

19 Cornelius Way  
Cambridge, Mass. 02141

November 18, 1988

City Council  
City Hall  
Cambridge, Mass 02139

Honorable Mayor, Vice Mayor and Councillors;

As I watched Mr. Healy discuss the parking freeze at the Nov. 14 City Council meeting I became increasingly alarmed that you were given inaccurate information and that some vital information was left out. Before I present you that information let me make my motives clear. I am first of all concerned about the construction of the 1530 car Binney Street garage which abutts my neighborhood, Linden Park. Second, I am very worried that by the City Manager failing to address the issues of the parking freeze in a comprehensive manner, the financial liability of your city and my city increases.

1. Mr. Healy's statement on Nov. 14 "A facility which qualifies for the exemption, Binney Street garage, Boston Properties, Camp, Dresser and McKee...are acceptable...to DEQE/EPA" is inaccurate. To my knowledge, DEQE/EPA have taken no such position. If these facilities are allowed to go forward, without clear approval, the liability to the city is enormous.

2. Mr. Healy's statement on Nov. 14 "Nothing's free...if a parking garage costs 80 million to build and if nobody charges a fee for it then it goes into the lease, from the leaseholder it's passed onto the consumer who pays for it in the food." seems to indicate an understanding that a fee is involved. This puts these garages in the category of commercial, which is not exempt and the city has agreed not to issue any more commercial parking permits.

3. In response to Vice Mayor Wolf's question "The facilities, the building, that come under the parking freeze, in general, are building that house commercial or office facilities. Is that correct...potentially...depending on their status?" Mr. Healy answered "they would be one category...yes....you're right, commercial and office would be those, and hotel, restaurant" Again, Mr. Healy appears to understand these facilities may be under the parking freeze yet they are allowed to go forward. One thing that is clear is the definition of exempt facilities is unclear. I feel you must insist that this be clarified immediately before we increase liability.

4. I have attached to this letter a copy of an affidavit submitted to the court in conjunction with the motion for an

injunction that was filed on Nov. 8 in Middlesex Superior Court. I am sure Mr. Drisdell has a copy since Mr. Teso was named as defendant. This affidavit shows two parking garages, One Memorial Drive and One Athenaeum Street as exempt facilities that charge \$7.00 per day (Photos included). There can be no clearer violation of the parking freeze definition, yet the city approved them. In addition, there are two lots, 1201 Mass. Ave. and the corner of Main and Ames street that charge per day (Photos included) yet have no exemption or commercial parking permit. I am shocked that Mr. Healy did not bring this to the attention of the council since it would seem to clearly violate the parking freeze regulation and jeopardize the relationship with DEQE/EPA.

In summary, it would appear that there continue to be serious problems related to the parking freeze and each day that building is allowed to go forward, the city's liability increases. It does not make sense to me to allow the City Manger to handle this situation without your direct involvement when he appears to be the person who is responsible for creating the problem. For the sake of all citizens of Cambridge, please take action.

I have one additional issue that I ask your attention. On Oct. 3 at the City Council hearing on the Binney Street Garage, Mr. McLaughlin, attorney for the Athenaeum Group, offered his legal services to the City. In court, on Oct. 27, I observed Mr. McLaughlin address the court at length on the matter of the temporary restraining order filed against Mr. Teso, the Athenaeum, etc. I observed Mr. Drisdell to say "I support everything that Mr. McLaughlin has said." I observed as Mr. McLaughlin presented the Oct. 25th letter from DEQE/EPA to the the City of Cambridge to the court. I understand that City Council had not seen that letter as of that date. Is Mr. McLaughlin working for the city in this situation? Currently, the thirty plaintiff's in this court action are being counterclaimed by Mr. McLaughlin on behalf of the Athenaeum Group. We are being counterclaimed for, among other things, "demanding and receiving a hearing before the City Council". I will tell you in plain terms: WE FEEL AS THOUGH WE ARE BEING SUED BY THE CITY. We are outraged. This is a disgrace and an embarrassment to the city. I hope that you will extricate the city from this situation. My faith is that you can. The whole city is watching.

Most Sincerely,



Debra McManus

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, ss.

SUPERIOR COURT  
C.A. No. 88-6603

----- )  
DEBRA McMANUS, RALPH CHADIS, )  
ANN W. CURBY, R. PHILIP DOWDS, )  
SUSAN DOWDS, ROBERT OWEN )  
EDBROOKE, JR., DeCOORSEY FALES, )  
JR., ITEN N. FALES, THOMAS J. )  
FITZGERALD, ELENA GARDYNA, )  
HENRY A. GARDYNA, DANIEL E. )  
GEER, JR., PAUL W. GUGLIETTI, JR., )  
BERNARD GUNTHER, NANCY )  
HAUSMAN, ANTHONY J. KEBER, J. O. )  
MARRS, RICHARD G. McMANUS, )  
PRISCILLA J. McMILLAN, JOHN R. )  
MOOT, GAYLEN MORGAN, MARYBETH )  
NOONAN, SUSAN F. SCHWAB, JUDITH )  
A. SEALEY, LISA A. SEALEY, )  
THEODORE H. SUTTON, MEHMET )  
TONER, AMPORO VAZQUEZ, )  
RICARDO H. VAZQUEZ, and )  
SARAH A. WOLFINSOHN, )  
Plaintiffs, )  
) )  
v. )  
) )  
GEORGE TESO, THE ATHENAEUM )  
GROUP, OLD BINNEY REALTY TRUST, )  
and MULACH PARKING STRUCTURES )  
CORPORATION, )  
Defendants. )  
----- )

**AFFIDAVIT OF DEBRA MCMANUS**

DEBRA MCMANUS, having been duly sworn, deposes and says:

1. I am one of the Plaintiffs in this action, and I am making this affidavit in support of Plaintiffs' motion for a preliminary injunction.

