THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF CAMPAIGN & POLITICAL FINANCE
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MARY F. McTIGUE
DIRECTOR

December 22, 1992
AO-92-28

Shaun P. Kelly
State Representative
30 Florence Street
Dalton, MA 01226

Re: Political Committee Sponsored Community Barbecue

Dear Mr. Kelly:

This letter is in response to your July 13, 1992 letter requesting an advisory opinion regarding the legality of your political committee sponsoring a free picnic/barbecue and will confirm the oral advice that you previously received. I apologize for the delay in my response.

You stated that your political committee would like to host a free community barbecue. Your committee would like to hold the event at a public park in Pittsfield, Massachusetts. The park is owned by the city and open to the general public; the committee does plan on getting permission from the local Park Commission. You also stated that the committee plans on bringing grills, tables, and chairs, as well as food and drink, to the park and they plan on displaying signs to indicate that they hosted the event. The committee will not use any buildings in the park as there are none. You ask whether your political committee may sponsor the barbecue without violating campaign finance law.

In your request for an advisory opinion you did not state whether your committee would be soliciting or accepting contributions. However, since there are no buildings in the park this portion of section 14, which prohibits accepting "anything of value" in a building or part thereof which is "occupied for municipal purposes," would not apply.

Assuming that your political committee would be soliciting or receiving contributions, the applicable statute, M.G.L. c.55, s.14, states in pertinent part:

> No person shall in any building or part thereof occupied for state, county or municipal purposes demand, solicit or receive any payment or gift of money or other thing of value for the purposes set forth in section thirteen.[1]

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1. Section 13 refers to prohibitions on accepting contributions for "the political campaign purposes of any candidate for public office or of any political committee, or for any political purpose whatever . . . ."

If there were, for instance, an administrative or other type of building in the park which was occupied for municipal purposes your committee could not use the building for the barbecue. This would include any maintenance, historic, or other municipal building. Any integral portion of the building also could not be used, which includes the immediate surrounding area. Since there are no buildings in the park these restrictions would not apply to your situation.

An issue is raised by your stated intention to charge $.50 for soft drinks. The Office of Campaign and Political Finance ("Office") has consistently advised that any funds received in such a situation are considered contributions. This requires maintaining records of the name and address of each person who purchases a drink since they would be considered contributors.[2]

The use of a city owned park for the political committee sponsored barbecue also raises the question of whether this constitutes a governmental contribution to the committee. This event is clearly for the benefit of the candidate. The Supreme Judicial Court addressed the issue of municipal contributions in Anderson v. Boston, 376 Mass. 178 (1978). Of municipal contributions the court stated:

> If the Legislature had expected that municipalities would engage in such activities or intended that they could, G.L.c.55 would have regulated those activities as well. Id. at 186.

As such, municipalities are prohibited from contributing for the purpose of nominating or electing a candidate. As this Office stated in AO-88-26, the use of a city owned park would be in violation of Anderson unless:

> (a) no fee is charged any person desiring to use the park under similar circumstances or (b) a fee similar to the fee charged to other users is charged to the sponsors of the [barbecue].

Therefore, your political committee may sponsor the event provided one of the above conditions is satisfied. In addition, your committee may conduct fundraising activity since section 14, as previously noted, does not apply to your specific situation. We would caution you, however, that in sponsoring this event you and your political committee are subject to all other pertinent campaign finance reporting requirements and restrictions.

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2. If an individual or individuals directly purchased the drinks and sold them at the barbecue, you would avoid the cumbersome record keeping requirements. Here the political committee would be insulated from the receipt of monies and those attending the event would be able to obtain refreshments, which we assume is your primary concern.

This opinion has been rendered solely on the basis of representations made in your letter, your telephone conversation with this Office's legal intern, Todd J. Paglia, assumptions set forth herein, and solely in the context of M.G.L. c.55.

Please do not hesitate to contact this Office should you have additional questions about this or any other campaign finance matter.

Very truly yours,

Mary F. McTigue

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Director