



CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • (617) 498-9017

OFFICE OF
THE CITY CLERK

November 2, 1979

Ms. Esther Barath
73 Magazine Street - Apt. 404
Cambridge, MA 02139

Dear Ms. Barath:

Pursuant to your letter of October 24, 1979, the City Council has adopted an order introduced by Councillor Wylie, a copy of which is enclosed, asking the City Clerk to respond to the issues raised in your correspondence.

Under the existing laws of the Commonwealth as outlined in the Freedom of Information Act, a copy of which is enclosed, commercial enterprises have the right for commercial purposes to make copies of prospective clients at reasonable times of all public records, with few exceptions, which are in the custody of the City Clerk. No member of this office or any other department of the City of Cambridge participates in any way in the preparation of these commercial lists for the commercial interest.

I enclose for your information a copy of the Freedom of Information Act and direct your attention to Page entitled 170, paragraph 3 and Page 171 of the same publication, paragraph 2-1 and 2-2 entitled "Rights to Access" which states as follows: 2-1 "Access to public records - Every person having custody of any public record shall, at reasonable times and without unreasonable delay, permit the record to be inspected and examined by any person, under such supervision as may be appropriate, and shall furnish one copy thereof upon payment of a reasonable fee as set forth in section 2.5." and 2-2 "Promptness of access - Every governmental agency shall maintain procedures that will allow at reasonable times and without unreasonable delay access to public records in its custody to all persons requesting the same. Each such agency shall specify time limits for itself for complying with requests for information which may be less than the ten day maximum provided in G.L. c.66 s.10, as amended."

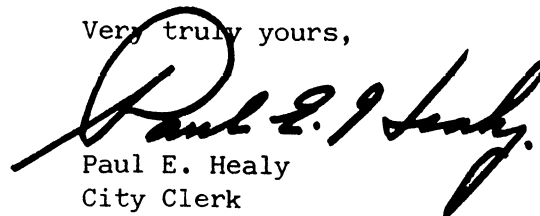
The Secretary of State together with the Legislative Committees of the City and Town Clerks Associations have filed legislation in the last session of the Legislature which would prohibit the practices which are the subject of your letter and referred to in the foregoing paragraphs.

November 2, 1979

This Act entitled "AN ACT RECODIFYING THE LAWS OF THIS COMMONWEALTH RELATING TO THE REGISTRY AND RETURN OF BIRTHS, MARRIAGES AND DEATHS" and referred to at the present time as House Bill No. 2155 will be resubmitted by the City Clerk's Association at the next legislative session and it is our hope that the Legislature will take appropriate action at that time to prevent access to records of vital statistics for commercial interests. I have enclosed a copy of House Bill 2155 which has won the approval of both the City and Town Clerks Associations and direct your attention to page four which contains the pertinent restrictions.

If you need any more information in this regard, please contact me at 498-9017.

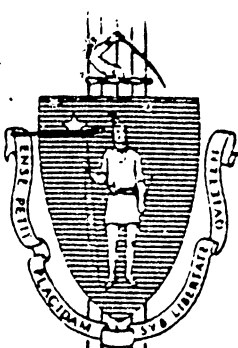
Very truly yours,

A handwritten signature in black ink, reading "Paul E. Healy". The signature is written in a cursive style with a large, prominent initial "P".

Paul E. Healy
City Clerk

PEH/cs

Enclosures (3)



The Commonwealth of Massachusetts

167

OFFICE OF THE SECRETARY
STATE HOUSE, BOSTON, MASS.

Rules and Regulations filed in this Office under the provisions of
CHAPTER 30A as amended.

Filed by SECRETARY OF THE COMMONWEALTH

FREEDOM OF INFORMATION

Date Filed December 27, 1977

Date Published January 6, 1978

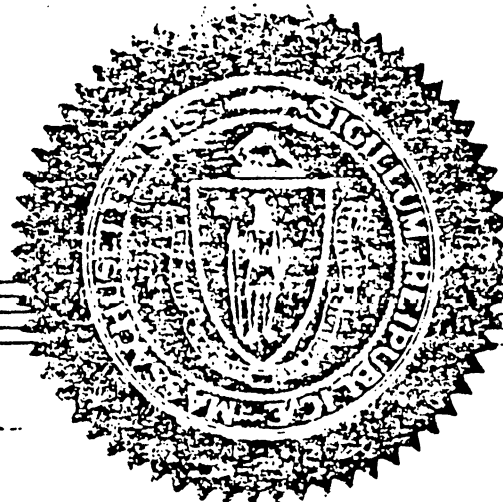
Chapter 233, sec. 75

Printed copies of rules and regulations purporting to be issued by authority of any department, commission, board or Officer of the Commonwealth or any city or town having authority to adopt them, or printed copies of any ordinances or town by laws, shall be admitted without certification or attestations, but if this genuineness is questioned, the court may require such certifications or attestations thereof as it deems necessary.

Attested as a true copy
PAUL GUZZI

Paul Guzzi

SECRETARY OF THE COMMONWEALTH



100
The Commonwealth of Massachusetts

Office of the Secretary
State House • Boston 02133

PAUL GUZZI
SECRETARY OF
COMMONWEALTH

December 27, 1977

Honorable Paul Guzzi
Secretary of the Commonwealth
Division of Rules and Regulations
State House
Boston, MA 02133

SECRET
DIVISION OF RULES AND REGULATIONS
DEC 27 4 05 PM '77

Dear Secretary Guzzi:

In accordance with the provisions of G. L. chapter 30A, section 5, and chapter 66, section 1, I am forwarding to you for the purpose of filing attested copies of amended Regulations intended to supercede the "Freedom of Information Regulations."

