

City of Cambridge

MASSACHUSETTS

Agenda # 5 Legislation entitled "AN ACT
RELATIVE TO THE LICENSING OF ALCOHOLIC
BEVERAGES IN CAMBRIDGE."

In City Council

Sept. 10

~~July 30~~

1990

	YEA	NAY	ABSENT	PRESENT	
Mr. Ed Cyr	✓				
Mr. Francis H. Duehay	✓				
Mr. Jonathan S. Myers	✓				
Mr. Kenneth E. Reeves			✓		
Mrs. Sheila T. Russell	✓				
Mr. Walter J. Sullivan		✓			
Mr. Timothy J. Toomey, Jr.	✓				
Mr. William H. Walsh				✓	
Mayor Alice K. Wolf	✓				

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C. Duehay
ms
RF



City of Cambridge

Agenda #5
IN CITY COUNCIL

July 30, 1990

ORDERED: That the City Council of the City of Cambridge goes on record favoring the filing of a proposed Home Rule Bill, regarding liquor licensing rights and duties of the License Commission.



CITY OF CAMBRIDGE
MASSACHUSETTS 02139 • 617-498-9094

Councillor Francis H. Duehay
26 LOWELL STREET
CAMBRIDGE, MASSACHUSETTS 02138
617-547-0271

September 13, 1990

The Honorable Charles Flaherty
Majority Leader
House of Representatives
State House
Room 343
Boston, MA 02133

Dear Charlie:

On behalf of the Cambridge City Council, I am hereby transmitting a home-rule petition the Council passed last Monday. This petition, requested by the City Council and initiated by the License Commission and the City Manager, would restore to the Cambridge License Commission the power to determine the occupancy level of a licensed establishment. As you may know, a law passed several years ago established that level as the number determined by the Building or Inspectional Services Department.

That law meant that License Commissions statewide were stripped of their authority after due public process to determine that a smaller occupancy level was in the public interest. My understanding is that applications are now pending before the Cambridge License Commission which would substantially increase the level of existing establishments in a manner which surrounding neighborhoods and business establishments think extremely unwise. Proximity to nearby residential neighborhoods, traffic and parking considerations, and the behavior of licensed establishments are all factors which, among others, the proper agent of local government, after due public process, must be able to take into account in determining occupancy levels.

The powers granted the Cambridge License Commission under this bill would in no way usurp the powers of the Inspectional Services Department. The Inspectional Services Department would retain its full power to determine maximum capacity based on the physical characteristics of the establishment, while the License Commission would determine occupancy levels based on an area analysis.

The Honorable Charles F. Flaherty
September 13, 1990
Page 2

This is to request that you file this bill on behalf of the City Council and that you expedite action. Would you also let me know when hearings are scheduled?

Sincerely yours,



Francis H. Duehay
Chair, Committee on Ordinances

s

enclosure

cc: Senator Michael LoPresti
Senator Michael Barrett
Senator Richard Kraus
Representative Peter Vellucci
Representative Alvin Thompson
Mr. Carl Barron, President/Central Square Business Assoc.
Ms. Gladys Gifford, President/Harvard Square Defense Fund
Mayor Alice K. Wolf
Mr. Robert W. Healy, City Manager
Mr. James T. McDavitt, Chair/Cambridge License Commission



City of Cambridge

Calendar Item # 1

IN CITY COUNCIL

September 10, 1990

ORDERED:

That the City Council of the City of Cambridge goes on record favoring the filing of a Home Rule Petition entitled "AN ACT RELATIVE TO THE LICENSING OF ALCOHOLIC BEVERAGES IN CAMBRIDGE".

In City Council September 10, 1990.

Adopted by a yeas and nays vote:-

Yeas 6; Nays 1; Absent 1; Present 1.

Attest:- John E. Flynn, Deputy City Clerk.

A true copy;

ATTEST:-

A handwritten signature in black ink, reading "John E. Flynn". The signature is written in a cursive style with a large, stylized "J" and "F".

John E. Flynn, Deputy City Clerk.

To the Honorable Senate and House of Representatives of The Commonwealth of Massachusetts
in General Court assembled.

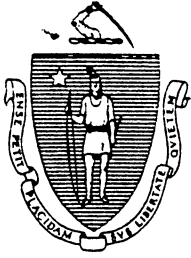
The undersigned, citizens of CAMBRIDGE, respectfully
petition for the passage of the accompanying bill or resolve, and/or for legislation

AN ACT RELATIVE TO THE LICENSING OF ALCOHOLIC BEVERAGES IN CAMBRIDGE

Petitioners are requested to sign names and addresses legibly.

