



City of Cambridge

Calendar Item No. 6.
IN CITY COUNCIL

May 8, 1978

ORDERED:

That, the City Council go on record as accepting the provisions of Chapter 586 of the Acts of 1977, which creates Sections 16A through 16F inclusive of Chapter 83 of the General Laws, the same being the City's right to obtain liens for sewer charges.

In City Council July 10, 1978
Adopted by a yea and nay vote:
Yeas 6; Nays 2; Absent 1.
Attest: Paul E. Healy, City Clerk

A true copy,

ATTEST:

A handwritten signature in cursive script that reads "Paul E. Healy".

Reconsideration has been moved and failed on September 11, 1978

Calendar

Severance hills

City of Cambridge

MASSACHUSETTS

In City Council Sept 11, 1978

Reconsideration Failed - Motion by L. Frisoli

	YEA	NAY	ABSENT	PRESENT
Mr. Crane	✓			
Mr. Duehay		✓		
Mr. Frisoli	✓			
Ms. Graham		✓		
Ms. Preusser		✓		
Mr. Sullivan			✓	
Mr. Vellucci		✓		
Mr. Wylie		✓		
Mayor Danehy			✓	

2 5 2
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City of Cambridge

MASSACHUSETTS

In City Council July 10 1978

Ordinance # 2 Adopted - Chapter 586A-1977

	YEA	NAY	ABSENT	PRESENT
Mr. Crane		✓		
Mr. Duehay	✓			
Mr. Frisoli		✓		
Ms. Graham	✓			
Ms. Preusser	✓			
Mr. Sullivan	✓ ⁽²⁾		→ ○	
Mr. Vellucci	✓			
Mr. Wylie	✓			
Mayor Danahy			✓	

FIVE VOTE 5 2 2
 SIX VOTE 6 2 1

*I Frisoli notified the City Clerk
 of his intention to move Rescindment
 of the vote accepting this act
 7/10/78*

*I Sullivan recorded in FAVOR
 Roll call changed FINAL vote 6-2-1*



OFFICE OF
THE CITY CLERK

CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • (617) 876-6800

May 18, 1978

Mr. Russell B. Higley
City Solicitor
City Hall
Cambridge, MA

Dear Mr. Higley:

Please be advised that at the City Council Meeting of May 15, 1978, in connection with Calendar Item No. 7, a copy of which is enclosed, Councillor Crane requested that the City Solicitor render an opinion as to the ability of the City to add sewer charges to the water bills of the universities located in the City of Cambridge. This item has been tabled pending your opinion.

Your prompt action on this matter will be greatly appreciated.

Very truly yours,

Paul E. Healy
City Clerk

PEH/cs

Enclosure



CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • (617) 876-6800

OFFICE OF
THE CITY CLERK

May 11, 1978

Russell B. Higley
City Solicitor
City Hall
Cambridge, MA

Dear Mr. Higley:

Please be advised that at the City Council meeting of May 8, 1978, Councillor Frisoli exercised his Charter Right privilege on Agenda No. 12 (copy enclosed) relative to the Council's acceptance of Chapter 586 of the Acts of 1977 regarding liens for sewer charges.

Councillor Crane has requested that you provide the Council with a legal opinion regarding the acceptance of the Act as well as the legality of placing such liens for sewer charges.

Furthermore, I am enclosing a copy of Council Order No. 9 relative to the establishment of a Cambridge Consumer Council. This has been referred to you for drafting an appropriate ordinance for review by the Council.

Your prompt action on these matters will be greatly appreciated.

Very truly yours,

Paul E. Healy
City Clerk

PEH/cs

Enclosures (2)

City of Cambridge

MASSACHUSETTS

Agenda #12 Acceptance of the provisions of
Chapter 586 of the Acts of 1977,
Section 16A through 16F of the General Laws. In City Council May 8 1978

	YEA	NAY	ABSENT	PRESENT
Mr. Crane				
Mr. Duehay				
Mr. Frisoli				
Ms. Graham				
Ms. Preusser				
Mr. Sullivan				
Mr. Vellucci				
Mr. Wylie				
Mayor Danehy				

City of Cambridge

May 5, 1978

James L. Sullivan, City Manager
City Hall
Cambridge, Massachusetts 02139

Dear Mr. Sullivan:

It has recently come to my attention that the City of Cambridge cannot at present lien real estate for unpaid sewer use charges. I believe that we will lose our right to obtain liens for some water charges if the charges are not placed on the real estate tax bills by October 1, 1978. As you know, the water and sewer charges are billed together and it would be impractical to lien the water and sewer charges separately. I am attaching a memo from David O'Connor stating his opinion on the law relating to sewer use liens. I request that you ask the Cambridge City Council to consider accepting the provisions of Chapter 586 of the Acts of 1977, thereby accepting Sections 16A through 16F of the General Laws.

