C. C. 106

#8
May 16/83

City of Cambridge

PETITION OF Councillor David Sullivan
on Affiliate Housing

Petition filed with the City Clerk Jan. 24, 1983

(all hearing to be completed 65 days from filing date with the City Clerk)

7 days Jan.
28 days Feb
30 days March
65 days = March 30, 1983 = all hearings

In City Council Jan. 24, 1983)

Referred to the Planning Board for report Jan. 24, 1983

Planning Board Hearing March 15, 1983

(CITY COUNCIL must act within 90 days of the Planning Board's hearing which would be June 13, 1983.)

16 days - March
30 days - April
31 days - May
13 days - June
90 = days = June 13, 1983

City Council hearing published Herald - Legal - March 16, 1983
Chronicle March 24, 1983

Hearing before the City Council March 30, 1983 at 6PM

Report to the City Council April 4, 1983

Passed to a second reading — April 4, 1983 as amended —
published April 7, 1983

Ready for Ordination April 18, 1983
published

6/13/1983 Failed on Ordination 4-1-0-4

COMPLETION DATE: June 13, 1983

CITY OF CAMBRIDGE
MASSACHUSETTS
CITY COUNCIL

COUNCILLOR FRANCIS H. DUEHAY
26 LOWELL STREET
CAMBRIDGE, MASSACHUSETTS 02138

Statement Made by Councillor Francis H. Duehay, June 13, 1983
In City Council Concerning Affiliate Housing Policies of City Universities

Since the last time the issue of affiliate housing arose in the City Council, I have reviewed my own position thoroughly and wish to announce a change at this time. Some months ago I voted against Councillor David Sullivan's initiative. My vote could have enacted the measure since there were a sufficient number of other affirmative votes cast. This may also be the case again tonight.

In general, I share the concerns about long range university housing policy which have again caused this proposal to be brought forward. And I thank Councillor Sullivan for continuing to raise this concern.

But I continue to feel that a greater effort should be made to shape the total housing policies of these institutions and a greater attempt made to involve them in meeting the diverse housing needs of the Cambridge population, before taking final action on this measure.

While there may be constitutional problems in enacting this proposed zoning amendment, it is not clear that this is so. I, therefore, call upon the universities to stop hiding behind the legalities and find ways by which their ingenuity and resources can aid the city in housing a diverse population.

Very specifically, I shall ask the universities to set forth the policies in detail by which they propose to house affiliates in the future. I shall ask that they commit themselves to this policy. I shall ask them whether they seek to provide shelter for the entire range of their employees or for only

a portion of the spectrum. Further, I shall urge them to state whether they intend to encourage diversity in their approach to open housing or whether, in maintaining this stock, they simply await the demise of rent control before converting these units to affiliate housing for a restricted group of employees. I shall ask the universities to supplement the city's housing plans.

I intend to commit my own time and that of those advising me in engaging the universities in efforts to support and provide housing for the diverse Cambridge we all wish to maintain.

Enacting this proposal would not ensure that the universities maintain diversity as a standard in entrance to existing open housing as vacancies arise. And, in tightening regulations on affiliate housing, it would not stem the tide of those affiliated with the universities who may simply bring added pressure on the existing private housing market.

New arrangements must also be made in this connection to raise substantially the in lieu of tax payments to the city on this sort of housing. The city should also use these payments as a tool in developing a new housing policy.

Unless the city is successful in engaging the universities creatively and directly in housing solutions, over the long haul the pressures of the population they attract will engulf the city anyway.

In my judgment we have not formally asked their critical involvement in ensuring the maintenance of a diverse Cambridge through housing policies and tax payments they, themselves, agree are essential aspects of community preservation.

I believe that the problem of maintaining and providing adequate low and moderate income housing is more complex than this zoning amendment suggests even though its passage might temporarily be quite effective in blocking university housing acquisition for affiliates. Tonight, we must ask ourselves whether passage of this ordinance at this time, without first having made the maximum effort to engage the colleges in the greater effort to assure more diverse housing, makes sense. I believe I have not made that effort.

I believe it is wiser to proceed before enacting this measure rather than afterwards. In any event, whether or not this measure passes tonight, I intend to explore the avenues I have outlined above.

The vote that I cast tonight will be "present" instead of "no" to indicate the concern I share that a positive solution must be found to this problem. If, during the next six months, our non-profit universities have not committed themselves to housing policies that share fully in the responsibility we all have for maintaining the diversity of our community, I intend to vote in favor of the current amendment of the zoning ordinance, before the end of the current city council term.

HARVARD UNIVERSITY

OFFICE OF GOVERNMENT AND
COMMUNITY AFFAIRS

2 GARDEN STREET
CAMBRIDGE, MASSACHUSETTS 02138
617-495-4955

October 18, 1982

Planning Board
City of Cambridge
Cambridge, MA 02139

Re: Institutional Zoning; Proposed Amendment to Regulate "Affiliate Housing" of Educational Institutions

Dear Members:

This will record Harvard's opposition to the proposed amendment to the Zoning Ordinance which would extend the institutional zoning regulations to any dwelling owned or controlled by an educational institution and occupied primarily by its employees or students.

As you may know, a similar proposal was originally included in early drafts of the institutional zoning regulations. However, we argued and the Department of Community Development staff ultimately agreed, that the only appropriate objectives of zoning are the regulation of uses of and improvements to property. Nothing permits regulation or discrimination under zoning based upon the identity of the owners of the property and certainly not based upon the educational or employment status of the occupants. This point has recently been emphasized by the Massachusetts Supreme Judicial Court in its decision in CHR General, Inc. v. City of Newton, decided September 1, 1982:

> A "fundamental principle of zoning [is that] it deals basically with the use, without regard to the ownership, of the property involved or who may be the operator of the use."

Accordingly, as proposed (and enacted) the institutional use regulations did not regulate or restrict residential housing owned by educational institutions other than dormitories and fraternity and sorority houses.

A further problem with the proposed amendment is that educational institutions would be singled out from other institutions for regulation of their affiliate housing. No zoning considerations justify distinguishing a professor's house from a home or a rectory. Such a distinction would be not only legally impermissible but also inconsistent with the policy of treating all institutions equally which was repeatedly expressed at the time the institutional use regulations were originally proposed.

By Chapter 565 of the Acts of 1979, the General Court constituted Cambridge the only Massachusetts city or town with the power to override the provisions of the Zoning Act protecting educational and religious institutions from use regulation under zoning. In doing so, the General Court expressly limited that power to certain residential zoning districts. It is doubtful that it was intended and ironic that it is now proposed that this power be used to regulate otherwise proper residential uses.

Finally, it is obvious that whatever the legalisms may be, this proposal would be counterproductive to the City's and Harvard's common objective of having Harvard provide where possible for the housing needs of its employees and students, thereby avoiding undue pressures upon the limited existing housing stock.

We urge that you report unfavorably upon the proposed amendment.

Very truly yours,

Lewis A. Armistead

HARVARD UNIVERSITY

OFFICE OF GOVERNMENT AND
COMMUNITY AFFAIRS

2 GARDEN STREET
CAMBRIDGE, MASSACHUSETTS 02138
617-495-4955

January 10, 1983

The Honorable Thomas Danehy
City Councillor
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Dear Councillor Danehy:

Recently you received a letter outlining the legal reasoning on which Harvard has based its objection to the proposal to amend the Institutional Zoning Ordinance to include affiliate housing (see attachment). I am writing to you and the other members of the City Council at the request of Councillor Duehay to update and perhaps assure you regarding Harvard's acquisition policies and procedures.

In addition to the variety of regulatory protections which have been enacted by the City in recent years (Institutional Zoning, the Overlay District, Historic Commission initiatives, etc.), there are three additional University sponsored safeguards which I urge you to consider as your members deliberate the need for further regulation.

First, the Red Line, the self-imposed boundary beyond which Harvard agreed not to acquire residential property, is still in effect. Any changes in this policy will not occur without consultation with the appropriate city agencies and community groups.

Second, responsibility for all decisions involving Harvard Real Estate, Inc. has been assigned to Dan Steiner, Vice President and General Counsel and a long-time Cambridge resident. In order to assure an internal process for Harvard to anticipate community concern I and the appropriate members of my staff now participate in all discussions involving real estate policy and proposed acquisitions.

Third, it is my hope that the Community Advisory Committee, originally formed to advise Harvard on the development of University Place, will continue to be active. The insights and suggestions of the various neighborhood representatives who serve on our committee have helped sensitize University officials to the potential impact of Harvard's policies on the community. I believe that these collaborative efforts with community representatives, not an additional layer of cumbersome regulation, are most effective in helping the University participate with its neighbors in shaping a positive future for Cambridge.

Sincerely,

J. O'Neill

Jackie O'Neill
Director of Community
Affairs

OFFICE OF
THE CHAIRMAN OF THE CORPORATION

CAMBRIDGE, MASSACHUSETTS 02139

The Honorable Members
Cambridge City Council
Cambridge City Hall
795 Mass Ave.
Cambridge, MA 02139

Dear Councillors:

M.I.T. wishes, once again, to be recorded in opposition to the proposed amendment to the Cambridge Zoning Ordinance to regulate "affiliate housing," so called, which could be considered this evening.

As you know, the members of the Planning Board have, for the second time in 6 months, made a negative recommendation against the adoption of the proposed amendment as they do not believe the proposal sets forth distinctions in use which can be regulated through zoning. Furthermore, the Planning Board has found that by any of the legal standards used to distinguish uses for zoning purposes (kinds of activities permitted, density of units, physical organization of the structures and the like) housing units owned by institutions cannot be differentiated from those owned otherwise.

M.I.T. legal counsel has made its own independent analysis of the proposal and concurs in the negative recommendation of the Planning Board. They tell us in addition that the proposal is unconstitutional in that it would be an arbitrary restriction on the use of property not on the basis of the nature of the use, but on the character of the owner. Thus the proposal, as the Planning Board states, represents an improper use of the zoning regulation.

Sincerely yours,

Walter L. Milne
Assistant to the Chairman

WLM/dlf

PROPOSED SUBSTITUTE FOR AFFILIATE HOUSING ORDINANCE

The City Council finds and declares:

1. Housing owned or controlled by educational institutions, and in the occupancy of which the institution prefers its own affiliates, forms an inherent part of that educational institutions and constitutes an educational use.

2. Traffic, activity patterns, and other use characteristics distinguish affiliate housing from ordinary residential uses.

3. The conversion of existing residential uses to affiliate housing severely threatens to aggravate the shortage of decent, affordable housing for Cambridge residents in general, especially for families of low and moderate income and elderly people on fixed incomes, thus worsening the existing housing emergency.

4. This threat posed by conversion to affiliate housing of residential property owned or controlled by educational institutions is not posed to the same extent with respect to residential property owned or controlled by other institutions or entities.

I. In article 2.000, Definitions, add the following new definition at its appropriate alphabetical location:

"Affiliate Housing. Any dwelling or dwelling unit (other than a dormitory; sorority, or fraternity house) owned or controlled by an educational institution and in the occupancy of which the educational institution, to a significant extent, gives preference to persons who are employed or enrolled at the educational institution."

II. In Section 4.33 of the Table of Use Regulations (Institutional Uses), subsection (b) Educational Purposes, add a new line 8, "Affiliate housing" as follows:

8.	Affiliate housing	No	IUR	IUR	Yes[43]	yes	yes	yes	yes	yes
		No	SP	No	SP	PUD				

III. In Section 4.56, Table of Institutional Use Regulations, subsection (c) add a new line 9, "Affiliate housing" as follows:

9.	Affiliate housing	SP[4,7]	yes[7]	yes[7]	No	Yes[7]	Yes[7]

IV. Add a new footnote 7, to section 4.56, Table of Institutional Use Regulations.

7. For the purposes of the provisions of this Section 4.56, Table of Institutional Use Regulations, and its footnotes "Affiliate housing" shall be considered a use table category in subsection 4.56, separate from all other institutional use categories.

PROPOSED SUBSTITUTE FOR AFFILIATE HOUSING ORDINANCE

The City Council finds and declares:

1. Housing owned or controlled by educational institutions, and in the occupancy of which the institution prefers its own affiliates, forms an inherent part of that educational institutions and constitutes an educational use.

2. Traffic, activity patterns, and other use characteristics distinguish affiliate housing from ordinary residential uses.

3. The conversion of existing residential uses to affiliate housing severely threatens to aggravate the shortage of decent, affordable housing for Cambridge residents in general, especially for families of low and moderate income and elderly people on fixed incomes, thus worsening the existing housing emergency.

4. This threat posed by conversion to affiliate housing of residential property owned or controlled by educational institutions is not posed to the same extent with respect to residential property owned or controlled by other institutions or entities.

I. In article 2.000, Definitions, add the following new definition at its appropriate alphabetical location:

"Affiliate Housing. Any dwelling or dwelling unit (other than a dormitory; sorority, or fraternity house) owned or controlled by an educational institution and in the occupancy of which the educational institution, to a significant extent, gives preference to persons who are employed or enrolled at the educational institution."

II. In Section 4.33 of the Table of Use Regulations (Institutional Uses), subsection (b) Educational Purposes, add a new line 8, "Affiliate housing" as follows:

8.	Affiliate housing	No	IUR	IUR	Yes[43]	yes	yes	yes	yes	yes
		No	SP	No	SP	PUD				

III. In Section 4.56, Table of Institutional Use Regulations, subsection (c) add a new line 9, "Affiliate housing" as follows:

9.	Affiliate housing	SP[4,7]	yes[7]	yes[7]	No	Yes[7]	Yes[7]

IV. Add a new footnote 7, to section 4.56, Table of Institutional Use Regulations.

7. For the purposes of the provisions of this Section 4.56, Table of Institutional Use Regulations, and its footnotes "Affiliate housing" shall be considered a use table category in subsection 4.56, separate from all other institutional use categories.

CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139
Tel. 498-9011

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

April 25, 1983

To the Honorable, the City Council:

Enclosed please find copy of a communication from George Teso, Traffic Director, in response to a petition requesting permission to post "No Parking" signs on Winthrop Street.

Very truly yours,

Robert W. Healy
City Manager

RWH/mbf
Enc.

CITY OF CAMBRIDGE

INTEROFFICE CORRESPONDENCE

To Robert Healy, City Manager **Date** April 19, 1983

From George Teso, Traffic Director **Reference**

Subject City Council Petition Requesting Permission To Post No Parking Signs On Winthrop Street

In regard to the petition requesting permission to use one half of Winthrop Street for private parking, I recommend that this petition be denied for the folloiwng reasons:

1. Winthrop Street has a 20 foot pavement width with two 4.5 feet of sidewalks.
2. Both abutters have requested that they be allowed to utilize their half of the street for private parking and to allow both requests would not leave the adequate 10 foot clearance needed for fire apparatus and emergency vehicles required by law.
3. It would not be fair to allow one abutter to use his half at the expense of the other abutter.
4. In the case of Harvard University the street was abandoned and turned over to the University and they were the only abutters to that section of Winthrop Street.
5. Although Winthrop Street is an unaccepted street, it is still a public way that is maintained and regulated by the City and unless the City Council abandons this section of Winthrop Street, there must be access to all abutters for deliveries, servicing and emergency vehicles.

For these reasons, I recommend that this petition be denied.

GT:rd

PROPOSED SUBSTITUTE FOR AFFILIATE HOUSING ORDINANCE

The City Council finds and declares:

1. Housing owned or controlled by educational institutions, and in the occupancy of which the institution prefers its own affiliates, forms an inherent part of that educational institutions and constitutes an educational use.

2. Traffic, activity patterns, and other use characteristics distinguish affiliate housing from ordinary residential uses.

3. The conversion of existing residential uses to affiliate housing severely threatens to aggravate the shortage of decent, affordable housing for Cambridge residents in general, especially for families of low and moderate income and elderly people on fixed incomes, thus worsening the existing housing emergency.

4. This threat posed by conversion to affiliate housing of residential property owned or controlled by educational institutions is not posed to the same extent with respect to residential property owned or controlled by other institutions or entities.

I. In article 2.000, Definitions, add the following new definition at its appropriate alphabetical location:

"Affiliate Housing. Any dwelling or dwelling unit (other than a dormitory; sorority, or fraternity house) owned or controlled by an educational institution and in the occupancy of which the educational institution, to a significant extent, gives preference to persons who are employed or enrolled at the educational institution."

II. In Section 4.33 of the Table of Use Regulations (Institutional Uses), subsection (b) Educational Purposes, add a new line 8, "Affiliate housing" as follows:

8. Affiliate housing	No	IUR	IUR	Yes[43]	yes	yes	yes	yes	yes
	No	SP	No	SP	PUD				

III. In Section 4.56, Table of Institutional Use Regulations, subsection (c) add a new line 9, "Affiliate housing" as follows:

9. Affiliate housing	SP[4,7]	yes[7]	yes[7]	No	Yes[7]	Yes[7]

IV. Add a new footnote 7, to section 4.56, Table of Institutional Use Regulations.

7. For the purposes of the provisions of this Section 4.56, Table of Institutional Use Regulations, and its footnotes "Affiliate housing" shall be considered a use table category in subsection 4.56, separate from all other institutional use categories.

PROPOSED SUBSTITUTE FOR AFFILIATE HOUSING ORDINANCE

UNFINISHED BUSINESS ITEM NO. 6

The City Council finds and declares:

1. Housing owned or controlled by educational institutions, and in the occupancy of which the institution prefers its own affiliates, forms an inherent part of that educational institutions and constitutes an educational use.

2. Traffic, activity patterns, and other use characteristics distinguish affiliate housing from ordinary residential uses.

3. The conversion of existing residential uses to affiliate housing severely threatens to aggravate the shortage of decent, affordable housing for Cambridge residents in general, especially for families of low and moderate income and elderly people on fixed incomes, thus worsening the existing housing emergency.

4. This threat posed by conversion to affiliate housing of residential property owned or controlled by educational institutions is not posed to the same extent with respect to residential property owned or controlled by other institutions or entities.

I. In article 2.000, Definitions, add the following new definition at its appropriate alphabetical location:

"Affiliate Housing. Any dwelling or dwelling unit (other than a dormitory; sorority, or fraternity house) owned or controlled by an educational institution and in the occupancy of which the educational institution, to a significant extent, gives preference to persons who are employed or enrolled at the educational institution."

II. In Section 4.33 of the Table of Use Regulations (Institutional Uses), subsection (b) Educational Purposes, add a new line 8, "Affiliate housing" as follows:

8. Affiliate housing	No	IUR	IUR	Yes[43]	yes	yes	yes	yes	yes
	No	SP	No	SP	PUD				

III. In Section 4.56, Table of Institutional Use Regulations, subsection (c) add a new line 9, "Affiliate housing" as follows:

9. Affiliate housing	SP[4,7]	yes[7]	yes[7]	No	Yes[7]	Yes[7]

IV. Add a new footnote 7, to section 4.56, Table of Institutional Use Regulations.

7. For the purposes of the provisions of this Section 4.56, Table of Institutional Use Regulations, and its footnotes "Affiliate housing" shall be considered a use table category in subsection 4.56, separate from all other institutional use categories.

Failed of ordination as amended by a yea and nay vote:-
Yeas 4; Nays 1; Absent 0; Present 4.
ATTEST:- Paul E. Healy, City Clerk.

PROPOSED SUBSTITUTE FOR AFFILIATE HOUSING ORDINANCE

UNFINISHED BUSINESS ITEM NO. 6

The City Council finds and declares:

1. Housing owned or controlled by educational institutions, and in the occupancy of which the institution prefers its own affiliates, forms an inherent part of that educational institutions and constitutes an educational use.

2. Traffic, activity patterns, and other use characteristics distinguish affiliate housing from ordinary residential uses.

3. The conversion of existing residential uses to affiliate housing severely threatens to aggravate the shortage of decent, affordable housing for Cambridge residents in general, especially for families of low and moderate income and elderly people on fixed incomes, thus worsening the existing housing emergency.

4. This threat posed by conversion to affiliate housing of residential property owned or controlled by educational institutions is not posed to the same extent with respect to residential property owned or controlled by other institutions or entities.

I. In article 2.000, Definitions, add the following new definition at its appropriate alphabetical location:

"Affiliate Housing. Any dwelling or dwelling unit (other than a dormitory; sorority, or fraternity house) owned or controlled by an educational institution and in the occupancy of which the educational institution, to a significant extent, gives preference to persons who are employed or enrolled at the educational institution."

II. In Section 4.33 of the Table of Use Regulations (Institutional Uses), subsection (b) Educational Purposes, add a new line 8, "Affiliate housing" as follows:

8. Affiliate housing	No	IUR	IUR	Yes[43]	yes	yes	yes	yes	yes
	No	SP	No	SP	PUD				

III. In Section 4.56, Table of Institutional Use Regulations, subsection (c) add a new line 9, "Affiliate housing" as follows:

9. Affiliate housing	SP[4,7]	yes[7]	yes[7]	No	Yes[7]	Yes[7]

IV. Add a new footnote 7, to section 4.56, Table of Institutional Use Regulations.

7. For the purposes of the provisions of this Section 4.56, Table of Institutional Use Regulations, and its footnotes "Affiliate housing" shall be considered a use table category in subsection 4.56, separate from all other institutional use categories.

Failed of ordination as amended by a yea and nay vote:-
Yeas 4; Nays 1; Absent 0; Present 4.
ATTEST:- Paul E. Healy, City Clerk.

PROPOSED SUBSTITUTE FOR AFFILIATE HOUSING ORDINANCE

UNFINISHED BUSINESS ITEM NO. 6

The City Council finds and declares:

1. Housing owned or controlled by educational institutions, and in the occupancy of which the institution prefers its own affiliates, forms an inherent part of that educational institutions and constitutes an educational use.

2. Traffic, activity patterns, and other use characteristics distinguish affiliate housing from ordinary residential uses.

3. The conversion of existing residential uses to affiliate housing severely threatens to aggravate the shortage of decent, affordable housing for Cambridge residents in general, especially for families of low and moderate income and elderly people on fixed incomes, thus worsening the existing housing emergency.

4. This threat posed by conversion to affiliate housing of residential property owned or controlled by educational institutions is not posed to the same extent with respect to residential property owned or controlled by other institutions or entities.

I. In article 2.000, Definitions, add the following new definition at its appropriate alphabetical location:

"Affiliate Housing. Any dwelling or dwelling unit (other than a dormitory; sorority, or fraternity house) owned or controlled by an educational institution and in the occupancy of which the educational institution, to a significant extent, gives preference to persons who are employed or enrolled at the educational institution."

II. In Section 4.33 of the Table of Use Regulations (Institutional Uses), subsection (b) Educational Purposes, add a new line 8, "Affiliate housing" as follows:

8.	Affiliate housing	No	IUR	IUR	Yes[43]	yes	yes	yes	yes	yes
		No	SP	No	SP	PUD				

III. In Section 4.56, Table of Institutional Use Regulations, subsection (c) add a new line 9, "Affiliate housing" as follows:

9.	Affiliate housing	SP[4,7]	yes[7]	yes[7]	No	Yes[7]	Yes[7]

IV. Add a new footnote 7, to section 4.56, Table of Institutional Use Regulations.

7. For the purposes of the provisions of this Section 4.56, Table of Institutional Use Regulations, and its footnotes "Affiliate housing" shall be considered a use table category in subsection 4.56, separate from all other institutional use categories.

Failed of ordination as amended by a yea and nay vote:-
Yeas 4; Nays 1; Absent 0; Present 4.
ATTEST:- Paul E. Healy, City Clerk.

PROPOSED SUBSTITUTE FOR AFFILIATE HOUSING ORDINANCE

The City Council finds and declares:

1. Housing owned or controlled by educational institutions, and in the occupancy of which the institution prefers its own affiliates, forms an inherent part of that educational institutions and constitutes an educational use.

2. Traffic, activity patterns, and other use characteristics distinguish affiliate housing from ordinary residential uses.

3. The conversion of existing residential uses to affiliate housing severely threatens to aggravate the shortage of decent, affordable housing for Cambridge residents in general, especially for families of low and moderate income and elderly people on fixed incomes, thus worsening the existing housing emergency.

4. This threat posed by conversion to affiliate housing of residential property owned or controlled by educational institutions is not posed to the same extent with respect to residential property owned or controlled by other institutions or entities.

I. In article 2.000, Definitions, add the following new definition at its appropriate alphabetical location:

"Affiliate Housing. Any dwelling or dwelling unit (other than a dormitory; sorority, or fraternity house) owned or controlled by an educational institution and in the occupancy of which the educational institution, to a significant extent, gives preference to persons who are employed or enrolled at the educational institution."

II. In Section 4.33 of the Table of Use Regulations (Institutional Uses), subsection (b) Educational Purposes, add a new line 8, "Affiliate housing" as follows:

8.	Affiliate housing	No	IUR	IUR	Yes[43]	yes	yes	yes	yes	yes
		No	SP	No	SP	PUD				

III. In Section 4.56, Table of Institutional Use Regulations, subsection (c) add a new line 9, "Affiliate housing" as follows:

9.	Affiliate housing	SP[4,7]	yes[7]	yes[7]	No	Yes[7]	Yes[7]

IV. Add a new footnote 7, to section 4.56, Table of Institutional Use Regulations.

7. For the purposes of the provisions of this Section 4.56, Table of Institutional Use Regulations, and its footnotes "Affiliate housing" shall be considered a use table category in subsection 4.56, separate from all other institutional use categories.

Received 5T 6/47/83

CITY OF CAMBRIDGE
MASSACHUSETTS
CITY COUNCIL

COUNCILLOR FRANCIS H. DUEHAY
26 LOWELL STREET
CAMBRIDGE, MASSACHUSETTS 02138

Statement Made by Councillor Francis H. Duehay, June 13, 1983
In City Council Concerning Affiliate Housing Policies of City Universities

Since the last time the issue of affiliate housing arose in the City Council, I have reviewed my own position thoroughly and wish to announce a change at this time. Some months ago I voted against Councillor David Sullivan's initiative. My vote could have enacted the measure since there were a sufficient number of other affirmative votes cast. This may also be the case again tonight.

In general, I share the concerns about long range university housing policy which have again caused this proposal to be brought forward. And I thank Councillor Sullivan for continuing to raise this concern.

But I continue to feel that a greater effort should be made to shape the total housing policies of these institutions and a greater attempt made to involve them in meeting the diverse housing needs of the Cambridge population, before taking final action on this measure.

While there may be constitutional problems in enacting this proposed zoning amendment, it is not clear that this is so. I, therefore, call upon the universities to stop hiding behind the legalities and find ways by which their ingenuity and resources can aid the city in housing a diverse population.

Very specifically, I shall ask the universities to set forth the policies in detail by which they propose to house affiliates in the future. I shall ask that they commit themselves to this policy. I shall ask them whether they seek to provide shelter for the entire range of their employees or for only

a portion of the spectrum. Further, I shall urge them to state whether they intend to encourage diversity in their approach to open housing or whether, in maintaining this stock, they simply await the demise of rent control before converting these units to affiliate housing for a restricted group of employees. I shall ask the universities to supplement the city's housing plans.

I intend to commit my own time and that of those advising me in engaging the universities in efforts to support and provide housing for the diverse Cambridge we all wish to maintain.

Enacting this proposal would not ensure that the universities maintain diversity as a standard in entrance to existing open housing as vacancies arise. And, in tightening regulations on affiliate housing, it would not stem the tide of those affiliated with the universities who may simply bring added pressure on the existing private housing market.

New arrangements must also be made in this connection to raise substantially the in lieu of tax payments to the city on this sort of housing. The city should also use these payments as a tool in developing a new housing policy.

Unless the city is successful in engaging the universities creatively and directly in housing solutions, over the long haul the pressures of the population they attract will engulf the city anyway.

In my judgment we have not formally asked their critical involvement in ensuring the maintenance of a diverse Cambridge through housing policies and tax payments they, themselves, agree are essential aspects of community preservation.

I believe that the problem of maintaining and providing adequate low and moderate income housing is more complex than this zoning amendment suggests even though its passage might temporarily be quite effective in blocking university housing acquisition for affiliates. Tonight, we must ask ourselves whether passage of this ordinance at this time, without first having made the maximum effort to engage the colleges in the greater effort to assure more diverse housing, makes sense. I believe I have not made that effort.

I believe it is wiser to proceed before enacting this measure rather than afterwards. In any event, whether or not this measure passes tonight, I intend to explore the avenues I have outlined above.

The vote that I cast tonight will be "present" instead of "no" to indicate the concern I share that a positive solution must be found to this problem. If, during the next six months, our non-profit universities have not committed themselves to housing policies that share fully in the responsibility we all have for maintaining the diversity of our community, I intend to vote in favor of the current amendment of the zoning ordinance, before the end of the current city council term.

C. C. 106

#1

City of Cambridge

MASSACHUSETTS

In City Council June 13 1983

Appointee Housing Assistance Agency

	YEA	NAY	ABSENT	PRESENT
Mr. Daniel J. Clinton		✓		
Mr. Thomas W. Danehy	✓			
Mr. Francis H. Duehay	✓			
Ms. Saundra Graham		✓		
Mr. Leonard J. Russell			✓	
Mr. David E. Sullivan	✓			
Mr. Walter J. Sullivan		✓		
Mr. Wylie	✓			
Mayor Vellucci	✓			
	5	3	1	

C. C. 106 CDA Affordable Housing

City of Cambridge

2

MASSACHUSETTS

In City Council June 13 1983

	YEA	NAY	ABSENT	PRESENT
Mr. Daniel J. Clinton				✓
Mr. Thomas W. Danehy				✓
Mr. Francis H. Duehay				✓
Ms. Saundra Graham	✓			
Mr. Leonard J. Russell				✓
Mr. David E. Sullivan	✓			
Mr. Walter J. Sullivan		✓		
Mr. Wylie	✓			
Mayor Vellucci	✓			
	4	1	0	4

Passing to be Ordained

Fines

CITY OF CAMBRIDGE, MASSACHUSETTS
PLANNING BOARD
CITY HALL ANNEX, 57 INMAN STREET, CAMBRIDGE 02139

May 3, 1983

To the Honorable, the City Council:

SUBJECT: Petitions of the City Council to Amend the Zoning Ordinance by Creating a New Use Category "Affiliate Housing" or "University Owned Housing" and Regulating Same in Section 4.50, Institutional Use Regulations

The Petitions

Two petitions which, in similar ways, would define a new category of institutional housing called "Affiliate" or "University Owned Housing" and would regulate it as dormitories now are.

Recommendation

The Planning Board does not recommend the adoption of the petitions as filed or as recommended for amendment during the public hearing process. As in its comments on the similar petition heard by the Council last fall the Planning Board is still of the opinion that institutional ownership and restriction on occupancy are not sufficient to distinguish one dwelling unit from another as distinctly different uses which can be regulated through zoning.

However the Board is concerned, as it was last fall, with unlimited expansion of affiliate-restricted institutional housing into the existing housing stock of the City. Therefore it recommends that the principal educational institutions provide an inventory of their existing affiliate-restricted housing and further that they restrict such housing expansion only to newly created housing units that would expand the total supply of housing available in the city (while at the same time not removing any existing open occupancy units from the housing market).

Findings

1. The Board continues to find that the ownership of a dwelling by, and its occupancy by affiliates of, an institution does not constitute the creation of a new use (institutional) different from the housing use it would be considered under standard zoning practice.

2. Even with amendments as suggested at the public hearing (adding the additional criterion that the institutions restrict occupancy to "a significant extent" to affiliates) the Board is of the opinion that legal precedents leave open to serious question the reasonableness of distinguishing such housing as a different, i.e. institutional, use.

3. The petitions as submitted or amended, would prohibit the construction of new units of affiliate housing on vacant or underutilized land outside the institutional overlay districts.

   Such restrictions would deny to the city the potential benefits of a real expansion of the housing stock through the construction of new units, without diminution of the existing supply of openly available housing; in addition it would limit the benefits which accrue to the city when persons live close to their affiliated institution, e.g. reduced parking demand and traffic generation.

4. If determined to be institutional use, affiliate housing would be unregulated in some districts (Industry-B in particular) where residential uses are now prohibited.

5. Such affiliate housing (as institutional use) could by extension of the logic used be considered tax exempt as dormitory uses now are, with possible undesirable and unintended consequences.

Public Hearings

The Planning Board held a public hearing on both petitions on Tuesday, March 15, 1983 at 7:30 p.m. in the Conference Room, City Hall Annex. Councillor Sullivan was present to reaffirm his support for the proposal and in a Memo to the Board dated March 15, 1983, suggested a modification to the "Affiliate Housing" petition adding the phrase: "in which the educational institution to a significant extent gives preference to persons...", thus narrowing and making more specific the types of institutionally owned dewllings prohibited under the proposed amendment.

Speaking in support of the petitions were: Michael Turk, 24 Prescott Street; William Noble, 38 Green Street; Robert LaTremouille, 348 Franklin Street; William Cavellini, Brookline Street.

Speaking in opposition to the petitions were: Louis Armistead, Harvard University; Ronald Suduiko, MIT; Stephen Lindsay, Attorney representing Harvard University.

Documents

Among the documents submitted to the Board for review were the following:

1. Copy of The HRE Newsletter, March-April, 1983.
2. Copy of Article in the March 11, 1983, issue of the Harvard Gazette re: affiliate housing.
3. Letter to Planning Board from Stephen Lindsay, Attorney to Harvard University, April 12, 1983.
4. Letter to Planning Board from Louis Armistead, March 29, 1983.
5. Letter to Planning Board from Louis Armistead, October 18, 1982.
6. Letter to Planning Board from Walter Milne, March 14, 1983.
7. Letter to Planning Board from Walter Milne, April 4, 1983.
8. Memo to Planning Board from Councillor David Sullivan, March 15, 1983.
9. Opinion, to Planning Board, from City Solicitor, March 29, 1983.

Respectfully Submitted
for the Planning Board
Arthur C. Parris
Arthur Parris
Chairman

CITY OF CAMBRIDGE, MASSACHUSETTS

PLANNING BOARD

CITY HALL ANNEX, 57 INMAN STREET, CAMBRIDGE 02139

NEGATIVE RECOMMENDATION - as Submitted to Council Last Fall

November 9, 1982

To the Honorable, the City Council:

SUBJECT: Petition of the City Council to Amend the Zoning Ordinance by Creating a New Use Category, "Affiliate Housing", and Regulating Same in Section 4.50, Institutional Use Regulations.

The Petition

The petition would define a new category of institutional use, "Affiliate Housing", characterized as a dwelling controlled by an educational institution and occupied by employees or persons enrolled in that institution. Affiliate housing would be regulated as dormitories now are.

Recommendation

The Planning Board does not recommend the adoption of the proposed amendment. While the growing influence of educational institutions through the ownership and control of non-institutional residential property is of increasing and serious concern, the current proposal attempts to employ zoning, a police power limited to the control of uses of property, to regulate the ownership of property. The Board does not believe that more ownership, as the only feature differentiating two otherwise identical properties, is sufficient to define such properties as different uses within the authorized scope of the zoning police power.

Findings

1. The Petition attempts to address a serious problem of the effects on communities and neighborhoods of the ownership and control of residential property by large educational institutions. Where such onwership introduces short-term occupancy of dwellings by persons whose commitment and community values are focused elsewhere, or where such ownership artificially limits occupancy of housing to only a limited segment of the community, the ability of neighborhoods to develop and be sustained as cohesive, supportive social units with a long term commitment to their own social and physical well-being is seriously impaired.

2. While certain forms of educational institutional control of the housing units in City's neighborhoods may have serious negative impacts on those neighborhoods, such consequences are not necessaily, predominantly, or exclusively the result of institutional ownership but more generally a consequence of the predominant position of educational institional activities in the City which are felt even though housing units may be privately held.

3. Ownership by an institution and occupany by affiliates of that institution do not materially distinguish that household unit as a different use, as regulated by Chapter 40A, the Zoning Act, from one having the same living patterns and affiliation but living in a rented unit owned by an independent, absentee owner- or one that is owner occupied.

4. By any of the traditional standards used to distinguish uses for zoning purposes (kinds of activities contained, number of family units, physical organization of the structures, physical appearance, times of occupany, etc.) housing units owned by institutions cannot be differentiated from those owned otherwise.

5. Logical extension of arguments made in support of the present proposal (that the affiliated status of persons in institutionally owned units therefore transforms such residential use into an institutional one) would require that housing units owned by banks or insurance companies to serve their employees be considered commercial/office uses and thus prohibited in residential zones.

6. Recent Supreme Judicial Court action, as in case No. SJC-2789, September 1, 1982, would seem to indicate that ownership as an exclusive criterion can not be used to distinguish between uses of property for zoning purposes, a position consistent with generally held assumptions about the purpose and authority of zoning.

7. The current definition of dormitory in the Zoning Ordinance is inadequate and excessively vague; it should be more precisely drawn to clearly reflect the physical and other factors which distinguish dormitory from standard dwelling units as a land use.

Public Hearing

The Planning Board held a public hearing on Tuesday, October 19, 1982 at 7:45 p.m. in the Conference Room, City Hall Annex. Councillor David Sullivan, sponsor of the petition, briefly described the petition and the problem it is meant to address. The petition would establish two criteria for affiliate housing: ownership by an educational institution, and occupancu by an affiliate of that institution. Such housing would be regulated as dormitories now are in the Zoning Ordinance (generally prohibited outside institutional overlay districts). Such a definition simplifies the enforcement of the institutional use regulation by eliminating the third criterion, place of permanent residence, required by the definition of dormitories. Mr. Sullivan contended that the fact of ownership and affiliation, in combination, constituted land use extension of the educational institutions to the housing they owned, defined such housing as a use distinct from housing under other ownership and therefore, subjected such housing to control under the City's Institutional Use Regulations.

In general Board members expressed concern with the notion that ownership alone would be sufficient to differentiate otherwise identical activities. At the hearing the following persons indicated their support of the petition.

Mr. Robert LaTremouille, 348 Franklin Street
Mr. William Cavellini, 274 Brookline Street
Mr. John Pitkin. 18 Fayette Street

Speaking in opposition to the petition were the following:

Mr. Louis Armistead, on behalf of Harvard University,
Mr. Walter Milne, on behalf of the Massachusetts Institute of Technology.

In addition to public testimony the following were submitted to the Planning Board for their consideration:

1. Memorandum, from Councillor David Sullivan to the Planning Board, dated October 19, 1982, outlining the philisophical and legal support for the petition.

2. Memorandum, from Sandra Hudson, 371 Harvard Street, to the Planning Board, dated October 18, 1982, expressing support for the petition.

3. Letter, from John Pitkin, 18 Fayette Street, to the Planning Board, dated October 19, 1982, supporting the petition.

4. Letter, from Louis Armistead, Office of Government and Community Affairs, Harvard University, expressing opposition to the petition.

5. Copy, Supreme Judicial Court for the Commonwealth Case No. SJC-2789, dated September 1, 1982, submitted by Harvard University, dealing with issues of ownership as they related to a municipality's authority to control land uses under authority of Chapter 40A, the Zoning Act.

Respectfully Submitted for the
Planning Board

Arthur C. Parris

Arthur Parris
Chairman

CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139
Tel. 498-9011

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

May 9, 1983

To the Honorable, the City Council:

I transmit herewith report of the Planning Board relative to petitions of the City Council to amend the Zoning Ordinance by creating a new use category "Affiliate Housing" or "University Owned Housing" and regulating same in Section 4.50, Institutional Use Regulations.

Very truly yours,

Robert W. Healy
City Manager

RWH/b

Agenda Item Number Five

Re: report of the Planning Board regarding two petitions to amend the Zoning Ordinances by creating a new use category "Affiliate Housing" or "University Owned Housing" in Section 4.50, Institutional Use Regulations.

In City Council,

May 9, 1983

5/9/83
Referred to the
Petitions Pending
Before
the Council

HARVARD UNIVERSITY

OFFICE OF GOVERNMENT AND
COMMUNITY AFFAIRS

2 GARDEN STREET
CAMBRIDGE, MASSACHUSETTS 02138
617-495-4955

RECEIVED BY
OFFICE OF CITY CLERK
APR 25 2 49 PM '83
CAMBRIDGE, MASS.

April 25, 1983

The Honorable Members of the
Cambridge City Council
City Of Cambridge
Cambridge City Hall
Cambridge, MA 02139

RE: Institutional Zoning -- Proposed Amendments to Regulate "Affiliate Housing" of Educational Institutions

Dear Councillors:

We wish to be recorded, again, as being opposed to the proposed amendments regarding "Affiliate Housing".

Attached, for your information, are copies of our letter to the Planning Board dated March 29, 1983 and that of our counsel, Ropes & Gray, dated April 12, 1983.

Very truly yours,

Lewis A. Armistead

ROPES & GRAY
225 FRANKLIN STREET
BOSTON, MASSACHUSETTS 02110
(617) 423-6100

CABLE ADDRESS "ROPGRALOR"
TELEX NUMBER 940519
TELECOPY (617) 423-7841

IN WASHINGTON:
1001 TWENTY-SECOND STREET, N.W.
WASHINGTON, D.C. 20037
(202) 429-1600

April 12, 1983

Planning Board
City of Cambridge
City Hall Annex
57 Inman Street
Cambridge, Massachusetts 02139

Re: Affiliate Housing

Dear Members:

This letter will summarize my comments on Harvard's behalf at your April 5 hearing with regard to the opinion of the City Solicitor to you dated March 29, 1983 and the draft recommendation prepared by the staff.

We do not disagree with the City Solicitor's opinion. We think he correctly concludes that Chapter 565 of the Acts of 1979 authorizes the City to regulate "affiliate housing" if the land or structures regulated can be said to be used "for educational purposes"; nor do we differ with his conclusion "that the provision of housing for University students, faculty and employees is, arguably, an 'educational use'. . ." (emphasis added). The best example of educational housing use is a dormitory, at least what is normally thought to be a dormitory. Like you, however, we have problems with the existing definition of "dormitory" in the Cambridge Zoning Ordinance, which would even include a single family home for a visiting professor.

The question, which the City Solicitor's opinion leaves open, is whether a residential property other than a dormitory, fraternity or sorority which otherwise meets all zoning requirements can be said to be differently used simply because of the affiliation of the occupant with the educational institution which owns the property, and, if so, at what point. Harvard's point under the CHR General case has been that any definition of "affiliate housing" must reflect a difference in use if it is to be the basis for different treatment under zoning. The City Solicitor puts this somewhat differently. He says the City must show some "need" for the regulation, some "reasonable basis" for the conclusion that "affiliated housing", however defined, reflects a different use and therefore justifies different

zoning treatment. He then says he "do[es] not know whether traffic and other use impacts associated with affiliate housing are different from those associated with the non-affiliate housing." This decision is yours to make.

The original proposal was that occupancy of university property "primarily" by affiliates would be prohibited. Harvard objected in principle; in the absence of any suggestion as to why occupancy of a property "primarily" by affiliates makes a use difference for zoning purposes, the proposal constitutes nothing more than an improper regulation of the identity of the owner and the educational and employment status of the occupants. Under the amended proposal, a university's preference of its affiliates to "a significant extent" would require a variance. Whatever this subjective standard means and however it is construed and applied we think it is even less use regulation than the original proposal the Planning Board previously voted down. Unless there is some reasonable "use" basis for denying educational institutions the right enjoyed by all other owners to prefer their own affiliates, the amended proposal is no less a regulation of ownership than the original. We see no rational basis for the use distinction or for the discriminatory treatment of educational institutions. Furthermore, under the amendment as set forth in the draft Planning Board recommendation, this standard would be applied to even a single dwelling unit.

In our view and, as we read it, that of the City Solicitor, to adopt the draft recommendation you must conclude on some rational basis that educational institutions are different from all other owners such that an educational institution's preference for its affiliates to "a significant extent", for even a single dwelling unit in a multitenancy building which otherwise meets zoning requirements, causes the dwelling unit to be used differently and justifies a zoning prohibition.

Thank you very much.

Very truly yours,

Stephen P. Lindsay

SPL/du
cc: Mr. Lewis A. Armistead

HARVARD UNIVERSITY

OFFICE OF GOVERNMENT AND
COMMUNITY AFFAIRS

2 GARDEN STREET
CAMBRIDGE, MASSACHUSETTS 02138
617-495-4955

March 29, 1983

Planning Board
City of Cambridge
Cambridge, Massachusetts 02139

Re: Institutional Zoning - Proposed Amendments to Regulate "Affiliate Housing" of Educational Institutions

Dear Members:

For reasons, among others, set forth in my letter to you of October 18, 1982 (copy enclosed) reacting to Councillor Sullivan's original proposal, Harvard opposes both the amendment now proposed by Mayor Vellucci and that reintroduced by Councillor Sullivan.

We have reviewed Councillor Sullivan's amendment to his proposal and the accompanying memorandum which he submitted at your hearing on March 15. As we said then, we think the amendment represents a step backwards, both practically and legally.

One of Harvard's fundamental objections to the original proposal has always been that it would impermissibly regulate the identity of the owner and not the use of property. Even if regulation of ownership can be permissible where the effect is to regulate use, we have been troubled by the assumption and unsupported assertion that there are "use implications of University ownership or control coupled with occupancy primarily by affiliates." We do not think there are any such use implications unique to educational institutions which justify different treatment under zoning. Obviously, giving preference to affiliates to "a significant extent" is even less an institutional use than occupancy "primarily" by affiliates.

Even under the original proposal, an educational institution could have given preference to its affiliates in any building not primarily occupied by affiliates. The stated assumption of that proposal, with which we disagreed, was that it would define on an objective basis the point at

which a property becomes so institutional as to be justifiably regulated as such. Even under that proposal, Harvard affiliates could have been given preference in leasing up to 5 units in a 10-unit Harvard "open housing" building. Now, perhaps because we have said that the percentage, currently less than 30%, of Harvard's open housing occupied by affiliates has been steadily declining, the proposal has been amended so that none, or at most one or two of the units in the same building could be saved for affiliates, depending upon the subjective interpretation of "a significant extent". Moreover, the supposed "grandfather" protection under the amendment is illusory; even if 4 units in the same building happened to be occupied by affiliates now, they could not be reserved for affilates in the future.

The fact is that under the amendment an educational institution, unlike any other owner, could not prefer its own affiliates to "a significant extent." Not only would this extend far beyond regulation of "use" under zoning, it would be an unfair discrimination for which we have been unable to discern any rational basis.

Finally, we would point out that a variance is not a practical remedy if the affiliate housing proposal is adopted in any form. A variance requires a finding of hardship unique to the subject property; and for any property meeting zoning requirements except for the identity of its owner, such a finding could not be made. It is not disputed that few if any variances for "affiliate" housing could withstand challenge. This only serves to highlight the inappropriateness of requiring a use variance for residential use of residential property in a residential zoning district simply because of the identity of the owner. If some aspect of residential use is to be prohibited, it should be specified and made applicable to all owners.

We strongly urge that you recommend unfavorable action on both of the "affiliate housing" proposals now before you.

Very truly yours,

Lewis A. Armistead

HARVARD UNIVERSITY

OFFICE OF GOVERNMENT AND
COMMUNITY AFFAIRS

2 GARDEN STREET
CAMBRIDGE, MASSACHUSETTS 02138
617-495-4955

October 18, 1982

Planning Board
City of Cambridge
Cambridge, MA 02139

Re: Institutional Zoning; Proposed Amendment to Regulate "Affiliate Housing" of Educational Institutions

Dear Members:

This will record Harvard's opposition to the proposed amendment to the Zoning Ordinance which would extend the institutional zoning regulations to any dwelling owned or controlled by an educational institution and occupied primarily by its employees or students.

As you may know, a similar proposal was originally included in early drafts of the institutional zoning regulations. However, we argued and the Department of Community Development staff ultimately agreed, that the only appropriate objectives of zoning are the regulation of uses of and improvements to property. Nothing permits regulation or discrimination under zoning based upon the identity of the owners of the property and certainly not based upon the educational or employment status of the occupants. This point has recently been emphasized by the Massachusetts Supreme Judicial Court in its decision in CHR General, Inc. v. City of Newton, decided September 1, 1982:

> A "fundamental principle of zoning [is that] it deals basically with the use, without regard to the ownership, of the property involved or who may be the operator of the use."

Accordingly, as proposed (and enacted) the institutional use regulations did not regulate or restrict residential housing owned by educational institutions other than dormitories and fraternity and sorority houses.

A further problem with the proposed amendment is that educational institutions would be singled out from other institutions for regulation of their affiliate housing. No zoning considerations justify distinguishing a professor's house from a home or a rectory. Such a distinction would be not only legally impermissible but also inconsistent with the policy of treating all institutions equally which was repeatedly expressed at the time the institutional use regulations were originally proposed.

By Chapter 565 of the Acts of 1979, the General Court constituted Cambridge the only Massachusetts city or town with the power to override the provisions of the Zoning Act protecting educational and religious institutions from use regulation under zoning. In doing so, the General Court expressly limited that power to certain residential zoning districts. It is doubtful that it was intended and ironic that it is now proposed that this power be used to regulate otherwise proper residential uses.

Finally, it is obvious that whatever the legalisms may be, this proposal would be counterproductive to the City's and Harvard's common objective of having Harvard provide where possible for the housing needs of its employees and students, thereby avoiding undue pressures upon the limited existing housing stock.

We urge that you report unfavorably upon the proposed amendment.

Very truly yours,

Lewis A. Armistead

Comm. from Lewis A. Armistead, Office of Government and Community Affairs, Harvard University, transmitting their opposition to the proposed zoning petition relative to "Affiliate Housing".

