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ENOUGH ROOM
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OFFICE OF THE CITY CLERK
CAMBRIDGE, MASSACHUSETTS

March 1, 2001

Honorable Members of the
Cambridge City Council
795 Mass Ave.
Cambridge MA 02139

Re: MIT and Harvard PILOT

With regard to recent discussions by the City Council on Harvard and MIT's payment in lieu of taxes (PILOT), attached is a copy of a bill I wrote. H3636, filed with the Massachusetts House of Representatives amends the property tax statute, Mass General Laws (M.G.L.) Chapter 59 § 5. The formal version is being printed by the House clerk. A portion of the current statute is included.

The *Harvard Crimson* and the *Boston Globe*, (February 27-28, 2001) reported that the Watertown Town Council expressed similar concerns about a negative effect of Harvard's purchase of land in that neighboring town. Three adjacent towns in Mass are now threatened by Harvard's enormous economic wealth.

I solicit your support for this bill in the present session of the legislature. It addresses misuses of the statutory tax exemptions by other not-for-profit groups within the commonwealth.

The Reverend Jesse Jackson has come under fire for alleged abuses of his tax exempt foundations. He allegedly received $12 million in one year but spent only $47,000 on the stated purpose of his foundation--education. More than $1.2 million was spent on "consultants" one of whom was his mistress.

In Massachusetts one not-for-profit legal services firm provides its highest-paid lawyer more than $100,000 in salary plus other benefits. Its second-highest-paid lawyer gets $70,000 plus benefits. That firm owns land and stock in public corporations.

Harvard regularly abuses its prestige and economic status by openly deceiving city commissions. They obtain privileges not available to other petitioners.

At the Board of Zoning Appeals hearing on February 22, 2001, a member of Harvard's internationally prestigious (his own words) Government Department, testified. Prof. Kenneth Shepsle, asserted that there was no other place to locate their proposed Knafel Center. In view of the wide open spaces on Harvard's campus and their sprawling Kennedy School of Government this is at best delusional.

Shepsle also asserted falsely the claim that members of the community gave their support for the project. This is a fantasy, wishful thinking. All members of the community who testified at eight meetings during 2000, spoke against the project. Only paid employees of the university and Harvard Planning and Real Estate, (HPRE) a for profit division of the university spoke favorably.

Shepsle also asserted the claim that the building is needed to encourage spontaneous collegiality of faculty, a sort of academic combustion. This is contrary to the usual reluctance of faculty members to spend any time with persons not active within their narrow academic specialty. This conflicts too with the engraved idea of academic endeavor on the walls of the American Academy of Science near the Harvard campus on Irving Street.

Harvard's Knafel project will destroy another residential neighborhood and blot out another portion of sky as a part of their plan to increase their presence (building banking) in Cambridge. This was only the latest instance of deception and unfair practices by HPRE at city hearings. It is a habitual pattern by Harvard. Compare their comments at hearings on the Riverside neighborhood and their planned museum.

Petitioners to city commissions and boards are not sworn to tell the truth. Unfair and deceptive practices are a violation of the Massachusetts Consumer Protection laws M.G.L. Chapter 93A, and the Federal Trade Commission Act, Title 5 US Code. The reluctance of any city official to act against these repeated violations raises the question of inappropriate if not unlawful influence by Harvard within the city bureaucracy.

The bill, H3636, will allow a potential reduction in property taxes for homeowners and local businesses. Cambridge Councillors recognized that if Harvard paid its full share of taxes it would be giving Cambridge about $32 million per year.

Encl. H 3636, M.G.L. 59 (5)

Roy Bercaw

H3636 (docket 3648)

An Amendment to M.G.L. Chapter 59 § 5 Property; Exemptions

The following words are to be inserted after section 5, third (e):

Any not for profit institution which has accumulated more than $500,000,000.00 (five hundred million dollars) in an endowment, or net worth or any combination of the two, shall not be exempt. Allowing charitable institutions to hold enormous funds and then allow them to participate in buying land and not have to pay taxes on that land is an unfair practice. Private for profit developers are unable to compete with an alleged charitable institution which uses a pretext of accumulating land under their alleged mission. This is a particularly acute problem with MIT and Harvard University which purchases land and do not have to pay property taxes. They develop their land further into the formerly residential neighborhoods of Cambridge destroying the historical demography of the city. Harvard and MIT also purchase vast tracts of land in Boston.