These regulations were adopted after a public hearing was held for which proper notice was made. The Regulations are designed to implement the provisions of the Public Records Laws of the Commonwealth.

Very truly yours,



JOHN J. MCGLYNN
Supervisor of Public Records

JJM:MLM

Enclosure

OFFICE OF THE STATE SECRETARY

SUPERVISOR OF PUBLIC RECORDS

FREEDOM OF INFORMATION REGULATIONS

INTRODUCTION

These regulations are hereby issued under the authority of section one of chapter sixty-six of the General Laws, as most recently amended by Chapter 438 of the Acts of 1976.

GENERAL PROVISIONS

1.1

Construction and scope of Regulations

These regulations shall be construed to assure the public prompt access to all public records in the custody of state agencies, constitutional offices, and in the political subdivisions of the commonwealth, and to assure that disputes regarding access to particular records are resolved expeditiously and fairly.

These Regulations are not intended to limit the availability of the administrative remedies provided by the commissioner of administration and finance with respect to any officer or employee of any agency, executive office, department or board; nor shall these regulations limit the availability of judicial remedies.

1.2

Definitions

"Agency head", the commissioner, director, elected or appointed official or other officer, whatever his title, having charge of the administration of any governmental agency or group of agencies, or, in the case of a governmental agency or group of agencies in which powers of administration are vested in a board, commission, or other body consisting of more than one person, the chairman thereof.

, division of Public Records, Office of the State Secretary.

"Environmental Agency", any authority established by The General Court to serve public purpose, any department, office, commission, committee, council, board, division, bureau, institution, officer or other agency within the Executive Branch of the Commonwealth, within a constitutional office, or within a political subdivision of the Commonwealth.

"Public record", any public record as defined in clause twenty-sixth of section seven of chapter four of the General Laws.

"Record", all books, papers, maps, photographs, recorded tapes, financial statements, statistical tabulations, or other documentary materials or data, regardless of physical form or characteristics, made or received by any officer or employee of any agency, executive office, department, board, commission, bureau, division or authority of the commonwealth, or of any political subdivision thereof, or of any authority established by the General Court to serve a public purpose.

"Supervisor", supervisor of public records.

1.3

Office address

All communications shall be addressed or delivered to:

Supervisor of Public Records
Office of the State Secretary
One Ashburton Place
Boston, Massachusetts 02108

1.4

Office hours

The offices of the Division shall be open from 8:45 a.m. to 5:00 p.m. each weekday except Saturdays, Sundays, and legal holidays.

putation of time

putation of any period of time referred to in these Regulations shall begin with the first day following the action which initiates such period of time. When the last day of the period so computed is a day on which the offices of the Division are closed, the period shall run until the end of the following business day. When such period of time, with the intervening Saturdays, Sundays, and legal holidays counted, is seven days or less, the said Saturdays, Sundays, and legal holidays shall be excluded from the computation; otherwise such days shall be included in the computation.

RIGHTS TO ACCESS

2.1

Access to public records

Every person having custody of any public record shall, at reasonable times and without unreasonable delay, permit the record to be inspected and examined by any person, under such supervision as may be appropriate, and shall furnish one copy thereof upon payment of a reasonable fee as set forth in section 2.5.

2.2

Promptness of access

Every governmental agency shall maintain procedures that will allow at reasonable times and without unreasonable delay access to public records in its custody to all persons requesting the same. Each such agency shall specify time limits for itself for complying with requests for information which may be less than the ten day maximum provided in G.L. c.66 s.10, as amended. The following guidelines are suggested:

a) where the record is one that is stored within the general office area of the agency and is readily accessible to that agency, compliance with a request

ss should be made within seventy-two hours.

where the record is one that is stored within the general office area of agency but is not readily accessible to that agency, compliance with a request for access should be made within five days.

c) where the record is one that is not stored within the general office area of the agency and is not readily accessible to that agency, compliance with a request for access should be made within ten days.

2.3

Requests for public records

Requests for public records may be either oral or in writing. Written requests shall be required only where there is substantial doubt as to whether the records requested are public, and shall not be required merely to delay production. Any person seeking access to a public record or any portion thereof shall provide a reasonable description of the record, in order that the custodian of the record to whom the request is presented can identify and locate it promptly. A person shall not be required to make a personal inspection of the record prior to receiving a copy of it. Superior knowledge of the contents of governmental agency files on the part of such employee shall be used to assist a prompt response to the request.

2.4

Copies

Upon request, a person shall be entitled to receive one copy of a public record or any portion thereof or any reasonably segregable public portion of a record upon payment of a reasonable fee as determined in section 2.5.

2.5

Fees

Except where fees for copies of public records are prescribed by law, and except

be provided in any schedule of fees from time to time approved by the Supervisor, a governmental agency shall charge no more than ten cents per page for copies of public records which may be located and copied by standard office procedures except that where the actual cost for reproduction is greater than ten cents per page, the agency shall charge no more than twenty cents per page for said copies. An agency may not charge an individual for the mere inspection of any such record. Where a request requires services to be performed in addition to standard office procedures, an additional fee may be charged that reasonably reflects the costs of the additional services. For purposes of this section, the reproduction of records not susceptible to photocopying (e.g. oversize documents, punch cards, magnetic tapes, plans,) and services performed by an employee upon a request to furnish access or reproduce copies where the employee expends more than twenty minutes to fulfill the request shall not be included in "standard office procedures."

