

Elliott Laffer prepared testimony at hearing regarding Massachusetts House Bill 852, Dec. 1, 2009

My name is Elliott Laffer, and I serve as the Executive Director of the Boston Groundwater Trust.

The 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.

We believe that the goals of the legislation are positive. We are particularly pleased with the 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.

We feel 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.

We are 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.

We note 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.

We are 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.

We feel 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.

Our 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.

The meetings of the City-State Groundwater Working Group have consistently been among the most effective and focused meetings that I have participated in. The members of the Working Group and other attendees have openly shared information and delivered on commitments to work toward solutions of groundwater issues. I believe that whatever happens with the proposed legislation, it is critical to not interfere with this cooperation and focus, which I believe is a model for how Commonwealth and municipal entities can work together.