CCM-101

City of Cambridge

O-23.

IN CITY COUNCIL

June 4, 2001

MAYOR GALLUCCIO
COUNCILLOR SULLIVAN
COUNCILLOR DECKER
COUNCILLOR BORN
COUNCILLOR BRAUDE
COUNCILLOR DAVIS
VICE MAYOR MAHER
COUNCILLOR SULLIVAN
COUNCILLOR TOOMEY

WHEREAS: This City Council has consistently expressed concern regarding the loss of major taxable properties from the City's tax base when these properties are purchased by nonprofit institutions; and

WHEREAS: This City Council accepts and understands the important role nonprofit organizations play in the life of our community; and

WHEREAS: In most instances the purchase of property by a nonprofit has little effect on the overall tax base; and

WHEREAS: Purchase of large tracts of taxable property that is later taken off the tax roles has a significant impact on the overall tax base of a City or Town which will have a comparable impact on quality of services and the overall quality of life in a community; and

WHEREAS: A piece of legislation, designated as House Bill 4139 and Senate Bill 1870, has been put before the Great and General Court of the Commonwealth of Massachusetts for consideration in the current session; and

WHEREAS: This legislation is designed to allow for Cities and Towns of the Commonwealth to continue to collect tax revenue from nonprofit organizations if and when such an organization makes a majority property purchase, defined as a purchase that is greater than one-percent of the affected City or Town's tax base; now therefore be it

RESOLVED: That this City Council express its strong support for this legislation; and be it further

RESOLVED: That the City Clerk forward a copy of this Order to the Joint Committee on Taxation in time for a hearing to be held on June 5, 2001.

In City Council June 4, 2001.
Adopted by the affirmative vote of nine members.
Attest:- D. Margaret Drury, City Clerk.

A true copy; D. Margaret Drury

ATTEST:-

D. Margaret Drury, City Clerk

Paula

Sondra typed

J.B.

CCM-101

Paula
Sandra typed
6-23.

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OFFICE OF THE MAYOR

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139
(617) 349-4321 • FAX: (617) 349-4287
TTY/TDD (617) 349-4242 • Email: agalluccio@ci.cambridge.ma.us

Anthony D. Galluccio
Mayor

MEMORANDUM

TO: The Honorable the Members of the ~~Cambridge~~ City Council

FROM: Anthony D. Galluccio, Mayor A.D.G.

DATE: June 4, 2001

RE: Attached Late Order and Back-up Materials

I, with City Councillor Sullivan, am filing the attached as a late Order expressing the City Council support for a bill, designated as House Bill 4139 and Senate Bill 1870, that is designed to prevent tax exempt institutions from avoiding the payment of property taxes on major purchases of property. I will move to suspend the rules to ask the City Manager to discuss this legislation and his support for this legislation.

I have attached the proposed Order, a copy of an advertisement the Town of Watertown had published in the Harvard Crimson, and a background piece prepared by the Town of Watertown. The Watertown Town Manager feels that it is important to pass this resolution this evening because the matter will be heard by the Taxation Committee tomorrow on Beacon Hill.

MAYOR GALLUCCIO
COUNCILLOR SULLIVAN

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ight and Wrong.

Harvard Crimson 6/4/2001

he citizens of Watertown have committed a wealth of time and money supporting the rsenal Office Park Redevelopment. It is critical to the strength of our community, hools, and other town services that Harvard University pay a fair price for our land.

arvard's tax revenue proposal for the Arsenal Office Park in Watertown isn't equitable.

- The Arsenal parcel is expected to comprise approximately 33% to 35% of **Watertown's commercial tax base.**
- With Watertown's land area of 4 square miles, **there are no other sites on the same scale as the Arsenal project available for development** to replace the loss of the future taxes to be paid on the Arsenal site.
- Boston's taxable real estate base is approximately $51 billion vs. Watertown's $3.2 billion. **The Payment** in Lieu of Tax Agreements at the dollar amounts implemented for Boston **would be totally inadequate to meet Watertown's needs.**
- With an initial loss of $2 million per year as a result of Harvard's inadequate proposed payment in lieu of taxes plan, **Watertown homeowners, small businesses and other commercial taxpayers would be unfairly compelled to subsidize Harvard's presence in Watertown.**
- This burden on Watertown would only grow as Harvard's **payment schedule shrinks** and ends over time.
- **This acquisition by Harvard is an overreach of its tax-exempt status** and will discourage public/private partnerships directed toward the clean-up of environmentally impacted properties.

nk you to the Town Council and the numbers of citizens, friends, and family of all ages o rallied last week in support of the Watertown community.

BRIEFING POINTS FOR WATERTOWN ARSENAL OFFICE PARK
HOUSE BILL – 4139 AND SENATE BILL – 1870
TAXATION COMMITTEE HEARING – JUNE 5, 2001

Background

- The Watertown Arsenal Office Park Redevelopment program involved 12 years of planning and participation by citizens of Watertown and various other federal, state and local agencies.

