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OFFICE OF THE CITY MANAGER

CITY OF CAMBRIDGE

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May 23, 1996

Robert W. Healy
City Manager
City Hall
Cambridge, MA 02139

Re: John Kenney complaint about street performer permit;
Council Communication #10 of May 6, 1996

Dear Mr. Healy:

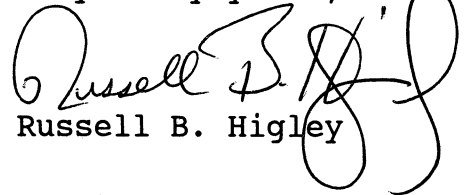
Councillor Duehay referred a complaint made by John Kenney for response. Mr. Kenney complains that he was not allowed to obtain a new street performer permit from the Arts Council unless he paid his outstanding tickets for violating the street performer ordinance (Cambridge City Code s.12.16.170) from the prior year. He states that other performers with outstanding tickets were given new permits, and only because he applied for his permit after the new amendments to the street performer ordinance were enacted was he singled out for this treatment.

Among the amendments to the ordinance which were enacted by the City Council on April 22, 1996 is s.12.16.170(G)(5) which provides that, "A performer may not receive a permit unless all tickets from the previous year have been paid." This provision gave the Arts Council a power it did not previously possess. Once

enacted, the Arts Council was obligated to take the action it did against Mr. Kenney. He was perhaps the first street performer subject to the new provision, but all others henceforth will also be subject to it. He has not been singled out.

See the attached response by the Arts Council to this complaint for further detail.

Very truly yours,


Russell B. Higley

M E M O R A N D U M

TO: Robert W. Healy, City Manager

FROM: Pallas C. Lombardi, Interim Director

DATE: May 14, 1996

SUBJECT: Council Order #010, RE. Claim by John Kenney, street performer

On April 22, 1996, the City Council passed amendments to the existing Street Performance Ordinance. The amendments were the result of meetings over the course of more than a year with representatives of the Harvard Square Business Association, Cambridge Office for Tourism, City Council, Winthrop Park Trust, the Cambridge Arts Council, and the performers themselves.

The intent of the amendments was to enable the enforcing agencies (Arts Council, License Commission, and the Cambridge Police Department) to more effectively enforce the Ordinance, promote better understanding and cooperation amongst the different factions.

One of the amendments states that all outstanding citations from the previous year must be paid before a new permit can be issued to a performer. (These non-criminal citations carry a fine of \$25 and are issued by the enforcing agencies for violations of the Ordinance.)

There are presently 16 performers who have outstanding tickets from 1995. Two of those performers applied for 1996 permits before the new amendment was passed. ALL of the remaining 14 people will be asked to pay their tickets at the City Clerk's office and present receipts before new permits will be issued by the Arts Council. Mr. Kenney's written statement to the City Council that he is the only performer who will be required to pay outstanding tickets is inaccurate. Since the amendments were passed, CAC has issued 38 permits to performers who do not have citations.

It is our understanding from the Law Department that the amendment cannot be considered retroactive. Consequently, this stipulation was not applicable before the amendment was passed--any performer who applied for a permit before April 22, 1996 could not be required to pay outstanding tickets before receiving said permit.

When Mr. Kenny applied for a permit on Thursday, May 2, a new employee of the Arts Council issued permits to both him and his friend Joseph Gold in error--without checking the outstanding

citation list first (copy enclosed). As Mr. Kenny and Mr. Gold were leaving the building, they were seen by staff person: Lindsay Field, who knows them both by sight. Ms. Field asked the employee who issued the permits if Mr. Kenney and Mr. Gold had presented proof that their outstanding tickets were paid. Upon being informed that they had not, Ms. Field followed them out of the building to inform them of the error and offered to return their permit fees (\$40 each) until such time as they could present proof that all the outstanding citations had been paid and legally acquire new permits.

