



City of Cambridge

Calendar Item # 1

~~Calendar Item # 5 -~~

~~-19-~~

IN CITY COUNCIL

~~March 29, 1993~~

~~April 12, 1993~~

April 26, 1993

COUNCILLOR WALSH

WHEREAS: The City of Cambridge is approaching the 2 1/2 cap and therefore should endeavor to avoid extra unbudgeted costs like the multiplicity of lawsuits or possible liability which will invariably arise from the treatment of the owner-occupancy of ordananced units; and

WHEREAS: The City of Cambridge owes an obligation to all of its citizens, including tenants and owners alike, and including those citizens who are not directly affected by rent control but would be affected by extra appropriations for legal costs; and

WHEREAS: The City of Cambridge has prevailed in a recent Superior Court case (Small Property Owners Association of Cambridge, Inc. et al., v. City of Cambridge and Cambridge Rent Control Board) in which the City's rent control laws have been upheld as being not unconstitutional; and

WHEREAS: While the decision rendered in the Superior Court recognizes that although generally speaking the laws are not unconstitutional, the decision also recognizes that individuals have judicial remedies available by means through which the particular application of these laws may be challenged as to their particular situations; and

WHEREAS: In rendering its decision, the Court relied partly upon a finding that: "the continuation of rent control in Cambridge is not "bereft of a plausible reason"; and

WHEREAS: The City of Cambridge's rent control laws have been debated outside of Cambridge, before the state's legislative local affairs committee, and in two regional newspapers, and on radio stations and on television, to the degree that we as Cambridge City Councillors must recognize the need to ensure that the city's rent control laws do not become a subject to legal attack of being "bereft of a plausible reason"; now therefore be it

ORDERED: That the City Manager be and hereby is requested to obtain the following information from the various departments:

1. The Rent Control Board to conduct studies on a year by year basis from August 13, 1979 to present to see if at any time the vacancy rate in accordance with the removal permit law has exceeded the amount allowable or if there is more new rental housing in existence in Cambridge above the level of 1970 exclusive of public housing.
2. The Rent Control Board to advise as to whether or not there are standards to determine how citizens of low and moderate income can purchase condominium units especially after the period of August 13, 1979 until the present and how low and moderate income so-called ordinance unit owners will be treated with respect to fact patterns and subsets as outlined in the Executive Director's memo of March 23, 1993 if they have failed to obtain removal permits, a copy of said memo is attached hereto.
3. Ask the necessary department heads to work in conjunction with him to recertify the existence of a housing emergency, if any, and included in said recertification there should be an accurate statistic of the number of rental units, vacancy rate and a determination that any housing shortage is not artificially inflated and a full rationalization for the declaration of emergency and if an emergency exists, a plan to rectify the emergency including timetables for the elimination of the emergency.
4. Report back within two weeks with a timetable for implementation of orders one through three as cited above.

In City Council April 12, 1993.

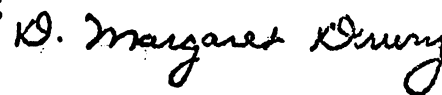
Failed of adoption by a ye and nay vote:-

Yeas 3; Nays 5; Absent 1.

Attest:- D. Margaret Drury, City Clerk.

A true copy;

ATTEST:-



D. Margaret Drury
City Clerk

RECONSIDERATION FILED BY COUNCILLOR WALSH

4/26/93 RECONSIDERATION FAILED 4-4-1

**ACTION TAKEN ON 4/12/93 FAILING TO ADOPT THE ORDER -
STANDS**

City of Cambridge

MASSACHUSETTS

Reconsideration
#1

In City Council

4/26

1993

YEA	NAY	ABSENT	PRESENT	
		✓		Mr. Ed Cyr
	✓			Mr. Francis H. Duehay
	✓			Mr. Jonathan S. Myers
✓				Mrs. Sheila T. Russell
✓				Mr. Walter J. Sullivan
✓				Mr. Timothy J. Toomey, Jr.
✓				Mr. William H. Walsh
	✓			Ms. Alice K. Wolf
	✓			Mayor Kenneth E. Reeves

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City of Cambridge

Calendar Item # 5
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IN CITY COUNCIL

March 29, 1993

April 12, 1993

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4. Report back within two weeks with a timetable for implementation of orders one through three as cited above.

