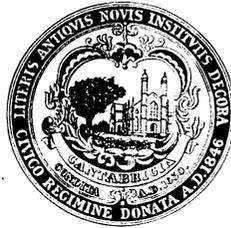


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CITY OF CAMBRIDGE

Office of the City Solicitor
795 Massachusetts Avenue
Cambridge, Massachusetts 02139

April 30, 2007

Robert W. Healy, City Manager
Cambridge City Hall
795 Massachusetts Ave.
Cambridge, MA 02139

Re: *Awaiting Report No. 07-54 Re: Report on feasibility of requiring a renewal fee for building permits when the construction goes on longer than contemplated*

Dear Mr. Healy:

In response to the above-referenced Awaiting Report, please be advised of the following:

The Massachusetts Building Code ("state building code") controls all matters concerning the issuance and revocation of permits.¹ The state building code addresses building permits that may become "abandoned" by stating that, any permit issued shall be deemed abandoned and invalid unless the work authorized by it shall have been commenced within six (6) months after its issuance. However, for cause, and upon written request of the owner, one or more extensions of time may be granted in writing by the building inspector. Work under such a permit must, in the opinion of the building inspector, proceed in good faith continuously to completion so far as is reasonably practicable under the circumstances. Additionally, for purposes of the state building code, any permit issued shall not be considered invalid if such abandonment or suspension of work is due to a court order prohibiting such work as authorized by the permit.²

Although the state building code imposes a time limit by when construction must begin under a building permit that has been issued, it does not impose any time limit for completion of the work once it has begun. As a general rule, local ordinances or regulations cannot be inconsistent with a state statute. Given the specific provision in the state building code that allows work commenced pursuant to a lawfully issued building permit to continue so long as the work is proceeding in good faith continuously to completion so far as is reasonably practicable under the circumstances, we believe that imposing a specific completion date for such work

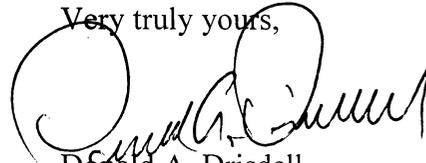
¹ 780 CMR §101.2(a).

² 780 CMR §111.8.

would be deemed inconsistent with state law and therefore impermissible. In order to impose more restrictive standards than those established by the state building code, the City would be required to recommend to the state board of building regulations and standards that more restrictive standard be adopted for Cambridge, and the City would be required to show that this is reasonably necessary because of special conditions prevailing within Cambridge.³ It seems unlikely that the City would be able to show any such special conditions that exist in Cambridge that would require adoption of a stricter standard.

Because we conclude that the City cannot establish a required completion date, there is no basis for imposing a “renewal fee” or “charge per day”.

Very truly yours,

A handwritten signature in black ink, appearing to read "Donald A. Drisdell". The signature is fluid and cursive, with a large initial "D" and "A".

Donald A. Drisdell
City Solicitor

³ M.G.L. c. 143 §98 (2002).