July 30, 1992

RECEIVED BY
OFFICE OF CITY CLERK

1992 JUL 30 PM 2:14

CAMBRIDGE MA.

City Clerk (for Cambridge City Council)
City Hall
Cambridge, Ma 02138

Dear City Clerk:

Please provide a copy of the enclosed request and supporting documents to the City Councillors and the City Manager for City Council consideration.

I live on the first floor of 20-20A Prescott St., a building which is regulated under the Rent Control ordinances. The residents are about to receive a very large rent increase in maximum rent (RA5-92-037), in my case $210 per month, primarily due to work on the two elevators in this five story building. The elevator expense is increasing the rent by $24 per month per room. The landlord, Harvard Real Estate, claims they spent $274,300 to improve the elevator. In 1985 the landlord filed RA6-85-236 which increased my rent $260 per month and included among other sizable expenses $123,066 in work on the same elevators. Built into my rent for a first floor apartment is over $200 per month for elevator service which I never need to use. My rent since moving in during 1985 has gone from $494 to a new proposed maximum rent per month of about $1179.

I have protested to both my landlord (see attached response from HRE, dated April 26, 1990) and the Rent Control Board (see attached letters dated April 19, 1990, May 1, 1990, May 8, 1992) about the inequity of the apportionment of expenses for these elevators. The landlord (see the April 26, 1990 letter) refuses to apportion rent by floor and refers me to the Rent Control Board. I am angered by the Board's attitude about the fairness of the current policy which requires all residents to pay for elevator service regardless of which floor their home is located. The staff of the Board in their April 3, 1991, Staff Memorandum (attached) admits that they abate rents based on floor for loss of elevator service, but they are not willing to create a simple process for allocating rent increases for elevator work based on floor location. The last sentence in the Staff Memorandum at least recognizes that first floor residents receive no benefit from the elevator: "One example would be a policy that elevator costs be deemed to be of no benefit to first floor tenants but of equal benefit on a per room basis to units located above the first floor."

There are many problems with the operation of the Rent Control Board, ranging from the excessive interest rates currently being granted for capital improvements to the failure of the Board to have a regular process for acknowledging receipt of citizen inquiries, and I realize the City Council can only direct the City Manager to initiate policy changes. The Rent Board process is, however, especially upsetting to me after I received Terrance Morris' May 13, 1992, letter (attached) telling me that the hearing I requested in April, 1990 (letter of April 19, 1990) was finally held in April, 1991, and I was not even given the courtesy of notification. During the fact-finding on the 1985 rent increase of $260 per month I tried to raise the issue of the fairness of the apportionment of elevator work and was told to discuss it with the landlord and the Rent Control Board through public policy hearings. I have requested a chance to appear before the Board as my correspondence reveals, but the Board's faulty notification process denied me an opportunity to speak. Mr. Morris apologizes in his May 13, 1992, letter for the Board's failure to notify me and says I may again raise the issue in the current case. Since the residents will have $397,366 worth of elevator work billed to them at 15% and 11% and I personally will have over $200 per month going toward the elevator, I certainly will try again. I doubt I will be successful overturning the unfair policy without City Council help.

I think it is outrageous that the Board refuses to be consistent in apportioning rent increases and abatements. I think it is outrageous that the Board does not have a quicker, orderly system of responding to citizen requests for public policy hearings. I think it is outrageous that the procedural failures in this case have denied me the chance to come before the Board and present the merits of a change in policy. Everything seems to be done for the administrative convenience of the Board's staff even if it preserves an unfair rent allocation.

I request the City Council to direct the City Manager to ask his appointees on the Rent Control Board and the Executive Director and his staff to establish a consistent and fair policy for elevator-related rent increases which recognizes the difference in the value of elevator service by floor location. Please let me know when the City Council or Rent Control Board might hold hearings on this request. Thank you for your consideration.

Sincerely yours,

Robert O. Edbrooke

Robert O. Edbrooke

Harvard Real Estate, Inc.
Housing Office
7 Holyoke Street
Cambridge, Massachusetts 02138
Telephone 617·495·2675/3377 1·800·252·5020

April 26, 1990

Robert Edbrooke
20 Prescott Street, #5
Cambridge, MA 02138

Dear Mr. Edbrooke:

In 1984, you were offered an 8% reduction due to the noise and inconvenience of the elevator <u>and</u> masonry work at 20-20A Prescott Street. Each floor above the first floor was offered an additional 4% per floor.

