April 29, 1930
May 5, 1930

ROBERT T. BABSON
COUNSELLOR AT LAW
KIMBALL BUILDING
18 TREMONT STREET

TELEPHONES
~~HUBBARD~~ Capitol { 3427 3428

BOSTON, March 11, 1932

The Honorable The City Council
City Hall
Cambridge, Massachusetts

Gentlemen:

I enclose a petition which I beg to lay before you at your next meeting for consideration.

Respectfully yours,

Robert T. Babson
attorney for the
Society of St. John the Evangelist

RTB/EEW

Enc.

TO THE HONORABLE THE CITY COUNCIL

CAMBRIDGE, MASSACHUSETTS

Respectfully represents the Society of St. John the Evangelist, a religious and charitable corporation, and says that it is the owner of certain property on Memorial Drive, in the City of Cambridge, Massachusetts.

That on April 29, 1930 the City Council of Cambridge passed an order directing that a sewer be laid in certain streets and properties named in said order including the property of your petitioner and that the estates benefited thereby be assessed according to law.

And your petitioner further states that on Feb. 10, 1931 the City Council of Cambridge passed an order assessing betterments for the said sewer upon your petitioner and other parties set forth in said order and in the amounts respectively set forth therein, and also ordered that the City Treasurer levy and collect of each of the said parties the amounts assessed in said order. In accordance therewith a sewer assessment was levied upon your petitioner in the sum of four hundred and eleven dollars and twenty-five cents ($411.25).

And your petitioner further states that on or about March 2, 1931 a petition for a writ of certiorari was brought against the Mayor and City Council of Cambridge and the Treasurer and Collector of Taxes of the said City by one Herbert H. White in the Supreme Judicial Court for the County of Middlesex numbered 1014 Law in which the petitioner prayed that the record of the proceedings of the Cambridge City Council relating to the assessment of betterment upon his land be quashed. A hearing or hearings were had upon said petition at which the Mayor, City Treasurer and City Council were represented.

On or about March 20, 1931 the late Mr. Justice Carroll of the Supreme Judicial Court of the Commonwealth of Massachusetts allowed the petition relating to the sewer assessment and ordered the record quashed for the reason that the proceedings taken by said Cambridge City Council were not in accord with the General

Laws, Chapter 80, Section 2.

In accordance with the above decision, your petitioner begs leave to state that the order to assess and levy was void and of no effect.

WHEREFORE YOUR PETITIONER PRAYS the Honorable City Council of Cambridge that the orders heretofore passed as aforesaid, assessing and levying a sewer assessment upon the property of your petitioner, be cancelled, revoked or rescinded, and such further action taken as may be deemed necessary in the premises.

Espectfully Submitted,

SOCIETY OF ST. JOHN THE EVANGELIST

by Robt. J. Babson
Its Attorney.

Petition
of

SOCIETY OF ST. JOHN THE

EVANGELIST

for abatement of Sewer Assessment in sum of $41.25 levied against their property on TO Wendover Road due to construction of sewer in University Road

THE HONORABLE THE CITY

COUNCIL

CAMBRIDGE, MASSACHUSETTS

In City Council MAR 15 1932

Referred to the Committee on

City Engr.

Frederick H. Burke City Clerk.

PETITION

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from office of
Robert T. Babson
18 Tremont St.
Boston, Mass.

Q. v. Adoption of order abating sewer assessment on University Road in sum of $411.25 notwithstanding objection of Mayor. (Society of St. John the Evangelist)

City of Cambridge

$411.25

Massachusetts

In City Council OCT 4 1932 193

YEA			NAY	ABSENT
1	MR. CAZMAY			
1	MR. DELANEY			
1	MR. FOLEY			
	MR. HILLERY		1	
1	MR. HILLIS			
1	MR. LYONS			
1	MR. McMENIMEN			
1	MR. O'CONNOR			
1	MR. ROCHE			
	MR. SENNOTT		1	
1	MR. SKILTON			
1	MR. SMITH			
1	MR. SWENSON			
1	MR. WYETH			
1	PRESIDENT MURPHY			
13			2	

Q.On adoption of motion for reconsideration of a vote of the City Council on October 4,1932,adopting an order notwithstanding the objections of His Honor the Mayor abating sewer assessment in the sum of $411.25 levied against property of Society of Saint John the Evangelist on University Road.