2. At issue in this case are various aspects of Defendant George Teso's administration of the Commercial Parking Freeze pursuant to a contingent delegation of authority, dated June 15, 1984, from the Governor. A copy of that contingent delegation is attached as "Exhibit A" to this Affidavit. Among the issues raised in this case are whether the contingencies set forth in the

contingent delegation were satisfied as of February 5, 1988, and whether they have been satisfied since that time.

3. The contingent delegation grants to Defendant Teso the authority to implement the requirements of the Commercial Parking freeze, "contingent upon receipt from the City of a commercial and on-street parking space inventory dated as of October 15, 1973." In addition, the Governor further required "[a]s part of this delegation approval," that the City of Cambridge "submit a report as defined in [40 CFR] 52.1135(e) to the Department of Environmental Quality Engineering and the EPA Region I Office each year by July 31."

4. As of February 5, 1988, and at all times prior to September 20, 1988, the conditions of the contingent delegation remained unsatisfied. A copy of a letter from Bruce K. Maillet, Director of the Division of Air Quality Control, of the Massachusetts Department of Environmental Quality Engineering (DEQE), confirming this fact, is attached as "Exhibit B" to this Affidavit.

5. On or about September 20, 1988, Defendant Teso submitted the City of Cambridge's "annual report detailing the Administration of the Parking Freeze" to DEQE and the U.S. Environmental Protection Agency (EPA). Included in that report was a two-page cover letter, signed by Defendant Teso, and a three-page "Parking Inventory" purporting to show "[c]ommercial space changes October 15, 1973 to June 30, 1988." A copy of these portions of the report is attached as "Exhibit C" to this Affidavit.

6. Defendant Teso's Parking Inventory lists 18 parking facilities as having been determined to be "exempt" from the Commercial Parking Freeze since the date of the Governor's contingent delegation.

7. In October and November, 1988, I visited the sites of all 18 of these facilities. Five of these are under construction and not presently used for parking.

8. Two of the garages listed as "exempt" are currently open to the general public and are providing temporary parking for a short term or *per diem* fee:

a. The garage at One Athenaeum Street (486 spaces exempted on June 13, 1985) has a posted sign showing that parking is available during the day at \$1.00 per half-hour, with a \$7.00

maximum charge. After 6:00 P.M., parking is available until closing for a \$3.00 flat fee. A copy of two photographs of the entrance to this facility is attached as "Exhibit D" to this Affidavit.

b. The garage at One Memorial Drive (462 spaces exempted on April 30, 1987) has a posted sign showing that parking is available at \$1.00 per half-hour, with the \$7.00 maximum charge, and offering a \$1.00 discount with a restaurant validation prior to 5:00 P.M. on weekdays. A copy of two photographs of the entrance to this facility is attached as "Exhibit E" to this Affidavit.

9. Six of the facilities listed as "exempt" are currently providing temporary parking to tenants, apparently under fee arrangements either incorporated into, or ancillary to, the lease of office or retail space:

a. The flat parking lot at 53-85 Prospect Street (186 spaces exempted on October 17, 1984) provides parking in numbered spaces to tenants of the office building located at 675 Massachusetts Avenue. A card machine activates a gate for entrance to the lot. A copy of two photographs of the entrance to this facility is attached as "Exhibit F" to this Affidavit.

b. The flat parking lot at 101-113 Bishop Allen Drive (106 spaces exempted on October 17, 1984) provides parking in numbered spaces to "tenants," but it was not possible for me to ascertain whose tenants use the lot. A card machine activates a gate for entrance to the lot. A copy of two photographs of the entrance to this facility is attached as "Exhibit G" to this Affidavit.

c. The garage at 1030 Massachusetts Avenue (66 spaces exempted on October 18, 1984) provides parking to tenants of the office and retail complex located at this address. A card machine activates a gate for entrance to the garage. A copy of two photographs of the entrance to this facility is attached as "Exhibit H" to this Affidavit.

d. The garage at 101 Main Street (486 spaces listed as "99 Main Street" exempted on June 3, 1985) provides parking to the office tenants of the Saddle Brook Building located at this address. A card machine activates a gate for entrance to the garage. A copy of two photographs of the entrance to this facility is attached as "Exhibit I" to this Affidavit.

e. The garage at One Kendall Square (480 spaces exempted on February 5, 1988), currently under construction by Defendants Athenaeum Group, Old Binney Realty Trust and

Mulach Parking Systems, is intended to include 1530 parking spaces. At present, Defendant Athenaeum Group is providing parking to tenants of its office and retail complex located at this address, by means of a sticker affixed to the windshield of parking users. A copy of two photographs of the entrance to this facility and two photographs of the sticker used by Defendant Athenaeum Group is attached as "Exhibit J" to this Affidavit.

f. The vacant building at 69 Harvey Street (14 spaces exempted on March 23, 1988) appears to be in preparation for renovation. The flat parking lot adjacent to the building appears to provide parking to "tenants only," but it was not possible for me to ascertain whose tenants use the lot. A copy of two photographs of this facility is attached as "Exhibit K" to this Affidavit.

