



CITY OF SOMERVILLE, MASSACHUSETTS  
LAW DEPARTMENT

March 23, 2010

Honorable Board of Aldermen  
City Hall  
Somerville, MA 02143

Re: Response to Order #188927  
Issuing tickets to violators illegally parked in HP spots

Dear Honorable Board Members:

You have asked that the City Solicitor update your Board with the status of the Parking Control Officers tagging vehicles illegally parked in handicapped spots.

Traffic Regulation 5-16 (a) states that persons having lawful control of private property where the public has a right of access as invitees or licensees must reserve handicapped parking spaces according to an established formula. Traffic Regulation 5-16 (d) provides that leaving unauthorized vehicles on parking spaces designed for use by handicapped persons is prohibited. Traffic Regulation 10-5 (m) states that occupying a parking space designated for handicapped persons is punished by a fine of \$200.

Given the above regulations, in my opinion, the City may issue tickets in handicapped spots on private property, provided that the public has a right of access as invitees or licensees. Further, in my opinion, no contract between the City and a private property owner is necessary for there to be public right of access. Right of access may be implied. (For example, the public has a right of access to a mall).

I have also been informed that your Board inquired as to whether liability would be of concern if the parking control officer were somehow injured in the course of employment while on private property. As for liability, the legal analysis would be the same for any other injury which occurs during the scope of employment.

I am informed that the Traffic and Parking Department is currently issuing these tickets.

Honorable Board of Aldermen  
City Hall  
March 23, 2010  
Page 2



Please let me know if you have any additional questions.

Sincerely,

David P. Shapiro  
Assistant City Solicitor

cc: Mayor Joseph A. Curtatone  
Francis X. Wright, Jr., Acting City Solicitor  
Robert Bradley, Acting Director of Traffic and Parking  
Terence Smith, Chief Traffic Engineer