In City Council,

April 25, 1983

4/25/1983

- Referred to the Petition -

INVITATION FOR BIDS
The Cambridge Housing Authority will receive sealed bids at 270 Green Street, Purchasing Department, Cambridge, Massachusetts 02139, on April 21, 1983, at 10:00 A.M.
Mini Computer System Maintenance Contract Bid Security $1,000.00.
Specifications and contractual documents are available at 270 Green Street, Cambridge, Massachusetts, Purchasing Department.
All the bidding and contractual procedures included in the General Laws of the Commonwealth of Massachusetts, shall be strictly adhered to, all as most recently amended.
No bid may be withdrawn after the opening thereof, prior to thirty (30) days, Saturdays, Sundays and Local Holidays excluded, after approval to award is given by the Department of Housing and Urban Development (HUD), without the consent of the Cambridge Housing Authority.
CHA IS AN EQUAL OPPORTUNITY EMPLOYER
Cambridge Housing Authority
270 Green Street
Cambridge, Massachusetts 02139
Spencer Ferdinand,
Purchasing Agent
(C)Mar.31,Apr.7

1042
SHERIFF'S SALE
THE COMMONWEALTH OF MASSACHUSETTS
Middlesex, ss. June 21, A.D. 1982
Taken on execution and will be sold by public auction, on Wednesday, the twenty-seventh day of April A.D. 1983, at three o'clock P.M., at my office, 99 First Street in Cambridge, in said County of Middlesex, all the right, title and interest that **Isabelle T. Gulesserian, Dian H. Gulesserian** and **Andrew N. Gulesserian** of Winchester in said County of Middlesex, had (not exempt by law from attachment or levy on execution) on the eighth day of March A.D. 1982, at ten o'clock and thirty minutes, a.m., being the time when the same was attached on mesne process, in and to the following described real estate, to wit:
a certain parcel of land with the buildings thereon situated in said Cambridge, being a part of Lots 55 and 56 on a plan entitled "Plan of Redcliffe Terrace, belonging to George Quimby, Walter C. Stevens, Surveyor, dated December, 1911, recorded with Middlesex South District Deeds, Book of Plans 202, Plan 2, and being bounded and described as follows:
Southeasterly by Walden Street, forty-eight (48) feet;
Southwesterly by a line parallel with the dividing line between said Lots 55 and 56 and distant Southwesterly therefrom four (4) feet, ninety (90) feet;
Northwesterly in part by the remaining portion of said Lot 55 by a line parallel with the Northwesterly line of said Walden Street and distant ninety (90) feet therefrom, four (4) feet and in part by Lot 51 on said plan, forty-four (44) feet;
Northeasterly by the remaining part of said Lot 56 by a line parallel with and six (6) feet Southwesterly from the dividing line between said Lot 56 and Lot 57 on said plan, ninety (90) feet.
Containing 4,320 square feet of land.
Subject to restrictions of record so far as the same are now in force and applicable.
Terms: CASH Alfred L. Jacobson
Deputy Sheriff
(C)Mar.31,Apr.7,14

14396
SHERIFF'S SALE
COMMONWEALTH OF MASSACHUSETTS
Middlesex, ss. February 11, A.D. 1983
Taken on execution and will be sold by public auction, on Wednesday, the twenty-seventh day of April A.D. 1983, at three o'clock P.M., at my office, 99 First Street in Cambridge, in said County of Middlesex, all the right, title and interest that William Peterson of Cambridge in said County of Middlesex, had (not exempt by law from attachment or levy on execution) on the twenty-eighth day of December A.D. 1982, at three o'clock and no minutes P.M. and which was increased and recorded on the eighteenth day of January A.D. 1983, at four o'clock and no minutes, P.M., being the time when the same was attached on mesne process, in and to the following described real estate, to wit:
the land in said Cambridge, with the buildings thereon, being shown as "Lot B" on a plan of land entitled "Sub-Division of Land in Cambridge, Mass.", dated March 9, 1955, by J. Donnell Sullivan, Registered Professional Engineer, recorded with Middlesex (So. Dist.) Deeds as Plan No. 390 of 1955, recorded March 11, 1955, said parcel of land being bounded and described as shown on said plan - Beginning at a point which is a Lot Corner common to "Lot A" and "Lot B" on said plan, said point being Easterly forty-four (44.0) feet from a point in the Easterly line of Norfolk Street; this point in the Easterly line of Norfolk Street is distant Southerly one hundred seventy-five (175.0) feet from the intersection of the Easterly line of Norfolk Street and the Southerly line of Cambridge Street; thence, Easterly fifty-five (55.0) feet to a point; thence, Southerly thirty-one (31.0) feet to a point; thence, Westerly twenty and four-tenths (20.4) feet to a point; thence, Northerly six (6.0) feet to a point; thence Westerly thirty-four and six-tenths (34.6) feet to a point; thence, Northerly twenty-five (25.0) feet to the point of beginning. Containing according to said plan hereinabove described 1,497 square feet. All above measurements and area are more or less. Together with a right of way for all usual purposes for which streets or ways are or may commonly be used in said Cambridge over a strip of land three (3.0) feet wide over "Lot A" running along its Northerly boundary line and shown on the above-mentioned plan. Together with easements over "Lot A" on said plan to use and maintain all house services as now existing, the house services herein referred to being sewer, gas, electricity and telephone services.
Terms: CASH Alfred L. Jacobson
Deputy Sheriff
(C)Mar.31,Apr.7,14

SCHOOL COMMITTEE
456 Broadway
Cambridge, Mass. 02138
Sealed proposals will be received at the office of the Manager of Procurement, 159 Thorndike Street, Cambridge, Mass. 02141, until Thursday, April 28, 1983 at 10:00 A.M. at which time they will be publicly read for:
Moveable Equipment and Furniture for:
Longfellow, Roberts and Graham & Parks (Webster) Schools
Specifications and forms of proposal will be available at the office of the Manager of Procurement on and after April 8, 1983.
William C. Lannon
Superintendent of Schools
(C)Apr.7,14

FIRST PUBLICATION NO. 2199.
CITY OF CAMBRIDGE
In the Year One Thousand, Nine Hundred Eighty-Three
AN ORDINANCE
In amendment to an ordinance entitled "The Zoning Ordinances of the City of Cambridge".
Be it ordained by the City Council of the City of Cambridge as follows:
The Zoning Map accompanying ordinance passed to be ordained September 26, 1977 entitled "The Zoning Ordinances of the City of Cambridge" is hereby amended by amending the text of the Zoning Ordinances as follows:
1. In Article 2.000, Definitions, add the following new definition at its appropriate alphabetical location:
"Affiliate housing. Any dwelling (other than a dormitory or a sorority or fraternity house) owned or controlled by an educational institution and occupied primarily by persons who are employed or enrolled at the educational institution, or any future institution of learning that establishes itself within the City of Cambridge under any name whatever they may adopt to identify their institution, or any dwelling unit which is sponsored by said institutions under other titles or are held under realty trusts, corporations or other legal entities which are under the direct or indirect control or supervision of the above referred to institutions";
2. In section 4.33, of the Table of Use Regulations (Institutional Uses), subsection (b), Educational Purposes, add to line 7 the words "university owned housing".
3. In Section 4.56 Table of Institutional Use Regulations, subsection (c), add to the line 8 the words: "university owned housing".
Passed to a second reading at the City Council meeting held on April 4, 1983 and on or after April 18, 1983 the question comes on passing to be ordained.
ATTEST: Paul E. Healy
City Clerk
(C)Apr.7

FIRST PUBLICATION NO. 2199.
CITY OF CAMBRIDGE
In the Year One Thousand, Nine Hundred Eighty-Three
AND APPLICATION NO. 2199.
In amendment to an ordinance entitled "The Zoning Ordinances of the City of Cambridge".
Be it ordained by the City Council of the City of Cambridge as follows:
The Zoning Map accompanying ordinance passed to be ordained September 26, 1977 entitled "The Zoning Ordinances of the City of Cambridge" is hereby amended by amending the text of the Zoning Ordinances as follows:
1. In Article 2.000, Definitions, add the following new definition at its appropriate alphabetical location:
"University owned housing. Any dwelling (other than a dormitory or a sorority or fraternity house) owned or controlled by an educational institution and occupied primarily by persons who are employed or enrolled at the educational institution, or any future institution of learning that establishes itself within the City of Cambridge under any name whatever they may adopt to identify their institution, or any dwelling unit which is sponsored by said institutions under other titles or are held under realty trusts, corporations or other legal entities which are under the direct or indirect control or supervision of the above referred to institutions";
2. In section 4.33, of the Table of Use Regulations (Institutional Uses), subsection (b), Educational Purposes, add to line 7 the words "university owned housing".
3. In Section 4.56 Table of Institutional Use Regulations, subsection (c), add to the line 8 the words: "university owned housing".
Passed to a second reading at the City Council meeting held on April 4, 1983 and on or after April 18, 1983 the question comes on passing to be ordained.
ATTEST: Paul E. Healy
City Clerk
(C)Apr.7

CAMBRIDGE HOUSING AUTHORITY
OFFICE OF
PLANNING & DEVELOPMENT
INVITATION FOR
CONTRACTOR PREQUALIFICATION AND APPLICATION TO BID.
The CHA (owner) plans to publicly bid the **Underground Heat Line Replacement of Roosevelt Towers** in mid May, 1983. This work will involve the replacement of underground heat and domestic water lines throughout the development; and the installation of boiler controls and remote heat sensors.
Attention is called to Mass. General Laws, chapter 149, sections 44a through 44I as most recently amended, which require parties desiring to submit general bids to submit both a **Prequalification Statement** and an **Application to Bid.** The general contractor must be regularly engaged in the work of mechanical contracting. All interested general contractors must file a complete and accurate Prequalification Statement and an updated Application to Bid not later than:
3 p.m., April 21, 1983
Hand delivered to:
Office of Planning & Development
Cambridge Housing Authority
10th floor, 678 Mass. Ave., Cambridge, MA
Mailing address:
Cambridge Housing Authority
270 Green St.,
Cambridge, MA 02139
All applications arriving after this deadline WILL NOT be accepted.
Application and Prequalification forms will be available, without charge, from 9 a.m. to 5 p.m., any business day at 678 Mass. Ave., 10th floor.
All bidders please note:
EEO guidelines regarding minorities and females shall be strictly enforced on this project.
(C)Apr.7,14

COMMONWEALTH OF MASSACHUSETTS
Middlesex, ss. Probate and Family Court
NOTICE OF
Probate of Will
Without Sureties
Estate of **Leticia Mancusi**
late of **Cambridge**
in the County of **Middlesex**
NOTICE
A petition has been presented in the above captioned matter praying that a certain instrument purporting to be the last will of said deceased may be proved and allowed and that **Vincent Mancusi** of Waltham in the County of Middlesex be appointed executor thereof, without giving surety on his bond.
If you desire to object to the allowance of said petition, you or your attorney should file a written appearance in said Court, at Cambridge on or before 10:00 A.M. on April 26, 1983. You must in addition to filing a written appearance as aforesaid, file within thirty (30) days after said return day a written statement of objections to the petition, giving specific grounds therefor.
Witness, Sheila E. McGovern, Esquire, First Judge of said Court at Cambridge, the twenty-ninth day of March, in the year of our Lord one thousand nine hundred and eighty-three.
/s/ Paul J. Cavanaugh
Register of Probate
(C)Apr.7

COMMONWEALTH OF MASSACHUSETTS
Middlesex, ss. Probate and Family Court
NOTICE OF
Probate of Will
Without Sureties
Estate of **John Nash Douglas Bush**
a/k/a **J. Douglas Bush**
late of **Cambridge**
in the County of **Middlesex**
NOTICE
A petition has been presented in the above captioned matter praying that a certain instrument purporting to be the last will of said deceased may be proved and allowed and that **Geoffrey Bush** and **James B. Ames** both of Cambridge in the County of Middlesex be appointed executors thereof, without giving surety on their bond.
If you desire to object to the allowance of said petition, you or your attorney must file a written appearance in said Court, at Cambridge, on or before 10:00 in the forenoon on April 25, 1983. You must in addition to filing a written appearance as aforesaid, file within thirty (30) days after said return day a written statement of objections to the petition, giving specific grounds therefor.
Witness, Sheila E. McGovern, Esquire, First Judge of said Court at Cambridge, the twenty-ninth day of March, in the year of our Lord one thousand nine hundred and eighty-three.
/s/ Paul J. Cavanaugh
Register of Probate
(C)Apr.7

NOTICE OF PUBLIC HEARING
Pursuant to Section 3(d)(1) of the Urban Mass Transportation Act of 1964, as amended, the Massachusetts Bay Transportation Authority will hold a Public Hearing Monday, April 25, 1983 at 10.00 a.m. at the MacCormack State Office Building, One Ashburton Place, Boston, Mass., 21st floor, Conference Room No. 3 **concerning its proposed No. 2 South Shore Car Project.**
The proposed No. 2 South Shore Car Project encompasses the purchase of 58 new rapid transit cars for the Authority's Red Line. These additional cars will supplement the current Red Line fleet of 88 No. 5 Cambridge/Dorchester Cars and 76 No. 1 South Shore Cars and will provide the additional cars required to meet future Red Line scheduling needs which include the Red Line Northwest Extension to Alewife.
The estimated cost for this project is $66,700,000. An application will be filed with the Urban Mass Transportation Administration under the Urban Mass Transportation Act of 1964 as amended for an amount of $50,025,000. The remaining $16,675,000 will be provided as the local share by the issuance of Authority bonds consistent with authorization granted by the Massachusetts Legislature.
No families or businesses would be displaced by the project. No adverse environmental impacts of the project are expected. The project is part of the region's Transportation Improvement Program prepared by the Metropolitan Planning Organization consists of the Executive Office of Transportation and Construction, the Massachusetts Bay Transportation Authority, the Advisory Board of the MBTA, the Metropolitan Area Planning Council, the Massachusetts Department of Public Works, and the Massachusetts Port Authority.
The Authority's application for Federal assistance will be displayed at the Hearing and is available for public inspection at the offices of the Massachusetts Bay Transportation Authority, 50 High Street, Boston, Massachusetts. An environmental assessment is included in the application.
All interested parties will be given an adequate opportunity to publicly present their views at this hearing with regard to this proposed Project.
James F. O'Leary
General Manager
(C)Apr.7,14

Obituaries

Benjamin Bowden

Benjamin H. Bowden of Beverly, active in the banking world, died March 31 at the Beverly Hospital after a short illness.
A graduate of Dartmouth, he worked with the National Shawmut Bank in Boston for seven years, acting as assistant to the president the last year.
In 1933 he helped organize the County Bank and Trust Company in Cambridge. He became vice-president, treasurer and director in 1942, president in 1954 and chairman of the board in 1967. Since retirement he has been an honorary director of the bank, now named the Shawmut County Bank, N.A.
He served as a corporator for both the Beverly Savings Bank and the Cambridgeport Savings Bank for many years. He was also a trustee and chairman of the auditing committee of the latter bank.
Active in Cambridge community affairs, he served in many Community Fund, Red Cross and Salvation Army drives and was also involved with the Cambridge Chamber of Commerce.
He helped organize HELP, the Massachusetts Higher Education Loan Plan, and the School of Banking at Williams College.
Mr. Bowden was a member of a variety of other clubs and organizations.
He leaves his wife, Kathryn W. MacKinnon; a son, Benjamin J. of Cambridge; and three grandchildren.
A memorial service was held in the Dane St. Congregational Church in Beverly. The funeral was arranged by the Lee, Moody and Russell Funeral Home of Beverly.

James Horton

Retired taxi cab driver, James H. Horton, died April 2 in the Cambridge Hospital at the age of 92. Born in Boston, he lived in Cambridge for most of his life.
The husband of the late Margaret (McNabb), he leaves two daughters, Elizabeth McClurg of Cambridge and Florence Nagy of Natick; 11 grandchildren and three great-grandchildren.
After services in the Chapel of the Watson Funeral Home, he was buried in the Cambridge Cemetery.

Doris Martin

Doris S. Martin, 72, died suddenly in her Craigie Circle home on April 3.
She was born in Cambridge and was a retired cashier for the New England Electrical System.
She was the sister of Mrs. Edward Coghlon of Milton, Mrs. Philip Johnson of Shrewsbury and Mrs. John Concannon of Weymouth.
A funeral from the William T. Hickey and Son Funeral Home was followed with a Mass in St. Peter's Church.
Miss Martin was buried in the Old Cambridge Catholic Cemetery.

Elsie Bisbee

A funeral Mass was said in St. Mary's Church for Elsie W. (Swanson) Bisbee who died April 1 at the age of 80.
Mrs. Bisbee was born in Sudbury, spent most of her life on Norfolk Street and died in the Mt. Auburn Hospital after a long illness.
The wife of the late George H. Bisbee, she leaves three sons, Charles G., Chester L. and Frederick A.; a daughter, Jean McDonald; and five grandchildren.
The Daniel F. O'Brien Funeral Home made the funeral arrangements. She was buried in the Mt. Auburn Cemetery.

Charles Young

Charles W. Young, active in a number of Masonic organizations, died April 2 in the Mt. Auburn Hospital.
Mr. Young, 68, was a retired shipper who lived in Cambridge for most of his life.
He was a member of the Fraternal Organization Joseph Webb Lodge AS and N, the order of De Molay, the Wakefield Lodge of Elks and other Masonic bodies.
He was the husband of Frances (MacArthur); the father of Frances A. Waltman of Malden and Carolyn R. Young of Cambridge; the brother of Ruth Heiner and Lillian Edmondson of California, Edna Blackstone of Florida and Marjorie Gilmore of Maryland; and the grandfather of one.
Both a funeral service in the Chapel of the Watson Funeral Home and a Masonic service were held in Mr. Young's remembrance. He was buried in the Mt. Auburn Cemetery.

William Daly

William H. Daly Sr., a native of Plymouth Montserrat, West Indies, who came to Cambridge in 1911, died in his Concord Avenue home at the age of 99.
Mr. Daly, a merchant seaman, was the husband of the late Violet (Durrant); the father of Marion K. Agnew, William H. Jr., and Roland L. all of Cambridge, and the late George R. and Melvin L.; the grandfather of 11 and the great-grandfather of eight.
Holy Eucharist services were held at St. Bartholomew's Episcopal Church. He was buried in the Cambridge Cemetery.
Arrangements were made by the A.J. Spears Funeral Home.

Leo Keating

Leo Keating, a lifelong Cambridge resident, died April 1 in the Deaconess Hospital after a brief illness. He was 76.
Mr. Keating was a retired employee of the Ward Baking Company and a World War II Veteran.
He was the brother of Mary Sullivan of Arlington, Joseph and Thomas Keating and the late Catherine Whalen, and the uncle of Catherine Whalen of Cambridge.
The John C. Burns and Sons Funeral Home made the funeral arrangements. Mass was said in St. Mary's Church followed by a burial in the Cambridge Cemetery.

Cecelia Stubendorff

Cecelia (Nugent) Stubendorff, 74, died March 29 in the Cambridge Hospital after a brief illness. She was a lifelong Cambridge resident.
She was the wife of the late John A. Stubendorff; the mother of John Stubendorff, Mary Andrews and Mary Nugent; and the grandmother of two.
Mrs. Stubendorff was buried in the Cambridge Cemetery after a pro-burial Mass in St. Mary's Church. The John C. Burns and Sons Funeral Home arranged the funeral.

Anna Poirier

Anna M. (O'Keefe) Poirier, lifelong Cambridge resident formerly of Cogswell Road, died April 3 in the Neville Manor at the age of 81.
She leaves two sisters, Mrs. Mary DeGeorge of Arlington and Mrs. Catherine Stevens of Florida; and a brother Charles O'Keefe of Washington, D.C.
A funeral Mass was said in St. John's Church after which she was buried in the Mt. Auburn Cemetery.
William T. Hickey and Son Funeral Home made the funeral arrangements.

Rose Pozerycki

Rose (Bilok) Pozerycki, 63, a resident of Cambridge for many years, died March 26 in Cambridge Hospital after a long illness.
Wife of the late Joseph, she leaves two daughters, Gail Liston and Paula Popovics; three sisters, Marie Camuso, Alice Gargano and Katherine Klimek; four grandchildren and one great-grandchild.
A funeral from Szulewski & Son Funeral Home was followed by a Mass in St. Patrick's Church and burial in St. Michael's Cemetery, Boston.

Julian Rutkowski

Julian Rutkowski, 56, a retired security guard and veteran of World War II, died suddenly March 21 in Framingham Union Hospital.
A lifelong Cambridge resident, he was the son of the late Teofil and Sophie (Sawulski) and is survived by two children, Robert and Julie; two brothers, William of New Jersey and Edward of Arlington and three sisters, Gladys Johnson of Medford, Jessie Sharisky of Wakefield and Lucille Falewicz of Quincy.
Private services held in St. Hedwig's Church were followed by burial in Cambridge Cemetery. Arrangements were provided by Szulewski & Son Funeral Home.

John Sousa

John Phillip Sousa, a native of Rhode Island and a postal worker at Cambridge Post Office, died March 30 in Cambridge Hospital at the age of 63. He was involved in a variety of elderly-related issues and active in the Mid Cambridge Neighborhood Association, of which he was a founding member.
He was a member of Cambridge Council of No. 74 K of C, Board of Cambridge-Somerville Commission of Elder Services Inc., Cambridge Economic Opportunity Commission, Cambridge Multicultural Arts and Cambridge Council on Aging.
As head of finance and a member of the executive board of the Cambridge-Somerville Elder Services, on the day that Mr. Sousa died he was nominated president.
He is survived by his wife, Rita (Moran); three children, Jean Marie of France and John Jr. and Lawrence, both of Hawaii; two brothers, James of Arlington and Kenneth of Burlington; six sisters, Rita Donovan of Belmont, Noreen Selinger of Peabody, Doris Fitzmaurice of Arlington, Elizabeth McManus of Melrose, Kathleen Fay of Newton and Virginia Healey; of Florida and several nieces and nephews.
A funeral from Daniel F. O'Brien Funeral Home was followed by a Mass in St. Mary's Church and burial in Mount Auburn Cemetery.

Josephine Bresnahan

Josephine Bresnahan, 75, a retired orderly at William Francis Nursing Home, died March 29 in Mount Auburn Hospital after a short illness. Born in Lawrence, she lived in Cambridge for about 35 years.
A funeral from Keefe Funeral Home was followed by a Mass in St. John's Church. Burial was in Holy Sepulchre Cemetery, Lawrence.

Leonard Morrison

Leonard F. Morrison, a maintenance worker at Middlesex County Courthouse, died March 28 in Marlboro Hospital after a short illness. He was 63.
Mr. Morrison lived most of his life in Cambridge and about two months in Hudson.
He is survived by his wife, Katherine (Keough); two daughters, Kathleen Dinner and Ann Santella; two sisters, Rita Kline and Joan; three brothers, Allen, Stephen and James; five grandchildren and three great-grandchildren.

FIRST PUBLICATION NO. 2198.
CITY OF CAMBRIDGE
In the Year One Thousand, Nine Hundred Eighty-Three
AN ORDINANCE
In amendment to an ordinance entitled "The Zoning Ordinances of the City of Cambridge".
Be it ordained by the City Council of the City of Cambridge as follows:
The Zoning Map accompanying ordinance passed to be ordained September 26, 1977 entitled "The Zoning Ordinances of the City of Cambridge" is hereby amended by amending the text of the Zoning Ordinances as follows:
1. In Article 2.000, Definitions, add the following new definition at its appropriate alphabetical location:
"Affiliate housing. Any dwelling (other than a dormitory or a sorority or fraternity house) owned or controlled by an educational institution and occupied primarily by persons who are employed or enrolled at the educational institution, or any future institution of learning that establishes itself within the City of Cambridge under any name whatever they may adopt to identify their institution, or any dwelling unit which is sponsored by said institutions under other titles or are held under realty trusts, corporations or other legal entities which are under the direct or indirect control or supervision of the above referred to institutions";
2. In section 4.33, of the Table of Use Regulations (Institutional Uses), subsection (b), Educational Purposes, add to line 7 the words "university owned housing".
3. In Section 4.56 Table of Institutional Use Regulations, subsection (c), add to the line 8 the words: "university owned housing".
Passed to a second reading at the City Council meeting held on April 4, 1983 and on or after April 18, 1983 the question comes on passing to be ordained.
ATTEST: Paul E. Healy
City Clerk
(C)Apr.7

COMMONWEALTH OF MASSACHUSETTS
Middlesex, ss. Probate and Family Court
NOTICE OF
Probate of Will
Without Sureties
Estate of **Peter James Connolly** aka
late of **Cambridge**
in the County of **Middlesex**
NOTICE
A petition has been presented in the above captioned matter praying that a certain instrument purporting to be the last will of said deceased may be proved and allowed and that **Ann F. McCusker** of Belmont, County of Middlesex be appointed Executrix thereof, without giving surety on her bond.
If you desire to object to the allowance of said petition, you or your attorney should file a written appearance in said Court, at Cambridge, on or before May 2, 1983. You must in addition to filing a written appearance as aforesaid, file within thirty (30) days after said return day a written statement of objections to the petition, giving specific grounds therefor.
Witness, Sheila E. McGovern, Esquire, First Judge of said Court at Cambridge, the thirtieth day of March, in the year of our Lord one thousand nine hundred and eighty-three.
/s/ Paul J. Cavanaugh
Register of Probate
(C)Apr.7

COMMONWEALTH OF MASSACHUSETTS
Middlesex, ss. Probate and Family Court No. 150449
Summons by Publication
Innocent Domestoire
Plaintiff
vs.
Inrose P. Domestoire
Defendant
To the above-named Defendant:
A complaint has been presented to this Court by your spouse, Innocent Domestoire, seeking divorce.
You are required to serve upon Donald J. Bertrand, Esq., plaintiff's attorney, whose address is 600 Pleasant Street, Watertown, MA. 02172 your answer on or before May 31, 1983. If you fail to do so, the Court will proceed to the hearing and adjudication of this action. You are also required to file a copy of your answer in the office of the Register of this Court at Cambridge.
Witness Sheila E. McGovern, Esq., First Judge of said Court at Cambridge.
March 29, 1983
Paul J. Cavanaugh
Register of Probate
(C)Apr.7,14,21

INVITATION FOR BIDS
The Cambridge Housing Authority will receive sealed bids at 270 Green Street, Purchasing Department, Cambridge, Massachusetts 02139, at 12:00 Noon, on April 21, 1983, for:
Manufacture & Supply Window Screens Bid Deposit $500.00.
Specifications and contractual documents are available at 270 Green Street, Cambridge, Massachusetts, Purchasing Department.
All the bidding procedures included in the General Laws of the Commonwealth of Massachusetts, and the provision of the "Instructions to Bidders" shall be strictly adhered to, all as most recently amended.
No bid may be withdrawn after the opening thereof, prior to thirty (30) days, Saturdays, Sundays and Local Holidays excluded, after approval to award is given by the Department of Housing and Urban Development (HUD), without the consent of the Cambridge Housing Authority.
CHA is an Equal Opportunity Employer
Cambridge Housing Authority
270 Green Street
Cambridge, Massachusetts 02139
Spencer Ferdinand,
Purchasing Agent
(C)Mar.31,Apr.7

ORDINANCE NO. 994.
Final publication No. 2200, First publication in the Chronicle on March 17, 1983.
CITY OF CAMBRIDGE
In the Year One Thousand, Nine Hundred Eighty-Three
AN ORDINANCE
In amendment to an ordinance formerly entitled "The General Ordinances of the City of Cambridge" as revised in 1972 and now designated as "The Code of the City of Cambridge".
Be it ordained by the City Council of the City of Cambridge as follows:
Chapter Two entitled "Administration", Article XXII entitled "Officers Generally", section 2-191 entitled "List of Salaries in General" is hereby amended by striking out in said section 2-191 the salaries of the positions listed below and substituting in place thereof the following new schedule of salaries.
Section 2-191. List of Salaries in General.
The offices of the City of Cambridge hereinafter named shall receive the following salaries and will be paid monthly or weekly, unless otherwise stated. The effective date of this amendment shall be July 1, 1982.

PART ONE

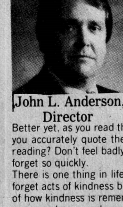
	Minimum Annual Salary	Maximum Annual Salary
Administrative Assistant to the City Council	22,416	24,253
Assessors	30,295	32,420
Assistant City Manager:		
Community Development	38,257	41,437
Fiscal Affairs	38,257	41,437
Human Service Programs	38,257	41,437
Budget Director	30,295	32,420
City Auditor	32,051	34,175
City Clerk	32,051	34,175
City Electrician	30,295	32,420
City Engineer	32,051	34,175
City Manager	63,696	63,696
City Solicitor	32,051	34,175
City Treasurer-Collector	32,051	34,175
Civil Defense Director	27,438	27,438
Commissioner, Health & Hospital	52,696	56,942
Commissioner of Public Works	42,189	46,434
Deputy City Auditor	28,093	30,344
Deputy City Clerk	28,093	30,344
Deputy City Manager	43,191	46,436
Director of Veterans Services	30,295	32,420
Personnel Director	30,295	32,420
Purchasing Agent	30,295	32,420
Sealer of Weights & Measures	26,796	28,921
Superintendent of Buildings	32,051	34,157
Veteran's Agent	26,796	28,921

Persons appointed to these positions after the passage of this ordinance shall receive the minimum salary with an increment each year of their service until the maximum annual salary is reached.
Ordinance Number 990 in amendment to Section 2-191 passed to be ordained December 27, 1982 remains in full force and effect.
In City Council April 4, 1983.
Passed to be ordained as amended by a yea and nay vote: Yeas 9, Nays 0, Absent 0.
ATTEST:-
Paul E. Healy, City Clerk
Robert W. Healy, City Manager
(C)Apr.7

COMMONWEALTH OF MASSACHUSETTS
Middlesex, ss. Probate Court
Docket No. 342985
NOTICE OF
FIDUCIARY'S ACCOUNT
To all persons interested in the estate of **Mary Elizabeth Bibeau** also known as **Mary Elizabeth Bibeau** (late) of Cambridge in said County:
You are hereby notified pursuant to Mass.R.Civ.P. Rule 72 that the 14th thru 17th account(s) of **David F. Bibeau** as executor of said estate has been presented to said Court for allowance.
If you desire to preserve your right to file an objection to said account(s), you or your attorney must file a written appearance in said Court at Cambridge on or before the twenty-fifth day of April, 1983, the return day of this citation. You may upon written request by registered or certified mail to the fiduciary or to the attorney for the fiduciary obtain without cost a copy of said account(s). If you desire to object to any item of said account(s), you must, in addition to filing a written appearance as aforesaid, file within thirty days after said return day or within such other time as the Court upon motion may order a written statement of each such item together with the grounds for each objection thereto, a copy to be served upon the fiduciary pursuant to Mass. R.Civ.P. Rule 5.
Witness, Sheila E. McGovern, Esquire, First Judge of said Court, this first day of April, 1983.
Paul J. Cavanaugh
Register
(C)Apr.7

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
THE PROBATE AND FAMILY COURT DEPARTMENT
Middlesex, s.s. Division
Docket No. 340359
NOTICE OF
FIDUCIARY'S ACCOUNT
To all persons interested in the estate of **Laurence G. Dixon** late of **Cambridge** in the County of **Middlesex**
You are hereby notified pursuant to Mass. R.Civ.P. Rule 72 that the First account of **Darnell Haynes** Administrator (the fiduciary) of said estate has been presented to said Court for allowance.
If you desire to preserve your right to file an objection to said account, you or your attorney must file a written appearance in said Court at Cambridge on or before the Fifteenth day of April, 1983, the return day of this citation. You may upon written request by registered or certified mail to the fiduciary, or to the attorney for the fiduciary, obtain without cost a copy of said account. If you desire to object to any item of said account, you must, in addition to filing a written appearance as aforesaid, file within thirty days after said return day or within such other time as the Court upon motion may order a written statement of each such item together with the grounds for each objection thereto, a copy to be served upon the fiduciary pursuant to Mass. R.Civ.P. Rule 5.
Witness, Sheila E. McGovern, Esquire, First Justice of said Court, this twenty-third day of March, 1983.
Paul J. Cavanaugh
Register
(C)Apr.7

COMMONWEALTH OF MASSACHUSETTS
THE TRIAL COURT
THE PROBATE AND FAMILY COURT DEPARTMENT
Middlesex, s.s. Division
Docket No. 342359
NOTICE OF
FIDUCIARY'S ACCOUNT
To all persons interested in the estate of **Laurence Haynes** late of Cambridge, in said County, deceased.
You are hereby notified pursuant to Mass. R.Civ.P. Rule 72 that the First account of **Darnell Haynes** Administrator (the fiduciary) of said estate has been presented to said Court for allowance.
If you desire to preserve your right to file an objection to said account, you or your attorney must file a written appearance in said Court at Cambridge on or before the Fifteenth day of April, 1983, the return day of this citation. You may upon written request by registered or certified mail to the fiduciary, or to the attorney for the fiduciary, obtain without cost a copy of said account. If you desire to object to any item of said account, you must, in addition to filing a written appearance as aforesaid, file within thirty days after said return day or within such other time as the Court upon motion may order a written statement of each such item together with the grounds for each objection thereto, a copy to be served upon the fiduciary pursuant to Mass. R.Civ.P. Rule 5.
Witness, Sheila E. McGovern, Esquire, First Justice of said Court, this twenty-third day of March, 1983.
Paul J. Cavanaugh
Register
(C)Apr.7



A thought for the week

John L. Anderson, Director

People today have lots of things on their minds. Consequently, people forget things quickly...This is the one and only reason why we hear and hear and hear the same, same, same words in so many T.V. commercials. A good example of how fast people forget can be shown in this way-
Did you read yesterday's paper? With only one day gone by, think back and see if you can quote the front page headline! If you can, you are an exception. Most people can't.
Better yet, as you read this thought which appears on an inside page of this paper, can you accurately quote the headline you read on page one of this paper you are NOW reading? Don't feel badly if you can't. It just goes to show how most people can and do forget so quickly.
There is one thing in life most people rarely forget - kindness! Only ungrateful people forget acts of kindness but, fortunately, most people are grateful. An excellent example of how kindness is remembered is shown in the parable of the Good Samaritan. Nearly everyone knows and remembers the story, churchgoer or not. Yet, in scripture, the story of the Good Samaritan is told only ONCE! Just a few short lines! Yes, - kindness is remembered and the best way to be remembered is to be kind.

Long Funeral Home, Inc.
1979 Massachusetts Ave.
Cambridge, Mass. 02140 - 876-5080
Service Is A "Long" Word

On the arts scene

Bringing down 'Baby'

Christopher Durang doesn't quite explain it all for us

By David Wiegand
Staff writer

For all its hilarity, Christopher Durang's new play, "Baby With the Bath Water," falls short of being a fully realized work, although, to be sure, there's more than a hint of promise here.

Durang is probably best known as the author of the current Off Broadway hit, "Sister Mary Ignatius Explains It All For You," a deliciously vicious portrait of a bonkers parochial school nun (which, coincidentially, recently featured former Cantabrigian Nancy Marchand in the title role). Now enjoying its world premiere staging by the American Repertory Theatre (ART) at the Hasty Pudding Theatre, Durang's new play offers a Jules Feiffer-esque view of "bringing up baby" in a contemporary setting filled with drug-addled dads, castrating moms, and abusive nannies.

THEATRE REVIEW

Dad John (Tony Shalhoub) gargles Nyquil and quaaludes to cool down and takes refuge behind the refrigerator whenever life gets to be too much to handle. Mom Helen (Cherry Jones) decides to write Judith Krantz-like novels and ends up compiling the Cliff Notes to "Scruples" and "Princess Daisy." Clearly unprepared for their new arrival, Helen and John use their child as an alternating battering ram in their unending private war, with Helen admonishing her husband not to refer to the infant as a "baked potato," since the child is not a foodstuff.

Into the topsy-turvy family setting comes Nanny (Marianne Owen), who slam-dunks the baby like Pat Ewing in nurse's drag and ends up sleeping in the same bed with Helen and John.

Durang also interjects the character of Cynthia, whose ballast is predictably askew. Seems her own baby was devoured by a hungry german shepherd, so she steals into John and Helen's home to read the baby selections from "Mommie Dearest."

The first act sets things up rather nicely, but, thereafter, Durang gets into trouble. Having established the Looney Tunes Method of Child-Rearing, Durang doesn't quite know what to do next. Accordingly, Nanny and Cynthia are jettisoned and the play meanders through the child's youth and adolescence without much purpose.

Appearing at last, the son, woefully misnamed "Daisy" (Stephen Rowe) because his parents didn't know his sex, winds up on a psychiatrist's couch in a scene that goes beyond the bounds of tedium. Eventually, he ends up fathering a kid of his own, who will presumably be the recipient of the damage John and Helen inflicted on Daisy.

Although Durang's characters don't have much depth, and, in fairness, aren't meant to, they are hilariously vicious distillations of what's wrong with some contemporary parents who are unable to cope with life themselves and even more unable to prepare their children to cope.

The problem is that Durang's characters are not fleshed out enough to sustain our interest after Durang has lost control of the play's action. Oh, there's the Durang sense of humor to spice up the second act, but even the jokes aren't sufficient to disguise the structural failings of the play.

What also helps hide the weakness here is the ART staging, guided by Mark Linn-Baker (late of the ART's "Waiting for Godot" and Benjy Stone in the film "My Favorite Year"). Linn-Baker has done a fine job with what can only be termed flimsy material. In fact, his pull-out-the-stops comic style makes "Baby" more enjoyable than it probably would be under a lesser director's hand.

Linn-Baker has aimed squarely at the play's substantial humor, drawing loud, hysteria-bordering performances from a very able cast. He stumbles somewhat with the psychiatrist's couch scene, but, again, the problem is in the play; the scene is irritating and redundant beyond salvation.

Shalhoub and Jones are wonderful as the mismatched mom and dad of the piece. Marianne Owen (seen, for a change, without miles of padding or old woman make-up) again proves herself to be a singularly dynamic comedienne, and Karen MacDonald does a nice turn as the wacky Cynthia. As Daisy, Stephen Rowe has the unfortunate task of having to carry the second act and his hyperactive performance only contributes to our eventual dissatisfaction with "Baby." Again, the problem rests in the play, specifically in the character of Daisy; at this point, we might welcome a chance to empathize with Daisy, but Durang makes the character as repugnant as his parents.

The ultimate problem with "Baby With the Bath Water" is that Christopher Durang knows his targets, but he doesn't know the best amunition to use against them. Bringing up a psychologically abused baby as the subject of a play is a good idea, but how, literally, to bring up baby within the context of the play apparently has Chris Durang stumped.

* * *

"Baby With the Bath Water" plays in repertory with Eugene O'Neill's "Hughie" and two Samuel Becket one-act plays through May 7 at the Hasty Pudding Theater, 12 Holyoke St. Staged by the American Repertory Theatre. Tickets are $8 and $10 for non-subsribers and $6 and $8 for ART subscribers, depending on the day of performance. For ticket information, call the ART box office at 547-8300.



BABY, IT'S YOU—The cast of Christopher Durang's "Baby With the Bathwater" are, clockwise from the center, Karen MacDonald, Marianne Owen, Tony Shalhoub, Cherry Jones and Stephen Rowe. (Photo by Richard Feldman)

Previews *By David Wiegand*



IN CONCERT—The Anti-Gravity Jazz Band, shown above, Andy Baer and the All-Stars and Norman Daoust and Friends will perform in concert this month as part of the Cambridge Public Library "The Sounds of...Jazz" series. Anti-Gravity performs April 8 at 7 pm, Andy Baer on April 16 at 2 pm and Norman Daoust on April 19 at 7 pm. The free concerts are held at the main branch of the Public Library, 449 Broadway. Anti-Gravity members are, from the left, Bob Pickington, D. Wood, Warren Senders, Gordon Hahn, Phil Scareff and Rick Barry. (Photo by Ken Williams)

PDQ ASAP

The man billed as "history's most justly neglected composer," **PDQ Bach**, AKA **Peter Schickele**, will talk about his unique musical career on Friday, April 15, from 2 to 4 pm at Kirkland House at Harvard University. Schickele will be the guest of the Learning from Performers program.

Trained in classical music, Schickele has performed as PDQ Bach since 1965. In addition, he arranges music for Joan Baez, has completed several film scores and composes both symphonic choral music as well as music for rock groups.

On Saturday, April 16, the Harvard Wind Ensemble will perform a "recently discovered" PDQ Bach piece, entitled "March of the Cute Little Wood Sprites." The concert is at 8 pm at Sanders Theatre.

Lotta lottery funds

The Massachusetts Arts Lottery Council has notified the **Cambridge Arts Council** that it will receive $13,958 to distribute to local artists and cultural organizations, according to Cambridge Council Executive Director **Chris Connaire**. The funds, proceeds from the state lottery's "Megabucks" game, will be distributed in the form of grants through the Cambridge council.

Those interested in applying for a grant are asked to contact the Cambridge Arts Council at 57 Inman St., or call 498-9033. The funds are to be used for community workshops in the arts and for environmental artworks during the Cambridge River Festival/Summer '83. A public meeting on the arts lottery procedure will be held Monday, April 11, at 5:30 pm at 57 Inman St., second floor. Deadline for receipt of applications is April 17. Decisions on grants will be announced on May 2.

How Lorna's doin'

Cambridge resident **Lorna Cooke deVaron** will celebrate her 35th year as a faculty member at the New England Conservatory of Music as she takes the baton on Saturday, April 9, for a concert at Jordan Hall in Boston.

DeVaron will conduct a performance of Bach's "Passion According to St. John," featuring NEC faculty members Ray DeVolla, Mark Pearson and Daniel Pinkham and alumni James Christie, Barbara Wallace, Pamela Gore, Kim Scown and James Maddalena.

A graduate of Wellesley College, deVaron received her master's in music from Radcliffe and joined the NEC faculty in 1947. She conducts both the Chamber Singers and the Chorus at the Conservatory. She founded the Chorus in 1947 and the organization has received the Grand Prix due Disque and awards from the National Academy of Recording Arts and Sciences. The chorus has performed under such distinguished conductors as Seiji Ozawa, Sir Colin Davis, Charles Munch, Erich Leinsdorf, Leonard Bernstein, Aaron Copland, Robert Shaw, Nadia Boulanger and Claudio Abbado.

Fair game

MIT filmmakers **Richard Leacock** and **Gloriana Davenport** have

(Continued on page 17)



LORNA COOK DEVARON marks her 35th anniversary as a faculty member at the New England Conservatory with a concert this weekend.

Expanded river festival plans announced

(Continued from page 1)

with local fairs and festivals," from block parties to the Portuguese festival in East Cambridge.

The Festival will also feature performances by the troupes every Sunday at Riverbend Park, during the months when Memorial Drive is closed to traffic between John F. Kennedy and River Streets on Sundays.

"The last part is community workshops, which are meant to prepare people in the community for closing day," Reinert says.

The workshops, led by artists and performers, will include "dance, theatre, mime, puppets," according to Jackson.

Artist's proposals for workshops are still being accepted by the Arts Council. The workshops are to be funded out of a $14,000 grant form the Massachusetts Arts Lottery, and deadline for proposals is April 17.

"Not just performance workshops," Reinert says, "fabric, banner-making, kite-making, could all be workshops. It could be in music, a kazoo band, in other words, you name it.

"We're waiting for the ideas to come from the artists. I ask them what they do, and see if it could be a workshop. Once we get the workshop proposals in, we'll take them to the community organizations and ask if they're interested in one of the workshops."

As well as lengthening the Festival, organizers are interested in "finding a broader base, in the business community and individuals, who can afford to give to make the Cambridge River Festival," says Reinert.

Although the River Festival has lost some $10,000 in federal funding, according to Reinert, the new format may ease part of the financial burden. "I think it's more efficient," he says. "We don't have to hire as many outside people to do the Festival. When you have one week of intensive activity, you do have to hire people to carry it out.

"The fact that federal money has decreased is an important factor. We have to look for more support from individuals and businesses in the Boston area. I'd rather have 1000 people giving $10 than $100 people giving $100. We want to broaden the base of support for it."

Contributors to the River Festival will be recognized in the River Festival program this year as "angels," — the term for major contributors in theatre. "Anything will be accepted — with big smiles," Reinert notes.

The Festival's Opening Day alone will cost between $15,000 and $20,000, Reinert says. About $6500 has been raised by the Arts Council so far, about $1500 of that from businesses.

Contributions can be sent payable to the Cambridge Arts Council, 57 Inman St., Cambridge 02139, and are tax-deductible.

The new format may stretch out expenses and give the Arts Council more time to raise money, but it also increases the number of volunteers needed.

"Volunteers are our backbone," notes T.J. Latimer, who is coordinating volunteers.

"As you heard, this is going to be a pretty busy summer," he adds. "We estimate a need of 100 volunteers just for opening day. If you stretch that over the summer...

"We need people who want to volunteer to work with people, to be involved in arts programming, because they have specific skills, or beacuse they want to learn specific skills.

"We have room for volunteers for everything from stuffing envelopes to technical assistance on lighting and sound," Latimer says. "Their time can be as extended or as limited as they have time for."

Volunteers should call the Arts Council at 498-9033 for more information.

The focus of this year's Festival is, as always, a mingling of the community and the arts. "Whether they've had the arts before or not, you just give people what is really good and they will enjoy it. The River Festival is a way of bringing a museum out to the people," says Connaire.

The extended Festival is not a departure from the past, Connaire stresses.

"I regard what we're doing as not at all a break from tradition — we love our tradition. We're trying to do more of the same thing.

"We don't feel we were going in the wrong direction, just that we should go further along in the same direction," she says.

— LAUREN MERLIN WALKER

Trendline™ At Big Savings!

Trendline™ is the telephone that's similar to the Trimline® from Ma Bell, but at a much lower price*. Touchtone and rotary dial models...for table and wall mount...in 11 colors with matching cards.



Touchtone
Reg. $69.95
Save $15.00 $54.95

Rotary Dial
Reg. $54.95
Save $13.00 $41.95

FAXON PHONE CENTER

Galeria Mall, Harvard Square, Cambridge, MA 497-5998
11 Needham St., Dedham, MA 329-5611
New locations opening soon.

*Prices for Trimline® from Bell as of March 30, 1983: Touchtone $71.95, Rotary Dial $49.95 ■ ® Registered Trademark of AT & T Company

HODGDON—NOYES OF ARLINGTON
BUICK

NEW & USED CAR VALUES

1983 SKYHAWK
5 speed trans., p. steering, p. brakes, r. defogger, sport mirrors, styled wheel covers w/w tires, AM/FM stereo. No. 353
$7550 DEL.

1983 Buick Regal Sdn.
V-6, auto trans., p. steering, p. brakes, w/walls, rear defoggger, stereo. Stk. 30-396
$8987 DEL.

1982 Chevrolet Camaro Cpe V6 auto, P.S. P.B., air, stereo Stk. 30-310	$8395	1978 Dodge Aspen Cpe 6 cyl. auto. P.S., AM. FM. V top Stk. 20-835	$3795
1976 Pontiac Gran Prix Landau Cpe 48 auto, P.S. P.B. P.W., air, mag wheels Stk. 30-189	$3195	1980 Buick Riviera Cpe Stk. 9147 V6, auto, P.S., P.B., P.W., double P. leather bucket seats	$9395
1979 Ford Mustang Hatchback V6, auto, P.S. P.B., air, stereo Stk. 30-279	$4795	1980 Chevy Citation Stk. 30-383 4-door hatchback, 4 cyl. auto. P.S., P.B., air, AM. FM	$4895
1980 Buick LeSabre Limited Sdn V8 auto, P.S. P.B., air, AM. FM, V top Stk. 9163	$5595	1980 Cadillac Sdn DeVille P.S., P.B., P.W., P. seats, air, stereo, tilt, cruise, leather seats Stk. 30-323	$9695
1980 Grand Prix Landau Cpe. V6, auto, P.S., P.B., P.W., stereo, mag wheels, Stk 3428	$6695	1980 Dodge Aspen Cpe, 6 cyl. auto, P.S. V top Stk. 20-209	$4595
1977 Caddy Fleetwood Brghm Sdn 6 loaded beauty Stk. 30-430	$5695	1981 Chevy Monte Carlo Cpe V6, auto, P.S., P.B., air Stk. 9026	$6395
1982 Chevy Malibu Classic Sedan V6, auto, P.S., P.B., air, stereo, Stk 9116	$6995	1981 Olds 98 Regency Landau Cpe 4 fully equipped thick Stk. 9130	$9695
1979 Olds Delta 88 Royale Cpe auto, P.S., P.B., air, stereo Stk. 30-294	$5895	1981 Chevy Citation Stk. 9161 2-door hatchback Cpe-4 cyl. auto, P.S., P.B., air	$5395

GM QUALITY SERVICE PARTS
GENERAL MOTORS CORPORATION
"KEEP THAT GREAT GM FEELING WITH GENUINE GM PARTS"

Hodgdon-Noyes-Buick
835 MASS AVE.-ARLINGTON
(on the MBTA line)
643-5300
PHONE

tags

Save energy, reduce fuel costs!



"IMPROVE HEAT....Beautifully"™

Kustom™

RADIATOR ENCLOSURES

• PROJECT HEAT MORE EFFICIENTLY • HELP REDUCE FUEL COSTS • • CONCEALS UGLY VALVES & PIPES • PROTECTS FROM BURNS • • BEAUTIFY, MODERNIZE & ADD VALUE TO YOUR HOME •

SAVE 40 to 50%

PROJECT HEAT MORE EFFICIENTLY — SAVE FUEL
BEAUTIFY & MODERNIZE YOUR HOME

HEIGHTS	LENGTHS (include Valve & Pipes) 14"	18"	24"	30" or 36"	42" or 48"	54" or 60"	66" or 72"	78" or 84"	90" or 96"
22 or 25	$16.95 $24.95	$27.95 $34.95	$37.95 $34.95	$43.95 $34.95	$49.95 $39.95	$56.95 $44.95	$73.95 $54.95	$87.95 $74.95	$97.95 $84.95
28 or 30	ADD $12.00			ADD $16.00			ADD $20.00		
40"	ADD $16.00			ADD $20.00			ADD $24.00		

DEPTHS—4" or 8" or 10" or 12" (SPECIFY) Choose Any Combination of LENGTH - HEIGHT - DEPTH

(ORDER NOW) PHONE (REQUEST FREE BOOKLET)

Starting at 16.95 Reg. 35.00

Porter Square Shopping Ctr. • Massachusetts Ave. • North Cambridge
Open until 9:30 p.m. • Mon.-Sat. • 868-7711 • Plenty of Free Parking

Hearing notice
Affiliate housing

Legal Notices Legal Notices Legal Notices Legal Notices Legal Notices Legal Notices Legal Notices

NOTICE TO CONTRACTORS

BOSTON HOUSING AUTHORITY

The Boston Housing Authority, the Awarding Authority, invites sealed bids for the West Broadway Development Renewal Project, State One, Boston 200-1, located at West Broadway and D Streets, South Boston, Massachusetts, in accordance with documents prepared by the West Broadway Team, a Joint Venture of Goody, Clancy & Associates and Lane, Frenchman, and Associates, Inc., located at 334 Boylston Street, Boston, Massachusetts 02116.

Bids will be received at the Authority's Contract Office, 8th Floor, 52 Chauncy Street, Boston, Massachusetts, until 3:00 p.m., Wednesday, May 4, 1983. Bids must be received before this time to be considered. Immediately following, the bids will be publicly opened and read aloud.

The work includes the extensive renovation and reconstruction of 12 residential buildings within the State One project area, involving approximately one-half of the existing development. A total of 248 renovated dwelling units are to be provided, as well as a new electrical distribution system, site work and utilities. Alternates will be bid which would provide up to 93 additional renovated dwelling units, additional community facilities, a new Management Building and related site work.

Bid forms and bidding information may be obtained, without charge, from the Authority at the above address.

If mailed, bids should be sent to:

Boston Housing Authority
52 Chauncy Street
8th Floor, Contract Office
Boston, Massachusetts 02111

Bids shall be accompanied by a bid deposit in the form of a bid bond, cash, or a certified check on, or a treasurer's or cashier's check issued by, a responsible bank or trust company, payable to the Boston Housing Authority in the amount of Seven Hundred Seventy-Five Thousand Dollars ($775,000.00).

Bids are subject to the provisions of the M.G.L., Chapter 30, Section 39M. Wages are subject to the minimum wage rates as described in M.G.L., Chapter 149, Section 26 to 27D inclusive and as determined by the Secretary of the United States Department of Labor. The successful bidder will be required to furnish a Performance Bond and a Labor and Materials Bond, each in the full amount of the contract price as awarded.

The following PRE-BID INSPECTIONS are scheduled:

Inspection of building cellars, common stairways presently in use, roofs and representative vacant apartments, as well as the overall site and building exteriors — 9:30 a.m. to 12:00 Noon on Wednesday, April 6, 1983; Wednesday, April 13, 1983; and Wednesday, April 20, 1983.

Inspection of building and apartment interiors of two representative portions of unoccupied and secured buildings ("mothballed addresses") — 9:30 a.m. to Noon on Wednesday, April 20, 1983.

All persons participating in these inspections should first report to the Management Office, 225 West Broadway, South Boston, Massachusetts. Inspections will be organized as tours, and each will be accompanied by a representative of the Architect. Tours will leave the Management Office at 9:30 and 10:45 a.m. each day inspections are scheduled.

Prospective bidders are encouraged to limit site visits to these times and dates. All persons visiting the site at other times must do so between 9 a.m. and 4 p.m., must first report to the Management Office, and must notify the Development Manager of their presence on site. No access will be provided to building interiors except during the above scheduled times and dates.

There will be a PRE-BID CONFERENCE at the offices of the Boston Housing Authority, 9th Floor Conference Room, 52 Chauncy Street, Boston, Mass., on Thursday, April 14, 1983, at 2:00 p.m.

MINORITY PARTICIPATION:

The bidder's attention is called to the Boston Housing Authority Minority Participation Provision contained in the Bidding and Contract Requirements of the Contract Documents, describing affirmative action requirements for this Contract.

IN ORDER FOR ITS BID TO BE DETERMINED ELIGIBLE FOR AWARD OF THIS CONTRACT THE BIDDER MUST GIVE SATISFACTORY ASSURANCE AS REQUIRED BY THE MINORITY PARTICIPATION PROVISION THAT IT SHALL MAINTAIN A RATIO OF AT LEAST 12% MINORITY EMPLOYEE PERSON HOURS TO TOTAL PERSON HOURS IN EACH JOB CATEGORY AND THAT AT LEAST 10% OF ITS CONTRACT PRICE SHALL BE EXPENDED FOR MINORITY BUSINESS ENTERPRISES, AT LEAST 75% OF THIS LATTER REQUIREMENT TO BE SATISFIED BY USE OF MINORITY CONSTRUCTION CONTRACTORS. FOR DEFINITION OF THE TERMS IN THIS PARAGRAPH, SEE SECTION 1 OF THE MINORITY PARTICIPATION PROVISION.

Each bidder must complete, sign and file with its bid the "Contractor's Certification of Compliance with Minority Participation Provision (Hiring)"; the "Minority Business Utilization Form" and (unless otherwise provided in the Minority Participation Provision) a "Minority Business Identification Statement" for each proposed Minority Business Enterprise. Other information relevant to affirmative action compliance may be required of certain bidders after the date of bid opening.

RESIDENT EMPLOYMENT:

The bidder's attention is called to the Boston Housing Authority's Resident Employment Provision contained in the Bidding and Contract Requirements of the Contract Documents, describing resident employment requirements for this Contract.

IN ORDER FOR ITS BID TO BE DETERMINED ELIGIBLE FOR AWARD OF THIS CONTRACT, THE BIDDER MUST GIVE SATISFACTORY ASSURANCE THAT IT SHALL MEET THE REQUIREMENTS OF THE RESIDENT EMPLOYMENT PROVISION. EACH BIDDER MUST COMPLETE, SIGN, AND FILE WITH ITS BID THE "RESIDENT EMPLOYMENT CERTIFICATION." OTHER INFORMATION RELEVANT TO COMPLIANCE WITH THIS PROVISION MAY BE REQUIRED AFTER THE DATE OF THE GENERAL BID OPENING.

Contract Documents will be available to prospective bidders on Monday, March 21, 1983, after 1:00 p.m., at the Authority's Contract Office, 8th Floor, 52 Chauncy Street, Boston, Massachusetts.

Contract Documents may be obtained at the Authority's Contract Office upon deposit of a certified treasurer's or cashier's check for $100.00 per set, payable to the Boston Housing Authority. This deposit will be refunded for one set for each bidder upon return of the set in good condition to the Authority within thirty (30) calendar days after the opening of bids. Otherwise the deposit shall be the property of the Boston Housing Authority. Additional sets may be purchased at the same office for $100.00 (non-refundable).

Partial sets (sections of specifications and individual sheets of drawings) may be obtained separately from the printers for the cost of reproduction at

B. L. Makepeace, Inc.
1266 Boylston Street
Boston, Massachusetts
617-267-2700

Bidders requesting that Contract Documents be mailed to them shall include a separate treasurer's or cashier's check in the amount of $50.00 for each set, payable to the Boston Housing Authority, to cover mailing and handling costs.

All bidders, including subcontractors and suppliers, must register with the Authority's Contract Office in order to receive Addenda from the Authority.

The Contract Documents may be reviewed at:

F. W. Dodge Corporation, 858 Park Square Building, Boston, Mass.

Master Builder's Association, 383 Dorchester Avenue, South Boston, Mass.

Scan Microfilm System (Plan Room), 858 Park Square Building, Boston, Mass.

The Boston Housing Authority reserves the right to waive any informalities in or to reject any or all bids if it is in the public interest to do so.

The funds for work to be performed under this Contract are from the Commonwealth of Massachusetts, Executive Office of Communities and Development, and from the City of Boston Community Development Block Grant Funds.

This project is one of the first three efforts by the Boston Housing Authority to substantially rehabilitate its public housing developments. In addition, its importance has been given special recognition by the Legislature of the Commonwealth, which has authorized a special appropriation and bidding process (M.G.L. Chapter 30) for the accomplishment of the project.

The Authority expects the Contractor who is awarded this Contract to have had significant experience with similar projects having CPM management and Contract administration requirements.