Very truly yours,

William H. O'Leary

William H. O'Leary
Temporary Treasurer-Collector

WHO'L/nwc



CITY OF CAMBRIDGE
INTEROFFICE CORRESPONDENCE

To William H. O'Leary
Treasurer-Collector

Date May 4, 1978

From David B. O'Connor
Legal Counsel

Reference

Subject

DBOe

Lien for Sewer Use Charges

1. Despite the fact that sewer use charges are billed with water charges, the City of Cambridge has, at present, no authority to include these charges as part of the real estate taxes.
2. The City of Cambridge does not have at present the power or authority to lien real estate for sewer use charges.
3. Ordinance #875 which passed to be ordained on March 14, 1977 purports to establish the right of the City to record liens for unpaid sewer use charges.
4. As a matter of law, no city or town had any right to obtain a lien on real estate for unpaid sewer use charges until the expiration of ninety days after the enactment and approval of Chapter 586 of the Acts of 1977 on October 3, 1977. The effective date of the act was January 1, 1978.
5. In order for a City to obtain a lien for unpaid sewer use charges the City must accept the provisions of Chapter 586 of the Acts of 1977. The Act amends Chapter 83 of the General Laws by adding six sections, Sections 16A through 16F inclusive. When the Cambridge City Council has accepted the provision of all six of these sections and has filed a certificate of acceptance with the Registry of Deeds for the Southern District of Middlesex County; the City of Cambridge will be able to obtain liens for unpaid sewer charges.
6. I have attached a copy of Chapter 586 for your reference.

DBO'C/nwc

PROPERTY TAXES—ABATEMENT—REFUNDS

CHAPTER 585.

An Act further providing for the amounts refunded upon abatement of property taxes.

Be it enacted, etc., as follows:

Chapter 59 of the General Laws is hereby amended by striking out section 69, as most recently amended by section 2 of chapter 250 of the acts of 1976, and inserting in place thereof the following section:

Section 69.

A person whose tax has been abated shall, if the tax has been paid, be reimbursed by the town to the amount of the abatement allowed, including all interest and all charges paid therewith except legal costs paid as provided in section sixty-two, with interest on the amount so abated at six per cent from the time of payment. This interest shall not be waived.

Approved October 3, 1977.

SEWER CHARGES—TAX LIEN

CHAPTER 586.

An Act making certain unpaid annual sewer charges a tax lien.

Be it enacted, etc., as follows:

Chapter 83 of the General Laws is hereby amended by inserting after section 16 the following six sections:

Section 16A.

If the rates and charges due to a city, town or sewer district, which accepts this section and sections sixteen B to sixteen F, inclusive, by vote of its city council or of the voters in towns or districts and, by its clerk, files a certificate of such acceptance in the proper registry of deeds, for supplying or providing for a sewer system or rendering service or furnishing materials in connection therewith to or for any real estate at the request of the owner or tenant are not paid on or before their due date as established by local regulations, ordinances or by-laws, which due dates shall be so established as to require payments at least as often as annually, such rates and charges, together with interest thereon and costs relative thereto, shall be a lien upon such real estate as provided in section sixteen B. The register of deeds shall record such certificate of acceptance in a book to be kept for the purpose, which shall be kept in an accessible location in the registry. Sections sixteen B to sixteen F, inclusive, shall also apply to a sewer district which has accepted sections sixteen A to sixteen F, inclusive, and whose clerk has so filed the certificate of acceptance. Wherever in said sections the words "board or officer in charge of the sewer department" or their equivalent appear, they shall also mean and include the officers exercising similar duties in any city, town or district. A fire or water district authorized to provide a sewer system shall, for the purposes of sections sixteen A to sixteen F, inclusive, be deemed to be a sewer district.

Section 16B.

