



February 4, 2005

Senator Michael W. Morrissey
Room 413D
The State House
Boston, MA 02133-1053

Re: Mooring Fees
Our File No. 2005-22

Dear Senator Morrissey:

Commissioner LeBovidge asked me to respond to your letter regarding the power of harbor masters to set mooring fees.

Specifically, you ask whether the Quincy harbor master may impose a mooring fee without approval of the city council. As the Commissioner indicated in his letter of June 30, 2004, municipal fees are not within the Department of Revenue's regulatory jurisdiction or areas of expertise. Therefore, we can only make some general comments about the power to set fees and would have to defer to Quincy's city solicitor to determine how they apply in this particular case.

Massachusetts cities and towns may impose fees for the use of certain services and the regulation of businesses or activities. The board or officer with the power to set a particular fee or charge varies. In some cases, the general laws vest rate setting authority for particular fees and charges in specified boards or officers. See, for example, G.L. c. 41 §69B (water charges) and G.L. c. 83 §16 (sewer charges). A municipal charter or special act may grant the power to set those fees to other officers, or in the case of fees not governed by the general laws, vest them in a particular officer. In the absence of a statute or charter provision, the power would ordinarily reside in the municipality's legislative body. If the municipality accepts G.L. c. 40 §22F, however, the power of the legislative body to set charges for services rendered, or licenses, permits or certificates issued, by a department is delegated to the department head.

With respect to mooring fees, G.L. c. 91 §10A provides for their imposition by "the city or town or whoever is so authorized by the city or town." (Emphasis added). This language clearly reflects the legislature's understanding that a harbor master or other officer may be empowered by charter, special act or municipal acceptance of a local option act to set the fees. Also see similar language regarding the power to set solid waste disposal fees under G.L. c. 44 §28C(f) ("Any city or town acting by and through the officer or officers, board, committee or other body authorized by law, if any, to fix ... such fees ... otherwise, acting by and through its chief executive officer, is hereby authorized to fix ... fees.")

I hope this information proves helpful.

Very truly yours,

A handwritten signature in cursive script that reads "Daniel J. Murphy".

Daniel J. Murphy
Chief, Property Tax Bureau

DJM:KC