

To: Riverside Study Committee

From: Phyllis Baumann

Subject: Whether the city is required to issue resident parking permits to students in dormitories

The Traffic Department has advised us that the city is required to issue resident parking permits to dorm residents. I respectfully disagree with this opinion. I am urging the city to reconsider who is eligible for resident parking permits in the city of Cambridge and to develop a policy that limits the availability of resident permits and visitor permits to those housed in dormitories.

Currently, dormitory residents are eligible for resident and visitor permits. The city manager relies on Hershkoff v. Board of Registers of Voters of Worcester, 366 Mass. 570(1974) for this policy. But that case does not require the issuance of parking permits to students resident in dormitories.

First, the case deals with voter registration and interprets the voter registration requirements of Massachusetts statutes in light of the U.S. and Massachusetts Constitutions, particularly those provisions lowering the voter age to 18. But parking is not voting. Voting is, of course, one of our most fundamental rights guaranteed by the Constitution and by statute.

Understandably the courts exercise a more rigorous standard of review when considering the claimed denial of a fundamental right such as voting in light of

specific provisions granting the right to vote to younger people. Parking is not a constitutional right. It is merely a privilege.

Second, when the Supreme Judicial Court upheld the city's resident parking program (Commonwealth v. Petralia, 372 Mass. 452(1977)), it recognized the city could make distinctions based on various classifications so long as those distinctions rationally further legitimate city purposes. The city could decide to limit resident parking to those who reside in Cambridge on a year round basis and are able to establish that their only domicile is Cambridge. Or it could require more stringent proof of domicile, that is an intent to make Cambridge one's only and permanent residence. At the very least, one's income tax returns should indicate that one is domiciled in Cambridge.

A domicile is one's actual residence with the intention to remain permanently for an indefinite time and without any certain purpose to return to a former place of abode (Hershkoff). One can have only one domicile. What the court held in Hershkoff is that mere residence in a dormitory does not invalidate a person's choice "at least for voting purposes" to change their domicile. The court recognized that this entails a formal declaration of change of domicile, which "may well have a variety of consequences, some of which are not desired." Even for voting, the public authorities have the right to inquire into the matter of domicile to ascertain whether there is sufficient proof of domicile, that is the intent to make a place one's actual and only domicile.

At the very least, the city of Cambridge should require that those residing in dormitories demonstrate that the dormitory is their actual domicile. This might include a tax return indicating that the dormitory is their address for tax purposes or signing a statement that they are domiciled in Cambridge. The city could inquire as to whether dormitory residents are registered to vote in another location or ask other questions to establish that the dormitory is their actual domicile and that they have no other permanent place of abode. It is clear that mere residence in a dormitory is not equivalent to domicile.

Given the severity of the parking problem in the city and the hardship suffered by Cambridge taxpayers who cannot park in their own neighborhoods, this matter deserves some attention.

Sincerely,

A handwritten signature in cursive script that reads "Phyllis Baumann". The signature is written in black ink and is positioned above the printed name.

Phyllis Baumann

Cc: Robert Healy, Sue Clippinger