In City Council April 12, 1993.

Failed of adoption by a ye and nay vote:-

Yeas 3; Nays 5; Absent 1.

Attest:- D. Margaret Drury, City Clerk.

A true copy;

D. Margaret Drury

ATTEST:-

D. Margaret Drury
City Clerk

RECONSIDERATION FILED BY COUNCILLOR WALSH

City of Cambridge

MASSACHUSETTS

CR# 5

In City Council

4/12

1993

YEA	NAY	ABSENT	PRESENT	
	✓			
	✓			Mr. Ed Cyr
	✓			Mr. Francis H. Duehay
Wm	✓			Mr. Jonathan S. Myers
✓				Mrs. Sheila T. Russell
Wm		✓		Mr. Walter J. Sullivan
✓				Mr. Timothy J. Toomey, Jr.
✓				Mr. William H. Walsh
	✓			Ms. Alice K. Wolf
	✓			Mayor Kenneth E. Reeves
3	5	1		



City of Cambridge

19.

IN CITY COUNCIL

March 29, 1993

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WHEREAS: In rendering its decision, the Court relied partly upon a finding that:

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CHARTER RIGHT EXERCISED BY COUNCILLOR WALSH

CCM-101

*non - consent*
City of Cambridge*NC*
19
Handwritten signature and initials.
IN CITY COUNCIL**March 24, 1993****COUNCILLOR WALSH**

WHEREAS, The City of Cambridge is approaching the 2 1/2 cap and therefore should endeavor to avoid extra unbudgeted costs like the multiplicity of lawsuits or possible municipal liability which will invariably arise from treatment of the owner-occupancy of ordinated units; and

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FACSIMILE TRANSMITTAL FORM/LAW OFFICES

Telephone Number: 547-1772

Facsimile Number: 491-0923

DATE: 3/25/93

TO: City Clerk's Office

FROM: City Councillor Bill Walsh

Telephone:

Fax: 349-4307

If you do not receive 7 pages including this cover sheet,
please call immediately.

REMARKS:

2
Here are 3 orders:

THE INFORMATION TRANSMITTED HEREIN IS PRIVILEGED AND
CONFIDENTIAL, INTENDED ONLY FOR THE USE OF THE ADDRESSEE. IF
YOU ARE NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT
THE DISCLOSURE, COPYING, DISTRIBUTION, OR THE INSTITUTION OF ANY
ACTION RELYING ON THE CONTENTS OF THIS TRANSMITTAL IS STRICTLY
PROHIBITED BY LAW. IF YOU RECEIVE THIS FACSIMILE IN ERROR,
PLEASE NOTIFY THE SENDER IMMEDIATELY BY TELEPHONE AT
617-547-1772. THANK YOU.

FACSIMILE TRANSMITTAL FORM/LAW OFFICES
Telephone Number: 547-1772
Facsimile Number: 491-0923

DATE: 3/25/93

TO: M. D. [unclear]

FROM: Bill Walsh

Telephone:

Fax: 349 4307

If you do not receive 3 pages including this cover sheet,
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ORDINANCED CONDOS

At the onset of my tenure as Executive Director, I was impressed with the oft-repeated criticism that the RCB records were lacking and that the Board did not have an accurate count of the units actually under control. In response, I initiated a multi-phase plan to inventory the Rent Control database. The present review of ordinanced condominiums has resulted from the implementation of the last phase of that program.

Earlier phases consisted of the following:

Phase I (1990): The essence of this phase was a reconciliation of the Board's paper files with the more recently installed computerized database. All of the units which had been broadly classified in the database as exempt were further categorized according to the basis for the exemption. Units exempted from the Rent Control Act were distinguished from those exempted from the Removal Ordinance. Units which were temporarily exempt due to 2F or 3F owner-occupancy, rental subsidy, affiliate status, were differentiated from those permanently exempt as new construction.

