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JUN 11 6 29 PM '74

CAMBRIDGE, MASS.

June 11, 1974

Mr. James L. Sullivan
City Manager
City Hall
Cambridge, Massachusetts

Dear Mr. Sullivan:

The City Clerk forwarded to me a request for an interpretation of General Laws, Chapter 121, Section 26L, relative to a representative of labor being appointed to the Housing Authority.

Chapter 121, Section 26L, has been repealed and is now replaced by Chapter 121B, Section 5, which provides in part that: "one of the four members of a housing authority appointed by the mayor shall be a representative of organized labor who shall be appointed by the mayor from a list of five or more names representing different unions submitted by the Central Labor Council, AFL-CIO, of the city or of the district within which the city is included. If no such list of names is submitted within sixty days after a vacancy occurs, the mayor may appoint any representative of organized labor of his own choosing to the authority."

The proper procedure would be to appoint one of the five individuals submitted by the Central Labor Council and if no such list is furnished within sixty days, then the City Manager may appoint any representative of organized labor which in my opinion would include an active union member.

Very truly yours,

Edward D. McCarthy
City Solicitor

EDMcC: jm

cc: Paul E. Healy
City Clerk

referred to the City Clerk's office and will be
sent to the City Clerk's office for
distribution to the City Clerk's office
and the City Clerk's office.

CASE NOTES

The housing authority is a public body and is liable in contract and corporate and is liable in contract or in tort in the same manner as a private corporation. *Ryan v Boston Housing Authority*, 322 Mass 299, 77 NE2d 399.

The housing authority consisted of five members who comprised a board of public officers who must make official decisions involved in a taking of land by at least a majority vote taken at a duly constituted meeting of the board, and they cannot act separately or individually but must act jointly and collectively in determining the decision of the board. *Allen v Shadman*, 330 Mass 608, 116 NE 2d 252.

Delegation to executive director of power to administer contract includes power to modify contract.—In view of the fact that the word "administer" as used in the instant section includes all the powers that public housing authorities exercise over property in their control, the delegation of power to an executive director to administer the contract of a local housing authority gives

such director extensive apparent authority to agree to a change in work under the contract without a written order. *Costonis v Medford Housing Authority*, 343 Mass 108, 176 NE2d 25.

Section shows operations of housing authority interwoven with interest of city.—The instant section, which provides for the initiation by a city of the operations of a housing authority, is one of a number of statutory provisions which show that the operations of a housing authority are interwoven with the management and interests of the city in which it operates. *Finance Com. of Boston v McGrath*, 343 Mass 754, 180 NE2d 808.

Boston Housing Authority.—For a case involving wage rates to be paid by the Boston Housing Authority which, under the instant section, operated a number of housing projects in Boston, including Federally aided projects, see *Commissioner of Labor & Industries v Boston Housing Authority*, 345 Mass 406, 188 NE2d 150.

§ 26L. Election or Appointment of Members.

In a city, four members of a housing authority shall be appointed by the mayor subject to confirmation by the city council and one by the housing board; provided, that, of the members originally appointed, the member appointed by the board shall serve for the term of three years, and the other members shall be appointed to serve for the terms of one, two, four and five years, respectively. In a town, four members shall be elected by the town and one appointed by the housing board; provided, that, of the members originally elected at an annual town meeting, the one receiving the highest number of votes shall serve for five years, the one receiving the next highest number of votes, for four years, the one receiving the next highest number of votes, for two years, and the one receiving the next highest number of votes, for one year, and that the member originally appointed by the board shall serve for three years. Membership in a housing authority shall be restricted to residents of the city or town. No tenant in a project operated by a housing authority shall be a member of such authority. Thereafter, as the term of a member of any such housing authority expires, his successor shall be appointed or elected, in the same manner and by the same body, for the term of five years. Vacancies, other than by reason of expiration of terms, shall be filled for the balance of the unexpired

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term, in the same manner and by the same body, except elected members in towns whose terms shall be filled in accordance with the provisions of section eleven of chapter forty-one of the General Laws, as amended. Every member, unless sooner removed, shall serve until the qualification of his successor. In a city, one of the members of a housing authority shall be a representative of organized labor.

As soon as possible after the qualification of the members of a housing authority the city or town clerk, as the case may be, shall file a certificate of such appointment, or of such appointment and election, as the case may be, with the board and a duplicate thereof in the office of the state secretary. If the state secretary finds that the housing authority has been organized and the members thereof elected or appointed according to law, he shall issue to it a certificate of organization and such certificate shall be conclusive evidence of the lawful organization of the authority and of the election or appointment of the members thereof. Whenever the membership of a housing authority is changed, by appointment, election, resignation or removal, a certificate and a duplicate certificate to that effect shall promptly be so filed. A certificate so filed shall be conclusive evidence of the change in membership of the housing authority referred to therein. (1938, 484; 1946, 574, § 1; 1949, 688; 1954, 428, § 1; 1955, 128, § 1; 1961, 496.)

Editorial Note—

Much of the material in this section is derived from former § 26M.

The 1949 amendment rewrote the fourth sentence of the first paragraph, relative to the filling of vacancies.

The 1954 amendment inserted a sentence after the existing second sentence of the first paragraph of this section. Sections 3 and 4 of the amending Act read as follows:

SECTION 3. Notwithstanding the provisions of this act a member of a city housing authority, who, on the effective date of this act, is not a resident of said city, may, with the approval of the appointing authority, continue to serve as such until the completion of his term.

SECTION 4. The provisions of section three of this act shall not apply to the city of Boston.

The 1955 amendment inserted in the first paragraph of this section a sentence immediately following the sentence inserted in 1954. Section 3 of the Act reads as follows:—SECTION 3. A tenant of a housing authority now serving as a member of such authority may continue to so serve until the completion of his term; provided, however, that this act shall not be construed as a waiver of any restrictions of any contract for financial assistance prohibiting members of housing authorities from participating in any decision relating to the project affecting his personal interest, nor any other provision of any such contract.

The 1961 amendment affected only the first paragraph, adding the last sentence. Section 2 of the amending act provides:

SECTION 2. The provisions of the last sentence of the first paragraph of section twenty-six L of chapter one hundred and twenty-one of the General Laws, added by section one of this act, shall first apply in a city upon the occurrence of a vacancy in the membership of a housing authority which is to be filled by the mayor of such city; provided, however, that any member appointed by a mayor may be reappointed upon the expiration of his term.

1954, 71, § 2 (approved Feb. 3, 1954; effective 90 days thereafter) reads as follows:

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regarding the appointment of a representative
of labor to the Housing Authority of the City of Cambridge, Massachusetts