ADVISORY OPINIONS

3.1

Advisory opinion

On written request of any interested party, the Supervisor may, in his discretion, issue an advisory opinion with respect to any question concerning the provisions of chapter four section seven subsection twenty-sixth of the general laws or of chapter sixty-six of the general laws. Advisory opinions may also be issued upon the Supervisor's initiative.

APPEALS

4.1

Denial by custodian

If an agency head determines that any record or portion of a record sought pursuant to section 2.3 is not public, the agency head within ten days of the request for access, shall in writing set forth the reasons for such denial with

city including the specific exemption or exemptions under the definition of public records upon which the denial is based. Failure to make a response in writing to any request for access within ten days shall be deemed a denial of said request. Upon request, the agency head shall advise the person denied access of his rights of appeal under these regulations and under section ten (b) of chapter sixty-six of the general laws.

4.2

Appeal to the Supervisor

In the event that a person requesting any record in the custody of a governmental agency is denied access, or in the event that there has not been compliance with any provision of these Regulations, he may appeal to the Supervisor within ninety (90) days of such denial. Such appeal shall be in writing and shall state the date on which he requested such record, the exact nature of the record requested, the name of the agency head, if known, who denied access, and where applicable, the nature of the violation of these Regulations and shall include a copy of the letter by which the agency denied access.

4.3

Action by the Supervisor

Upon request for a determination that a record is public or that a violation of these Regulations has taken place, the Supervisor, shall within a reasonable time, investigate the circumstances giving rise thereto and render to that person a decision in writing, stating the reason or reasons for that decision. During this period, the Supervisor, in his discretion, may request a hearing. In such instance, the Supervisor shall schedule a hearing and notify both the agency head and the person seeking appeal, of the time and place for the hearing. The Supervisor shall conduct such hearings pursuant to sections three through nine of the Rules of Adjudicatory Proceedings before the Supervisor


Records (October 15, 1974). He may, at his option, inspect the records being sought in camera. At such hearing, there shall be a presumption that the record sought is public but such presumption shall be overcome by a preponderance of the evidence indicating that an exemption to public records applies. The Supervisor shall within ten days of the hearing issue a written decision. To whatever extent the decision of the Supervisor is in favor of the appellant, the agency head shall promptly take such steps as may be necessary to put it into effect. The Supervisor shall immediately notify the Attorney General or the appropriate District Attorney of any failure by the agency head to comply with an order of the Supervisor. In his discretion, the Supervisor may extend the time for complying with his decision.

4.4

Conferences

At any time during the course of any investigation or any proceeding, to the extent practicable, where time, the nature of the investigation or proceeding and the public interest permit, the Supervisor shall at the request of any party or upon his own motion, hold or order conferences for the purpose of clarifying and simplifying issues and otherwise facilitating or expediting the investigation or proceeding.

A TRUE COPY, ATTEST:


 John J. McGlynn
 Supervisor of Public Records

- Date of public hearing (Ch. 30A/2): 12/21/77 ; or

Date of "action" (Ch. 30A/3) _____

Was notice of the regulatory proceeding filed in the office of the Secretary of the Commonwealth & published in appropriate newspaper (s) 21 days prior to the public hearing or regulatory action?

Yes No

If "no", list the chapter & section of the General Laws under which notice was given: _____

8 - Regulation will be effective:

as of date of publication pursuant to M. G. L. Ch. 30A

as an emergency regulation as of filing date pursuant to M. G. L. Ch. 30A

as of _____ pursuant to M. G. L. Ch. _____
Section(s) _____

9 - The enclosed regulation relates to other regulations already filed as follows:

Supersedes regulation(s)	_____	filed	_____
	_____	filed	_____
	_____	filed	_____
	_____	filed	_____
	_____	filed	_____

Amends regulation(s)	<u>Freedom of Information</u>	filed	<u>1/14/77</u>
	_____	filed	_____
	_____	filed	_____
	_____	filed	_____

HOUSE No. 2155

By Mr. Ambler of Weymouth, petition of Robert B. Ambler, Arthur M. Khoury and William F. Galvin relative to recodifying the laws relating to the registry and return of births, marriages and deaths. Government Regulations.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Seventy-Eight.

AN ACT RECODIFYING THE LAWS OF THIS COMMONWEALTH RELATING TO THE REGISTRY AND RETURN OF BIRTHS, MARRIAGES AND DEATHS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section four of chapter seventeen of the General
2 Laws, as most recently amended by section three of chapter four
3 hundred and eighty-six of the acts of nineteen hundred and
4 seventy-six is hereby further amended by adding at the end of the
5 second paragraph, the following three sentences: —

6 The department may, after public hearing, make regulations to
7 insure the uniform administration of all laws relative to the registry
8 and return of births, marriages and deaths. Proposed regulations
9 shall be prepared for the department by the Registrar and as
10 deemed necessary by the majority of the members of a committee
11 including the Registrar and no less than four town clerks as defined
12 by subsection (e) of section one D of chapter forty-six appointed
13 by the Registrar which committee shall meet annually, no later
14 than the first of March each year. At least twenty-one days prior to
15 any public hearing held pursuant to section two of chapter thirty
16 A, the commissioner shall send notice of such hearing to all city
17 and town clerks.

1 SECTION 2. Chapter forty-six of the General Laws is hereby
2 amended by striking out section one, as most recently amended by
3 chapter one hundred and sixty-one of the acts of nineteen hundred
4 and seventy-seven, and inserting in place thereof, the following
5 section: —

6 *Section 1.* Each town clerk shall receive or obtain and record
7 the following facts relative to births, marriages and deaths in his
8 town and such additional information as the commissioner of
9 public health may require:

10 In the record of births, date of record, date of birth, place of
11 birth, name of child, his sex, names, places of birth and residence of
12 his parents, including the maiden name of the mother. In the
13 record of birth of an illegitimate child, the name of and other facts
14 relating to the father shall not be recorded except on the written
15 request of both the father and mother.