BOSTON HOUSING AUTHORITY.
By: Lewis H. Spence,
Receiver/Administrator.
Date: March 14, 1983
Mar. 16 23

MORTGAGEE'S SALE OF REAL ESTATE

Premises: 49 Thetford Avenue, Dorchester, Massachusetts

By virtue and in execution of the Power of Sale contained in a certain mortgage given by Paul A. Robinson to the Secretary of Housing and Urban Development said mortgage dated March 12, 1979, and recorded with Suffolk County Registry of Deeds in Book 9159, Page 109, of which mortgage the undersigned is the present holder, for breach of the conditions in said mortgage contained and for the purpose of foreclosing the same will be sold at Public Auction at 11:00 a.m. on Tuesday, April 5, 1983 upon the premises at 49 Thetford Avenue, Dorchester, Massachusetts, all and singular the premises described in said mortgage, to wit: "A certain parcel of land with all the buildings and structures now or hereafter standing or placed thereon, situated in Dorchester, in the County of Suffolk and Commonwealth of Massachusetts, bounded and described as follows: EASTERLY by Thetford Avenue, sixty (60') feet; SOUTHERLY by Lot 12, as shown on a plan hereinafter, one hundred forty-one and 8/10 (141.8') feet; WESTERLY by land now or formerly of Davis, as shown on said plan sixty (60') feet; and NORTHERLY by Lot 10, as shown on said plan, one hundred forty-three (143') feet. Containing, 8,544 square feet of land and being the same premises shown as Lot 11 on a plan entitled, "Plan of House Lots in Ward 16, Boston," drawn by Whitman & Breck, Surveyors, and dated May, 1873, recorded with Suffolk County Registry of Deeds in Book 1213, Page 100. Being the same premises conveyed to me by Deed from the Secretary of Housing and Urban Development to be recorded herewith." The present holder of said above described mortgage is The Lomas & Nettleton Company by virtue of Assignment of Mortgage to it from Samuel R. Pierce, Jr., as Secretary of Housing and Urban Development, said Assignment dated July 23, 1982, and recorded with Suffolk County Registry of Deeds in Book 10039, Page 204, which mortgage had been assigned to said Secretary by Assignment of Mortgage from Federal National Mortgage Association dated November 18, 1980, and recorded with said Registry of Deeds in Book 9603, Page 254, which said mortgage had been assigned to Federal National Mortgage Association by Assignment of Mortgage from Secretary of Housing and Urban Development dated March 12, 1979, and recorded with said Registry of Deeds in Book 9159, Page 112. TERMS OF SALE: Said premises will be sold and conveyed subject to all unpaid taxes, tax titles, municipal liens and assessments, if any, which take precedence over the said mortgage above described. Three Thousand ($3,000.00) Dollars of the purchase price must be paid in cash, certified check, bank treasurer's or cashier's check at the time and place of the sale by the purchaser and the balance of the purchase price shall be paid in cash, certified check, bank treasurer's or cashier's check within thirty (30) days after the date of sale and shall be deposited in escrow with J. Patrick Kinhan, Esq., 21 Front Salem, Massachusetts, pending approval of the sale by the Land Court. The deed shall be delivered within ten (10) days from the date of approval of the sale by the Land Court. Other terms to be announced at the sale. THE LOMAS & NETTLETON COMPANY. Present Holder of said Mortgage. By its Attorney-In-Fact, J. Patrick Kinhan, Esq., 21 Front Street, Salem, Massachusetts, 01970
TEL: (617) 741-1528
March 3, 1983
Mar 9, 16, 23

LEGAL NOTICE NOTICE OF PROPOSED BANK MERGER

Notice is hereby given that BayBank Middlesex, Burlington, Massachusetts, has made application to the Federal Deposit Insurance Corporation, Washington, D.C. 20429, for its written consent to merge with BayBank and Trust Company, Beverly, Massachusetts. It is contemplated that all of the offices of the above-named banks will continue to be operated.

This notice is published pursuant to Section 18(c) of the Federal Deposit Insurance Act.

Any person wishing to comment on this application may file his/her comments in writing with the Regional Director of the Federal Deposit Insurance Corporation at its Regional Office, 60 State Street, Boston, Massachusetts 02109. If any person desires to protest the granting of this application, he/she has a right to do so if he/she files a written notice of his/her intent with the Regional Director by April 30, 1983. The nonconfidential portions of the application are on file in the Regional Office as part of the public file maintained by the Corporation. This file is available for public inspection during regular business hours.

March 15, 1983
Baybank Middlesex,
Burlington, Massachusetts
BayBank and Trust Company,
Beverly, Massachusetts
Mar 16, 23, 30
Apr. 6, 13, 15

MORTGAGEE'S SALE OF REAL ESTATE

Premises: 25 Bellevue Street, Dorchester, Massachusetts

By virtue and in execution of the Power of Sale contained in a certain mortgage given by Roger L. Morris and Dolores J. Morris to Federal National Mortgage Association, said mortgage dated August 9, 1973, and recorded with Suffolk County Registry of Deeds in Book 8652, Page 61, of which mortgage the undersigned is the present holder, for breach of the conditions in said mortgage contained and for the purpose of foreclosing the same will be sold at Public Auction at 10:00 a.m. on Tuesday, April 5, 1983, upon the premises at 25 Bellevue Street, Dorchester, Massachusetts, all and singular the premises described in said mortgage, to wit: "A certain parcel of land with all the buildings and structures now or hereafter standing or placed thereon, situated in Dorchester, in the County of Suffolk and Commonwealth of Massachusetts, bounded and described as follows: All that certain tract or parcel of land, situate, lying and being in the Dorchester district of Boston, County of Suffolk, State of Massachusetts, the land in the Dorchester District, being now numbered 25 Bellevue Street and being shown as Lot 5 on a plan made by Charles H. W. Wood, Surveyor, recorded with Suffolk Deeds at the end of Record Book 2397, being bounded and described as follows: SOUTHEASTERLY: by said Bellevue Street, fifty (50) feet; SOUTHWESTERLY: by Lot 4 on said plan, eighty-eight and 05/100 (88.05) feet; NORTHWESTERLY: by Lots 8 and 9 on said plan, fifty and 64/100 (50.64) feet; NORTHEASTERLY: by Lot 6 on said plan, eighty (80) feet. Containing 4,201 square feet of land. Said conveyance is made subject to all covenants, restrictions, easements, reservations, conditions, and rights appearing of record against the above-described property; also subject to any state of facts which an accurate survey of said property would show. For Mortgagor's title see deed of Housing and Urban Development recorded herewith." TERMS OF SALE: Said premises will be sold and conveyed subject to all unpaid taxes, tax titles, municipal liens and assessments, if any, which take precedence over the said mortgage above described. Twenty-five Hundred ($2,500.00) Dollars of the purchase price must be paid in cash, certified check, bank treasurer's or cashier's check at the time and place of the sale by the purchaser and the balance of the purchase price shall be paid in cash, certified check, bank treasurer's or cashier's check within thirty (30) days after the date of sale and shall be deposited in escrow with J. Patrick Kinhan, Esq., 21 Front Street, Salem, Massachusetts, pending approval of the sale by the Land Court. The deed shall be delivered within ten (10) days from the date of approval of the sale by the Land Court. Other terms to be announced at the sale. FEDERAL NATIONAL MORTGAGE ASSOCIATION, Present Holder of said Mortgage. By its Attorney-In-Fact, J. Patrick Kinhan, Esq., 21 Front Street, Salem, Massachusetts 01970. Tel.: (617) 741-1528.
Dated: March 3, 1983
Mar. 9 16 23

PUBLIC NOTICE RELATIVE TO ZONING

CITY OF CAMBRIDGE MASSACHUSETTS

Office of the City Clerk

Notice is hereby given that in accordance with the provisions of Chapter 40A, Section 5 of the General Laws, Tercentenary Edition and amendments thereto, that the Committee on Ordinances, comprised of the entire membership of the City Council, will hold a public hearing on Wednesday, March 30, 1983, at 6:00 p.m. in the City Council Chamber, City Hall, Cambridge, on the petition of Councillor David Sullivan to amend the text of the Zoning Ordinance as follows:

1. In Article 2.000, Definitions, add the following new definition at its appropriate alphabetical location: "Affiliate housing. Any dwelling (other than a dormitory or a sorority or fraternity house) owned or controlled by an educational institution and occupied primarily by persons who are employed or enrolled at the educational institution."
2. In section 4.33, of the Table of Use Regulations (Institutional Uses), subsection (b), Educational Purposes, add to line 7 the words, "or affiliate housing."
3. In section 4.56, Table of Institutional Use Regulations, subsection (c), add to the line 8 the words, "or affiliate housing."

Copies of this petition are on file in the Office of the City Clerk, City Hall, Cambridge, Massachusetts.

All persons interested in this matter may appear at this time and be heard.

For the Committee, Councillor WALTER J. SULLIVAN, Chairman.
Mar. 16

MORTGAGEE'S SALE OF REAL ESTATE

By virtue and in execution of the Power of Sale contained in a certain mortgage given by Richard Wells and Eula M. Wells to The Provident Institution for Savings in the Town of Boston dated February 19, 1970 recorded with the Suffolk County Registry of Deeds in Book 8347, Page 204, of which mortgage the undersigned is the present holder, for breach of the conditions of said mortgage and for the purpose of foreclosing, the same will be sold at public auction at 10 a.m. on the thirteenth day of April, 1983 at the mortgaged premises, 671 Walk Hill Street, Mattapan, Massachusetts, all and singular the foreclosing premises described in said mortgage, to wit: "A certain parcel of land with all the buildings and structures now or hereafter standing or placed thereon, situated in that part of Boston called Mattapan, in the County of Suffolk and Commonwealth of Massachusetts, bounded and described as follows: NORTHEASTERLY by Walk Hill Street, fifty-one and 52/100 (51.52) feet; SOUTHEASTERLY by land of owners unknown, as shown on a plan hereinafter mentioned, eighty five and 13/100 (85.13) feet; SOUTHWESTERLY by land of owners unknown, as shown on said plan, fifty-one (51) feet; NORTHWESTERLY by Lot A, as shown on said plan, ninety-two and 68/100 (92.68) feet. Containing 4,534, square feet of land and being shown as Lot B on a plan drawn by H.A. Sherman, C.E., dated April 12, 1928, and recorded with Suffolk County Registry of Deeds in Book 5002, Page 381. For title see deed from Ida Mindick to Morris E. Isseroff et ux, dated January 16, 1967, and recorded with said Deeds in Book 8092, Page 381; and see deed to these grantors to be recorded herewith. Including as part of the realty all portable or sectional buildings at any time placed upon said premises and all furnaces, ranges, heaters, plumbing, gas and electric fixtures, screens, mantels, shades, screen doors, storm doors and windows, oil burners, gas or electric refrigerators and all other fixtures of whatever kind and nature at present or hereafter installed in or on the granted premises in any manner which renders such articles usable in connection therewith, so far as the same are, or can by agreement of parties be made, a part of the realty." Terms of Sale: The mortgaged premises will be offered for sale at the mortgaged premises, 671 Walk Hill Street, Mattapan, Massachusetts at 10 a.m., April 13, 1983. One Thousand Seven Hundred Dollars ($1,700.00) is to be paid by the purchaser as a deposit at the time and place of the sale. The balance of the purchase price is to be paid against delivery of the deed at 11:00 a.m. on or before May 13, 1983 at the offices of John R. Walkey, Esquire, Choate, Hall & Stewart, 60 State Street, Boston, Massachusetts 02109. All payments shall be in cash or by certified or bank cashier's or bank treasurer's checks or checks drawn on "Boston Funds" so called, payable to the Provident Institution for Savings in the Town of Boston, without endorsement. The mortgaged premises will be sold subject to liens, if any, for unpaid taxes and municipal assessments, betterments or other charges. Other terms, if any, to be announced at the sale. THE PROVIDENT INSTITUTION FOR SAVINGS IN THE TOWN OF BOSTON. By Thomas S. Zocco, President. The Provident Institution for Savings in the Town of Boston, 30 Winter Street, Boston, MA 02109. (617) 423-9600. DATED: March 10, 1983. John R. Walkey, Esquire, Choate, Hall & Stewart, 60 State Street, Boston, MA 02109. Attorney for the Mortgagee.
March 16, 23, 30

COMMONWEALTH OF MASSACHUSETTS. Middlesex, ss. PROBATE COURT. Case No. A21770. To John David Reed, of parts unknown, represented to be the parent of Jason John Reed, a minor child received by the The Florence Crittenton League of Lowell, Inc., under the provisions of General Laws, Chapter 119, Section 23. A petition has been presented to said Court by The Florence Crittenton League of Lowell, Inc., of Lowell, praying that said Court establish that the consent of said parent shall not be required upon a petition for adoption of said minor sponsored by your petitioner, as provided by the General Laws, Chapter 210, Section 3, as most recently amended by Chapter 552 of the Acts of 1978. If you desire to object thereto, you or your attorney should file a written appearance in said Court at Cambridge before ten o'clock in the forenoon on the sixteenth day of May 1983, the return day of this citation. Witness, Sheila E. McGovern, Esquire, First Judge of said Court, this twenty-eighth day of February 1983. PAUL J. CAVANAUGH, Register.
Mar. 9, 16, 23

MORTGAGEE'S SALE OF REAL ESTATE AT 4 WINTHROP STREET, EAST BOSTON, MASSACHUSETTS

BY VIRTUE AND IN EXECUTION OF THE POWER OF SALE CONTAINED IN A CERTAIN MORTGAGE given by Sean F. Daley to the Haymarket Cooperative Bank dated March 24, 1982, and recorded with Suffolk County Registry of Deeds in Book 9928, Page 245, of which mortgage the undersigned is the present holder for a breach of the conditions of said Mortgage, and for the purpose of foreclosing the same, will be sold at public auction at 11:00 A.M. on the 12th day of April, 1983, on the mortgaged premises at 4 Winthrop Street, East Boston, Massachusetts, all and singular the premises described in said Mortgage, to wit: The land with the buildings thereon situated in that part of Boston called East Boston, now numbered 4 Winthrop Street, being bounded and described as follows: Beginning at a point in the Northeasterly line of Winthrop Street, distant Sixty-six (66) feet Southeasterly from Paris Street, thence running: SOUTHEASTERLY on said line of Winthrop Street, twenty-two (22) feet; thence turning and running NORTHEASTERLY fifty-two (52) feet and six (6) inches; thence turning and running NORTHWESTERLY twenty-two (22) feet; thence turning and running SOUTHWESTERLY fifty-two (52) feet and six (6) inches to the point of beginning. Containing 1,100 square feet of land. For my title see Deed from John J. Schiveree to me dated February 1, 1982, recorded with Suffolk Deeds, in Book 9905, Page 463, and also confirmatory deed recorded herewith. TERMS OF SALE: $5,000 Dollars in cash or certified check shall be paid by the purchaser at the time and place of sale. The above-described premises are conveyed subject to and with the benefit of all restrictions, easements, improvements, outstanding tax titles, municipal or other public taxes, assessments, federal and state tax liens, and other claims in the nature of liens, and existing encumbrances of record created prior to the Mortgage whether or not reference to such restrictions, easements, improvements, liens or encumbrances is made in the Deed. The balance is to be paid in cash or by certified check within twenty (20) days thereafter to be deposited in escrow with the firm of ALOISI & ALOISI pending approval of the sale by the Land Court Department of the Trial Court. Deed to be taken within ten (10) days from the date of approval of said sale by the Land Court Department of the Trial Court. Other terms to be announced at sale. HAYMARKET COOPERATIVE BANK, present holder of said Mortgage.

BY: Aloisi & Aloisi,
131 State Street,
Suite 800,
Boston, MA 02109,
(617) 227-6272,
its Attorney.
Mar. 9 16 23

PUBLIC NOTICE RELATIVE TO ZONING

CITY OF CAMBRIDGE MASSACHUSETTS

Office of the City Clerk

Notice is hereby given that in accordance with the provisions of Chapter 40A, Section 5 of the General Laws, Tercentenary Edition and amendments thereto, that the Committee on Ordinances, comprised of the entire membership of the City Council, will hold a public hearing on Wednesday, March 30, 1983, at 6:30 p.m. in the City Council Chamber, City Hall, Cambridge, on the petition of Mayor Vellucci to amend the text of the Zoning Ordinance as follows:

1. In Article 2.000, Definitions, add the following new definition at its appropriate alphabetical location: "University owned housing. Any dwelling (other than a dormitory or a sorority or fraternity house) owned or controlled by an educational institution and occupied primarily by persons who are employed or enrolled at the educational institution; or any future institution of learning that establishes itself within the City of Cambridge under any name whatever they may adopt to identify their institution; or any dwelling unit which is sponsored by said institutions under other titles or are held under realty trusts, corporations or other legal entities which are under the direct or indirect control or supervision of the above referred to institutions";
2. In section 4.33, of the Table of Use Regulations (Institutional Uses), subsection (b), Education Purposes, add to line 7 the words "university owned housing."
3. In section 4.56, Table of Institutional Use Regulations, subsection (c), add to the line 8 the words "university owned housing."

Copies of this petition are on file in the Office of the City Clerk, City Hall, Cambridge, Massachusetts.

All persons interested in this matter may appear at this time and be heard.

For the Committee, Councillor WALTER J. SULLIVAN, Chairman.
Mar. 16

LEGAL NOTICE The Commonwealth of Massachusetts Department of Education Division of Special Education

Sealed by qualified, responsible bidders to provide transportation services to special needs children and certain adults to and from specified educational, habitational, and pre-school programs, according to certain conditions, will be received by the Department of Education, Division of Special Education, at the following sites and dates and will be then and there publicly opened and read:

Springfield Regional Center, 88 Massasoit Avenue, West Springfield, MA 01089. Massasoit Conference Room, 10:30 A.M. on Wednesday, May 4, 1983 and May 18, 1983.

Department of Education, Quincy Center Plaza, 1385 Hancock Street, Quincy, MA 02169, First Floor Board Conference Room, 10:30 A.M. on Friday, May 13, May 27, June 10, June 24, and July 8, 1983.

Three pre-bid conferences will be held at 10:30 A.M. at the following locations and dates for the purpose of reading and establishing policy regarding bid specifications, contracts and eligibility:

Springfield Regional Educational Center, 88 Massasoit Avenue, West Springfield, MA 01089, Massasoit Conference Room, April 11, 1983.

Department of Education, Quincy Center Plaza, 1385 Hancock Street, Quincy, MA 02169, First Floor Board Conference Room, Aptil 13, 1983.

Central Massachusetts Regional Education Center, Route 140, Beaman Street, West Boylston, MA 01583, Auditorium Conference Room, April 15, 1983.

Copies of statutory and regulatory requirements, together with all necessary information and instructions to qualify as a bidder, will be available on and after April 11, 1983, by contacting Daniel McGonagle, Department of Education, Bureau of Management, Quincy Center Plaza, Quincy, MA 02169, telephone number 617-770-7464.

Roger W. Brown,
Associate Commissioner,
Division of Special Education
Mar. 16, 17, 18

COMMONWEALTH OF MASSACHUSETTS. LAND COURT DEPARTMENT OF THE TRIAL COURT. Case No. 109609. (SEAL). to Frederick Allington, Jr. and Patricia Allington, both of Hyde Park, Suffolk County; David A. Kahalas and Stanley H. Cooper, both of Boston, Suffolk County, all of said Commonwealth: and to all persons entitled to the benefit of the Soldiers' and Sailors' Civil Relief Act of 1940 as amended: Neworld Bank for Savings, formerly know as Charlestown Savings Bank, a duly existing corporation having an usual place of business in Boston, Suffolk County, and said Commonwealth; claiming to be the holder of a mortgage covering real property in said Hyde Park District of Boston, numbered 194 Sherrin Street, given by Frederick Allington, Jr. and Patricia Allington to Charlestown Savings Bank, now known as Neworld Bank for Savings, dated October 5, 1978, recorded with Suffolk County Registry of Deeds, Book 9104, Page 75, has filed with said court a complaint for authority to foreclose said mortgage in the manner following: by entry and possession and exercise of power of sale. If you are entitled to the benefits of the Soldiers' and Sailors' Civil Relief Act of 1940 as amended and you object to such foreclosure you or your attorney should file a written appearance and answer in said court at Boston on or before the eighteenth day of April 1983, or you may be forever barred from claiming that such foreclosure is invalid under said act. Witness, WILLIAM I. RANDALL, Chief Justice of said Court this twenty-eighth day of February 1983. John G. Kelleher, Recorder.
Mar. 16

COMMONWEALTH OF MASSACHUSETTS. Suffolk, ss. PROBATE COURT. Case No. 521172. To all persons interested in the estate of Mary A. Roach late of Boston, in said County, deceased. A petition has been presented to said Court for the probate of a certain instrument purporting to be the last will of said deceased by Carleton Baker of Melrose, in the County of Middlesex, praying that he be appointed executor thereof without giving a surety on his bond. If you desire to object thereto you or your attorney should file a written appearance in said Court at Boston before ten o'clock in the forenoon on the 14th day of April 1983, the return day of this citation. You must, in addition to filing a written appearance as aforesaid, file within thirty (30) days after said return day a written statement of objections to the petition, giving specific grounds therefore. Witness, Mary C. Fitzpatrick, Esquire, First Judge of said Court, this 11th day of March 1983. JAMES MICHAEL CONNOLLY, Register.
Mar 14

THE COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF PUBLIC WORKS

NOTICE OF A PUBLIC HEARING

A Public Hearing will be held by the Massachusetts Department of Public Works to discuss the proposed replacement of the Central Street Bridge over the Boston and Maine Railroad in the City of Somerville.

WHERE: Winter Hill Community School, Medford and Sycamore Streets, Somerville, Ma.

WHEN: Wednesday, March 23, 1983 — 7:00 P.M.

PURPOSE: This hearing is being held to provide the public an opportunity of becoming fully acquainted with the proposed bridge rehabilitation and related improvements. All views and comments made at this hearing will be reviewed and considered to the maximum extent possible.

PROPOSAL: The proposed project consists of replacing the existing Central Street Bridge over the Boston and Maine Railroad in its present location with improvements to the approach roadways.

Written views received by the Department subsequent to the date of this notice and up to five (5) days prior to the date of the hearing shall be displayed for public inspection and copying at the time and date listed above.

Written statements and other exhibits in place of, or in addition to, oral statements at the public hearing regarding the proposed undertaking are to be submitted to Justin L. Radlo, Chief Engineer, Massachusetts Department of Public Works, 100 Nashua Street, Boston, Massachusetts 02114. Such submission will also be acceptable at the hearing. The final date for receipt of these statements and exhibits will be ten (10) days after this public hearing.

Plans will be on display, with an engineer in attendance, at the hearing location from 6:00 P.M. to 7:00 P.M. on the hearing date.

ROBERT T. TIERNEY, Commissioner; JUSTIN L. RADLO, Chief Engineer.

Boston, Massachusetts
February 17, 1983
Feb. 23 Mar. 16

MORTGAGEE'S SALE OF REAL ESTATE

By virtue and in execution of the Power of Sale contained in a certain mortgage given by Jacqueline Hamlet to Home Savings Bank, dated May 7, 1981, and recorded with Suffolk County Registry of Deeds, Book 9746, Page 5, of which mortgage the undersigned is the present holder, for breach of the conditions of said mortgage and for the purpose of foreclosing the same will be sold at Public Auction at 10 o'clock A.M. on the 8th day of April A.D. 1983, on the premises hereinafter described all and singular the premises described in said mortgage, to wit: "A certain parcel of land with the buildings thereon now known as and numbered 103 East Brookline Street situated in Boston, Suffolk County, Massachusetts, being Lot 22 on a plan of "City Lands Sold" recorded with Suffolk County Registry of Deeds Vol. 2, Page 190, bounded and described as follows: NORTHEASTERLY by East Brookline Street, twenty-one and no/100 (21) feet; SOUTHEASTERLY by Lot 23 on said plan, seventy-six and 75/100 (76.75) feet; SOUTHWESTERLY by land of owners, unknown, twenty-one and no/100 (21) feet; NORTHWESTERLY by Lot 21 on said plan, seventy-six and 75/100 (76.75) feet. Containing, according to said plan, 1611.75 square feet of land." Terms of Sale: THREE (3,000) DOLLARS to be paid in cash or certified check by the purchaser at the time and place of sale — balance in 20 days. Other terms to be announced at the sale. Signed: HOME SAVINGS BANK, George H. Ellis, President, present holder of said mortgage.
February 22, 1983

From the office of:
Stevenson, Johnson & Brams,
73 Tremont St.,
Boston, MA 02108.
Mar. 2 9 16

COMMONWEALTH OF MASSACHUSETTS. Suffolk, ss. PROBATE COURT. Case No. 521171. To all persons interested in the estate of John J. Hussey late of Boston, in said Count, deceased. A petition has been presented to said Court for the probate of a certain instrument purporting to be the last will of said deceased by Richard A. Hussey of Watertown, in the County of Middlesex, praying that he be appointed executor or thereof without giving a surety on his bond. If you desire to object thereto you or your attorney should file a written appearance in said Court at Boston before ten o'clock in the forenoon on the 26th day of May, 1983, the return day of this citation. You must, in addition to filing a written appearance as aforesaid, file within thirty (30) days after said return day a written statement of objections to the petition, giving specific grounds therefore. Witness, Mary C. Fitzpatrick, Esquire, First Judge of said Court, this 11th day of March, 1983. JAMES MICHAEL CONNOLLY, Register.
March 16

Barbara Bel Geddes stable after heart bypass surgery

From the wire services

LOS ANGELES — Actress Barbara Bel Geddes, who portrays the genteel but powerful matriarch of television's troubled "Dallas" family, underwent a quadruple bypass operation yesterday after a massive heart attack, a spokesman said.

The 60-year-old actress was listed in stable condition after the surgery, which lasted more than 4½ hours, said Bob Crutchfield of Lorimar, producers of the popular series.

Bel Geddes suffered the heart attack yesterday morning at Cedars Sinai Medical Center, where she was admitted Saturday after complaining of chest pains, said Lorimar spokeswoman Joy Daunis.

Earlier, Crutchfield said Miss Bel Geddes was undergoing "life saving surgery." But Daunis said later, "We received conflicting information in the beginning. After an angiogram, the doctors determined all she would need is a triple bypass."

Crutchfield said Bel Geddes' doctor determined during the operation that a quadruple bypass was necessary.

Her illness will not affect this year's "Dallas" whose filming was completed March 8.

Bel Geddes, the daughter of stage designer Norman Geddes, began acting on stage.

She landed the lead in Elia Kazan's "Deep Are the Roots," an interracial love story, and in 1945 won the Clarence Derwent Award as outstanding young actress.

Success led to Hollywood.

Her other Broadway credits include starring roles in "The Moon is Blue" and "Cat On A Hot Tin Roof."

Among her movie roles were "Panic In The Streets," "Vertigo," "By Love Possessed" and "The Five Pennies," her only musical.

Besides "Dallas," her numerous TV appearances have included an adaption of Thornton Wilder's "Our Town" and Alfred Hitchcock's "Lamb to the Slaughter," in which she uses a frozen leg of lamb to kill her cheating husband.

Bel Geddes, who was married to the late Windsor Lewis, has also illustrated two children's books.



Barbara Bel Geddes

Slain cop's wife bailed

Mary Sciuto pleaded innocent in Amesbury District Court yesterday in the shooting murder of her husband, Lawrence Police Capt. Stephen S. Sciuto Jr., at their Salisbury Beach summer home last week.

Sciuto, 49, a 25-year veteran of the police force, was shot four times in the chest with a small-caliber gun March 9.

Yesterday, Judge Louis Cyr released Mary Sciuto after her family posted real estate to cover the $100,000, double-surety bail.

Cyr was told by attorneys that the alleged murder occurred after a marital incident and Mrs. Sciuto had no "propensity to further violence."

Defense attorney Carmine D'Iadamo said he hoped to show that alleged homicide was "justifiable" when the case goes to trial.

Although an April 15 probable cause date has been set in Amesbury District Court, it is expected the Essex County District Attorney's office will seek an indictment before that time, moving the case to the Superior Court level.



Mary D. Sciuto, 49, pleads innocent to the murder of her husband, Stephen, a Lawrence police captain.

Oil battle heating up

Soviets slash price; Brits hold the key

LONDON (UPI) — The Soviet Union undercut OPEC's $29-a-barrel price for crude yesterday, but Britain, whose reaction traders say will determine the global oil market's shape, gave no hint it would cut its oil prices.

In Britain's first official comment on the Organization of Oil Exporting Countries' decision Monday to cut its $34 a barrel base price by 15 percent, the Chancellor of the Exchequer said a moderate reduction was welcomed.

Sir Geoffrey Howe, in presenting Britain's 1983-84 budget, said that "though sharp swings in the oil prices are in no one's interest, moderate reductions mean lower inflation abroad, and lower prices here.

"The fall in the general level of world oil prices is therefore to be welcomed," the chancellor told Parliament.

There was no hint in the speech, however, of how non-OPEC Britain's state-run National Oil Corporation intended to respond to the 13-nation cartel's first price cut in its 23-year history.

Industry sources said the Soviet Union, which is the world's largest producer, selling about 1 million barrels a day to Western Europe, was offering its Urals crude at $27 a barrel from northern ports and $28 from Mediterranean terminals retroactive to March 1.

The new prices showed a $1.25 cut on the Mediterranean shipments and a $2.15 cut on the northern cargoes, the sources said.

The spot market in Rotterdam was mixed. But market analysts said the spot market trends and the Soviet price cut were not good indicators of the outcome of the OPEC accord.

Leading traders speculated Britain's reaction would determine the shape of the market.

A 50-cent cut would bring North Sea prices at par with those of comparable Nigerian crudes, but a $1 cut would invite price-cutting by OPEC.

Financially strapped Nigeria, which cut its price by $5.50 a barrel last month to compete with North Sea oil, was allowed to keep its price at $30 as a "temporary exception" under the OPEC agreement.

Of the 13 OPEC members, Iran reserved its decision on the price cut but accepted its production quota of 2.4 million barrels a day

The first non-OPEC oil country to respond to the cartel's cut was Mexico, the United States' largest oil supplier, which Monday reduced the price of its high-grade oil $5.50 to $29 a barrel and promised to keep production to 3 million barrels a day.

It's legal if churches don't pay

By PETER SLEEPER

Boston Corporation Counsel James P. McGuire ruled yesterday that excepting churches from the new fire service fee is legal.

"It is my opionion that the proposed exemption will withstand a consitutional challenge and that the auhhority to grant such an exemption should be sought from the General Court," he said in a March 15 advisory opinion for Councilor Raymoand Flynn.

Last week, responding to protests from Small churches faced with fire service fee bills of thousands of dollars, the Council hurriedly approved a home rule petition and a city ordinance, to exempt houses of worship.

But Councilor Michael McCormack raised the possibility that such an exemption would violate the U.S. Consitution's equal protection clause.

Emerson College is suing in court for an exemption from the fire fee on the grounds that it, like churches, is tax exempt. McGuire did not address the issue of educational institutions in his opinion, but later said there was a "clear distinction" between churches and colleges.

The Council-approved home rule petition, sponsored by Councilor Christopher Iannella, is likely to receive the signature of Mayor Kevin H. White. It still requires approval by the Legislature and the governor.Flynn sponsored the ordinance, which McGuire said was not the appropriate legislative vehicle.

McQuire also stated the fire service fee, imposed on owners of large buildings that require extraordinary fire protection, is valid. Councilor Frederick Langone, despite his support for the fee last year, last week questioned its validity.

"An argument might be made that the proposed exemption consitutes an establishment of religion in violation of the First Amendment," McGuire wrote." Given the hardship that paying the (fee) would apparently impose on some religious congregations. . .failure to exempt houses of worship could quite possibly be an unconstitutional infringement on the right of free exercise of religion."

Help's coming for the elderly

The Massachusetts House gave initial approval to a $3.1 million supplemental budget yesterday for the state home care program, which is running out of money.

The budget requires another House vote and approval in the Senate before going to the governor.

The program helps more than 41,000 housebound senior citizens. It is designed to keep the elderly out of nursing homes by providing delivered meals, transportation, companionship and other services.

Richard Rowland, state secretary of elder affairs, says the program is running out of funds. He said many of the non-profit home care corporations that provide the services are losing money and threatening to close in April.

Legal Notices Legal Notices Legal Notices Legal Notices Legal Notices Legal Notices Legal Notices

NOTICE TO CONTRACTORS

BOSTON HOUSING AUTHORITY

The Boston Housing Authority, the Awarding Authority, invites sealed bids for the West Broadway Development Renewal Project, State One, Boston 200-1, located at West Broadway and D Streets, South Boston, Massachusetts, in accordance with documents prepared by the West Broadway Team, a Joint Venture of Goody, Clancy & Associates and Lane, Frenchman, and Associates, Inc., located at 334 Boylston Street, Boston, Massachusetts 02116.

Bids will be received at the Authority's Contract Office, 8th Floor, 52 Chauncy Street, Boston, Massachusetts, until 3:00 p.m., Wednesday, May 4, 1983. Bids must be received before this time to be considered. Immediately following, the bids will be publicly opened and read aloud.

The work includes the extensive renovation and reconstruction of 12 residential buildings within the State One project area, involving approximately one-half of the existing development. A total of 248 renovated dwelling units are to be provided, as well as a new electrical distribution system, site work and utilities. Alternates will be bid which would provide up to 93 additional renovated dwelling units, additional community facilities, a new Management Building and related site work.

Bid forms and bidding information may be obtained, without charge, from the Authority at the above address.

If mailed, bids should be sent to:

Boston Housing Authority
52 Chauncy Street
8th Floor, Contract Office
Boston, Massachusetts 02111

Bids shall be accompanied by a bid deposit in the form of a bid bond, cash, or a certified check on, or a treasurer's or cashier's check issued by, a responsible bank or trust company, payable to the Boston Housing Authority in the amount of Seven Hundred Seventy-Five Thousand Dollars ($775,000.00).

Bids are subject to the provisions of the M.G.L., Chapter 30, Section 39M. Wages are subject to the minimum wage rates as described in M.G.L., Chapter 149, Section 26 to 27D inclusive and as determined by the Secretary of the United States Department of Labor. The successful bidder will be required to furnish a Performance Bond and a Labor and Materials Bond, each in the full amount of the contract price as awarded.

The following PRE-BID INSPECTIONS are scheduled:

Inspection of building cellars, common stairways presently in use, roofs and representative vacant apartments, as well as the overall site and building exteriors — 9:30 a.m. to 12:00 Noon on Wednesday, April 6, 1983; Wednesday, April 13, 1983; and Wednesday, April 20, 1983.

Inspection of building and apartment interiors of two representative portions of unoccupied and secured buildings ("mothballed addresses") — 9:30 a.m. to Noon on Wednesday, April 20, 1983.

All persons participating in these inspections should first report to the Management Office, 225 West Broadway, South Boston, Massachusetts. Inspections will be organized as tours, and each will be accompanied by a representative of the Architect. Tours will leave the Management Office at 9:30 and 10:45 a.m. each day inspections are scheduled.

Prospective bidders are encouraged to limit site visits to these times and dates. All persons visiting the site at other times must do so between 9 a.m. and 4 p.m., must first report to the Management Office, and must notify the Development Manager of their presence on site. No access will be provided to building interiors except during the above scheduled times and dates.

There will be a PRE-BID CONFERENCE at the offices of the Boston Housing Authority, 9th Floor Conference Room, 52 Chauncy Street, Boston, Mass., on Thursday, April 14, 1983, at 2:00 p.m.

MINORITY PARTICIPATION:

The bidder's attention is called to the Boston Housing Authority Minority Participation Provision contained in the Bidding and Contract Requirements of the Contract Documents, describing affirmative action requirements for this Contract.

IN ORDER FOR ITS BID TO BE DETERMINED ELIGIBLE FOR AWARD OF THIS CONTRACT THE BIDDER MUST GIVE SATISFACTORY ASSURANCE AS REQUIRED BY THE MINORITY PARTICIPATION PROVISION THAT IT SHALL MAINTAIN A RATIO OF AT LEAST 12% MINORITY EMPLOYEE PERSON HOURS TO TOTAL PERSON HOURS IN EACH JOB CATEGORY AND THAT AT LEAST 10% OF ITS CONTRACT PRICE SHALL BE EXPENDED FOR MINORITY BUSINESS ENTERPRISES, AT LEAST 75% OF THIS LATTER REQUIREMENT TO BE SATISFIED BY USE OF MINORITY CONSTRUCTION CONTRACTORS. FOR DEFINITION OF THE TERMS IN THIS PARAGRAPH, SEE SECTION 1 OF THE MINORITY PARTICIPATION PROVISION.

Each bidder must complete, sign and file with its bid the "Contractor's Certification of Compliance with Minority Participation Provision (Hiring)"; the "Minority Business Utilization Form" and (unless otherwise provided in the Minority Participation Provision) a "Minority Business Identification Statement" for each proposed Minority Business Enterprise. Other information relevant to affirmative action compliance may be required of certain bidders after the date of bid opening.

RESIDENT EMPLOYMENT:

The bidder's attention is called to the Boston Housing Authority's Resident Employment Provision contained in the Bidding and Contract Requirements of the Contract Documents, describing resident employment requirements for this Contract.

IN ORDER FOR ITS BID TO BE DETERMINED ELIGIBLE FOR AWARD OF THIS CONTRACT, THE BIDDER MUST GIVE SATISFACTORY ASSURANCE THAT IT SHALL MEET THE REQUIREMENTS OF THE RESIDENT EMPLOYMENT PROVISION. EACH BIDDER MUST COMPLETE, SIGN, AND FILE WITH ITS BID THE "RESIDENT EMPLOYMENT CERTIFICATION." OTHER INFORMATION RELEVANT TO COMPLIANCE WITH THIS PROVISION MAY BE REQUIRED AFTER THE DATE OF THE GENERAL BID OPENING.

Contract Documents will be available to prospective bidders on Monday, March 21, 1983, after 1:00 p.m., at the Authority's Contract Office, 8th Floor, 52 Chauncy Street, Boston, Massachusetts.

Contract Documents may be obtained at the Authority's Contract Office upon deposit of a certified treasurer's or cashier's check for $100.00 per set, payable to the Boston Housing Authority. This deposit will be refunded for one set for each bidder upon return of the set in good condition to the Authority within thirty (30) calendar days after the opening of bids. Otherwise the deposit shall be the property of the Boston Housing Authority. Additional sets may be purchased at the same office for $100.00 (non-refundable).

Partial sets (sections of specifications and individual sheets of drawings) may be obtained separately from the printers for the cost of reproduction at

B. L. Makepeace, Inc.
1266 Boylston Street
Boston, Massachusetts
617-267-2700

Bidders requesting that Contract Documents be mailed to them shall include a separate treasurer's or cashier's check in the amount of $50.00 for each set, payable to the Boston Housing Authority, to cover mailing and handling costs.

All bidders, including subcontractors and suppliers, must register with the Authority's Contract Office in order to receive Addenda from the Authority.

The Contract Documents may be reviewed at:

F. W. Dodge Corporation, 858 Park Square Building, Boston, Mass.

Master Builder's Association, 383 Dorchester Avenue, South Boston, Mass.

Scan Microfilm System (Plan Room), 858 Park Square Building, Boston, Mass.

The Boston Housing Authority reserves the right to waive any informalities in or to reject any or all bids if it is in the public interest to do so.

The funds for work to be performed under this Contract are from the Commonwealth of Massachusetts, Executive Office of Communities and Development, and from the City of Boston Community Development Block Grant Funds.

This project is one of the first three efforts by the Boston Housing Authority to substantially rehabilitate its public housing developments. In addition, its importance has been given special recognition by the Legislature of the Commonwealth, which has authorized a special appropriation and bidding process (M.G.L. Chapter 30) for the accomplishment of the project.

The Authority expects the Contractor who is awarded this Contract to have had significant experience with similar projects having CPM management and Contract administration requirements.

BOSTON HOUSING AUTHORITY.
By: Lewis H. Spence,
Receiver/Administrator.

Date: March 14, 1983

Mar. 16 23

MORTGAGEE'S SALE OF REAL ESTATE

Premises: 49 Thetford Avenue, Dorchester, Massachusetts

By virtue and in execution of the Power of Sale contained in a certain mortgage given by Paul A. Robinson to the Secretary of Housing and Urban Development said mortgage dated March 12, 1979, and recorded with Suffolk County Registry of Deeds in Book 9159, Page 109, of which mortgage the undersigned is the present holder, for breach of the conditions in said mortgage contained and for the purpose of foreclosing the same will be sold at Public Auction at 11:00 a.m. on Tuesday, April 5, 1983 upon the premises at 49 Thetford Avenue, Dorchester, Massachusetts, all and singular the premises described in said mortgage, to wit: "A certain parcel of land with all the buildings and structures now or hereafter standing or placed thereon, situated in Dorchester, in the County of Suffolk and Commonwealth of Massachusetts, bounded and described as follows: EASTERLY by Thetford Avenue, sixty (60') feet; SOUTHERLY by Lot 12, as shown on a plan hereinafter, one hundred forty-one and 8/10 (141.8') feet; WESTERLY by land now or formerly of Davis, as shown on said plan sixty (60') feet; and NORTHERLY by Lot 10, as shown on said plan, one hundred forty-three (143') feet. Containing, 8,544 square feet of land and being the same premises shown as Lot 11 on a plan entitled, "Plan of House Lots in Ward 16, Boston," drawn by Whitman & Breck, Surveyors, and dated May, 1873, recorded with Suffolk County Registry of Deeds in Book 1213, Page 100. Being the same premises conveyed to me by Deed from the Secretary of Housing and Urban Development to be recorded herewith." The present holder of said above described mortgage is The Lomas & Nettleton Company by virtue of Assignment of Mortgage to it from Samuel R. Pierce, Jr., as Secretary of Housing and Urban Development, said Assignment dated July 23, 1982, and recorded with Suffolk County Registry of Deeds in Book 10039, Page 204, which mortgage had been assigned to said Secretary by Assignment of Mortgage from Federal National Mortgage Association dated November 18, 1980, and recorded with said Registry of Deeds in Book 9603, Page 254, which said mortgage had been assigned to Federal National Mortgage Association by Assignment of Mortgage from Secretary of Housing and Urban Development dated March 12, 1979, and recorded with said Registry of Deeds in Book 9159, Page 112. TERMS OF SALE: Said premises will be sold and conveyed subject to all unpaid taxes, tax titles, municipal liens and assessments, if any, which take precedence over the said mortgage above described. Three Thousand ($3,000.00) Dollars of the purchase price must be paid in cash, certified check, bank treasurer's or cashier's check at the time and place of the sale by the purchaser and the balance of the purchase price shall be paid in cash, certified check, bank treasurer's or cashier's check within thirty (30) days after the date of sale and shall be deposited in escrow with J. Patrick Kinhan, Esq., 21 Front Salem, Massachusetts, pending approval of the sale by the Land Court. The deed shall be delivered within ten (10) days from the date of approval of the sale by the Land Court. Other terms to be announced at the sale. THE LOMAS & NETTLETON COMPANY. Present Holder of said Mortgage. By its Attorney-in-Fact, J. Patrick Kinhan, Esq., 21 Front Street, Salem, Massachusetts, 01970
TEL: (617) 741-1528
March 3, 1983

Mar 9, 16, 23

LEGAL NOTICE NOTICE OF PROPOSED BANK MERGER

Notice is hereby given that BayBank Middlesex, Burlington, Massachusetts, has made application to the Federal Deposit Insurance Corporation, Washington, D.C. 20429, for its written consent to merge with BayBank and Trust Company, Beverly, Massachusetts. It is contemplated that all of the offices of the above-named banks will continue to be operated.

This notice is published pursuant to Section 18(c) of the Federal Deposit Insurance Act.

Any person wishing to comment on this application may file his/her comments in writing with the Regional Director of the Federal Deposit Insurance Corporation at its Regional Office, 60 State Street, Boston, Massachusetts 02109. If any person desires to protest the granting of this application, he/she has a right to do so if he/she files a written notice of his/her intent with the Regional Director by April 30, 1983. The nonconfidential portions of the application are on file in the Regional Office as part of the public file maintained by the Corporation. This file is available for public inspection during regular business hours.

March 15, 1983

Baybank Middlesex,
Burlington, Massachusetts
BayBank and Trust Company,
Beverly, Massachusetts

Mar 16, 23, 30
Apr. 6, 13, 15

MORTGAGEE'S SALE OF REAL ESTATE

Premises: 25 Bellevue Street, Dorchester, Massachusetts

By virtue and in execution of the Power of Sale contained in a certain mortgage given by Roger L. Morris and Dolores J. Morris to Federal National Mortgage Association, said mortgage dated August 9, 1973, and recorded with Suffolk County Registry of Deeds in Book 8652, Page 61, of which mortgage the undersigned is the present holder, for breach of the conditions in said mortgage contained and for the purpose of foreclosing the same will be sold at Public Auction at 10:00 a.m. on Tuesday, April 5, 1983, upon the premises at 25 Bellevue Street, Dorchester, Massachusetts, all and singular the premises described in said mortgage, to wit: "A certain parcel of land with all the buildings and structures now or hereafter standing or placed thereon, situated in Dorchester, in the County of Suffolk and Commonwealth of Massachusetts, bounded and described as follows: All that certain tract or parcel of land, situate, lying and being in the Dorchester district of Boston, County of Suffolk, State of Massachusetts, the land in the Dorchester District, being now numbered 25 Bellevue Street and being shown as Lot 5 on a plan made by Charles H. W. Wood, Surveyor, recorded with Suffolk Deeds at the end of Record Book 2397, being bounded and described as follows: SOUTHEASTERLY: by said Bellevue Street, fifty (50) feet; SOUTHWESTERLY: by Lot 4 on said plan, eighty-eight and 05/100 (88.05) feet; NORTHWESTERLY: by Lots 8 and 9 on said plan, fifty and 64/100 (50.64) feet; NORTHEASTERLY: by Lot 6 on said plan, eighty (80) feet. Containing 4,201 square feet of land. Said conveyance is made subject to all covenants, restrictions, easements, reservations, conditions, and rights appearing of record against the above-described property; also subject to any state of facts which an accurate survey of said property would show. For Mortgagor's title see deed of Housing and Urban Development recorded herewith." TERMS OF SALE: Said premises will be sold and conveyed subject to all unpaid taxes, tax titles, municipal liens and assessments, if any, which take precedence over the said mortgage above described. Twenty-five Hundred ($2,500.00) Dollars of the purchase price must be paid in cash, certified check, bank treasurer's or cashier's check at the time and place of the sale by the purchaser and the balance of the purchase price shall be paid in cash, certified check, bank treasurer's or cashier's check within thirty (30) days after the date of sale and shall be deposited in escrow with J. Patrick Kinhan, Esq., 21 Front Street, Salem, Massachusetts, pending approval of the sale by the Land Court. The deed shall be delivered within ten (10) days from the date of approval of the sale by the Land Court. Other terms to be announced at the sale. FEDERAL NATIONAL MORTGAGE ASSOCIATION, Present Holder of said Mortgage. By its Attorney-in-Fact, J. Patrick Kinhan, Esq., 21 Front Street, Salem, Massachusetts 01970. Tel.: (617) 741-1528.

Dated: March 3, 1983

Mar. 9 16 23

PUBLIC NOTICE RELATIVE TO ZONING

CITY OF CAMBRIDGE MASSACHUSETTS

Office of the City Clerk

Notice is hereby given that in accordance with the provisions of Chapter 40A, Section 5 of the General Laws, Tercentenary Edition and amendments thereto, that the Committee on Ordinances, comprised of the entire membership of the City Council, will hold a public hearing on Wednesday, March 30, 1983, at 6:00 p.m. in the City Council Chamber, City Hall, Cambridge, on the petition of Councillor David Sullivan to amend the text of the Zoning Ordinance as follows:

1. In Article 2.000, Definitions, add the following new definition at its appropriate alphabetical location: "Affiliate housing. Any dwelling (other than a dormitory or a sorority or fraternity house) owned or controlled by an educational institution and occupied primarily by persons who are employed or enrolled at the educational institution."
2. In section 4.33, of the Table of Use Regulations (Institutional Uses), subsection (b), Educational Purposes, add to line 7 the words, "or affiliate housing."
3. In section 4.56, Table of Institutional Use Regulations, subsection (c), add to the line 8 the words, "or affiliate housing."

Copies of this petition are on file in the Office of the City Clerk, City Hall, Cambridge, Massachusetts.

All persons interested in this matter may appear at this time and be heard.

For the Committee, Councillor WALTER J. SULLIVAN, Chairman.

Mar. 16

MORTGAGEE'S SALE OF REAL ESTATE

By virtue and in execution of the Power of Sale contained in a certain mortgage given by Richard Wells and Eula M. Wells to The Provident Institution for Savings in the Town of Boston dated February 19, 1970 recorded with the Suffolk County Registry of Deeds in Book 8347, Page 204, of which mortgage the undersigned is the present holder, for breach of the conditions of said mortgage and for the purpose of foreclosing, the same will be sold at public auction at 10 a.m. on the thirteenth day of April, 1983 at the mortgaged premises, 671 Walk Hill Street, Mattapan, Massachusetts, all and singular the foreclosing premises described in said mortgage, to wit: "A certain parcel of land with all the buildings and structures now or hereafter standing or placed thereon, situated in that part of Boston called Mattapan, in the County of Suffolk and Commonwealth of Massachusetts, bounded and described as follows: NORTHEASTERLY by Walk Hill Street, fifty-one and 52/100 (51.52) feet; SOUTHEASTERLY by land of owners unknown, as shown on a plan hereinafter mentioned, eighty five and 13/100 (85.13) feet; SOUTHWESTERLY by land of owners unknown, as shown on said plan, fifty-one (51) feet; NORTHWESTERLY by Lot A, as shown on said plan, ninety-two and 68/100 (92.68) feet. Containing 4,534, square feet of land and being shown as Lot B on a plan drawn by H.A. Sherman, C.E., dated April 12, 1928, and recorded with Suffolk County Registry of Deeds in Book 5002, Page 381. For title see deed from Ida Mindick to Morris E. Isseroff et ux, dated January 16, 1967, and recorded with said Deeds in Book 8092, Page 381; and see deed to these grantors to be recorded herewith. Including as part of the realty all portable or sectional buildings at any time placed upon said premises and all furnaces, ranges, heaters, plumbing, gas and electric fixtures, screens, mantels, shades, screen doors, storm doors and windows, oil burners, gas or electric refrigerators and all other fixtures of whatever kind and nature at present or hereafter installed in or on the granted premises in any manner which renders such articles usable in connection therewith, so far as the same are, or can by agreement of parties be made, a part of the realty." Terms of Sale: The mortgaged premises will be offered for sale at the mortgaged premises, 671 Walk Hill Street, Mattapan, Massachusetts at 10 a.m., April 13, 1983. One Thousand Seven Hundred Dollars ($1,700.00) is to be paid by the purchaser as a deposit at the time and place of the sale. The balance of the purchase price is to be paid against delivery of the deed at 11:00 a.m. on or before May 13, 1983 at the offices of John R. Walkey, Esquire, Choate, Hall & Stewart, 60 State Street, Boston, Massachusetts 02109. All payments shall be in cash or by certified or bank cashier's or bank treasurer's checks or checks drawn on "Boston Funds" so called, payable to the Provident Institution for Savings in the Town of Boston, without endorsement. The mortgaged premises will be sold subject to liens, if any, for unpaid taxes and municipal assessments, betterments or other charges. Other terms, if any, to be announced at the sale. THE PROVIDENT INSTITUTION FOR SAVINGS IN THE TOWN OF BOSTON. By Thomas S. Zocco, President. The Provident Institution for Savings in the Town of Boston, 30 Winter Street, Boston, MA 02109. (617) 423-9600. DATED: March 10, 1983. John R. Walkey, Esquire, Choate, Hall & Stewart, 60 State Street, Boston, MA 02109. Attorney for the Mortgagee.

March 16, 23, 30

COMMONWEALTH OF MASSACHUSETTS. Middlesex, ss. PROBATE COURT. Case No. A21770. To John David Reed, of parts unknown, represented to be the parent of Jason John Reed, a minor child received by the The Florence Crittenton League of Lowell, Inc., under the provisions of General Laws, Chapter 119, Section 23. A petition has been presented to said Court by The Florence Crittenton League of Lowell, Inc., of Lowell, praying that said Court establish that the consent of said parent shall not be required upon a petition for adoption of said minor sponsored by your petitioner, as provided by the General Laws, Chapter 210, Section 3, as most recently amended by Chapter 552 of the Acts of 1978. If you desire to object thereto, you or your attorney should file a written appearance in said Court at Cambridge before ten o'clock in the forenoon on the sixteenth day of May 1983, the return day of this citation. Witness, Sheila E. McGovern, Esquire, First Judge of said Court, this twenty-eighth day of February 1983. PAUL J. CAVANAUGH, Register.

Mar. 9, 16, 23

MORTGAGEE'S SALE OF REAL ESTATE AT 4 WINTHROP STREET, EAST BOSTON, MASSACHUSETTS

BY VIRTUE AND IN EXECUTION OF THE POWER OF SALE CONTAINED IN A CERTAIN MORTGAGE given by Sean F. Daley to the Haymarket Cooperative Bank dated March 24, 1982, and recorded with Suffolk County Registry of Deeds in Book 9928, Page 245, of which mortgage the undersigned is the present holder for a breach of the conditions of said Mortgage, and for the purpose of foreclosing the same, will be sold at public auction at 11:00 A.M. on the 12th day of April, 1983, on the mortgaged premises at 4 Winthrop Street, East Boston, Massachusetts, all and singular the premises described in said Mortgage, to wit: The land with the buildings thereon situated in that part of Boston called East Boston, now numbered 4 Winthrop Street, being bounded and described as follows: Beginning at a point in the Northeasterly line of Winthrop Street, distant Sixty-six (66) feet Southeasterly from Paris Street, thence running: SOUTHEASTERLY on said line of Winthrop Street, twenty-two (22) feet; thence turning and running NORTHEASTERLY fifty-two (52) feet and six (6) inches; thence turning and running NORTHWESTERLY twenty-two (22) feet; thence turning and running SOUTHWESTERLY fifty-two (52) feet and six (6) inches to the point of beginning. Containing 1,100 square feet of land. For my title see Deed from John J. Schiveree to me dated February 1, 1982, recorded with Suffolk Deeds, in Book 9905, Page 463, and also confirmatory deed recorded herewith. TERMS OF SALE: $5,000 Dollars in cash or certified check shall be paid by the purchaser at the time and place of sale. The above-described premises are conveyed subject to and with the benefit of all restrictions, easements, improvements, outstanding tax titles, municipal or other public taxes, assessments, federal and state tax liens, and other claims in the nature of liens, and existing encumbrances of record created prior to the Mortgage whether or not reference to such restrictions, easements, improvements, liens or encumbrances is made in the Deed. The balance is to be paid in cash or by certified check within twenty (20) days thereafter to be deposited in escrow with the firm of ALOISI & ALOISI pending approval of the sale by the Land Court Department of the Trial Court. Deed to be taken within ten (10) days from the date of approval of said sale by the Land Court Department of the Trial Court. Other terms to be announced at sale. HAYMARKET COOPERATIVE BANK, present holder of said Mortgage.