The current rent reduction represents loss of elevator service only. We think the current elevator work will be less disruptive than the past work. The work in 1984 involved ripping apart the old shaft in the stairwell and constructing a new one. All of the current work will be accomplished from the basement and roof.

I based the three percent per floor reduction on past H.R.E. elevator rebates and on the Rent Board ruling in RA283-227, 888 Massachusetts Avenue. In that case, the Rent Board adjusted downward by $5.00 per floor, starting with the second floor, for the landlord's failure to provide elevator service. Your rebate is $27.00 per month. The average rebate in the building is $59.00 per month.

You raise a very valid point regarding the apportionment of rebates vs. the apportionment of elevator capital expense costs. It is the Rent Board's policy to apportion the capital expense costs for elevators equally, on a per room basis, without regards to floor. On the other hand, they have continually approved rebates for lost service <u>with</u> regards to floor.

This sounds like a special case to me, Mr. Edbrooke. Perhaps it is time for the Board to rule on either the matter of apportioning rebates or apportioning elevator capital expenses. I am not prepared to simply start a new policy of crediting everyone in the building 15%

(what the fifth floor gets) for loss of elevator service, but we would of course abide by any Rent Board decisions.

Call me at 495-3377, if you would like to discuss this.

Sincerely,

Amy J. Tyson

Amy J. Tyson
Open Housing Coordinator

AJT/dc

CITY OF CAMBRIDGE
RENT CONTROL BOARD
RECEIVED
APR 20 3 57 PM '90

20 Prescott St., #5
Cambridge, MA 02138
April 19, 1990

Terence Morris
Executive Director
Cambridge Rent Control Board
Cambridge, MA 02139

Dear Mr. Morris:

I believe the current system by which landlords allocate rent increases due to capital improvements for elevator service is unfair. When I raised this issue at a Regulation 76 hearing several years ago, I was told by the Board that landlords could assign such rent increases in any fair manner, and I was told by my landlord that unless they were told otherwise by the Rent Control Board, they would allocate the rent increase by unit size with no consideration of what floor the unit was located. The same landlord grants rent reductions during periods when the elevator is out of service on a stepped scale by floor regardless of unit size.

The elevator provides a service. It is a service which increases in value when one lives on a higher floor. I would like the RCB to develop a regulation to cover elevator service related capital improvement allocations so that any rent increase takes into account the floor on which a unit is located. I enclose two pages from the New York City system (The Maximum Base Rents Formula) which does adjust the size of a rent increase in elevator buildings by floor. I am not advocating that the Cambridge Rent Control Board adopt the New York system, but I would like to see a system where first floor residents of, for example, three room units, who never use the elevator, do not pay the same rent increase for elevator improvements as fifth floor residents of similar three room units.

Normally in an elevator building the top floor units are the most desirable and valuable and pay the highest rents. They have a better view, better air circulation, and less exposure to noise, smell, and breaking and entering problems. Such units benefit the most from the elevator and in my judgment should pay a proportionately larger share of capital improvement rent increases.

Please let me know the date and time of any public policy hearing on this matter. I believe the calculations for such allocations can be accomplished easily with the current computer capability of the RCB. Thank you for your consideration.

Sincerely yours,

Robert O. Edbrooke

Robert O. Edbrooke

STEP 2: COMPUTING INDIVIDUAL UNIT MBR

In Step 2, the residential MBR is apportioned among individual controlled units. The apportionment is based on two factors: the number of rooms in the unit and the floor on which it is located. *

Thus, apartments will be assigned index weights based on the number of rooms as follows.

NUMBER OF ROOMS PER UNIT	INDEX WEIGHT
1	75
2	100
3	125
4	150
Each additional room	+25

These index weights will be adjusted for floor location; the adjustment will vary, depending on whether or not the building has an elevator, as follows.

	NONELEVATOR BUILDINGS	ELEVATOR BUILDINGS
For each floor ***above*** the mean floor	Less 2 percent	Plus 1 percent
For each floor ***below*** the mean floor	Plus 2 percent	Less 1 percent

(Appendix C presents the analysis underlying the development of the allocation formulas with examples to illustrate the methods of calculation.)

In entirely rent controlled buildings - i.e., those with no noncontrolled units - the apportionment of residential MBR to individual apartments can be undertaken directly, using the index weights just described. In mixed buildings with both controlled and noncontrolled units, the apportionment requires an intermediate step. The following two sections discuss each case in turn.

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* - The two factors were selected because they are widely considered to represent the major qualitative distinctions between apartments. Other factors - exposure, terraces, appliances, etc. - were considered but the problem of equitably quantifying their value precluded their use.