10. It was not possible for me to ascertain whether the remaining five "exempt" parking facilities are providing temporary parking for a fee:

a. The flat parking lot at 176 Massachusetts Avenue (18 spaces exempted on October 16, 1984) appears to be a used car lot. No evidence of a sticker program, card access or other charge is apparent at the facility.

b. The facility at Ten Canal Park (40 spaces exempted on October 31, 1984) appears to provide private parking for a single business. No evidence of a sticker program, card access or other charge is apparent at the facility.

c. The facility at Three Craigie Circle (43 spaces exempted on May 2, 1986) appears to provide parking for a residential complex and restaurant at this address. No evidence of a sticker program, card access or other charge is apparent at the facility.

d. The flat parking lot at 185 Alewife Brook Parkway (91 spaces exempted on July 29, 1986) appears to provide parking for the office and retail complex at this address. No evidence of a sticker program, card access or other charge is apparent at the facility.

e. The facility at 26 Lansdowne Street (205 spaces exempted on August 20, 1986) appears to provide parking for an office building with a variety of tenants at this address. No evidence of a sticker program, card access or other charge is apparent at the facility.

11. In addition, I am aware of two commercial parking facilities that have begun operations since 1973 that do not appear anywhere in the City's inventory:

a. The flat parking lot at 1201 Massachusetts Avenue, the site of a former gas station, presently provides temporary parking for approximately 40 cars at the rate of \$1.00 per half hour, with a maximum charge of \$7.00 during the day and \$5.00 at night. A copy of two photographs of that facility is attached as "Exhibit L" to this Affidavit.

b. The flat parking lot at the corner of Main Street and Ames Street, formerly the site of a TRW Building, presently provides temporary parking for approximately 300 cars at the rate of \$4.00 per day. A copy of two photographs of the entrance to that facility is attached as "Exhibit M" to this Affidavit.

12. As of the date of this Affidavit, construction of the Binney Street Garage is apparently continuing. A portion of that Garage is located approximately nine feet from the property line behind my home.

Signed under the pains and penalties of perjury, this 8th day of November, 1988.

  
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Debra McManus



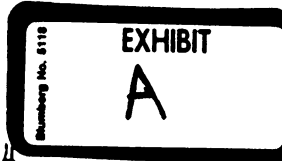
THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE DEPARTMENT

STATE HOUSE • BOSTON 02133

MICHAEL S. DUKAKIS  
GOVERNOR

June 15, 1984



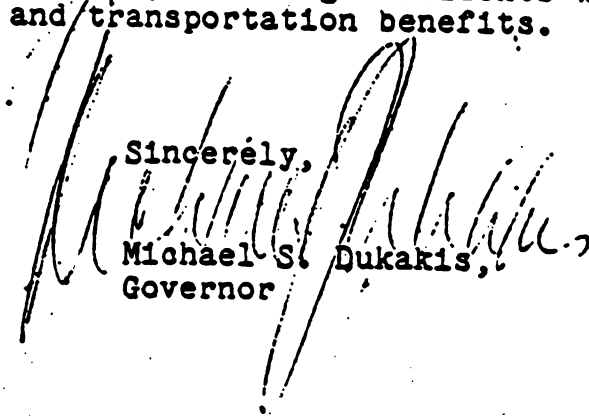
Robert W. Healy,  
Cambridge City Manager  
Cambridge City Hall  
Cambridge, Massachusetts 02201

Dear Mr. Healy:

In accordance with 40 CFR 52.1135 (e), I hereby delegate authority to the City of Cambridge Traffic Director to implement the parking freeze within the City of Cambridge. My approval is contingent upon receipt from the City of a commercial and on-street parking space inventory dated as of October 15, 1973, and a signed copy of the Memorandum of Understanding. As part of this delegation approval, you are asked to submit a report as defined in 52.1135 (o) to the Department of Environmental Quality Engineering and the EPA Region I Office each year by July 31.

I would like to extend my appreciation for the efforts made by you and your staff to comply with the delegation requirements. By implementing the Cambridge Parking Freeze, Cambridge residents will receive substantial environmental and transportation benefits.

Sincerely,

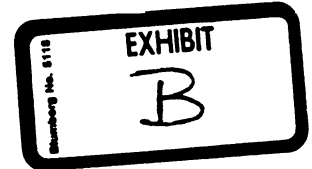
  
Michael S. Dukakis,  
Governor

cc: Michael Deland, Regional  
Administrator,  
James S. Hoyte, Secretary  
Anthony D. Cortese, Sc.D.,  
Commissioner



*The Commonwealth of Massachusetts*  
*Executive Office of Environmental Affairs*  
*Department of Environmental Quality Engineering*  
*Division of Air Quality Control*  
*One Winter Street, Boston 02108*

September 20, 1988



Mr. J. Raymond Miyares  
40 Winter Street  
Suite 800  
Boston, MA 02108

Dear Mr. Miyares:

This letter is in response to your August 15, 1988 letter to Commissioner Greenbaum requesting the compliance status of the City of Cambridge with respect to the Cambridge Parking Freeze. In a letter dated June 15, 1984, Governor Dukakis delegated authority to the City of Cambridge to administer the Cambridge parking freeze required by 40 CFR 52.1135.

As of February 5, 1988 neither the initial commercial and on-street space inventory dated as of October 15, 1973, nor the reporting requirements as defined by 40 CFR 52.1135(o) had yet been received by DEQE. On September 20, 1988, the City of Cambridge submitted to DEQE, a report containing an on-site parking inventory from November 1, 1973 through January 1, 1988, and annual reports from July 1976 through July 1988, as well as other related parking information.

DEQE staff will review the report for content and determine if any additional information is required to fulfill the provisions of 40 CFR 52.1135(o).

