



CITY OF SOMERVILLE, MASSACHUSETTS
LAW DEPARTMENT

MEMORANDUM

To: The Honorable Board of Aldermen
Fr: Matthew Buckley, Assistant City Solicitor *mgB*
cc: Frank Wright, Acting City Solicitor
Matthew Dias, Mayoral Aide
Re: Parking Restrictions Per District
Da: March 19, 2010

You have asked whether it would be legal to place additional parking restrictions in a designated area of the City that would allow only residents of the area so designated to park there and would not allow City residents from other areas to park. In my opinion it would be legal.

Constitutionally, generally speaking, so long as the ordinance has a rational relation to a legitimate public policy goal, it is permissible. See, Commonwealth v. Petralia, 372 Mass. 452, 455 (1972). "The basic question is whether the classification made by the regulation rationally furthers a legitimate State purpose." Id. at 355.

The question you presented requires consideration as to whether there is some legitimate governmental purpose in restricting some members of the City from parking in one particular area in the City while affording only the residents of that area the right to park there. It is well-established that the regulation and use and operation of vehicles in public ways, including parking, is a legitimate subject of State concern." Id., at 456 citing, Commonwealth v. Dobbins, 344 Mass. 272, 275 (1962). Moreover, it is equally well-established that so long as there is a legitimate State purpose it shall overcome an equal protection of the laws challenge, See, Commonwealth v. Sargent, 330 Mass. 690 (1953) (Boston parking regulation exempting members and officers of the General Court upheld).

There are cases that have overturned resident parking restrictions because they were not deemed to be rationally related to a legitimate objective. In Salter College, LLC v. City of Worcester, 26 Mass. L. Rptr, 314 (November 10, 2009), for example, a Superior Court judge invalidated an ordinance that restricted parking on public streets fronting and abutting the college, stating that the parking restrictions were not intended for commercial or mixed use sites and that the City had no justification for extending parking

restrictions to both sides of the streets abutting the college when residents lived on only one side.

Nevertheless, it is my opinion that the restriction of parking to residents of a particular area of the City that does not include all of the residents of the City would be permissible in the circumstances suggested. In Petralia, Id., residents-only parking was upheld because people parking near their homes were not using their vehicles and, hence, were not contributing to air pollution or traffic congestion. You have indicated that since the Sullivan Square area is at the far end of the City and near the MBTA Station, such a regulation would encourage residents at the other end of the City to use public transportation, buses, to get to the train station rather than driving and parking their vehicles and adding to the traffic flow problems that are of particular concern in that area. In my opinion, the legislative purpose you have expressed is legally defensible as having a rational basis.

If I may be of any further assistance please do not hesitate to contact me.