Such lien shall take effect by operation of law on the day immediately following the due date of such rate or charge and, unless dissolved by payment or abatement,

shall continue until such rate or charge has been added to or committed as a tax under section sixteen C, and thereafter, unless so dissolved, shall continue as provided in section thirty-seven of chapter sixty, except that the date provided for termination of the lien in case of a recorded alienation shall be at the expiration of two years from October first of the year of such addition or committal. Anything in this section to the contrary notwithstanding, if any such rate or charge is not added to or committed as a tax under section sixteen C on or before December thirty-first of the year immediately following the year in which such rate or charge becomes due, the lien for such rate or charge shall terminate on October first of the third year following the year in which such rate or charge becomes due.

Notwithstanding such lien any such overdue rate or charge may be collected through any legal means, including the shutting off of a sewer connection, which may be deemed advisable; provided, that after the termination of such a lien, no city, town or sewer district shall attempt to enforce, by shutting off the sewer connection, collection of such rate or charge from any person, not liable therefor, who has succeeded to the title or interest of the person incurring such rate or charge. All such rates and charges excluded by court decree under section seventy-six B of chapter sixty shall, to the extent that they were properly chargeable to the person owning, or to the tenant occupying, the premises for which such rates and charges were incurred, be recoverable from such person or tenant, as the case may be, in an action of contract or otherwise. If at the time of the entry of such decree such person or tenant is still the owner or tenant of the premises, whether through redemption or otherwise, such rates and charges to the extent that they were properly chargeable to him, may be enforced in any other manner provided or available for collection and enforcement of sewer connection rates and charges.

Section 16C.

If a rate or charge for which a lien is in effect under section sixteen B has not been added to or committed as a tax and remains unpaid when the assessors are preparing a real estate tax list and warrant to be committed by them under section fifty-three of chapter fifty-nine, the board or officer in charge of the sewer department, or the town collector of taxes, if applicable under section thirty-eight A of chapter forty-one, shall certify such rate or charge to the assessors, who shall forthwith add such rate or charge to the tax on the property to which it relates and commit it with their warrant to the collector of taxes as a part of such tax. If the property to which such rate or charge relates is tax exempt, such rate or charge shall be committed as the tax.

Section 16D.

Except as otherwise provided, the provisions of chapters fifty-nine and sixty shall apply, so far as pertinent, to all rates and charges certified to the assessors under section sixteen C. Without limiting the generality of the foregoing, upon commitment as a tax or part of a tax under said section sixteen C, all such rates and charges shall be subject to the provisions of law relative to interest on the taxes of which they become, or, if the property were not tax exempt would become, a part; and the collector of taxes shall have the same powers and be subject to the same duties with respect to such rates and charges as in the case of annual taxes upon real estate, and the provisions of law relative to the collection of such annual taxes, the sale or taking of land for the nonpayment thereof and the redemption of land so sold or taken shall, except as otherwise provided, apply to such rates and charges.

Section 16E.

An owner of real estate aggrieved by a charge imposed thereon under sections sixteen A to sixteen F, inclusive, in addition to such remedy as he may have under section ten of chapter one hundred and sixty-five, may apply for an abatement thereof by filing a petition with the board or officer having control of the sewer department within the time allowed by law for filing an application for abatement of the tax of which such charge is, or, if the property were not tax exempt, would have been, a part, and if such board or officer finds that such charge is more than is properly due, a reasonable abatement shall be made; and except as otherwise provided herein, the provisions of chapter fifty-nine relative to the abatement

of taxes by assessors shall apply, so far as applicable, to abatements hereunder. If such petition is denied in whole or in part, the petitioner may appeal to the appellate tax board upon the same terms and conditions as a person aggrieved by the refusal of the assessors of a city or town to abate a tax.

Section 16F.

An owner of real estate who, in order to prevent the imposition of a lien thereon or to discharge the same, has paid charges for sewer connections furnished to a tenant or other person who was bound to pay the same, may recover from such tenant or other person in an action of contract the amount of the charges so paid with all incidental costs and expenses.

Approved October 3, 1977.

**POLICE AND FIREFIGHTERS—SOLICITATIONS—NAME
OF ORGANIZATION**

CHAPTER 587.

An Act providing that solicitations using the words police or firefighter shall identify the sponsoring organization.

Be it enacted, etc., as follows:

Chapter 41 of the General Laws is hereby amended by inserting after section 98D the following section:

Section 98E.

