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Memo
November 3, 1982

THE ATTORNEY GENERAL'S OPINION

At the suggestion of the City of Cambridge, Massachusetts Cable Television Commissioner, Thomas Steel wrote to Attorney General Bellotti last July to get clarification of the way in which these two statutes are to be reconciled, should the City of Cambridge decide on municipal ownership of cable television and should the ownership model be that of an independent cable television authority (which is the Advisory Committee's recommendation), then it is essential that there be some guidance from the Attorney General. Without some guidance, the probability that there will be litigation over these issues is very high.

CONTINGENCY PLANNING with RECOMMENDATION

In the absence of the Attorney General's ruling as to which of the municipal ownership statutes governs, it is essential that the City of Cambridge, if it wishes to keep its options open on municipal ownership, start the process of creating an entity which can be a viable cable television operator for the city.

It is recommended that the Cambridge City Council take the first of the two-thirds votes required under G.L. c. 164 section 34 (Municipal Light Plant) prior to December 31, 1982. The second of the two-thirds votes can be taken after January 1, 1983.

Should the Attorney General rule that the city is governed by Massachusetts General Laws Chapter 164A (The Municipal Light Plant Law), and should the city decide in favor of municipal ownership, a resolution would be needed pursuant to state regulations in M.G.L. Chapter 164A. The Cable Commissioner and Legal Counsel could meet with the City Manager and City Council to discuss this proposal.

FOLEY, HOAG & ELIOT

(A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS)

ONE POST OFFICE SQUARE

BOSTON, MASSACHUSETTS 02109

TELEPHONE (617) 482-1300

CABLE ADDRESS: "FOLEYHOAG"

TELECOPIER (617) 482-7347

TELEX 940693

1920 N STREET N.W.

WASHINGTON, D. C. 20036

TELEPHONE 202/785-8800

HENRY E. FOLEY 1902-1978

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JOSEPH W. AMBASH

OF COUNSEL

GARRETT S. HOAG

FERNAND A. BOUDREAU

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TONI G. WOLFMAN

COUNSEL

ORRIN P. ROSENBERG

November 10, 1982

Joseph Sakey, Director
Office of Cable Television
Cambridge Public Library
449 Broadway
Cambridge, Massachusetts 02138

Dear Joe:

At your request, we have prepared the enclosed Resolution for consideration by the Cambridge City Council.

The Resolution has been drafted to maximize the options available to the City with respect to the development of cable television in Cambridge. If the Attorney General determines that G.L. Chapter 164 applies, this resolution will constitute the first vote required in the process defined by G.L. c. 164 §35. If the Attorney General agrees with arguments submitted on behalf of the City of Cambridge to the effect that G.L. Chapter 164 does not apply, the City Council will be free to consider either an ordinance or a Home Rule petition establishing and defining the powers of an independent cable television operating authority. In any event, before any municipally-owned cable system can be built, the City Manager will have first to determine that such a system will best serve the public interest and the City Council will have to authorize the financing of such a system. The Resolution should thus be viewed as a precautionary measure, not as a commitment.

If you have any questions, please let me know.

Sincerely yours,

Charles J. Beard

CJB/tm
Enclosure

A PROPOSED RESOLUTION
TO PERMIT INITIATION OF PROCEDURES LEADING
TO THE POSSIBLE ACQUISITION BY THE CITY OF A
MUNICIPALLY-OWNED CABLE TELEVISION SYSTEM

RESOLVED:

That the City be authorized to acquire a community
antenna television system ("cable television system").



CITY OF CAMBRIDGE

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CAMBRIDGE PUBLIC LIBRARY
OFFICE OF CABLE TELEVISION

November 3, 1982

TO: City Manager, Robert W. Healy and the Honorable
Cambridge City Council

FROM: Joseph G. Sakey, Commissioner JGS

SUBJECT: Attorney General's Opinion and Contingency
Recommendation

This memorandum is a brief summary of the statutory authority for municipal ownership of cable television in Massachusetts; the reasons that the City of Cambridge has filed a memorandum with the Attorney General; and the next steps, with recommendations, the City of Cambridge might consider should the City wish to keep its options open for public ownership of cable television.

There are two statutory schemes for authorization of municipal ownership of cable television in the Massachusetts General Laws.

1. G.L. c. 166A section 20 expressly authorizes municipalities to construct and operate municipally owned systems, but it requires that the operation of such a system be in accordance with c. 166A (State Cable Law).
2. On the other hand, c. 164 section 34 (Municipal Light Plant) expressly authorizes municipalities to construct and operate cable television systems in accordance with that chapter.
 - 2a. The last line of section 34 makes the balance of c. 164 applicable to the operation of municipally owned cable systems "wherever opt."
 - 2b. Chapter 164 (Municipal Light Plant) also requires that there be an affirmative vote of two-thirds of the city council in two successive municipal years, followed by ratification of the voters in a referendum, before a municipality may construct and operate a cable system.



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CAMBRIDGE CITY COUNCIL

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 498-9094

Daniel J. Clinton
City Councillor

Chairman

Cable Television Committee
Human Services Committee

November 24, 1982

Councillor Daniel J. Clinton, Chairman of the Cable Television Committee of the City Council, has scheduled two meetings of the Committee.

The first meeting will be on Wednesday evening, December 8, 1982 at 6:00 PM in the Council Chambers, 2nd floor, City Hall, to discuss memo to Joseph Sakey, Cable Commissioner, from Charles J. Beard dated November 10, 1982. (See attached)

The second meeting will be on Thursday evening, January 13, 1983, at 6:00 PM in the Council Chambers, 2nd floor, City Hall, to discuss the report presented to the City Manager by the Cable Television Advisory Committee dated October, 1982.

At this time you are asked to attend these meetings.

For the Committee,

Daniel J. Clinton
City Councillor

DJC/smc

Attachment

U.S. - 736

Comm. from Councillor Clinton, Chairman,
Committee on Cable T.V. transmitting notice
of two meetings of said committee scheduled
for December 8, 1982 at 6:00 p.m. in the
City Council Chamber Re: memo to Cable T.V.
Commissioner Sakey from Charles Beard and on
January 13, 1983 Re: report of the Cable
T.V. Advisory Committee dated October, 1982.

In City Council,

December 6, 1982

12/6/82
Referred to the
Cable TV Committee
Hearing 12/8/82 at 6 PM