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Historic Resources Committee Position Paper Senate Bill 2053

March 5, 2012

To: John Nunnari, Mike Davis, Margaret Wigglesworth, and Deborah Fennick
From: Henry Moss, Sara Wermiel, and Jack Glassman, HRC Chair

We are writing to you about Bill S.2053, *An Act relative to certain projects referred to the Massachusetts Historical Commission for consultation* (the bill doesn't capitalize the name of the MHC, but it is a proper noun and should be capitalized). While this bill may seem parochial (initiated as it was to deal with a local issue) and its purpose esoteric, it is actually a tremendously consequential bill, which, if enacted, would end state oversight of projects that affect thousands of historic properties around the Commonwealth.

Our committee members have thought about S.2053 and its implications deeply. We sought observations from allied preservation non-profits, local historical commissions, real estate lawyers, town and city agencies, and elected officials. We have read articles about the history of the issue. Historic Resources Committee members attended and made presentations at a January 24 hearing on the bill, some waiting 5-6 hours to speak. The discussion about the bill has been complicated by a local issue (Meditech's proposed development on a site in Freetown), and efforts to carve that site out from MHC overview, which included an amendment to the Supplemental Budget (Clerk #4 that was denied), a Home Rule petition to exempt the site from regulatory review by the Massachusetts Historical Commission (MHC), and Bill H.3953 (*An Act relative to a certain parcel of land in the town of Freetown*), introduced a couple weeks ago, which also exempts the site and instead creates a special review process just for the site that excludes the MHC. However, the bill S.2053 does not deal only with the Freetown site; it would exclude all historic sites that are not on the State Register, anywhere in the state, from MHC review. It is this bill, with its blanket exclusion of all inventoried, but not yet listed, historic sites that is the issue.

We maintain that S.2053 should be stopped. Moreover, the BSA should avoid involvement in discussions about the Meditech site or project reviews at the MHC.

Our committee's position is clear and has remained consistent since we learned about S.2053 late in 2011.

1. We oppose the bill strongly as bad policy for the Commonwealth, which will cause gradual degradation of the built-environment and economic harm as its effects unfold over time.
2. The particular circumstances of the Meditech site proposal are of no professional interest to our committee. The issues are archaeological. However, its exemption from regulatory review would set a destructive precedent.
3. The proposed Senate bill in no way addresses the MHC's regulatory review *process*. It simply seeks the exclusion from regulation by the MHC of all historic properties that are "inventoried" by the MHC but not on the State Register (i.e., on the National Register of Historic Places or already included in a local historic district). The bill seeks to affect this retroactively and with no provision for designating properties as significant in the future.

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We have seen and heard an assortment of anecdotal statements that support or detract from the MHC's influence on projects. In most of these the subjectivity quotient is very high. The Historic Resources Committee's position on these commentaries is that they are an inappropriate distraction—a source of confusion between legislative frameworks and administrative management. We urge the BSA to resist these exchanges and focus its influence on stopping passage of the proposed bill, S.2053.

4. We understand that the BSA with AIA/Massachusetts can function as an “honest broker” in controversial matters of planning and design. We support that role for the two organizations and our committee could participate in a constructive review of ways to make interaction with the MHC more efficient. But this must be done in an appropriate venue, under separate circumstances. We think it important for our professional organization to avoid being drawn into peripheral matters while S.2053 is under review by the Joint Committee.

To conclude, we feel the appropriate position of the BSA should be to unequivocally oppose S.2053 as bad policy. If discussions of MHC's processes should prove to be unavoidable, then they can be addressed in an appropriate context separately from the proposed bill to alter legislation.

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