BY: Aloisi & Aloisi,
131 State Street,
Suite 800,
Boston, MA 02109,
(617) 227-6272,
Its Attorney.

Mar. 9 16 23

PUBLIC NOTICE RELATIVE TO ZONING

CITY OF CAMBRIDGE MASSACHUSETTS

Office of the City Clerk

Notice is hereby given that in accordance with the provisions of Chapter 40A, Section 5 of the General Laws, Tercentenary Edition and amendments thereto, that the Committee on Ordinances, comprised of the entire membership of the City Council, will hold a public hearing on Wednesday, March 30, 1983, at 6:30 p.m. in the City Council Chamber, City Hall, Cambridge, on the petition of Mayor Vellucci to amend the text of the Zoning Ordinance as follows:

1. In Article 2.000, Definitions, add the following new definition at its appropriate alphabetical location: "University owned housing. Any dwelling (other than a dormitory or a sorority or fraternity house) owned or controlled by an educational institution and occupied primarily by persons who are employed or enrolled at the educational institution; or any future institution of learning that establishes itself within the City of Cambridge under any name whatever they may adopt to identify their institution; or any dwelling unit which is sponsored by said institutions under other titles or are held under realty trusts, corporations or other legal entities which are under the direct or indirect control or supervision of the above referred to institutions";
2. In section 4.33, of the Table of Use Regulations (Institutional Uses), subsection (b), Educational Purposes, add to line 7 the words "university owned housing."
3. In section 4.56, Table of Institutional Use Regulations, subsection (c), add to the line 8 the words "university owned housing."

Copies of this petition are on file in the Office of the City Clerk, City Hall, Cambridge, Massachusetts.

All persons interested in this matter may appear at this time and be heard.

For the Committee, Councillor WALTER J. SULLIVAN, Chairman.

Mar. 16

LEGAL NOTICE

The Commonwealth of Massachusetts Department of Education Division of Special Education

Sealed by by qualified, responsible bidders to provide transportation services to special needs children and certain adults to and from specified educational, habitational, and pre-school programs, according to certain conditions, will be received by the Department of Education, Division of Special Education, at the following sites and dates and will be then and there publicly opened and read:

Springfield Regional Center, 88 Massasoit Avenue, West Springfield, MA 01089. Massasoit Conference Room, 10:30 A.M. on Wednesday, May 4, 1983 and May 18, 1983.

Department of Education, Quincy Center Plaza, 1385 Hancock Street, Quincy, MA 02169, First Floor Board Conference Room, 10:30 A.M. on Friday, May 13, May 27, June 10, June 24, and July 8, 1983.

Three pre-bid conferences will be held at 10:30 A.M. at the following locations and dates for the purpose of reading and establishing policy regarding bid specifications, contracts and eligibility:

Springfield Regional Educational Center, 88 Massasoit Avenue, West Springfield, MA 01089, Massasoit Conference Room, April 11, 1983.

Department of Education, Quincy Center Plaza, 1385 Hancock Street, Quincy, MA 02169, First Floor Board Conference Room, Aptil 13, 1983.

Central Massachusetts Regional Education Center, Route 140, Beaman Street, West Boylston, MA 01583, Auditorium Conference Room, April 15, 1983.

Copies of statutory and regulatory requirements, together with all necessary information and instructions to qualify as a bidder, will be available on and after April 11, 1983, by contacting Daniel McGonagle, Department of Education, Bureau of Management, Quincy Center Plaza, Quincy, MA 02169, telephone number 617-770-7464.

Roger W. Brown,
Associate Commissioner,
Division of Special Education

Mar. 16, 17, 18

COMMONWEALTH OF MASSACHUSETTS. LAND COURT DEPARTMENT OF THE TRIAL COURT. Case No. 109609. (SEAL). to Frederick Allington, Jr. and Patricia Allington, both of Hyde Park, Suffolk County; David A. Kahalas and Stanley H. Cooper, both of Boston, Suffolk County, all of said Commonwealth: and to all persons entitled to the benefit of the Soldiers' and Sailors' Civil Relief Act of 1940 as amended: Neworld Bank for Savings, formerly know as Charlestown Savings Bank, a duly existing corporation having an usual place of business in Boston, Suffolk County, and said Commonwealth; claiming to be the holder of a mortgage covering real property in said Hyde Park District of Boston, numbered 194 Sherrin Street, given by Frederick Allington, Jr. and Patricia Allington to Charlestown Savings Bank, now known as Neworld Bank for Savings, dated October 5, 1978, recorded with Suffolk County Registry of Deeds, Book 9104, Page 75, has filed with said court a complaint for authority to foreclose said mortgage in the manner following: by entry and possession and exercise of power of sale. If you are entitled to the benefits of the Soldiers' and Sailors' Civil Relief Act of 1940 as amended and you object to such foreclosure you or your attorney should file a written appearance and answer in said court at Boston on or before the eighteenth day of April 1983, or you may be forever barred from claiming that such foreclosure is invalid under said act. Witness, WILLIAM I. RANDALL, Chief Justice of said Court this twenty-eighth day of February 1983. John G. Kelleher, Recorder.

Mar. 16

COMMONWEALTH OF MASSACHUSETTS. Suffolk, ss. PROBATE COURT. Case No. 521172. To all persons interested in the estate of Mary A. Reach late of Boston, in said County, deceased. A petition has been presented to said Court for the probate of a certain instrument purporting to be the last will of said deceased by Carleton Baker of Melrose, in the County of Middlesex, praying that he be appointed executor thereof without giving a surety on his bond. If you desire to object thereto you or your attorney should file a written appearance in said Court at Boston before ten o'clock in the forenoon on the 14th day of April 1983, the return day of this citation. You must, in addition to filing a written appearance as aforesaid, file within thirty (30) days after said return day a written statement of objections to the petition, giving specific grounds therefore. Witness, Mary C. Fitzpatrick, Esquire, First Judge of said Court, this 11th day of March 1983. JAMES MICHAEL CONNOLLY, Register.

Mar. 14

THE COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF PUBLIC WORKS

NOTICE OF A PUBLIC HEARING

A Public Hearing will be held by the Massachusetts Department of Public Works to discuss the proposed replacement of the Central Street Bridge over the Boston and Maine Railroad in the City of Somerville.

WHERE: Winter Hill Community School, Medford and Sycamore Streets, Somerville, Ma.

WHEN: Wednesday, March 23, 1983 — 7:00 P.M.

PURPOSE: This hearing is being held to provide the public an opportunity of becoming fully acquainted with the proposed bridge rehabilitation and related improvements. All views and comments made at this hearing will be reviewed and considered to the maximum extent possible.

PROPOSAL: The proposed project consists of replacing the existing Central Street Bridge over the Boston and Maine Railroad in its present location with improvements to the approach roadways.

Written views received by the Department subsequent to the date of this notice and up to five (5) days prior to the date of the hearing shall be displayed for public inspection and copying at the time and date listed above.

Written statements and other exhibits in place of, or in addition to, oral statements at the public hearing regarding the proposed undertaking are to be submitted to Justin L. Radlo, Chief Engineer, Massachusetts Department of Public Works, 100 Nashua Street, Boston, Massachusetts 02114. Such submission will also be acceptable at the hearing. The final date for receipt of these statements and exhibits will be ten (10) days after this public hearing.

Plans will be on display, with an engineer in attendance, at the hearing location from 6:00 P.M. to 7:00 P.M. on the hearing date.

ROBERT T. TIERNEY, Commissioner; JUSTIN L. RADLO, Chief Engineer.

Boston, Massachusetts
February 17, 1983

Feb. 23 Mar. 16

MORTGAGEE'S SALE OF REAL ESTATE

By virtue and in execution of the Power of Sale contained in a certain mortgage given by Jacqueline Hamlet to Home Savings Bank, dated May 7, 1981, and recorded with Suffolk County Registry of Deeds, Book 9746, Page 5, of which mortgage the undersigned is the present holder, for breach of the conditions of said mortgage and for the purpose of foreclosing the same will be sold at Public Auction at 10 o'clock A.M. on the 8th day of April A.D. 1983, on the premises hereinafter described all and singular the premises described in said mortgage, to wit: "A certain parcel of land with the buildings thereon now known as and numbered 103 East Brookline Street situated in Boston, Suffolk County, Massachusetts, being Lot 22 on a plan of "City Lands Sold" recorded with Suffolk County Registry of Deeds Vol. 2, Page 190, bounded and described as follows: NORTHEASTERLY by East Brookline Street, twenty-one and no/100 (21) feet; SOUTHEASTERLY by Lot 23 on said plan, seventy-six and 75/100 (76.75) feet; SOUTHWESTERLY by land of owners, unknown, twenty-one and no/100 (21) feet; NORTHWESTERLY by Lot 21 on said plan, seventy-six and 75/100 (76.75) feet. Containing, according to said plan, 1611.75 square feet of land." Terms of Sale: THREE (3,000) DOLLARS to be paid in cash or certified check by the purchaser at the time and place of sale — balance in 20 days. Other terms to be announced at the sale. Signed: HOME SAVINGS BANK, George H. Ellis, President, present holder of said mortgage.

February 22, 1983

From the office of:
Stevenson, Johnson & Brams,
73 Tremont St.,
Boston, MA 02108.

Mar. 2 9 16

COMMONWEALTH OF MASSACHUSETTS. Suffolk, ss. PROBATE COURT. Case No. 521171. To all persons interested in the estate of John J. Hussey late of Boston, in said Count, deceased. A petition has been presented to said Court for the probate of a certain instrument purporting to be the last will of said deceased by Richard A. Hussey of Watertown, in the County of Middlesex, praying that he be appointed executor or thereof without giving a surety on his bond. If you desire to object thereto you or your attorney should file a written appearance in said Court at Boston before ten o'clock in the forenoon on the 26th day of May, 1983, the return day of this citation. You must, in addition to filing a written appearance as aforesaid, file within thirty (30) days after said return day a written statement of objections to the petition, giving specific grounds therefore. Witness, Mary C. Fitzpatrick, Esquire, First Judge of said Court, this 11th day of March, 1983. JAMES MICHAEL CONNOLLY, Register.

March 16

Barbara Bel Geddes stable after heart bypass surgery

From the wire services

LOS ANGELES — Actress Barbara Bel Geddes, who portrays the genteel but powerful matriarch of television's troubled "Dallas" family, underwent a quadruple bypass operation yesterday after a massive heart attack, a spokesman said.

The 60-year-old actress was listed in stable condition after the surgery, which lasted more than 4½ hours, said Bob Crutchfield of Lorimar, producers of the popular series.

Bel Geddes suffered the heart attack yesterday morning at Cedars Sinai Medical Center, where she was admitted Saturday after complaining of chest pains, said Lorimar spokeswoman Joy Daunis.

Earlier, Crutchfield said Miss Bel Geddes was undergoing "life saving surgery." But Daunis said later, "We received conflicting information in the beginning. After an angiogram, the doctors determined all she would need is a triple bypass."

Crutchfield said Bel Geddes' doctor determined during the operation that a quadruple bypass was necessary.

Her illness will not affect this year's "Dallas" whose filming was completed March 8.

Bel Geddes, the daughter of stage designer Norman-Geddes, began acting on stage.

She landed the lead in Elia Kazan's "Deep Are the Roots," an interracial love story, and in 1945 won the Clarence Derwent Award as outstanding young actress.

Success led to Hollywood.

Her other Broadway credits include starring roles in "The Moon is Blue" and "Cat On A Hot Tin Roof."

Among her movie roles were "Panic In The Streets," "Vertigo," "By Love Possessed" and "The Five Pennies," her only musical.

Besides "Dallas," her numerous TV appearances have included an adaption of Thornton Wilder's "Our Town" and Alfred Hitchcock's "Lamb to the Slaughter," in which she uses a frozen leg of lamb to kill her cheating husband.

Bel Geddes, who was married to the late Windsor Lewis, has also illustrated two children's books.



Barbara Bel Geddes

Slain cop's wife bailed

Mary Sciuto pleaded innocent in Amesbury District Court yesterday in the shooting murder of her husband, Lawrence Police Capt. Stephen S. Sciuto Jr., at their Salisbury Beach summer home last week.

Sciuto, 49, a 25-year veteran of the police force, was shot four times in the chest with a small-caliber gun March 9.

Yesterday, Judge Louis Cyr released Mary Sciuto after her family posted real estate to cover the $100,000, double-surety bail.

Cyr was told by attorneys that the alleged murder occurred after a marital incident and Mrs. Sciuto had no "propensity to further violence."

Defense attorney Carmine D'Iadamo said he hoped to show that alleged homicide was "justifiable" when the case goes to trial.

Although an April 15 probable cause date has been set in Amesbury District Court, it is expected the Essex County District Attorney's office will seek an indictment before that time, moving the case to the Superior Court level.



Mary D. Sciuto, 49, pleads innocent to the murder of her husband, Stephen, a Lawrence police captain.

Oil battle heating up

Soviets slash price; Brits hold the key

LONDON (UPI) — The Soviet Union undercut OPEC's $29-a-barrel price for crude yesterday, but Britain, whose reaction traders say will determine the global oil market's shape, gave no hint it would cut its oil prices.

In Britain's first official comment on the Organization of Oil Exporting Countries' decision Monday to cut its $34 a barrel base price by 15 percent, the Chancellor of the Exchequer said a moderate reduction was welcomed.

Sir Geoffrey Howe, in presenting Britain's 1983-84 budget, said that "though sharp swings in the oil prices are in no one's interest, moderate reductions mean lower inflation abroad, and lower prices here.

"The fall in the general level of world oil prices is therefore to be welcomed," the chancellor told Parliament.

There was no hint in the speech, however, of how non-OPEC Britain's state-run National Oil Corporation intended to respond to the 13-nation cartel's first price cut in its 23-year history.

Industry sources said the Soviet Union, which is the world's largest producer, selling about 1 million barrels a day to Western Europe, was offering its Urals crude at $27 a barrel from northern ports and $28 from Mediterranean terminals retroactive to March 1.

The new prices showed a $1.25 cut on the Mediterranean shipments and a $2.15 cut on the northern cargoes, the sources said.

The spot market in Rotterdam was mixed. But market analysts said the spot market trends and the Soviet price cut were not good indicators of the outcome of the OPEC accord.

Leading traders speculated Britain's reaction would determine the shape of the market.

A 50-cent cut would bring North Sea prices at par with those of comparable Nigerian crudes, but a $1 cut would invite price-cutting by OPEC.

Financially strapped Nigeria, which cut its price by $5.50 a barrel last month to compete with North Sea oil, was allowed to keep its price at $30 as a "temporary exception" under the OPEC agreement.

Of the 13 OPEC members, Iran reserved its decision on the price cut but accepted its production quota of 2.4 million barrels a day

The first non-OPEC oil country to respond to the cartel's cut was Mexico, the United States' largest oil supplier, which Monday reduced the price of its high-grade oil $5.50 to $29 a barrel and promised to keep production to 3 million barrels a day.

It's legal if churches don't pay

By PETER SLEEPER

Boston Corporation Counsel James P. McGuire ruled yesterday that excepting churches from the new fire service fee is legal.

"It is my opionion that the proposed exemption will withstand a consitutional challenge and that the auhhority to grant such an exemption should be sought from the General Court," he said in a March 15 advisory opinion for Councilor Raymoand Flynn.

Last week, responding to protests from Small churches faced with fire service fee bills of thousands of dollars, the Council hurriedly approved a home rule petition and a city ordinance, to exempt houses of worship.

But Councilor Michael McCormack raised the possibility that such an exemption would violate the U.S. Consitution's equal protection clause.

Emerson College is suing in court for an exemption from the fire fee on the grounds that it, like churches, is tax exempt. McGuire did not address the issue of educational institutions in his opinion, but later said there was a "clear distinction" between churches and colleges.

The Council-approved home rule petition, sponsored by Councilor Christopher Iannella, is likely to receive the signature of Mayor Kevin H. White. It still requires approval by the Legislature and the governor.Flynn sponsored the ordinance, which McGuire said was not the appropriate legislative vehicle.

McQuire also stated the fire service fee, imposed on owners of large buildings that require extraordinary fire protection, is valid. Councilor Frederick Langone, despite his support for the fee last year, last week questioned its validity.

"An argument might be made that the proposed exemption consitutes an establishment of religion in violation of the First Amendment," McGuire wrote." Given the hardship that paying the (fee) would apparently impose on some religious congregations. . .failure to exempt houses of worship could quite possibly be an unconstitutional infringement on the right of free exercise of religion."

Help's coming for the elderly

The Massachusetts House gave initial approval to a $3.1 million supplemental budget yesterday for the state home care program, which is running out of money.

The budget requires another House vote and approval in the Senate before going to the governor.

The program helps more than 41,000 housebound senior citizens. It is designed to keep the elderly out of nursing homes by providing delivered meals, transportation, companionship and other services.

Richard Rowland, state secretary of elder affairs, says the program is running out of funds. He said many of the non-profit home care corporations that provide the services are losing money and threatening to close in April.

Legal Notices Legal Notices Legal Notices Legal Notices Legal Notices Legal Notices Legal Notices

NOTICE TO CONTRACTORS

BOSTON HOUSING AUTHORITY

The Boston Housing Authority, the Awarding Authority, invites sealed bids for the West Broadway Development Renewal Project, State One, Boston 200-1, located at West Broadway and D Streets, South Boston, Massachusetts, in accordance with documents prepared by the West Broadway Team, a Joint Venture of Goody, Clancy & Associates and Lane, Frenchman, and Associates, Inc., located at 334 Boylston Street, Boston, Massachusetts 02116.

Bids will be received at the Authority's Contract Office, 8th Floor, 52 Chauncy Street, Boston, Massachusetts, until 3:00 p.m., Wednesday, May 4, 1983. Bids must be received before this time to be considered. Immediately following, the bids will be publicly opened and read aloud.

The work includes the extensive renovation and reconstruction of 12 residential buildings within the State One project area, involving approximately one-half of the existing development. A total of 248 renovated dwelling units are to be provided, as well as a new electrical distribution system, site work and utilities. Alternates will be bid which would provide up to 93 additional renovated dwelling units, additional community facilities, a new Management Building and related site work.

Bid forms and bidding information may be obtained, without charge, from the Authority at the above address.

If mailed, bids should be sent to:

Boston Housing Authority
52 Chauncy Street
8th Floor, Contract Office
Boston, Massachusetts 02111

Bids shall be accompanied by a bid deposit in the form of a bid bond, cash, or a certified check on, or a treasurer's or cashier's check issued by, a responsible bank or trust company, payable to the Boston Housing Authority in the amount of Seven Hundred Seventy-Five Thousand Dollars ($775,000.00).

Bids are subject to the provisions of the M.G.L., Chapter 30, Section 39M. Wages are subject to the minimum wage rates as described in M.G.L., Chapter 149, Section 26 to 27D inclusive and as determined by the Secretary of the United States Department of Labor. The successful bidder will be required to furnish a Performance Bond and a Labor and Materials Bond, each in the full amount of the contract price as awarded.

The following PRE-BID INSPECTIONS are scheduled:

Inspection of building cellars, common stairways presently in use, roofs and representative vacant apartments, as well as the overall site and building exteriors — 9:30 a.m. to 12:00 Noon on Wednesday, April 6, 1983; Wednesday, April 13, 1983; and Wednesday, April 20, 1983.

Inspection of building and apartment interiors of two representative portions of unoccupied and secured buildings ("mothballed addresses") — 9:30 a.m. to Noon on Wednesday, April 20, 1983.

All persons participating in these inspections should first report to the Management Office, 225 West Broadway, South Boston, Massachusetts. Inspections will be organized as tours, and each will be accompanied by a representative of the Architect. Tours will leave the Management Office at 9:30 and 10:45 a.m. each day inspections are scheduled.

Prospective bidders are encouraged to limit site visits to these times and dates. All persons visiting the site at other times must do so between 9 a.m. and 4 p.m., must first report to the Management Office, and must notify the Development Manager of their presence on site. No access will be provided to building interiors except during the above scheduled times and dates.

There will be a PRE-BID CONFERENCE at the offices of the Boston Housing Authority, 9th Floor Conference Room, 52 Chauncy Street, Boston, Mass., on Thursday, April 14, 1983, at 2:00 p.m.

MINORITY PARTICIPATION:

The bidder's attention is called to the Boston Housing Authority Minority Participation Provision contained in the Bidding and Contract Requirements of the Contract Documents, describing affirmative action requirements for this Contract.

IN ORDER FOR ITS BID TO BE DETERMINED ELIGIBLE FOR AWARD OF THIS CONTRACT THE BIDDER MUST GIVE SATISFACTORY ASSURANCE AS REQUIRED BY THE MINORITY PARTICIPATION PROVISION THAT IT SHALL MAINTAIN A RATIO OF AT LEAST 12% MINORITY EMPLOYEE PERSON HOURS TO TOTAL PERSON HOURS IN EACH JOB CATEGORY AND THAT AT LEAST 10% OF ITS CONTRACT PRICE SHALL BE EXPENDED FOR MINORITY BUSINESS ENTERPRISES, AT LEAST 75% OF THIS LATTER REQUIREMENT TO BE SATISFIED BY USE OF MINORITY CONSTRUCTION CONTRACTORS. FOR DEFINITION OF THE TERMS IN THIS PARAGRAPH, SEE SECTION 1 OF THE MINORITY PARTICIPATION PROVISION.

Each bidder must complete, sign and file with its bid the "Contractor's Certification of Compliance with Minority Participation Provision (Hiring)"; the "Minority Business Utilization Form" and (unless otherwise provided in the Minority Participation Provision) a "Minority Business Identification Statement" for each proposed Minority Business Enterprise. Other information relevant to affirmative action compliance may be required of certain bidders after the date of bid opening.

RESIDENT EMPLOYMENT:

The bidder's attention is called to the Boston Housing Authority's Resident Employment Provision contained in the Bidding and Contract Requirements of the Contract Documents, describing resident employment requirements for this Contract.

IN ORDER FOR ITS BID TO BE DETERMINED ELIGIBLE FOR AWARD OF THIS CONTRACT, THE BIDDER MUST GIVE SATISFACTORY ASSURANCE THAT IT SHALL MEET THE REQUIREMENTS OF THE RESIDENT EMPLOYMENT PROVISION. EACH BIDDER MUST COMPLETE, SIGN, AND FILE WITH ITS BID THE "RESIDENT EMPLOYMENT CERTIFICATION." OTHER INFORMATION RELEVANT TO COMPLIANCE WITH THIS PROVISION MAY BE REQUIRED AFTER THE DATE OF THE GENERAL BID OPENING.

Contract Documents will be available to prospective bidders on Monday, March 21, 1983, after 1:00 p.m., at the Authority's Contract Office, 8th Floor, 52 Chauncy Street, Boston, Massachusetts.

Contract Documents may be obtained at the Authority's Contract Office upon deposit of a certified treasurer's or cashier's check for $100.00 per set, payable to the Boston Housing Authority. This deposit will be refunded for one set for each bidder upon return of the set in good condition to the Authority within thirty (30) calendar days after the opening of bids. Otherwise the deposit shall be the property of the Boston Housing Authority. Additional sets may be purchased at the same office for $100.00 (non-refundable).

Partial sets (sections of specifications and individual sheets of drawings) may be obtained separately from the printers for the cost of reproduction at

B. L. Makepeace, Inc.
1266 Boylston Street
Boston, Massachusetts
617-267-2700

Bidders requesting that Contract Documents be mailed to them shall include a separate treasurer's or cashier's check in the amount of $50.00 for each set, payable to the Boston Housing Authority, to cover mailing and handling costs.

All bidders, including subcontractors and suppliers, must register with the Authority's Contract Office in order to receive Addenda from the Authority.

The Contract Documents may be reviewed at:

F. W. Dodge Corporation, 858 Park Square Building, Boston, Mass.

Master Builder's Association, 383 Dorchester Avenue, South Boston, Mass.

Scan Microfilm System (Plan Room), 858 Park Square Building, Boston, Mass.

The Boston Housing Authority reserves the right to waive any informalities in or to reject any or all bids if it is in the public interest to do so.

The funds for work to be performed under this Contract are from the Commonwealth of Massachusetts, Executive Office of Communities and Development, and from the City of Boston Community Development Block Grant Funds.

This project is one of the first three efforts by the Boston Housing Authority to substantially rehabilitate its public housing developments. In addition, its importance has been given special recognition by the Legislature of the Commonwealth, which has authorized a special appropriation and bidding process (M.G.L. Chapter 30) for the accomplishment of the project.

The Authority expects the Contractor who is awarded this Contract to have had significant experience with similar projects having CPM management and Contract administration requirements.

BOSTON HOUSING AUTHORITY.
By: Lewis H. Spence,
Receiver/Administrator.

Date: March 14, 1983

Mar. 16 23

MORTGAGEE'S SALE OF REAL ESTATE

Premises: 49 Thetford Avenue, Dorchester, Massachusetts

By virtue and in execution of the Power of Sale contained in a certain mortgage given by Paul A. Robinson to the Secretary of Housing and Urban Development said mortgage dated March 12, 1979, and recorded with Suffolk County Registry of Deeds in Book 9159, Page 109, of which mortgage the undersigned is the present holder, for breach of the conditions in said mortgage contained and for the purpose of foreclosing the same will be sold at Public Auction at 11:00 a.m. on Tuesday, April 5, 1983 upon the premises at 49 Thetford Avenue, Dorchester, Massachusetts, all and singular the premises described in said mortgage, to wit: "A certain parcel of land with all the buildings and structures now or hereafter standing or placed thereon, situated in Dorchester, in the County of Suffolk and Commonwealth of Massachusetts, bounded and described as follows: EASTERLY by Thetford Avenue, sixty (60') feet; SOUTHERLY by Lot 12, as shown on a plan hereinafter, one hundred forty-one and 8/10 (141.8') feet; WESTERLY by land now or formerly of Davis, as shown on said plan sixty (60') feet; and NORTHERLY by Lot 10, as shown on said plan, one hundred forty-three (143') feet. Containing, 8,544 square feet of land and being the same premises shown as Lot 11 on a plan entitled, "Plan of House Lots in Ward 16, Boston," drawn by Whitman & Breck, Surveyors, and dated May, 1873, recorded with Suffolk County Registry of Deeds in Book 1213, Page 100. Being the same premises conveyed to me by Deed from the Secretary of Housing and Urban Development to be recorded herewith." The present holder of said above described mortgage is The Lomas & Nettleton Company by virtue of Assignment of Mortgage to it from Samuel R. Pierce, Jr., as Secretary of Housing and Urban Development, said Assignment dated July 23, 1982, and recorded with Suffolk County Registry of Deeds in Book 10039, Page 204, which mortgage had been assigned to said Secretary by Assignment of Mortgage from Federal National Mortgage Association dated November 18, 1980, and recorded with said Registry of Deeds in Book 9603, Page 254, which said mortgage had been assigned to Federal National Mortgage Association by Assignment of Mortgage from Secretary of Housing and Urban Development dated March 12, 1979, and recorded with said Registry of Deeds in Book 9159, Page 112. TERMS OF SALE: Said premises will be sold and conveyed subject to all unpaid taxes, tax titles, municipal liens and assessments, if any, which take precedence over the said mortgage above described. Three Thousand ($3,000.00) Dollars of the purchase price must be paid in cash, certified check, bank treasurer's or cashier's check at the time and place of the sale by the purchaser and the balance of the purchase price shall be paid in cash, certified check, bank treasurer's or cashier's check within thirty (30) days after the date of sale and shall be deposited in escrow with J. Patrick Kinhan, Esq., 21 Front Salem, Massachusetts, pending approval of the sale by the Land Court. The deed shall be delivered within ten (10) days from the date of approval of the sale by the Land Court. Other terms to be announced at the sale. THE LOMAS & NETTLETON COMPANY. Present Holder of said Mortgage. By its Attorney-in-Fact, J. Patrick Kinhan, Esq., 21 Front Street, Salem, Massachusetts, 01970
TEL: (617) 741-1528
March 3, 1983

Mar 9, 16, 23

LEGAL NOTICE NOTICE OF PROPOSED BANK MERGER

Notice is hereby given that BayBank Middlesex, Burlington, Massachusetts, has made application to the Federal Deposit Insurance Corporation, Washington, D.C. 20429, for its written consent to merge with BayBank and Trust Company, Beverly, Massachusetts. It is contemplated that all of the offices of the above-named banks will continue to be operated.

This notice is published pursuant to Section 18(c) of the Federal Deposit Insurance Act.

Any person wishing to comment on this application may file his/her comments in writing with the Regional Director of the Federal Deposit Insurance Corporation at its Regional Office, 60 State Street, Boston, Massachusetts 02109. If any person desires to protest the granting of this application, he/she has a right to do so if he/she files a written notice of his/her intent with the Regional Director by April 30, 1983. The nonconfidential portions of the application are on file in the Regional Office as part of the public file maintained by the Corporation. This file is available for public inspection during regular business hours.

March 15, 1983
Baybank Middlesex,
Burlington, Massachusetts
BayBank and Trust Company,
Beverly, Massachusetts

Mar 16, 23, 30
Apr. 6, 13, 15

MORTGAGEE'S SALE OF REAL ESTATE

Premises: 25 Bellevue Street, Dorchester, Massachusetts

By virtue and in execution of the Power of Sale contained in a certain mortgage given by Roger L. Morris and Dolores J. Morris to Federal National Mortgage Association, said mortgage dated August 9, 1973, and recorded with Suffolk County Registry of Deeds in Book 8652, Page 61, of which mortgage the undersigned is the present holder, for breach of the conditions in said mortgage contained and for the purpose of foreclosing the same will be sold at Public Auction at 10:00 a.m. on Tuesday, April 5, 1983, upon the premises at 25 Bellevue Street, Dorchester, Massachusetts, all and singular the premises described in said mortgage, to wit: "A certain parcel of land with all the buildings and structures now or hereafter standing or placed thereon, situated in Dorchester, in the County of Suffolk and Commonwealth of Massachusetts, bounded and described as follows: All that certain tract or parcel of land, situate, lying and being in the Dorchester district of Boston, County of Suffolk, State of Massachusetts, the land in the Dorchester District, being now numbered 25 Bellevue Street and being shown as Lot 5 on a plan made by Charles H. W. Wood, Surveyor, recorded with Suffolk Deeds at the end of Record Book 2397, being bounded and described as follows: SOUTHEASTERLY: by said Bellevue Street, fifty (50) feet; SOUTHWESTERLY: by Lot 4 on said plan, eighty-eight and 05/100 (88.05) feet; NORTHWESTERLY: by Lots 8 and 9 on said plan, fifty and 64/100 (50.64) feet; NORTHEASTERLY: by Lot 6 on said plan, eighty (80) feet. Containing 4,201 square feet of land. Said conveyance is made subject to all covenants, restrictions, easements, reservations, conditions, and rights appearing of record against the above-described property; also subject to any state of facts which an accurate survey of said property would show. For Mortgagor's title see deed of Housing and Urban Development recorded herewith." TERMS OF SALE: Said premises will be sold and conveyed subject to all unpaid taxes, tax titles, municipal liens and assessments, if any, which take precedence over the said mortgage above described. Twenty-five Hundred ($2,500.00) Dollars of the purchase price must be paid in cash, certified check, bank treasurer's or cashier's check at the time and place of the sale by the purchaser and the balance of the purchase price shall be paid in cash, certified check, bank treasurer's or cashier's check within thirty (30) days after the date of sale and shall be deposited in escrow with J. Patrick Kinhan, Esq., 21 Front Street, Salem, Massachusetts, pending approval of the sale by the Land Court. The deed shall be delivered within ten (10) days from the date of approval of the sale by the Land Court. Other terms to be announced at the sale. FEDERAL NATIONAL MORTGAGE ASSOCIATION, Present Holder of said Mortgage. By its Attorney-in-Fact, J. Patrick Kinhan, Esq., 21 Front Street, Salem, Massachusetts 01970. Tel.: (617) 741-1528.

Dated: March 3, 1983

Mar. 9 16 23

PUBLIC NOTICE RELATIVE TO ZONING

CITY OF CAMBRIDGE MASSACHUSETTS

Office of the City Clerk

Notice is hereby given that in accordance with the provisions of Chapter 40A, Section 5 of the General Laws, Tercentenary Edition and amendments thereto, that the Committee on Ordinances, comprised of the entire membership of the City Council, will hold a public hearing on Wednesday, March 30, 1983, at 6:00 p.m. in the City Council Chamber, City Hall, Cambridge, on the petition of Councillor David Sullivan to amend the text of the Zoning Ordinance as follows:

1. In Article 2.000, Definitions, add the following new definition at its appropriate alphabetical location: "Affiliate housing. Any dwelling (other than a dormitory or a sorority or fraternity house) owned or controlled by an educational institution and occupied primarily by persons who are employed or enrolled at the educational institution."
2. In section 4.33, of the Table of Use Regulations (Institutional Uses), subsection (b), Educational Purposes, add to line 7 the words, "or affiliate housing."
3. In section 4.56, Table of Institutional Use Regulations, subsection (c), add to the line 8 the words, "or affiliate housing."

Copies of this petition are on file in the Office of the City Clerk, City Hall, Cambridge, Massachusetts.

All persons interested in this matter may appear at this time and be heard.

For the Committee, Councillor WALTER J. SULLIVAN, Chairman.

Mar. 16

MORTGAGEE'S SALE OF REAL ESTATE

By virtue and in execution of the Power of Sale contained in a certain mortgage given by Richard Wells and Eula M. Wells to The Provident Institution for Savings in the Town of Boston dated February 19, 1970 recorded with the Suffolk County Registry of Deeds in Book 8347, Page 204, of which mortgage the undersigned is the present holder, for breach of the conditions of said mortgage and for the purpose of foreclosing, the same will be sold at public auction at 10 a.m. on the thirteenth day of April, 1983 at the mortgaged premises, 671 Walk Hill Street, Mattapan, Massachusetts, all and singular the foreclosing premises described in said mortgage, to wit: "A certain parcel of land with all the buildings and structures now or hereafter standing or placed thereon, situated in that part of Boston called Mattapan, in the County of Suffolk and Commonwealth of Massachusetts, bounded and described as follows: NORTHEASTERLY by Walk Hill Street, fifty-one and 52/100 (51.52) feet; SOUTHEASTERLY by land of owners unknown, as shown on a plan hereinafter mentioned, eighty five and 13/100 (85.13) feet; SOUTHWESTERLY by land of owners unknown, as shown on said plan, fifty-one (51) feet; NORTHWESTERLY by Lot A, as shown on said plan, ninety-two and 68/100 (92.68) feet. Containing 4,534, square feet of land and being shown as Lot B on a plan drawn by H.A. Sherman, C.E., dated April 12, 1928, and recorded with Suffolk County Registry of Deeds in Book 5002, Page 381. For title see deed from Ida Mindick to Morris E. Isseroff et ux, dated January 16, 1967, and recorded with said Deeds in Book 8092, Page 381; and see deed to these grantors to be recorded herewith. Including as part of the realty all portable or sectional buildings at any time placed upon said premises and all furnaces, ranges, heaters, plumbing, gas and electric fixtures, screens, mantels, shades, screen doors, storm doors and windows, oil burners, gas or electric refrigerators and all other fixtures of whatever kind and nature at present or hereafter installed in or on the granted premises in any manner which renders such articles usable in connection therewith, so far as the same are, or can by agreement of parties be made, a part of the realty." Terms of Sale: The mortgaged premises will be offered for sale at the mortgaged premises, 671 Walk Hill Street, Mattapan, Massachusetts at 10 a.m., April 13, 1983. One Thousand Seven Hundred Dollars ($1,700.00) is to be paid by the purchaser as a deposit at the time and place of the sale. The balance of the purchase price is to be paid against delivery of the deed at 11:00 a.m. on or before May 13, 1983 at the offices of John R. Walkey, Esquire, Choate, Hall & Stewart, 60 State Street, Boston, Massachusetts 02109. All payments shall be in cash or by certified or bank cashier's or bank treasurer's checks or checks drawn on "Boston Funds" so called, payable to the Provident Institution for Savings in the Town of Boston, without endorsement. The mortgaged premises will be sold subject to liens, if any, for unpaid taxes and municipal assessments, betterments or other charges. Other terms, if any, to be announced at the sale. THE PROVIDENT INSTITUTION FOR SAVINGS IN THE TOWN OF BOSTON. By Thomas S. Zocco, President. The Provident Institution for Savings in the Town of Boston, 30 Winter Street, Boston, MA 02109. (617) 423-9600. DATED: March 10, 1983. John R. Walkey, Esquire, Choate, Hall & Stewart, 60 State Street, Boston, MA 02109. Attorney for the Mortgagee.

March 16, 23, 30

COMMONWEALTH OF MASSACHUSETTS. Middlesex, ss. PROBATE COURT. Case No. A21770. To **John David Reed**, of parts unknown, represented to be the parent of **Jason John Reed**, a minor child received by the The Florence Crittenton League of Lowell, Inc., under the provisions of General Laws, Chapter 119, Section 23. A petition has been presented to said Court by The Florence Crittenton League of Lowell, Inc., of Lowell, praying that said Court establish that the consent of said parent shall not be required upon a petition for adoption of said minor sponsored by your petitioner, as provided by the General Laws, Chapter 210, Section 3, as most recently amended by Chapter 552 of the Acts of 1978. If you desire to object thereto, you or your attorney should file a written appearance in said Court at Cambridge before ten o'clock in the forenoon on the sixteenth day of May 1983, the return day of this citation. Witness, **Sheila E. McGovern**, Esquire, First Judge of said Court, this twenty-eighth day of February 1983. PAUL J. CAVANAUGH, Register.

Mar. 9, 16, 23

MORTGAGEE'S SALE OF REAL ESTATE AT 4 WINTHROP STREET, EAST BOSTON, MASSACHUSETTS

BY VIRTUE AND IN EXECUTION OF THE POWER OF SALE CONTAINED IN A CERTAIN MORTGAGE given by Sean F. Daley to the Haymarket Cooperative Bank dated March 24, 1982, and recorded with Suffolk County Registry of Deeds in Book 9928, Page 245, of which mortgage the undersigned is the present holder for a breach of the conditions of said Mortgage, and for the purpose of foreclosing the same, will be sold at public auction at 11:00 A.M. on the 12th day of April, 1983, on the mortgaged premises at 4 Winthrop Street, East Boston, Massachusetts, all and singular the premises described in said Mortgage, to wit: The land with the buildings thereon situated in that part of Boston called East Boston, now numbered 4 Winthrop Street, being bounded and described as follows: Beginning at a point in the Northeasterly line of Winthrop Street, distant Sixty-six (66) feet Southeasterly from Paris Street, thence running: SOUTHEASTERLY on said line of Winthrop Street, twenty-two (22) feet; thence turning and running NORTHEASTERLY fifty-two (52) feet and six (6) inches; thence turning and running NORTHWESTERLY twenty-two (22) feet; thence turning and running SOUTHWESTERLY fifty-two (52) feet and six (6) inches to the point of beginning. Containing 1,100 square feet of land. For my title see Deed from John J. Schiveree to me dated February 1, 1982, recorded with Suffolk Deeds, in Book 9905, Page 463, and also confirmatory deed recorded herewith. TERMS OF SALE: $5,000 Dollars in cash or certified check shall be paid by the purchaser at the time and place of sale. The above-described premises are conveyed subject to and with the benefit of all restrictions, easements, improvements, outstanding tax titles, municipal or other public taxes, assessments, federal and state tax liens, and other claims in the nature of liens, and existing encumbrances of record created prior to the Mortgage whether or not reference to such restrictions, easements, improvements, liens or encumbrances is made in the Deed. The balance is to be paid in cash or by certified check within twenty (20) days thereafter to be deposited in escrow with the firm of ALOISI & ALOISI pending approval of the sale by the Land Court Department of the Trial Court. Deed to be taken within ten (10) days from the date of approval of said sale by the Land Court Department of the Trial Court. Other terms to be announced at sale. HAYMARKET COOPERATIVE BANK, present holder of said Mortgage.

BY: Aloisi & Aloisi,
131 State Street,
Suite 800,
Boston, MA 02109,
(617) 227-6272,
its Attorney.

Mar. 9 16 23

PUBLIC NOTICE RELATIVE TO ZONING

CITY OF CAMBRIDGE MASSACHUSETTS

Office of the City Clerk

Notice is hereby given that in accordance with the provisions of Chapter 40A, Section 5 of the General Laws, Tercentenary Edition and amendments thereto, that the Committee on Ordinances, comprised of the entire membership of the City Council, will hold a public hearing on Wednesday, March 30, 1983, at 6:30 p.m. in the City Council Chamber, City Hall, Cambridge, on the petition of Mayor Vellucci to amend the text of the Zoning Ordinance as follows:

1. In Article 2.000, Definitions, add the following new definition at its appropriate alphabetical location: "University owned housing. Any dwelling (other than a dormitory or a sorority or fraternity house) owned or controlled by an educational institution and occupied primarily by persons who are employed or enrolled at the educational institution; or any future institution of learning that establishes itself within the City of Cambridge under any name whatever they may adopt to identify their institution; or any dwelling unit which is sponsored by said institutions under other titles or are held under realty trusts, corporations or other legal entities which are under the direct or indirect control or supervision of the above referred to institutions";
2. In section 4.33, of the Table of Use Regulations (Institutional Uses), subsection (b), Education Purposes, add to line 7 the words "university owned housing."
3. In section 4.56, Table of Institutional Use Regulations, subsection (c), add to the line 8 the words "university owned housing."

Copies of this petition are on file in the Office of the City Clerk, City Hall, Cambridge, Massachusetts.

All persons interested in this matter may appear at this time and be heard.

For the Committee, Councillor WALTER J. SULLIVAN, Chairman.

Mar. 16

LEGAL NOTICE
The Commonwealth of Massachusetts Department of Education Division of Special Education

Sealed by qualified, responsible bidders to provide transportation services to special needs children and certain adults to and from specified educational, habitational, and pre-school programs, according to certain conditions, will be received by the Department of Education, Division of Special Education, at the following sites and dates and will be then and there publicly opened and read:

Springfield Regional Center, 88 Massasoit Avenue, West Springfield, MA 01089. Massasoit Conference Room, 10:30 A.M. on Wednesday, May 4, 1983 and May 18, 1983.

Department of Education, Quincy Center Plaza, 1385 Hancock Street, Quincy, MA 02169, First Floor Board Conference Room, 10:30 A.M. on Friday, May 13, May 27, June 10, June 24, and July 8, 1983.

Three pre-bid conferences will be held at 10:30 A.M. at the following locations and dates for the purpose of reading and establishing policy regarding bid specifications, contracts and eligibility:

Springfield Regional Educational Center, 88 Massasoit Avenue, West Springfield, MA 01089, Massasoit Conference Room, April 11, 1983.

Department of Education, Quincy Center Plaza, 1385 Hancock Street, Quincy, MA 02169, First Floor Board Conference Room, April 13, 1983.

Central Massachusetts Regional Education Center, Route 140, Beaman Street, West Boylston, MA 01583, Auditorium Conference Room, April 15, 1983.

Copies of statutory and regulatory requirements, together with all necessary information and instructions to qualify as a bidder, will be available on and after April 11, 1983, by contacting Daniel McGonagle, Department of Education, Bureau of Management, Quincy Center Plaza, Quincy, MA 02169, telephone number 617-770-7464.

Roger W. Brown,
Associate Commissioner,
Division of Special Education

Mar. 16, 17, 18

COMMONWEALTH OF MASSACHUSETTS. LAND COURT DEPARTMENT OF THE TRIAL COURT. Case No. 109609. (SEAL). to Frederick Allington, Jr. and Patricia Allington, both of Hyde Park, Suffolk County; David A. Kahalas and Stanley H. Cooper, both of Boston, Suffolk County, all of said Commonwealth: and to all persons entitled to the benefit of the Soldiers' and Sailors' Civil Relief Act of 1940 as amended: Neworld Bank for Savings, formerly know as Charlestown Savings Bank, a duly existing corporation having an usual place of business in Boston, Suffolk County, and said Commonwealth; claiming to be the holder of a mortgage covering real property in said Hyde Park District of Boston, numbered 194 Sherrin Street, given by Frederick Allington, Jr. and Patricia Allington to Charlestown Savings Bank, now known as Neworld Bank for Savings, dated October 5, 1978, recorded with Suffolk County Registry of Deeds, Book 9104, Page 75, has filed with said court a complaint for authority to foreclose said mortgage in the manner following: by entry and possession and exercise of power of sale. If you are entitled to the benefits of the Soldiers' and Sailors' Civil Relief Act of 1940 as amended and you object to such foreclosure you or your attorney should file a written appearance and answer in said court at Boston on or before the eighteenth day of April 1983, or you may be forever barred from claiming that such foreclosure is invalid under said act. Witness, WILLIAM I. RANDALL, Chief Justice of said Court this twenty-eighth day of February 1983. John G. Kelleher, Recorder.

Mar. 16

COMMONWEALTH OF MASSACHUSETTS. Suffolk, ss. PROBATE COURT. Case No. 521172. To all persons interested in the estate of **Mary A. Roach** late of Boston, in said County, deceased. A petition has been presented to said Court for the probate of a certain instrument purporting to be the last will of said deceased by **Carleton Baker** of Melrose, in the County of Middlesex, praying that he be appointed executor thereof without giving a surety on his bond. If you desire to object thereto you or your attorney should file a written appearance in said Court at Boston before ten o'clock in the forenoon on the 14th day of April 1983, the return day of this citation. You must, in addition to filing a written appearance as aforesaid, file within thirty (30) days after said return day a written statement of objections to the petition, giving specific grounds therefore. Witness, **Mary C. Fitzpatrick**, Esquire, First Judge of said Court, this 11th day of March 1983. JAMES MICHAEL CONNOLLY, Register.

Mar. 16

THE COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF PUBLIC WORKS

NOTICE OF A PUBLIC HEARING

A Public Hearing will be held by the Massachusetts Department of Public Works to discuss the proposed replacement of the Central Street Bridge over the Boston and Maine Railroad in the City of Somerville.

WHERE: Winter Hill Community School, Medford and Sycamore Streets, Somerville, Ma.

WHEN: Wednesday, March 23, 1983 — 7:00 P.M.

PURPOSE: This hearing is being held to provide the public an opportunity of becoming fully acquainted with the proposed bridge rehabilitation and related improvements. All views and comments made at this hearing will be reviewed and considered to the maximum extent possible.

PROPOSAL: The proposed project consists of replacing the existing Central Street Bridge over the Boston and Maine Railroad in its present location with improvements to the approach roadways.

Written views received by the Department subsequent to the date of this notice and up to five (5) days prior to the date of the hearing shall be displayed for public inspection and copying at the time and date listed above.

Written statements and other exhibits in place of, or in addition to, oral statements at the public hearing regarding the proposed undertaking are to be submitted to Justin L. Radlo, Chief Engineer, Massachusetts Department of Public Works, 100 Nashua Street, Boston, Massachusetts 02114. Such submission will also be acceptable at the hearing. The final date for receipt of these statements and exhibits will be ten (10) days after this public hearing.

Plans will be on display, with an engineer in attendance, at the hearing location from 6:00 P.M. to 7:00 P.M. on the hearing date.

ROBERT T. TIERNEY, Commissioner; JUSTIN L. RADLO, Chief Engineer.

Boston, Massachusetts
February 17, 1983

Feb. 23 Mar. 16

MORTGAGEE'S SALE OF REAL ESTATE

By virtue and in execution of the Power of Sale contained in a certain mortgage given by Jacqueline Hamlet to Home Savings Bank, dated May 7, 1981, and recorded with Suffolk County Registry of Deeds, Book 9746, Page 5, of which mortgage the undersigned is the present holder, for breach of the conditions of said mortgage and for the purpose of foreclosing the same will be sold at Public Auction at 10 o'clock A.M. on the 8th day of April A.D. 1983, on the premises hereinafter described all and singular the premises described in said mortgage, to wit: "A certain parcel of land with the buildings thereon now known as and numbered 103 East Brookline Street situated in Boston, Suffolk County, Massachusetts, being Lot 22 on a plan of "City Lands Sold" recorded with Suffolk County Registry of Deeds Vol. 2, Page 190, bounded and described as follows: NORTHEASTERLY by East Brookline Street, twenty-one and no/100 (21) feet; SOUTHEASTERLY by Lot 23 on said plan, seventy-six and 75/100 (76.75) feet; SOUTHWESTERLY by land of owners, unknown, twenty-one and no/100 (21) feet; NORTHWESTERLY by Lot 21 on said plan, seventy-six and 75/100 (76.75) feet. Containing, according to said plan, 1611.75 square feet of land." Terms of Sale: THREE (3,000) DOLLARS to be paid in cash or certified check by the purchaser at the time and place of sale — balance in 20 days. Other terms to be announced at the sale. Signed: HOME SAVINGS BANK, George H. Ellis, President, present holder of said mortgage.

February 22, 1983

From the office of:
Stevenson, Johnson
& Brams,
73 Tremont St.,
Boston, MA 02108.

Mar. 2 9 16

COMMONWEALTH OF MASSACHUSETTS. Suffolk, ss. PROBATE COURT. Case No. 521171. To all persons interested in the estate of **John J. Hussey** late of Boston, in said Count, deceased. A petition has been presented to said Court for the probate of a certain instrument purporting to be the last will of said deceased by **Richard A. Hussey** of Watertown, in the County of Middlesex, praying that he be appointed executor or thereof without giving a surety on his bond. If you desire to object thereto you or your attorney should file a written appearance in said Court at Boston before ten o'clock in the forenoon on the 26th day of May, 1983, the return day of this citation. You must, in addition to filing a written appearance as aforesaid, file within thirty (30) days after said return day a written statement of objections to the petition, giving specific grounds therefore. Witness, **Mary C. Fitzpatrick**, Esquire, First Judge of said Court, this 11th day of March, 1983. JAMES MICHAEL CONNOLLY, Register.

March 16

Barbara Bel Geddes stable after heart bypass surgery

From the wire services

LOS ANGELES — Actress Barbara Bel Geddes, who portrays the genteel but powerful matriarch of television's troubled "Dallas" family, underwent a quadruple bypass operation yesterday after a massive heart attack, a spokesman said.

The 60-year-old actress was listed in stable condition after the surgery, which lasted more than 4½ hours, said Bob Crutchfield of Lorimar, producers of the popular series.

Bel Geddes suffered the heart attack yesterday morning at Cedars Sinai Medical Center, where she was admitted Saturday after complaining of chest pains, said Lorimar spokeswoman Joy Daunis.

Earlier, Crutchfield said Miss Bel Geddes was undergoing "life saving surgery." But Daunis said later, "We received conflicting information in the beginning. After an angiogram, the doctors determined all she would need is a triple bypass."

Crutchfield said Bel Geddes' doctor determined during the operation that a quadruple bypass was necessary.

Her illness will not affect this year's "Dallas" whose filming was completed March 8.

Bel Geddes, the daughter of stage designer Norman Geddes, began acting on stage.

She landed the lead in Elia Kazan's "Deep Are the Roots," an interracial love story, and in 1945 won the Clarence Derwent Award as outstanding young actress.

Success led to Hollywood.

Her other Broadway credits include starring roles in "The Moon is Blue" and "Cat On A Hot Tin Roof."

Among her movie roles were "Panic In The Streets," "Vertigo," "By Love Possessed" and "The Five Pennies," her only musical.

Besides "Dallas," her numerous TV appearances have included an adaption of Thornton Wilder's "Our Town" and Alfred Hitchcock's "Lamb to the Slaughter," in which she uses a frozen leg of lamb to kill her cheating husband.

Bel Geddes, who was married to the late Windsor Lewis, has also illustrated two children's books.



Barbara Bel Geddes

Slain cop's wife bailed

Mary Sciuto pleaded innocent in Amesbury District Court yesterday in the shooting murder of her husband, Lawrence Police Capt. Stephen S. Sciuto Jr., at their Salisbury Beach summer home last week.

Sciuto, 49, a 25-year veteran of the police force, was shot four times in the chest with a small-caliber gun March 9.

Yesterday, Judge Louis Cyr released Mary Sciuto after her family posted real estate to cover the $100,000, double-surety bail.

Cyr was told by attorneys that the alleged murder occurred after a marital incident and Mrs. Sciuto had no "propensity to further violence."

Defense attorney Carmine D'Iadamo said he hoped to show that alleged homicide was "justifiable" when the case goes to trial.

Although an April 15 probable cause date has been set in Amesbury District Court, it is expected the Essex County District Attorney's office will seek an indictment before that time, moving the case to the Superior Court level.



Mary D. Sciuto, 49, pleads innocent to the murder of her husband, Stephen, a Lawrence police captain.

Oil battle heating up

Soviets slash price; Brits hold the key

LONDON (UPI) — The Soviet Union undercut OPEC's $29-a-barrel price for crude yesterday, but Britain, whose reaction traders say will determine the global oil market's shape, gave no hint it would cut its oil prices.

In Britain's first official comment on the Organization of Oil Exporting Countries' decision Monday to cut its $34 a barrel base price by 15 percent, the Chancellor of the Exchequer said a moderate reduction was welcomed.

Sir Geoffrey Howe, in presenting Britain's 1983-84 budget, said that "though sharp swings in the oil prices are in no one's interest, moderate reductions mean lower inflation abroad, and lower prices here.

"The fall in the general level of world oil prices is therefore to be welcomed," the chancellor told Parliament.