No person or persons shall solicit the public in any manner or form using the word "police" or "firefighter" or any derivative thereof without using the name or names of the city or town police or firefighters organization sponsoring such solicitation.

Approved October 3, 1977.

**CRIMES—SEXUAL INTERCOURSE WITH
FEEBLEMINDED PERSONS**

CHAPTER 588.

An Act providing for the protection of certain persons from crimes against chastity.

Be it enacted, etc., as follows:

Chapter 272 of the General Laws is hereby amended by striking out section 5, as amended by chapter 137 of the acts of 1948, and inserting in place thereof the following section:

Section 5.

Whoever has unlawful sexual intercourse with a person who is feeble minded, an idiot or imbecile or insane, under circumstances which do not constitute rape, shall, if he had reasonable cause to believe that he was feeble minded, an idiot or imbecile or insane, be punished as provided in section three.

Approved October 3, 1977.



City of Cambridge

Calendar Item No. 2
IN CITY COUNCIL

May 8, 1978

ORDERED:

That, the City Council go on record as accepting the provisions of Chapter 586 of the Acts of 1977, which creates Sections 16A through 16F inclusive of Chapter 83 of the General Laws, the same being the City's right to obtain liens for sewer charges.

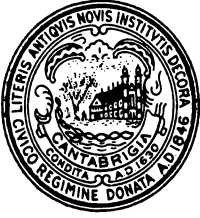
In City Council July 10, 1978
Adopted by a yea and nay vote:
Yeas 6; Nays 2; Absent 1.
Attest: Paul E. Healy, City Clerk

A true copy,

ATTEST:

A handwritten signature in cursive script that reads "Paul E. Healy".

Reconsideration has been filed by Councillor Frisoli on this matter.



CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139
Tel. 876-6800

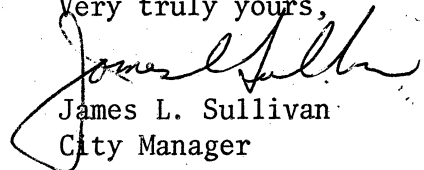
EXECUTIVE DEPARTMENT
JAMES L. SULLIVAN
City Manager

May 8, 1978

To the Honorable, the City Council:

In accordance with the enclosed communication from William H. O'Leary, Temporary Treasurer-Collector, relative to the City's right to obtain liens for some sewer charges, I recommend the Council's acceptance of the provisions of Chapter 586 of the Acts of 1977, thereby accepting Sections 16A through 16F of the General Laws.

Very truly yours,



James L. Sullivan
City Manager

JLS/nwc

2

Agenda #12
7/14/78

Acceptance of the provisions of Chapter 586
of the Acts of 1977, Sections 16A through
16F of the General Laws, re: City's right
to obtain liens for some sewer charges.

5/8/78

Charter Right

BY

L. FRISOLI

In City Council,

May 8, 1978

L. Crane required
for the City

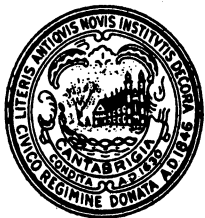
Solicitor General

in legal opinion

on the Act -

5/15/78 Tabled

6/24/78 Check City Solicitor
Opinion



CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139
Tel. 876-6800

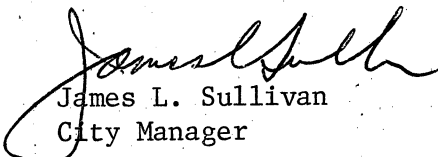
EXECUTIVE DEPARTMENT
JAMES L. SULLIVAN
City Manager

July 10, 1978

To the Honorable, the City Council:

In order to have sufficient time to have the service bureau prepare the bill forms for the FY79 tax bills, it is necessary for Chapter 586 of the Acts of 1977 to be accepted. This item is currently tabled. I recommend that On the Table Item #5 be removed from the table and accepted.

Very truly yours,


James L. Sullivan
City Manager

JLS/mbf

Recommendation that On the Table Item #5, re:
acceptance of Chapter 586 of the Acts of 1977,
be removed from the table and accepted.

7/10/78 Referred to Cal #2
Chapter 586 of 1977
Adopted 6-2-1
7/10/78 Reconsideration
moved by E. Fasoli

In City Council,

July 10, 1978

To the Calendar
FOR

Aug 11, 78

Aug 11/78

Reconsideration
MOVED 2-5-2