

CITY OF CAMBRIDGE
COMMUNITY DEVELOPMENT DEPARTMENT
City Hall Annex Inman & Broadway

To Kathy Spiegelman

From Elizabeth McCarthy

Date 1/20/84

Subject Senate Bill S-681
Re: 3 year exemption of dimensional
zoning changes

In response to the letter dated December 23, 1983 from James W. Segel, Executive Director of the Massachusetts Municipal Association expressing his concern over senate bill S-681, I find the following;

1. The proposed bill failed to pass final enactment though it is anticipated that it will be reintroduced.
2. Senate Bill S-681 would not effect land in the City of Cambridge. The proposed bill amends Section 6 of Chapter 40A (The Zoning Act) which refers to certain exemptions from zoning changes. The specific paragraph amended by this bill refers to land shown on plans being processed under Section 81P of Chapter 41, the Subdivision Control Law. These so called approval not required plans, referred to as "perimeter plans" by the Mass. Municipal Association, require endorsement from Planning Boards in communities which have subdivision control laws in effect. Therefore, since there are no subdivision control laws in effect in Cambridge, this proposed bill will not be applicable.

Enclosed:

1. paragraph 7 of Section 6, Chapter 40A
2. Section 81P, Chapter 41
3. Letter dated December 23, 1983, Mass. Municipal Assoc.
4. City Council Order, January 9, 1984
5. Senate Bill No. 681

**Approval Not
Required Plan
Exemption**

When a plan referred to section eighty-one P of chapter forty-one has been submitted to a planning board and written notice of such submission has been given to the city or town clerk, the use of the land shown on such plan shall be governed by applicable provisions of the zoning ordinance or by-law in effect at the time of the submission of such plan while such plan is being processed under the subdivision control law including the time required to pursue or await the determination of an appeal referred to in said section, and for a period of three years from the date of endorsement by the planning board that approval under the subdivision control law is not required, or words of similar import.

**Three-Year
Exemption of Use
of Land**

**Exemption Provision
for Disapproved
Definitive or
Approval Not
Required Plans**

Disapproval of a plan shall not serve to terminate any rights which shall have accrued under the provisions of this section, provided an appeal from the decision disapproving said plan is made under applicable provisions of the subdivision control law. Such appeal shall stay, pending an order or decree of a court of final jurisdiction, the applicability to land shown on said plan of the provisions of any zoning ordinance or by-law which became effective after the date of submission of the plan first submitted.

**Exemption Provision
for Definitive or
Approval Not
Required Plans
During Appeal or
Litigation**

In the event that any lot shown on a plan endorsed by the planning board is the subject matter of any appeal or any litigation, the exemptive provisions of this section shall be extended for a period equal to that from the date of filing of said appeal or the commencement of litigation, whichever is earlier, to the date of final disposition thereof, provided final adjudication is in favor of the owner of said lot.

**Waiver of
Exemption by
Record Owner
of Land**

The record owner of the land shall have the right, at any time, by an instrument duly recorded in the registry of deeds for the district in which the land lies, to waive the provisions of this section, in which case the ordinance or by-law then or thereafter in effect shall apply. The submission of an amended plan or of a further subdivision of all or part of the land shall not constitute such a waiver, nor shall it have the effect of further extending the applicability of the ordinance or by-law that was extended by the original submission, but, if accompanied by the waiver described above, shall have the effect of extending, but only to extent aforesaid, the ordinance or by-law made then applicable by such waiver.

Added by St. 1975, c. 808, s. 3; Amended by St. 1977, c. 829, s. 3d, St. 1979, c. 106, St. 1982, c. 185

Section 81-P. Endorsement of Plans Not Requiring Approval Under Subdivision Control Law

Procedure

Endorsement Within 14 Days

If Approval Required, Notice to Clerk and Applicant Within 14 Days

Appeal

Failure to Act Deemed Approval

If Plan has Required Frontage (See Definition of Subdivision) Board Must Endorse as Approval Not Required

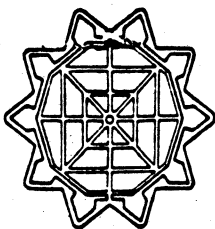
Signature of Other Than Majority of Board