City of Cambridge

411.25

Massachusetts

In City Council OCT 11 1932 *193*

YEA			NAY	ABSENT
	MR. CAZMAY			1
	MR. DELANEY		1	
	MR. FOLEY		1	
1	MR. HILLERY			
	MR. HILLIS		1	
	MR. LYONS		1	
	MR. McMENIMEN		1	
	MR. O'CONNOR		1	
	MR. ROCHE		1	
1	MR. SENNOTT			
	MR. SKILTON		1	
	MR. SMITH		1	
	MR. SWENSON		1	
1	MR. WYETH			
1	PRESIDENT MURPHY			
4			10	1

FREDERICK H. BURKE
CITY CLERK

City of Cambridge

Massachusetts

Office of the City Clerk

October 5th, 1932.

Mr. Frederick H. Burke,
City Clerk,
Cambridge, Mass.

Dear Sir:-

I hereby notify you of my intention to move reconsideration of a vote of the City Council on October 4th, 1932, adopting an order notwithstanding the objections of His Honor the Mayor abating sewer assessment in the sum of $411.25 levied against property of Society of Saint John the Evangelist on University Road.

Truly yours,

Benjamin F. Wyeth

OCT 5 1932 PM
CAMBRIDGE, MASS. OFFICE OF CITY CLERK
RECEIVED

City of Cambridge

In City Council

June 7, 1932.

ORDERED:-

That, from the sewer assessment made by the City Council by its order adopted February 10, 1931 and approved February 12, 1931 the sum following be and hereby is abated, namely:-

UNIVERSITY ROAD

Assessors' Block Plan 165, Lot No 26
Society of St. John the Evangelist $411.25

The City Treasurer is hereby authorized to desist and refrain from the collection of the aforesaid assessment.

Vetoed June 16, 1932

In City Council JUN 7 1932
Adopted by the affirmative vote
of 14 members.

Frederick W Burke City Clerk

Executive Department JUN 9 1932
Approved

Mayor

In City Council OCT 4 1932
Order adopted notwithstanding objection of the Hon. the Mayor
Yeas 13; Nays 2; Absent 0.

Frederick W Burke City Clerk

In City Council OCT 11 1932
Motion for reconsideration of vote of Oct. 4, 1932 adopting aforesaid order, Failed of adoption
Yeas 4; Nays 10; Absent 1.

Frederick W Burke City Clerk

City of Cambridge.

JUN 9 1932

Presented to the Mayor for approval.

Frederick H. Burke

City Clerk

Ordered in 1932

Adopted

Approved

June 9, 1932

Frederick H. Burke

Mayor

In City Council

Ordered: That the City Council hereby requests the Board of Aldermen to grant a petition for a location for a gasoline station on the northerly side of Memorial Road, about 75 feet westerly from Dana Street.

Petitioned for by

Dana Petroleum Co.

Dana Petroleum Co.

Location: Memorial Road

Date: June 9, 1932

Petition of Dana Petroleum Co. for a location for a gasoline station on the northerly side of Memorial Road, about 75 feet westerly from Dana Street.

Ordered that the petition be granted and that the City Council hereby requests the Board of Aldermen to grant the same.

City of Cambridge

In City Council June 7, 1932.

The *Committee* on City Engineering

to which was referred petition of Society of St. John The Evangelist for abatement of sewer assessment in the sum of $411.25 levied on account of construction of common sewer in University Road.

Reports, Recommending the adoption of the accompanying order for abatement of said sewer assessment.

For the Committee.

John J. Foley

REPORT

Committee on City Engineering

recommending order for abatement of sewer assessment in University Road - $411.25

4

June 7, 1932

OFFICE OF THE MAYOR
CAMBRIDGE, MASSACHUSETTS

June 16, 1932

To the Honorable, the City Council

I return herewith order of the City Council of June 7, 1932 for the abatement of sewer assessment made by the City Council by its order adopted February 10, 1931 and approved February 12, 1931 on property on University Road described as follows:

Assessors' Block Plan 165, Lot No. 26, Society of St. John the Avangelist, $411.25,

which I veto for the following reasons:

(1) I am of the opinion that the assessment was properly made.

(2) I am not satisfied that the case of Herbert H. White v. Cambridge (Supreme Judicial Court for the County of Middlesex numbered 1014, Law) is authority to justify the abatement of the assessment above referred to. In that case it was apparently assumed that the proceedings were intended to have been taken in accordance with General Laws, Chapter 80, Section 2, whereas the above entitled assessment was made pursuant to Chapter 83 of the General Laws.

