

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

October 24, 1969

James L. Sullivan
City Manager
City Hall
Cambridge, Massachusetts

Dear Mr. Sullivan:

Attached hereto are applications for permits to conduct raffles and bazaars filed under Acts of 1969, Chapter 810 by the Marsh Post 442 of the American Legion, Student Organization of Nursing at Mt. Auburn Hospital, and Veterans of World War One Barracks 464 and Mt. Auburn Post, VFW. I enclose a copy of Chapter 810.

Chapter 810 authorizes raffles and bazaars and exculpates those conducting a raffle or a bazaar under Chapter 810 from prosecution for promoting a lottery. It is not at all clear however that Chapter 810 requires the City to permit raffles and lotteries by the groups authorized to conduct them. The chapter provides that in the event a permit is refused, there may be an appeal to the district court and the district judge may order the permit issued "if he is satisfied that there was no reasonable ground for refusing such permit." Subject to interpretation by the court, reasonable grounds could be an adopted policy of the City to prohibit all raffles and bazaars involving the award of money by chance.

Therefore, it would be my opinion that the four applications present a policy question whether such affairs will be permitted in the City, notwithstanding Chapter 810.

If it is decided that such activities should be permitted, the applications are not at present sufficient. There must be evidence in addition to the applications of the following:

1. None of the earnings of the organization go to the benefit of any member.
2. The organizations have been organized for at least two years.

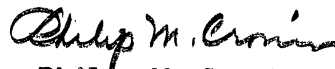
James L. Sullivan

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3. No member of the organization will be remunerated in any way by the raffle or bazaar.
4. The proceeds must be used exclusively for educational, charitable, religious, fraternal, civic or veterans' benefits purposes.

Very truly yours,



Philip M. Cronin
City Solicitor

PMC:ja
Encs.

cc. James F. Reagan
Chief of Police

cc. John R. Sennott, Jr.
Chairman, License Commission

CHAPTER 810

THE COMMONWEALTH OF MASSACHUSETTS

In the Year One Thousand Nine Hundred and Sixty-nine

AN ACT Authorizing Certain Organizations To Conduct Raffles And Bazaars.

Whereas, The deferred operation of this act would tend to defeat its purpose, which is, in part, to authorize forthwith that certain organizations may conduct raffles and bazaars and provide a further source of tax revenue to the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.

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

Chapter 271 of the General Laws is amended by inserting after section 7 the following section:-

Section 7A. In this section the following words shall have the following meanings:

"Raffle", an arrangement for raising money by the sale of tickets, certain among which, as determined by chance after the sale, entitle the holders to prizes.

"Bazaar", a place maintained by the sponsoring organization for disposal of merchandise awards by means of chance.

Notwithstanding any other provisions of law, raffles and bazaars may be promoted, operated and conducted under permits issued in accordance with the provisions of this section.

No organization, society, church or club which conducts a raffle or bazaar under the provisions of this section shall be deemed to have set up and promoted a lottery and nothing in this chapter shall authorize the prosecution, arrest or conviction of any person connected with the operation of any such raffle or bazaar; provided, however, that nothing contained in this section shall be construed as permitting the game commonly known as "beano" or any similar game regardless of name.

No raffle or bazaar shall be promoted, operated or conducted by any person or organization, unless the same is sponsored and conducted exclusively by (a) a veterans' organization chartered by the Congress of the United States or included in clause (12) of section five of chapter forty of the General Laws; (b) a church or religious organization; (c) a fraternal or fraternal benefit society; (d) an educational or charitable organization; (e) a civic or service club or organization; and (f) clubs or organizations organized and operated exclusively for pleasure, recreation and other nonprofit purposes, no part of the net earning of which inures to the benefit of any member or shareholder. Such organization shall have been organized and actively functioning as a nonprofit organization in the commonwealth for a period of not less than two years before it may apply for a permit. The promotion and operation of the raffle or bazaar shall be

confined solely to the qualified members of the sponsoring organization and no such member shall receive remuneration in any form for time or effort devoted to the promotion or operation of such raffle or bazaar. All funds derived from any raffle or bazaar shall be used exclusively for the purposes stated in the application of the sponsoring organization which purposes shall be limited to educational, charitable, religious, fraternal or civic purposes or for veterans' benefits. An organization which meets the qualifications required by this section and which desires to conduct or operate a raffle or bazaar within the commonwealth shall apply for a permit to conduct raffles and bazaars from the clerk of the city or town in which the raffle will be drawn or the bazaar held. The application form shall be approved by the commissioner of public safety and shall include the name and address of the applicant, the evidence on which the applicant relies in order to qualify under this section, the names of three officers or members of the organization who shall be responsible for the operation of the raffle or bazaar, and the uses to which the net proceeds will be applied. A fee of ten dollars shall accompany each such application and shall be retained by the city or town. Upon receipt of such application, the clerk shall determine whether it is in conformity with this section. If the clerk so determines, he shall forward the application to the chief of police of the city or town, who shall determine whether the applicant is qualified to operate raffles and bazaars under this section. If the chief of police so determines, he shall endorse the application and return it to the clerk, who shall forthwith issue a permit, which shall be valid for one year from the date of its issuance. The clerk shall retain a copy of the application and shall send a copy to the commissioner of public safety. If there is any change in the facts set forth in the application for a permit subsequent to the making of such application, the applicant shall forthwith notify the authority granting such permit of such change, and such authority shall issue such permit if the applicant is qualified, or, if a permit has already been issued and the change in the facts set forth in the application disqualify the applicant revoke such permit.