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GENERAL LAWS OF MASSACHUSETTS

PART I.
ADMINISTRATION OF THE GOVERNMENT.

TITLE IX.
TAXATION.

CHAPTER 59. ASSESSMENT OF LOCAL TAXES.

Chapter 59: Section 5. Property; exemptions.

Section 5. The following property shall be exempt from taxation and the date of determination as to age, ownership or other qualifying factors required by any clause shall be July first of each year unless another meaning is clearly apparent from the context; provided, however, that any person who receives an exemption under the provisions of clause Seventeenth, Seventeenth C, Seventeenth D, Twenty-second, Twenty-second A, Twenty-second B, Twenty-second C, Twenty-second D, Twenty-second E, Thirty-seventh, Thirty-seventh A, Forty-first, Forty-first B, Forty-first C, Forty-second or Forty-third shall not receive an exemption on the same property under any other provision of this section, except clause Eighteenth or Forty-fifth.

First. Property owned by the United States so far as the taxation of such property is constitutionally prohibited, excepting property which the Congress of the United States has permitted to be subject to local taxation.

Second, Property of the commonwealth, except real estate of which the commonwealth is in possession under a mortgage for condition broken, lands in Boston known as the commonwealth flats, if leased for business purposes, lands and flats lying below high water mark in Provincetown harbor, belonging to the commonwealth and occupied by private persons by license of the department of environmental protection together with all wharves, piers and other structures which have been built thereon subsequent to the twenty-second day of May, nineteen hundred and twenty, and those which may hereafter be built on said lands and flats, in conformity with permits or licenses, buildings erected by lessees under section twenty-six of chapter seventy-five, structures erected on land in state forests, parks and reservations by persons occupying such land under authority conferred by the commissioner of environmental management, property taxable under chapter five hundred and seventy-five of the acts of nineteen hundred and twenty, and real estate taxable under section three A.

Third, Personal property of a charitable organization, which term, as used in this clause, shall mean (1) a literary, benevolent, charitable or scientific institution or temperance society incorporated in the commonwealth, and (2) a trust for literary, benevolent, charitable, scientific or temperance purposes if it is established by a declaration of trust executed in the commonwealth or all its trustees are appointed by a court or courts in the commonwealth and if its principal literary, benevolent, charitable, scientific or temperance purposes are solely carried out within the commonwealth or its literary, benevolent, charitable, scientific or temperance purposes are principally and usually carried out within the commonwealth; and real estate owned by or held in trust for a charitable organization and occupied by it or its officers for the purposes for which it is organized or by another charitable organization or organizations or its or their officers for the purposes of such other charitable organization or organizations; and real estate purchased by a charitable organization with the purpose of removal thereto, until such removal, but not for more than two years after such purchase; provided, however, that:[a]

(a) If any of the income or profits of the business of the charitable organization is divided among the stockholders, the trustees or the members, or is used or appropriated for other than literary, benevolent, charitable, scientific or temperance purposes or if upon dissolution of such organization a distribution of the profits, income or assets may be made to any stockholder, trustee or member, its property shall not be exempt; and

(b) A corporation coming within the foregoing description of a charitable organization or trust established by a declaration of trust executed in the commonwealth and coming within said description of a charitable organization shall not be exempt for any year in which it omits to bring in to the assessors the list, statements and affidavit required by section twenty-nine and a true copy of the report for such year required by section eight F of chapter twelve to be filed with the division of public charities in the department of the attorney general, nor shall it be exempt for that athletic property or portion thereof for the part of the year which the assessors have determined to be utilized for other than literary, educational, benevolent, temperance, charitable, or scientific purposes in direct competition with a person engaged in the same activity and subject to the tax imposed by this chapter on properties so used. In the case of the exemption of property from tax for a part of the year, the tax

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imposed shall bear the same proportion to the tax which would be applicable to such property if it were subject to tax for the entire year as the time such property is employed in such use bears to the total time during which such property is available for use during the year.