There was no hint in the speech, however, of how non-OPEC Britain's state-run National Oil Corporation intended to respond to the 13-nation cartel's first price cut in its 23-year history.

Industry sources said the Soviet Union, which is the world's largest producer, selling about 1 million barrels a day to Western Europe, was offering its Urals crude at $27 a barrel from northern ports and $28 from Mediterranean terminals retroactive to March 1.

The new prices showed a $1.25 cut on the Mediterranean shipments and a $2.15 cut on the northern cargoes, the sources said.

The spot market in Rotterdam was mixed. But market analysts said the spot market trends and the Soviet price cut were not good indicators of the outcome of the OPEC accord.

Leading traders speculated Britain's reaction would determine the shape of the market.

A 50-cent cut would bring North Sea prices at par with those of comparable Nigerian crudes, but a $1 cut would invite price-cutting by OPEC.

Financially strapped Nigeria, which cut its price by $5.50 a barrel last month to compete with North Sea oil, was allowed to keep its price at $30 as a "temporary exception" under the OPEC agreement.

Of the 13 OPEC members, Iran reserved its decision on the price cut but accepted its production quota of 2.4 million barrels a day

The first non-OPEC oil country to respond to the cartel's cut was Mexico, the United States' largest oil supplier, which Monday reduced the price of its high-grade oil $5.50 to $29 a barrel and promised to keep production to 3 million barrels a day.

It's legal if churches don't pay

By PETER SLEEPER

Boston Corporation Counsel James P. McGuire ruled yesterday that excepting churches from the new fire service fee is legal.

"It is my opionion that the proposed exemption will withstand a consitutional challenge and that the auhhority to grant such an exemption should be sought from the General Court," he said in a March 15 advisory opinion for Councilor Raymoand Flynn.

Last week, responding to protests from Small churches faced with fire service fee bills of thousands of dollars, the Council hurriedly approved a home rule petition and a city ordinance, to exempt houses of worship.

But Councilor Michael McCormack raised the possibility that such an exemption would violate the U.S. Consitution's equal protection clause.

Emerson College is suing in court for an exemption from the fire fee on the grounds that it, like churches, is tax exempt. McGuire did not address the issue of educational institutions in his opinion, but later said there was a "clear distinction" between churches and colleges.

The Council-approved home rule petition, sponsored by Councilor Christopher Iannella, is likely to receive the signature of Mayor Kevin H. White. It still requires approval by the Legislature and the governor.Flynn sponsored the ordinance, which McGuire said was not the appropriate legislative vehicle.

McQuire also stated the fire service fee, imposed on owners of large buildings that require extraordinary fire protection, is valid. Councilor Frederick Langone, despite his support for the fee last year, last week questioned its validity.

"An argument might be made that the proposed exemption consitutes an establishment of religion in violation of the First Amendment," McGuire wrote." Given the hardship that paying the (fee) would apparently impose on some religious congregations. . .failure to exempt houses of worship could quite possibly be an unconstitutional infringement on the right of free exercise of religion."

Help's coming for the elderly

The Massachusetts House gave initial approval to a $3.1 million supplemental budget yesterday for the state home care program, which is running out of money.

The budget requires another House vote and approval in the Senate before going to the governor.

The program helps more than 41,000 housebound senior citizens. It is designed to keep the elderly out of nursing homes by providing delivered meals, transportation, companionship and other services.

Richard Rowland, state secretary of elder affairs, says the program is running out of funds. He said many of the non-profit home care corporations that provide the services are losing money and threatening to close in April.

Legal Notices Legal Notices Legal Notices Legal Notices Legal Notices Legal Notices Legal Notices

NOTICE TO CONTRACTORS

BOSTON HOUSING AUTHORITY

The Boston Housing Authority, the Awarding Authority, invites sealed bids for the West Broadway Development Renewal Project, State One, Boston 200-1, located at West Broadway and D Streets, South Boston, Massachusetts, in accordance with documents prepared by the West Broadway Team, a Joint Venture of Goody, Clancy & Associates and Lane, Frenchman, and Associates, Inc., located at 334 Boylston Street, Boston, Massachusetts 02116.

Bids will be received at the Authority's Contract Office, 8th Floor, 52 Chauncy Street, Boston, Massachusetts, until 3:00 p.m., Wednesday, May 4, 1983. Bids must be received before this time to be considered. Immediately following, the bids will be publicly opened and read aloud.

The work includes the extensive renovation and reconstruction of 12 residential buildings within the State One project area, involving approximately one-half of the existing development. A total of 248 renovated dwelling units are to be provided, as well as a new electrical distribution system, site work and utilities. Alternates will be bid which would provide up to 93 additional renovated dwelling units, additional community facilities, a new Management Building and related site work.

Bid forms and bidding information may be obtained, without charge, from the Authority at the above address.

If mailed, bids should be sent to:

Boston Housing Authority
52 Chauncy Street
8th Floor, Contract Office
Boston, Massachusetts 02111

Bids shall be accompanied by a bid deposit in the form of a bid bond, cash, or a certified check on, or a treasurer's or cashier's check issued by, a responsible bank or trust company, payable to the Boston Housing Authority in the amount of Seven Hundred Seventy-Five Thousand Dollars ($775,000.00).

Bids are subject to the provisions of the M.G.L., Chapter 30, Section 39M. Wages are subject to the minimum wage rates as described in M.G.L., Chapter 149, Section 26 to 27D inclusive and as determined by the Secretary of the United States Department of Labor. The successful bidder will be required to furnish a Performance Bond and a Labor and Materials Bond, each in the full amount of the contract price as awarded.

The following PRE-BID INSPECTIONS are scheduled:

Inspection of building cellars, common stairways presently in use, roofs and representative vacant apartments, as well as the overall site and building exteriors — 9:30 a.m. to 12:00 Noon on Wednesday, April 6, 1983; Wednesday, April 13, 1983; and Wednesday, April 20, 1983.

Inspection of building and apartment interiors of two representative portions of unoccupied and secured buildings ("mothballed addresses") — 9:30 a.m. to Noon on Wednesday, April 20, 1983.

All persons participating in these inspections should first report to the Management Office, 225 West Broadway, South Boston, Massachusetts. Inspections will be organized as tours, and each will be accompanied by a representative of the Architect. Tours will leave the Management Office at 9:30 and 10:45 a.m. each day inspections are scheduled.

Prospective bidders are encouraged to limit site visits to these times and dates. All persons visiting the site at other times must do so between 9 a.m. and 4 p.m., must first report to the Management Office, and must notify the Development Manager of their presence on site. No access will be provided to building interiors except during the above scheduled times and dates.

There will be a PRE-BID CONFERENCE at the offices of the Boston Housing Authority, 9th Floor Conference Room, 52 Chauncy Street, Boston, Mass., on Thursday, April 14, 1983, at 2:00 p.m.

MINORITY PARTICIPATION:

The bidder's attention is called to the Boston Housing Authority Minority Participation Provision contained in the Bidding and Contract Requirements of the Contract Documents, describing affirmative action requirements for this Contract.

IN ORDER FOR ITS BID TO BE DETERMINED ELIGIBLE FOR AWARD OF THIS CONTRACT THE BIDDER MUST GIVE SATISFACTORY ASSURANCE AS REQUIRED BY THE MINORITY PARTICIPATION PROVISION THAT IT SHALL MAINTAIN A RATIO OF AT LEAST 12% MINORITY EMPLOYEE PERSON HOURS TO TOTAL PERSON HOURS IN EACH JOB CATEGORY AND THAT AT LEAST 10% OF ITS CONTRACT PRICE SHALL BE EXPENDED FOR MINORITY BUSINESS ENTERPRISES, AT LEAST 75% OF THIS LATTER REQUIREMENT TO BE SATISFIED BY USE OF MINORITY CONSTRUCTION CONTRACTORS. FOR DEFINITION OF THE TERMS IN THIS PARAGRAPH, SEE SECTION 1 OF THE MINORITY PARTICIPATION PROVISION.

Each bidder must complete, sign and file with its bid the "Contractor's Certification of Compliance with Minority Participation Provision (Hiring)"; the "Minority Business Utilization Form" and (unless otherwise provided in the Minority Participation Provision) a "Minority Business Identification Statement" for each proposed Minority Business Enterprise. Other information relevant to affirmative action compliance may be required of certain bidders after the date of bid opening.

RESIDENT EMPLOYMENT:

The bidder's attention is called to the Boston Housing Authority's Resident Employment Provision contained in the Bidding and Contract Requirements of the Contract Documents, describing resident employment requirements for this Contract.

IN ORDER FOR ITS BID TO BE DETERMINED ELIGIBLE FOR AWARD OF THIS CONTRACT, THE BIDDER MUST GIVE SATISFACTORY ASSURANCE THAT IT SHALL MEET THE REQUIREMENTS OF THE RESIDENT EMPLOYMENT PROVISION. EACH BIDDER MUST COMPLETE, SIGN, AND FILE WITH ITS BID THE "RESIDENT EMPLOYMENT CERTIFICATION." OTHER INFORMATION RELEVANT TO COMPLIANCE WITH THIS PROVISION MAY BE REQUIRED AFTER THE DATE OF THE GENERAL BID OPENING.

Contract Documents will be available to prospective bidders on Monday, March 21, 1983, after 1:00 p.m., at the Authority's Contract Office, 8th Floor, 52 Chauncy Street, Boston, Massachusetts.

Contract Documents may be obtained at the Authority's Contract Office upon deposit of a certified treasurer's or cashier's check for $100.00 per set, payable to the Boston Housing Authority. This deposit will be refunded for one set for each bidder upon return of the set in good condition to the Authority within thirty (30) calendar days after the opening of bids. Otherwise the deposit shall be the property of the Boston Housing Authority. Additional sets may be purchased at the same office for $100.00 (non-refundable).

Partial sets (sections of specifications and individual sheets of drawings) may be obtained separately from the printers for the cost of reproduction at

B. L. Makepeace, Inc.
1266 Boylston Street
Boston, Massachusetts
617-267-2700

Bidders requesting that Contract Documents be mailed to them shall include a separate treasurer's or cashier's check in the amount of $50.00 for each set, payable to the Boston Housing Authority, to cover mailing and handling costs.

All bidders, including subcontractors and suppliers, must register with the Authority's Contract Office in order to receive Addenda from the Authority.

The Contract Documents may be reviewed at:

F. W. Dodge Corporation, 858 Park Square Building, Boston, Mass.

Master Builder's Association, 383 Dorchester Avenue, South Boston, Mass.

Scan Microfilm System (Plan Room), 858 Park Square Building, Boston, Mass.

The Boston Housing Authority reserves the right to waive any informalities in or to reject any or all bids if it is in the public interest to do so.

The funds for work to be performed under this Contract are from the Commonwealth of Massachusetts, Executive Office of Communities and Development, and from the City of Boston Community Development Block Grant Funds.

This project is one of the first three efforts by the Boston Housing Authority to substantially rehabilitate its public housing developments. In addition, its importance has been given special recognition by the Legislature of the Commonwealth, which has authorized a special appropriation and bidding process (M.G.L. Chapter 30) for the accomplishment of the project.

The Authority expects the Contractor who is awarded this Contract to have had significant experience with similar projects having CPM management and Contract administration requirements.

BOSTON HOUSING AUTHORITY.
By: Lewis H. Spence,
Receiver/Administrator.
Date: March 14, 1983
Mar. 16 23

MORTGAGEE'S SALE OF REAL ESTATE

Premises: 49 Thetford Avenue, Dorchester, Massachusetts

By virtue and in execution of the Power of Sale contained in a certain mortgage given by Paul A. Robinson to the Secretary of Housing and Urban Development said mortgage dated March 12, 1979, and recorded with Suffolk County Registry of Deeds in Book 9159, Page 109, of which mortgage the undersigned is the present holder, for breach of the conditions in said mortgage contained and for the purpose of foreclosing the same will be sold at Public Auction at 11:00 a.m. on Tuesday, April 5, 1983 upon the premises at 49 Thetford Avenue, Dorchester, Massachusetts, all and singular the premises described in said mortgage, to wit: "A certain parcel of land with all the buildings and structures now or hereafter standing or placed thereon, situated in Dorchester, in the County of Suffolk and Commonwealth of Massachusetts, bounded and described as follows: EASTERLY by Thetford Avenue, sixty (60') feet; SOUTHERLY by Lot 12, as shown on a plan hereinafter, one hundred forty-one and 8/10 (141.8') feet; WESTERLY by land now or formerly of Davis, as shown on said plan sixty (60') feet; and NORTHERLY by Lot 10, as shown on said plan, one hundred forty-three (143') feet. Containing, 8,544 square feet of land and being the same premises shown as Lot 11 on a plan entitled, "Plan of House Lots in Ward 16, Boston," drawn by Whitman & Breck, Surveyors, and dated May, 1873, recorded with Suffolk County Registry of Deeds in Book 1213, Page 100. Being the same premises conveyed to me by Deed from the Secretary of Housing and Urban Development to be recorded herewith." The present holder of said above described mortgage is The Lomas & Nettleton Company by virtue of Assignment of Mortgage to it from Samuel R. Pierce, Jr., as Secretary of Housing and Urban Development, said Assignment dated July 23, 1982, and recorded with Suffolk County Registry of Deeds in Book 10039, Page 204, which mortgage had been assigned to said Secretary by Assignment of Mortgage from Federal National Mortgage Association dated November 18, 1980, and recorded with said Registry of Deeds in Book 9603, Page 254, which said mortgage had been assigned to Federal National Mortgage Association by Assignment of Mortgage from Secretary of Housing and Urban Development dated March 12, 1979, and recorded with said Registry of Deeds in Book 9159, Page 112. TERMS OF SALE: Said premises will be sold and conveyed subject to all unpaid taxes, tax titles, municipal liens and assessments, if any, which take precedence over the said mortgage above described. Three Thousand ($3,000.00) Dollars of the purchase price must be paid in cash, certified check, bank treasurer's or cashier's check at the time and place of the sale by the purchaser and the balance of the purchase price shall be paid in cash, certified check, bank treasurer's or cashier's check within thirty (30) days after the date of sale and shall be deposited in escrow with J. Patrick Kinhan, Esq., 21 Front Salem, Massachusetts, pending approval of the sale by the Land Court. The deed shall be delivered within ten (10) days from the date of approval of the sale by the Land Court. Other terms to be announced at the sale. THE LOMAS & NETTLETON COMPANY. Present Holder of said Mortgage. By its Attorney-In-Fact. J. Patrick Kinhan, Esq., 21 Front Street, Salem, Massachusetts, 01970
TEL: (617) 741-1528
March 3, 1983
Mar 9, 16, 23

LEGAL NOTICE NOTICE OF PROPOSED BANK MERGER

Notice is hereby given that BayBank Middlesex, Burlington, Massachusetts, has made application to the Federal Deposit Insurance Corporation, Washington, D.C. 20429, for its written consent to merge with BayBank and Trust Company, Beverly, Massachusetts. It is contemplated that all of the offices of the above-named banks will continue to be operated.

This notice is published pursuant to Section 18(c) of the Federal Deposit Insurance Act.

Any person wishing to comment on this application may file his/her comments in writing with the Regional Director of the Federal Deposit Insurance Corporation at its Regional Office, 60 State Street, Boston, Massachusetts 02109. If any person desires to protest the granting of this application, he/she has a right to do so if he/she files a written notice of his/her intent with the Regional Director by April 30, 1983. The nonconfidential portions of the application are on file in the Regional Office as part of the public file maintained by the Corporation. This file is available for public inspection during regular business hours.

March 15, 1983
Baybank Middlesex,
Burlington, Massachusetts
BayBank and Trust Company,
Beverly, Massachusetts
Mar 16, 23, 30
Apr. 6, 13, 15

MORTGAGEE'S SALE OF REAL ESTATE

Premises: 25 Bellevue Street, Dorchester, Massachusetts

By virtue and in execution of the Power of Sale contained in a certain mortgage given by Roger L. Morris and Dolores J. Morris to Federal National Mortgage Association, said mortgage dated August 9, 1973, and recorded with Suffolk County Registry of Deeds in Book 8652, Page 61, of which mortgage the undersigned is the present holder, for breach of the conditions in said mortgage contained and for the purpose of foreclosing the same will be sold at Public Auction at 10:00 a.m. on Tuesday, April 5, 1983, upon the premises at 25 Bellevue Street, Dorchester, Massachusetts, all and singular the premises described in said mortgage, to wit: "A certain parcel of land with all the buildings and structures now or hereafter standing or placed thereon, situated in Dorchester, in the County of Suffolk and Commonwealth of Massachusetts, bounded and described as follows: All that certain tract or parcel of land, situate, lying and being in the Dorchester district of Boston, County of Suffolk, State of Massachusetts, the land in the Dorchester District, being now numbered 25 Bellevue Street and being shown as Lot 5 on a plan made by Charles H. W. Wood, Surveyor, recorded with Suffolk Deeds at the end of Record Book 2397, being bounded and described as follows: SOUTHEASTERLY: by said Bellevue Street, fifty (50) feet; SOUTHWESTERLY: by Lot 4 on said plan, eighty-eight and 05/100 (88.05) feet; NORTHWESTERLY: by Lots 8 and 9 on said plan, fifty and 64/100 (50.64) feet; NORTHEASTERLY: by Lot 6 on said plan, eighty (80) feet. Containing 4,201 square feet of land. Said conveyance is made subject to all covenants, restrictions, easements, reservations, conditions, and rights appearing of record against the above-described property; also subject to any state of facts which an accurate survey of said property would show. For Mortgagor's title see deed of Housing and Urban Development recorded herewith." TERMS OF SALE: Said premises will be sold and conveyed subject to all unpaid taxes, tax titles, municipal liens and assessments, if any, which take precedence over the said mortgage above described. Twenty-five Hundred ($2,500.00) Dollars of the purchase price must be paid in cash, certified check, bank treasurer's or cashier's check at the time and place of the sale by the purchaser and the balance of the purchase price shall be paid in cash, certified check, bank treasurer's or cashier's check within thirty (30) days after the date of sale and shall be deposited in escrow with J. Patrick Kinhan, Esq., 21 Front Street, Salem, Massachusetts, pending approval of the sale by the Land Court. The deed shall be delivered within ten (10) days from the date of approval of the sale by the Land Court. Other terms to be announced at the sale. FEDERAL NATIONAL MORTGAGE ASSOCIATION, Present Holder of said Mortgage. By its Attorney-In-Fact, J. Patrick Kinhan, Esq., 21 Front Street, Salem, Massachusetts 01970. Tel.: (617) 741-1528.
Dated: March 3, 1983
Mar. 9 16 23

PUBLIC NOTICE RELATIVE TO ZONING

CITY OF CAMBRIDGE MASSACHUSETTS

Office of the City Clerk

Notice is hereby given that in accordance with the provisions of Chapter 40A, Section 5 of the General Laws, Tercentenary Edition and amendments thereto, that the Committee on Ordinances, comprised of the entire membership of the City Council, will hold a public hearing on Wednesday, March 30, 1983, at 6:00 p.m. in the City Council Chamber, City Hall, Cambridge, on the petition of Councillor David Sullivan to amend the text of the Zoning Ordinance as follows:

1. In Article 2.000, Definitions, add the following new definition at its appropriate alphabetical location: "Affiliate housing. Any dwelling (other than a dormitory or a sorority or fraternity house) owned or controlled by an educational institution and occupied primarily by persons who are employed or enrolled at the educational institution."
2. In section 4.33, of the Table of Use Regulations (Institutional Uses), subsection (b), Educational Purposes, add to line 7 the words, "or affiliate housing."
3. In section 4.56, Table of Institutional Use Regulations, subsection (c), add to the line 8 the words, "or affiliate housing."

Copies of this petition are on file in the Office of the City Clerk, City Hall, Cambridge, Massachusetts.

All persons interested in this matter may appear at this time and be heard.

For the Committee, Councillor WALTER J. SULLIVAN, Chairman.
Mar. 16

MORTGAGEE'S SALE OF REAL ESTATE

By virtue and in execution of the Power of Sale contained in a certain mortgage given by Richard Wells and Eula M. Wells to The Provident Institution for Savings in the Town of Boston dated February 19, 1970 recorded with the Suffolk County Registry of Deeds in Book 8347, Page 204, of which mortgage the undersigned is the present holder, for breach of the conditions of said mortgage and for the purpose of foreclosing, the same will be sold at public auction at 10 a.m. on the thirteenth day of April, 1983 at the mortgaged premises, 671 Walk Hill Street, Mattapan, Massachusetts, all and singular the foreclosing premises described in said mortgage, to wit: "A certain parcel of land with all the buildings and structures now or hereafter standing or placed thereon, situated in that part of Boston called Mattapan, in the County of Suffolk and Commonwealth of Massachusetts, bounded and described as follows: NORTHEASTERLY by Walk Hill Street, fifty-one and 52/100 (51.52) feet; SOUTHEASTERLY by land of owners unknown, as shown on a plan hereinafter mentioned, eighty five and 13/100 (85.13) feet; SOUTHWESTERLY by land of owners unknown, as shown on said plan, fifty-one (51) feet; NORTHWESTERLY by Lot A, as shown on said plan, ninety-two and 68/100 (92.68) feet. Containing 4,534, square feet of land and being shown as Lot B on a plan drawn by H.A. Sherman, C.E., dated April 12, 1928, and recorded with Suffolk County Registry of Deeds in Book 5002, Page 381. For title see deed from Ida Mindick to Morris E. Isseroff et ux, dated January 16, 1967, and recorded with said Deeds in Book 8092, Page 381; and see deed to these grantors to be recorded herewith. Including as part of the realty all portable or sectional buildings at any time placed upon said premises and all furnaces, ranges, heaters, plumbing, gas and electric fixtures, screens, mantels, shades, screen doors, storm doors and windows, oil burners, gas or electric refrigerators and all other fixtures of whatever kind and nature at present or hereafter installed in or on the granted premises in any manner which renders such articles usable in connection therewith, so far as the same are, or can by agreement of parties be made, a part of the realty." Terms of Sale: The mortgaged premises will be offered for sale at the mortgaged premises, 671 Walk Hill Street, Mattapan, Massachusetts at 10 a.m., April 13, 1983. One Thousand Seven Hundred Dollars ($1,700.00) is to be paid by the purchaser as a deposit at the time and place of the sale. The balance of the purchase price is to be paid against delivery of the deed at 11:00 a.m. on or before May 13, 1983 at the offices of John R. Walkey, Esquire, Choate, Hall & Stewart, 60 State Street, Boston, Massachusetts 02109. All payments shall be in cash or by certified or bank cashier's or bank treasurer's checks or checks drawn on "Boston Funds" so called, payable to the Provident Institution for Savings in the Town of Boston, without endorsement. The mortgaged premises will be sold subject to liens, if any, for unpaid taxes and municipal assessments, betterments or other charges. Other terms, if any, to be announced at the sale. THE PROVIDENT INSTITUTION FOR SAVINGS IN THE TOWN OF BOSTON. By Thomas S. Zocco, President. The Provident Institution for Savings in the Town of Boston, 30 Winter Street, Boston, MA 02109. (617) 423-9600. DATED: March 10, 1983. John R. Walkey, Esquire, Choate, Hall & Stewart, 60 State Street, Boston, MA 02109. Attorney for the Mortgagee.
March 16, 23, 30

COMMONWEALTH OF MASSACHUSETTS. Middlesex, ss. PROBATE COURT. Case No. A21770. To John David Reed, of parts unknown, represented to be the parent of Jason John Reed, a minor child received by the The Florence Crittenton League of Lowell, Inc., under the provisions of General Laws, Chapter 119, Section 23. A petition has been presented to said Court by The Florence Crittenton League of Lowell, Inc., of Lowell, praying that said Court establish that the consent of said parent shall not be required upon a petition for adoption of said minor sponsored by your petitioner, as provided by the General Laws, Chapter 210, Section 3, as most recently amended by Chapter 552 of the Acts of 1978. If you desire to object thereto, you or your attorney should file a written appearance in said Court at Cambridge before ten o'clock in the forenoon on the sixteenth day of May 1983, the return day of this citation. Witness, Sheila E. McGovern, Esquire, First Judge of said Court, this twenty-eighth day of February 1983. PAUL J. CAVANAUGH, Register.
Mar. 9, 16, 23

MORTGAGEE'S SALE OF REAL ESTATE AT 4 WINTHROP STREET, EAST BOSTON, MASSACHUSETTS

BY VIRTUE AND IN EXECUTION OF THE POWER OF SALE CONTAINED IN A CERTAIN MORTGAGE given by Sean F. Daley to the Haymarket Cooperative Bank dated March 24, 1982, and recorded with Suffolk County Registry of Deeds in Book 9928, Page 245, of which mortgage the undersigned is the present holder for a breach of the conditions of said Mortgage, and for the purpose of foreclosing the same, will be sold at public auction at 11:00 A.M. on the 12th day of April, 1983, on the mortgaged premises at 4 Winthrop Street, East Boston, Massachusetts, all and singular the premises described in said Mortgage, to wit: The land with the buildings thereon situated in that part of Boston called East Boston, now numbered 4 Winthrop Street, being bounded and described as follows: Beginning at a point in the Northeasterly line of Winthrop Street, distant Sixty-six (66) feet Southeasterly from Paris Street, thence running: SOUTHEASTERLY on said line of Winthrop Street, twenty-two (22) feet; thence turning and running NORTHEASTERLY fifty-two (52) feet and six (6) inches; thence turning and running NORTHWESTERLY twenty-two (22) feet; thence turning and running SOUTHWESTERLY fifty-two (52) feet and six (6) inches to the point of beginning. Containing 1,100 square feet of land. For my title see Deed from John J. Schiveree to me dated February 1, 1982, recorded with Suffolk Deeds, in Book 9905, Page 463, and also confirmatory deed recorded herewith. TERMS OF SALE: $5,000 Dollars in cash or certified check shall be paid by the purchaser at the time and place of sale. The above-described premises are conveyed subject to and with the benefit of all restrictions, easements, improvements, outstanding tax titles, municipal or other public taxes, assessments, federal and state tax liens, and other claims in the nature of liens, and existing encumbrances of record created prior to the Mortgage whether or not reference to such restrictions, easements, improvements, liens or encumbrances is made in the Deed. The balance is to be paid in cash or by certified check within twenty (20) days thereafter to be deposited in escrow with the firm of ALOISI & ALOISI pending approval of the sale by the Land Court Department of the Trial Court. Deed to be taken within ten (10) days from the date of approval of said sale by the Land Court Department of the Trial Court. Other terms to be announced at sale. HAYMARKET COOPERATIVE BANK, present holder of said Mortgage.

BY: Aloisi & Aloisi,
131 State Street,
Suite 800,
Boston, MA 02109,
(617) 227-6272,
its Attorney.
Mar. 9 16 23

PUBLIC NOTICE RELATIVE TO ZONING

CITY OF CAMBRIDGE MASSACHUSETTS

Office of the City Clerk

Notice is hereby given that in accordance with the provisions of Chapter 40A, Section 5 of the General Laws, Tercentenary Edition and amendments thereto, that the Committee on Ordinances, comprised of the entire membership of the City Council, will hold a public hearing on Wednesday, March 30, 1983, at 6:30 p.m. in the City Council Chamber, City Hall, Cambridge, on the petition of Mayor Vellucci to amend the text of the Zoning Ordinance as follows:

1. In Article 2.000, Definitions, add the following new definition at its appropriate alphabetical location: "University owned housing. Any dwelling (other than a dormitory or a sorority or fraternity house) owned or controlled by an educational institution and occupied primarily by persons who are employed or enrolled at the educational institution; or any future institution of learning that establishes itself within the City of Cambridge under any name whatever they may adopt to identify their institution; or any dwelling unit which is sponsored by said institutions under other titles or are held under realty trusts, corporations or other legal entities which are under the direct or indirect control or supervision of the above referred to institutions";
2. In section 4.33, of the Table of Use Regulations (Institutional Uses), subsection (b), Education Purposes, add to line 7 the words "university owned housing."
3. In section 4.56, Table of Institutional Use Regulations, subsection (c), add to the line 8 the words "university owned housing."

Copies of this petition are on file in the Office of the City Clerk, City Hall, Cambridge, Massachusetts.

All persons interested in this matter may appear at this time and be heard.

For the Committee, Councillor WALTER J. SULLIVAN, Chairman.
Mar. 16

LEGAL NOTICE

The Commonwealth of Massachusetts Department of Education Division of Special Education

Sealed bv by qualified, responsible bidders to provide transportation services to special needs children and certain adults to and from specified educational, habitational, and pre-school programs, according to certain conditions, will be received by the Department of Education, Division of Special Education, at the following sites and dates and will be then and there publicly opened and read:

Springfield Regional Center, 88 Massasoit Avenue, West Springfield, MA 01089. Massasoit Conference Room, 10:30 A.M. on Wednesday, May 4, 1983 and May 18, 1983.

Department of Education, Quincy Center Plaza, 1385 Hancock Street, Quincy, MA 02169, First Floor Board Conference Room, 10:30 A.M. on Friday, May 13, May 27, June 10, June 24, and July 8, 1983.

Three pre-bid conferences will be held at 10:30 A.M. at the following locations and dates for the purpose of reading and establishing policy regarding bid specifications, contracts and eligibility:

Springfield Regional Educational Center, 88 Massasoit Avenue, West Springfield, MA 01089, Massasoit Conference Room, April 11, 1983.

Department of Education, Quincy Center Plaza, 1385 Hancock Street, Quincy, MA 02169, First Floor Board Conference Room, Aptil 13, 1983.

Central Massachusetts Regional Education Center, Route 140, Beaman Street, West Boylston, MA 01583, Auditorium Conference Room, April 15, 1983.

Copies of statutory and regulatory requirements, together with all necessary information and instructions to qualify as a bidder, will be available on and after April 11, 1983, by contacting Daniel McGonagle, Department of Education, Bureau of Management, Quincy Center Plaza, Quincy, MA 02169, telephone number 617-770-7464.

Roger W. Brown,
Associate Commissioner,
Division of Special Education
Mar. 16, 17, 18

COMMONWEALTH OF MASSACHUSETTS. LAND COURT DEPARTMENT OF THE TRIAL COURT. Case No. 109609. (SEAL). to Frederick Allington, Jr. and Patricia Allington, both of Hyde Park, Suffolk County; David A. Kahalas and Stanley H. Cooper, both of Boston, Suffolk County, all of said Commonwealth: and to all persons entitled to the benefit of the Soldiers' and Sailors' Civil Relief Act of 1940 as amended: Neworld Bank for Savings, formerly know as Charlestown Savings Bank, a duly existing corporation having an usual place of business in Boston, Suffolk County, and said Commonwealth; claiming to be the holder of a mortgage covering real property in said Hyde Park District of Boston, numbered 194 Sherrin Street, given by Frederick Allington, Jr. and Patricia Allington to Charlestown Savings Bank, now known as Neworld Bank for Savings, dated October 5, 1978, recorded with Suffolk County Registry of Deeds, Book 9104, Page 75, has filed with said court a complaint for authority to foreclose said mortgage in the manner following: by entry and possession and exercise of power of sale. If you are entitled to the benefits of the Soldiers' and Sailors' Civil Relief Act of 1940 as amended and you object to such foreclosure you or your attorney should file a written appearance and answer in said court at Boston on or before the eighteenth day of April 1983, or you may be forever barred from claiming that such foreclosure is invalid under said act. Witness, WILLIAM I. RANDALL, Chief Justice of said Court this twenty-eighth day of February 1983. John G. Kelleher, Recorder.
Mar. 16

COMMONWEALTH OF MASSACHUSETTS. Suffolk, ss. PROBATE COURT. Case No. 521172. To all persons interested in the estate of Mary A. Roach late of Boston, in said County, deceased. A petition has been presented to said Court for the probate of a certain instrument purporting to be the last will of said deceased by Carleton Baker of Melrose, in the County of Middlesex, praying that he be appointed executor thereof without giving a surety on his bond. If you desire to object thereto you or your attorney should file a written appearance in said Court at Boston before ten o'clock in the forenoon on the 14th day of April 1983, the return day of this citation. You must, in addition to filing a written appearance as aforesaid, file within thirty (30) days after said return day a written statement of objections to the petition, giving specific grounds therefore. Witness, Mary C. Fitzpatrick, Esquire, First Judge of said Court, this 11th day of March 1983. JAMES MICHAEL CONNOLLY, Register.
Mar. 14

THE COMMONWEALTH OF MASSACHUSETTS DEPARTMENT OF PUBLIC WORKS

NOTICE OF A PUBLIC HEARING

A Public Hearing will be held by the Massachusetts Department of Public Works to discuss the proposed replacement of the Central Street Bridge over the Boston and Maine Railroad in the City of Somerville.

WHERE: Winter Hill Community School, Medford and Sycamore Streets, Somerville, Ma.

WHEN: Wednesday, March 23, 1983 — 7:00 P.M.

PURPOSE: This hearing is being held to provide the public an opportunity of becoming fully acquainted with the proposed bridge rehabilitation and related improvements. All views and comments made at this hearing will be reviewed and considered to the maximum extent possible.

PROPOSAL: The proposed project consists of replacing the existing Central Street Bridge over the Boston and Maine Railroad in its present location with improvements to the approach roadways.

Written views received by the Department subsequent to the date of this notice and up to five (5) days prior to the date of the hearing shall be displayed for public inspection and copying at the time and date listed above.

Written statements and other exhibits in place of, or in addition to, oral statements at the public hearing regarding the proposed undertaking are to be submitted to Justin L. Radlo, Chief Engineer, Massachusetts Department of Public Works, 100 Nashua Street, Boston, Massachusetts 02114. Such submission will also be acceptable at the hearing. The final date for receipt of these statements and exhibits will be ten (10) days after this public hearing.

Plans will be on display, with an engineer in attendance, at the hearing location from 6:00 P.M. to 7:00 P.M. on the hearing date.

ROBERT T. TIERNEY,
Commissioner; JUSTIN L. RADLO, Chief Engineer.
Boston, Massachusetts
February 17, 1983
Feb. 23 Mar. 16

MORTGAGEE'S SALE OF REAL ESTATE

By virtue and in execution of the Power of Sale contained in a certain mortgage given by Jacqueline Hamlet to Home Savings Bank, dated May 7, 1981, and recorded with Suffolk County Registry of Deeds, Book 9746, Page 5, of which mortgage the undersigned is the present holder, for breach of the conditions of said mortgage and for the purpose of foreclosing the same will be sold at Public Auction at 10 o'clock A.M. on the 8th day of April A.D. 1983, on the premises hereinafter described all and singular the premises described in said mortgage, to wit: "A certain parcel of land with the buildings thereon now known as and numbered 103 East Brookline Street situated in Boston, Suffolk County, Massachusetts, being Lot 22 on a plan of "City Lands Sold" recorded with Suffolk County Registry of Deeds Vol. 2, Page 190, bounded and described as follows: NORTHEASTERLY by East Brookline Street, twenty-one and no/100 (21) feet; SOUTHEASTERLY by Lot 23 on said plan, seventy-six and 75/100 (76.75) feet; SOUTHWESTERLY by land of owners, unknown, twenty-one and no/100 (21) feet; NORTHWESTERLY by Lot 21 on said plan, seventy-six and 75/100 (76.75) feet. Containing, according to said plan, 1611.75 square feet of land." Terms of Sale: THREE (3,000) DOLLARS to be paid in cash or certified check by the purchaser at the time and place of sale — balance in 20 days. Other terms to be announced at the sale. Signed: HOME SAVINGS BANK, George H. Ellis, President, present holder of said mortgage.
February 22, 1983

From the office of:
Stevenson, Johnson & Brams,
73 Tremont St.,
Boston, MA 02108.
Mar. 2 9 16

COMMONWEALTH OF MASSACHUSETTS. Suffolk, ss. PROBATE COURT. Case No. 521171. To all persons interested in the estate of John J. Hussey late of Boston, in said Count, deceased. A petition has been presented to said Court for the probate of a certain instrument purporting to be the last will of said deceased by Richard A. Hussey of Watertown, in the County of Middlesex, praying that he be appointed executor or thereof without giving a surety on his bond. If you desire to object thereto you or your attorney should file a written appearance in said Court at Boston before ten o'clock in the forenoon on the 26th day of May, 1983, the return day of this citation. You must, in addition to filing a written appearance as aforesaid, file within thirty (30) days after said return day a written statement of objections to the petition, giving specific grounds therefore. Witness, Mary C. Fitzpatrick, Esquire, First Judge of said Court, this 11th day of March, 1983. JAMES MICHAEL CONNOLLY, Register.
March 16

Barbara Bel Geddes stable after heart bypass surgery

From the wire services

LOS ANGELES — Actress Barbara Bel Geddes, who portrays the genteel but powerful matriarch of television's troubled "Dallas" family, underwent a quadruple bypass operation yesterday after a massive heart attack, a spokesman said.

The 60-year-old actress was listed in stable condition after the surgery, which lasted more than 4½ hours, said Bob Crutchfield of Lorimar, producers of the popular series.

Bel Geddes suffered the heart attack yesterday morning at Cedars Sinai Medical Center, where she was admitted Saturday after complaining of chest pains, said Lorimar spokeswoman Joy Daunis.

Earlier, Crutchfield said Miss Bel Geddes was undergoing "life saving surgery." But Daunis said later, "We received conflicting information in the beginning. After an angiogram, the doctors determined all she would need is a triple bypass."

Crutchfield said Bel Geddes' doctor determined during the operation that a quadruple bypass was necessary.

Her illness will not affect this year's "Dallas" whose filming was completed March 8.

Bel Geddes, the daughter of stage designer Norman Geddes, began acting on stage.

She landed the lead in Elia Kazan's "Deep Are the Roots," an interracial love story, and in 1945 won the Clarence Derwent Award as outstanding young actress.

Success led to Hollywood.

Her other Broadway credits include starring roles in "The Moon is Blue" and "Cat On A Hot Tin Roof."

Among her movie roles were "Panic In The Streets," "Vertigo," "By Love Possessed" and "The Five Pennies," her only musical.

Besides "Dallas," her numerous TV appearances have included an adaption of Thornton Wilder's "Our Town" and Alfred Hitchcock's "Lamb to the Slaughter," in which she uses a frozen leg of lamb to kill her cheating husband.

Bel Geddes, who was married to the late Windsor Lewis, has also illustrated two children's books.



Barbara Bel Geddes

Slain cop's wife bailed

Mary Sciuto pleaded innocent in Amesbury District Court yesterday in the shooting murder of her husband, Lawrence Police Capt. Stephen S. Sciuto Jr., at their Salisbury Beach summer home last week.

Sciuto, 49, a 25-year veteran of the police force, was shot four times in the chest with a small-caliber gun March 9.

Yesterday, Judge Louis Cyr released Mary Sciuto after her family posted real estate to cover the $100,000, double-surety bail.

Cyr was told by attorneys that the alleged murder occurred after a marital incident and Mrs. Sciuto had no "propensity to further violence."

Defense attorney Carmine D'Iadamo said he hoped to show that alleged homicide was "justifiable" when the case goes to trial.

Although an April 15 probable cause date has been set in Amesbury District Court, it is expected the Essex County District Attorney's office will seek an indictment before that time, moving the case to the Superior Court level.



Mary D. Sciuto, 49, pleads innocent to the murder of her husband, Stephen, a Lawrence police captain.

Oil battle heating up

Soviets slash price; Brits hold the key

LONDON (UPI) — The Soviet Union undercut OPEC's $29-a-barrel price for crude yesterday, but Britain, whose reaction traders say will determine the global oil market's shape, gave no hint it would cut its oil prices.

In Britain's first official comment on the Organization of Oil Exporting Countries' decision Monday to cut its $34 a barrel base price by 15 percent, the Chancellor of the Exchequer said a moderate reduction was welcomed.

Sir Geoffrey Howe, in presenting Britain's 1983-84 budget, said that "though sharp swings in the oil prices are in no one's interest, moderate reductions mean lower inflation abroad, and lower prices here.

"The fall in the general level of world oil prices is therefore to be welcomed," the chancellor told Parliament.

There was no hint in the speech, however, of how non-OPEC Britain's state-run National Oil Corporation intended to respond to the 13-nation cartel's first price cut in its 23-year history.

Industry sources said the Soviet Union, which is the world's largest producer, selling about 1 million barrels a day to Western Europe, was offering its Urals crude at $27 a barrel from northern ports and $28 from Mediterranean terminals retroactive to March 1.

The new prices showed a $1.25 cut on the Mediterranean shipments and a $2.15 cut on the northern cargoes, the sources said.

The spot market in Rotterdam was mixed. But market analysts said the spot market trends and the Soviet price cut were not good indicators of the outcome of the OPEC accord.

Leading traders speculated Britain's reaction would determine the shape of the market.

A 50-cent cut would bring North Sea prices at par with those of comparable Nigerian crudes, but a $1 cut would invite price-cutting by OPEC.

Financially strapped Nigeria, which cut its price by $5.50 a barrel last month to compete with North Sea oil, was allowed to keep its price at $30 as a "temporary exception" under the OPEC agreement.

Of the 13 OPEC members, Iran reserved its decision on the price cut but accepted its production quota of 2.4 million barrels a day

The first non-OPEC oil country to respond to the cartel's cut was Mexico, the United States' largest oil supplier, which Monday reduced the price of its high-grade oil $5.50 to $29 a barrel and promised to keep production to 3 million barrels a day.

It's legal if churches don't pay

By PETER SLEEPER

Boston Corporation Counsel James P. McGuire ruled yesterday that excepting churches from the new fire service fee is legal.

"It is my opionion that the proposed exemption will withstand a consitutional challenge and that the auhhority to grant such an exemption should be sought from the General Court," he said in a March 15 advisory opinion for Councilor Raymoand Flynn.

Last week, responding to protests from Small churches faced with fire service fee bills of thousands of dollars, the Council hurriedly approved a home rule petition and a city ordinance, to exempt houses of worship.

But Councilor Michael McCormack raised the possibility that such an exemption would violate the U.S. Consitution's equal protection clause.

Emerson College is suing in court for an exemption from the fire fee on the grounds that it, like churches, is tax exempt. McGuire did not address the issue of educational institutions in his opinion, but later said there was a "clear distinction" between churches and colleges.

The Council-approved home rule petition, sponsored by Councilor Christopher Iannella, is likely to receive the signature of Mayor Kevin H. White. It still requires approval by the Legislature and the governor.Flynn sponsored the ordinance, which McGuire said was not the appropriate legislative vehicle.

McQuire also stated the fire service fee, imposed on owners of large buildings that require extraordinary fire protection, is valid. Councilor Frederick Langone, despite his support for the fee last year, last week questioned its validity.

"An argument might be made that the proposed exemption consitutes an establishment of religion in violation of the First Amendment," McGuire wrote." Given the hardship that paying the (fee) would apparently impose on some religious congregations. . .failure to exempt houses of worship could quite possibly be an unconstitutional infringement on the right of free exercise of religion."

Help's coming for the elderly

The Massachusetts House gave initial approval to a $3.1 million supplemental budget yesterday for the state home care program, which is running out of money.

The budget requires another House vote and approval in the Senate before going to the governor.

The program helps more than 41,000 housebound senior citizens. It is designed to keep the elderly out of nursing homes by providing delivered meals, transportation, companionship and other services.

Richard Rowland, state secretary of elder affairs, says the program is running out of funds. He said many of the non-profit home care corporations that provide the services are losing money and threatening to close in April.

FIRST PUBLICATION NO. 2198.

City of Cambridge

In the Year One Thousand, Nine Hundred Eighty-Three

AN ORDINANCE

In amendment to an ordinance entitled "The Zoning Ordinances of the City of Cambridge".

Be it ordained by the City Council of the City of Cambridge as follows:

The Zoning Map accompanying ordinance passed to be ordained September 26, 1977 entitled "The Zoning Ordinances of the City of Cambridge" is hereby amended by amending the text of the Zoning Ordinances as follows:

1. In Article 2.000, Definitions, add the following new definition at its appropriate alphabetical location:

   "Affiliate housing. Any dwelling (other than a dormitory or a sorority or fraternity house) owned or controlled by an educational institition and in which the educational institution to a significant extent gives preference in occupancy to persons who are employed or enrolled at the educational institution."

2. In section 4.33, of the Table of Use Regulations (Institutional Uses) subsection (b), Educational Purposes, add to line 7 the words "or affiliate housing".

3. In Section 4.56 Table of Institutional Use Regulations, subsection (c), add to the line 8 the words, "or affiliate housing".

Passed to a second reading as amended at the City Council meeting held on April 4, 1983 and on or after April 18, 1983 the question comes on passing to be ordained.

ATTEST:-Paul E. Healy, City Clerk.

City of Cambridge

In City Council

The Ordinance *Committee* comprised of the entire membership of the City Council met on Thursday, November 4, 1982 at 6:50 p. m. to which was referred a petition submitted by Councillor David Sullivan which would amend Article 2.000 entitled Definitions by adding the following new definition in its appropriate alphabetical location; Affiliate Housing, any dwelling other than a dormitory, sorority or fraternity house owned or controlled by an educational institution and occupied primarily by persons who are employed or enrolled at the educational institution; and further amendments to section 4.33 and 4.56 of the Table of Use Regulations.

Councillor Walter J. Sullivan, Chairman, presided.

The Chair called for the proponents to appear and be heard.

In response to the Call of the Chair Councillor David Sullivan, the proponent of the amendment read and summarized the legal issues involved that he submitted to the Planning Board on October 29, 1982, which communication is attached to this record and referred to as Appendix "A".

Councillor Sullivan stated that the proposed amendment would address the MIT purchase or Cambridgeport property and the issue of long-term leases and the City would retain some measure of control over the properties required.

The City Clerk received a communication from John R. Pitkin, 18 Fayette Street recording himself in favor.

No other person appeared at the call of the Chair who declared the hearing for the proponents closed and called for the opposition.

The Committee heard from Walter A. Milne, of 110 Memorial Drive, Cambridge who recorded MIT in opposition to the proposed amendment. Mr. Milne read from his letter dated November 4, 1982 and indicated that his opposition was based on constitutional grounds and proposed to arbitrarily restrict the use of property not in the nature of the use but on the basis of the character of the owner. His letter was submitted to the City Clerk and appended to the record and referred to as Appendix "B".

The Committee was in receipt of a communication dated November 4, 1982 from Lewis A. Armistead of the Office of Government and Community Affairs of Harvard University recording their opposition to the proposed amendment. Mr. Armistead in his communication stated that the proposal was discriminatory in that restrictions were placed on the ownership of property rather than its use. His communication is appended to the record and referred to as Appendix "C".

No other person responded to the call of the Chair who declared the hearing closed at 6:55 p. m.

Councillor Duehay now moved that the proposed amendment be referred to the City Council without recommendation pending the receipt of the Planning Board Report.

There being no objection the motion - carried.

For the Committee,

Councillor Walter J. Sullivan,
Chairman.

City of Cambridge

In City Council

The Ordinance *Committee* comprised of the entire membership of the City Council met on Thursday, November 4, 1982 at 6:50 p. m. to which was referred a petition submitted by Councillor David Sullivan which would amend Article 2.000 entitled Definitions by adding the following new definition in its appropriate alphabetical location; Affiliate Housing, any dwelling other than a dormitory, sorority or fraternity house owned or controlled by an educational institution and occupied primarily by persons who are employed or enrolled at the educational institution; and further amendments to section 4.33 and 4.56 of the Table of Use Regulations.

Councillor Walter J. Sullivan, Chairman, presided.

The Chair called for the proponents to appear and be heard.

In response to the Call of the Chair Councillor David Sullivan, the proponent of the amendment read and summarized the legal issues involved that he submitted to the Planning Board on October 29, 1982, which communication is attached to this record and referred to as Appendix "A".

Councillor Sullivan stated that the proposed amendment would address the MIT purchase or Cambridgeport property and the issue of long-term leases and the City would retain some measure of control over the properties required.

The City Clerk received a communication from John R. Pitkin, 18 Fayette Street recording himself in favor.

No other person appeared at the call of the Chair who declared the hearing for the proponents closed and called for the opposition.

The Committee heard from Walter A. Milne, of 110 Memorial Drive, Cambridge who recorded MIT in opposition to the proposed amendment. Mr. Milne read from his letter dated November 4, 1982 and indicated that his opposition was based on constitutional grounds and proposed to arbitrarily restrict the use of property not in the nature of the use but on the basis of the character of the owner. His letter was submitted to the City Clerk and appended to the record and referred to as Appendix "B".

The Committee was in receipt of a communication dated November 4, 1982 from Lewis A. Armistead of the Office of Government and Community Affairs of Harvard University recording their opposition to the proposed amendment. Mr. Armistead in his communication stated that the proposal was discriminatory in that restrictions were placed on the ownership of property rather than its use. His communication is appended to the record and referred to as Appendix "C".

No other person responded to the call of the Chair who declared the hearing closed at 6:55 p. m.

Councillor Duehay now moved that the proposed amendment be referred to the City Council without recommendation pending the receipt of the Planning Board Report.

There being no objection the motion - carried.

For the Committee,

Councillor Walter J. Sullivan,
Chairman.

The Committee was in receipt of a communication dated November 4, 1982 from Lewis A. Armistead of the Office of Government and Community Affairs of Harvard University recording their opposition to the proposed amendment. Mr. Armistead in his communication stated that the proposal was discriminatory in that restrictions were placed on the ownership of property rather than its use. His communication is appended to the record and referred to as Appendix "C".

No other person responded to the call of the Chair who declared the hearing closed at 6:55 p. m.

Councillor Duehay now moved that the proposed amendment be referred to the City Council without recommendation pending the receipt of the Planning Board Report.

There being no objection the motion - carried.

For the Committee,

Walter J. Sullivan

Councillor Walter J. Sullivan,
Chairman.

#9

Passed to 2nd Reading

City of Cambridge #2

In City Council.....

The Ordinance *Committee* comprised of the entire membership of the City Council met on Thursday, November 4, 1982 at 6:50 p. m. to which was referred a petition submitted by Councillor David Sullivan which would amend Article 2.000 entitled Definitions by adding the following new definition in its appropriate alphabetical location; Affiliate Housing, any dwelling other than a dormitory, sorority or fraternity house owned or controlled by an educational institution and occupied primarily by persons who are employed or enrolled at the educational institution; and further amendments to section 4.33 and 4.56 of the Table of Use Regulations.

Councillor Walter J. Sullivan, Chairman, presided.

The Chair called for the proponents to appear and be heard.

In response to the Call of the Chair Councillor David Sullivan, the proponent of the amendment read and summarized the legal issues involved that he submitted to the Planning Board on October 29, 1982, which communication is attached to this record and referred to as Appendix "A".

Councillor Sullivan stated that the proposed amendment would address the MIT purchase or Cambridgeport property and the issue of long-term leases and the City would retain some measure of control over the properties required.

The City Clerk received a communication from John R. Pitkin, 18 Fayette Street recording himself in favor.

No other person appeared at the call of the Chair who declared the hearing for the proponents closed and called for the opposition.

The Committee heard from Walter A. Milne, of 110 Memorial Drive, Cambridge who recorded MIT in opposition to the proposed amendment. Mr. Milne read from his letter dated November 4, 1982 and indicated that his opposition was based on constitutional grounds and proposed to arbitrarily restrict the use of property not in the nature of the use but on the basis of the character of the owner. His letter was submitted to the City Clerk and appended to the record and referred to as Appendix "B".

REPORT

Committee on Ordinance

"Affiliate Housing"

A

CAMBRIDGE CITY COUNCIL

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 498-9094

David E. Sullivan
City Councillor

M E M O R A N D U M

TO: Planning Board

FROM: David Sullivan

RE: "Affiliate housing" zoning amendment: second submission

DATE: March 15, 1983

On January 24, 1983 on my motion, the City Council unanimously voted to submit a proposed amendment to the Zoning Ordinance to regulate expansion of "affiliate housing." (The Council also submitted a similar proposal concerning "university owned housing," which this memorandum does not address.)

On January 17, 1983, the Council failed to ordain an identical proposal, although it received five of the necessary six votes. However, the Council immediately voted to reconsider its failure to ordain, and then took no further action. The earlier proposal remains on the Council's agenda as "unfinished business," although the time for Council action has now expired.

To respond to objections made against the original proposal by the Planning Board and others, I now respectfully recommend an amendment, attached to this memorandum. This amendment results in part from my discussions with representatives of Harvard University, although I do not represent that they agree with it. This memorandum discusses the proposal as so amended, and

supplements my earlier memorandum of October 19, 1982, which is also attached.

1. The amended proposal.

As amended, the proposal defines "affiliate housing" as a dwelling (other than a dormitory, fraternity, or sorority) owned or controlled by an educational institution and in which the educational institution to a significant extent gives preference to persons who are employed or enrolled at the educational institution. The proposal then treats such affiliate housing as the original did, that is in the same way as the current Zoning Ordinance treats dormitories, fraternities, and sororities. Under section 4.56(c)(8) of the Zoning Ordinance, such uses are forbidden outside institutional overlay districts, unless they are replacing previous institutional uses on the site, have no greater adverse impact on the neighborhood, and the Board of Zoning Appeal issues a special permit. They are permitted within institutional overlay districts only if the Board of Zoning Appeal issues a special permit and if any housing units removed or converted are replaced indefinitely with an equivalent number of units.

The amended proposal thus regulates an educational institution's acquisition or construction of, or conversion to, a dwelling in which it discriminates against non-affiliates in occupancy. The proposal does not affect already existing affiliate housing, which is grandfathered as a pre-existing nonconforming use under G.L. ch. 40A, § 6. The new definition includes the phrase "to a significant extent" both to permit educational institutions some flexibility in extraordinary situations where it may be necessary to relocate an affiliate household into "open" housing, and also to avoid treating

existing open housing where such a policy may currently be followed as affiliate housing, and therefore exempting it as a nonconforming use.

2. Advantages of the amended proposal.

The policy and legal arguments in the attached earlier memorandum also apply to the amended proposal. However, the amended proposal posesses additional advantages over the original one, which contained a test based on whether the dwelling was "occupied primarily by" affiliates, rather than on whether the institution "gives preference" to affiliates. Those advantages are as follows:

(a) The amended proposal eliminates the possibility of "accidental" violation, because its definition requires a practice of preferring affiliates. Of course, the affiliation of new occupants would be persuasive evidence of such a practice.

