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MEMORANDUM

To: Thomas Sullivan, City Council President, Kaitlin Wright, City Clerk
From: Per C. Vaage, Lisa L. Mead, City Solicitors
Date: December 11, 2025
Re: Flammable Storage Permit—168 Hale Street; Hearing of December 2, 2025

Reference is made to the above captioned matter. In that connection, we have been made aware of an issue concerning notice by the applicant for the above-referenced permit to the abutters, as statutorily required under G.L. c. 148, § 13. Specifically, that statute requires that notice to the abutters be provided notice “by registered mail, not less than seven days prior to ...hearing”. Here, it appears that notice was not mailed out until November 28, 2025, for a hearing which was held on December 2, 2025. As such, the notice was legally deficient, and the City Council did not have the authority at that time to grant the permit sought.

By way of remedy, the statutory scheme governing these types of storage facilities provides for appeals by an “aggrieved” party (which would include abutters) to the Fire Marshal, however those types of appeals are limited to whether the grant of the permit “would constitute a fire or explosion hazard”. G.L. c. 148, § 13. *See also, G.L. c. 148, s. 31* (authorizing Fire Marshal to make orders on appeal “but only in so far as the appeal presents a direct question of fire or explosion hazard”).

In the current posture, given that the permit should not have issued in the first instance absent legally sufficient notice, the process will have to require a hearing, with appropriate and timely notice to the applicant to revoke the current permit, and at the same time, requiring the applicant to resubmit the application with appropriate notice to the abutters as required by the statute.

In order to address the revocation of this permit, the applicant must be provided with notice and an opportunity to be heard. The City Council should put this on a

future agenda and properly notice as it would any other application or hearing. However, in advance of doing so, the City Council must put the applicant on notice in writing of the City's contemplated revocation, and the specific basis for the Council's concerns. In this instance, the written notice should cite the failure of seven (7) days notice to abutters, based on the fact that the notice only appears to have been mailed on November 28, 2025, for a December 2, 2025, hearing, and should cite the concerns that abutters who otherwise would have had the opportunity to be heard in connection with the application for the permit may not have received notice, constructive or actual, thereby rendering the City Council's grant of the permit ineffective. Finally, the notice should advise the applicant that the purpose of the hearing is to show cause as to why the permit should not be revoked. This notice should be sent certified mail, return receipt requested, and be sent no sooner than 30 days before the planned hearing date.

Please let me know if you have any questions.

cc. Melinda E. Barrett, Mayor