

**Creedon, Paul**

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**From:** Torgun Austin [torgunaustin@hotmail.com]  
**Sent:** Saturday, January 03, 2015 6:23 PM  
**To:** City Council  
**Cc:** Lopez, Donna  
**Subject:** Subject: Teague petition Part 2

Subject: Teague petition Part 2 needs Law Dept. opinion in writing

Councilors:

Please have the Law Department publish its opinion with citations on the Planning Board's discretion to deny Special Permits as ordered by the Council on November 14, 2014.

Specifically, Attorney Costa's opinion letter states that a special permit "may be", in stead of "will normally be", granted is consistent with and underscores the holding in Humble Oil v. Board of Appeals of Amherst, 360 Mass. 604,605 (1971) which

"The mere fact that the standards set forth [in a bylaw or ordinance] are complied with does not compel the granting of a special permit . . ."

Unfortunately the city has not produced its legal opinion, in writing, to which we could refer to clarify this order being passed in committee hearing:

"Ordered: That the City Manager be and hereby is requested to instruct the Law Department to clarify the discretion of the Planning Board as it relates to special permits...."

Sincerely,

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