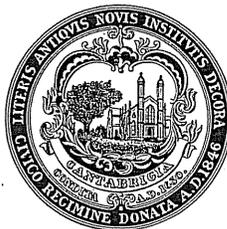


Donald A. Drisdell  
City Solicitor

Nancy E. Glowa  
Deputy City Solicitor

Arthur J. Goldberg  
First Assistant  
City Solicitor



Assistant City Solicitors

Vali Buland  
Paul S. Kawai  
Elizabeth A. Shaw  
Samuel A. Aylesworth  
Amy L. Witts

## CITY OF CAMBRIDGE

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

November 30, 2009

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

Re: *Awaiting Report Item No. 09-116, Legal Requirements for Citywide Mailing  
for Non-binding Ballot Questions*

Dear Mr. Healy:

In City Council Order No. O-14 dated September 21, 2009 now identified as Awaiting Report Item No. 09-116, the City Council asked three questions:

1. Is there a legal requirement to do a city-wide mailing to place a non-binding question on the ballot?
2. What would be the associated cost of such a mailing?
3. Whether the nuclear weapons question could be placed on the ballot for the Special December Senate election?

On December 29, 1989 the Governor approved Chapter 630 of the Acts of 1989, based upon a Home Rule Petition submitted by the City Council. Chapter 630 provides that:

**SECTION 1.** Notwithstanding the provisions of any general or special law to the contrary, the election commission of the city of Cambridge, at least ten days before any election at which a question shall be submitted solely to the voters of the city of Cambridge pursuant to any section of the General Laws including, but without limitation, section twenty-one C of chapter fifty-nine, shall cause to be printed and sent to each residence of one or more voters whose name appears on the latest voting list for said city the full text of such question, a fair and concise summary of such question prepared by the election commission of said city of Cambridge, and arguments for and against such question as provided in section two.

**SECTION 2.** The election commission of the city of Cambridge shall cause to

be printed and sent, in the manner provided in section one, arguments for and against each question submitted solely to the voters of the city of Cambridge pursuant to any general law including, but without limitation, section twenty-one C of chapter fifty-nine. No argument shall contain more than two hundred and fifty words. Said election commission shall seek such arguments from the principal proponents and opponents of each such question and such arguments shall be filed with said election commission within such time as said election commission shall designate in a written notice to the principal proponents and opponents, at least fourteen days from the date of such written notice. For the purposes of this section, the principal proponents and opponents of any such question shall be those persons determined by said election commission to be best able to present the arguments for and against such question. The principal proponents of any such question may include the first ten signers or a majority of the first ten signers of the petition initiating the placement of such question on the ballot. In determining the principal proponents and opponents of any such question, said election commission shall contact each political committee, as defined in section one of chapter fifty-five of the General Laws, to influence the outcome of the vote on such question and whose statement of organization is on file with the election commission of the city of Cambridge. If no argument is received by said election commission within the time allowed by this section, said election commission shall prepare such argument. All arguments filed with or prepared by said election commission pursuant to this section shall be open to public inspection at the office of the election commission and at the office of the clerk of said city of Cambridge.

**SECTION 3.** This act shall take effect upon its passage.

Approved December 29, 1989.

M.G.L. c. 53, §18A provides in relevant part that:

A nonbinding public opinion advisory question may be placed on the ballot for a regular municipal election in any city or town no later than the thirty-fifth day preceding such election: by vote of the city council of such city...

A proposal to place a nonbinding public opinion advisory question on the ballot for a regular municipal election in any city or town may be presented to the governing body thereof on a petition signed by at least ten registered voters of the city or town. If such governing body shall not approve said petition at least ninety days before said election, then the question may be so placed on said ballot when a petition signed by at least ten per cent of the registered voters of the city or town, but in no case less than twenty such voters, requesting such action is filed with the registrars, who shall have seven days after receipt of such a petition to certify the signatures. Upon certification of the signatures, the city or town clerk shall cause the question to be placed on the ballot at the next regular municipal election held more than thirty-five days after such certification.

The procedures established by this section shall be available to any city or town; provided, however, that if an alternative procedure is prescribed by a home rule charter, optional plan of government, or special act applying to such city or town, relative to the placing of public opinion questions upon the local ballot, then such alternative procedure shall apply.

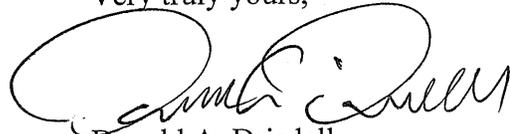
While the Home Rule Petition that led to the enactment of Chapter 630 may have been focused on local Initiative Petitions and Referenda, where the outcome of the vote has a binding effect, the broad language used makes it applicable to all questions authorized by the General Laws, which includes non-binding questions pursuant to M. G.L. c. 53, §18A as cited above. Therefore, the printing and mailing requirements of Chapter 630 apply to the placement of a non-binding ballot question on the ballot for a regular municipal

election, and the answer to Question No. 1 is that there is a legal requirement to do a city-wide mailing to place a non-binding question on the ballot.

As to Question No. 2, I am advised by the Election Commission staff that printing and a city-wide mailing would cost approximately \$25,000—\$30,000.

Finally, in answer to question No. 3, I have been advised by the Office of the Secretary of the Commonwealth that cities and towns are not permitted to place local questions on the ballot for a state election, so the answer to Question No. 3 is that the nuclear weapons question referenced in the City Council Order may not be placed on the December Senate Primary or on any other state election ballot absent a special act of the legislature.

Very truly yours,

A handwritten signature in black ink, appearing to read "Donald A. Drisdell", written over a large, stylized oval flourish.

Donald A. Drisdell  
City Solicitor