Phase II (1991): One reality commonly described is that the rent control stock has been depleted over the years through demolition, merger and conversion to non-housing use. (Indeed, this was the prime reason for the adoption of the Removal Permit Ordinance in 1979.) The Board's record-keeping was further assailed for continuing to list many of these units on the rent rolls. The answer was to create a classification for units which had been removed so as to track the loss of units. In doing so, the data for many properties was resurrected and re-entered into the database for a historical perspective.

Phase III (1991-92): One of the major reasons for the difficulty in maintaining an accurate inventory of the controlled stock is the temporary exemption of owner-occupied two- and three-family houses. There has never been a requirement for re-registration when previously controlled properties become owner-occupied and exempt as a result.

In August 1991, there were approximately 2,800 controlled units listed in one-, two- or three-family houses. Notwithstanding the difficulty in tracking the status of these units, a systematic review of other public records was undertaken for these properties. Based on reliable evidence so obtained, almost 800 units were administratively reclassified as temporarily exempt. It should be noted that the same evidence

relied upon in this phase is also being utilized in Phase IV.

Phase IV (1992-93): This phase began in August 1992. At that time there were 1,942 condos listed as ordinated and 993 listed as non-ordinated. There was much speculation about the accuracy of this data. Many of the ordinated units were in buildings converted prior to August 10, 1979. These were potentially exempt if unit deeds had been conveyed prior to that date. Additionally, many units had been purchased by so-called "pre-79 tenants" and were therefore exempt. The speculation was even more reckless about the number of units which were being occupied illegally.

Using the same methodological approach, other public records were cross-referenced to obtain a more accurate categorization of these units, beginning with a search of records at Registry of Deeds. This effort was accelerated after the mailing of the 1993 General Adjustment. That mailing resulted in an inordinate number of notices to condo owners being returned by the Post Office.

As of March 22, 1993 information on over 500 units has been reviewed. Almost 400 of those have been reclassified as exempt.

With respect to the current effort, it should be emphasized that no decision has been made about appropriate remedies in cases where violations surface. The preliminary research reveals that, even if a group of illegal owner-occupants are identified, it will not be monolithic. It is expected that there will be many different fact patterns and as many as a half-dozen sub-sets which may dictate different remedies. Examples of these sub-sets include owners who:

1. received faulty legal advice regarding the creation of a trust for ownership purposes;
2. purchased shortly (within a year) after the August 10, 1979 deadline;
3. purchased in the early eighties and have been resident since (i.e., more than ten years);
4. were innocent purchasers from illegal owner-occupants;
5. were purchasers ignorant of the law;
6. purchased with full knowledge of the law, but assumed the risk.

At present, the Board is in the fact-finding stage. Any speculation regarding the outcome is premature and ill-advised.



City of Cambridge

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IN CITY COUNCIL

March 29, 1993

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Councillor Walsh re: Rent Control issues
and the recertifying of a housing emergency.

In City Council,

March 29, 1993

*Charter Right exercised
by Councillor Walsh*

4/12/93 Failed at

Adoption 3-5-1.

*Reconsideration filed by
Councillor Walsh.*

MOTION FOR RECONSIDERATION SUBMITTED BY COUNCILLOR

Charles Righi #5

4/13/93

Date

Reconsideration filed by Councillor Walsh on the vote taken on April 12, 1993 failed to adopt an order submitted by Councillor Walsh regarding Rent Control issues and the recertifying of a housing emergency.

Wm H Walsh

Signature

S- 205
Reconsideration filed by Councillor
Walsh on the vote taken on April 12,
1993, failing to adopt an order submitted
by Councillor Walsh regarding Rent
Control issues and the recertifying of a
housing emergency.

In City Council,

April 26, 1993

4/26/93 - Reconsideration
failed - 4-4-1

Action taken off 4/12/93
failing to adopt the
order - stands