



CITY OF SOMERVILLE, MASSACHUSETTS
LAW DEPARTMENT

May 21, 2014

Honorable Board of Aldermen
City Hall
93 Highland Avenue
Somerville, MA 02143

Re: Fossil Fuel Divestment

Dear Honorable Board Members:

You have asked this office to research whether other communities sought legal counsel prior to the legislative body taking official action relative to fossil fuel divestment. Our research has revealed that Amherst, Northampton, Provincetown, Truro and Cambridge did not seek a legal opinion from their respective counsel. Truro's counsel was unaware of the matter being presented to the Board of Selectman, instead of Town Meeting.

You have also asked for the potential penalties for violation of G. L. c. 268A § 19. General Laws, c. 268A, § 19 provides that any person who violates that section "shall be punished by a fine of not more than three thousand dollars or by imprisonment for not more than two years, or both."

Note the according to the FAQ's on the State Ethics Commission website, with respect to the resolution of a complaint, "[t]he resolution varies with every case. If the Commission determines that there is 'reasonable cause to believe' that the conflict of interest law has been violated, then the case can be resolved: with a confidential education letter to the subject in which the Commission finds reasonable cause to believe the subject has violated the law, and the subject consents to publication of the letter; with a public disposition agreement in which the subject admits to violating the conflict of interest law and pays a civil penalty; or with the Enforcement Division issuing an order to show cause, which initiates a public adjudicatory hearing."



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Finally, you have asked whether there was an option to appeal the opinion of the State Ethics Commission. In my opinion, while there is no appeal *per se*, a plaintiff may seek judicial interpretation of a statute by an action for Declaratory Judgment. Graham v. McGrail, 370 Mass. 133 (1976).

Please feel free to contact me with any additional questions.

Sincerely,

Francis X. Wright, Jr.
City Solicitor