Very truly yours,

*Bruce K. Maillet*

Bruce K. Maillet

Director

Division of Air Quality Control

BKM:JG/dep

C- Robert W. Healy  
George Teso

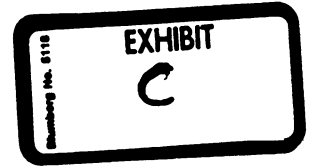


# CITY OF CAMBRIDGE

57 INMAN STREET, CAMBRIDGE, MASSACHUSETTS 02139 TEL. 498-9042

## DEPARTMENT OF TRAFFIC & PARKING

George Teso  
Director



September 20, 1988

Commissioner Daniel Greenbaum  
Dept. of Environmental Quality Engineering  
One Winter Street 3rd Floor  
Boston, Massachusetts 02108

Mr. Michael Deland  
Regional Administrator  
U.S. Environmental Protection Agency  
Region I  
J.F.K. Federal Building  
Boston, Massachusetts 02203

Gentlemen:

In accordance with the City of Cambridge Procedures, Criteria and Memorandum of Agreement...for the purpose of issuing Commercial Parking Permits, Section D. 1. I am forwarding to you the annual report detailing the Administration of the Parking Freeze.

I have enclosed a copy of the City-wide off-street parking inventory dated October 1973. The report shows there were 3,452 commercial spaces out of a total of 41,571 or 8 percent.

The on street parking inventory covers the period from Nov. 1, 1973 to Jan. 1, 1988. During this period of time 1,685 parking spaces were totally restricted. In addition, 17,414 spaces were restricted to vehicles with valid permits. According to 40 C.F.R., Para. 52.1135 (N) we may add one half of the number of spaces designated for permit parking only to the Bank.

17,414 + 2 =	8,707	
+ No Parking =	<u>1,685</u>	
	10,392	Total # of spaces un-
		available to the general
		public.

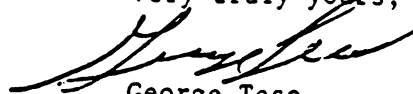
The report on commercial parking space changes is complete through June 30, 1988. Each years (July 1 to June 30) activity is listed seperately and a total is given. The Bank balance is listed each time there is a change as well as at the end of each year. From 10/15/73 to 6/30/88 we added 2,308 spaces and removed 7,699 spaces from the Parking Freeze Bank.

As of June 30, 1988 there were 5,001 spaces available for allocation. This number may be adjusted upon completion of the on street inventory adjustments for the period Jan. 1, 1988 to June 30, 1988.

Since the beginning of the Parking Freeze there were 27 requests for exemptions totalling 5,162 spaces.

The next report you receive will be on July 31, 1989 and will cover the period of July 1, 1988 to June 30, 1989.

Very truly yours,



George Teso  
Traffic Director

GT:rs

c.c. Robert Healy, City Manager  
Jerome Grafe, Dept. Environmental Quality Engineering  
Bruce Maillet, Dir. Division of Air Quality Control  
Tom Wholley, U.S. Environmental Protection Agency  
Birge Albright, City of Camb. Law Dept.

I. Parking Inventory

A. Off-Street Commercial Parking Spaces as of October 15, 1973 = 3452 sp.

B. Number of spaces added to the Off-Street Parking Bank due to implementation of the Resident Parking Program and the removal of on-street parking spaces as of January 1, 1988 = 10,392 sp.

C. Commercial space changes October 15, 1973 to June 30, 1988.

<u>Date &amp; Site</u>	<u>Additions</u>	<u>Subtractions</u>	<u>Bank Balance</u>	<u>Exempt</u>
Oct. 15, 1973 (see above)			10,392	
July 1, 1975 Mun. Lot #13		47	10,345	
July 30, 1975 Mun. Lot #6	10		10,355	
Nov. 15, 1975 Mun. GFP Garage	165	290	10,230	
June 1, 1976 Mun. Lot #13	47		10,277	
<u>Total 7/1/75-6/30/76</u>	222	337	10,277	
Feb. 25, 1977 575 Memorial Dr.		474	9,803	
Jun. 1, 1977 Line St. Hosp. Lot				84
Camelia Mun. Lot		70	9,733	64
<u>Total 7/1/76 to 6/30/77</u>		544	9,733	148
Aug. 1, 1977 Mun. Lot #11	16		9,749	
Jan. 10, 1978 Mun. Lot #13	21		9,770	
<u>Total 7/1/77 to 6/30/78</u>	37		9,770	
July 1, 1978 Mun. Lot #11		20	9,750	
Sept. 30, 1978 Mun. Lot #12	10		9,760	
Oct. 30, 1978 Mun. Lot #14		30	9,730	
Apr. 15, 1979 Mun. Lot #1	37		9,767	
<u>Total 7/1/78 to 6/30/79</u>	47	50	9,767	
Oct. 1, 1979 Mun. Lot #15		51	9,716	
Jan. 30, 1980 Camb. Cen. Pk. Fac. #1		1,250	8,466	
Camb. Cen. Pk. Lot #1		650	7,816	
<u>Total 7/1/79 to 6/30/80</u>		1,951	7,816	
Oct. 30, 1980 Camb. Cen. Pk. Fac. #2		2,250	5,566	
Jan. 30, 1981 Camb. Cen. Pk. Lot. #1	650		6,216	
<u>Total 7/1/80 to 6/30/81</u>	650	2,250	6,216	