Completely Rent
Controlled Buildings

The calculation of unit MBRs in the sample building is illustrated in Exhibit XIII. The building has seven 3-room apartments and five 4-room apartments. Each apartment is first assigned an index weight for room size - 125 for the 3-room apartments, and 150 for the 4-room apartments. These weights are then adjusted for floor location: The building has 6 floors; the middle floor is 3-1/2,* therefore, weights are adjusted upward by 1 percent for the 4th floor, 2 percent for the 5th floor, and 3 percent for the 6th; and downward by 1 percent for the 3rd floor, etc. The adjusted weights are expressed as percentages of the total, and the MBR of $14,842.92 is apportioned to individual apartments on the basis of these percentages.

In mathematical terms, the actual formulas used are:

Compute unit MBR based on the number of rooms

$$\text{R Rent}_i = \left(\frac{M}{\sum_{I=1}^{N} I_i} \right) X \quad I_i$$

Where: R Rent_i = MBR for an individual unit allocated by the number of rooms

M = Residential building MBR

N = Number of units

I_i = Index number corresponding to the number of rooms for an individual unit, i.e., 100 = 2 rooms, 125 = 3 rooms, etc.

$\sum_{I=1}^{N} I_i$ = The sum of the unit size index numbers for all residential units

Adjust unit MBR based on floor location

$$\text{Elevator Buildings: } MBR_{ie} = \text{R Rent}_i - \frac{M}{N}\left(\frac{\sum_{I=1}^{N} L_i}{N} - L_i \right) \Big/ 100$$

Where: MBR_{ie} = Individual unit MBR adjusted for vertical location in an elevator building

L_i = Index number corresponding to the vertical location of an individual unit. i.e., 100 = first floor, 101 = second floor, for an elevator building; 100 = first, 102 = second, etc., for a nonelevator building

$\sum_{I=1}^{N} L_i$ = the sum of vertical location index numbers for all units

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* - In a building with, say, 9 floors, the middle floor would be the fifth - i.e., there would be 4 floors above and 4 below. However, in a building with an even number of floors, the "middle floor" lies between two floors - i.e., in a 4-floor building, the middle floor is 2-1/2; in a 6-floor building, it is 3-1/2; in an 8-floor building, 4-1/2, etc.

20 Prescott St., #5
Cambridge, MA 02138
May 8, 1992

Terence Morris

Executive Director
Cambridge Rent Control Board
Cambridge, MA 02139

Dear Mr. Morris:

On April 19, 1990, I wrote you about reexamining the way the Rent Control Board allocates the costs of elevator repairs. I attach a copy of that letter. I never had the courtesy of a response.

My landlord, Harvard Real Estate, in again asking for a Rent Adjustment (RA5-92-037) for elevator work which will add $138 per month to my first floor apartment's rent.

I hope the Board will discuss the allocation issue in a Public Policy session before the hearing date, June 9. Please let me know the date of such a session.

Thank you for your consideration.

Sincerely yours,

Robert O. Edbrooke

Robert O. Edbrooke

20 Prescott St., #5
Cambridge, MA 02138
May 1, 1990

Terence Morris
Executive Director
Cambridge Rent Control Board
Cambridge, MA 02139

Dear Mr. Morris:

On April 19, 1990, I wrote you about inequities in the way capital improvement rent increases for elevator repairs are calculated. I enclose a letter from Harvard Real Estate, dated April 26, 1990, which in paragraphs four and five point out a need to remove some of the current inconsistencies. I hope you will add this letter to my previous correspondence and schedule Board action as soon as possible. Please notify me of any meetings on this subject. Thank you for your consideration.

Sincerely yours,

Robert O. Edbrooke

Robert O. Edbrooke

CITY OF CAMBRIDGE

831 MASSACHUSETTS AVENUE
CAMBRIDGE, MASSACHUSETTS 02139
TEL (617) 349-6161

RENT CONTROL BOARD
TERRENCE P. MORRIS,
EXECUTIVE DIRECTOR

May 13, 1992

Robert Edbrooke
20 Prescott #5
Cambridge, MA 02138

Re: Apportionment of Elevator Expenses

Dear Mr. Edbrooke:

Thank you for your letter which I received yesterday regarding the above matter. Some explanation is in order, lest you think your suggestion was not seriously considered. That most certainly was not the case. As a result of your initial letter, the topic was included on a list of public policy matters which the Board scheduled in 1991.