Both Mr. Kenny and Mr. Gold returned to the Arts Council offices, where their permit fees were refunded. They were then given a print-out of their outstanding citations and directions to the Clerk's office so that they could pay the citations. Mr. Kenney expressed the belief that he was being treated unfairly, but was assured by Ms. Field that all performers with outstanding tickets would be required to pay them before receiving a performance permit for the current year.

Mr. Kenney proceeded to the City Clerk's office, paid all four of his outstanding tickets (including one ticket dated from 1994) and returned to the Arts Council within an hour, where he was re-issued a street performance permit. Joseph Gold chose not to pay his tickets at that time, and has not returned to CAC to obtain a permit.

Before any performance permits are issued, the applicant is given a copy of the current Street Performance Ordinance and asked to read through it carefully. In addition, the performers are encouraged to ask Arts Council staff if they have any questions or need clarification on any points of the Ordinance. It would appear that both Mr. Kenney and Mr. Gold overlooked Section G. 5. of the Ordinance which clearly states that performers must pay all outstanding citations from the previous year before they can be issued a new permit.

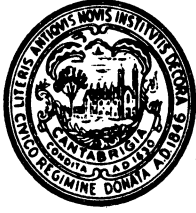
Attached is the listing of unpaid citations from 1995 which Arts Council staff references when issuing street performance permits, as well as a copy of the Ordinance with the relevant section highlighted.

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NAME	ADDRESS	DATERECVD	TICKETNO	PAYDATE	VIOLDATE
SUZUKI	59 BURBANK ST.	06/27/94	1552	06/27/94	6/22/94
STEIN	PIT-HARVARD	7/11/94	1551		6/22/94
KAKAMURA	PIT-HARVARD SQ	7/11/94	1553		6/22/94
WILLIAMS	PIT-HARVARD SQ	7/20/94	1554	7/26/94	7/8/94
ADJAFFI	HARVARD SQ	7/20/94	1555		7/13/94
CACHIMAEI	PIT-HARVARD SQ	7/20/94	1556		7/17/94
MESHELL	HARVARD SQ	7/27/94	1557		7/22/94
NISI	HARVARD SQ	7/27/94	1558		7/22/94
NICHOLSON	HARVARD SQ	8/15/94	1559		8/7/94
FREEMAN	HARVARD SQ	8/23/94	1560		8/16/94
MEDEIROS	21 WENDELL	9/14/94	1561		8/30/94
ARRIARAN	HARVARD SQ	9/14/94	1562		9/2/94
ARCIAN	HARVARD SQ	9/14/94	1563	05/02/96	9/2/94
KENNEY	HARVARD SQ	9/14/94	1564		9/3/94
SANTOS	HARVARD SQ	9/22/94	1565		9/15/94
GUS	LITTLE COOP	7/18/95	1571	6/28/95	6/17/95
GUS	LITTLE COOP	7/18/95	1573	6/28/95	6/17/95
GUS	LITTLE COOP	7/18/95	1574	6/28/95	6/17/95
LAURA	OUT-OF-TOWN	7/18/95	1568		6/17/95
MORAN	OUT-OF-TOWN	7/18/95	1569		6/17/95
KINSELLA	OUT-OF-TOWN	7/18/95	1570		6/17/95
MEDEIROS	BERTUCCI	7/18/95	1572	8/28/95	6/17/95
ETHICS	OUT-OF-TOWN	7/18/95	1575		6/17/95
SULLIVAN	LITTLE COOP	7/18/95	1502		7/9/95
BEYER	HARVARD SQUARE	7/18/95	1503	8/29/95	7/9/95
KINSELLA	HARVARD SQUARE	7/18/95	1504		7/15/95
FUNCK	HARVARD SQUARE	7/25/95	1505	8/23/95	7/19/95
HARROD	HARVARD SQUARE	7/25/95	1506	8/3/95	7/19/95
MEDEIROS	HARVARD SQUARE	7/25/95	1507	8/28/95	7/21/95
BUSCAGLIA	HARVARD SQUARE	7/25/95	1508		7/21/95
RIVERA	HARVARD SQUARE	7/25/95	1509		7/21/95
CASSAN	HARVARD SQUARE	7/25/95	1510	9/5/95	7/21/95
MORAN	HARVARD SQUARE	7/25/95	1511		7/21/95
KENNEY	HARVARD SQUARE	7/25/95	1512	7/31/95	7/22/95
SARATE	HARVARD SQUARE	7/25/95	1513		7/22/95
RAMIREZ	HARVARD SQUARE	7/25/95	1514		7/22/95
LEMA	HARVARD SQUARE	7/25/95	1515		7/22/95
KENNEY	HARVARD SQUARE	8/2/95	7226	05/02/96	7/29/95
GOLD	HARVARD SQUARE	8/2/95	7227		7/29/95
MORAN	HARVARD SQUARE	8/2/95	7228		7/29/95
LAURA	HARVARD SQUARE	8/2/95	7229		7/29/95
SARKISSIAN	HARVARD SQUARE	8/2/95	7230	9/5/95	7/29/95
KABIR SEN/FIG	HARVARD SQUARE	8/11/95	7234	8/11/95	8/3/95
FEINBERG	HARVARD SQUARE	8/11/95	7233	8/11/95	8/3/95
DEPEACE	HARVARD SQUARE	8/11/95	1516		8/7/95
RISCH/FIG	HARVARD SQUARE	8/11/95	7231	8/23/95	8/3/95
MCCAHILL	HARVARD SQUARE	8/11/95	7232	8/23/95	8/3/95
MARTINEZ	HARVARD SQUARE	8/18/95	7235	COURT	8/8/95
SILVA	HARVARD SQUARE	8/18/95	7236	9/14/95	8/11/95
DIALDAS	HARVARD SQUARE	8/18/95	7237		8/11/95
DEPEACW	MT AUB. & JFK	8/23/95	1518		8/19/95
MEDIROS/MANNY	HARVARD SQUARE	8/23/95	7238	10/02/95	8/20/95
VELASQUEZ	HARVARD SQUARE	9/6/95	7239		8/31/95
GARCES	HARVARD SQUARE	9/6/95	7240		8/31/95
LORD	HARVARD SQUARE	9/6/95	7241		8/31/95
KINGSLEY/KINSELLA	OUT OF TOWN NEW	9/6/95	7201		9/2/95
LAURA	OUT OF TOWN NEW	9/6/95	7202		9/2/95
GOLD	OUT OF TOWN NEW	9/6/95	7203		9/2/95
KENNEY	OUT OF TOWN NEW	9/6/95	7204	05/02/96	9/2/95