<u>Date &amp; Site</u>		<u>Additions</u>	<u>Subtractions</u>	<u>Bank Balance</u>	<u>Exempt</u>
July 16, 1981	1000 Mass. Ave.	100	200	6,116	
Jun. 23, 1982	410-450 Green St.		51	6,065	
<u>Total 7/1/81 to 6/30/82</u>		100	251	6,065	
Oct. 1, 1982	Mun. Lot #6	3		6,068	
Dec. 30, 1982	Royal Sonesta Hotel		60	6,008	140
Jan. 18, 1985	110-115 Camb. Park Dr.				558
Mar. 1, 1983	Mun. Lot #12		34	5,974	
Mar. 24, 1983	9 Camb. Center				9
Apr. 25, 1983	124-126 Mt. Auburn St.	360	200	6,134	250
Jun. 10, 1983	5 Bennett St.	350	600	5,884	86
<u>Total 7/1/82 to 6/30/83</u>		713	894	5,884	1,043
Aug. 31, 1983	Mun. Lot #15	51		5,935	
Nov. 10, 1983	35-65 Camb. Pkwy.		410(6P-7A)		410(7A-
May 4, 1984	65 JFK St.	41	300	5,676	
<u>Total 7/1/83 to 6/30/84</u>		92	300 410 (6P-7A)	5,676	410 (7A-6P)
Sep. 12, 1984	4-6 Arrow St.		12	5,664	
Oct. 16, 1984	176 Mass. Ave.				18
Oct. 17, 1984	675 Mass. Ave.				17
	53-85 Prospect St.				169
	101-113 Bp. Allen Dr.				106
Oct. 18, 1984	1030 Mass. Ave.				66
Oct. 31, 1984	10 Canal Pk.				40
June 3, 1985	99 Main St.				486
June 13, 1985	1 Athaneum St.				350
<u>Total 7/1/84 to 6/30/85</u>			12	5,664	1,252
Sept. 11, 1985	4-6 Arrow St.	12		5,676	
Sept. 30, 1985	Mun. Lot #5	10		5,686	
Apr. 28, 1986	55 First St.		590	5,096	
May 1, 1986	238 Camb. St.	50		5,146	
May 2, 1986	3 Craigie Cir.				43
<u>Total 7/1/85 to 6/30/86</u>		72	590	5,146	43
July 29, 1986	185 Alewife Brook Pkwy.				91
Aug 20, 1986	26 Landsdowne St.				205
Sept. 16, 1986	8 White St.				89
Oct. 9, 1986	196 Broadway				131
Oct. 24, 1986	75 Camb. Pkwy.				359
Feb. 17, 1987	950 Mass. Ave.				142
Apr. 30, 1987	One Memorial Dr.				462
<u>Total 7/1/86 to 6/30/87</u>				5,146	1,479

<u>Date &amp; Site</u>	<u>Additions</u>	<u>Subtractions</u>	<u>Bank Balance</u>	<u>Exempt</u>
Jan. 7, 1988 Camb. Cen. Pk. Fac. #1	375		5,521	
Jan. 20, 1988 55 First St.		520	5,001	
Feb. 5, 1988 One Kendall Sq.				480
Mar. 23, 1988 69 Harvey St.				14
Apr. 5, 1988 38 Sidney St.				293
<u>Total</u> 7/1/87 to 6/30/88	375	520	5,001	787

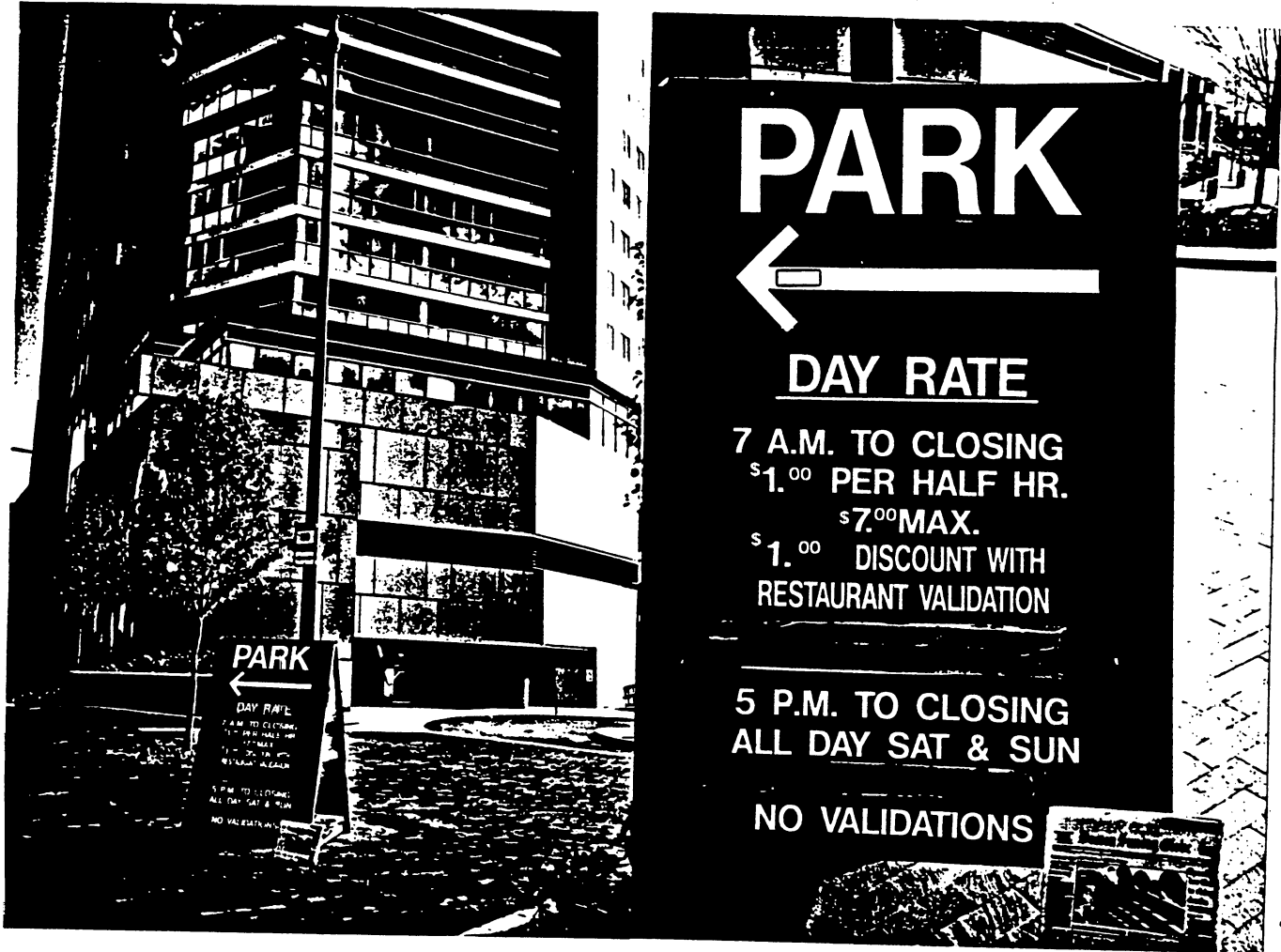


EXHIBIT  
D



One Athenaeum Street (486 spaces exempted on June 13, 1985).

