which may make for good political theater but not the type in which the Commissioners would voluntarily want to participate.

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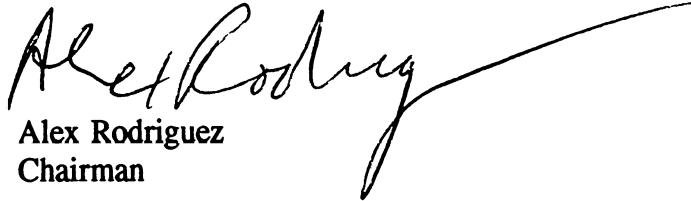
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Sincerely,

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Alex Rodriguez
Chairman

c.c. Chief Fitzgerald
Captain Breen
Richard Scali
members of the City Council
City Manager

City of Cambridge

The Ordinance Committee held a public hearing on Thursday, March 25, 1993, beginning at 5:30 p.m. in the Sullivan Chamber, City Hall, for the purpose of considering proposed legislation entitled "AN ACT PROVIDING FOR THE CAMBRIDGE LICENSE COMMISSION". Present at the hearing were: Councillor Alice K. Wolf, Chair of the Committee; Mayor Kenneth E. Reeves; Councillor Francis H. Duehay; Councillor Timothy J. Toomey, Jr.; Councillor Walter J. Sullivan; Vice Mayor Edward N. Cyr; Councillor Sheila T. Russell; Councillor Jonathan S. Myers; and Councillor William H. Walsh.

Councillor Wolf convened the hearing and explained the purpose of the hearing. She explained that the version of the proposed statute has undergone some revision and the Councillors now have at their desks the most recently revised version.

Vice Mayor Cyr moved that the revision be substituted for the original draft for the purpose of discussion. The motion carried on a roll call vote.

In response to a question, Birge Albright, Legal Counsel for the City of Cambridge, said that the only changes to this substituted draft appear in Section 6.

Councillor Russell moved that the matter be laid on the table, on a roll call vote, the motion failed of adoption.

Vice Mayor Cyr suggested that there be a detailed explanation of the legislation.

Councillor Wolf explained that this is a proposal for home rule legislation which must first be voted on by the City Council and then go to the State legislature for enactment. Councillor Wolf explained that the heart of the legislation is contained in Section One which would replace the present commission with an unpaid citizen board to be appointed by the City Manager, subject to confirmation by the City Council.

Vice Mayor Cyr suggested amending the language in the first paragraph, the sixth through fifteenth lines, to more simply and directly prohibit conflicting interests of any type.

Councillor Duehay suggested adding a requirement that members be residents of Cambridge.

Mayor Reeves asked what is the fundamental purpose for this proposed legislation. Councillor Wolf said that it changes the commission from paid employees to a volunteer citizen board.

Councillor Duehay noted that most, if not all, of the boards of the city are volunteer citizen boards. This is not to say that

input of the fire and police departments is not important; it is, and so is the input, at times, of other city departments.

Councillor Wolf said that at this time the letter from the License Commissioner would be entered into the record. Vice Mayor Cyr said that he was surprised and outraged by the tone of the letter because the consideration of proposed legislation to restructure a commission is a policy-making function of the City Council; and to call that political interference reflects a serious misunderstanding of his role and the City Council's role. He added that the citizens have expressed much disagreement with the decisions of this License Commission, for example, their decision to lift the cap. Therefore, the License Commission should be under the same structure and control as other policy-making boards.

Councillor Walsh said that it is his understanding that the Police Commissioner and Fire Chief get no extra salary and their expertise is valuable. He added that he is concerned that this is in effect changing the Charter, by making these appointments subject to confirmation by the City Council. It does add more of a political concern. Councillor Wolf noted that the City Council has confirmation power with regard to the Cambridge Housing Authority (CHA) and the Cambridge Redevelopment Authority (CRA). Councillor Duehay said this is also true for the Historical Commission.

Councillor Wolf noted three issues raised by discussion thus far:

1. Cambridge residency;
2. Conflict of interest: No license holder should be eligible to be a member; and
3. Whether confirmation by the City Council is appropriate.

Councillor Walsh noted that the other agencies in which the City Council has confirmation powers are not quasi-judicial, as is the License Commission.

Councillor Duehay said that there should be an explicit statement in the legislation in Section 1 that this is a policy-making board.

Vice Mayor Cyr noted the concern regarding the role of public safety personnel on the commission and asked whether it might be preferable to have five members and retain Police and Fire representation.

Councillor Sullivan said that he believes the License Commission should remain just as it is. Councillor Russell said that on the whole, she agrees.

Mayor Reeves said that he is not clear what it is about the License Commission that does not work. He does support their decision to lift the cap. He was also impressed by their decision on the rap concert. He would value ongoing dialogue and instruction on this issue, but he is not clear about what is not working. It appears to him that there is a value to public safety personnel involvement. There is also an issue regarding access to criminal records.

Councillor Duehay said that he agreed with much of what Mayor Reeves said about the cap policy. The major problems he has seen were from failure of former license commissions to make proper disciplinary decisions, and that has improved. He noted, however, that Cambridge has a larger number of pouring licenses than many other communities. The fundamental issue is that policy decisions should be clearly delineated as such and that these decisions should not be being made by employees of the city, but rather by citizens who are interested in their community. There are ways of dealing with the criminal records issue.

Vice Mayor Cyr said that the decisions made by the License Commission are heavily involved with police/safety records. However, in other communities, the licensing agency has a close relationship with the Police Department without having police on the agency. There is also the problem of the close relationship of investigation and decision-making in the present structure.

Mayor Reeves said he is not aware of other communities' arrangements for License Commissions but he believes what presently exists works rather well.

Councillor Wolf then requested public testimony.

Joe Joseph, 8 Dudley Street, said that the Charter has to provide some flexibility, just like any other constitution. There are times when centralized power is preferable, and times when it is not. In Newton, representatives of the police and fire department sit in an advisory capacity on license issues. He is also concerned about user fees. There are too many pouring licenses already and it would not be wise for the city to be dependent on them for revenue. He supports the notion of a citizen board.

Michael Brandon, 27 Seven Pines Avenue, stated that this is a complex issue which will require more study but the current system should be improved to make the License Commission more responsive to the City Council and citizens and more accountable. There should be some representation by unpaid citizens. He recommends a

larger board of five citizens. He believes that there should be police and fire representation at all of these meetings and there should also be systematic involvement of other departments such as Traffic and Parking and Inspectional Services. He urged the City Council to look closely at what other communities do.

Councillor Duehay moved that the matter be taken under advisement and remain in Committee. This motion carried on a voice vote of nine members.

Councillor Russell noted that she would like more information from the License Commission on its present procedures.

The meeting was adjourned at 7:24 p.m.

For the Committee,


Councillor Alice K. Wolf
Chair

1.

COMMITTEE REPORTS

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Ordinance Committee Report for a hearing held on Thursday, March 25, 1993 regarding proposed legislation entitled: "AN ACT PROVIDING FOR THE CAMBRIDGE LICENSE COMMISSION."

In City Council,

April 12, 1993

*Report accepted
on a voice vote
of 8 members.*