16 In the record of marriages, date of record, date of marriage,
17 place of marriage, name, residence and official station of the
18 person by whom solemnized, names and places of birth of the
19 parties married, residence of each, age of each, the number of the
20 marriage (as first or second) and if previously married, whether
21 widowed or divorced, the names of their parents, and the maiden
22 names of the mothers. If the woman is a widow or divorced, her
23 maiden name shall also be given. The town clerk shall also obtain
24 and transmit, in such form as the commissioner may require, any
25 additional information the commissioner deems as being necessary
26 for administrative, research or statistical purposes and when such
27 additional information is forwarded to said commissioner, it shall
28 not constitute a public record nor be available except as provided
29 by section two of chapter one hundred and eleven.

30 In the record of deaths, date of record, date of death, name of
31 deceased, sex, color or race, condition (whether single, widowed,
32 married or divorced), if married or widowed the name of the
33 spouse, date of birth, supposed age, residence, occupation, place of
34 death, place of birth, names of the parents including the maiden
35 name of the mother, disease or cause of death, defined so that it can
36 be classified under the international classification of causes of
37 death, place and date of burial, name of cemetery, name of the
38 funeral director and his establishment, and if deceased was a
39 veteran, as defined in section ten of chapter forty-six, a recital as
40 required by said section, and if deceased was a married or divorced
41 woman or widowed, her maiden name.

1 SECTION 3. Chapter forty-six of the General Laws is hereby
2 amended by adding after section one-C, the following section: —

3 *Section 1D.* (definitions) As used in this chapter, the following
4 words shall be defined as follows unless the context clearly
5 indicates otherwise:

- 6 (a) "Department" means the Department of Public Health;
7 (b) "Registry" means the Registry of Vital Records and Statistics
8 as provided for in section four of chapter seventeen;
9 (c) "Commissioner" means the Commissioner of Public Health;
10 (d) "Registrar" means the Registrar of Vital Records and
11 Statistics;
12 (e) "Town Clerk" means a town clerk, city clerk or local registrar
13 as provided by section twenty-two of this chapter;
14 (f) "custodian" means a town clerk as defined in sub-section "e"
15 above, the commissioner of public health or registrar of vital
16 records and statistics;
17 (g) "physician" means a person authorized or licensed to
18 practice medicine or osteopathy pursuant to section two of chapter
19 one hundred and twelve;
20 (h) "administrator" means the hospital administrator or other
21 person in charge of a hospital or similar institution;
22 (i) "hospital medical officer" means a person registered under
23 section nine of chapter one hundred and twelve.

1 SECTION 4. Chapter forty-six of the General Laws is hereby
2 amended by striking out section two as most recently amended by
3 section two of chapter forty-two of the acts of nineteen hundred and
4 sixty-eight and inserting in place thereof, the following section: —

5 *Section 2.* (Indexes to births, marriages and deaths; records
6 preservation) Separate indexes of births, marriages and deaths
7 shall be kept by the custodians of such records and each entry shall
8 be numbered in its order by the town clerk. Said town clerk and the
9 commissioner shall preserve all returns of births, marriages and
10 deaths received by him in accordance with the provisions of this
11 chapter and shall insure their preservation in accordance with the
12 provisions of section nine of chapter sixty-six except as expressly
13 provided otherwise.

1 SECTION 5. Chapter forty-six of the General Laws is hereby
2 amended by striking out section two-A as most recently amended
3 by section four of chapter four hundred and eighty-six of the acts

4 of nineteen hundred and seventy-six and inserting in place thereof,
5 the following section: —

6 *Section 2A.* (access, disclosure of records; conditions) Access
7 to, the examination of, or the release of information contained in
8 the indexes or records referred to in section two of this chapter or
9 to the notices of intention of marriage received under the
10 provisions of chapter two hundred and seven shall not be
11 permitted nor shall copies of same be issued except as provided in
12 this chapter, or in section two of chapter one hundred and eleven,
13 or upon request of a federal, state or local governmental agency
14 whose official duties in the opinion of the town clerk or Registrar
15 of Vital Records and Statistics entitle such agency to the
16 information contained therein, or upon proper judicial order or to
17 a person seeking his own record.

1 SECTION 6. Chapter forty-six of the General Laws, is hereby
2 amended by striking out section three, as most recently amended
3 by section five of chapter four hundred and eighty-six of the acts of
4 nineteen hundred and seventy-six, and inserting in place thereof,
5 the following section: —

6 *Section 3.* Every physician or hospital medical officer shall
7 keep a record of birth of every child of which he was in charge,
8 showing the information required by section one of this chapter to
9 be recorded in the records of birth.

10 If a birth occurs in a hospital, or en route to a hospital, or if a
11 birth occurs elsewhere and the mother and child are taken to a
12 hospital for post-natal care shortly after birth, said physician or
13 hospital medical officer shall, within twenty-four hours after such
14 birth, file with the administrator a report, on forms furnished and
15 prepared by the commissioner of public health, stating the facts
16 required by section one of this chapter to be shown on the record of
17 such birth.