Yours respectfully,

Richard M. Russell
Mayor

RMR:LMK

JUN 16 1932 PM

CAMBRIDGE MASS. OFFICE OF CITY CLERK

RECEIVED

COMMUNICATION

From the Mayor, ~~transmitting~~ ~~the from~~ ~~returning~~ without his approval an order of City Council adopted on June 7, 1932 abating sewer assessment in the sum of $11.25 levied against property of Society of St. John the Evangelist on University Road

In City Council June 21, 1932

Action Postponed for seven days

Frederick H Burke City Clerk

JUN 28 1932

In City Council

Referred to the Committee on

City Eng.

Frederick H. Burke City Clerk.

OCT 4 1932

In City Council

Order adopted notwithstanding objections of this Board the Mayor.

Yeas 13; Nays 2; Absent 0

Frederick H Burke City Clerk

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss. SUPREME JUDICIAL COURT

No. 1014 Law.

HERBERT H. WHITE

v.

MAYOR AND CITY COUNCIL OF CAMBRIDGE
AND
TREASURER AND COLLECTOR OF TAXES OF
THE CITY OF CAMBRIDGE

RULINGS OF LAW AND ORDER.

I ordered that the petition insofar as it seeks to quash the taking of the easement should be denied.

Olsen v Fall River, 257 Mass.556

Byfield v Newton, 247 Mass.46

As to the part of the petition relating to the sewer assessment, I ordered the record quashed, for the reasons that the proceedings were not in accord with G.L. Chap.80, sec.2, Acts of 1928, Chap. 120.

Union St.Ry. v.New Bedford, 253 Mass.304,312

See G.L. Chap.80, sec.1

G.L. Chap.80, sec.17

Folan v Dedham, 259 Mass.347,348

Requests for rulings of the defendants Nos. 2, 3 and 5 are granted; No.4 is denied so far as it relates to the assessment proceedings; No. 1 is denied.

March 20, 1931.

James B.Carroll
Justice Supreme Judicial Court

STEWART & CHASE

FRANK H. STEWART
FREDERIC H. CHASE
RAYMOND BALDWIN

FRANCIS X. DALY
LAWRENCE BLACK
E. H. SULLIVAN

ONE FEDERAL STREET

BOSTON

March
Eleventh
1 9 3 2

To The Honorable the City Council
of the City of Cambridge
Cambridge, Massachusetts

Re: White v Mayor and City Council of Cambridge, et al.

Gentlemen:

At the suggestion of the Society of St. John the Evangelist, we desire to call your attention to the order made by the Supreme Judicial Court for the County of Middlesex in a suit to which you were parties, and in which the record of the proceedings relating to the assessment of betterments were ordered quashed. We enclose herewith a copy of this order for your further information.

Respectfully,

Stewart & Chase

FXD:D
Enc.

COMMUNICATION

from Stewart & Chase, representing the Society of St. John the Evangelist, dated March 11, 1932 transmitting an order made by the Supreme Judicial Court for the County of Middlesex relative to the case of Herbert H. White v Mayor and City Council of Cambridge and Treasurer and Collector of Taxes of the City of Cambridge.

Said case being relative to proceedings regarding sewer assessment on University Road.

In City Council MAR 15 1932

Referred to the Committee on

City Engr

Frederick H. Burke City Clerk.

In City Council JUN 7 1932

125/26

PLACED ON FILE

Frederick H. Burke City Clerk.

City of Cambridge

In City Council June 7, 1932.

The *Committee* on City Engineering

to which was referred a communication from Stewart & Chase transmitting an order made by the Supreme Judicial Court in the case of Herbert H. White vs Mayor and City Council of Cambridge and Treasurer and Collector of Taxes of the City of Cambridge.

Reports, Recommending that the communication and order be placed on file.

For the Committee.

John F. Foley

REPORT

Committee on City Engineering

recommending that communication be placed on file. Sewer assessment in University Road. Court order - White vs. Mayor & Coun.

June 7, 1932

Report received, and recommendation ADOPTED.

Attest: Frederick H. Burke

City Clerk

City of Cambridge

In City Council October 4, 1932.

The *Committee* on City Engineering

to which was referred a communication from His Honor the Mayor returning, without his approval, an order of the City Council adopted June 7, 1932 abating sewer assessment in the sum of $411.25 levied against property of Society of St. John the Evangelist on University Road

Reports,

Recommending that the order ought to pass notwithstanding the disapproval of His Honor the Mayor.

John F. Foley

For the Committee.

C

REPORT

114

Committee on City Engineering

recommending ought to pass an order abating sewer assessment in the sum of $411.25 levied against property of St John the Evangelist notwithstanding the disapproval of His Honor the Mayor.

October 4, 1932.

Report received, and recommendation ADOPTED.

Attest: ~~Frederick H. Burke~~
City Clerk