EXHIBIT  
E  
Inventory No. 6110



One Memorial Drive (462 spaces exempted on April 30, 1987).



53-85 Prospect Street (186 spaces exempted on October 17, 1984).

EXHIBIT  
G



101-113 Bishop Allen Drive (106 spaces exempted on October 17, 1984).

**NOW LEASING**

EXCLUSIVE AGENT:  
**Spaulding & Strye 523-8000**

**Futon Furniture**

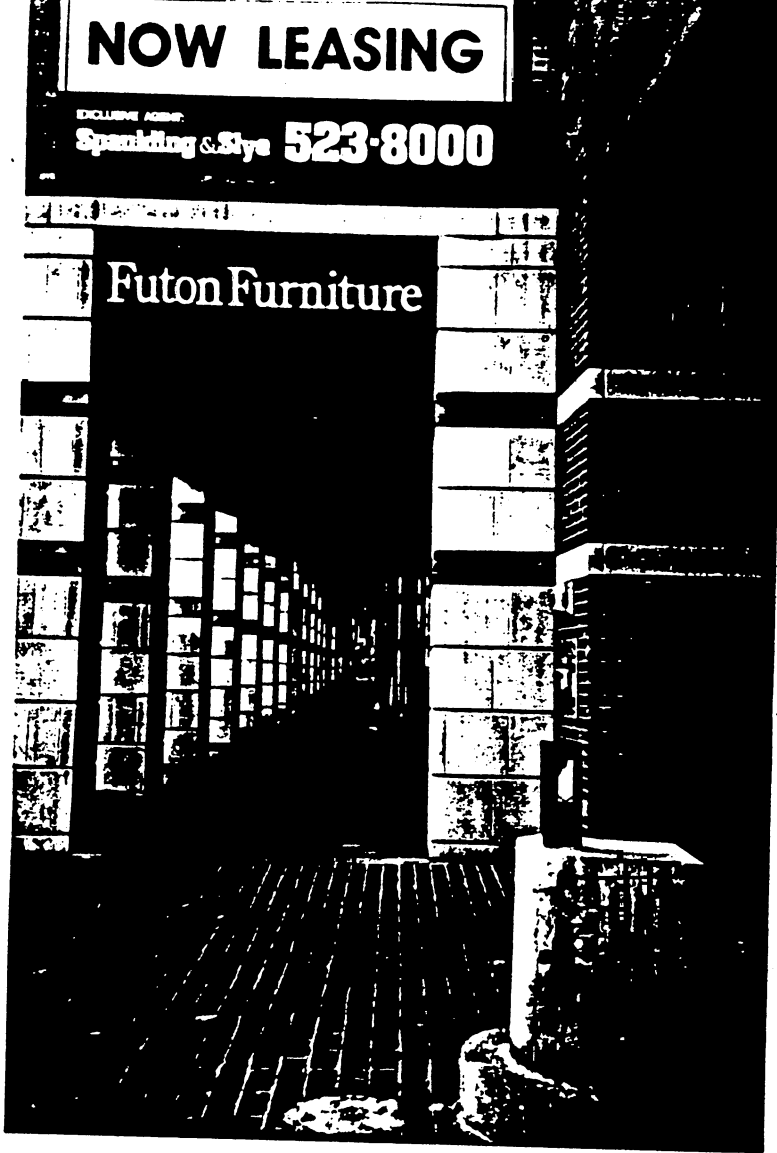
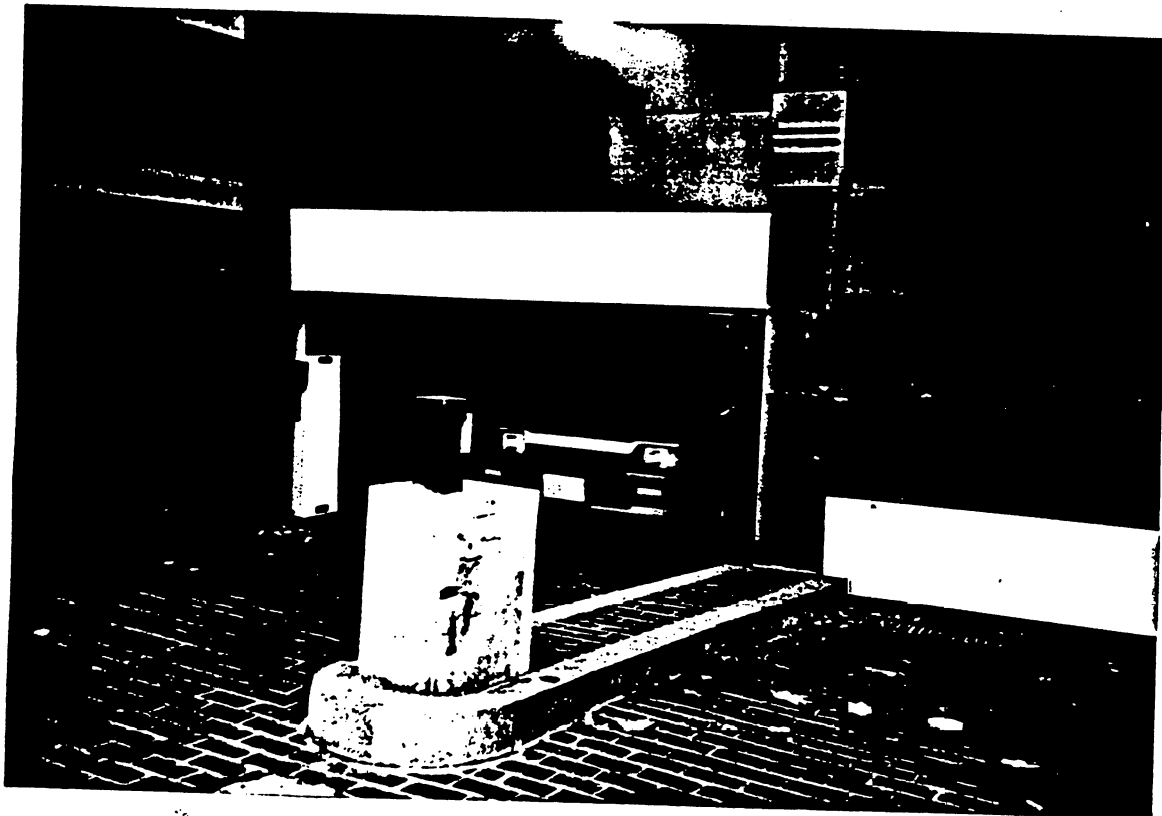
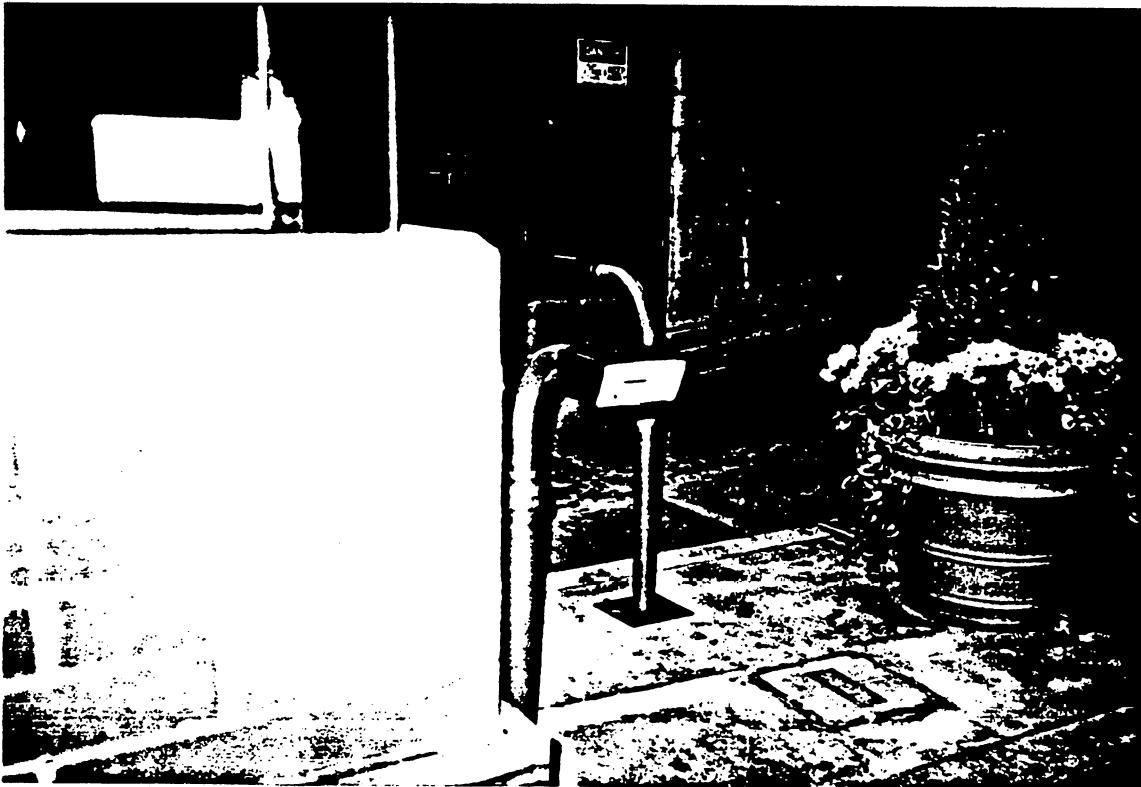


