

November 11, 2009

Senator Anthony Petrucci
State House Room 413-B
Boston, MA 02133

Representative William Straus
State House Room 473-F
Boston, MA 02133

Subject: House Bill No. 852

Dear Senator Petrucci and Representative Straus:

The Boston Groundwater Trust was established by the Boston City Council to monitor groundwater levels in sections of the City where the integrity of wood pile building foundations is threatened by deterioration from low groundwater levels and to make recommendations for solving the problem. We serve as a member of the City-State Groundwater Working Group, are a signatory of the Memorandum of Understanding on groundwater issues, and have been a key participant in efforts to raise groundwater levels in Boston. The Trust does not take positions on legislation; however, we established a committee to review the subject proposed bill and suggest areas where we might have concerns.

The committee reported to our Board of Trustees who voted that we advise the Legislature of its findings as follows:

We believe that the goals of the legislation are positive. The committee was particularly pleased with effort to minimize withdrawal of groundwater in areas of wood pile building foundations by regulating pumping and raising funds for administration of groundwater conservation programs.

The committee feels that any legislation could offer cities and towns the opportunity to opt in to the regulations rather than requiring them to certify that the legislation does not apply.

The committee was concerned that language of the current proposed legislation establishes a regulatory structure that may lead to unfunded spending mandates on cities and towns while potentially slowing the approval process for developments without commensurate gains in solving the groundwater problem.

The committee noted that the proposed legislation mandates the establishment of a Groundwater Protection Remedial Fund, the purpose of which is to reimburse property owners for damages to wood piling supported buildings during a five year period when those agencies participating in the City-State Groundwater Working Group are exempted from liability. The funding source for these damages, which could often exceed \$250,000 for each structure is unspecified in the legislation and to be determined by DEP. This could lead to the requirement for very substantial expenditures by the Commonwealth.

The committee was concerned that the legislation does not adequately differentiate between groundwater in the near surface aquifer, critical for piling protection, and groundwater in lower aquifers. Regulations required under the legislation may thus have unintended negative consequences in situations that do not contribute to wood pile deterioration.

The committee felt that there could be additional definition for terms like “groundwater” and “sump pump” in order to clarify the difference between the removal of wood pile preserving groundwater and pumping of rainwater necessary for flood protection.

The committee believes that a provision for licensing pumps when they are installed might be a simpler starting point for regulating groundwater pumping.

The Trust has been involved in the City of Boston’s efforts to address groundwater issues through zoning and other methods. We would be pleased to share our expertise in further efforts to meet the bill’s laudable goals.

Very truly yours,

Elliott Laffer
Executive Director

Cc: Sen. Sonia Chang-Diaz
Rep. Marty Walz
Rep. Byron Rushing
Rep. Aaron Michlewitz