

2022 OCT 21 A 11:09

October 21, 2022

The Honorable, the City Council
City Hall
Somerville, MA 02143

CITY CLERK'S OFFICE
SOMERVILLE, MA

Re: Professor's Row &
Packard avenue

Ladies & Gentlemen:

You will find enclosed herewith a copy of the letter I have delivered this day to the Holland Street offices of the traffic commission (TC).

Since the contents are clear on their face, I will not recap them here, except to say I find the TC's failure to protect the right of every Somerville resident to park on Professor's Row to be both disappointing as well as thoroughly inexplicable. Such indifference to the public interest is not what I expected from the TC when I wrote the special act that created it while representing the people Ward Seven on the board of aldermen in 1978.

Should you have any questions, please feel free to contact me.

Sincerely,



Andrew R. Puglia
158 Powder House Boulevard
(857) 523-8227

October 20, 2022

Traffic Commission
139 Holland Street
Somerville, MA 02144

Delivered By-Hand

Re: Professor' Row &
Packard Avenue

Ladies & Gentlemen:

At the traffic commission (TC) meeting on Thursday, October 13, 2022, the agenda included an Item #11, entitled "Discussion of an inquiry concerning parking regulations on Professor's Row and Packard Avenue." The discussion was in response to my letter of September 14, 2022, in which I raised questions as to the status of on-street parking on both streets.

When the TC chairperson, DPW commissioner, Jill Lathan, got to Item #11, she turned to the traffic director (TD) for her input. The first issue the TD addressed was the 1AM - 8AM time limit for the enforcement of residential permit parking on upper-Packard Avenue between Powder House Boulevard and Professor's Row (UP) which, I asserted in my letter, has turned UP into a private parking lot for the benefit of Tufts University (TU) faculty, staff, employees and students.

In her comments, the TD stated that the UP 1AM - 8AM enforcement limitation was the result of a motion put forth by former DPW commissioner and TC chairman, Bob Trahan, in 1996. She displayed what she indicated was a copy of the meeting agenda where the Trahan motion was offered.

Although I have no recollection of the change in status for on-street parking on UP taking place as far back as 1996, the date it first took effect is entirely irrelevant to the point I am making. For the reasons set forth in my September 14 letter, I am suggesting the 1AM - 8AM enforcement time limit for residential permit parking on UP was unjustified when it was first proposed and remains just as unjustified today.

But even if the 1996 regulation was properly adopted, I submit it was repealed, by implication, on and after August 1, 2009, as a result of the TC's adoption of Regulation 2009-23, implementing residential permit parking "**on all public streets in the City of Somerville Monday through Saturday, 24 hours**" (emphasis added). (See Exhibit A annexed hereto.) The only exception to the 24-hour enforcement period noted in 2009 regulation is that "**all existing 2 Hour Parking 8am to 6pm except by permit will remain in effect. These spaces will be designated Residential Permit Parking Only from 6pm to 8am**" (emphasis added). No other exception is listed in the regulation, including the 1996 Trahan-initiated 1AM - 8AM limitation on UP.

The second issue I raised in my September 14 letter was TU's unlawful installation of signs purporting to limit on-street parking on Professor's Row (PR) to "Tufts Employees Only."

In her explanation and defense of the TU action, the TD stated that the city council's December, 2019 enactment of its comprehensive zoning ordinance revision (CZO) gave TU the authority to install its signs and take control of PR, thus rendering it a private way. She further stated this authority specifically derives from section 7 of the CZO, which established a new zoning district entitled, "TUFTS UNIVERSITY (TU)."

I have two words that describe my reaction to the TD's explanation and defense of TU's action: utterly preposterous.

The city council's authority to enact the CZO or any zoning ordinance, for that matter, arises from Chapter 40A of the General Laws. Section 1A of Chapter 40A defines "Zoning" as, "**ordinances and by-laws adopted by cities and towns to regulate the use of land, buildings, and structures** (emphasis added). Mark Bobrowski, a noted zoning and planning law expert and a former consultant to the city of Somerville on the zoning for Assembly Row, states, in Section 2.01 of his treatise, "*Handbook Of Massachusetts Land Use Planning Law*," that Chapter 40A "**is the chief vehicle for land use regulation in the Commonwealth**" (emphasis added). Nothing contained in Chapter 40A confers upon cities and

towns any authority to lay out, alter, widen, maintain **or discontinue public streets or ways** (emphasis added). Such authority is found in Chapters 82 - 84 of the General Laws. Nor is such authority found in Chapter 397 of the Acts & Resolves of 1978, the enabling statute which prescribes the authority of the TC to regulate traffic and parking on the public streets and ways of Somerville.

M.G.L. c. 82, s. 32A, enacted in 1924 and amended in 1983 and 2006, provides that a city council may, after holding a public hearing with notice to abutters and the general public, vote to "abandon," i.e., discontinue a public way. Indeed, the Somerville city charter, in section 17, authorizes the city council, "subject to the mayor's veto, without appeal from its decision, to lay out, locate anew, alter, widen **and discontinue public ways and streets...after notice given in accordance with the General Laws relating to public ways** (emphasis added).

Thus, notwithstanding the patently absurd proposition(s) that TU obtained authority to install its "Tufts Employees Only" parking signs on PR by virtue of section 7 of the CZO and, as a result, PR has been converted to a private way over which TU exercises authority, I submit the only lawful way for either eventuality to occur is if the city council votes to discontinue PR as a public way, in accordance with the General Laws and the city charter.

Pending such action by the city council, PR remains a public street on which any Somerville resident whose motor vehicles display a valid residential parking permit, is entitled to park on it. And it is the TC's statutory duty to ensure this right is not abrogated by TU, as it has so egregiously done.

Accordingly, and for the second time in the last thirty days, I respectfully urge the TC to immediately take the following action(s):

- 1.) remove or cause to be removed from PR, those signs that have unlawfully been installed by TU announcing to the general public that on-street parking is limited to "Tufts Employees Only;" and

Traffic Commission

Page-4-

2.) remove the signs currently affixed atop the residential permit parking signs on UP announcing the 1AM - 8AM enforcement time for permit parking, pending the TC's proper adoption of an implementing regulation and the expiration of the relevant appeal period.

Thank you.

A handwritten signature in black ink, appearing to read 'A. Puglia', with a stylized flourish at the end.

Andrew Puglia

158 Powder House Boulevard

(857) 523-8227

Exhibit A

THE TRAFFIC COMMISSION BY THE POWER VESTED IN IT THROUGH A SPECIAL ACT OF THE LEGISLATURE, CHAPTER 397 OF THE ACTS OF 1978, HEREBY AMENDS THE TRAFFIC ORDINANCES WITH THE FOLLOWING TRAFFIC REGULATIONS:

Rescind 2009-21 and replace with the following:

2009-23 Article V Section 5-6 "Permit Parking Locations and Prohibitions" is amended as follows: Residential Permit Parking on all public streets in the City of Somerville Monday through Saturday, 24 hours; all existing 2 Hour Parking 8am to 6pm except by permit will remain in effect. These spaces will be designated Residential Permit Parking Only from 6pm until 8am

PROMULGATED: MAY 21, 2009
ADVERTISED: JUNE 11, 2009
JUNE 18, 2009
JUNE 25, 2009
EFFECTIVE: AUGUST 1, 2009

JAMES KOTZUBA, ACTING DIRECTOR