EXHIBIT  
H



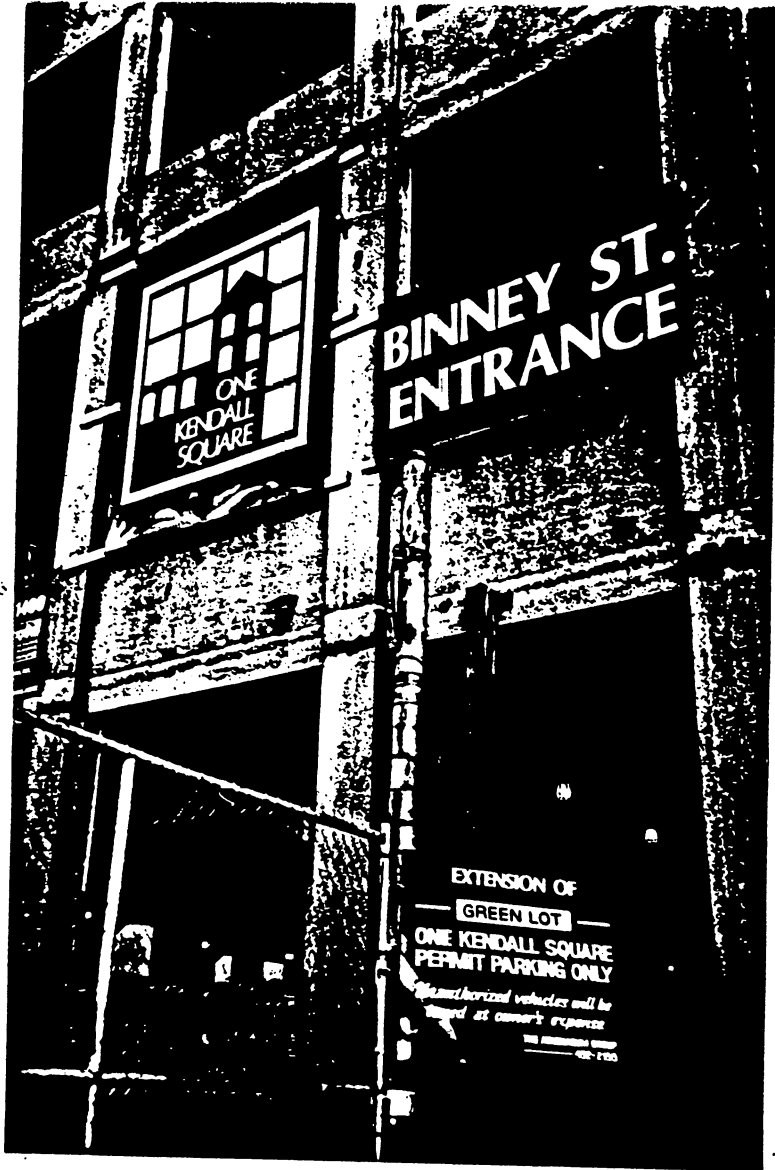
1030 Massachusetts Avenue (66 spaces exempted on October 18, 1984).

EXHIBIT  
I



101 Main Street (486 spaces listed as "99 Main Street" exempted on June 3, 1985):

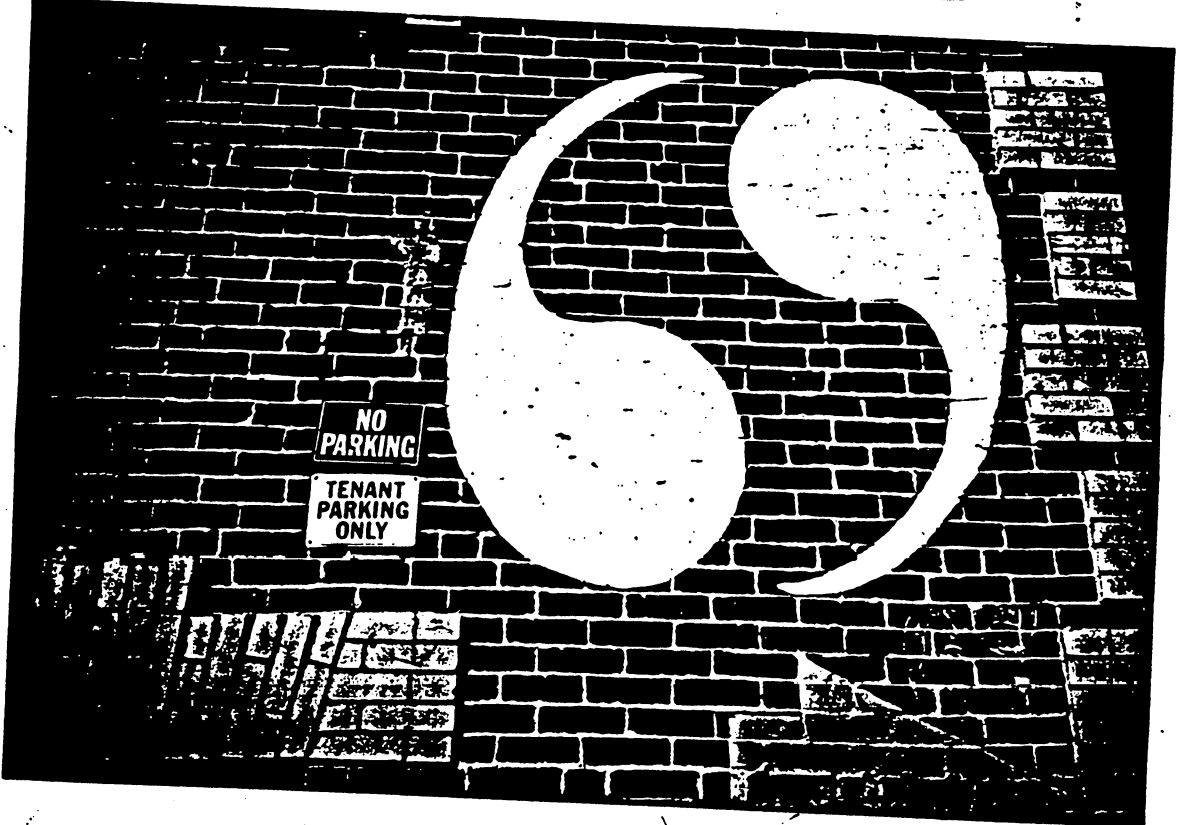
EXHIBIT  
J



One Kendall Square (480 spaces exempted on February 5, 1988).



EXHIBIT  
K



69 Harvey Street (14 spaces exempted on March 23, 1988).

EXHIBIT  
L



1201 Massachusetts Avenue.



Corner of Main Street and Ames Street.

# City of Cambridge

S-1720

Comm. from Debra McManus dated November 18, 1988  
Re: discussion of the parking freeze at the  
November 14, 1988 City Council meeting.

November 21, 1988

11-21-88  
placed on file