(b) The amended proposal negates the argument that an educational institution would be required to discriminate against its own affiliates. Instead, the new definition regulates the expansion of uses which discriminate against non-affiliates.

(c) The amended proposal does no more than codify what Harvard has publicly stated to be its current non-discrimination policy for its roughly 1,000 "open" housing units. Harvard can hardly object to this, both because it has publicly expressed no intention to change this policy, and because replacing a non-affiliate tenant in a rent controlled apartment with an affiliate would require a removal permit under present law.

(d) For the above reasons among others, the amended proposal more clearly regulates "use" in a manner traditional for zoning.

In view of this, the universities' reliance on CHR General, Inc. v. City of Newton, 387 Mass. 351, 356-57, 439 N.E.2d 788, 791-92 (1982), is even less well founded. That case distinguished the Goldman case, cited in my earlier memorandum, as upholding a zoning enactment which "phrased (a use limitation partly) in terms of ownership . . . ." Since that is precisely what my proposal does, CHR General's dictum (and that is all it is -- see 387 Mass. at 357 n.7, 439 N.E.2d at 792 n.7) simply does not apply here. In our informal discussions, Harvard's representatives seemed to concede this legal point.

3. Procedural issues.

New procedural objections can be anticipated against the amended proposal in its current posture. I respond as follows:

(a) My recommended amedment does not require re-advertizing and a new hearing, under G.L. ch. 40A, § 5. The city's special counsel recently advised that even amendments that substantially re-wrote the Cambridgeport zoning petition were proper, citing cases holding that only changes "of a fundamental character" going to the "identity of the proposal" would require a new process, and otherwise upholding even "substantial changes" in the original. Letter of Douglas A. Randall, Esq. to Robert W. Healy, Jan. 31, 1983. Certainly, the proper parties are on notice here, and the proposal's identity remains unaffected.

(b) The City Council may consider the amended proposal even if the Planning Board reports adversely. First, the City Council's January 17 reconsideration, followed by no final action, means that it has not "unfavorably acted upon" the original proposal, within the meaning of G.L. ch. 40A, § 5. Second, the amended proposal differs sufficiently from the original as to remove the bar in

any event.

Because the amended proposal responds to the Planning Board's concerns expressed in its November 9, 1982 report, the Board should recommend it to the City Council for adoption.

HARVARD UNIVERSITY

OFFICE OF GOVERNMENT AND
COMMUNITY AFFAIRS

2 GARDEN STREET
CAMBRIDGE, MASSACHUSETTS 02138
617-495-4955

RECEIVED BY
OFFICE OF CITY CLERK
MAR 30 1 18 PM '83
CAMBRIDGE, MASS.

March 30, 1983

Councillor Walter J. Sullivan
Chairman, Ordinance Committee
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Re: Institutional Zoning - Proposed Amendments to Regulate "Affiliate Housing" of Educational Institutions

Dear Mr. Chairman:

I wish to record Harvard's opposition to the proposed amendments regarding "Affiliate Housing".

Attached, for your information, is a copy of our letter to the Planning Board dated March 29.

Very truly yours,

Lewis A. Armistead

attachment:

Received by the City Clerk 3/30/1983

HARVARD UNIVERSITY

OFFICE OF GOVERNMENT AND
COMMUNITY AFFAIRS

2 GARDEN STREET
CAMBRIDGE, MASSACHUSETTS 02138
617-495-4955

RECEIVED BY
OFFICE OF CITY CLERK
MAR 30 1 19 PM '83
CAMBRIDGE, MASS.

March 29, 1983

Planning Board
City of Cambridge
Cambridge, Massachusetts 02139

Re: Institutional Zoning - Proposed Amendments to Regulate "Affiliate Housing" of Educational Institutions

Dear Members:

For reasons, among others, set forth in my letter to you of October 18, 1982 (copy enclosed) reacting to Councillor Sullivan's original proposal, Harvard opposes both the amendment now proposed by Mayor Vellucci and that reintroduced by Councillor Sullivan.

We have reviewed Councillor Sullivan's amendment to his proposal and the accompanying memorandum which he submitted at your hearing on March 15. As we said then, we think the amendment represents a step backwards, both practically and legally.

One of Harvard's fundamental objections to the original proposal has always been that it would impermissibly regulate the identity of the owner and not the use of property. Even if regulation of ownership can be permissible where the effect is to regulate use, we have been troubled by the assumption and unsupported assertion that there are "use implications of University ownership or control coupled with occupancy primarily by affiliates." We do not think there are any such use implications unique to educational institutions which justify different treatment under zoning. Obviously, giving preference to affiliates to "a significant extent" is even less an institutional use than occupancy "primarily" by affiliates.

Even under the original proposal, an educational institution could have given preference to its affiliates in any building not primarily occupied by affiliates. The stated assumption of that proposal, with which we disagreed, was that it would define on an objective basis the point at

which a property becomes so institutional as to be justifiably regulated as such. Even under that proposal, Harvard affiliates could have been given preference in leasing up to 5 units in a 10-unit Harvard "open housing" building. Now, perhaps because we have said that the percentage, currently less than 30%, of Harvard's open housing occupied by affiliates has been steadily declining, the proposal has been amended so that none, or at most one or two of the units in the same building could be saved for affiliates, depending upon the subjective interpretation of "a significant extent". Moreover, the supposed "grandfather" protection under the amendment is illusory; even if 4 units in the same building happened to be occupied by affiliates now, they could not be reserved for affilates in the future.

The fact is that under the amendment an educational institution, unlike any other owner, could not prefer its own affiliates to "a significant extent." Not only would this extend far beyond regulation of "use" under zoning, it would be an unfair discrimination for which we have been unable to discern any rational basis.

Finally, we would point out that a variance is not a practical remedy if the affiliate housing proposal is adopted in any form. A variance requires a finding of hardship unique to the subject property; and for any property meeting zoning requirements except for the identity of its owner, such a finding could not be made. It is not disputed that few if any variances for "affiliate" housing could withstand challenge. This only serves to highlight the inappropriateness of requiring a use variance for residential use of residential property in a residential zoning district simply because of the identity of the owner. If some aspect of residential use is to be prohibited, it should be specified and made applicable to all owners.

We strongly urge that you recommend unfavorable action on both of the "affiliate housing" proposals now before you.

Very truly yours,

Lewis A. Armistead

HARVARD UNIVERSITY

OFFICE OF GOVERNMENT AND
COMMUNITY AFFAIRS

2 GARDEN STREET
CAMBRIDGE, MASSACHUSETTS 02138
617-495-4955

October 18, 1982

Planning Board
City of Cambridge
Cambridge, MA 02139

Re: Institutional Zoning; Proposed Amendment to Regulate "Affiliate Housing" of Educational Institutions

Dear Members:

This will record Harvard's opposition to the proposed amendment to the Zoning Ordinance which would extend the institutional zoning regulations to any dwelling owned or controlled by an educational institution and occupied primarily by its employees or students.

As you may know, a similar proposal was originally included in early drafts of the institutional zoning regulations. However, we argued and the Department of Community Development staff ultimately agreed, that the only appropriate objectives of zoning are the regulation of uses of and improvements to property. Nothing permits regulation or discrimination under zoning based upon the identity of the owners of the property and certainly not based upon the educational or employment status of the occupants. This point has recently been emphasized by the Massachusetts Supreme Judicial Court in its decision in CHR General, Inc. v. City of Newton, decided September 1, 1982:

> A "fundamental principle of zoning [is that] it deals basically with the use, without regard to the ownership, of the property involved or who may be the operator of the use."

Accordingly, as proposed (and enacted) the institutional use regulations did not regulate or restrict residential housing owned by educational institutions other than dormitories and fraternity and sorority houses.

A further problem with the proposed amendment is that educational institutions would be singled out from other institutions for regulation of their affiliate housing. No zoning considerations justify distinguishing a professor's house from a home or a rectory. Such a distinction would be not only legally impermissible but also inconsistent with the policy of treating all institutions equally which was repeatedly expressed at the time the institutional use regulations were originally proposed.

By Chapter 565 of the Acts of 1979, the General Court constituted Cambridge the only Massachusetts city or town with the power to override the provisions of the Zoning Act protecting educational and religious institutions from use regulation under zoning. In doing so, the General Court expressly limited that power to certain residential zoning districts. It is doubtful that it was intended and ironic that it is now proposed that this power be used to regulate otherwise proper residential uses.

Finally, it is obvious that whatever the legalisms may be, this proposal would be counterproductive to the City's and Harvard's common objective of having Harvard provide where possible for the housing needs of its employees and students, thereby avoiding undue pressures upon the limited existing housing stock.

We urge that you report unfavorably upon the proposed amendment.

Very truly yours,

Lewis A. Armistead

OFFICE OF THE PRESIDENT

CAMBRIDGE, MASSACHUSETTS 02139

March 30, 1983

The Honorable Walter J. Sullivan
Chairman, Council Committee on Ordinances
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02138

Dear Mr. Chairman:

MIT wishes to be recorded once again in opposition to the proposed amendment to the Cambridge Zoning Ordinance to regulate "affiliate housing," so called, which has been advanced by Councillor David Sullivan and which is the subject of this hearing.

David Sullivan's proposal defines "affiliate housing" as a dwelling (other than a dormitory, sorority, or fraternity) owned or controlled by an educational institution and "in which the educational institution to a significant extent gives preference to persons who are employed or enrolled at the educational institution." The proposal then requires that such "affiliate housing"--even if occupied by a single employee--be treated in the same way as a dormitory, fraternity, or sorority, strange as that may seem.

The present version of this proposal was introduced by Councillor David Sullivan at the Planning Board meeting of March 15, 1983 by way of amendment to the earlier, advertised version. The earlier version had been considered by the Planning Board in October, 1982, following which the Planning Board recommended against its adoption on the grounds that it represented an improper use of the zoning ordinance. On January 17, 1983, the City Council also failed to adopt that proposal. Following the failure of the proposal, a simple majority of the Council voted to reconsider it, but no further action was taken.

It is our belief, and our contention, that the failure by the City Council to adopt the earlier proposal at its January 17, 1983 meeting constitutes unfavorable action within the meaning of

M.G.L. c. 40A. This is true notwithstanding the motion for reconsideration passed (but never acted upon) by the City Council. If the affiliate housing proposal were unfavorably acted upon at the meeting of January 17, 1983--and that is my contention--it may not be considered another time on its merits until 1985.

Let me elaborate on my conviction that the failure by the City Council to adopt the affiliate housing amendment on January 17 constitutes unfavorable action. Councillor David Sullivan is clearly concerned about this and maintains in his memorandum to the Planning Board, dated March 15, 1983, that the vote in favor of a motion for reconsideration by a majority of Council members present at the January 17, 1983 meeting negates the unfavorable action taken earlier at that meeting.

This argument is deficient in two respects. First, it is well established in law that a simple majority vote is insufficient to move reconsideration of a matter requiring a two-thirds vote for passage. Second, even if the motion had been properly passed, the failure to act upon the motion for reconsideration means that "the action taken by the City Council stands." This is a well established rule. For example, Roberts Rules of Order, under which the Council operates, states: "If the motion to Reconsider is not called up, the situation becomes the same as if there had been no such motion, and the vote which it was proposed to reconsider . . . comes into full force."

The one point on which Councillor David Sullivan and I seemingly agree is his assertion that the changes he made by amending the earlier proposal did not change "the proposal's identity." Because the amended proposal is substantially identical to its predecessor, Councillor Sullivan is correct when he states that the current proposal did not require a new notice and a new hearing. Similarly, however, because the latest proposal is substantially identical to its predecessor, it fails to meet the constitutional objections raised against the earlier version. By explicitly focusing on ownership, rather that on use, the proposed amendment engages in an impermissable exercise of the zoning power.

We can say only what we have said at several earlier meetings: namely, the proposed amendment is clearly unconstitutional, in that it would restrict arbitrarily the use of property not on the basis of the nature of the use, but on the basis of the character of the owner. MIT's legal counsel has noted the very recent case of CHR General, Inc. v. City for Newton, 387 Mass. 341 (September 1, 1982), makes it clear that "A fundamental principle of zoning (is that) it deals basically with the use, without regard to the ownership of the property involved or who may be the operator of the use."

I hope the members of the Council will wish to have their

own legal advice about the legality of the procedures and the constitutionality of the amendment, which is so truly and totally troubling, before it goes any further.

Sincerely yours,

Walter L. Milne
Assistant to the President

cc President Gray
Chairman Johnson

RECEIVED BY
OFFICE OF CITY CLERK
MAR 30 6 18 PM '83
CAMBRIDGE, MASS.

D

CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • (617) 498-9020

LAW DEPARTMENT

RUSSELL B. HIGLEY
CITY SOLICITOR

MICHAEL C. COSTELLO
ASSISTANT CITY SOLICITOR

EDWARD A. CUNNINGHAM
SEVERLIN B. SINGLETON
DAVID B. O'CONNOR
BIRGE ALBRIGHT
LEGAL COUNSEL

March 29, 1983

Cambridge Planning Board
City Hall Annex
57 Inman Street
Cambridge, Mass.

Re: Affiliate Housing

Dear Board Members:

You have requested my opinion regarding the recent zoning petition to regulate "affiliate housing," in light of the decision in CHR General, Inc. v. City of Newton, 387 Mass. 351, 439 NE2d 788 (1982).

On March 15, Councillor David Sullivan recommended an amendment to the Zoning Ordinance, whereby the City would regulate "affiliate housing," defined as follows:

> a dwelling (other than a dormitory, fraternity, or sorority) owned or controlled by an educational institution and in which the educational institution to a significant extent gives preference to persons who are employed or enrolled at the educational institution.

Affiliate housing would be treated in the same way as the Zoning Ordinance now treats dormitories, fraternities and sororities under §4.56(c)(8)(Table of Institutional Use Regulations). Such uses are forbidden outside institutional overlay districts, unless they are replacing previous institutional uses on the site and have no greater adverse impact on the neighborhood, and the Board of Zoning Appeal (BZA) issues a special permit. They are permitted within institutional overlay districts only if the BZA issues a special permit and if any housing units removed or converted are replaced indefinitely with an equivalent number of units.

The proposal thus "regulates an educational institution's acquisition or construction of, or conversion to, a dwelling in which it discriminates against non-affiliates in occupancy." Memorandum of David Sullivan (3-15-83), p. 2.

CHR General, Inc. v. City of Newton, supra, held that an ordinance governing conversion of rental units to condominium ownership was a "private or civil law governing civil relationships," and, therefore, was prohibited by §7 of the Home Rule Amendment to the Massachusetts Constitution, which states in pertinent part:

> Nothing in this article shall be deemed to grant to any city or town the power... (5) to enact private or civil law governing civil relationships except as an incident to an exercise of an independent municipal power...

After holding that the challenged ordinance was a "private or civil law governing civil relationships," the Court then examined the question of whether it could be found valid "as an incident to an exercise of an independent municipal power." The City of Newton relied on the zoning power as the individual component of its police power authorizing enactment of the ordinance.

The Court rejected Newton's zoning argument, pointing out that a "fundamental principal of zoning (is that) it deals basically with the use, without regard to the ownership, of the property involved or who may be the operator of the use. 1A Rathkopf, Zoning and Planning, §1.04, at 1-21 (4th ed. 1982)" and that "a building composed (of) condominium units does not 'use' the land it sits upon any differently than an identical building containing rental units." 439 NE2d at 791.

The Court distinguished Goldman v. Dennis, 375 Mass. 197, 375 NE2d 1212 (1978), which upheld a zoning by-law requiring owners of "cottage colonies" to conform to certain minimum lot size requirements as a precondition to obtaining permission to convert individual cottages to condominiums. The Court in Goldman concluded that "(t)he legislative body of the town could reasonably believe that conversion of a cottage colony to single family use would encourage expansion of (nonconforming) use beyond the short summer season." 375 Mass. at 199. As a result, "(a)lthough the limitation (contained in the challenged by-law) is phrased in terms of ownership," the Court found the by-law "valid as a regulation of 'change of use.'" Id.

In short, the difference between CHR General and Goldman seems to be this: In CHR General, the Court concluded that the use of the land would be the same whether it had on it a building containing condominiums or a building containing apartments. In Goldman, the Court concluded that, if a cottage were converted into a condominium, the use would change from a summer use to a year-round use. Or, at least, the Court concluded that the "legislative body of the town could reasonably (so) believe." 375 Mass. at 199.

The holding in CHR General is supported by various definitions of zoning and its functions. See, e.g., 1 Rohan, Zoning and Land Use Controls, s1.02(1); 82 Am. Jur. 2d, Zoning and Planning, §2 (1976); 1 Williams, American Land Planning Law, §16.03 (1974)(functions of zoning); Black's Law Dictionary (1968) p. 1793; 8 McQuillin, Municipal Corporations, §§25.17, 25.119 (1976).

Pursuant to St. 1979, c. 565, as amended by St. 1980, c. 387, Cambridge is authorized, through zoning,

> to regulate and restrict the use of land or structures...for educational purpose on land owned or leased...by a non-profit educational corporation within all residentially zoned districts which require a lot area of one thousand two hundred square feet or more per dwelling unit.

Thus, the City can regulate "affiliate housing" under its zoning power if three conditions are met:

1. The land in question must be within a residentially zoned district which requires "a lot area of one thousand two hundred square feet or more per dwelling unit."

2. The land must be "owned or leased...by a non-profit educational corporation."

3. The land or structures must be used "for educational purposes."

The third condition is the subject of the present controversy.

Interpreting the term "educational use" in a by-law, the Court in Kurz v. Board of Appeals of North Reading, 341 Mass. 110, 112 (1960), stated:

> The by-law refers to "Educational use" in the ordinary sense.... They are everyday

> words and should be interpreted 'according to the common and approved usages of the language...without enlargement or restriction and without regard to...(the court's) own conceptions of expediency.'... The meaning of the phrase is a question of law for the court....

In Radcliffe College v. Cambridge, 350 Mass. 613 (1966), the Court construed G.L. c. 40A, §2, which, at that time, provided:

> ...no ordinance...which prohibits or limits the use of land...for any educational purpose which is...public shall be valid....

The question was whether Art. VII, §2 of the Cambridge zoning ordinance, requiring provision for off-street parking, was applicable to a Radcliffe library, in light of c. 40A, §2.

The Court begins its analysis by devoting a paragraph to the parking problem in Cambridge:

> Adequate provision for parking...has become of general public concern.... The reasonable premise of a requirement for off street parking spaces for new buildings is that parking automobiles near by is an established function of the use of any building wherein people live, work, study or congregate for other purposes. Such a requirement is analogous to the statutory requirements of public corridors and exits of certain size and number and somewhat analogous to requirements of fire walls, fire escapes and fireproof construction.

350 Mass. at 617.

The Court stated (p. 618):

> Providing for the parking or housing of the automobiles of students, instructors, and employees of an educational institution is within the broad scope of the educational powers of the institution just as is providing for the feeding and housing of such personnel. These are secondary functions incidental to the main educational purpose.

The Court then upholds the ordinance by holding that, "At most the...ordinance requires choices among the proper educational purposes of the institution. In so doing it does not impede the reasonable use of the college's land for its educational purposes." Id. at 618.

I draw the following conclusions from Radcliffe College:

1. Providing for the housing of students, instructors and employees of the educational institution and their automobiles is "within the broad scope of the educational powers of the institution," although this is a "secondary function incidental to the main educational purpose." Arguably, therefore, such housing is an "educational use."

2. Therefore, in requiring off-street parking, as accessory to a library, Cambridge was simply requiring that the college devote a certain amount of its land to one "educational use" as opposed to another.

3. Underlying this requirement was the serious parking problem in Cambridge, a problem which makes the off-street parking requirement "somewhat analogous to requirements of fire walls, fire escapes and fireproof construction."

I conclude, therefore, that the provision of housing for university students, faculty and employees is, arguably, an "educational use," which can be regulated through the zoning power.

Having said this, I hasten to add that the City must show some need for the affiliate housing amendment. If the matter should go to Court, every presumption will be made in favor of the ordinance, and, if its reasonableness is fairly debatable, it will be sustained. Turnpike Realty Co. v. Dedham, 361 Mass. 221, 233 (1972), cert. den. 409 U.S. 1108 (1973). The constitutional test is whether the ordinance is "clearly arbitrary and unreasonable, having no substantial relation to the public health, safety, morals, or general welfare." Euclid v. Ambler Realty Co., 272 U.S. 365, 395 (1926).

Although there is a presumption of constitutionality, the Court would expect the City "to bring forward some indication that the zoning provision has some reasonable prospect of a tangible benefit to the community. 122 Main St. Corp. v. Brockton, 323 Mass. 646, 651 (1949). A showing

must be made, on the record, that there was a reasonable basis for the enactment." Sturges v. Town of Chilmark, Mass. Adv. Sh. (1980) 815, 402 NE2d 1346, 1353 (1980).

In his memorandum of October 19, 1982, Councillor Sullivan argues that affiliate housing should be regulated, because

> its traffic, activity patterns, and other use impacts are likely to extend the university campus into previously quiet residential streets, and it removes residential units from general availability to the Cambridge community.

I do not know whether the traffic and other "use impacts" associated with affiliate housing are different from those associated with non-affiliate housing. I suggest, however, that a court would not be likely to accept the idea that Cambridge's universities are not part of the "Cambridge community."

Very truly yours,

Russell B. Higley

Russell B. Higley
City Solicitor

RBH/jl

cc: Ms. Kathy Spiegelman
Mr. Robert W. Healy

CAMBRIDGE CITY COUNCIL

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 498-9094

David E. Sullivan
City Councillor

M E M O R A N D U M

TO: Planning Board

FROM: David Sullivan

RE: "Affiliate housing" zoning amendment

DATE: October 19, 1982

On September 13, 1982 on my motion, the City Council unanimously voted to submit a proposed amendment to the Zoning Ordinance to regulate "affiliate housing." The proposal defines that term as a dwelling (other than a dormitory, sorority, or fraternity) owned or controlled by an educational institution and occupied primarily by persons who are employed or enrolled at the educational institution. The proposed amendment then treats such "affiliate housing" in the same way as a dormitory, fraternity, or sorority. Under section 4.56(c)(8) of the present Zoning Ordinance, such uses are forbidden outside institutional overlay districts, unless they are replacing previous institutional uses on the site, have no greater adverse impact on the neighborhood, and the Board of Zoning Appeal issues a special permit; they are permitted within institutional overlay districts only if the Board of Zoning Appeal issues a special permit and if any housing units removed or converted are replaced indefinitely with an equivalent number of units.

Policy issues

The proposal would amend language inserted in the Zoning Ordinance by Ordinance No. 960, the institutional expansion ordinance of June 22, 1981. Both the January 1981 CDD "Revised Strategy for Managing Institutional Expansion" (CDD, Cambridge Institutional Growth Management Plan, May 1981), and the June 16, 1981 Planning Board report on the existing ordinance, include as its purposes preventing uses incompatible with neighborhoods because of activity patterns and overall impact, and regulating displacement of residential units from the housing stock. These purposes cannot be adequately served unless "affiliate housing" is regulated -- its traffic, activity patterns, and other use impacts are likely to extend the university campus into previously quiet residential streets, and it removes residential units from general availability to the Cambridge community.

After I presented this suggestion at the June 9, 1981 Planning Board hearing, the Board's report expressed the concern that policy problems raised by affiliate housing applied to private and not merely institutional residences, and therefore limited the remedy to "temporary" dormitory housing. To the extent that this concern is a legal one, it is considered below. In policy terms, experience has shown that the problems presented by educational institutions' "affiliate housing" are every bit as serious as those of their dormitories, and these problems do not occur to the same extent with respect to any other category of owner.

The difference between the proposed definition of "affiliate housing" and the present definition of "dormitory" is the latter's limitation to "a place of temporary residence for persons whose permanent residence is elsewhere." Zoning Ordinance § 2.000.

This distinction has proved impossible to administer in practice. To establish whether a violation of the ordinance is occurring, it requires an inquiry into the legal "domicil" of every resident of an alleged "dormitory." The recent dispute over MIT's acquisition of the Fort Washington townhouses in Cambridgeport demonstrates the difficulties. The new definition would resolve the problem by limiting the inquiry to easily discovered fact situations familiar to zoning administrators.

Legal issues

Both the original institutional expansion ordinance and the proposed amendment are authorized by 1979 Mass. Acts ch. 565, as amended by 1980 Mass. Acts ch. 387. This statute allows Cambridge to "regulate and restrict the use of land or structures . . . for educational purposes on land owned or leased . . . by a nonprofit educational corporation" in certain low-density residential districts, notwithstanding the usual "Dover Amendment" exemption of G.L. ch. 40A, § 3.

One objection might be that the proposal regulates not "use," but rather ownership and affiliation. The Supreme Judicial Court disposed of this argument in Goldman v. Town of Dennis, 375 Mass. 197, 375 N.E.2d 1212 (1978), upholding a zoning by-law which regulated condominium conversion of rented cottage colonies. Although the by-law referred on its face to ownership, the court held that the town properly recognized that individual ownership would likely produce year-round use, threatening greater impacts than mere summer vacation occupancy. Similarly, the city of Cambridge may recognize the use implications of university

ownership or control coupled with occupancy primarily by affiliates.

A second opposing contention is that the proposed amendment treats educational institution affiliates differently from others (see policy discussion on page 2), thus violating equal protection principles. The answer to this is that educational institutions in Cambridge pose a much greater threat to the neighborhood integrity which the original ordinance seeks to protect. "Equal protection does not prohibit differences in treatment where there is rational basis for those differences reasonably related to the purposes which the regulation seeks to accomplish." Goldman, 375 Mass. at 200, 375 N.E.2d at 1214 (citation omitted). "(T)he reform may take one step at a time, addressing itself to the phase of the problem which seems most acute to the legislative mind." Williamson v. Lee Optical Co., 348 U.S. 483, 489 (1955).

Finally, the Board should bear in mind the extreme deference which courts accord zoning ordinances. "Every presumption . . . must be made in favor of the validity of the zoning (ordinance), and great weight given to a (city's) determination that necessity exists for its adoption." Marshall v. Town of Topsfield, 13 Mass. App. Ct. 425, 428, 433 N.E.2d 1244, 1246 (1982). A zoning "amendment will be sustained unless there is no substantial relation between it and the express purposes of the zoning act." Canteen Corp. v. City of Pittsfield, 4 Mass. App. Ct. 289, 292, 346 N.E.2d 732, 735 (1976). It is noteworthy that the Canteen and Goldman cases reached favorable results even under the more restrictive pre-1975 state Zoning Enabling Act.

For the above reasons, the Board should report favorably on the proposed zoning amendment.

A

CAMBRIDGE CITY COUNCIL

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 498-9094

David E. Sullivan
City Councillor

M E M O R A N D U M

TO: Planning Board

FROM: David Sullivan

RE: "Affiliate housing" zoning amendment: second submission

DATE: March 15, 1983

On January 24, 1983 on my motion, the City Council unanimously voted to submit a proposed amendment to the Zoning Ordinance to regulate expansion of "affiliate housing." (The Council also submitted a similar proposal concerning "university owned housing," which this memorandum does not address.)

On January 17, 1983, the Council failed to ordain an identical proposal, although it received five of the necessary six votes. However, the Council immediately voted to reconsider its failure to ordain, and then took no further action. The earlier proposal remains on the Council's agenda as "unfinished business," although the time for Council action has now expired.

To respond to objections made against the original proposal by the Planning Board and others, I now respectfully recommend an amendment, attached to this memorandum. This amendment results in part from my discussions with representatives of Harvard University, although I do not represent that they agree with it. This memorandum discusses the proposal as so amended, and

supplements my earlier memorandum of October 19, 1982, which is also attached.

1. The amended proposal.

As amended, the proposal defines "affiliate housing" as a dwelling (other than a dormitory, fraternity, or sorority) owned or controlled by an educational institution and in which the educational institution to a significant extent gives preference to persons who are employed or enrolled at the educational institution. The proposal then treats such affiliate housing as the original did, that is in the same way as the current Zoning Ordinance treats dormitories, fraternities, and sororities. Under section 4.56(c)(8) of the Zoning Ordinance, such uses are forbidden outside institutional overlay districts, unless they are replacing previous institutional uses on the site, have no greater adverse impact on the neighborhood, and the Board of Zoning Appeal issues a special permit. They are permitted within institutional overlay districts only if the Board of Zoning Appeal issues a special permit and if any housing units removed or converted are replaced indefinitely with an equivalent number of units.

The amended proposal thus regulates an educational institution's acquisition or construction of, or conversion to, a dwelling in which it discriminates against non-affiliates in occupancy. The proposal does not affect already existing affiliate housing, which is grandfathered as a pre-existing nonconforming use under G.L. ch. 40A, § 6. The new definition includes the phrase "to a significant extent" both to permit educational institutions some flexibility in extraordinary situations where it may be necessary to relocate an affiliate household into "open" housing, and also to avoid treating

existing open housing where such a policy may currently be followed as affiliate housing, and therefore exempting it as a nonconforming use.

2. Advantages of the amended proposal.

The policy and legal arguments in the attached earlier memorandum also apply to the amended proposal. However, the amended proposal posesses additional advantages over the original one, which contained a test based on whether the dwelling was "occupied primarily by" affiliates, rather than on whether the institution "gives preference" to affiliates. Those advantages are as follows:

(a) The amended proposal eliminates the possibility of "accidental" violation, because its definition requires a practice of preferring affiliates. Of course, the affiliation of new occupants would be persuasive evidence of such a practice.

(b) The amended proposal negates the argument that an educational institution would be required to discriminate against its own affiliates. Instead, the new definition regulates the expansion of uses which discriminate against non-affiliates.

(c) The amended proposal does no more than codify what Harvard has publicly stated to be its current non-discrimination policy for its roughly 1,000 "open" housing units. Harvard can hardly object to this, both because it has publicly expressed no intention to change this policy, and because replacing a non-affiliate tenant in a rent controlled apartment with an affiliate would require a removal permit under present law.

(d) For the above reasons among others, the amended proposal more clearly regulates "use" in a manner traditional for zoning.

In view of this, the universities' reliance on CHR General, Inc. v. City of Newton, 387 Mass. 351, 356-57, 439 N.E.2d 788, 791-92 (1982), is even less well founded. That case distinguished the Goldman case, cited in my earlier memorandum, as upholding a zoning enactment which "phrased (a use limitation partly) in terms of ownership . . . ." Since that is precisely what my proposal does, CHR General's dictum (and that is all it is -- see 387 Mass. at 357 n.7, 439 N.E.2d at 792 n.7) simply does not apply here. In our informal discussions, Harvard's representatives seemed to concede this legal point.

3. Procedural issues.

New procedural objections can be anticipated against the amended proposal in its current posture. I respond as follows:

(a) My recommended amedment does not require re-advertizing and a new hearing, under G.L. ch. 40A, § 5. The city's special counsel recently advised that even amendments that substantially re-wrote the Cambridgeport zoning petition were proper, citing cases holding that only changes "of a fundamental character" going to the "identity of the proposal" would require a new process, and otherwise upholding even "substantial changes" in the original. Letter of Douglas A. Randall, Esq. to Robert W. Healy, Jan. 31, 1983. Certainly, the proper parties are on notice here, and the proposal's identity remains unaffected.

(b) The City Council may consider the amended proposal even if the Planning Board reports adversely. First, the City Council's January 17 reconsideration, followed by no final action, means that it has not "unfavorably acted upon" the original proposal, within the meaning of G.L. ch. 40A, § 5. Second, the amended proposal differs sufficiently from the original as to remove the bar in

any event.

Because the amended proposal responds to the Planning Board's concerns expressed in its November 9, 1982 report, the Board should recommend it to the City Council for adoption.

CAMBRIDGE CITY COUNCIL

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 498-9094

David E. Sullivan
City Councillor

M E M O R A N D U M

TO: Planning Board

FROM: David Sullivan

RE: "Affiliate housing" zoning amendment

DATE: October 19, 1982

On September 13, 1982 on my motion, the City Council unanimously voted to submit a proposed amendment to the Zoning Ordinance to regulate "affiliate housing." The proposal defines that term as a dwelling (other than a dormitory, sorority, or fraternity) owned or controlled by an educational institution and occupied primarily by persons who are employed or enrolled at the educational institution. The proposed amendment then treats such "affiliate housing" in the same way as a dormitory, fraternity, or sorority. Under section 4.56(c)(8) of the present Zoning Ordinance, such uses are forbidden outside institutional overlay districts, unless they are replacing previous institutional uses on the site, have no greater adverse impact on the neighborhood, and the Board of Zoning Appeal issues a special permit; they are permitted within institutional overlay districts only if the Board of Zoning Appeal issues a special permit and if any housing units removed or converted are replaced indefinitely with an equivalent number of units.

Policy issues

The proposal would amend language inserted in the Zoning Ordinance by Ordinance No. 960, the institutional expansion ordinance of June 22, 1981. Both the January 1981 CDD "Revised Strategy for Managing Institutional Expansion" (CDD, Cambridge Institutional Growth Management Plan, May 1981), and the June 16, 1981 Planning Board report on the existing ordinance, include as its purposes preventing uses incompatible with neighborhoods because of activity patterns and overall impact, and regulating displacement of residential units from the housing stock. These purposes cannot be adequately served unless "affiliate housing" is regulated -- its traffic, activity patterns, and other use impacts are likely to extend the university campus into previously quiet residential streets, and it removes residential units from general availability to the Cambridge community.

After I presented this suggestion at the June 9, 1981 Planning Board hearing, the Board's report expressed the concern that policy problems raised by affiliate housing applied to private and not merely institutional residences, and therefore limited the remedy to "temporary" dormitory housing. To the extent that this concern is a legal one, it is considered below. In policy terms, experience has shown that the problems presented by educational institutions' "affiliate housing" are every bit as serious as those of their dormitories, and these problems do not occur to the same extent with respect to any other category of owner.

The difference between the proposed definition of "affiliate housing" and the present definition of "dormitory" is the latter's limitation to "a place of temporary residence for persons whose permanent residence is elsewhere." Zoning Ordinance § 2.000.

This distinction has proved impossible to administer in practice. To establish whether a violation of the ordinance is occurring, it requires an inquiry into the legal "domicil" of every resident of an alleged "dormitory." The recent dispute over MIT's acquisition of the Fort Washington townhouses in Cambridgeport demonstrates the difficulties. The new definition would resolve the problem by limiting the inquiry to easily discovered fact situations familiar to zoning administrators.

Legal issues

Both the original institutional expansion ordinance and the proposed amendment are authorized by 1979 Mass. Acts ch. 565, as amended by 1980 Mass. Acts ch. 387. This statute allows Cambridge to "regulate and restrict the use of land or structures . . . for educational purposes on land owned or leased . . . by a nonprofit educational corporation" in certain low-density residential districts, notwithstanding the usual "Dover Amendment" exemption of G.L. ch. 40A, § 3.

One objection might be that the proposal regulates not "use," but rather ownership and affiliation. The Supreme Judicial Court disposed of this argument in Goldman v. Town of Dennis, 375 Mass. 197, 375 N.E.2d 1212 (1978), upholding a zoning by-law which regulated condominium conversion of rented cottage colonies. Although the by-law referred on its face to ownership, the court held that the town properly recognized that individual ownership would likely produce year-round use, threatening greater impacts than mere summer vacation occupancy. Similarly, the city of Cambridge may recognize the use implications of university

ownership or control coupled with occupancy primarily by affiliates.

A second opposing contention is that the proposed amendment treats educational institution affiliates differently from others (see policy discussion on page 2), thus violating equal protection principles. The answer to this is that educational institutions in Cambridge pose a much greater threat to the neighborhood integrity which the original ordinance seeks to protect. "Equal protection does not prohibit differences in treatment where there is rational basis for those differences reasonably related to the purposes which the regulation seeks to accomplish." Goldman, 375 Mass. at 200, 375 N.E.2d at 1214 (citation omitted). "(T)he reform may take one step at a time, addressing itself to the phase of the problem which seems most acute to the legislative mind." Williamson v. Lee Optical Co., 348 U.S. 483, 489 (1955).

Finally, the Board should bear in mind the extreme deference which courts accord zoning ordinances. "Every presumption . . . must be made in favor of the validity of the zoning (ordinance), and great weight given to a (city's) determination that necessity exists for its adoption." Marshall v. Town of Topsfield, 13 Mass. App. Ct. 425, 428, 433 N.E.2d 1244, 1246 (1982). A zoning "amendment will be sustained unless there is no substantial relation between it and the express purposes of the zoning act." Canteen Corp. v. City of Pittsfield, 4 Mass. App. Ct. 289, 292, 346 N.E.2d 732, 735 (1976). It is noteworthy that the Canteen and Goldman cases reached favorable results even under the more restrictive pre-1975 state Zoning Enabling Act.

For the above reasons, the Board should report favorably on the proposed zoning amendment.

Proposed amendment to the City Council's "affiliate housing" petition of January 24, 1983

In paragraph 1, in the definition of "affiliate housing," strike out the words "occupied primarily by" and insert in their place the words "in which the educational institution to a significant extent gives preference in occupancy to".

HARVARD UNIVERSITY

OFFICE OF GOVERNMENT AND
COMMUNITY AFFAIRS

2 GARDEN STREET
CAMBRIDGE, MASSACHUSETTS 02138
617-495-4955

RECEIVED IN
OFFICE OF CITY CLERK
MAR 30 1 18 PM '83
CAMBRIDGE, MASS.

March 30, 1983

Councillor Walter J. Sullivan
Chairman, Ordinance Committee
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Re: Institutional Zoning - Proposed Amendments to Regulate "Affiliate Housing" of Educational Institutions

Dear Mr. Chairman:

I wish to record Harvard's opposition to the proposed amendments regarding "Affiliate Housing".

Attached, for your information, is a copy of our letter to the Planning Board dated March 29.

Very truly yours,

Lewis A. Armistead

attachment:

Received by the City Clerk 3/30/1983

HARVARD UNIVERSITY

OFFICE OF GOVERNMENT AND
COMMUNITY AFFAIRS

2 GARDEN STREET
CAMBRIDGE, MASSACHUSETTS 02138
617-495-4955

RECEIVED IN
OFFICE OF CITY CLERK
MAR 30 1 19 PM '83
CAMBRIDGE, MASS.

March 29, 1983

Planning Board
City of Cambridge
Cambridge, Massachusetts 02139

Re: Institutional Zoning - Proposed Amendments to Regulate "Affiliate Housing" of Educational Institutions

Dear Members:

For reasons, among others, set forth in my letter to you of October 18, 1982 (copy enclosed) reacting to Councillor Sullivan's original proposal, Harvard opposes both the amendment now proposed by Mayor Vellucci and that reintroduced by Councillor Sullivan.

We have reviewed Councillor Sullivan's amendment to his proposal and the accompanying memorandum which he submitted at your hearing on March 15. As we said then, we think the amendment represents a step backwards, both practically and legally.

One of Harvard's fundamental objections to the original proposal has always been that it would impermissibly regulate the identity of the owner and not the use of property. Even if regulation of ownership can be permissible where the effect is to regulate use, we have been troubled by the assumption and unsupported assertion that there are "use implications of University ownership or control coupled with occupancy primarily by affiliates." We do not think there are any such use implications unique to educational institutions which justify different treatment under zoning. Obviously, giving preference to affiliates to "a significant extent" is even less an institutional use than occupancy "primarily" by affiliates.

Even under the original proposal, an educational institution could have given preference to its affiliates in any building not primarily occupied by affiliates. The stated assumption of that proposal, with which we disagreed, was that it would define on an objective basis the point at

which a property becomes so institutional as to be justifiably regulated as such. Even under that proposal, Harvard affiliates could have been given preference in leasing up to 5 units in a 10-unit Harvard "open housing" building. Now, perhaps because we have said that the percentage, currently less than 30%, of Harvard's open housing occupied by affiliates has been steadily declining, the proposal has been amended so that none, or at most one or two of the units in the same building could be saved for affiliates, depending upon the subjective interpretation of "a significant extent". Moreover, the supposed "grandfather" protection under the amendment is illusory; even if 4 units in the same building happened to be occupied by affiliates now, they could not be reserved for affilates in the future.

The fact is that under the amendment an educational institution, unlike any other owner, could not prefer its own affiliates to "a significant extent." Not only would this extend far beyond regulation of "use" under zoning, it would be an unfair discrimination for which we have been unable to discern any rational basis.

Finally, we would point out that a variance is not a practical remedy if the affiliate housing proposal is adopted in any form. A variance requires a finding of hardship unique to the subject property; and for any property meeting zoning requirements except for the identity of its owner, such a finding could not be made. It is not disputed that few if any variances for "affiliate" housing could withstand challenge. This only serves to highlight the inappropriateness of requiring a use variance for residential use of residential property in a residential zoning district simply because of the identity of the owner. If some aspect of residential use is to be prohibited, it should be specified and made applicable to all owners.

We strongly urge that you recommend unfavorable action on both of the "affiliate housing" proposals now before you.

Very truly yours,

Lewis A. Armistead

HARVARD UNIVERSITY

OFFICE OF GOVERNMENT AND
COMMUNITY AFFAIRS

2 GARDEN STREET
CAMBRIDGE, MASSACHUSETTS 02138
617-495-4955

October 18, 1982

Planning Board
City of Cambridge
Cambridge, MA 02139

Re: Institutional Zoning; Proposed Amendment to Regulate "Affiliate Housing" of Educational Institutions

Dear Members:

This will record Harvard's opposition to the proposed amendment to the Zoning Ordinance which would extend the institutional zoning regulations to any dwelling owned or controlled by an educational institution and occupied primarily by its employees or students.

As you may know, a similar proposal was originally included in early drafts of the institutional zoning regulations. However, we argued and the Department of Community Development staff ultimately agreed, that the only appropriate objectives of zoning are the regulation of uses of and improvements to property. Nothing permits regulation or discrimination under zoning based upon the identity of the owners of the property and certainly not based upon the educational or employment status of the occupants. This point has recently been emphasized by the Massachusetts Supreme Judicial Court in its decision in CHR General, Inc. v. City of Newton, decided September 1, 1982:

> A "fundamental principle of zoning [is that] it deals basically with the use, without regard to the ownership, of the property involved or who may be the operator of the use."

Accordingly, as proposed (and enacted) the institutional use regulations did not regulate or restrict residential housing owned by educational institutions other than dormitories and fraternity and sorority houses.

A further problem with the proposed amendment is that educational institutions would be singled out from other institutions for regulation of their affiliate housing. No zoning considerations justify distinguishing a professor's house from a home or a rectory. Such a distinction would be not only legally impermissible but also inconsistent with the policy of treating all institutions equally which was repeatedly expressed at the time the institutional use regulations were originally proposed.

By Chapter 565 of the Acts of 1979, the General Court constituted Cambridge the only Massachusetts city or town with the power to override the provisions of the Zoning Act protecting educational and religious institutions from use regulation under zoning. In doing so, the General Court expressly limited that power to certain residential zoning districts. It is doubtful that it was intended and ironic that it is now proposed that this power be used to regulate otherwise proper residential uses.

Finally, it is obvious that whatever the legalisms may be, this proposal would be counterproductive to the City's and Harvard's common objective of having Harvard provide where possible for the housing needs of its employees and students, thereby avoiding undue pressures upon the limited existing housing stock.

We urge that you report unfavorably upon the proposed amendment.

Very truly yours,

Lewis A. Armistead

OFFICE OF THE PRESIDENT

CAMBRIDGE, MASSACHUSETTS 02139

March 30, 1983

The Honorable Walter J. Sullivan
Chairman, Council Committee on Ordinances
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02138

Dear Mr. Chairman:

MIT wishes to be recorded once again in opposition to the proposed amendment to the Cambridge Zoning Ordinance to regulate "affiliate housing," so called, which has been advanced by Councillor David Sullivan and which is the subject of this hearing.

David Sullivan's proposal defines "affiliate housing" as a dwelling (other than a dormitory, sorority, or fraternity) owned or controlled by an educational institution and "in which the educational institution to a significant extent gives preference to persons who are employed or enrolled at the educational institution." The proposal then requires that such "affiliate housing"--even if occupied by a single employee--be treated in the same way as a dormitory, fraternity, or sorority, strange as that may seem.

The present version of this proposal was introduced by Councillor David Sullivan at the Planning Board meeting of March 15, 1983 by way of amendment to the earlier, advertised version. The earlier version had been considered by the Planning Board in October, 1982, following which the Planning Board recommended against its adoption on the grounds that it represented an improper use of the zoning ordinance. On January 17, 1983, the City Council also failed to adopt that proposal. Following the failure of the proposal, a simple majority of the Council voted to reconsider it, but no further action was taken.

It is our belief, and our contention, that the failure by the City Council to adopt the earlier proposal at its January 17, 1983 meeting constitutes unfavorable action within the meaning of

M.G.L. c. 40A. This is true notwithstanding the motion for reconsideration passed (but never acted upon) by the City Council. If the affiliate housing proposal were unfavorably acted upon at the meeting of January 17, 1983--and that is my contention--it may not be considered another time on its merits until 1985.

Let me elaborate on my conviction that the failure by the City Council to adopt the affiliate housing amendment on January 17 constitutes unfavorable action. Councillor David Sullivan is clearly concerned about this and maintains in his memorandum to the Planning Board, dated March 15, 1983, that the vote in favor of a motion for reconsideration by a majority of Council members present at the January 17, 1983 meeting negates the unfavorable action taken earlier at that meeting.

This argument is deficient in two respects. First, it is well established in law that a simple majority vote is insufficient to move reconsideration of a matter requiring a two-thirds vote for passage. Second, even if the motion had been properly passed, the failure to act upon the motion for reconsideration means that "the action taken by the City Council stands." This is a well established rule. For example, Roberts Rules of Order, under which the Council operates, states: "If the motion to Reconsider is not called up, the situation becomes the same as if there had been no such motion, and the vote which it was proposed to reconsider . . . comes into full force."

The one point on which Councillor David Sullivan and I seemingly agree is his assertion that the changes he made by amending the earlier proposal did not change "the proposal's identity." Because the amended proposal is substantially identical to its predecessor, Councillor Sullivan is correct when he states that the current proposal did not require a new notice and a new hearing. Similarly, however, because the latest proposal is substantially identical to its predecessor, it fails to meet the constitutional objections raised against the earlier version. By explicitly focusing on ownership, rather that on use, the proposed amendment engages in an impermissable exercise of the zoning power.

We can say only what we have said at several earlier meetings: namely, the proposed amendment is clearly unconstitutional, in that it would restrict arbitrarily the use of property not on the basis of the nature of the use, but on the basis of the character of the owner. MIT's legal counsel has noted the very recent case of CHR General, Inc. v. City for Newton, 387 Mass. 341 (September 1, 1982), makes it clear that "A fundamental principle of zoning (is that) it deals basically with the use, without regard to the ownership of the property involved or who may be the operator of the use."

I hope the members of the Council will wish to have their

own legal advice about the legality of the procedures and the constitutionality of the amendment, which is so truly and totally troubling, before it goes any further.

Sincerely yours,

Walter L. Milne
Assistant to the President

cc President Gray
Chairman Johnson

D

CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • (617) 498-9020

LAW DEPARTMENT

RUSSELL B. HIGLEY
CITY SOLICITOR

MICHAEL C. COSTELLO
ASSISTANT CITY SOLICITOR

EDWARD A. CUNNINGHAM
SEVERLIN B. SINGLETON
DAVID B. O'CONNOR
BIRGE ALBRIGHT
LEGAL COUNSEL

March 29, 1983

Cambridge Planning Board
City Hall Annex
57 Inman Street
Cambridge, Mass.

Re: Affiliate Housing

Dear Board Members:

You have requested my opinion regarding the recent zoning petition to regulate "affiliate housing," in light of the decision in CHR General, Inc. v. City of Newton, 387 Mass. 351, 439 NE2d 788 (1982).

On March 15, Councillor David Sullivan recommended an amendment to the Zoning Ordinance, whereby the City would regulate "affiliate housing," defined as follows:

> a dwelling (other than a dormitory, fraternity, or sorority) owned or controlled by an educational institution and in which the educational institution to a significant extent gives preference to persons who are employed or enrolled at the educational institution.

Affiliate housing would be treated in the same way as the Zoning Ordinance now treats dormitories, fraternities and sororities under §4.56(c)(8)(Table of Institutional Use Regulations). Such uses are forbidden outside institutional overlay districts, unless they are replacing previous institutional uses on the site and have no greater adverse impact on the neighborhood, and the Board of Zoning Appeal (BZA) issues a special permit. They are permitted within institutional overlay districts only if the BZA issues a special permit and if any housing units removed or converted are replaced indefinitely with an equivalent number of units.

The proposal thus "regulates an educational institution's acquisition or construction of, or conversion to, a dwelling in which it discriminates against non-affiliates in occupancy." Memorandum of David Sullivan (3-15-83), p. 2.

CHR General, Inc. v. City of Newton, supra, held that an ordinance governing conversion of rental units to condominium ownership was a "private or civil law governing civil relationships," and, therefore, was prohibited by §7 of the Home Rule Amendment to the Massachusetts Constitution, which states in pertinent part:

> Nothing in this article shall be deemed to grant to any city or town the power... (5) to enact private or civil law governing civil relationships except as an incident to an exercise of an independent municipal power...

After holding that the challenged ordinance was a "private or civil law governing civil relationships," the Court then examined the question of whether it could be found valid "as an incident to an exercise of an independent municipal power." The City of Newton relied on the zoning power as the individual component of its police power authorizing enactment of the ordinance.

The Court rejected Newton's zoning argument, pointing out that a "fundamental principal of zoning (is that) it deals basically with the use, without regard to the ownership, of the property involved or who may be the operator of the use. 1A Rathkopf, Zoning and Planning, §1.04, at 1-21 (4th ed. 1982)" and that "a building composed (of) condominium units does not 'use' the land it sits upon any differently than an identical building containing rental units." 439 NE2d at 791.

The Court distinguished Goldman v. Dennis, 375 Mass. 197, 375 NE2d 1212 (1978), which upheld a zoning by-law requiring owners of "cottage colonies" to conform to certain minimum lot size requirements as a precondition to obtaining permission to convert individual cottages to condominiums. The Court in Goldman concluded that "(t)he legislative body of the town could reasonably believe that conversion of a cottage colony to single family use would encourage expansion of (nonconforming) use beyond the short summer season." 375 Mass. at 199. As a result, "(a)lthough the limitation (contained in the challenged by-law) is phrased in terms of ownership," the Court found the by-law "valid as a regulation of 'change of use.'" Id.

In short, the difference between CHR General and Goldman seems to be this: In CHR General, the Court concluded that the use of the land would be the same whether it had on it a building containing condominiums or a building containing apartments. In Goldman, the Court concluded that, if a cottage were converted into a condominium, the use would change from a summer use to a year-round use. Or, at least, the Court concluded that the "legislative body of the town could reasonably (so) believe." 375 Mass. at 199.

The holding in CHR General is supported by various definitions of zoning and its functions. See, e.g., 1 Rohan, Zoning and Land Use Controls, s1.02(1); 82 Am. Jur. 2d, Zoning and Planning, §2 (1976); 1 Williams, American Land Planning Law, §16.03 (1974) (functions of zoning); Black's Law Dictionary (1968) p. 1793; 8 McQuillin, Municipal Corporations, §§25.17, 25.119 (1976).

Pursuant to St. 1979, c. 565, as amended by St. 1980, c. 387, Cambridge is authorized, through zoning,

> to regulate and restrict the use of land or structures...for educational purpose on land owned or leased...by a non-profit educational corporation within all residentially zoned districts which require a lot area of one thousand two hundred square feet or more per dwelling unit.

Thus, the City can regulate "affiliate housing" under its zoning power if three conditions are met:

1. The land in question must be within a residentially zoned district which requires "a lot area of one thousand two hundred square feet or more per dwelling unit."

2. The land must be "owned or leased...by a non-profit educational corporation."

3. The land or structures must be used "for educational purposes."

The third condition is the subject of the present controversy.

Interpreting the term "educational use" in a by-law, the Court in Kurz v. Board of Appeals of North Reading, 341 Mass. 110, 112 (1960), stated:

> The by-law refers to "Educational use" in the ordinary sense.... They are everyday

> words and should be interpreted 'according to the common and approved usages of the language...without enlargement or restriction and without regard to.. (the court's) own conceptions of expediency.'... The meaning of the phrase is a question of law for the court....

In Radcliffe College v. Cambridge, 350 Mass. 613 (1966), the Court construed G.L. c. 40A, §2, which, at that time, provided:

> ...no ordinance...which prohibits or limits the use of land...for any educational purpose which is...public shall be valid....

The question was whether Art. VII, §2 of the Cambridge zoning ordinance, requiring provision for off-street parking, was applicable to a Radcliffe library, in light of c. 40A, §2.

The Court begins its analysis by devoting a paragraph to the parking problem in Cambridge:

> Adequate provision for parking...has become of general public concern.... The reasonable premise of a requirement for off street parking spaces for new buildings is that parking automobiles near by is an established function of the use of any building wherein people live, work, study or congregate for other purposes. Such a requirement is analogous to the statutory requirements of public corridors and exits of certain size and number and somewhat analogous to requirements of fire walls, fire escapes and fireproof construction.

350 Mass. at 617.

The Court stated (p. 618):

> Providing for the parking or housing of the automobiles of students, instructors, and employees of an educational institution is within the broad scope of the educational powers of the institution just as is providing for the feeding and housing of such personnel. These are secondary functions incidental to the main educational purpose.

The Court then upholds the ordinance by holding that, "At most the...ordinance requires choices among the proper educational purposes of the institution. In so doing it does not impede the reasonable use of the college's land for its educational purposes." Id. at 618.

I draw the following conclusions from Radcliffe College:

1. Providing for the housing of students, instructors and employees of the educational institution and their automobiles is "within the broad scope of the educational powers of the institution," although this is a "secondary function incidental to the main educational purpose." Arguably, therefore, such housing is an "educational use."

