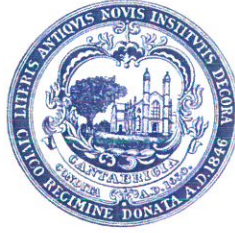


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CITY OF CAMBRIDGE

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

June 21, 2021

Louis A. DePasquale
City Manager
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Re: ***Response to Council Order No. O-6 of 7/27/20 Re: Formally Renaming the Central Square Library in Honor of Maria Baldwin and Rep. John Lewis, With the Building Being Known as "The Maria Baldwin and Rep. John Lewis Library and Center for African American/Black History and Culture"***

Dear Mr. DePasquale:

We have prepared this legal opinion in response to Council Order No. O-6 of 7/27/20, which requests that the City Manager be and hereby is requested to consult with the Director of the Cambridge Public Library, the Library Board of Trustees, and any other appropriate City personnel to consider formally renaming the Central Square Library in honor of Maria Baldwin and Rep. John Lewis, with the building being known as "The Maria Baldwin and Rep. John Lewis Library and Center for African American/Black History and Culture" going forward, or to otherwise find another suitable location for this dedication. This legal opinion addresses who has authority to rename a City building, and specifically the Central Square Library. Pursuant to the Plan "E" Charter, the City Manager is authorized to rename a City building.

In November 1940, the City adopted the current Plan "E" form of government, which includes the following sections that establish the statutory authority of the City Manager's exercise of his authority over the City's buildings and over the operations of the Public Library Department.

M.G.L. c. 43, § 103, provides:

The city council shall appoint a city manager who shall be sworn to the faithful performance of his duties and who shall be the chief administrative officer of the city and

shall be responsible for the administration of all departments, commissions, boards and officers of the city, whether established before its adoption of this plan or thereafter, except that of the city clerk, city auditor, any official appointed by the governor or any body elected by the voters of the city....(Emphasis supplied).

M.G.L. c. 43, § 104, provides:

It shall be the duty of the city manager ... to supervise the administration of the affairs of the city(Emphasis supplied).

The City's 1940 adoption of the Plan "E" charter is consistent with the trend in municipal government to centralize power and authority over municipal departments. The Massachusetts Supreme Judicial Court ("SJC") held in Williams v. City Manager of Haverhill, 330 Mass. 14 (1953)

It is not unusual in accordance with the present trend in municipal government to centralize power and responsibility for the proper and faithful conduct of municipal officers and departments upon a mayor and more recently upon a city manager. That trend is exemplified in the Plan D form of city charter. The city manager is by § 89¹ of the charter designated the chief administrative officer of the city and is responsible for the administration of all departments, commissions, boards, and offices of the city, whether established before its adoption of this plan or thereafter, except that of the city clerk, city auditor any official appointed by the Governor, or anybody elected by the voters of the city. Id. at 15-16.

After concluding that the charter vested authority in the Haverhill City Manager, the SJC further ruled:

This interpretation of the new charter is in harmony with one of its main purposes to concentrate broad and extensive authority in a city manager in order to acquire and maintain a high degree of efficiency in the administration of municipal affairs. Id. at 18.

See also Atkinson v. Town of Ipswich, 34 Mass. App. Ct. 663, 666 (1993) ("purpose is to concentrate administrative authority and responsibility in a professional manager, to the end of efficient and economic administration of municipal affairs.").

Consistent with this trend identified by the Supreme Judicial Court, the City Manager is responsible for administration of all departments and the affairs of the City. The responsibility for administration of all departments and affairs of the City has been interpreted broadly. Accordingly, this includes responsibility for City buildings, and in our opinion and in the absence of any statute to the contrary, the authority to name City buildings.

In 1880, sixty years prior to the adoption of the Plan "E" Charter, the City enacted the Cambridge Public Library Ordinance, later amended to be named the Public Library Department

¹ This provision of the Plan "D" charter is identical to § 103 of the City's Plan "E" charter.

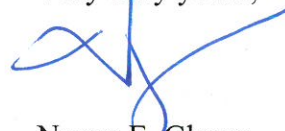
Ordinance and codified at Chapter 2.46 of the Municipal Code (the “Ordinance”). The Ordinance vests the care, custody and maintenance of the library buildings with the Board of Trustees. However, the later adopted Plan “E” Charter supersedes the conflicting provisions in the Ordinance. M.G.L. c. 43, § 4, provides:

Ordinances, resolutions, orders or other regulations of a city or of any authorized body or official thereof, existing at the time when such city adopts a plan of government set forth in this chapter, shall continue in full force and effect until repealed, modified or superseded. (Emphasis supplied).

Therefore, the provision in the Ordinance vesting the care, custody and maintenance of the library buildings with the Board of Trustees are superseded, but any other provisions of the Ordinance that are not in conflict with the Plan “E” Charter are not superseded, such as the other powers and duties of the Board of Trustees.

By virtue of the operation of M.G.L. c. 43, §§ 4, 103 and 104 and Massachusetts cases, the City Manager is vested with the authority over City buildings, including library buildings, and such authority encompasses the authority to name or rename a library building.

Very truly yours,



Nancy E. Glowa
City Solicitor