



CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • TEL. 876-6800

LAW DEPARTMENT

EDWARD D. MCCARTHY
ACTING CITY SOLICITOR

ROWENA E. TAYLOR
ASSISTANT CITY SOLICITOR

CHARLES WATSON
LEGISLATIVE AGENT

May 31, 1974

To the Honorable City Council
City Hall
Cambridge, Massachusetts

Dear Councillors:

You have requested my opinion relative to the power of the City Council in regard to the Cambridge Common. I am enclosing a copy of an opinion dated December 13, 1973 which answers the first paragraph of your request. The City, of course, cannot ban the public at large from use of the Common except in instances which would make it necessary to prohibit the public from walking or congregating in certain areas of the Common where work maybe in process such as seeding, landscaping, construction, etc.

You will note from the December 13, 1973 opinion the second last paragraph indicates my opinion that the issuance of permits for use of the Common lies with the Commissioner of Public Works.

Chapter 6 of the Acts of 1830 provides in part that the Common shall be used "as a public park, promenade and place for military parade; and no part thereof shall, on any pretense be appropriated to any purposes of private use or emolument".

Honorable City Council

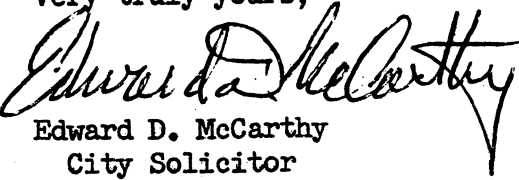
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May 31, 1974

As these were the only matters contained in the request forwarded to this office, I trust that this answers the questions raised therein.

If you need any additional information, please let us know.

Very truly yours,



Edward D. McCarthy
City Solicitor

EDMcC:cas

Enc.



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LEGISLATIVE AGENT

December 13, 1973

To the Honorable City Council
City Hall
Cambridge, Massachusetts

Re: Cambridge Common

Dear Councillors:

You have requested my opinion as to the following:

1. Who can use the Cambridge Common.
2. The purposes for which it may be used.
3. Under whose jurisdiction are permits for use of the Common issued.

1. Chapter 6 of the Acts of 1830 authorized the enclosing of the Cambridge Common and provided in part that it "shall be forever kept and appropriated to public use only".

My answer, therefore, to the first part of your request is that the Common may be used by members of the general public.

2. The same 1830 Act provided that the Common was to be used only "as a public park, promenade and place for military parade; and no part thereof shall, on any pretense be appropriated

December 13, 1973

to any purposes of private use or emolument".

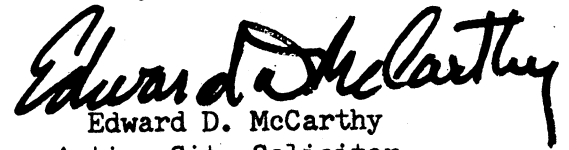
3. In the absence of a Park Commissioner and in the absence of a designation by you that the Planning Board is to act as Park Commissioners, the authority for issuing permits for use of the Common would ordinarily lie within your jurisdiction.

However, the General Ordinances, Section 14-1 the general charge of the Common is under the control of the Commissioner of Public Works with the exception of the southwesterly portion bordering Garden and Waterhouse Streets which by Section 14-5 is under the control of the Recreation Commission.

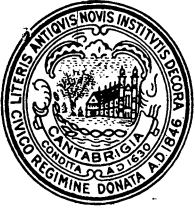
Section 14-17 and 14-19 place the issuance for permits for overall use of the Common in the Commissioner of Public Works.

I trust that this answers your request but if you have any further questions, we would be happy to co-operate in answering same.

Very truly yours,


Edward D. McCarthy
Acting City Solicitor

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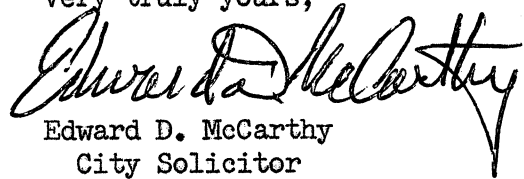
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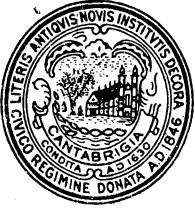
Very truly yours,

A handwritten signature in cursive script, reading "Edward D. McCarthy". The signature is written in dark ink and is positioned above the printed name and title.

Edward D. McCarthy
City Solicitor

EDMcC:cas

Enc.



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Very truly yours,


Edward D. McCarthy
Acting City Solicitor

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Opinion from the City Solicitor re: to the
Cambridge Common.

In City Council,

June 3, 1974

Placed on File-