



# CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • TEL. 876-6800

LAW DEPARTMENT

PHILIP M. CRONIN  
CITY SOLICITOR

EDWARD D. MCCARTHY  
ROWENA E. TAYLOR  
ASSISTANT CITY SOLICITORS

JOHN A. SERINO  
LEGISLATIVE AGENT

December 16, 1970

Mr. John H. Corcoran  
City Manager  
City Hall  
Cambridge, Massachusetts

Dear Mr. Corcoran:

The City Council by orders dated December 7, 1970 requested my opinion concerning the legality of the payment to the Temporary Auditor of a salary based on the City Auditor's salary and an ordinance providing for a Deputy City Auditor.

General Laws, Chapter 41, Section 61A provides that if the office of Auditor becomes vacant, the office shall be held by a Temporary Auditor "to hold such office and exercise the powers and perform the duties thereof until another is duly elected or appointed." The section does not however stipulate the amount of compensation for an Auditor. Therefore, there is no prohibition in Section 61A against paying a Temporary Auditor at the rate of the City Auditor, nor is there any requirement that he be so paid.

With reference to the creation of a position of Deputy City Auditor, it is my opinion that no ordinance is necessary and if one were enacted establishing this position it might conflict with General Laws, Chapter 41, Section 49A which provides as follows: "The auditor, accountant or officer having similar duties of a city or town, may in writing appoint, with the approval of the mayor or the selectmen thereof, an assistant, who shall be sworn to the faithful performance of his duties, and a record shall be made of his appointment and oath."

Thus, if the City Auditor is of the opinion that he needs the services of an assistant city auditor, state law now provides for the creation of this position by the City Auditor.

Very truly yours,

Philip M. Cronin  
City Solicitor

PMC:cas



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AUDITING DEPARTMENT

December 28, 1970

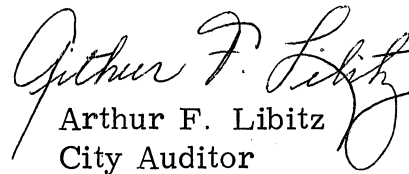
TO THE HONORABLE THE CITY COUNCIL:

Pursuant to City Council Order of December 7th, 1970, requesting an opinion of the City Solicitor as to the legality of the appointment of a Deputy City Auditor, attached, please find a copy of the City Solicitor's opinion which I interpret to the effect that the City Auditor may or may not appoint a Deputy City Auditor at his discretion.

In view of the fact that I have been in my position for only a matter of days and also my belief that this is a very responsible position -- should it be created, it is my opinion that no decision should be made in respect to this proposed position until I have had an opportunity to become more familiar with the workings and needs of the Auditor's Department.

I very much appreciate your concern in regard to this matter and I assure you that it will have my every consideration.

Yours very truly,

  
Arthur F. Libitz  
City Auditor

55

Communication from Arthur F. Libitz, City Auditor relative to appointment of a Deputy City Auditor

December 28, 1970

in City Council Dec. 28, 1970  
12/28/70  
Placed on File -  
Held on File  
Paul E. Healey  
City Clerk