2. Therefore, in requiring off-street parking, as accessory to a library, Cambridge was simply requiring that the college devote a certain amount of its land to one "educational use" as opposed to another.

3. Underlying this requirement was the serious parking problem in Cambridge, a problem which makes the off-street parking requirement "somewhat analogous to requirements of fire walls, fire escapes and fireproof construction."

I conclude, therefore, that the provision of housing for university students, faculty and employees is, arguably, an "educational use," which can be regulated through the zoning power.

Having said this, I hasten to add that the City must show some need for the affiliate housing amendment. If the matter should go to Court, every presumption will be made in favor of the ordinance, and, if its reasonableness is fairly debatable, it will be sustained. Turnpike Realty Co. v. Dedham, 361 Mass. 221, 233 (1972), cert. den. 409 U.S. 1108 (1973). The constitutional test is whether the ordinance is "clearly arbitrary and unreasonable, having no substantial relation to the public health, safety, morals, or general welfare." Euclid v. Ambler Realty Co., 272 U.S. 365, 395 (1926).

Although there is a presumption of constitutionality, the Court would expect the City "to bring forward some indication that the zoning provision has some reasonable prospect of a tangible benefit to the community. 122 Main St. Corp. v. Brockton, 323 Mass. 646, 651 (1949). A showing

must be made, on the record, that there was a reasonable basis for the enactment." Sturges v. Town of Chilmark, Mass. Adv. Sh. (1980) 815, 402 NE2d 1346, 1353 (1980).

In his memorandum of October 19, 1982, Councillor Sullivan argues that affiliate housing should be regulated, because

> its traffic, activity patterns, and other use impacts are likely to extend the university campus into previously quiet residential streets, and it removes residential units from general availability to the Cambridge community.

I do not know whether the traffic and other "use impacts" associated with affiliate housing are different from those associated with non-affiliate housing. I suggest, however, that a court would not be likely to accept the idea that Cambridge's universities are not part of the "Cambridge community."

Very truly yours,

Russell B. Higley

Russell B. Higley
City Solicitor

RBH/jl

cc: Ms. Kathy Spiegelman
Mr. Robert W. Healy

D

CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • (617) 498-9020

LAW DEPARTMENT

RUSSELL B. HIGLEY
CITY SOLICITOR

MICHAEL C. COSTELLO
ASSISTANT CITY SOLICITOR

EDWARD A. CUNNINGHAM
SEVERLIN B. SINGLETON
DAVID B. O'CONNOR
BIRGE ALBRIGHT
LEGAL COUNSEL

March 29, 1983

Cambridge Planning Board
City Hall Annex
57 Inman Street
Cambridge, Mass.

Re: Affiliate Housing

Dear Board Members:

You have requested my opinion regarding the recent zoning petition to regulate "affiliate housing," in light of the decision in CHR General, Inc. v. City of Newton, 387 Mass. 351, 439 NE2d 788 (1982).

On March 15, Councillor David Sullivan recommended an amendment to the Zoning Ordinance, whereby the City would regulate "affiliate housing," defined as follows:

> a dwelling (other than a dormitory, fraternity, or sorority) owned or controlled by an educational institution and in which the educational institution to a significant extent gives preference to persons who are employed or enrolled at the educational institution.

Affiliate housing would be treated in the same way as the Zoning Ordinance now treats dormitories, fraternities and sororities under §4.56(c)(8)(Table of Institutional Use Regulations). Such uses are forbidden outside institutional overlay districts, unless they are replacing previous institutional uses on the site and have no greater adverse impact on the neighborhood, and the Board of Zoning Appeal (BZA) issues a special permit. They are permitted within institutional overlay districts only if the BZA issues a special permit and if any housing units removed or converted are replaced indefinitely with an equivalent number of units.

The proposal thus "regulates an educational institution's acquisition or construction of, or conversion to, a dwelling in which it discriminates against non-affiliates in occupancy." Memorandum of David Sullivan (3-15-83), p. 2.

CHR General, Inc. v. City of Newton, supra, held that an ordinance governing conversion of rental units to condominium ownership was a "private or civil law governing civil relationships," and, therefore, was prohibited by §7 of the Home Rule Amendment to the Massachusetts Constitution, which states in pertinent part:

> Nothing in this article shall be deemed to grant to any city or town the power... (5) to enact private or civil law governing civil relationships except as an incident to an exercise of an independent municipal power...

After holding that the challenged ordinance was a "private or civil law governing civil relationships," the Court then examined the question of whether it could be found valid "as an incident to an exercise of an independent municipal power." The City of Newton relied on the zoning power as the individual component of its police power authorizing enactment of the ordinance.

The Court rejected Newton's zoning argument, pointing out that a "fundamental principal of zoning (is that) it deals basically with the use, without regard to the ownership, of the property involved or who may be the operator of the use. 1A Rathkopf, Zoning and Planning, §1.04, at 1-21 (4th ed. 1982)" and that "a building composed (of) condominium units does not 'use' the land it sits upon any differently than an identical building containing rental units." 439 NE2d at 791.

The Court distinguished Goldman v. Dennis, 375 Mass. 197, 375 NE2d 1212 (1978), which upheld a zoning by-law requiring owners of "cottage colonies" to conform to certain minimum lot size requirements as a precondition to obtaining permission to convert individual cottages to condominiums. The Court in Goldman concluded that "(t)he legislative body of the town could reasonably believe that conversion of a cottage colony to single family use would encourage expansion of (nonconforming) use beyond the short summer season." 375 Mass. at 199. As a result, "(a)lthough the limitation (contained in the challenged by-law) is phrased in terms of ownership," the Court found the by-law "valid as a regulation of 'change of use.'" Id.

In short, the difference between CHR General and Goldman seems to be this: In CHR General, the Court concluded that the use of the land would be the same whether it had on it a building containing condominiums or a building containing apartments. In Goldman, the Court concluded that, if a cottage were converted into a condominium, the use would change from a summer use to a year-round use. Or, at least, the Court concluded that the "legislative body of the town could reasonably (so) believe." 375 Mass. at 199.

The holding in CHR General is supported by various definitions of zoning and its functions. See, e.g., 1 Rohan, Zoning and Land Use Controls, s1.02(1); 82 Am. Jur. 2d, Zoning and Planning, §2 (1976); 1 Williams, American Land Planning Law, §16.03 (1974)(functions of zoning); Black's Law Dictionary (1968) p. 1793; 8 McQuillin, Municipal Corporations, §§25.17, 25.119 (1976).

Pursuant to St. 1979, c. 565, as amended by St. 1980, c. 387, Cambridge is authorized, through zoning,

> to regulate and restrict the use of land or structures...for educational purpose on land owned or leased...by a non-profit educational corporation within all residentially zoned districts which require a lot area of one thousand two hundred square feet or more per dwelling unit.

Thus, the City can regulate "affiliate housing" under its zoning power if three conditions are met:

1. The land in question must be within a residentially zoned district which requires "a lot area of one thousand two hundred square feet or more per dwelling unit."

2. The land must be "owned or leased...by a non-profit educational corporation."

3. The land or structures must be used "for educational purposes."

The third condition is the subject of the present controversy.

Interpreting the term "educational use" in a by-law, the Court in Kurz v. Board of Appeals of North Reading, 341 Mass. 110, 112 (1960), stated:

> The by-law refers to "Educational use" in the ordinary sense.... They are everyday

> words and should be interpreted 'according to the common and approved usages of the language...without enlargement or restriction and without regard to...(the court's) own conceptions of expediency.'... The meaning of the phrase is a question of law for the court....

In Radcliffe College v. Cambridge, 350 Mass. 613 (1966), the Court construed G.L. c. 40A, §2, which, at that time, provided:

> ...no ordinance...which prohibits or limits the use of land...for any educational purpose which is...public shall be valid....

The question was whether Art. VII, §2 of the Cambridge zoning ordinance, requiring provision for off-street parking, was applicable to a Radcliffe library, in light of c. 40A, §2.

The Court begins its analysis by devoting a paragraph to the parking problem in Cambridge:

> Adequate provision for parking...has become of general public concern.... The reasonable premise of a requirement for off street parking spaces for new buildings is that parking automobiles near by is an established function of the use of any building wherein people live, work, study or congregate for other purposes. Such a requirement is analogous to the statutory requirements of public corridors and exits of certain size and number and somewhat analogous to requirements of fire walls, fire escapes and fireproof construction.

350 Mass. at 617.

The Court stated (p. 618):

> Providing for the parking or housing of the automobiles of students, instructors, and employees of an educational institution is within the broad scope of the educational powers of the institution just as is providing for the feeding and housing of such personnel. These are secondary functions incidental to the main educational purpose.

The Court then upholds the ordinance by holding that, "At most the...ordinance requires choices among the proper educational purposes of the institution. In so doing it does not impede the reasonable use of the college's land for its educational purposes." Id. at 618.

I draw the following conclusions from Radcliffe College:

1. Providing for the housing of students, instructors and employees of the educational institution and their automobiles is "within the broad scope of the educational powers of the institution," although this is a "secondary function incidental to the main educational purpose." Arguably, therefore, such housing is an "educational use."

2. Therefore, in requiring off-street parking, as accessory to a library, Cambridge was simply requiring that the college devote a certain amount of its land to one "educational use" as opposed to another.

3. Underlying this requirement was the serious parking problem in Cambridge, a problem which makes the off-street parking requirement "somewhat analogous to requirements of fire walls, fire escapes and fireproof construction."

I conclude, therefore, that the provision of housing for university students, faculty and employees is, arguably, an "educational use," which can be regulated through the zoning power.

Having said this, I hasten to add that the City must show some need for the affiliate housing amendment. If the matter should go to Court, every presumption will be made in favor of the ordinance, and, if its reasonableness is fairly debatable, it will be sustained. Turnpike Realty Co. v. Dedham, 361 Mass. 221, 233 (1972), cert. den. 409 U.S. 1108 (1973). The constitutional test is whether the ordinance is "clearly arbitrary and unreasonable, having no substantial relation to the public health, safety, morals, or general welfare." Euclid v. Ambler Realty Co., 272 U.S. 365, 395 (1926).

Although there is a presumption of constitutionality, the Court would expect the City "to bring forward some indication that the zoning provision has some reasonable prospect of a tangible benefit to the community. 122 Main St. Corp. v. Brockton, 323 Mass. 646, 651 (1949). A showing

must be made, on the record, that there was a reasonable basis for the enactment." Sturges v. Town of Chilmark, Mass. Adv. Sh. (1980) 815, 402 NE2d 1346, 1353 (1980).

In his memorandum of October 19, 1982, Councillor Sullivan argues that affiliate housing should be regulated, because

> its traffic, activity patterns, and other use impacts are likely to extend the university campus into previously quiet residential streets, and it removes residential units from general availability to the Cambridge community.

I do not know whether the traffic and other "use impacts" associated with affiliate housing are different from those associated with non-affiliate housing. I suggest, however, that a court would not be likely to accept the idea that Cambridge's universities are not part of the "Cambridge community."

Very truly yours,

Russell B. Higley

Russell B. Higley
City Solicitor

RBH/jl

cc: Ms. Kathy Spiegelman
Mr. Robert W. Healy

D

CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • (617) 498-9020

LAW DEPARTMENT

RUSSELL B. HIGLEY
CITY SOLICITOR

MICHAEL C. COSTELLO
ASSISTANT CITY SOLICITOR

EDWARD A. CUNNINGHAM
SEVERLIN B. SINGLETON
DAVID B. O'CONNOR
BIRGE ALBRIGHT
LEGAL COUNSEL

March 29, 1983

Cambridge Planning Board
City Hall Annex
57 Inman Street
Cambridge, Mass.

Re: Affiliate Housing

Dear Board Members:

You have requested my opinion regarding the recent zoning petition to regulate "affiliate housing," in light of the decision in CHR General, Inc. v. City of Newton, 387 Mass. 351, 439 NE2d 788 (1982).

On March 15, Councillor David Sullivan recommended an amendment to the Zoning Ordinance, whereby the City would regulate "affiliate housing," defined as follows:

> a dwelling (other than a dormitory, fraternity, or sorority) owned or controlled by an educational institution and in which the educational institution to a significant extent gives preference to persons who are employed or enrolled at the educational institution.

Affiliate housing would be treated in the same way as the Zoning Ordinance now treats dormitories, fraternities and sororities under §4.56(c)(8)(Table of Institutional Use Regulations). Such uses are forbidden outside institutional overlay districts, unless they are replacing previous institutional uses on the site and have no greater adverse impact on the neighborhood, and the Board of Zoning Appeal (BZA) issues a special permit. They are permitted within institutional overlay districts only if the BZA issues a special permit and if any housing units removed or converted are replaced indefinitely with an equivalent number of units.

The proposal thus "regulates an educational institution's acquisition or construction of, or conversion to, a dwelling in which it discriminates against non-affiliates in occupancy." Memorandum of David Sullivan (3-15-83), p. 2.

CHR General, Inc. v. City of Newton, supra, held that an ordinance governing conversion of rental units to condominium ownership was a "private or civil law governing civil relationships," and, therefore, was prohibited by §7 of the Home Rule Amendment to the Massachusetts Constitution, which states in pertinent part:

> Nothing in this article shall be deemed to grant to any city or town the power... (5) to enact private or civil law governing civil relationships except as an incident to an exercise of an independent municipal power...

After holding that the challenged ordinance was a "private or civil law governing civil relationships," the Court then examined the question of whether it could be found valid "as an incident to an exercise of an independent municipal power." The City of Newton relied on the zoning power as the individual component of its police power authorizing enactment of the ordinance.

The Court rejected Newton's zoning argument, pointing out that a "fundamental principal of zoning (is that) it deals basically with the use, without regard to the ownership, of the property involved or who may be the operator of the use. 1A Rathkopf, Zoning and Planning, §1.04, at 1-21 (4th ed. 1982)" and that "a building composed (of) condominium units does not 'use' the land it sits upon any differently than an identical building containing rental units." 439 NE2d at 791.

The Court distinguished Goldman v. Dennis, 375 Mass. 197, 375 NE2d 1212 (1978), which upheld a zoning by-law requiring owners of "cottage colonies" to conform to certain minimum lot size requirements as a precondition to obtaining permission to convert individual cottages to condominiums. The Court in Goldman concluded that "(t)he legislative body of the town could reasonably believe that conversion of a cottage colony to single family use would encourage expansion of (nonconforming) use beyond the short summer season." 375 Mass. at 199. As a result, "(a)lthough the limitation (contained in the challenged by-law) is phrased in terms of ownership," the Court found the by-law "valid as a regulation of 'change of use.'" Id.

In short, the difference between CHR General and Goldman seems to be this: In CHR General, the Court concluded that the use of the land would be the same whether it had on it a building containing condominiums or a building containing apartments. In Goldman, the Court concluded that, if a cottage were converted into a condominium, the use would change from a summer use to a year-round use. Or, at least, the Court concluded that the "legislative body of the town could reasonably (so) believe." 375 Mass. at 199.

The holding in CHR General is supported by various definitions of zoning and its functions. See, e.g., 1 Rohan, Zoning and Land Use Controls, s1.02(1); 82 Am. Jur. 2d, Zoning and Planning, §2 (1976); 1 Williams, American Land Planning Law, §16.03 (1974)(functions of zoning); Black's Law Dictionary (1968) p. 1793; 8 McQuillin, Municipal Corporations, §§25.17, 25.119 (1976).

Pursuant to St. 1979, c. 565, as amended by St. 1980, c. 387, Cambridge is authorized, through zoning,

> to regulate and restrict the use of land or structures...for educational purpose on land owned or leased...by a non-profit educational corporation within all residentially zoned districts which require a lot area of one thousand two hundred square feet or more per dwelling unit.

Thus, the City can regulate "affiliate housing" under its zoning power if three conditions are met:

1. The land in question must be within a residentially zoned district which requires "a lot area of one thousand two hundred square feet or more per dwelling unit."

2. The land must be "owned or leased...by a non-profit educational corporation."

3. The land or structures must be used "for educational purposes."

The third condition is the subject of the present controversy.

Interpreting the term "educational use" in a by-law, the Court in Kurz v. Board of Appeals of North Reading, 341 Mass. 110, 112 (1960), stated:

> The by-law refers to "Educational use" in the ordinary sense.... They are everyday

> words and should be interpreted 'according to the common and approved usages of the language...without enlargement or restriction and without regard to...(the court's) own conceptions of expediency.'... The meaning of the phrase is a question of law for the court....

In Radcliffe College v. Cambridge, 350 Mass. 613 (1966), the Court construed G.L. c. 40A, §2, which, at that time, provided:

> ...no ordinance...which prohibits or limits the use of land...for any educational purpose which is...public shall be valid....

The question was whether Art. VII, §2 of the Cambridge zoning ordinance, requiring provision for off-street parking, was applicable to a Radcliffe library, in light of c. 40A, §2.

The Court begins its analysis by devoting a paragraph to the parking problem in Cambridge:

> Adequate provision for parking...has become of general public concern.... The reasonable premise of a requirement for off street parking spaces for new buildings is that parking automobiles near by is an established function of the use of any building wherein people live, work, study or congregate for other purposes. Such a requirement is analogous to the statutory requirements of public corridors and exits of certain size and number and somewhat analogous to requirements of fire walls, fire escapes and fireproof construction.

350 Mass. at 617.

The Court stated (p. 618):

> Providing for the parking or housing of the automobiles of students, instructors, and employees of an educational institution is within the broad scope of the educational powers of the institution just as is providing for the feeding and housing of such personnel. These are secondary functions incidental to the main educational purpose.

The Court then upholds the ordinance by holding that, "At most the...ordinance requires choices among the proper educational purposes of the institution. In so doing it does not impede the reasonable use of the college's land for its educational purposes." Id. at 618.

I draw the following conclusions from Radcliffe College:

1. Providing for the housing of students, instructors and employees of the educational institution and their automobiles is "within the broad scope of the educational powers of the institution," although this is a "secondary function incidental to the main educational purpose." Arguably, therefore, such housing is an "educational use."

2. Therefore, in requiring off-street parking, as accessory to a library, Cambridge was simply requiring that the college devote a certain amount of its land to one "educational use" as opposed to another.

3. Underlying this requirement was the serious parking problem in Cambridge, a problem which makes the off-street parking requirement "somewhat analogous to requirements of fire walls, fire escapes and fireproof construction."

I conclude, therefore, that the provision of housing for university students, faculty and employees is, arguably, an "educational use," which can be regulated through the zoning power.

Having said this, I hasten to add that the City must show some need for the affiliate housing amendment. If the matter should go to Court, every presumption will be made in favor of the ordinance, and, if its reasonableness is fairly debatable, it will be sustained. Turnpike Realty Co. v. Dedham, 361 Mass. 221, 233 (1972), cert. den. 409 U.S. 1108 (1973). The constitutional test is whether the ordinance is "clearly arbitrary and unreasonable, having no substantial relation to the public health, safety, morals, or general welfare." Euclid v. Ambler Realty Co., 272 U.S. 365, 395 (1926).

Although there is a presumption of constitutionality, the Court would expect the City "to bring forward some indication that the zoning provision has some reasonable prospect of a tangible benefit to the community. 122 Main St. Corp. v. Brockton, 323 Mass. 646, 651 (1949). A showing

must be made, on the record, that there was a reasonable basis for the enactment." Sturges v. Town of Chilmark, Mass. Adv. Sh. (1980) 815, 402 NE2d 1346, 1353 (1980).

In his memorandum of October 19, 1982, Councillor Sullivan argues that affiliate housing should be regulated, because

> its traffic, activity patterns, and other use impacts are likely to extend the university campus into previously quiet residential streets, and it removes residential units from general availability to the Cambridge community.

I do not know whether the traffic and other "use impacts" associated with affiliate housing are different from those associated with non-affiliate housing. I suggest, however, that a court would not be likely to accept the idea that Cambridge's universities are not part of the "Cambridge community."

Very truly yours,

Russell B. Higley
City Solicitor

RBH/jl

cc: Ms. Kathy Spiegelman
Mr. Robert W. Healy

A

CAMBRIDGE CITY COUNCIL

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 498-9094

David E. Sullivan
City Councillor

M E M O R A N D U M

TO: Planning Board

FROM: David Sullivan

RE: "Affiliate housing" zoning amendment: second submission

DATE: March 15, 1983

On January 24, 1983 on my motion, the City Council unanimously voted to submit a proposed amendment to the Zoning Ordinance to regulate expansion of "affiliate housing." (The Council also submitted a similar proposal concerning "university owned housing," which this memorandum does not address.)

On January 17, 1983, the Council failed to ordain an identical proposal, although it received five of the necessary six votes. However, the Council immediately voted to reconsider its failure to ordain, and then took no further action. The earlier proposal remains on the Council's agenda as "unfinished business," although the time for Council action has now expired.

To respond to objections made against the original proposal by the Planning Board and others, I now respectfully recommend an amendment, attached to this memorandum. This amendment results in part from my discussions with representatives of Harvard University, although I do not represent that they agree with it. This memorandum discusses the proposal as so amended, and

supplements my earlier memorandum of October 19, 1982, which is also attached.

1. The amended proposal.

As amended, the proposal defines "affiliate housing" as a dwelling (other than a dormitory, fraternity, or sorority) owned or controlled by an educational institution and in which the educational institution to a significant extent gives preference to persons who are employed or enrolled at the educational institution. The proposal then treats such affiliate housing as the original did, that is in the same way as the current Zoning Ordinance treats dormitories, fraternities, and sororities. Under section 4.56(c)(8) of the Zoning Ordinance, such uses are forbidden outside institutional overlay districts, unless they are replacing previous institutional uses on the site, have no greater adverse impact on the neighborhood, and the Board of Zoning Appeal issues a special permit. They are permitted within institutional overlay districts only if the Board of Zoning Appeal issues a special permit and if any housing units removed or converted are replaced indefinitely with an equivalent number of units.

The amended proposal thus regulates an educational institution's acquisition or construction of, or conversion to, a dwelling in which it discriminates against non-affiliates in occupancy. The proposal does not affect already existing affiliate housing, which is grandfathered as a pre-existing nonconforming use under G.L. ch. 40A, § 6. The new definition includes the phrase "to a significant extent" both to permit educational institutions some flexibility in extraordinary situations where it may be necessary to relocate an affiliate household into "open" housing, and also to avoid treating

existing open housing where such a policy may currently be followed as affiliate housing, and therefore exempting it as a nonconforming use.

2. Advantages of the amended proposal.

The policy and legal arguments in the attached earlier memorandum also apply to the amended proposal. However, the amended proposal posesses additional advantages over the original one, which contained a test based on whether the dwelling was "occupied primarily by" affiliates, rather than on whether the institution "gives preference" to affiliates. Those advantages are as follows:

(a) The amended proposal eliminates the possibility of "accidental" violation, because its definition requires a practice of preferring affiliates. Of course, the affiliation of new occupants would be persuasive evidence of such a practice.

(b) The amended proposal negates the argument that an educational institution would be required to discriminate against its own affiliates. Instead, the new definition regulates the expansion of uses which discriminate against non-affiliates.

(c) The amended proposal does no more than codify what Harvard has publicly stated to be its current non-discrimination policy for its roughly 1,000 "open" housing units. Harvard can hardly object to this, both because it has publicly expressed no intention to change this policy, and because replacing a non-affiliate tenant in a rent controlled apartment with an affiliate would require a removal permit under present law.

(d) For the above reasons among others, the amended proposal more clearly regulates "use" in a manner traditional for zoning.

In view of this, the universities' reliance on CHR General, Inc. v. City of Newton, 387 Mass. 351, 356-57, 439 N.E.2d 788, 791-92 (1982), is even less well founded. That case distinguished the Goldman case, cited in my earlier memorandum, as upholding a zoning enactment which "phrased (a use limitation partly) in terms of ownership . . . ." Since that is precisely what my proposal does, CHR General's dictum (and that is all it is -- see 387 Mass. at 357 n.7, 439 N.E.2d at 792 n.7) simply does not apply here. In our informal discussions, Harvard's representatives seemed to concede this legal point.

3. Procedural issues.

New procedural objections can be anticipated against the amended proposal in its current posture. I respond as follows:

(a) My recommended amedment does not require re-advertizing and a new hearing, under G.L. ch. 40A, § 5. The city's special counsel recently advised that even amendments that substantially re-wrote the Cambridgeport zoning petition were proper, citing cases holding that only changes "of a fundamental character" going to the "identity of the proposal" would require a new process, and otherwise upholding even "substantial changes" in the original. Letter of Douglas A. Randall, Esq. to Robert W. Healy, Jan. 31, 1983. Certainly, the proper parties are on notice here, and the proposal's identity remains unaffected.

(b) The City Council may consider the amended proposal even if the Planning Board reports adversely. First, the City Council's January 17 reconsideration, followed by no final action, means that it has not "unfavorably acted upon" the original proposal, within the meaning of G.L. ch. 40A, § 5. Second, the amended proposal differs sufficiently from the original as to remove the bar in

any event.

Because the amended proposal responds to the Planning Board's concerns expressed in its November 9, 1982 report, the Board should recommend it to the City Council for adoption.

CAMBRIDGE CITY COUNCIL

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 498-9094

David E. Sullivan
City Councillor

M E M O R A N D U M

TO: Planning Board

FROM: David Sullivan

RE: "Affiliate housing" zoning amendment

DATE: October 19, 1982

On September 13, 1982 on my motion, the City Council unanimously voted to submit a proposed amendment to the Zoning Ordinance to regulate "affiliate housing." The proposal defines that term as a dwelling (other than a dormitory, sorority, or fraternity) owned or controlled by an educational institution and occupied primarily by persons who are employed or enrolled at the educational institution. The proposed amendment then treats such "affiliate housing" in the same way as a dormitory, fraternity, or sorority. Under section 4.56(c)(8) of the present Zoning Ordinance, such uses are forbidden outside institutional overlay districts, unless they are replacing previous institutional uses on the site, have no greater adverse impact on the neighborhood, and the Board of Zoning Appeal issues a special permit; they are permitted within institutional overlay districts only if the Board of Zoning Appeal issues a special permit and if any housing units removed or converted are replaced indefinitely with an equivalent number of units.

Policy issues

The proposal would amend language inserted in the Zoning Ordinance by Ordinance No. 960, the institutional expansion ordinance of June 22, 1981. Both the January 1981 CDD "Revised Strategy for Managing Institutional Expansion" (CDD, Cambridge Institutional Growth Management Plan, May 1981), and the June 16, 1981 Planning Board report on the existing ordinance, include as its purposes preventing uses incompatible with neighborhoods because of activity patterns and overall impact, and regulating displacement of residential units from the housing stock. These purposes cannot be adequately served unless "affiliate housing" is regulated -- its traffic, activity patterns, and other use impacts are likely to extend the university campus into previously quiet residential streets, and it removes residential units from general availability to the Cambridge community.

After I presented this suggestion at the June 9, 1981 Planning Board hearing, the Board's report expressed the concern that policy problems raised by affiliate housing applied to private and not merely institutional residences, and therefore limited the remedy to "temporary" dormitory housing. To the extent that this concern is a legal one, it is considered below. In policy terms, experience has shown that the problems presented by educational institutions' "affiliate housing" are every bit as serious as those of their dormitories, and these problems do not occur to the same extent with respect to any other category of owner.

The difference between the proposed definition of "affiliate housing" and the present definition of "dormitory" is the latter's limitation to "a place of temporary residence for persons whose permanent residence is elsewhere." Zoning Ordinance § 2.000.

This distinction has proved impossible to administer in practice. To establish whether a violation of the ordinance is occurring, it requires an inquiry into the legal "domicil" of every resident of an alleged "dormitory." The recent dispute over MIT's acquisition of the Fort Washington townhouses in Cambridgeport demonstrates the difficulties. The new definition would resolve the problem by limiting the inquiry to easily discovered fact situations familiar to zoning administrators.

Legal issues

Both the original institutional expansion ordinance and the proposed amendment are authorized by 1979 Mass. Acts ch. 565, as amended by 1980 Mass. Acts ch. 387. This statute allows Cambridge to "regulate and restrict the use of land or structures . . . for educational purposes on land owned or leased . . . by a nonprofit educational corporation" in certain low-density residential districts, notwithstanding the usual "Dover Amendment" exemption of G.L. ch. 40A, § 3.

One objection might be that the proposal regulates not "use," but rather ownership and affiliation. The Supreme Judicial Court disposed of this argument in Goldman v. Town of Dennis, 375 Mass. 197, 375 N.E.2d 1212 (1978), upholding a zoning by-law which regulated condominium conversion of rented cottage colonies. Although the by-law referred on its face to ownership, the court held that the town properly recognized that individual ownership would likely produce year-round use, threatening greater impacts than mere summer vacation occupancy. Similarly, the city of Cambridge may recognize the use implications of university

ownership or control coupled with occupancy primarily by affiliates.

A second opposing contention is that the proposed amendment treats educational institution affiliates differently from others (see policy discussion on page 2), thus violating equal protection principles. The answer to this is that educational institutions in Cambridge pose a much greater threat to the neighborhood integrity which the original ordinance seeks to protect. "Equal protection does not prohibit differences in treatment where there is rational basis for those differences reasonably related to the purposes which the regulation seeks to accomplish." Goldman, 375 Mass. at 200, 375 N.E.2d at 1214 (citation omitted). "(T)he reform may take one step at a time, addressing itself to the phase of the problem which seems most acute to the legislative mind." Williamson v. Lee Optical Co., 348 U.S. 483, 489 (1955).

Finally, the Board should bear in mind the extreme deference which courts accord zoning ordinances. "Every presumption . . . must be made in favor of the validity of the zoning (ordinance), and great weight given to a (city's) determination that necessity exists for its adoption." Marshall v. Town of Topsfield, 13 Mass. App. Ct. 425, 428, 433 N.E.2d 1244, 1246 (1982). A zoning "amendment will be sustained unless there is no substantial relation between it and the express purposes of the zoning act." Canteen Corp. v. City of Pittsfield, 4 Mass. App. Ct. 289, 292, 346 N.E.2d 732, 735 (1976). It is noteworthy that the Canteen and Goldman cases reached favorable results even under the more restrictive pre-1975 state Zoning Enabling Act.

For the above reasons, the Board should report favorably on the proposed zoning amendment.

Proposed amendment to the City Council's "affiliate housing" petition of January 24, 1983

In paragraph 1, in the definition of "affiliate housing," strike out the words "occupied primarily by" and insert in their place the words "in which the educational institution to a significant extent gives preference in occupancy to".

HARVARD UNIVERSITY

OFFICE OF GOVERNMENT AND
COMMUNITY AFFAIRS

2 GARDEN STREET
CAMBRIDGE, MASSACHUSETTS 02138
617-495-4955

RECEIVED BY
OFFICE OF CITY CLERK
MAR 30 1 18 PM '83
CAMBRIDGE, MASS.

March 30, 1983

Councillor Walter J. Sullivan
Chairman, Ordinance Committee
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Re: Institutional Zoning - Proposed Amendments to Regulate "Affiliate Housing" of Educational Institutions

Dear Mr. Chairman:

I wish to record Harvard's opposition to the proposed amendments regarding "Affiliate Housing".

Attached, for your information, is a copy of our letter to the Planning Board dated March 29.

Very truly yours,

Lewis A. Armistead

attachment:

Received by the City Clerk 3/30/1983

HARVARD UNIVERSITY

OFFICE OF GOVERNMENT AND
COMMUNITY AFFAIRS

2 GARDEN STREET
CAMBRIDGE, MASSACHUSETTS 02138
617-495-4955

RECEIVED IN
OFFICE OF CITY CLERK
MAR 30 1 19 PM '83
CAMBRIDGE, MASS.

March 29, 1983

Planning Board
City of Cambridge
Cambridge, Massachusetts 02139

Re: Institutional Zoning - Proposed Amendments to Regulate "Affiliate Housing" of Educational Institutions

Dear Members:

For reasons, among others, set forth in my letter to you of October 18, 1982 (copy enclosed) reacting to Councillor Sullivan's original proposal, Harvard opposes both the amendment now proposed by Mayor Vellucci and that reintroduced by Councillor Sullivan.

We have reviewed Councillor Sullivan's amendment to his proposal and the accompanying memorandum which he submitted at your hearing on March 15. As we said then, we think the amendment represents a step backwards, both practically and legally.

One of Harvard's fundamental objections to the original proposal has always been that it would impermissibly regulate the identity of the owner and not the use of property. Even if regulation of ownership can be permissible where the effect is to regulate use, we have been troubled by the assumption and unsupported assertion that there are "use implications of University ownership or control coupled with occupancy primarily by affiliates." We do not think there are any such use implications unique to educational institutions which justify different treatment under zoning. Obviously, giving preference to affiliates to "a significant extent" is even less an institutional use than occupancy "primarily" by affiliates.

Even under the original proposal, an educational institution could have given preference to its affiliates in any building not primarily occupied by affiliates. The stated assumption of that proposal, with which we disagreed, was that it would define on an objective basis the point at

which a property becomes so institutional as to be justifiably regulated as such. Even under that proposal, Harvard affiliates could have been given preference in leasing up to 5 units in a 10-unit Harvard "open housing" building. Now, perhaps because we have said that the percentage, currently less than 30%, of Harvard's open housing occupied by affiliates has been steadily declining, the proposal has been amended so that none, or at most one or two of the units in the same building could be saved for affiliates, depending upon the subjective interpretation of "a significant extent". Moreover, the supposed "grandfather" protection under the amendment is illusory; even if 4 units in the same building happened to be occupied by affiliates now, they could not be reserved for affilates in the future.

The fact is that under the amendment an educational institution, unlike any other owner, could not prefer its own affiliates to "a significant extent." Not only would this extend far beyond regulation of "use" under zoning, it would be an unfair discrimination for which we have been unable to discern any rational basis.

Finally, we would point out that a variance is not a practical remedy if the affiliate housing proposal is adopted in any form. A variance requires a finding of hardship unique to the subject property; and for any property meeting zoning requirements except for the identity of its owner, such a finding could not be made. It is not disputed that few if any variances for "affiliate" housing could withstand challenge. This only serves to highlight the inappropriateness of requiring a use variance for residential use of residential property in a residential zoning district simply because of the identity of the owner. If some aspect of residential use is to be prohibited, it should be specified and made applicable to all owners.

We strongly urge that you recommend unfavorable action on both of the "affiliate housing" proposals now before you.

Very truly yours,

Lewis A. Armistead

HARVARD UNIVERSITY

FICE OF GOVERNMENT AND
MMUNITY AFFAIRS

2 GARDEN STREET
CAMBRIDGE, MASSACHUSETTS 02138
617-495-4955

October 18, 1982

Planning Board
City of Cambridge
Cambridge, MA 02139

Re: Institutional Zoning; Proposed Amendment to Regulate "Affiliate Housing" of Educational Institutions

Dear Members:

This will record Harvard's opposition to the proposed amendment to the Zoning Ordinance which would extend the institutional zoning regulations to any dwelling owned or controlled by an educational institution and occupied primarily by its employees or students.

As you may know, a similar proposal was originally included in early drafts of the institutional zoning regulations. However, we argued and the Department of Community Development staff ultimately agreed, that the only appropriate objectives of zoning are the regulation of uses of and improvements to property. Nothing permits regulation or discrimination under zoning based upon the identity of the owners of the property and certainly not based upon the educational or employment status of the occupants. This point has recently been emphasized by the Massachusetts Supreme Judicial Court in its decision in CHR General, Inc. v. City of Newton, decided September 1, 1982:

> A "fundamental principle of zoning [is that] it deals basically with the use, without regard to the ownership, of the property involved or who may be the operator of the use."

Accordingly, as proposed (and enacted) the institutional use regulations did not regulate or restrict residential housing owned by educational institutions other than dormitories and fraternity and sorority houses.

A further problem with the proposed amendment is that educational institutions would be singled out from other institutions for regulation of their affiliate housing. No zoning considerations justify distinguishing a professor's house from a home or a rectory. Such a distinction would be not only legally impermissible but also inconsistent with the policy of treating all institutions equally which was repeatedly expressed at the time the institutional use regulations were originally proposed.

By Chapter 565 of the Acts of 1979, the General Court constituted Cambridge the only Massachusetts city or town with the power to override the provisions of the Zoning Act protecting educational and religious institutions from use regulation under zoning. In doing so, the General Court expressly limited that power to certain residential zoning districts. It is doubtful that it was intended and ironic that it is now proposed that this power be used to regulate otherwise proper residential uses.

Finally, it is obvious that whatever the legalisms may be, this proposal would be counterproductive to the City's and Harvard's common objective of having Harvard provide where possible for the housing needs of its employees and students, thereby avoiding undue pressures upon the limited existing housing stock.

We urge that you report unfavorably upon the proposed amendment.

Very truly yours,

Lewis A. Armistead

OFFICE OF THE PRESIDENT

CAMBRIDGE, MASSACHUSETTS 02139

March 30, 1983

The Honorable Walter J. Sullivan
Chairman, Council Committee on Ordinances
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02138

Dear Mr. Chairman:

MIT wishes to be recorded once again in opposition to the proposed amendment to the Cambridge Zoning Ordinance to regulate "affiliate housing," so called, which has been advanced by Councillor David Sullivan and which is the subject of this hearing.

David Sullivan's proposal defines "affiliate housing" as a dwelling (other than a dormitory, sorority, or fraternity) owned or controlled by an educational institution and "in which the educational institution to a significant extent gives preference to persons who are employed or enrolled at the educational institution." The proposal then requires that such "affiliate housing"--even if occupied by a single employee--be treated in the same way as a dormitory, fraternity, or sorority, strange as that may seem.

The present version of this proposal was introduced by Councillor David Sullivan at the Planning Board meeting of March 15, 1983 by way of amendment to the earlier, advertised version. The earlier version had been considered by the Planning Board in October, 1982, following which the Planning Board recommended against its adoption on the grounds that it represented an improper use of the zoning ordinance. On January 17, 1983, the City Council also failed to adopt that proposal. Following the failure of the proposal, a simple majority of the Council voted to reconsider it, but no further action was taken.

It is our belief, and our contention, that the failure by the City Council to adopt the earlier proposal at its January 17, 1983 meeting constitutes unfavorable action within the meaning of

M.G.L. c. 40A. This is true notwithstanding the motion for reconsideration passed (but never acted upon) by the City Council. If the affiliate housing proposal were unfavorably acted upon at the meeting of January 17, 1983--and that is my contention--it may not be considered another time on its merits until 1985.

Let me elaborate on my conviction that the failure by the City Council to adopt the affiliate housing amendment on January 17 constitutes unfavorable action. Councillor David Sullivan is clearly concerned about this and maintains in his memorandum to the Planning Board, dated March 15, 1983, that the vote in favor of a motion for reconsideration by a majority of Council members present at the January 17, 1983 meeting negates the unfavorable action taken earlier at that meeting.

This argument is deficient in two respects. First, it is well established in law that a simple majority vote is insufficient to move reconsideration of a matter requiring a two-thirds vote for passage. Second, even if the motion had been properly passed, the failure to act upon the motion for reconsideration means that "the action taken by the City Council stands." This is a well established rule. For example, Roberts Rules of Order, under which the Council operates, states: "If the motion to Reconsider is not called up, the situation becomes the same as if there had been no such motion, and the vote which it was proposed to reconsider . . . comes into full force."

The one point on which Councillor David Sullivan and I seemingly agree is his assertion that the changes he made by amending the earlier proposal did not change "the proposal's identity." Because the amended proposal is substantially identical to its predecessor, Councillor Sullivan is correct when he states that the current proposal did not require a new notice and a new hearing. Similarly, however, because the latest proposal is substantially identical to its predecessor, it fails to meet the constitutional objections raised against the earlier version. By explicitly focusing on ownership, rather that on use, the proposed amendment engages in an impermissable exercise of the zoning power.

We can say only what we have said at several earlier meetings: namely, the proposed amendment is clearly unconstitutional, in that it would restrict arbitrarily the use of property not on the basis of the nature of the use, but on the basis of the character of the owner. MIT's legal counsel has noted the very recent case of CHR General, Inc. v. City for Newton, 387 Mass. 341 (September 1, 1982), makes it clear that "A fundamental principle of zoning (is that) it deals basically with the use, without regard to the ownership of the property involved or who may be the operator of the use."

I hope the members of the Council will wish to have their

own legal advice about the legality of the procedures and the constitutionality of the amendment, which is so truly and totally troubling, before it goes any further.

Sincerely yours,

Walter L. Milne
Assistant to the President

cc President Gray
Chairman Johnson

D

CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • (617) 498-9020

LAW DEPARTMENT

RUSSELL B. HIGLEY
CITY SOLICITOR

MICHAEL C. COSTELLO
ASSISTANT CITY SOLICITOR

EDWARD A. CUNNINGHAM
SEVERLIN B. SINGLETON
DAVID B. O'CONNOR
BIRGE ALBRIGHT
LEGAL COUNSEL

March 29, 1983

Cambridge Planning Board
City Hall Annex
57 Inman Street
Cambridge, Mass.

Re: Affiliate Housing

Dear Board Members:

You have requested my opinion regarding the recent zoning petition to regulate "affiliate housing," in light of the decision in CHR General, Inc. v. City of Newton, 387 Mass. 351, 439 NE2d 788 (1982).

On March 15, Councillor David Sullivan recommended an amendment to the Zoning Ordinance, whereby the City would regulate "affiliate housing," defined as follows:

> a dwelling (other than a dormitory, fraternity, or sorority) owned or controlled by an educational institution and in which the educational institution to a significant extent gives preference to persons who are employed or enrolled at the educational institution.

Affiliate housing would be treated in the same way as the Zoning Ordinance now treats dormitories, fraternities and sororities under §4.56(c)(8)(Table of Institutional Use Regulations). Such uses are forbidden outside institutional overlay districts, unless they are replacing previous institutional uses on the site and have no greater adverse impact on the neighborhood, and the Board of Zoning Appeal (BZA) issues a special permit. They are permitted within institutional overlay districts only if the BZA issues a special permit and if any housing units removed or converted are replaced indefinitely with an equivalent number of units.

HARVARD UNIVERSITY

OFFICE OF GOVERNMENT AND
COMMUNITY AFFAIRS

2 GARDEN STREET
CAMBRIDGE, MASSACHUSETTS 02138
617-495-4955

RECEIVED IN
OFFICE OF CITY CLERK
MAR 30 1 19 PM '83
CAMBRIDGE, MASS.

March 29, 1983

Planning Board
City of Cambridge
Cambridge, Massachusetts 02139

Re: Institutional Zoning - Proposed Amendments to Regulate "Affiliate Housing" of Educational Institutions

Dear Members:

For reasons, among others, set forth in my letter to you of October 18, 1982 (copy enclosed) reacting to Councillor Sullivan's original proposal, Harvard opposes both the amendment now proposed by Mayor Vellucci and that reintroduced by Councillor Sullivan.

We have reviewed Councillor Sullivan's amendment to his proposal and the accompanying memorandum which he submitted at your hearing on March 15. As we said then, we think the amendment represents a step backwards, both practically and legally.

One of Harvard's fundamental objections to the original proposal has always been that it would impermissibly regulate the identity of the owner and not the use of property. Even if regulation of ownership can be permissible where the effect is to regulate use, we have been troubled by the assumption and unsupported assertion that there are "use implications of University ownership or control coupled with occupancy primarily by affiliates." We do not think there are any such use implications unique to educational institutions which justify different treatment under zoning. Obviously, giving preference to affiliates to "a significant extent" is even less an institutional use than occupancy "primarily" by affiliates.

Even under the original proposal, an educational institution could have given preference to its affiliates in any building not primarily occupied by affiliates. The stated assumption of that proposal, with which we disagreed, was that it would define on an objective basis the point at

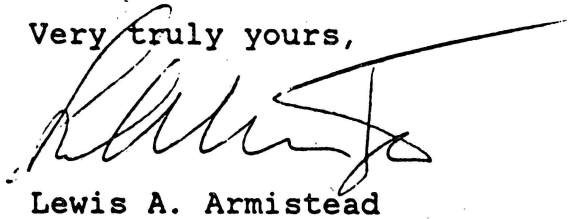
which a property becomes so institutional as to be justifiably regulated as such. Even under that proposal, Harvard affiliates could have been given preference in leasing up to 5 units in a 10-unit Harvard "open housing" building. Now, perhaps because we have said that the percentage, currently less than 30%, of Harvard's open housing occupied by affiliates has been steadily declining, the proposal has been amended so that none, or at most one or two of the units in the same building could be saved for affiliates, depending upon the subjective interpretation of "a significant extent". Moreover, the supposed "grandfather" protection under the amendment is illusory; even if 4 units in the same building happened to be occupied by affiliates now, they could not be reserved for affilates in the future.

The fact is that under the amendment an educational institution, unlike any other owner, could not prefer its own affiliates to "a significant extent." Not only would this extend far beyond regulation of "use" under zoning, it would be an unfair discrimination for which we have been unable to discern any rational basis.

Finally, we would point out that a variance is not a practical remedy if the affiliate housing proposal is adopted in any form. A variance requires a finding of hardship unique to the subject property; and for any property meeting zoning requirements except for the identity of its owner, such a finding could not be made. It is not disputed that few if any variances for "affiliate" housing could withstand challenge. This only serves to highlight the inappropriateness of requiring a use variance for residential use of residential property in a residential zoning district simply because of the identity of the owner. If some aspect of residential use is to be prohibited, it should be specified and made applicable to all owners.

We strongly urge that you recommend unfavorable action on both of the "affiliate housing" proposals now before you.

Very truly yours,



Lewis A. Armistead

HARVARD UNIVERSITY

OFFICE OF GOVERNMENT AND
COMMUNITY AFFAIRS

2 GARDEN STREET
CAMBRIDGE, MASSACHUSETTS 02138
617-495-4955

October 18, 1982

Planning Board
City of Cambridge
Cambridge, MA 02139

Re: Institutional Zoning; Proposed Amendment to Regulate "Affiliate Housing" of Educational Institutions

Dear Members:

This will record Harvard's opposition to the proposed amendment to the Zoning Ordinance which would extend the institutional zoning regulations to any dwelling owned or controlled by an educational institution and occupied primarily by its employees or students.

As you may know, a similar proposal was originally included in early drafts of the institutional zoning regulations. However, we argued and the Department of Community Development staff ultimately agreed, that the only appropriate objectives of zoning are the regulation of uses of and improvements to property. Nothing permits regulation or discrimination under zoning based upon the identity of the owners of the property and certainly not based upon the educational or employment status of the occupants. This point has recently been emphasized by the Massachusetts Supreme Judicial Court in its decision in CHR General, Inc. v. City of Newton, decided September 1, 1982:

> A "fundamental principle of zoning [is that] it deals basically with the use, without regard to the ownership, of the property involved or who may be the operator of the use."

Accordingly, as proposed (and enacted) the institutional use regulations did not regulate or restrict residential housing owned by educational institutions other than dormitories and fraternity and sorority houses.

A further problem with the proposed amendment is that educational institutions would be singled out from other institutions for regulation of their affiliate housing. No zoning considerations justify distinguishing a professor's house from a home or a rectory. Such a distinction would be not only legally impermissible but also inconsistent with the policy of treating all institutions equally which was repeatedly expressed at the time the institutional use regulations were originally proposed.

By Chapter 565 of the Acts of 1979, the General Court constituted Cambridge the only Massachusetts city or town with the power to override the provisions of the Zoning Act protecting educational and religious institutions from use regulation under zoning. In doing so, the General Court expressly limited that power to certain residential zoning districts. It is doubtful that it was intended and ironic that it is now proposed that this power be used to regulate otherwise proper residential uses.

Finally, it is obvious that whatever the legalisms may be, this proposal would be counterproductive to the City's and Harvard's common objective of having Harvard provide where possible for the housing needs of its employees and students, thereby avoiding undue pressures upon the limited existing housing stock.

We urge that you report unfavorably upon the proposed amendment.

Very truly yours,

Lewis A. Armistead

OFFICE OF THE PRESIDENT

CAMBRIDGE, MASSACHUSETTS 02139

March 30, 1983

The Honorable Walter J. Sullivan
Chairman, Council Committee on Ordinances
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02138

Dear Mr. Chairman:

MIT wishes to be recorded once again in opposition to the proposed amendment to the Cambridge Zoning Ordinance to regulate "affiliate housing," so called, which has been advanced by Councillor David Sullivan and which is the subject of this hearing.

David Sullivan's proposal defines "affiliate housing" as a dwelling (other than a dormitory, sorority, or fraternity) owned or controlled by an educational institution and "in which the educational institution to a significant extent gives preference to persons who are employed or enrolled at the educational institution." The proposal then requires that such "affiliate housing"--even if occupied by a single employee--be treated in the same way as a dormitory, fraternity, or sorority, strange as that may seem.

The present version of this proposal was introduced by Councillor David Sullivan at the Planning Board meeting of March 15, 1983 by way of amendment to the earlier, advertised version. The earlier version had been considered by the Planning Board in October, 1982, following which the Planning Board recommended against its adoption on the grounds that it represented an improper use of the zoning ordinance. On January 17, 1983, the City Council also failed to adopt that proposal. Following the failure of the proposal, a simple majority of the Council voted to reconsider it, but no further action was taken.

It is our belief, and our contention, that the failure by the City Council to adopt the earlier proposal at its January 17, 1983 meeting constitutes unfavorable action within the meaning of

M.G.L. c. 40A. This is true notwithstanding the motion for reconsideration passed (but never acted upon) by the City Council. If the affiliate housing proposal were unfavorably acted upon at the meeting of January 17, 1983--and that is my contention--it may not be considered another time on its merits until 1985.

Let me elaborate on my conviction that the failure by the City Council to adopt the affiliate housing amendment on January 17 constitutes unfavorable action. Councillor David Sullivan is clearly concerned about this and maintains in his memorandum to the Planning Board, dated March 15, 1983, that the vote in favor of a motion for reconsideration by a majority of Council members present at the January 17, 1983 meeting negates the unfavorable action taken earlier at that meeting.

This argument is deficient in two respects. First, it is well established in law that a simple majority vote is insufficient to move reconsideration of a matter requiring a two-thirds vote for passage. Second, even if the motion had been properly passed, the failure to act upon the motion for reconsideration means that "the action taken by the City Council stands." This is a well established rule. For example, Roberts Rules of Order, under which the Council operates, states: "If the motion to Reconsider is not called up, the situation becomes the same as if there had been no such motion, and the vote which it was proposed to reconsider . . . comes into full force."

The one point on which Councillor David Sullivan and I seemingly agree is his assertion that the changes he made by amending the earlier proposal did not change "the proposal's identity." Because the amended proposal is substantially identical to its predecessor, Councillor Sullivan is correct when he states that the current proposal did not require a new notice and a new hearing. Similarly, however, because the latest proposal is substantially identical to its predecessor, it fails to meet the constitutional objections raised against the earlier version. By explicitly focusing on ownership, rather that on use, the proposed amendment engages in an impermissable exercise of the zoning power.

We can say only what we have said at several earlier meetings: namely, the proposed amendment is clearly unconstitutional, in that it would restrict arbitrarily the use of property not on the basis of the nature of the use, but on the basis of the character of the owner. MIT's legal counsel has noted the very recent case of CHR General, Inc. v. City for Newton, 387 Mass. 341 (September 1, 1982), makes it clear that "A fundamental principle of zoning (is that) it deals basically with the use, without regard to the ownership of the property involved or who may be the operator of the use."

I hope the members of the Council will wish to have their

own legal advice about the legality of the procedures and the constitutionality of the amendment, which is so truly and totally troubling, before it goes any further.

Sincerely yours,

Walter L. Milne
Assistant to the President

cc President Gray
Chairman Johnson

D

CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • (617) 498-9020

LAW DEPARTMENT

RUSSELL B. HIGLEY
CITY SOLICITOR

MICHAEL C. COSTELLO
ASSISTANT CITY SOLICITOR

EDWARD A. CUNNINGHAM
SEVERLIN B. SINGLETON
DAVID B. O'CONNOR
BIRGE ALBRIGHT
LEGAL COUNSEL

March 29, 1983

Cambridge Planning Board
City Hall Annex
57 Inman Street
Cambridge, Mass.

Re: Affiliate Housing

Dear Board Members:

You have requested my opinion regarding the recent zoning petition to regulate "affiliate housing," in light of the decision in CHR General, Inc. v. City of Newton, 387 Mass. 351, 439 NE2d 788 (1982).

On March 15, Councillor David Sullivan recommended an amendment to the Zoning Ordinance, whereby the City would regulate "affiliate housing," defined as follows:

> a dwelling (other than a dormitory, fraternity, or sorority) owned or controlled by an educational institution and in which the educational institution to a significant extent gives preference to persons who are employed or enrolled at the educational institution.

Affiliate housing would be treated in the same way as the Zoning Ordinance now treats dormitories, fraternities and sororities under §4.56(c)(8)(Table of Institutional Use Regulations). Such uses are forbidden outside institutional overlay districts, unless they are replacing previous institutional uses on the site and have no greater adverse impact on the neighborhood, and the Board of Zoning Appeal (BZA) issues a special permit. They are permitted within institutional overlay districts only if the BZA issues a special permit and if any housing units removed or converted are replaced indefinitely with an equivalent number of units.

April 11, 1983

Dear Councillor:

William Noble and I present for your interest and review a copy of our proposal for rehabilitating deteriorated rental properties. In shaping its policies regarding substantial rehabilitation and "distressed" buildings, the Rent Control Board will be considering the proposal, among others, this Thursday.

While we have focused upon the role we believe the Rent Board ought to play in preserving housing for low and moderate income people, we have also indicated in brief ways that the City Council and other city agencies may establish a coordinated housing policy to prevent gentrification via rehabilitation.

Respectfully submitted,

Michael H. Turk

March 30, 1983

POLICY PROPOSAL TO THE CAMBRIDGE RENT CONTROL BOARD

Substantial Rehabilitation of Deteriorated, Rent-Controlled Properties & Related Issues

I. Introduction

Buildings and building systems are subject to deterioration, wearing out, breaking down, and accidental or deliberate damage. In the following sections we present a proposal for restoring housing in need of substantial rehabilitation to service at rents affordable to low and moderate income people. In offering this proposal, we are guided by two basic principles: (1) the primary purpose of housing is to provide shelter; and (2) preserving and protecting housing for low and moderate income people means discouraging activities that would lead to the further deterioration of the city's housing stock and discouraging new contrivances to remove units or buildings from the city's rental housing market.

