

processors. One of the as-  
ers, Priscilla J. Young, a  
ran unsuccessfully for  
2002 and is said to be  
another try; Anastasia  
also an assistant regis-  
trarian, is another  
fueling in the rumor mill.  
Democratic side of the  
party divide, Eric T. Turk-  
leimer, who has been  
Cape and islands of  
Nantucket  
representative since 1989,  
is reported to be eyeing the job

## Priscilla Bonds

attorneys in agreement  
Bonds' historic, albeit  
the home run could sub-  
stantiate a 10-year-old fan who caught  
the ball, one local lawyer is  
guessing as to what lengths  
the Revenue Service will go  
to to get the baseball action.  
The fan at Fenway  
stadium, who takes a non-  
stop Boston Red Sox  
autograph Schilling? While the  
value of that sort of auto-  
graph is not close to match-  
ing figures attached to  
the market has increased.  
He added value, Boston  
attorney **Joseph B. Darby III**  
said a ball would likely be  
a gift and would not be

considered income for tax purposes.  
"The Schilling autograph would  
be an example of a player doing  
something nice for one of the fans,  
and I'd certainly argue it was a gift if  
I was defending because it would be  
a donative transfer and therefore  
exempt," Darby says. "If the inten-  
tion of Curt Schilling was to sign  
the ball and give it away for free, he  
certainly has the right to do that."

By contrast, Darby says that in  
cases like Bonds' 756th ball, with an  
estimated market value of  
\$500,000, such an acquisition  
would be considered as an "ascen-  
sion to wealth," in the opinion of  
the IRS, and therefore taxable in-  
come.

"Catching the Bonds ball is like  
finding money or digging up  
buried treasure or going on a game  
show," he says. "It's all income."

Because the IRS has a clear  
home-field advantage in such cases,  
Darby says, it is that agency's call in  
determining whether the much-  
coveted memorabilia is or is not in-  
come.

"Just because it seems unfair or  
illogical to tax something, that  
doesn't mean it's going to be exempt  
from taxation," he says.

In reality, Darby says the IRS  
would not become involved until a  
fan walked into a store to cash in an  
item as a collectible.

"The IRS doesn't have the time,  
resources and inclinations to get  
into the business of chasing down  
every fan who catches a baseball,"  
he says. "But I know the IRS has

been besieged with calls about how  
they're going to handle this [Bonds]  
situation and, thus far, has respond-  
ed with a 'no comment.' It will be  
interesting to see what they do."

## Blues end for buskers



LaCASSE

The McCormack Firm, has been  
working on a pro bono basis this  
summer with several P-Town  
buskers who have been fighting a  
local crackdown on troubadours.

LaCasse first became aware of  
the issue when a friend was playing  
on the town's ever-crowded Com-  
mercial Street. The musician was  
approached by three police officers  
who said he was violating a local  
ordinance because he was audible  
50 feet away. The busker unplugged  
his guitar from his amplifier, but the  
softer sounds resulted in smaller  
crowds for the music and fewer tips  
for the musician.

When LaCasse learned that P-  
Town mainstay Marcia Mello, a  
Delta blues singer/guitarist, had  
also been targeted and had been is-  
sued \$150 worth of citations, the  
lawyer decided to take on her case  
along with his friends.

"It turned out that a citizen initia-  
tive had been enacted this year that  
amended the town bylaws," says La-  
Casse. "The gist is that unnecessar-  
ily loud, excessive or unusual noise  
should not be audible at a distance  
of more than 50 feet. But the bylaw  
does not define the terms 'unneces-  
sarily loud, excessive or unusual.'"

LaCasse threatened a lawsuit that  
would challenge the ordinance — a  
tactic used successfully by Boston  
buskers in 2004.

"Street performers are perceived  
as gypsies and get chased off the  
street," says LaCasse. "I did a public  
document request related to written  
police policies and procedures and

was told there were none, which  
means it is unfettered police discre-  
tion."

But, he adds with a note of tri-  
umph in his voice, "courts have  
found that busking is a form of  
artistic expression that enjoys First  
Amendment protection."

It appears that the P-Town per-  
formers might not have to go to  
court after all. LaCasse has been  
promised by town officials that the  
bylaw will be amended this fall.

As for Mello, her citations have  
been dismissed and she is back on  
the streets singing the blues.



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## EMPHASIS SUPPLIED

"It's the  
right thing  
to do."

— Boston attorney **Stephen  
L. Brake**, representing Superior  
Court Judge **Ernest B. Mur-  
phy**, who recently obtained  
\$3.41 million in a libel lawsuit  
against the Boston Herald and  
is asking for an additional \$6.8  
million from the newspaper's  
insurance company



AP PHOTO/ALAN DIAZ