On April 3, 1991 the Board held a public policy session to discuss the above-referenced matter. A copy of the agenda is enclosed. A longstanding list of prior subjects had precluded an earlier date. Your submission had previously been assigned to a staff person who considered it in preparing the enclosed memorandum for presentation to the Board.

The matter was duly advertised in the local media. Apparently, you were not personally notified as you had requested. Kindly accept my apology for this oversight. Despite your unintended absence, the Board did have the benefit of your thoughts on the matter. After significant discussion, the minutes of the meeting reflect that the Board opted not to make any change in the current manner of apportionment.

Nonetheless, you are at liberty to raise the issue in the context of your case and, thus, have the Board revisit the question.

Sincerely,

Terrence P. Morris

Terrence P. Morris
Executive Director

CITY OF CAMBRIDGE

831 MASSACHUSETTS AVENUE
CAMBRIDGE, MASSACHUSETTS 02139
TEL 499-6161

RENT CONTROL BOARD
TERRENCE P. MORRIS, EXECUTIVE DIRECTOR

BOARD AGENDA

WEDNESDAY, April 3, 1991

6:00 P.M.
PUBLIC POLICY

1. Apportioning of Elevator Expenses
2. Amendment to Regulation 72-02(c)(2) - phase in of rents
3. Amendment to Regulation 61-01(a) - Retaliatory Evictions

7:00 P.M.

1.	✓RA5-90221	348 Franklin St. #2A	5-0 AFF'd	JMM
2.	✓RA6-90274	293 Elm St. #1	5-0 AFF'd	JGS
3.	✓SCZ 90080	322-324 Windsor Ct.	5-0 AFF'd	VB

7:30 P.M.

1.	SCS 90157	30-32 Richard Ave.	4-1 (OWNERSHIP) CONNOR / 3-2 (OCCUPANCY) PFEUFER COHN	VB AFF'd
2.	– RPZ 90019	25 Highland Ave. #3		JRP Cont'd
3.	– RPZ 90028	25 Highland Ave. #3 (formerly 2R)		AJM Cont'd

8:00 P.M.

1.	✓ SCO 90203	76 Fairmont St.	3-2 (COHN, PFEUFER)	VB AFF'd
2.	– RA2-90120	472-474 Windsor St.	Continued until 4/24	LMG

CITY OF CAMBRIDGE
831 MASSACHUSETTS AVENUE
CAMBRIDGE, MASSACHUSETTS 02139
TEL 499-6161

RENT CONTROL BOARD
TERRENCE P. MORRIS, EXECUTIVE DIRECTOR

Staff Memorandum - April 3, 1991

Apportioning of Elevator Expenses

There are at least two kinds of cases in which the apportionment of elevator expenses is at issue, rent adjustments where capital improvement expenses are allocated among the units and abatement cases where tenants are allowed to abate their rents because of nonfunctioning elevators. There are also at least two ways that the elevator expense can be apportioned.

Historically the Board has allowed abatements for the loss of elevator service based on the benefit to the tenant. That is, the higher floor the apartment is located the greater the loss of service.

This treatment is different from the way the Board has allowed capital improvement increases based on the cost of major elevator repair or replacement. These increases have usually been allowed on a per room basis as a building wide capital expense, although the Board has not been consistent in all cases.

Clearly the Board should have a consistent policy for allocation of capital improvements in rent adjustment cases. However, the staff does not recommend a system of allocating the capital improvement increases on a per floor basis if that allocation is based on a complicated formula using an increasing percentage for each floor. Although this is done in abatement cases for short periods of time while service is out, those abatements are usually based on a common sense approach based on testimony and evidence specific to the individual situation. For example, a handicapped tenant might be allowed a greater abatement for loss of use of the elevator because the loss of value of her unit would be greater than that of another tenant on the same floor. The allocation of a capital improvement is often done without the benefit of testimony. But even if there is testimony the Board cannot try to allocate capital improvements based on individual circumstances. Such an approach would make the rent adjustment process overly complicated and would potentially foster unfairness between tenants.

If any change is made to the way the cost of elevator work is allocated in rent adjustments the staff recommends that the new procedure be as simple and understandable as possible. One example would be a policy that elevator costs be deemed to be of no benefit to first floor tenants but of equal benefit on a per room basis to units located above the first floor.

Consent Comm. # 45 S-608

Comm. from Robert O. Edbrooke, 20-20A Prescott Street, regarding apportioning of rent increases and abatements by the Rent Control Board.

In City Council,

Aug. 3, 1992

Referred to the Rent Control Committee
Copy sent to Rent Control 8/10/92 (cd)