1 SECTION 7. Section four of chapter forty-six of the General
2 Laws as most recently amended by section three of chapter eighty-
3 four of the acts of nineteen hundred and sixty-eight, is hereby
4 further amended by striking out the last sentence and inserting in
5 place thereof the following sentences: —

6 Such report shall be on a form prepared and furnished by the
7 commissioner of public health. Written evidence substantiating
8 such facts shall be required by said clerk or registrar and if he is
9 satisfied as to the truth and accuracy thereof, he shall make a rec-
10 ord of such birth. If, however, in the opinion of the clerk or regis-
11 trar such evidence is not satisfactory, he shall refuse in writing to
12 record the birth. Such person may then present a petition, together
13 with such written refusal and his evidence to establish the validity
14 of such record, to a judge of the probate court for the county where
15 the birth occurred. Written notice shall be given to the clerk of the
16 time and place of the hearing on such petition. After such hearing,
17 if it is the opinion of the court that such birth should be recorded, it
18 shall be so recorded. Upon receipt of such order the clerk or
19 registrar shall make a record of such birth.

1 SECTION 8. Chapter forty-six of the General Laws is hereby
2 amended by striking out section four-A, as most recently amended
3 by section four of chapter eighty-four of the acts of nineteen
4 hundred and sixty-eight, and inserting in place thereof, the
5 following section: —

6 *Section 4A.* Each town clerk upon receipt of the return of a
7 birth in his town shall determine that it is filled out in accordance
8 with the requirements of this chapter. If the return is satisfactory,
9 he shall record it as required in section one. If there are any
10 deficiencies or omissions therein, he shall contact the physician,
11 administrator or parents as the case may require for the necessary
12 clarification, amendment or supplementation or may require the
13 preparation of a new certificate if necessary to insure compliance
14 with this chapter.

15 Upon request of the chairman of the local board of health, said
16 town clerk shall file daily with the local board of health a list of all
17 births reported to him, showing as to each, the date of birth, sex,
18 name of child, names of the parents, their residence and the name
19 of the physician or officer in charge. Such list shall not constitute a
20 public record.

1 SECTION 9. Chapter forty-six of the General Laws is hereby
2 amended by adding after section four-A, the following section: —
3 *Section 5.* (birth; artificial insemination) Any child born to a

4 married woman as a result of artificial insemination with the
5 consent of her husband, shall be considered the legitimate child of
6 the mother and such husband.

1 CHAPTER 10. Chapter forty-six of the General Laws is
2 hereby amended by striking out section nine as most recently
3 amended by chapter two hundred and sixty of the acts of nineteen
4 hundred and seventy-two, and inserting in place thereof, the
5 following section:—

6 Section 9. A physician, after the death of a person who he has
7 attended during his last illness, or the physician declaring such
8 person dead, or the medical examiner as provided for in section six
9 of chapter thirty-eight, or, if the death occurred in a hospital, a
10 hospital medical officer duly appointed by the hospital ad-
11 ministrator, shall immediately furnish for registration a standard
12 certificate of death, or in the case of a medical examiner, a medical
13 examiner's certificate of death, to an undertaker or other
14 authorized person or a member of the family of the deceased,
15 stating to the best of his knowledge and belief the name of the
16 deceased, the disease of which he died, defined as required by
17 section one, where same was contracted, the duration of the illness
18 from which he died, and the date of death.

19 Said physician, officer or medical examiner shall print or type
20 on every certificate furnished by him under this section the cause,
21 or causes, of death and, directly below, his name, signature and the
22 date the certificate was signed. The foregoing provisions shall
23 apply in the same manner in the event of a child dying immediately
24 after birth. Both the birth and death of such child shall be recorded.

1 SECTION 11. Section twelve of chapter forty-six of the
2 General Laws as most recently amended by chapter five hundred
3 and ninety-eight of the acts of nineteen hundred and seventy-seven
4 is hereby further amended by striking out the first sentence and
5 inserting in place thereof the following sentence:—

6 Except as hereinafter provided, the clerk of a city or town shall
7 forthwith make a certified copy of the record of each birth and
8 death recorded during the preceding month, if the parents of the
9 child born were at the time of said birth residents of any other city
10 or town in this Commonwealth or if the deceased at the time of his

11 death, was a resident of any other city or town aforesaid, or was a
12 war veteran and was buried in any other city or town aforesaid, and
13 transmit such certified copy to the clerk of the city or town where
14 such parents or deceased person were so resident.

1 SECTION 12. Section thirteen of chapter forty-six of the
2 General Laws as most recently amended by section ten of chapter
3 four hundred and eighty-six of the acts of nineteen hundred and
4 seventy-six is hereby further amended by striking out the first four
5 paragraphs and inserting in place thereof, the following four
6 paragraphs:—

7 If the record relating to a birth, marriage or death does not
8 contain all the required facts, or if it is claimed that the facts are not
9 correctly stated therein, the town clerk shall receive an affidavit
10 containing the facts required for record, accompanied by
11 documentary evidence substantiating such facts beyond
12 reasonable doubt, if made by the person required by law to furnish
13 the information for the original record, or by credible persons
14 having knowledge of the case. Except as hereinafter provided, such
15 amendment or additions can be mde only to reflect the correct
16 information at the time of the event. The minimum documentary
17 evidence to be required shall be determined by regulation in
18 accordance with section four of chapter seventeen.

19 Any record filed under this chapter may be amended, corrected
20 or supplemented within one year after the date of the event without
21 such affidavit or documentary evidence in accordance with
22 regulations made by the Department of Public Health pursuant to
23 section four of chapter seventeen except such amendments,
24 corrections, or supplements which are expressly provided for
25 hereinafter.

