



CITY OF CAMBRIDGE

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Legal Counsel

March 1, 1991

Robert W. Healy
City Manager
City Hall
Cambridge, Massachusetts 02139

Re: *Calendar Item #3 of January 28, 1991*

Dear Mr. Healy:

I am responding to the above-referenced City Council Calendar Item by attaching a copy of an opinion issued to the Interim Parking Control Committee. The opinion to the IPCC addresses the same subject matter raised by the Calendar Item.

Very truly yours,

Donald A. Drisdell



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January 23, 1991

Edward McNulty, Chairman
Interim Parking Control Committee
c/o Cambridge Traffic and Parking Department
57 Inman Street
Cambridge, MA 02139

Re: **Application of North Federal Properties Limited Partnership - 15 Monsignor O'Brien - for Hotel Guest Parking**

Dear Chairman McNulty:

I am writing in response to a question raised by committee member Deborah McManus at the last meeting of the IPCC. Ms. McManus pointed out that the North Federal Properties Limited Partnership application for a determination of exemption includes a request for an exemption for 132 parking spaces for hotel guests. The question raised is whether or not hotel guest parking can be deemed to fall within the residential parking exemption.

As you know, the Ordinance currently recognizes exemptions only for residential uses, on-street parking, and park-and-ride facilities supporting public transportation. The City's

former criteria for the parking freeze recognized a specific exemption for hotel guest parking, but that particular exemption is not included in the current Ordinance. While the question of whether or not there might still be an exemption available for hotel guest parking might seem initially straight-forward given the elimination of the former exemption that made reference to hotel guest parking, the analysis turns out to be less clear than expected.

Several factors introduce uncertainty in answering this question. First, the Memorandum of Agreement executed on August 15, 1990 and the Ordinance which followed on November 26, 1990 exempt residential projects from the parking freeze. Second, "residential" projects are not further defined, and no exceptions are noted. Third, the Cambridge Zoning Ordinance, at section 4.31, includes hotels within the category of residential uses, and so does the State Building Code at Section 209.2. Fourth, the City Council in enacting the provisions of the Zoning Ordinance has generally treated hotels as it treats other residential uses, except that on specific occasions when the Council desired to treat hotels differently they have done so expressly. One example of such different treatment is found in the Floor Area Ratio bonuses awarded to residential developments in P.U.D. projects in Section 13.70, where for the purpose of making bonus calculations, hotels and motels are expressly excluded. Fifth, there was express reference made at the hearings before the City Council prior to adoption of the Ordinance to the fact that hotels are treated in the zoning ordinance as residential uses, and yet hotels were not expressly excluded from the residential exemption.

Given this record the applicant here has understandably concluded that an application

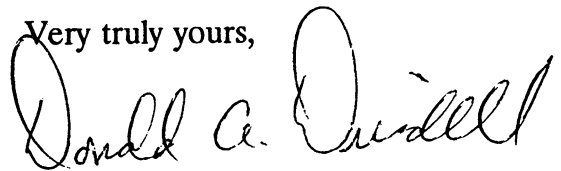
for a determination of exclusion might be appropriate. In addition, the applicant believes there are distinct features to this particular hotel which support it being treated in the same manner as other residential uses. Apparently the proposed hotel will have no public dining facilities or restaurants, no ballrooms, no conference rooms, no bars, and no provisions for public meetings or gatherings. It seems that the hotel is seeking to appeal to guests who intend to have long-term stays, typically from 2 weeks to 6 weeks. For all of these reasons the applicants maintain that the traffic impacts of this hotel will be comparable to those of an apartment building, and that the application of the residential exemption to this hotel makes sense.

While there may be some force to the arguments advanced by the applicant, and while the issue lacks the clarity one might prefer, I nonetheless conclude that the IPCC should not determine that the hotel guest parking spaces fit into the residential exemption. One over-arching concern leading to the MOA and the Ordinance was to limit the number of parking spaces being created, at least on an interim basis while the City works with state and federal officials to amend the State Implementation Plan under the Clean Air Act. It would seem prudent for the IPCC to avoid interpreting exemptions broadly without the intent of the City Council being clear. While the City Council may have intended that a hotel such as that proposed here should be included in the residential exemption, I think the record is not clear enough to support that conclusion without further clarification from the Council.

In conclusion, I would advise the Committee that the current record of the Council's intent with regard to hotels qualifying for a residential exemption is not clear enough to

justify the grant of such an exemption. I think the safer course would be for the Committee
... to treat such applications as requests for controlled parking permits until the Council
clarifies its intent.

Very truly yours,

A handwritten signature in cursive script, appearing to read "Donald A. Drisdell". The signature is written in dark ink and is positioned above the printed name and title.

Donald A. Drisdell

Deputy City Solicitor



CITY OF CAMBRIDGE
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EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

March 4, 1991

To The Honorable, The City Council:

With regard to Awaiting Report Item No. 21, relative to the exclusion of hotels from residential classification for the purposes of administration of the Interim Agreement, please find attached a response from Donald A. Drisdell, Deputy City Solicitor.

Very truly yours,

Robert W. Healy
City Manager

RWH/mev
attachments

CONSENT AGENDA

S-347

Response to Awaiting Report Item No. 21
regarding the exclusion of hotels from
residential classification for the purposes
of administration of the Interim Agree-
ment.

In City Council,

March 4, 1991.

Placed on file.