The proposal is intended to be comprehensive. It tackles problems drawn from a range of related housing issues that have come before the Rent Control Board (RCB): vacant units or buildings, substantial rehabilitation, so-called "new" construction, displacement of low and moderate income tenants, and gentrification. Our recommendations call for action by several city agencies, non-profit organizations, local banks, and the City Council; however, since we are submitting this proposal to the RCB for its consideration, recommendations involving action by the Board are treated in greater detail.

II. The Problem facing the Rent Control Board

Owners of a number of properties have applied to the RCB for removal permits to allow for major rehabilitation of their buildings. Some of these buildings were brought to the Board's attention in habitable condition, e.g., 30 Norfolk Street, Craigie Apartments; some were not habitable, e.g., 14-16 Clinton Street, 279 Pearl Street. The common denominators are that owners are seeking to remove units or buildings from rent control and that the removal permits are sought for units which provide (or provided) low and moderate income tenants with shelter. The Board needs a systematic, comprehensive method for balancing the interests of owners and tenants under these circumstances.

III. Determination of Cause

In general, five principal causes appear responsible for

housing stock in poor condition:

A. Neglect by the owner, manifested by deferred maintenance;
B. Open or covert plans to convert the property from rent-controlled use to condominium, cooperative, market-rate rental, or other use, often accompanied by increasing or toal vacancy;
C. Deliberate damage, e.g., arson, demolition without permit;
D. Accidental damage, most notably by fire; and
E. Wearing out of the structure and/or building systems because of normal wear and tear over the years.

In distinguishing among these causes, it is clear that (1), (2), and (3) result from deliberate policy decisions made by the owner, while (4) and (5) are beyond an owner's control.

IV. So-called "New" Construction

Regardless of cause, what the District Court has recently termed "new" construction is a special case.

Under the broad mandate for the RCB established in the declarations of emergency set forth in the enabling act and in the removal permit ordinance, the Board's overriding duty is to preserve and protect rent-controlled housing for low and moderate income tenants and for elderly people on fixed incomes. To carry out that duty, the Board must deny removal permits to owners who attempt to use substantial rehabilitation as a means of removing units from the rental market. Granting permits for such "new" construction would exceed the Board's authority.

Obviously, the recent District Court decisions interpreting certain types of rehabilitation as "new" construction have increased the number of filings requesting the Board to accede to and grant removal permits. We recommend that the Board appeal such district court decisions or take an appropriate new case into the courts as a vehicle for such an appeal. This recommendation is based on common sense. Section 3(b)(2) obviously means just what it says: new units which did not exist prior to January 1, 1969. With this commonsense reading, no work -- no matter how extensive -- performed on a unit in existence as of January 1, 1969 can create a "new" unit. In the interim, we recommend that the Board adopt the policies suggested in the March 2, 1983 memorandum submitted by Patricia A. Cantor and entitled, "3 Clinton Street, Request for Advisory Opinion".

V. Substantial Rehabilitation

A. Fact-finding Hearing

If buildings are brought to the attention of the RCB by an application for one or more removal permits, than a

fact-finding hearing shall be held to determine the intent of the owner and the causes of deterioration (see Section III), the extent of work required, and the costs of such work. Among the facts to be established are:

1. How long were the units or building left vacant?
2. What capital expenditures were made by present and previous owners over a period equal to or exceeding the longest, generally accepted, service life of any building system proposed for replacement?
3. The extent of work required, as determined by a survey of the property conducted by the Riverside-Cambridgeport Community Corporation. This survey should establish the work required to provide a "no-frills" rehab of the property.
4. Estimated costs of the required work based on strict cost controls.
5. Additional information on the long-term maintenance policy for the property and on an owner's current intent. Such information may be developed by comparing the property's history with standard guidelines for the proper maintenance of residential properties in the Boston/Cambridge area.

B. Anti-Speculation Policy

1. If the hearing establishes evidence and the Board finds that the deterioration of the property was primarily the result of neglect and/or an intent to remove from the rent-controlled housing market, the Board shall immediately refer the case along with all relevant information to the Health and Building Departments.

2. The Health and Building Departments shall inspect the property immediately and cite all code violations, including any not previously cited.

3. If, within the statutory period allowed, the owner has not cured all cited code violations, then the city shall take the owner to court to obtain all remedies available, including fines, and to force correction of the cited violations.

4. If the owner does not comply with the court order, then the city shall move to place the property in receivership to effect the necessary repairs; or,

5. Where the owner continues to obstruct efforts to correct code violations, the city shall (a) take the

property for any unpaid back taxes or (b) exercise the power of eminent domain, through either the City Council or the Cambridge Housing Authority, to take the property and rehabilitate it using low-interest funds for this purpose (see Section D). The city may later sell the property under provisions that will guarantee long-term use as low and moderate income housing.

C. Owner Assistance Policy

If the hearing conducted by the RCB establishes evidence and the Board finds that the deterioration of the property was primarily the result of events, short or long term, beyond the control of the owner, past and present, the city will assist the owner in rehabilitating the property by offering access to the funding mechanisms described in Section D and by offering any other assistance deemed effective and appropriate.

D. Financial Assistance Mechanisms

1. The city should attempt to exert pressure ("jawboning", Community Reinvestment Act terms, etc.) on local banks to cause them to make more funds available for loans and mortgages to assist owners in fixing up their properties.

2. Local banks should also be encouraged to make more funds available to mortgagees so that they may comply with mortgage provisions requiring property be maintained in good repair.

3. The city shall establish a low-interest, revolving loan fund through the commitment of community development block grant funds or state funds, issuance of suitable bonds, "participation" loans mixing public and private funds, or other sources to provide low-interest rate financing for the required "no-frills" rehabilitation work.

4. All low-interest funds established to assist owners under this proposal shall be used exclusively to assist owners who must seek financing to comply with this substantial rehabilitation policy or to assist owners who must comply with this policy because the Board finds there has been effective removal owing to extended vacancy or because the Board has upheld a complaint under Section 45-02.

E. Tenant Protections

1. To protect the interests of tenants in buildings or units undergoing substantial rehabilitation, the Board shall see that there is no interruption of tenancy and shall clearly distinguish in its findings between repairs required because of deferred maintenance and capital improvements.

2. Where capital improvements are required, the Board shall establish a series of "caps" on rent increases approved so that the increases may be phased in.

3. The Board shall take any other appropriate actions to ensure that rent-controlled units and buildings undergoing substantial rehabilitation remain affordable to low and moderate income tenants by maintaining the pre-rehab mix of low and moderate units. (For additional suggestions, see the attached Memorandum on Capital Improvements, dated December 7, 1982.)

4. If hazardous conditions, whose repair requires tenants to move out, are found in an occupied building, tenants and/or the city shall have the right to obtain an advisory opinion from a structural engineer or other professional, provided the hazardous conditions cited do not pose an immediate danger to the health and safety of occupants. In such cases the Board shall ensure that tenancies of building occupants are not terminated by the required repairs.

VI. Prolonged Vacancy of Rent-Controlled Units

A. Any unit or units which remain vacant for a period of more than sixty (60) days shall, unless, despite bona fide efforts by the owner to rent said unit(s), which efforts shall be documented to the satisfaction of the RCB, no acceptable tenants have been found, be deemed effectively removed without the owner's having obtained a removal permit. The owner of the unit or units shall be liable to action under Ordinance 966.

B. Complaints shall be filed in accordance with Reg. 45-08.

C. In these proceedings, the owner must show good cause as to why the unit or units has/have not been rented. An owner's desire to rehabilitate or upgrade the unit(s) or an intention to convert unit(s) to a non-rent-controlled or non-residential use shall not constitute just cause.

D. Where justified under existing RCB regulations, the Board may assist an owner in filing for a rent adjustment; however, the current maximum rent-controlled rent shall not constitute just cause under this section.

VII. Coordination with Other City Agencies

In addition to working with the Building and Health Departments on code violations, the RCB and other city agencies need to establish clear policies for inter-agency coordination.

A. No demolition or building permit may issue until RCB actions are complete. When removal permits are denied, Building permits shall issue only for work approved under this substantial rehabilitation policy.

B. Where appropriate, i.e., in the case of rooming houses, the RCB and Building Department shall coordinate with the License Commission to ensure compliance with this substantial rehabilitation policy and other orders.

C. The RCB as well as other city agencies shall complete required actions, including inter-agency coordination, as quickly as possible, especially when unit(s) or building(s) are vacant so that the time other tenants and neighbors are exposed to disruption, visual blight, and possibly hazardous conditions is minimal.

Respectfully submitted,

William S. Noble
Michael Turk

December 7, 1982

MEMORANDUM

To: Program Operations Committee

From: Bill Noble

Subject: Rent Control Board (RCB) Regulations on Capital Improvements

I. Current Situation

Under present RCB regulations, capital improvements fall within the scope of Regulation Series 72, 75, and 76.

In Regulation Series 72, which covers individual rent adjustments, capital improvements are added to expenses to determine new maximum rents. In this procedure an "interest factor" (determined by the date of an improvement and currently 15%) is added to the capital improvement cost. Capital improvements for energy conservation are treated identically in Regulations 72-11 and 76-05.

Regulation Series 75 provides a specific mechanism to adjust rents for capital improvements only. And Regulation Series 76 does the same thing. The difference between the two series is, however, substantial. Regulation 75 contains a provision dealing with "deferred maintenance"; hearings are conducted before a rent adjustment is granted. Capital improvements are amortized according to a fixed schedule.

By contrast, under Regulation Series 76, "rent adjustments for capital improvements completed within twelve (12) months of the date of the petition, or for which the petitioner has an executed contract, may be granted upon application to the board and approval by the Executive Director and the Board." (emphasis added) With the important exception of hearing procedure, Reg 76 adjustments must follow Regulation 75. Provision 76-04(a), however, overrides questions regarding "deferred maintenance". In this series, capital improvements for energy conservation may be amortized "at any interest rate and over a useful life equal to the terms of a loan incurred by the landlord to cover the cost of such improvement. Any such loan must be given by a recognized lending institution." (76-05)

As this brief review demonstrates, there is considerable overlap among the three series. Boiled down, what Regulation 76 does is to offer owners an accelerated process. Tenants cannot cite code violations to reflect claims about "deferred maintenance" once the executive director has cleared a building. Reg 76 allows an owner to "pass through" the interest rate and principal payments on a loan from a "recognized lending institution." A new form now sent to tenants limits the grounds for contesting rent increases under Reg 76 and places the burden of obtaining and sustaining the hearing process on tenants.

II. Problems with the Current Situation

As noted in the Case Study, rent increases for capital improvements may be substantial. There is no limit on the size of a qualifying capital improvement. One method to reduce the impact on rents is to lengthen the amortization period by giving owners access to mortgage-type financing. At this time, however, that approach can only be used for energy conservation improvements. In addition, owners and lenders do not feel they have adequate assurances, before they commit to make or take out a loan, that there will be sufficient rental income to cover repayment.

Tenants also have problems with the situation, especially under Regulation Series 76. They have no input into the extent, type, or quality of capital improvements made to a building. There is presently no limit on possible rent increases. There is no method to ensure that only cost-effective and directly beneficial improvements will be made. Tenants must pay rent increases approved by the Executive Director and can only contest them after the fact and to a limited extent. In the case of energy conservation improvements, tenants may be subject to large rent increases for short-term loans. (This is not an academic concern; the RCB recently had to set minimum terms for certain improvements.)

Taken generally, the present situation, even without considering extension of the current provisions of Reg 76 to other or all capital improvements, does not appear to meet desirable criteria for a multi-unit housing rehab program built around a partnership between the interested parties. In this regard, it may be useful to refer back to the set of operating principles set forth by Henry Joseph and discussed by the Program Operations Committee in May, 1982. Sections B. and C. are especially pertinent in this context. (Copy attached)

III. Recommendations

A. Background

Starting up a new housing rehab program offers us the opportunity to take a fresh look at the capital improvement question and, hopefully, to come up with fairer, more concise, and more productive regulations. At least as far as habitability (good upkeep) and saving money are concerned, the goals of tenants and owners may not be mutually exclusive.

B. General Guidelines

New regulations on capital improvements should be as simple as possible. They should promote improvements which enhance the health, safety and security of tenants and the habitability of a building. And they should help tenants and owners alike cut costs

for energy. The RCB should provide prompt decisions. Sound regulations must ensure that buildings comply with applicable codes and environmental regulations. Owners should receive a fair return on their investment in a building. Tenants should not have to pay for capital improvements when ordinary maintenance and repairs are not performed. To meet these general guidelines, the following recommendations are meant to serve as a useful starting point for discussion and for formulation of new regulations.

C. Specific Recomendations

1. Combine Regulation Series 76 with Regulation Series 75 and Regulation Series 72, as appropriate.

2. Use loan terms for amortizing all capital improvements, not just those for energy conservation, in setting new maximum rents provided that such terms result in lower rents than those which would have been set under a fixed schedule, such as that used in 72-10, and at fixed interest pegged to a suitable interest index.

3. In combining 76 with 75 delete Sections 76-01, 76-04, and 76-06 through 76-10 (use standard hearing provisions). Modify 76-05 and 72-11 to reflect Recommendation 2 above.

4. Strike better balance between need of landlord to know new maximum rent levels in order to secure loan and tenants need to know that work is done properly and not at exorbitant cost. To do this it may be advisable to permit applications to be filed based on full scope of work documents so that RCB or hearing examiner can set tentative new rent levels. These may then have to adjusted up or down depending on actual construction. Final rents should be set by RCB after work is complete, costs approved, etc. In no case should new maximum rent be effective until all work on unit is complete and final approval issued.

5. Require RCB to approve, disapprove, or modify applications for new maximum rents derived from capital improvements within a set period of time, subject to period between application date and completion of construction date. Delays following completion of construction should be minimal.

6. Permit tenants to have input into the scope and type of work to be performed. The initial hearing may provide the proper opportunity.

7. In order to promote "moderate" rehabs and to protect low & moderate income tenants ability to live in a building, limit the maximum increase in "total housing cost" to 20% for a one year period, 30% for a two year period, and 40% for a three year period. If capital improvements are performed which would cause "total housing cost" to exceed the preceeding limits for any period, then the allowed maximum rent increase should be

reduced so that these limits are not exceeded and the period for recovering the capital improvements spread out to cover all capital improvements allowed by the RCB.

8. Under the presumption that timely maintenance and repair saves everyone money, strengthen provisions in Regulation Series 75 regarding so-called "deferred maintenance". Steep rent increases due to capital improvements made necessary by deliberate or longstanding failure to perform ordinary repair and maintenance should not be allowed. At the same time, owners who perform timely repairs and maintenance should receive IRA's within a set time period from RCB.

9. Ensure that actual energy savings, determined from a suitable base period, reduce maximum rent levels when charges for heat, light, etc. are included in rent.

10. When increase in maximum rent level is approved for energy conservation improvements, ensure that the expected amount of energy, measured on a per square foot basis and determined from standard tables, is actually saved. If expected savings are not realized, rescind increase and return any payments made. (The presumption here is that work was done in a shoddy or unprofessional manner; RCB should cooperate with owner, should owner seek to recover from contractor.)

Clearly, this memorandum does not exhaust its subject. It may point us in the right direction. Writing new regulations which meet the needs of tenants, owners and lenders will require hard work and good will, but it can, and should, be accomplished. In this case we are dealing not only with our mutual interest in getting a constructive CNH&AS program underway, but with the interests of owners, tenants and lenders all over Cambridge in achieving a fair and balanced approach to capital improvements.

FROM: HENRY JOSEPH
RCCC

DRAFT OF OPERATING PRINCIPLES FOR MULTI-FAMILY HOUSING REHAB PROGRAM

INTRODUCTION

The City of Cambridge has a long-standing public policy commitment to a number of goals in the area of housing. Since the proposed multi-family rehab program will involve a number of city agencies, since it will also involve public funds, and since in particular the public funds involved will be CDBG funds, the proposed program's goals and operating principles should be consistent with the City's housing goals.

Briefly stated, the City's housing goals are:

A. To improve the condition of the housing stock in the City of Cambridge.

B. To improve housing conditions of low- and moderate-income Cambridge residents.

C. To support the stability of the City's neighborhoods by ensuring that there is sufficient housing in sound condition that is within the means of the neighborhoods' low- and moderate-income residents, both at the present time and in the future.

In order to ensure that the operations of the NRC's rehab program are consistent with and supportive of the City's public policy commitments, the program should have a set of basic operating principles that reflect these commitments. In addition, the operating principles should address the relationship of the proposed program to the existing context of housing agencies and the services they provide and to the range of resources currently available.

OPERATING PRINCIPLES

A. Relationship to Existing Context

- the program is not intended as a substitute for existing programs; it should supplement or complement existing programs
- it is not the intent of the program to divert public- or private-sector resources away from existing housing agencies or programs
- develop new sources of public- and private-sector resources for the program
- minimize the creation of new agencies, delivery systems, bureaucratic structures, etc.
- maximize the use of existing services and delivery systems

B. Appropriate Types and Level of Rehab

- in order to conserve resources and restrain increases in housing costs, emphasize moderate level of rehab that will meet minimum standards, as opposed to doing maximum possible rehab

- emphasize aspects of rehab work that will most benefit the property, the tenants, and the neighborhood, i.e., - soundness, habitability
  - energy conservation
  - exterior appearance
- provide opportunities for tenants to have input into decisions about the scope of rehab work

C. Housing Costs — Short- and Long-Term

- establish control mechanisms that will, to the greatest extent possible, ensure that the program maintains the amount of housing units that are within the means of low- and moderate-income tenants, both at the time of project implementation and over the long-term future

D. Tenants' Interests

- ensure that excessive rent increases, which are more than they are willing and able to pay, are not imposed on tenants against their will—either upon project completion or over the long-term future.
- establish control mechanisms to ensure that the program does not allow displacement of existing tenants by means other than rent increases
- provide mechanisms for tenant input into scope of rehab work

E. Financing Resources

- ensure that all bank loans made through the program are consistent with standard underwriting criteria
- derive maximum benefit from the fact that the program will be dealing with a number of properties in a similar manner, by using this fact to reduce financing costs and/or develop new financing resources in whatever ways are possible
- to the extent that lower financing costs and/or increased liquidity result from the unique characteristics of the program, ensure that these benefits are passed through to the specific projects

F. Owners' Interests

- structure financing for specific projects in such a way as to allow an equitable net operating income for the owner and a reasonable opportunity to realize capital appreciation.
- minimize the administrative/paperwork burden on owners

G. Selection Criteria

- give priority to projects which will benefit the greatest number of low- and moderate-income tenants
- give priority to projects which will benefit the surrounding neighborhood, by improving a blighted property

- as a means of implementing the principle of section C, give priority to projects which involve a change of ownership to non-profit, and/or community-based and/or limited-equity ownership
- in general, give priority to those projects which offer the greatest opportunity to realize all the above principles

CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • (617) 498-9017

OFFICE OF
THE CITY CLERK

April 5, 1983

Mr. Russell B. Higley
City Solicitor
City Hall
Cambridge, MA

Dear Sir:

Enclosed you will find two proposed amendments to the Zoning Ordinances of the City of Cambridge which were passed to a second reading at the City Council meeting of April 4, 1983 as follows:

1. Proposed amendment relative to Affiliate Housing.

2. Proposed amendment relative to University Owned Housing.

Also enclosed you will find a proposed amendment to the General Ordinances of the City of Cambridge relative to an increase in salary for Department Heads which was passed to be ordained by the City Council on April 4, 1983.

Would you kindly indicate your approval or disapproval on the bottom of the above mentioned ordinances and return to this office.

Your kind attention in this matter will be greatly appreciated.

Very truly yours,

_____

Paul E. Healy, City Clerk

PEH/dl

Encs. Affiliate Housing
University owned housing
Department Heads salary ordinance.

HARVARD UNIVERSITY

OFFICE OF GOVERNMENT AND
COMMUNITY AFFAIRS

2 GARDEN STREET
CAMBRIDGE, MASSACHUSETTS 02138
617-495-4955

March 30, 1983

Councillor Walter J. Sullivan
Chairman, Ordinance Committee
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Re: Institutional Zoning - Proposed Amendments to Regulate "Affiliate Housing" of Educational Institutions

Dear Mr. Chairman:

I wish to record Harvard's opposition to the proposed amendments regarding "Affiliate Housing".

Attached, for your information, is a copy of our letter to the Planning Board dated March 29.

Very truly yours,

Lewis A. Armistead

attachment:

HARVARD UNIVERSITY

OFFICE OF GOVERNMENT AND
COMMUNITY AFFAIRS

2 GARDEN STREET
CAMBRIDGE, MASSACHUSETTS 02138
617-495-4955

March 30, 1983

Councillor Walter J. Sullivan
Chairman, Ordinance Committee
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Re: Institutional Zoning - Proposed Amendments to Regulate "Affiliate Housing" of Educational Institutions

Dear Mr. Chairman:

I wish to record Harvard's opposition to the proposed amendments regarding "Affiliate Housing".

Attached, for your information, is a copy of our letter to the Planning Board dated March 29.

Very truly yours,

Lewis A. Armistead

attachment:

HARVARD UNIVERSITY

OFFICE OF GOVERNMENT AND
COMMUNITY AFFAIRS

2 GARDEN STREET
CAMBRIDGE, MASSACHUSETTS 02138
617-495-4955

March 29, 1983

Planning Board
City of Cambridge
Cambridge, Massachusetts 02139

Re: Institutional Zoning - Proposed Amendments to Regulate "Affiliate Housing" of Educational Institutions

Dear Members:

For reasons, among others, set forth in my letter to you of October 18, 1982 (copy enclosed) reacting to Councillor Sullivan's original proposal, Harvard opposes both the amendment now proposed by Mayor Vellucci and that reintroduced by Councillor Sullivan.

We have reviewed Councillor Sullivan's amendment to his proposal and the accompanying memorandum which he submitted at your hearing on March 15. As we said then, we think the amendment represents a step backwards, both practically and legally.

One of Harvard's fundamental objections to the original proposal has always been that it would impermissibly regulate the identity of the owner and not the use of property. Even if regulation of ownership can be permissible where the effect is to regulate use, we have been troubled by the assumption and unsupported assertion that there are "use implications of University ownership or control coupled with occupancy primarily by affiliates." We do not think there are any such use implications unique to educational institutions which justify different treatment under zoning. Obviously, giving preference to affiliates to "a significant extent" is even less an institutional use than occupancy "primarily" by affiliates.

Even under the original proposal, an educational institution could have given preference to its affiliates in any building not primarily occupied by affiliates. The stated assumption of that proposal, with which we disagreed, was that it would define on an objective basis the point at

which a property becomes so institutional as to be justifiably regulated as such. Even under that proposal, Harvard affiliates could have been given preference in leasing up to 5 units in a 10-unit Harvard "open housing" building. Now, perhaps because we have said that the percentage, currently less than 30%, of Harvard's open housing occupied by affiliates has been steadily declining, the proposal has been amended so that none, or at most one or two of the units in the same building could be saved for affiliates, depending upon the subjective interpretation of "a significant extent". Moreover, the supposed "grandfather" protection under the amendment is illusory; even if 4 units in the same building happened to be occupied by affiliates now, they could not be reserved for affilates in the future.

The fact is that under the amendment an educational institution, unlike any other owner, could not prefer its own affiliates to "a significant extent." Not only would this extend far beyond regulation of "use" under zoning, it would be an unfair discrimination for which we have been unable to discern any rational basis.

Finally, we would point out that a variance is not a practical remedy if the affiliate housing proposal is adopted in any form. A variance requires a finding of hardship unique to the subject property; and for any property meeting zoning requirements except for the identity of its owner, such a finding could not be made. It is not disputed that few if any variances for "affiliate" housing could withstand challenge. This only serves to highlight the inappropriateness of requiring a use variance for residential use of residential property in a residential zoning district simply because of the identity of the owner. If some aspect of residential use is to be prohibited, it should be specified and made applicable to all owners.

We strongly urge that you recommend unfavorable action on both of the "affiliate housing" proposals now before you.

Very truly yours,

Lewis A. Armistead

HARVARD UNIVERSITY

OFFICE OF GOVERNMENT AND
COMMUNITY AFFAIRS

2 GARDEN STREET
CAMBRIDGE, MASSACHUSETTS 02138
617-495-4955

October 18, 1982

Planning Board
City of Cambridge
Cambridge, MA 02139

Re: Institutional Zoning; Proposed Amendment to Regulate "Affiliate Housing" of Educational Institutions

Dear Members:

This will record Harvard's opposition to the proposed amendment to the Zoning Ordinance which would extend the institutional zoning regulations to any dwelling owned or controlled by an educational institution and occupied primarily by its employees or students.

As you may know, a similar proposal was originally included in early drafts of the institutional zoning regulations. However, we argued and the Department of Community Development staff ultimately agreed, that the only appropriate objectives of zoning are the regulation of uses of and improvements to property. Nothing permits regulation or discrimination under zoning based upon the identity of the owners of the property and certainly not based upon the educational or employment status of the occupants. This point has recently been emphasized by the Massachusetts Supreme Judicial Court in its decision in CHR General, Inc. v. City of Newton, decided September 1, 1982:

> A "fundamental principle of zoning [is that] it deals basically with the use, without regard to the ownership, of the property involved or who may be the operator of the use."

Accordingly, as proposed (and enacted) the institutional use regulations did not regulate or restrict residential housing owned by educational institutions other than dormitories and fraternity and sorority houses.

A further problem with the proposed amendment is that educational institutions would be singled out from other institutions for regulation of their affiliate housing. No zoning considerations justify distinguishing a professor's house from a home or a rectory. Such a distinction would be not only legally impermissible but also inconsistent with the policy of treating all institutions equally which was repeatedly expressed at the time the institutional use regulations were originally proposed.

By Chapter 565 of the Acts of 1979, the General Court constituted Cambridge the only Massachusetts city or town with the power to override the provisions of the Zoning Act protecting educational and religious institutions from use regulation under zoning. In doing so, the General Court expressly limited that power to certain residential zoning districts. It is doubtful that it was intended and ironic that it is now proposed that this power be used to regulate otherwise proper residential uses.

Finally, it is obvious that whatever the legalisms may be, this proposal would be counterproductive to the City's and Harvard's common objective of having Harvard provide where possible for the housing needs of its employees and students, thereby avoiding undue pressures upon the limited existing housing stock.

We urge that you report unfavorably upon the proposed amendment.

Very truly yours,

Lewis A. Armistead

C. C. 106

PUBLIC NOTICE
RELATIVE TO ZONING.

City of Cambridge

MASSACHUSETTS

Office of the City Clerk.

Notice is hereby given that in accordance with the provisions of Chapter 40A, Section 5 of the General Laws, Tercentenary Edition and amendments thereto, that the Committee on Ordinances, comprised of the entire membership of the City Council, will hold a public hearing on Wednesday, March 30, 1983 at 6:00 p. m. in the City Council Chamber, City Hall, Cambridge on the petition of Councillor David Sullivan to amend the text of the Zoning Ordinance as follows:

1. In Article 2.000, Definitions, add the following new definition at its appropriate alphabetical location:

   "Affiliate housing. Any dwelling (other than a dormitory or a sorority or fraternity house) owned or controlled by an educational institution and ~~occupied primarily by~~ X persons who are employed or enrolled at the educational institution."

2. In section 4.33, of the Table of Use Regulations (Institutional Uses), subsection (b), Educational Purposes, add to line 7 the words, "or affiliate housing."

3. In section 4.56, Table of Institutional Use Regulations, subsection (c), add to the line 8 the words, "or affiliate housing."

Copies of this petition are on file in the Office of the City Clerk, City Hall, Cambridge, Massachusetts.

All persons interested in this matter may appear at this time and be heard.

For the Committee,

Councillor Walter J. Sullivan,
Chairman.

— Passed to 2nd reading as amended
* SUBSTITUTE — IN which the educational INSTITUTION to a significant extent gives preference in occupancy to — persons who are employed or enrolled — at the educational INSTITUTION. —

C. C. 106

PUBLIC NOTICE
RELATIVE TO ZONING.

City of Cambridge

MASSACHUSETTS

Office of the City Clerk.

Notice is hereby given that in accordance with the provisions of Chapter 40A, Section 5 of the General Laws, Tercentenary Edition and amendments thereto, that the Committee on Ordinances, comprised of the entire membership of the City Council, will hold a public hearing on Wednesday, March 30, 1983 at 6:00 p. m. in the City Council Chamber, City Hall, Cambridge on the petition of Councillor David Sullivan to amend the text of the Zoning Ordinance as follows:

1. In Article 2.000, Definitions, add the following new definition at its appropriate alphabetical location:

   "Affiliate housing. Any dwelling (other than a dormitory or a sorority or fraternity house) owned or controlled by an educational institution and ~~occupied primarily by~~ * persons who are employed or enrolled at the educational institution."

2. In section 4.33, of the Table of Use Regulations (Institutional Uses), subsection (b), Educational Purposes, add to line 7 the words, "or affiliate housing."

3. In section 4.56, Table of Institutional Use Regulations, subsection (c), add to the line 8 the words, "or affiliate housing."

Copies of this petition are on file in the Office of the City Clerk, City Hall, Cambridge, Massachusetts.

All persons interested in this matter may appear at this time and be heard.

For the Committee,

Councillor Walter J. Sullivan,
Chairman.

* in which the educational institution to a significant extent gives preference in occupancy - to persons who are ~~enrolled~~ employed or enrolled at the educational institution

Proposed amendment to the City Council's "affiliate housing" petition of January 24, 1983

In paragraph 1, in the definition of "affiliate housing," strike out the words "occupied primarily by" and insert in their place the words "in which the educational institution to a significant extent gives preference in occupancy to".

City of Cambridge

In City Council April 4, 1983

The Ordinance *Committee* comprised of the entire membership of the City Council, to which was referred the petition of Councillor David Sullivan to amend the Zoning Ordinances of the City of Cambridge in Article 2.000 entitled "Definitions" by adding a new definition at the end thereof entitled "Affiliate Housing", which reads as follows:

1. In Article 2.000, Definitions, add the following new definition at its appropriate alphabetical location:

   "Affiliate housing. Any dwelling (other than a dormitory or a sorority or fraternity house) owned or controlled by an educational institution and occupied primarily by persons who are employed or enrolled at the educational institution."

2. In section 4.33, of the Table of Use Regulations (Institutional Uses), subsection (b), Educational Purposes, add to line 7 the words, "or affiliate housing."

3. In section 4.56, Table of Institutional Use Regulations, subsection (c), add to the line 8 the words, "or affiliate housing."

met on Wednesday, March 30, 1983 at 6:00 p.m. in the City Council Chamber, City Hall. Councillor Walter J. Sullivan, Chairman of the Committee, presided.

The Chair called for the proponents to be heard. In response to the call of the Chair, the Committee heard from Councillor David Sullivan, who presented a memorandum dated March 15, 1983 and addressed originally to the Planning Board in their deliberations on this subject. The memorandum submitted by the Councillor outlined the advantages of the amended proposal and had attached thereto the memorandum submitted to the Planning Board on October 19, 1982.

In addition to the above, the Councillor has submitted a proposed one paragraph amendment to the City Council "Affiliate Housing" petition of January 24, 1983, which amendment would strike out the words "occupied primarily by" and insert in their place the words "in which the educational institution to a significant extent gives preference in occupancy to". (The above referred documents are appended to this report and marked "A" for identification).

REPORT

Committee on Ordinances

Re: "Affiliate Housing".

In City Council,

April 4, 1983

In his summation, the Councillor stated that the legal opinion rendered by the City Solicitor to the Planning Board indicated clearly that the proposed ordinance amendment, if adopted would resolve the legal issues involved in favor of the proposal.

No one else appearing at the call of the Chairman, the Chair declared the hearing for the proponents closed and called for the opposition to appear and be heard.

In answer to the call of the Chair, Lewis A. Armistead from the Office of Government and Community Affairs of Harvard University submitted the attached memorandum, marked "B" for identification, recording the opposition of the University to the proposed amendment. This memorandum, dated March 29, 1983 was originally addressed to the Planning Baord for their deliberations and has attached thereto a second memorandum dated October 18, 1982, when the issue was first considered by that body.

No one else appearing at the call of the Chair, the Chair declared the hearing closed.

The City Clerk received a third communication after the hearing, from Walter A. Milne, Assistant to the President of M.I.T., dated March 30, 1983, which is attached to this report and marked "C" for identification purposes, recording the opposition of M.I.T. to the proposed amendment.

Attached to this report is the opinion of the City Solicitor prepared for presentation to the Planning Board and dated March 29, 1983 and marked "D" for identification purposes.

At the conclusion of the hearing, Councillor David Sullivan moved that the proposed amendment to the Zoning Ordinances be referred to the City Council without recommendation for their consideration at their next regular meeting. There being no objection, the motion carried and the meeting was adjourned.

For the Committee,

David J. Sullivan

Councillor David Sullivan
Chairman.

C. C. 106

PUBLIC NOTICE
RELATIVE TO ZONING.

City of Cambridge

MASSACHUSETTS

Office of the City Clerk.

Notice is hereby given that in accordance with the provisions of Chapter 40A, Section 5 of the General Laws, Tercentenary Edition and amendments thereto, that the Committee on Ordinances, comprised of the entire membership of the City Council, will hold a public hearing on Wednesday, March 30, 1983 at 6:00 p. m. in the City Council Chamber, City Hall, Cambridge on the petition of Councillor David Sullivan to amend the text of the Zoning Ordinance as follows:

1. In Article 2.000, Definitions, add the following new definition at its appropriate alphabetical location:

   "Affiliate housing. Any dwelling (other than a dormitory or a sorority or fraternity house) owned or controlled by an educational institution and occupied primarily by persons who are employed or enrolled at the educational institution."

2. In section 4.33, of the Table of Use Regulations (Institutional Uses), subsection (b), Educational Purposes, add to line 7 the words, "or affiliate housing."

3. In section 4.56, Table of Institutional Use Regulations, subsection (c), add to the line 8 the words, "or affiliate housing."

Copies of this petition are on file in the Office of the City Clerk, City Hall, Cambridge, Massachusetts.

All persons interested in this matter may appear at this time and be heard.

For the Committee,

Councillor Walter J. Sullivan,
Chairman.

D

CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • (617) 498-9020

LAW DEPARTMENT

RUSSELL B. HIGLEY
CITY SOLICITOR

MICHAEL C. COSTELLO
ASSISTANT CITY SOLICITOR

EDWARD A. CUNNINGHAM
SEVERLIN B. SINGLETON
DAVID B. O'CONNOR
BIRGE ALBRIGHT
LEGAL COUNSEL

March 29, 1983

Cambridge Planning Board
City Hall Annex
57 Inman Street
Cambridge, Mass.

Re: Affiliate Housing

Dear Board Members:

You have requested my opinion regarding the recent zoning petition to regulate "affiliate housing," in light of the decision in CHR General, Inc. v. City of Newton, 387 Mass. 351, 439 NE2d 788 (1982).

On March 15, Councillor David Sullivan recommended an amendment to the Zoning Ordinance, whereby the City would regulate "affiliate housing," defined as follows:

> a dwelling (other than a dormitory, fraternity, or sorority) owned or controlled by an educational institution and in which the educational institution to a significant extent gives preference to persons who are employed or enrolled at the educational institution.

Affiliate housing would be treated in the same way as the Zoning Ordinance now treats dormitories, fraternities and sororities under §4.56(c)(8)(Table of Institutional Use Regulations). Such uses are forbidden outside institutional overlay districts, unless they are replacing previous institutional uses on the site and have no greater adverse impact on the neighborhood, and the Board of Zoning Appeal (BZA) issues a special permit. They are permitted within institutional overlay districts only if the BZA issues a special permit and if any housing units removed or converted are replaced indefinitely with an equivalent number of units.

The proposal thus "regulates an educational institution's acquisition or construction of, or conversion to, a dwelling in which it discriminates against non-affiliates in occupancy." Memorandum of David Sullivan (3-15-83), p. 2.

CHR General, Inc. v. City of Newton, supra, held that an ordinance governing conversion of rental units to condominium ownership was a "private or civil law governing civil relationships," and, therefore, was prohibited by §7 of the Home Rule Amendment to the Massachusetts Constitution, which states in pertinent part:

> Nothing in this article shall be deemed to grant to any city or town the power... (5) to enact private or civil law governing civil relationships except as an incident to an exercise of an independent municipal power...

After holding that the challenged ordinance was a "private or civil law governing civil relationships," the Court then examined the question of whether it could be found valid "as an incident to an exercise of an independent municipal power." The City of Newton relied on the zoning power as the individual component of its police power authorizing enactment of the ordinance.

The Court rejected Newton's zoning argument, pointing out that a "fundamental principal of zoning (is that) it deals basically with the use, without regard to the ownership, of the property involved or who may be the operator of the use. 1A Rathkopf, Zoning and Planning, §1.04, at 1-21 (4th ed. 1982)" and that "a building composed (of) condominium units does not 'use' the land it sits upon any differently than an identical building containing rental units." 439 NE2d at 791.

The Court distinguished Goldman v. Dennis, 375 Mass. 197, 375 NE2d 1212 (1978), which upheld a zoning by-law requiring owners of "cottage colonies" to conform to certain minimum lot size requirements as a precondition to obtaining permission to convert individual cottages to condominiums. The Court in Goldman concluded that "(t)he legislative body of the town could reasonably believe that conversion of a cottage colony to single family use would encourage expansion of (nonconforming) use beyond the short summer season." 375 Mass. at 199. As a result, "(a)lthough the limitation (contained in the challenged by-law) is phrased in terms of ownership," the Court found the by-law "valid as a regulation of 'change of use.'" Id.

In short, the difference between CHR General and Goldman seems to be this: In CHR General, the Court concluded that the use of the land would be the same whether it had on it a building containing condominiums or a building containing apartments. In Goldman, the Court concluded that, if a cottage were converted into a condominium, the use would change from a summer use to a year-round use. Or, at least, the Court concluded that the "legislative body of the town could reasonably (so) believe." 375 Mass. at 199.

The holding in CHR General is supported by various definitions of zoning and its functions. See, e.g., 1 Rohan, Zoning and Land Use Controls, s1.02(1); 82 Am. Jur. 2d, Zoning and Planning, §2 (1976); 1 Williams, American Land Planning Law, §16.03 (1974)(functions of zoning); Black's Law Dictionary (1968) p. 1793; 8 McQuillin, Municipal Corporations, §§25.17, 25.119 (1976).

Pursuant to St. 1979, c. 565, as amended by St. 1980, c. 387, Cambridge is authorized, through zoning,

> to regulate and restrict the use of land or structures...for educational purpose on land owned or leased...by a non-profit educational corporation within all residentially zoned districts which require a lot area of one thousand two hundred square feet or more per dwelling unit.

Thus, the City can regulate "affiliate housing" under its zoning power if three conditions are met:

1. The land in question must be within a residentially zoned district which requires "a lot area of one thousand two hundred square feet or more per dwelling unit."

2. The land must be "owned or leased...by a non-profit educational corporation."

3. The land or structures must be used "for educational purposes."

The third condition is the subject of the present controversy.

Interpreting the term "educational use" in a by-law, the Court in Kurz v. Board of Appeals of North Reading, 341 Mass. 110, 112 (1960), stated:

> The by-law refers to "Educational use" in the ordinary sense.... They are everyday

> words and should be interpreted 'according to the common and approved usages of the language...without enlargement or restriction and without regard to...(the court's) own conceptions of expediency.'... The meaning of the phrase is a question of law for the court....

In Radcliffe College v. Cambridge, 350 Mass. 613 (1966), the Court construed G.L. c. 40A, §2, which, at that time, provided:

> ...no ordinance...which prohibits or limits the use of land...for any educational purpose which is...public shall be valid....

The question was whether Art. VII, §2 of the Cambridge zoning ordinance, requiring provision for off-street parking, was applicable to a Radcliffe library, in light of c. 40A, §2.

The Court begins its analysis by devoting a paragraph to the parking problem in Cambridge:

> Adequate provision for parking...has become of general public concern.... The reasonable premise of a requirement for off street parking spaces for new buildings is that parking automobiles near by is an established function of the use of any building wherein people live, work, study or congregate for other purposes. Such a requirement is analogous to the statutory requirements of public corridors and exits of certain size and number and somewhat analogous to requirements of fire walls, fire escapes and fireproof construction.

350 Mass. at 617.

The Court stated (p. 618):

> Providing for the parking or housing of the automobiles of students, instructors, and employees of an educational institution is within the broad scope of the educational powers of the institution just as is providing for the feeding and housing of such personnel. These are secondary functions incidental to the main educational purpose.

The Court then upholds the ordinance by holding that, "At most the...ordinance requires choices among the proper educational purposes of the institution. In so doing it does not impede the reasonable use of the college's land for its educational purposes." Id. at 618.

I draw the following conclusions from Radcliffe College:

1. Providing for the housing of students, instructors and employees of the educational institution and their automobiles is "within the broad scope of the educational powers of the institution," although this is a "secondary function incidental to the main educational purpose." Arguably, therefore, such housing is an "educational use."

2. Therefore, in requiring off-street parking, as accessory to a library, Cambridge was simply requiring that the college devote a certain amount of its land to one "educational use" as opposed to another.

3. Underlying this requirement was the serious parking problem in Cambridge, a problem which makes the off-street parking requirement "somewhat analogous to requirements of fire walls, fire escapes and fireproof construction."

I conclude, therefore, that the provision of housing for university students, faculty and employees is, arguably, an "educational use," which can be regulated through the zoning power.

Having said this, I hasten to add that the City must show some need for the affiliate housing amendment. If the matter should go to Court, every presumption will be made in favor of the ordinance, and, if its reasonableness is fairly debatable, it will be sustained. Turnpike Realty Co. v. Dedham, 361 Mass. 221, 233 (1972), cert. den. 409 U.S. 1108 (1973). The constitutional test is whether the ordinance is "clearly arbitrary and unreasonable, having no substantial relation to the public health, safety, morals, or general welfare." Euclid v. Ambler Realty Co., 272 U.S. 365, 395 (1926).

Although there is a presumption of constitutionality, the Court would expect the City "to bring forward some indication that the zoning provision has some reasonable prospect of a tangible benefit to the community. 122 Main St. Corp. v. Brockton, 323 Mass. 646, 651 (1949). A showing

must be made, on the record, that there was a reasonable basis for the enactment." Sturges v. Town of Chilmark, Mass. Adv. Sh. (1980) 815, 402 NE2d 1346, 1353 (1980).

In his memorandum of October 19, 1982, Councillor Sullivan argues that affiliate housing should be regulated, because

> its traffic, activity patterns, and other use impacts are likely to extend the university campus into previously quiet residential streets, and it removes residential units from general availability to the Cambridge community.

I do not know whether the traffic and other "use impacts" associated with affiliate housing are different from those associated with non-affiliate housing. I suggest, however, that a court would not be likely to accept the idea that Cambridge's universities are not part of the "Cambridge community."

Very truly yours,

Russell B. Higley

Russell B. Higley
City Solicitor

RBH/jl

cc: Ms. Kathy Spiegelman
Mr. Robert W. Healy

PUBLIC NOTICE
RELATIVE TO ZONING.
CITY OF CAMBRIDGE
MASSACHUSETTS
Office of the City Clerk

Notice is hereby given that in accordance with the provisions of Chapter 40A, Section 5 of the General Laws, Tercentenary Edition and amendments thereto, that the Committee on Ordinances, comprised of the entire membership of the City Council will hold a public hearing on Wednesday, March 30, 1983 at 6:30 p.m. in the City Council Chamber, City Hall, Cambridge on the petition of Mayor Vellucci to amend the text of the Zoning Ordinance as follows:

1. In Article 2.000, Definitions, add the following new definition at its appropriate alphabetical location:

"University owned housing. Any dwelling (other than a dormitory or a sorority or fraternity house) owned or controlled by an educational institution and occupied primarily by persons who are employed or enrolled at the educational institution; or any future institution of learning that establishes itself within the City of Cambridge under any name whatever they may adopt to identify their institution; or any dwelling unit which is sponsored by said institutions under other titles or are held under realty trusts, corporations or other legal entities which are under the direct or indirect control or supervision of the above referred to institutions";

2. In section 4.33, of the Table of Use Regulations (Institutional Uses), subsection (b), Education Purposes, add to line 7 the words "university owned housing".

3. In Section 4.56, Table of Institutional Use Regulations, subsection (c), add to the line 8 the words, "university owned housing".

Copies of this petition are on file in the Office of the City Clerk, City Hall, Cambridge, Massachusetts.

All persons interested in this matter may appear at this time and be heard.

For the Committee,
Councillor Walter J. Sullivan,
Chairman.

(C)Mar.24

PUBLIC NOTICE
RELATIVE TO ZONING.
CITY OF CAMBRIDGE
MASSACHUSETTS
Office of the City Clerk

Notice is hereby given that in accordance with the provisions of Chapter 40A, Section 5 of the General Laws, Tercentenary Edition and amendments thereto, that the Committee on Ordinances, comprised of the entire membership of the City Council, will hold a public hearing on Wednesday, March 30, 1983 at 6:00 p.m. in the City Council Chamber, City Hall, Cambridge on the petition of Councillor David Sullivan to amend the text of the Zoning Ordinance as follows:

1. In Article 2.000, Definitions, add the following new definition at its appropriate alphabetical location:

"Affiliate housing. Any dwelling (other than a dormitory or a sorority or fraternity house) owned or controlled by an educational institution and occupied primarily by persons who are employed or enrolled at the educational institution".

2. In section 4.33, of the Table of Use Regulations (Institutional Uses), subsection (b), Educational Purposes, add to line 7 the words, "or affiliate housing."

Copies of this petition are on file in the Office of the City Clerk, City Hall, Cambridge, Massachusetts.

All persons interested in this matter may appear at this time and be heard.

For the Committee,
Councillor Walter J. Sullivan,
Chairman.

(C)Mar.24

Case No. 5009: 13 and 15 Cameron Avenue, Residence B Zone; **Kevin W. Yearwood.** Variance: Off-street parking for one car. Violation of Article 5, Section 5.31 (Table of Dimensional Requirements) of the Zoning Ordinance.

8:20 P.M.

Case No. 5010: 4-6 Ashton Place, Residence B Zone; **Robert John De Sousa.** Special Permit: Renewal of special permit to allow a ten-car parking lot. Violation of Article 4, Section 4.32b (use); Article 6, Section 6.362 (parking requirements); Article 10, Sections 10.40 and 10.43 of Zoning Ordinance.

8:40 P.M.

Case No. 5011: 21-23 Myrtle Avenue, Residence C-1 Zone; **Michael R. Van Valkenburgh.** Special Permit: One off-street parking space with insufficient setback. Article 6, Section 6.441 of the Zoning Ordinance.

Eileen McGaughey,
Secretary

(C)Mar.17,24

COMMONWEALTH OF
MASSACHUSETTS
THE TRIAL COURT
THE PROBATE AND
FAMILY COURT DEPARTMENT
Middlesex ss. Division
Docket No. 381552
NOTICE OF
FIDUCIARY'S ACCOUNT

To all persons interested in the estate of **Henry J. Winslow** late of Cambridge, in said County, deceased.

You are hereby notified pursuant to Mass. R. Civ. P. Rule 72 that the 8th thru 12 accounts of **Cambridge Trust Company** as Trustee (the fiduciary) of the will of said deceased for the benefit of Grace D. Winslow and others have been presented to said Court for allowance.

If you desire to preserve your right to file an objection to said accounts, you or your attorney must file a written appearance in said Court at Cambridge on or before the sixth day of April, 1983, the return day of this citation. You may upon written request by registered or certified mail to the fiduciary, or to the attorney for the fiduciary, obtain without cost a copy of said accounts. If you desire to object to any item of said accounts, you must, in addition to filing a written appearance as aforesaid, file within thirty days after said return day or within such other time as the Court upon motion may order a written statement of each such item together with the grounds for each objection thereto, a copy to be served upon the fiduciary pursuant to Mass. R. Civ. P. Rule 5.

Witness, Sheila E. McGovern, Esquire, First Justice of said Court, this 14th day of March, 1983.

Paul J. Cavanaugh
Register

(C)Mar.24

CITY OF CAMBRIDGE
PURCHASING DEPARTMENT
INVITATION TO BID
SECTION 1A

The City of Cambridge, Massachusetts (the Owner) acting through its Purchasing Agent, will receive sealed bids for **Elevator Preventive Maintenance** at the Office of the Purchasing Agent, Room 303, City Hall Cambridge, Mass. 02139.

Attention is called to Massachusetts General Laws, Chapter 149, Sections 44 A through 44 L or most recently amended, which require parties desiring to submit general bids to submit a completed prequalification form and an application to bid. All forms except plans and specifications, will be made available without cost or deposit by the Owner.

This project is concerned with Elevator Maintenance in various Municipal Buildings. Consequently, the Owner will consider general bids from contractors who specialize in such trades providing such contractors file the prequalification form and application to bid at the specified time and place. Completed prequalification forms and/or update and application to bid shall be submitted not later than:

12:00 Noon Thursday April 7, 1983

General bids shall be submitted by prequalified contractors not later than:

2:00 P.M. Thursday May 5, 1983

Specifications will be available not later than:

12:00 Noon Thursday April 7, 1983

The Contract Documents may be examined at the plan room of Dodge Construction Reports, 858 Park Square Building, Boston, and at the Office of the Master Builders Association, 383 Dorchester Avenue, South Boston.

Every bid shall be accompanied by a bid deposit in the form specified in General Laws, Chapter 149, Section 44B, as most recently amended, in the amount of five percent (5%) of the bid.

The successful bidder will be required to furnish a Performance Bond as set forth in the specifications, each in the full amount of the contract.

The Awarding Authority reserves the right to reject any or all bids and to waive any informalities in the bidding if it be in the public interest to do so.

Attention is called to the City's Supplemental Equal Employment Opportunity Anti-Discrimination and Affirmative Action Program as contained in the bidding documents.

Attention is called to the fact that not less than the minimum wage rates as set forth in state and federal laws must be paid on this project.

Barbara L. Duffy
Purchasing Agent

(C)Mar.24,31.

CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • (617) 498-9017

OFFICE OF
THE CITY CLERK

March 15, 1983

To Whom It May Concern:

Enclosed you will find the following hearing schedules for the Committee on Ordinances for Wednesday, March 30, 1983 as follows:

6:00 p.m. Petition of Councillor David Sullivan to amend the text of the Zoning Ordinances in Article 2.000 by adding a new definition entitled "Affiliate Housing".

6:30 p.m. Petition of Mayor Vellucci to amend the text of the Zoning Ordinances in Article 2.000 by adding a new definition entitled "University Owned Housing".

Your kind attention in this matter will be greatly appreciated.

Very truly yours,

Paul E. Healy

Paul E. Healy, City Clerk

PEH/dl

Encs. Affiliate housing hearing notice
University owned housing hearing notice.

CITY OF CAMBRIDGE, MASSACHUSETTS

PLANNING BOARD

CITY HALL ANNEX, 57 INMAN STREET, CAMBRIDGE 02139

RECEIVED BY
OFFICE OF CITY CLERK
FEB 14 10 11 AM '83
CAMBRIDGE, MASS.

Notice of a Public Hearing

The Planning Board of the City of Cambridge will hold a public hearing on March 15, 1983, at 7:45 pm in the Community Development Conference Room, 3rd floor, 57 Inman Street, Cambridge, MA on a petition by Councillor David Sullivan to amend the text of the Zoning Ordinance as follows:

1. In Article 2.000, Definitions, add the following new definition at its appropriate alphabetical location:

   "Affiliate housing. Any dwelling (other than a dormitory or a sorority or fraternity house) owned or controlled by an educational institution and occupied primarily by persons who are employed or enrolled at the educational institution."

2. In Section 4.33, of the Table of Use Regulations (Institutional Uses), subsection (b), Educational Purposes, add to line 7 the words," or affiliate housing."

3. In Section 4.56, Table of Insitutional Use Regulations, subsection (c), add to the line 8 the words," or affiliate housing."

Copies of this petition are on file in the Office of the City Clerk, City Hall, Cambridge, MA. Questions concerning this petition may be addressed to Lester Barber at 498-9034.

City of Cambridge

In the Year One Thousand, Nine Hundred Eighty-Three

AN ORDINANCE

In amendment to an ordinance entitled "The Zoning Ordinances of the City of Cambridge.

Be it ordained by the City Council of the City of Cambridge as follows:

The Zoning Map accompanying ordinance passed to be ordained September 26, 1977 entitled "The Zoning Ordinances of the City of Cambridge" is hereby amended by amending the text of the Zoning Ordinances as follows:

1. In Article 2.000, Definitions, add the following new definition at its appropriate alphabetical location:

   "Affiliate housing. Any dwelling (other than a dormitory or a sorority or fraternity house) owned or controlled by an educational institution and occupied primarily by persons who are employed or enrolled at the educational institution."

2. In section 4.33, of the Table of Use Regulations (Institutional Uses), subsection (b), Educational Purposes, add to line 7 the words "or affiliate housing".

3. In Section 4.56 Table of Institutional Use Regulations, subsection (c), add to the line 8 the words, "or affiliate housing".

CCM-101

City of Cambridge

IN CITY COUNCIL

January 24, 1983

COUNCILLOR DAVID SULLIVAN

ORDERED: That the attached proposed zoning amendment be referred to the Planning Board and Ordinance Committee for hearing and report.

REFERRED TO THE PLANNING BOARD & ORDINANCE COMMITTEE FOR HEARING AND REPORT

Order # 3 0-22

C.D. Sullivan order re: proposed amendment to the Zoning Ordinances in Article 2.000, Definitions by adding a new definition of "Affiliate housing" be referred to the Planning Board & Ordinance Committee for hearing & report.

6/13/83 - Failed of Ordination as amended 4-1-0-4

Copy sent to Planning Board + Ordinance Committee for hearing + report 1/25/83 mlh

In City Council,

January 24, 1983

1/24/83

EDI
A