26 If a person shall have acquired the status of a legitimate child by
27 the intermarriage of his parents and the acknowledgement of the
28 father or an adjudication of paternity under chapter two hundred
29 and seventy-three, as provided in section seven of chapter one
30 hundred and ninety, the record of his birth shall be amended or
31 supplemented as hereinafter provided so as to read, in all respects,
32 as if such person had been reported for record as born to such
33 parents in lawful wedlock. If a person is born out of wedlock or
34 whose illegitimacy has been legally determined or has been

35 admitted by the affidavit of both the mother and such husband,
36 such person's birth record shall be amended as hereinafter
37 provided to include the father's information required by section
38 one of this chapter provided that the father files an affidavit
39 acknowledging paternity and the mother files an affidavit
40 corroborating the same or there has been an adjudication of
41 paternity under chapter two hundred and seventy-three. For such
42 purpose the town clerk, if satisfied as to the identity of the persons
43 and the facts, shall receive an affidavit setting forth the material
44 facts executed by the parents, or by either if the other is dead or by
45 either in the case of an adjudication of paternity, or shall receive
46 such an affidavit executed by the mother alone in the case of a child
47 who has acquired the status of a legitimate child by the
48 intermarriage of his parents and an adjudication of paternity as
49 aforesaid, or shall receive, if both parents are dead, affidavits of the
50 fact of such intermarriage, and of the acknowledgement of the
51 father or of an adjudication of paternity as aforesaid, and of the
52 death of each parent, executed by credible persons having
53 knowledge of the case, together with evidence substantiating such
54 facts beyond reasonable doubt, which affidavits and evidence shall
55 have been submitted by the town clerk to a judge of probate or to a
56 justice of a district court and shall have been approved by such
57 judge or justice. Each affidavit of the fact of an intermarriage and
58 an adjudication of paternity shall be accompanied by a certified
59 copy of such intermarriage or adjudication. If a person has
60 completed sex re-assignment surgery, the birth record of that
61 person shall be amended by reflect the newly acquired sex,
62 provided that an affidavit is received by the town clerk, executed
63 by the person to whom the record relates, and accompanied by a
64 physician's notarized statement that the person named on the birth
65 record has completed sex re-assignment surgery and such person is
66 not of the sex recorded on the record of birth.

67 If the birth of a child is recorded as that of a legitimate child of
68 the mother and the man who was her husband at the time of such
69 birth, the record shall not be amended as provided in this section
70 unless the illegitimacy has been legally determined or has been
71 admitted by the affidavit of the mother and such husband, or, if the
72 town clerk is satisfied that either the mother or such husband
73 cannot be located, by the affidavit of either of them and by

74 evidence substantiating the statements in such affidavit beyond
75 reasonable doubt, which affidavit and evidence shall have been
76 submitted by the town clerk to a judge of probate or to a justice of a
77 district court and shall have been approved by said judge or justice.

78 If a person shall have been adopted by a judicial decree or shall
79 have acquired a new name by judicial decree, the clerk of the town
80 where such person was born shall receive the certificate of such
81 adoption issued under the authority of section six-A of chapter two
82 hundred and ten or a certified copy of the decree for such adoption
83 or change of name, whether issued by a probate court for the
84 commonwealth or by the appropriate court of any other state or
85 country. Except as hereinafter provided, said clerk, after receiving
86 such certificate of adoption or any such certified copy shall
87 forthwith correct the record of birth of the person so adopted in the
88 manner hereinafter provided and notify the adopting parent or
89 parents that the requested amendment of the record has been made
90 and that upon receipt of the fee prescribed by section thirty-four of
91 chapter two hundred and sixty-two he shall furnish a certified copy
92 of such record, as so amended. If the certificate of adoption or the
93 certified copy of decree of adoption does not indicate the desire of
94 the adopting parent or parents to have the record of birth of the
95 person adopted corrected, the clerk shall not correct such record
96 until he has received a statement signed by the adopting parent or
97 parents, or by the person adopted in the presence of some official
98 authorized by law to administer oaths, requesting that such record
99 be corrected. If such certificate or certified copy does not contain
100 the original name and date and place of birth of the person
101 adopted, the clerk shall not correct such record until he has
102 received a statement of such facts from the court issuing such
103 certificate or certified copy. If such certificate or certified copy
104 does not contain the facts relative to the adopting parent, or
105 parents, hereinafter required for correcting such record, the clerk
106 shall not correct such record until he has received an affidavit,
107 signed and sworn to by the adopting parent, or parents, or by the
108 person adopted, furnishing such facts. In the case of a person who
109 has acquired a new name by judicial decree, the record of birth of
110 the person who has acquired the new name shall be supplemented
111 to include the decreed name as a matter of record but the original
112 name shall remain thereon except in cases where the birth record is

114 as provided in this section.

1 SECTION 13. Section thirteen A of chapter forty-six of the
2 General Laws as most recently amended by chapter twenty-nine of
3 the acts of nineteen hundred and sixty-eight is hereby further
4 amended by adding after the first sentence the following
5 sentence: —

6 The minimum documentary evidence to be required in
7 accordance with this section shall be determined by regulation as
8 provided for in section four of chapter seventeen.

1 SECTION 14. Section seventeen of chapter forty-six of the
2 General Laws as most recently amended by section twelve of
3 chapter four hundred and eighty-six of the acts of nineteen
4 hundred and seventy-six is hereby further amended by striking out
5 the first three sentences and inserting in place thereof, the
6 following two sentences: —

7 The clerk of each city and town shall, on or before the tenth day
8 of the second month following every month in which births occur
9 therein, transmit to the commissioner of public health upon forms
10 furnished by said commissioner, certified copies of the records of
11 such births and certified copies of such amendments and
12 corrections in birth, marriage and death records as have not been
13 previously recorded. The clerk of each city and town shall, on or
14 before the tenth day of the second month following every month in
15 which marriages are recorded in his town in accordance with
16 section forty of chapter two hundred and seven of the General
17 Laws, transmit to the commissioner of public health upon forms
18 furnished by said commissioner, certified copies of each marriage
19 so recorded as aforesaid.