- The federal, state and local governments invested $100 million in taxpayer money for the clean-up and infrastructure support for the almost complete Arsenal Office Park, a ~~$~~750,000 square feet ~~modern~~, high tech complex on thirty acres of land.

- At full assessment, scheduled for fiscal year 2003 (July 1, 2002 through June 30, 2003), the taxes on the Arsenal parcel will comprise approximately 33 to 35% of the Town's commercial tax base or about 4.7 million per year.

- Watertown's land area is only slightly above four square miles. There are no other available open sites for development on the scale of the Arsenal project which would permit the Town to replace the loss of the future taxes to be paid on the Arsenal site.

- Payment in Lieu of Tax Agreements (PILOTS) at the dollar amounts that have been implemented in Boston and Cambridge (mostly on residential properties and vacant land) would be totally inadequate to meet Watertown's needs. Boston's taxable real estate base is approximately $51 billion as compared to $3.2 billion in Watertown.

- Cambridge enjoys a very high bond rating and its taxable real estate base is approximately four times greater than Watertown's. Moreover, Cambridge is undergoing a building boom in the high tech and biotech industries. By Harvard's acquisition of the Arsenal, Watertown's entry into the high tech markets will be foreclosed. Indeed, unlike Harvard's relationship with Cambridge which has evolved over 350 years, Harvard is an uninvited guest to Watertown.

- Harvard's initial offer of $2.7 million, growing to approximately $3.1 million in year ten and diminishing by 10% per year and ending at zero after year nineteen, could be increased by $2 million per annum and carried forward for as long as Harvard owns the property. Such a solution would avoid devastating cuts to school programs, teacher, police and fire salaries, and various elderly programs. Harvard's resources would easily accommodate full taxation and this would be a just result. Otherwise, homeowners, small businesses and other commercial taxpayers would be unfairly compelled to subsidize Harvard's presence in Watertown.

- Our research to date has shown that there has been no attempted acquisition of a private commercial real estate complex of this size by a tax-exempt institution in a small community like Watertown anywhere in the United States. This acquisition by Harvard is an overreach of its tax-exempt status and will discourage public/private partnerships directed toward the clean-up of environmentally impacted properties.

Statutory Issues

- Exemptions have generally been viewed with a "hostile eye" as matters of special favor or grace.

- Tax statutes may be made retroactive if the legislation so intends. (Example: Chapter 811 of the Acts of 1974, amending G.L. c. 59, § 5, Clause Third, removed tax-exempt status of certain properties occupied or used as residences for officers of educational institutions. This Act was passed on August 12, 1974 and provided that it would apply to taxes levied for fiscal years ending on June 30, 1975 and thereafter, See Trustees of Boston University v. Board of Assessors of Brookline, 11 Mass. App. Ct. 325 (1981) in which the Appeals Court found that the Act was constitutional.)

- Statute must not operate retroactively for more than a reasonable period.

- Legislature should be concerned with increasing proportion of properties that are exempt from taxation, which results in a corresponding increase in the burden imposed on the owners of non-exempt properties.

- Since enactment of Proposition 2 ½, concern is more pronounced because of statutory limits on growth of tax levy from year to year. Increasing the number of exempt properties creates the unwelcome need to pass overrides.

- The legislature may repeal previously granted tax exemptions. See Opinion of the Justices, 365 Mass 665, 668 (1974).

- A tax exemption statute which rests upon a rational classification is not to be stricken down merely because affecting a few or even one in its practical operation. See Massachusetts General Hospital v. Belmont, 233 Mass. 190, 204 (1919) (upholding amendment to charitable exemption statute where amendment affected only two properties).

- Bill applies only to taxable property that is transferred to a charitable organization.

- Bill does not apply to religious organizations. (Exemptions for property owned by religious organizations are the subject of G.L. c. 59, § 5, Clauses Tenth and Eleventh).

Explanation

House Bill – 4139 & Senate Bill 1870

The above-referenced bills, which are identical pieces of legislation, were recently introduced into the Massachusetts Senate and House of Representatives by Senator Steven Tolman and Representative Rachel Kaprielian respectively.

The legislation adds a new section, (f), to Massachusetts General Laws, Chapter 59, Section 5, Clause Third, concerning the exemption from local taxation of taxable real property that is purchased by a charitable organization.

Specifically, the legislation, the adoption of which would be at local option, would apply if a charitable organization purchased a non-exempt parcel of real property, where the property's assessed valuation or purchase price exceeded a fixed percentage of the total assessed valuation of all taxable parcels within the same assessment classification (residential, commercial, etc.) as the transferred parcel. The fixed percentage would also be determined at local option, but could be no lower than 1% (in the Watertown Commercial class, the legislation would apply to all transfers in excess of $5.1 million).

Following the purchase, the transferred parcel would remain taxable.

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Order #23

Support of legislation which supports the continuation of cities and towns in the Commonwealth to collect tax revenue from nonprofit organizations if and when such an organization makes a majority property purchase.

Mayor Galluccio, Councillor Sullivan, Decker and entire membership

In City Council June 4, 2001

ORDER ADOPTED