Statement to Register of Deeds and Recorder of Land Court

Any person wishing to cause to be recorded a plan of land situated in a city or town in which the subdivision control law is in effect, who believes that his plan does not require approval under the subdivision control law, may submit his plan to the planning board of such city or town in the manner prescribed in section eighty-one T, and, if the board finds that the plan does not require such approval, it shall forthwith, without a public hearing, endorse thereon or cause to be endorsed thereon by a person authorized by it the words "approval under the subdivision control law not required" or words of similar import with appropriate name or names signed thereto, and such endorsement shall be conclusive on all persons. Such endorsement shall not be withheld unless such plan shows a subdivision. If the board shall determine that in its opinion the plan requires approval, it shall within fourteen days of such submittal, give written notice of its determination to the clerk of the city or town and the person submitting the plan, and such person may submit his plan for approval as provided by law and the rules and regulations of the board, or he may appeal from the determination of the board in the manner provided in section eighty-one BB. If the board fails to act upon a plan submitted under this section or fails to notify the clerk of the city or town and the person submitting the plan of its action within fourteen days after its submission, it shall be deemed to have determined that approval under the subdivision control law is not required, and it shall forthwith make such endorsement on said plan, and on its failure to do so forthwith the city or town clerk shall issue a certificate to the same effect. The plan bearing such endorsement or the plan and such certificate, as the case may be, shall be delivered by the planning board, or in case of the certificate, by the city or town clerk, to the person submitting such plan. The planning board of a city or town which has authorized any person, other than a majority of the board, to endorse on a plan the approval of the board or to make any other certificate under the subdivision control law, shall transmit a written statement to the register of deeds and the recorder of the land court, signed by a majority of the board, giving the name of the person so authorized.

The endorsement under this section may include a statement of the reason approval is not required.

Added by St. 1953, c. 674, s. 7; Amended by St. 1955, c. 326, s. 1 and 2, St. 1957, c. 293, s. 1 and 2, St. 1960, c. 197, St. 1961, c. 332, and St. 1963, c. 363, s. 1



Massachusetts
Municipal
Association

131 Tremont Street

Boston, Massachusetts 02111 (617) 426-7272

RECEIVED BY
OFFICE OF CITY CLERK

DEC 23

10 56 AM '83

CANON 02111 - 617-426-7272

December 23, 1983

Dear Local Official,

The Municipal Association is very concerned about the implications of S-681, a bill which removes local control over a significant aspect of local zoning. The legislation, which has been passed by the House and Senate and awaits only final action before reaching the Governor's desk, places an absolute three-year freeze on dimensional, set-back, side-yard, height or other changes on any lot on a finished street, for which a perimeter plan has been filed with the community. (The zoned use of the land, whether industrial, residential, commercial or other, is already frozen for three years by present law.)

Since perimeter plans do not require any local planning review, in effect the community's ability to solve such problems as excessive density is delayed by three years. Legal experts on local zoning issues assess the greatest effect to be on large commercially or industrially zoned parcels of land. Any parcel of land of whatever number of acres, as long as it is on an accepted street, would be affected by this legislative change. The legislation has been heavily lobbied by the home builders' associations.

It would be helpful for you to discuss this matter as soon as possible with your planning board or planning director and assess the effect on your community of such a change. The legislature is expected to return to work on December 27th and the possibility exists that they could take this bill up for its final passage. We urge you to contact your Senator by telephone immediately if you feel that this legislation would adversely affect your community.

Sincerely,

James W. Segel
Executive Director

JWS/ds



CITY OF CAMBRIDGE
INTEROFFICE CORRESPONDENCE

RECEIVED
JAN 13 PM 3 59
Date January 12, 1984

To Robert W. Healy, City Manager
Arthur Parris, Chairman, Planning Board
Kathy Spiegelman, Asst. City Manager for
Community Development

From Paul E. Healy, City Clerk
CAMBRIDGE COMMUNITY DEVELOPMENT DEPT. Reference

Subject The implications of S-680, a Bill relative to
local control over zoning

Enclosed you will find a copy of a communication received by the City Council at its meeting of Monday, January 9, 1984 from James W. Segel, Executive Director of the Mass. Municipal Association, expressing his concern over the above referenced item.

The City Council at this meeting moved to refer said communication to the City Manager, Planning Board and Community Development Department for report with regard to this Bill.

Your very kind attention in this matter will be greatly appreciated by the City Council.

PEH/mh

Enclosure

[Similar Matter Filed During Past Session —
See Senate No. 801 of 1982]

SENATE No. 681

By Mr. Timilty, a petition (accompanied by bill, Senate, No. 681) of Joseph F. Timilty for legislation to promote production on existing ways. Housing and Urban Development.

The Commonwealth of Massachusetts

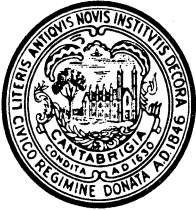
In the Year One Thousand Nine Hundred and Eighty-three.

AN ACT TO PROMOTE HOUSING PRODUCTION ON EXISTING WAYS.

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 6 of Chapter 40A of the General Laws, as most re-
- 2 cently amended by Chapter 106 of the Acts of 1979, is hereby
- 3 further amended in the sixth paragraph thereof, by striking
- 4 in the third line the phrase "the use of."

RECEIVED
FEB 9 4 40 PM '84
OFFICE OF THE
CITY MANAGER



CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139
Tel. 498-9011

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

March 12, 1984

To the Honorable, the City Council:

With respect to Awaiting Report Item No. 1 relative to the implications of S-681, a Bill relative to zoning, enclosed please find copy of a report from the Community Development Department.

Very truly yours,

Robert W. Healy
City Manager

RWH/mbf
Enc.

Agenda Item Number Three

4 157
Re: response to Awaiting Report Item No. 1
regarding implications of S-681, a Bill rela-
tive to zoning.

In City Council,

March 12, 1984

3/12/84

Placed

on

File