1 SECTION 15. Chapter forty-six of the General Laws is hereby
2 amended by striking out section nineteen as most recently
3 amended by section thirteen of chapter four hundred and eighty-
4 six of the acts of nineteen hundred and seventy-six and inserting in
5 place thereof, the following section: —

6 *Section 19.* (copies of vital records; to whom; conditions) The
7 record of a town clerk or the commissioner of public health relative
8 to a birth, marriage or death shall be prima facie evidence of the
9 facts recorded, but nothing contained in the record of death which

10 has reference to the liability for causing the death shall be
11 admissible in evidence. A certificate of such a record, signed by the
12 town clerk or assistant clerk, or a certificate of the copy of such
13 records required to be kept in the department of public health,
14 signed by the commissioner of public health or the registrar of vital
15 records and statistics, shall be admissible as evidence of such
16 record.

17 The commissioner of public health or the town clerk shall not
18 issue a copy of such record until a signed application has been
19 received from an applicant authorized in accordance with section
20 two A of this chapter or as designated below. Such application
21 shall be in such form as the commissioner of public health may
22 require and shall contain sufficient information, in the opinion of
23 the custodian, to identify the particular record requested.

24 The applicant, prior to the issuance of a copy of a record referred
25 to in this section, must satisfy the custodian that he has a direct and
26 tangible interest in such record. A person seeking his own record, a
27 member of his immediate family, his legal guardian or their legal
28 representative, such as an attorney, physician, funeral director or
29 other authorized agent acting on behalf of the person to whom the
30 record relates or a member of his immediate family shall be deemed
31 to have a direct and tangible interest in the record. Others may
32 demonstrate a direct and tangible interest when such copy is
33 needed for determination of protection of personal or property
34 right.

35 When one hundred years have elapsed after the date of birth or
36 fifty years have elapsed after the date of marriage or death of a
37 particular record, copies of such records shall be available upon
38 request of any person and such person shall not be required to
39 show a direct and tangible interest.

1 SECTION 16. Chapter forty-six of the General Laws is hereby
2 amended by striking out section nineteen B as it appears in chapter
3 one hundred and fifty-one of the acts of nineteen hundred and
4 seventy and inserting in place thereof, the following section: —

5 *Section 19B.* (abbreviated copies; fees) Upon request of the
6 person to whom the record relates or of either of his parents, a birth
7 certificate or copy issued in accordance with section nineteen of
8 this chapter or as hereinafter provided shall contain no reference to
9 the color or race of said person or his parents. Upon request for an

10 abbreviated copy of a record of birth, the town clerk or the
11 commissioner of public health shall make an abstract of such
12 record without notation thereon of the name of the parent or
13 parents.

14 A certificate of a birth, marriage or death issued in accordance
15 with the provisions of this section or of section nineteen of this
16 chapter shall be subject to the fees prescribed by chapter two
17 hundred and sixty-two of the General Laws except that the
18 department may establish reduced fees or no fee for such
19 certificates in certain circumstances determined by regulation in
20 accordance with section four of chapter seventeen of the General
21 Laws. Such certificate or abbreviated copy shall be upon a form
22 approved by the commissioner of public health.

1 SECTION 17. Chapter two hundred and seven of the General
2 Laws is hereby amended by striking out section seven as most
3 recently amended by section one of chapter two hundred and fifty-
4 five of the acts of nineteen hundred and seventy-one and inserting
5 in place thereof, the following section: —

6 *Section 7.* A magistrate or minister shall not solemnize a
7 marriage if he has reasonable cause to believe that a party to the
8 intended marriage is under eighteen unless the provisions of
9 sections twenty-four and twenty-five of this chapter have been
10 complied therewith.

1 SECTION 18. Chapter two hundred and seven of the General
2 Laws is hereby amended by striking out section nineteen as most
3 recently amended by chapter eighty of the acts of nineteen hundred
4 and sixty-nine, and inserting in place thereof the following
5 section: —

6 *Section 19.* Persons intending to be joined in marriage in the
7 commonwealth shall, not less than three days before their
8 marriage, jointly cause notice of their intention to be filed in the
9 office of the clerk or registrar of any city or town in the
10 commonwealth, and pay the fee provided by clause (forty-two) of
11 section thirty-four of chapter two hundred and sixty-two. In
12 computing the three day period specified in this section and in
13 determining the third day referred to in section twenty-eight,
14 Sundays and holidays shall be counted.

1 SECTION 19. Chapter two hundred and seven is hereby
2 amended by striking out section twenty as most recently amended
3 by section twenty of chapter four hundred and eighty-six of the
4 acts of nineteen hundred and seventy-six, and inserting in place
5 thereof, the following section: —

6 *Section 20.* The clerk or registrar shall require written notice of
7 intention of marriage, on blanks furnished by the commissioner of
8 public health, containing such information as is required by law
9 and also a statement of absence of any legal impediment to the
10 marriage to be given before such clerk or registrar under oath by
11 both of the parties to the intended marriage; provided, that if a
12 registered physician makes affidavit to the satisfaction of the clerk
13 or registrar that a party is unable, by reason of illness, to appear,
14 such notice may be given on behalf of such party, by his or her
15 parent or legal guardian, or, in case there is no parent or legal
16 guardian competent to act, by the physician certifying to the
17 illness, or by the other party. In case of persons, one or both of
18 whom are in the armed forces, such notice may be given by either
19 party provided one is domiciled within the commonwealth. The
20 oath to such notice shall be the truth of all the statements contained
21 therein whereof the party subscribing the same could have
22 knowledge, and may be given before the clerk of registrar or before
23 a regularly employed clerk in his office designated by him in
24 writing and made a matter of record in the office. No fee shall be
25 charged for administering such oath. In towns having an assistant
26 clerk or registrar, he may administer the oath.

