



CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 498-9020

LAW DEPARTMENT

RUSSELL B. HIGLEY
CITY SOLICITOR

DONALD A. DRISDELL
DEPUTY CITY SOLICITOR

MICHAEL C. COSTELLO
ASSISTANT CITY SOLICITOR

SEVERLIN B. SINGLETON, III
BIRGE ALBRIGHT
GAIL S. GABRIEL
LEGAL COUNSEL

TO: Robert W. Healy, City Manager

FROM: Russell B. Higley, City Solicitor *Russell B Higley*

DATE: December 9, 1988

SUBJ: Council Order #16 of 11/28/88

The proposed water and sewer rates currently before the City Council are commonly referred to as increasing block rates. Charging increasing block rates for water and sewer use are legal in Massachusetts under Chapter 40 section 39j of the Massachusetts General Laws. As you are aware, the City Council accepted Chapter 40 section 39j in April of this year.

My response to the second question raised by the City Council regarding the difference between the blocks is less direct. Clearly, the City may not discriminate against or overcharge any particular group of customers. What constitutes discrimination or over charge is somewhat subjective and difficult to define. As currently recommended by the City Manager, the proposed rates contain a 5% differential between each level with a total differential of 21.5% between the first and the fifth block.

While I cannot say that this differential is safe from serious legal challenge, it appears fair and by attempting to encourage conservation falls within Chapter 40, section 39j. I also cannot say that a differential greater than the one proposed would be found to be inequitable. However, what is clear is that the greater the differentials the more likely a successful legal challenge could occur.



City of Cambridge

Agenda Item No. 23

IN CITY COUNCIL

December 19, 1988

COUNCILLOR WALTER J. SULLIVAN

ORDERED: Pursuant to the provisions of M.G.L. Chapter 40, Section 39J of the Acts of 1985 as accepted by the Cambridge City Council on April 11, 1988, the following pricing system, including costs for the provision of water and sewer service to residents, industrial and commercial users at a 7% differential between each block be adopted, as follows for FY89-90:

<u>Block Number</u>	<u>Water</u>	<u>Sewer</u>
1	.80	1.34
2	.85	1.43
3	.91	1.53
4	.97	1.65
5	1.04	1.75

12/19/88 - CHARTER RIGHT EXERCISED BY COUNCILLOR DANEHY



City of Cambridge

(Calendar Item No. 18)

Agenda Item No. 23

IN CITY COUNCIL

December 19, 1988

January 30, 1989

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5	1.04	1.75

In City Council January 30, 1989.

Adopted by a yea and nay vote:-

Yeas 8; Nays 1; Absent 0.

Attest:- Joseph E. Connarton, City Clerk.

A true copy;

ATTEST:-

Joseph E. Connarton

Joseph E. Connarton, City Clerk.



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CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139
TEL. 498-9011

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

December 12, 1988

To the Honorable, the City Council:

In response to City Council Order No. 16 of November 28, 1988 relative to the legality of the proposed block water rate structure and, in particular, the differential between the classes of ratepayers, enclosed please find a copy of the opinion of the City Solicitor.

Very truly yours,

Robert W. Healy
City Manager

RWH/mbf
Enc.

Re: legality of the proposed block water rate structure & the differential between the classes of ratepayers.

(See Finance #26 A of 1989)

In City Council,

December 12, 1988

12/12/88 - Referred to the hearing at
6 p.m.