Frederic B. Archey
Shirley T. Russell
Edward H. S.
Jonathan S. Myers
Jenneth E. Reeves
Blue K. Wolf

26 LOWELL ST., CAMBRIDGE,
5 Hawthorne Pl. Camb.
106 Dudley St Camb.
31 Chalk St. Cambridge
11 Everett St, Cambridge
48 Heraclee, Cambridge



The Commonwealth of Massachusetts

IN THE YEAR ONE THOUSAND NINE HUNDRED AND ~~EIGHTY~~ NINETY

AN ACT RELATIVE TO THE LICENSING OF ALCOHOLIC BEVERAGES IN CAMBRIDGE

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

SECTION 1. In Cambridge the board of license commissioners may impose upon a license issued pursuant to chapter one hundred and thirty-eight of the general laws a condition to the effect that the occupancy of particular licensed premises shall not exceed a stated number of persons; provided that such a condition may only be imposed if said board finds one of both of the following: that a higher occupancy level would not serve the public need, or that a higher occupancy level would not protect the common good. In finding that a higher occupancy level would not protect the common good, the board may consider the area in which the licensed premises are located and may make a subsidiary finding that a higher occupancy level would in said area unreasonably increase disruption, criminal activity, noise, pedestrian traffic, vehicular traffic, or problems relative to the parking of motor vehicles. Under chapter one hundred and thirty-eight of the general laws, said board may also deny any application to increase the occupancy

level of licensed premises and any application to change the description of licensed premises which would accommodate a higher occupancy level; provided that any such application may only be denied if said board finds one or both of the following: that the increase in occupancy level or the change in premises' description accommodating a higher occupancy level would not serve the public need, or that said increase or said change would not protect the common good. In finding that said increase or said change would not protect the common good, the board may consider the area in which the licensed premises are located and may make a subsidiary finding that such increase or such change would in said area unreasonably increase disruption, criminal activity, noise, pedestrian traffic, vehicular traffic, or problems relative to the parking of motor vehicles.

Nothing in this section shall authorize said board to invalidate in any way a certificate of occupancy, a certificate of inspection, or other certificate setting an occupancy level for licensed premises pursuant to the state building code or any of its rules or regulations; provided, said board in harmony with the provisions of this section may deny liquor license applications citing the occupancy level, in whole or in part, as the basis for the denial, and may condition a liquor license on an occupancy level lower than the occupancy level set pursuant to the state building code or any of its rules and regulations.



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The Honorable Charles F. Flaherty
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Sincerely yours,



Francis H. Duehay
Chair, Committee on Ordinances

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enclosure

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Representative Peter Vellucci
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CAMBRIDGE LICENSE COMMISSION CITY OF CAMBRIDGE

831 MASSACHUSETTS AVE., 1ST FLOOR, CAMBRIDGE, MASSACHUSETTS 02139 • TEL. 499-6140

JAMES THADDEUS McDAVITT
Commission Chairman

ANTHONY G. PAOLILLO
Chief-of-Police Department
Commission Member

THOMAS V. SCOTT
Chief-of-Fire Department
Commission Member

RICHARD V. SCALI
Commission Executive Officer

TO: Robert W. Healy, City Manager
FROM: James T. McDavitt, License Commission Chair
RE: Proposed Home Rule Bill
DATE: July 16, 1990

James T. McDavitt

Enclosed please find a proposed Home Rule Bill relative to the liquor licensing rights and duties of the License Commission. The proposed bill would re-establish the License Commission's authority to restrict the occupancy level of licensed premises following an analysis of the area in which the premises are located. In 1988 M.G.L.c.138, s.12 was amended so as to prevent each liquor license board in the state from imposing a license condition relevant to occupancy. This has caused problems here in Cambridge. Passage of the proposed special statute would restore the status quo before 1988, where the Inspectional Services Department (ISD) would impose a maximum occupancy level pursuant to the building and zoning laws and where the License Commission under separate laws had power to condition a liquor license on a lower occupancy level. There was never any inconsistency in this area between the ISD and the License Commission as the Commission, under M.G.L.c.138 used totally distinct standards for its determination of occupancy level, viz. whether there was a public need to serve the numbers of people requested, and whether the numbers of people requested would, outside on the street, cause an unreasonable increase in levels of traffic, noise, disruption, criminal activity, and illegal parking.

The License Commission therefore requests that you recommend and transmit the enclosed proposal to the City Council.

We have typed the bill on a document of the State House of Representatives. If the Council considers it preferable to file this bill with the State Senate, re-typing may be necessary.

Please advise if there are questions or comments.



CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139

TEL. 498-9011

FAX. 868-8159

EXECUTIVE DEPARTMENT

ROBERT W. HEALY

City Manager

RICHARD C. ROSSI

Deputy City Manager

July 30, 1990

To The Honorable, The City Council:

Attached, please find a proposed Home Rule Bill, relative to the liquor licensing rights and duties of the License Commission, as submitted by James T. McDavitt, Commission Chairman.

Very truly yours,

A handwritten signature in dark ink, appearing to read "Robert W. Healy", is written over the typed name and title.

Robert W. Healy
City Manager

RWH/mev
enclosure

Agenda # 5

*Call 1
S - 804*

Home Rule Legislation entitled "AN
ACT RELATIVE T THE LICENSING OF
ALCOHOLIC BEVERAGES IN CAMBRIDGE."

In City Council,

July 30, 1990

*Charter Right
exercised by Councilman
Sullivan*

*9/10/90 Order adopted
6-1-1-1*

*9/14/90 Legislation mailed
to Gladerty.*