1 SECTION 20. Section twenty A of chapter two hundred and
2 seven as added by chapter two hundred and sixty-nine of the acts of
3 nineteen hundred and thirty-nine is hereby repealed.

1 SECTION 21. Chapter two hundred and seven of the General
2 Laws is hereby amended by striking out section twenty-one as most
3 recently amended by chapter one hundred and fifty-seven of the
4 acts of nineteen hundred and seventy and inserting in place thereof,
5 the following section: —

6 *Section 21.* Persons filing such notice of intention, one or both
7 of whom have previously married and whose last marriage resulted
8 in divorce, shall prior to the issuance of a certificate under section
9 twenty-eight of this chapter present a certificate from the clerk or

10 corresponding official of the court or other tribunal by which the
 11 divorce was granted, showing the title and location of the court, the
 12 names of the parties to the proceeding for divorce, and showing the
 13 date the divorce became absolute. The clerk upon presentation of a
 14 certified copy of such a record, or a certificate which in his opinion
 15 is satisfactory, shall indicate on the notice of intention his receipt
 16 thereof but shall return the certificate or the certified copy to the
 17 person so making the presentation.

1 SECTION 22. Section thirty-two of chapter two hundred and
 2 seven of the General Laws as it appears in the Tercentenary Edition
 3 of the General Laws is hereby repealed.

1 SECTION 23. Section thirty-three of chapter two hundred and
 2 seven of the General Laws as most recently amended by section
 3 two of chapter two hundred and fifty-five of the acts of nineteen
 4 hundred and seventy-one is hereby repealed.

1 SECTION 24. Section thirty-four of chapter two hundred and
 2 seven of the General Laws is hereby repealed.

1 SECTION 25. Section forty of chapter two hundred and seven
 2 of the General Laws as most recently amended by section four of
 3 chapter eighty-one of the acts of nineteen hundred and sixty-eight
 4 is hereby further amended by striking out the second sentence and
 5 inserting in place thereof, the following sentence: —

6 He shall also return each certificate issued under section twenty-
 7 eight, no later than the tenth day of the month following each
 8 month in which marriages are solemnized by him, to the clerk or
 9 registrar who issued the same.

1 SECTION 26. Section thirty-four of chapter two hundred and
 2 sixty-two of the General Laws as most recently amended by
 3 chapter four hundred and ninety-seven of the acts of nineteen
 4 hundred and seventy-five is hereby amended by striking out
 5 clauses thirteen A, thirty A, forty-four A, sixty-six and sixty-seven
 6 and hereby further amended by striking out clauses thirteen, thirty
 7 and forty-four and inserting in place thereof the following
 8 clauses: —

9 13. For the search of the records of birth, which fee shall include
 10 the furnishing of a certificate of such birth if found, two dollars.

11 30. For the search of the records of death, which fee shall
 12 include the furnishing of a certificate of such death if found, two
 13 dollars.

14 44. For the search of the records of marriage, which fee shall
 15 include the furnishing of a certificate of such marriage if found,
 16 two dollars.

1 SECTION 27. Section thirty-four A of chapter two hundred
 2 and sixty-two of the General Laws as most recently amended by
 3 section forty-seven of chapter five hundred and fifty of the acts of
 4 nineteen hundred and forty-eight is hereby repealed.

1 SECTION 28. Chapter two hundred and sixty-two of the
 2 General Laws is hereby amended by striking out section forty-four
 3 A as it appears in section twenty-seven of chapter four hundred
 4 and eighty-six of the acts of nineteen hundred and seventy-six and
 5 inserting in place thereof the following section: —

6 *Section 44A.* The fee for a search of the records of birth,
 7 marriage or death required to be kept in the office of the
 8 commissioner of public health, which fee shall include the
 9 furnishing of a certificate of such record if found, shall be two
 10 dollars.

1 SECTION 29. This act shall take effect on January first,
 2 nineteen hundred and seventy-nine.



CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • (617) 498-9017

OFFICE OF
THE CITY CLERK

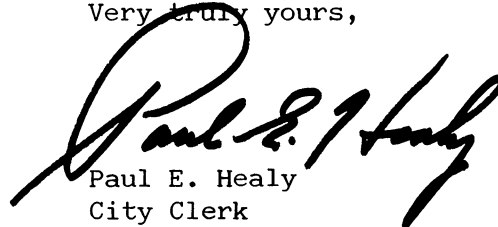
November 5, 1979

The Honorable, the City Council:

Pursuant to the order introduced by Councillor Wylie and adopted by the City Council at the meeting of October 29, 1979 regarding the publication of vital records, I am enclosing a copy of the letter sent to Ms. Esther Barath on November 2, 1979.

If you need any more information in this regard, please contact me.

Very truly yours,



Paul E. Healy
City Clerk

PEH/cs

Enc.

1.

5-596

Comm. from Paul E. Healy, City Clerk, transmitting copy of letter sent to Ms. Esther Barath re: publication of vital records.

In City Council,

November 5, 1979

.11/5/1979

Placed
on

File