(c) Real or personal property of a charitable organization occupied or used wholly or partly as or for an insane asylum, insane hospital, or institution for the insane, or principally for the treatment of mental diseases or mental disorders, shall not be exempt unless at least one fourth of all property so occupied or used, wholly or partly, on the basis of valuation thereof, and one fourth of the income of all trust and other funds and property held for the benefit of such asylum, hospital or institution and not actually occupied or used by it for such purposes, is used and expended entirely for the treatment, board, lodging or other direct benefit of indigent insane persons, or indigent persons in need of treatment for mental diseases, as resident patients, without any charge therefor to such persons either directly or indirectly, except that a charitable organization conducting an insane asylum, insane hospital or institution for the insane to which persons adjudged insane by due process of law may be committed shall be exempt from taxation on personal property and buildings so occupied or used, but shall be subject to taxation on the fair cash value of the land owned by it and used for the purposes of such asylum, hospital or institution; and

(d) Real estate acquired after May fourth, nineteen hundred and eleven, by any association or private corporation formed or incorporated for the care of the insane, shall not be exempt under paragraph (c) unless the city council of the city, or the inhabitants of the town, in which it is situated, have by vote lawfully taken consented to the acquisition of such real estate, to be so exempt; nor shall real estate of a trust coming within the foregoing description of a charitable organization, if occupied or used wholly or partly as or for an insane asylum, insane hospital, or institution for the insane, or principally for the treatment of mental diseases or mental disorders, be exempt under paragraph (c) unless the city council of the city, or the inhabitants of the town, in which it is situated, have by vote lawfully taken consented to such exemption; and

(e) Real and personal property of an educational institution coming within the foregoing description of a charitable organization which is occupied or used wholly or principally as residences for officers of such institutions and which is not part of or contiguous to real estate which is the principal location of such institution shall not be exempt.

INSERT

In any city or town which accepts the provisions of this paragraph, the provisions of subsection (c) shall not apply to any charitable non-residential mental health facility, organized under chapter one hundred and eighty which provides clinical, therapeutic, diagnostic and counseling services to persons with mental disorders.

Fourth, That portion of the real estate and buildings of incorporated horticultural societies used for their offices, libraries and buildings.

Fourth A, Real and personal estate of incorporated agricultural societies; provided, that if the whole or any part of any such real estate is used for other than agricultural exhibition purposes and if the society derives any income from such use, such real estate, or part, as the case may be, shall not be exempt; and provided further, that if such society has not held an agricultural exhibition on such land for a period of three years or more, such real estate shall not be exempt.

Fifth, The real and personal estate belonging to or held in trust for the benefit of incorporated organizations of veterans of any war in which the United States has been engaged, to the extent of two hundred thousand dollars, if actually used and occupied by such association, and if the net income from said property is used for charitable purposes; but it shall not be exempt for any year in which such association or the trustees holding for the benefit of such association wilfully omit to bring in to the assessors the list and statement required by section twenty-nine.

Fifth A, The real and personal estate belonging to or held in trust for the benefit of incorporated organizations of veterans of any war in which the United States has been engaged, to the extent of four hundred thousand dollars, if actually used and occupied by such association, and if the net income from said property is used for charitable purposes; but it shall not be exempt for any year in which such association or the trustees holding for the benefit of such association wilfully omit to bring into the assessors the list and statement required by section twenty-nine. This clause shall take effect upon its acceptance by any city or town. In those cities and towns which accept the provisions of this clause, the provisions of clause Fifth shall not be applicable; provided, however, that the state treasurer shall annually reimburse the city or town an amount equal to the reimbursement, if any, granted to such city or town under said clause Fifth for the most recent fiscal year in which it received such reimbursement.

Fifth B, The real and personal estate belonging to or held in trust for the benefit of incorporated organizations of veterans of any war in which the United States has been engaged, to the extent of seven hundred thousand dollars,

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Consent Communication #4

A communication was received from Roy Bercaw, Editor, Enough Room, transmitting a communication regarding MIT and Harvard PILOT.

In City Council March 5, 2001

Meeting Cancelled due to snowstorm

In City Council March 19, 2001

PLACED ON FILE