



CAMBRIDGE TENANTS UNION

July 11, 1995

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Cambridge City Council  
City Hall  
795 Massachusetts Avenue  
Cambridge, Mass. 02139

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To the Honorable; the City Council:

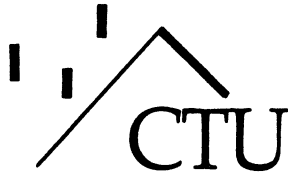
We have enclosed a copy of the letter we sent to the City Manager requesting that the city review its legal authority under Chapter 36 of the Acts of 1976 (the Rent Control Enabling Act) and Chapter 52 of the Acts of 1990 to regulate condominium conversions and removals in light of Judge George Daher's decision in Greater Boston Real Estate Board vs. Boston Rent Equity Board and Massachusetts Tenants Organization (Boston Housing Court C.A. 95-00475).

Judge Daher found that under Chapter 282, the law phasing out rent control, Boston retains the power to regulate removals and condominium conversions for "covered units" and possesses special authority "grandfathered" under Chapter 527 of the Acts of 1983, the state condominium conversion law, to regulate condominium conversions for a much broader class of rental units.

The court's analysis and conclusions can and should be applied with equal force to Cambridge. On that basis we believe that the city has the authority under Chapter 36 and Chapter 52, as noted in our letter to the City Manager, to enact ordinances or otherwise provide effective regulation of condominium conversions for nearly one-half of all the city's rental units, and would ask that the City Council take all necessary steps to do so.

Respectfully submitted,

Michael Turk,  
Co-chair



CAMBRIDGE TENANTS UNION

July 11, 1995

Robert W. Healy,  
City Manager  
City of Cambridge  
City Hall  
795 Massachusetts Avenue  
Cambridge, Mass. 02139

Dear Mr. Healy:

We respectfully request that the City of Cambridge conduct a review of the city's powers under Chapter 36 of the Acts of 1976 (the Rent Control Enabling Act) and Chapter 52 of the Acts of 1990 to regulate condominium conversion and removals from the rental housing market in light of Judge Daher's decision in the lawsuit of Greater Boston Real Estate Board vs. Boston Rent Equity Board and Massachusetts Tenants Organization (Boston Housing Court C.A. 95-00475). A copy of the decision is enclosed.

Judge Daher's decision represents the first and, to date, the only broad judicial review of the authority and jurisdiction of cities like Boston and Cambridge to regulate rents, evictions, condominium conversions, and removals under Chapter 282 of the Acts of 1994, as well as the constitutionality of the law. While the real estate board's complaint was directed at the City of Boston, Judge Daher's analysis and conclusions can and should be applied with equal force to Cambridge.

First of all, Judge Daher concluded that under Chapter 282 the Legislature intended to allow cities and towns with rent control to continue to regulate condominium conversions and removals. He began by noting that "Chapter 282 superseded Chapter 40(0). Section 4(b) of Chap. 40(0) expressly forbids as part of rent control, condominium conversion and the removal of properties. Chapter 282 did not include this specific restriction." (p. 35 of decision)

Judge Daher went on to state: "The Legislature was concerned, as a practical matter, of allowing the cities and towns to regulate and continue these controls as before. While Chapter 282 does not expressly repeal Chapter 40(0), this Court must draw the conclusion that the legislative intent was not to incorporate the specific restrictions of Chapter 40(0) into Chapter 282." (p. 35)

Thus, when Judge Daher turned to the real estate board's challenge to Boston's pre-existing regulations for removals (Regulations 17 and 20), which Boston had maintained since before November 1994, Judge Daher found:

"The removal permit system in place in Boston's pre-Chapter 282 rent control system, was left unaffected in content by the new law, but was limited only in scope. Therefore, to the extent Regulations 17 and 20 will be applied to covered units and during the time periods prescribed by the statute, Chapter 282 leaves the Rent Board with the legal authority to regulate all forms of removal or conversion, as they have always done." (p. 33)

In his order Judge Daher rejected the real estate board's claims that these regulations were invalid and found for the Boston Rent Equity Board.

Moreover, in his analysis Judge Daher found a source of authority for Boston--and, by extension, for Cambridge--to regulate condominium conversion for a far broader class of rental units than the "covered units" of Chapter 282. According to Judge Daher, Boston, a city with a special "system" to regulate condominium conversion, was "'grandfathered'" under Chapter 527 of the Acts of 1983, the state condominium conversion law, and could continue to regulate condominium conversion on that basis. In effect, Chapter 527 provides an umbrella under which Boston's special system of regulation--and again, by extension, Cambridge's as well--is authorized to continue. This authorization includes prospective, that is, post-1983, amendments to these systems, all comprehended as "Chapter 527 protections".

Because of its sweeping implications, we quote this section of the decision at length:

"Moreover, the City and the Rent Board retain their authority to continue to regulate condominium conversions. The Rent Board derives such authority from St. 1983, c. 527, which statute expressly is excluded from the definition of "Rent Control" in Sect. 3(e). Chapter 527, the State Condominium Conversion Law, was enacted in 1983 at a time when Boston already had a system of condominium eviction protections available for tenants in controlled units. Under Sect. 2 of that act, that system and all its post-1983 future amendments were 'grandfathered' in as Chapter 527 protections and thereafter the City derived its authority, should it become necessary, from that Act as well as from the City's original enabling statute. The provisions of Sect. 8 of Chapter 282 that limit the power of cities and towns to impose or enforce "Rent Control" to 'covered units' and for prescribed periods of time do not apply to condominium conversions authorized

under Chapter 527, as set forth in Sect. 3(e) of the new law." (pp. 34-35)

Boston and Cambridge therefore may continue to regulate condominium conversions under chapter 527, but in accordance with the special terms and rules allowed these cities by special act and ordinances enacted thereunder.

Cambridge's authority would then rest with residual powers from Chapter 36 of the Acts of 1976, as embodied in the city's Removal Ordinance, and from Chapter 52 of the Acts of 1990, "An Act Regulating Condominium Conversion and Other Removals of Controlled Rental Units in the City of Cambridge". Chapter 52, in particular, assumes special significance. In Chapter 282 the Legislature chose to enumerate those special acts that comprised rent control for Boston, Brookline, and Cambridge, and which were to be modified and circumscribed by Chapter 282. The Legislature chose not to include Chapter 52 among these enumerated special acts.

We believe, therefore, that Chapter 52 clearly comes under the umbrella of "Chapter 527 protections" and that the city can, through ordinances enacted under Chapter 52, regulate broadly and effectively the conversion to condominiums of "controlled rental units", nearly half of all rental units in the city.

Because many tenancies hang in the balance and the overall stability of the city is at issue, we would ask that the results of the review we have urged you to conduct be forwarded to the City Council and publicized widely at the earliest possible date.

Respectfully submitted,

*Michael Turk*

Michael Turk,  
Co-chair  
Cambridge Tenants Union

cc: Cambridge City Council  
Ms. Ellen Semonoff, Special Asst. to the City Manager  
Mr. Donald Drisdell, Deputy City Solicitor  
Ms. Florrie Darwin, Chair, Rent Control Board  
Mr. Terrence Morris, Executive Director, Rent Board  
Ms. Vali Buland, General Counsel, Rent Board

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Communication was received from the  
Cambridge Tenants Union re: Greater Boston  
Real Estate Board vs. Boston Rent Equity  
Board and Massachusetts Tenant Association.

In City Council July 31, 1995

Referred to the  
City Manager