City of Cambridge

Agenda Item No. 1
IN CITY COUNCIL
September 29, 2003

ORDERED: That the City Council vote to reject General Laws, Chapter 59, Section 2D, as amended by 2003 Massachusetts Acts Chapter 46, Sections 41 and 42, which pertains to new construction. This amended law requires cities and towns to assess new construction after January 1 for real estate taxation based on the issuance of an occupany permit.

In City Council September 29, 2003
Adopted by the affirmative vote of nine members.
Attest:- D. Margaret Drury, City Clerk

A true copy; D. Margaret Drury

ATTEST:-
D. Margaret Drury, City Clerk

Memorandum

To: Robert W. Healy. City Manager

CC: Louie DePasquale, Asst. City Mgr. for Fiscal Affairs

From: Board of Assessors

Date: 9/25/2003

Re: Vote by City Council to Reject Provisions of G.L. c. 59, Section 2D, as amended by 2003 Mass. Acts ch 46,Sections 41 and 42 Providing for the Early Taxation of New Construction.

In recent years, on petitions on behalf of local boards of assessors, the Legislature has passed two acts which, if accepted by vote of a municipality, would allow the assessors to "capture" the value of new construction put in place after the January 1 assessment date a full fiscal year earlier than in the normal course.

The first of those acts, 1989 Mass. Acts ch. 653, Sec 40, provides that "buildings and other things erected on or affixed to land during the period beginning on January second and ending on June thirtieth of the fiscal year preceding that to which the tax relates shall be deemed part of such property as of January first." The second of those acts, 1998 Mass. Acts ch. 203, inserted G.L. ch. 59, Sec. 2D, provides in pertinent part that "whenever in any fiscal year real estate improved in assessed value by over 50 per cent by new construction is issued a temporary or permanent occupancy permit after January 1 in any year, the owner . . . shall pay a pro rata [tax] . . . that would have been due . . . if the real estate had been so improved on the assessment date for the fiscal year in which the occupancy permit issued." Sec. 2D(a).

Both 1989 Mass. Acts ch. 653, Sec. 40 and 1998 Mass. Acts ch. 203 require acceptance of their provisions by municipalities to be effective. The Cambridge City Council did not vote nor were they asked to accept the provisions of either statute.

The Legislature recently amended G.L. ch. 59, Sec.2D to make its provisions effective in all the Commonwealth's municipalities unless a city or town votes to reject Sec. 2D by written notification to the Department of Revenue. (2002 Mass. Acts ch. 46, Sections 41-42). Chapter 46 became effective immediately by emergency preamble with the result that Sec. 2D is now the law in the City of Cambridge. The Assessing Department recommends that the City Council vote to reject Sec. 2D.

The reason for this recommendation is that any potential gain in real estate tax revenue from implementation of Sec. 2D in Cambridge would likely be more than offset by the time and expense of its administration, which would be expected to require additional personnel. For example, the Department of Revenue recommends that, because Section 2D additional taxes are triggered by the issuance of occupancy permits, assessors and building inspectors "will have to develop a system for ensuring that the assessors' office receives timely notification of all occupancy permits issued." (DOR Informational Guideline Release No. 03-209 Section II-A (Aug. 2003)). While the Assessing Department already tracks building permits and occupancy permits issued during a calendar year preceding the normal January 1 assessment date, administration of Section 2D would necessitate a duplicative reporting and recording system and the development of software to apply the complex computations mandated by Section 2D. *See* DOR Informational Guideline Release No. 03-209 attached). Further, Section 2D imposes additional resource requirements not only on the Assessing Department, but on the Collector's and Treasurer's Offices as well. (See Sections III, IV of the IGR). Lastly, since building permit applications do not reflect market value as to actual expenses incurred, and occupancy permits do not necessarily mean that properties are actually occupied (*i.e.*, actually collecting rent), implementation of Section 2D would provide tax abatement agents with additional fertile grounds for applications for abatement and Appellate Tax Board appeals which would mean increased litigation defense costs for the Assessing Department.

For the foregoing reasons, the Assessing Department recommends that the City Council vote to reject Section 2D. A Department of Revenue approved form for the Notice of Rejection is attached hereto. Please note that a certified copy of the City Council Vote must be attached to the Notice and that the Notice and Vote should be submitted to the Bureau of Accounts, Division of Local Services.

NOTICE OF REJECTION
General Laws Chapter 59 § 2D
(Supplemental Assessment of New Construction)

The Commissioner of Revenue is hereby notified that the City of Cambridge, by vote of the City Council, on September 29, 2003, rejected the provisions of General Laws Chapter 59 §2D.

The rejection applies for fiscal years that begin on or after July 1, 2003.

____
(City Clerk)

____
(Date)

PLEASE ATTACH A CERTIFIED COPY OF THE VOTE AND SUBMIT TO:

Bureau of Accounts
Division of Local Services
P.O. Box 55490
Boston MA 02205-5490

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D. Margaret Drury
(City Clerk)
September 29, 2003
(Date)

PLEASE ATTACH A CERTIFIED COPY OF THE VOTE AND SUBMIT TO:

Bureau of Accounts
Division of Local Services
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CITY OF CAMBRIDGE • EXECUTIVE DEPARTMENT

Robert W. Healy, City Manager *Richard C. Rossi, Deputy City Manager*

795 Massachusetts Avenue, Cambridge, Massachusetts 02139
Voice: 617.349.4300 Fax: 617.349.4307 TTY: 617.349.4242 Web: www.cambridgema.gov

September 29, 2003

To the Honorable, the City Council:

Please find attached a report received from the Board of Assessors recommending that the City Council vote to reject provisions of General Law Chapter 59, Section 2D, as amended by 2003 Massachusetts Acts Chapter 46, Sections 41 and 42, which pertains to new construction.

Very truly yours,

Robert W. Healy
City Manager

RWH/mec
Attachment

F-100

Consent Agenda #1

Transmitting communication from Robert W. Healy, City Manager, relative to a vote required by the City Council to reject General Laws, Chapter 59, Section 2D as amended by 2003 Massachusetts Acts Chapter 46, Sections 41 and 42, which pertains to new construction.

In City Council September 29, 2003

ORDER ADOPTED