If an application is not acted upon within thirty days after it is submitted, or if the organization is refused a permit, or if a permit is revoked, any person named on the application may obtain judicial review of such refusal or revocation by filing within ten days of such refusal or revocation or within ten days of the expiration of such thirty day period a petition for review in the district court having jurisdiction in the city or town in which such application was filed. A justice of said court, after a hearing, may direct that such permit be issued, if he is satisfied that there was no reasonable ground for refusing such permit, and that the applicant was not prohibited by law from holding raffles or bazaars.

An organization issued a permit under this section shall within thirty days of the expiration of its permit submit a report on a form to be approved by the commissioner of public safety. Such form shall require information concerning the number of raffles and bazaars held, the amount of money received, the expenses connected with the raffle or bazaar, the names of the winners of prizes exceeding twenty-five dollars in value, the net proceeds of the raffles and bazaars, and the uses to which the net proceeds were applied. The organization shall maintain and keep such books and records as may be necessary to substantiate the particulars of such report, which books and records shall be preserved for at least one year from the date of such report and shall be available for inspection. Such report shall be certified to by the three persons designated in the permit application as being responsible for such raffle or bazaar and by an accountant. Two copies of said report shall be filed with city or town clerk. The clerk shall send one copy to the commissioner of public safety. Failure to file said report shall constitute sufficient grounds for refusal to renew a permit to conduct raffles or bazaars. The fee for renewal of such permit shall be ten dollars.

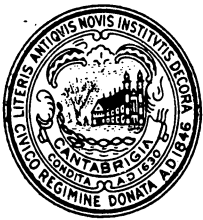
The authority granting any permit under this section shall immediately revoke the same for a violation of any provision of this section and shall not issue any permit to such permittee within three years from the date of such violation. Any person aggrieved by the action of such authority revoking such permit may appeal to the district court having jurisdiction in the city or town where the permit was issued; provided that such appeal shall be filed in such court within twenty days following receipt of notification by said authority. The court shall hear all pertinent evidence and determine the facts and upon the facts so determined annul such action or make such decision as equity may require. The foregoing remedy shall be exclusive.

Any organization conducting or operating a raffle or bazaar under this section shall file a return with the commissioner of corporations and taxation, on a form prepared by him, and approved by the state tax commission within ten days after the raffle or bazaar is held and shall pay therewith a tax of five per cent of the gross proceeds derived from such raffle or bazaar.

The provisions of chapter sixty-two relative to the assessment, collection, payment, abatement, verification and administration of taxes, including penalties, shall, so far as applicable apply to the tax imposed by this section. All sums received by said commissioner from the tax imposed by this section as taxes, interest thereon, fees, penalties, forfeitures, costs of suits or fines, less all amounts refunded thereon, together with any interest or costs paid on account of such refunds, shall be paid into the treasury of the commonwealth.

Whoever violates any provision of this section or submits false information on an application or report required under this section shall be punished by a fine of not more than one thousand dollars or by imprisonment in the house of correction for not more than one year, or both.

No person who prints or produces tickets, cards or any similar article used in the conduct of a bazaar or raffle pursuant to a permit issued under the provisions of this section shall be subject to any penalty therefor, provided that a certified copy of such permit was presented to him prior to his undertaking to print or produce such tickets or cards.



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EXECUTIVE DEPARTMENT

James L. Sullivan
City Manager

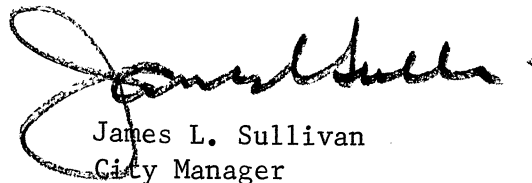
John H. Corcoran
Assistant City Manager

October 27, 1969

To the Honorable, the City Council:

I transmit herewith communication from Philip M. Cronin,
City Solicitor, relative to raffles and bazaars.

Yours truly,



James L. Sullivan
City Manager

JLS:pv

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COMMUNICATION
from the City Manager trans-
mitting one from Philip M. Cronin,
City Solicitor relative to raffles and
bazaars

October 27, 1969

Filed