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NAME	ADDRESS	DATERECVD	TICKETNO	PAYDATE	VIOLDATE
KINGSLEY/KINSELLA	OUT OF TOWN NEW	9/6/95	1519		9/2/95
LAURA	OUT OF TOWN NEW	9/6/95	1520		9/2/95
GOLD	OUT OF TOWN NEW	9/6/95	1521		9/2/95
KENNEY	OUT OF TOWN NEW	9/6/95	1522	05/02/96	9/2/95
WILSON	HOLYOKE	9/6/95	1523		9/2/95
DEECACE	OUT OF TOWN NEW	9/6/95	1524		9/2/95



EXECUTIVE DEPARTMENT
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City Manager

RICHARD C. ROSSI
Deputy City Manager

CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

TEL. 349-4300
FAX. 349-4307

June 10, 1996

To The Honorable, The City Council:

Please find attached a response to Awaiting Report Item No. 18, regarding a report on the communication from John Kenney concerning the Street Performers Ordinance, received from City Solicitor Russell B. Higley.

Very truly yours,

Robert W. Healy
City Manager

RWH/mec

Consent Agenda #4

S-316

Relative to Awaiting Report Item
Number Eighteen, regarding a report
on the communication from John
Kenney concerning the Street
Performers Ordinance.

In City Council June 10, 1996

*Referred to City Clerk
to send copies to
Petitioner*