



CITY OF CAMBRIDGE

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RENT CONTROL BOARD

ROGER MERVIS, EXECUTIVE DIRECTOR

M E M O R A N D U M

TO: Robert W. Healy, City Manager

FROM: Roger Mervis, Executive Director *RM*

RE: Management Report

DATE: August 3, 1983

This memorandum represents the third (and most comprehensive) in a series of management reports to be transmitted to the City Council. The first section of this report is presented in narrative form, describing generally the progress we have made in a variety of key areas. The second part is organized with reference to the specific recommendations in the Report of the Mayor's Commission to Study the Administration of the Rent Control Board submitted to the City Council on September 24, 1982. Where we believe a recommendation to be a sound one, I have detailed the steps taken to implement it. On the other hand, where we have elected not to adopt a recommendation, I set out the basis for our disagreement.

Once again, I would be happy to brief you, your staff, or any member of the Council in more detail regarding the matters discussed in this memorandum.

I. Narrative

I have attempted in this section of the report to focus on several areas of greatest concern to you and the Council -- the processing of cases, personnel issues, our computer/database capability, and legal issues. While some of the information included herein is repeated in Section II of this report, I felt much of it deserved the more careful consideration only this narrative could provide.

A. Processing Cases

As I have previously suggested, the backlog of cases created in 1982 by the shortage of staff, which in turn was exacerbated by the diversion of some staff members for the general adjustment for fuel, has been virtually eliminated. All tenant complaints have been processed, as have most rent adjustments. All remaining backlogged rent adjustments will be heard by the Board within the month. A few special cases (Board-generated cases) remain to be processed. No backlog existed for evictions and removal permits.

Of most importance, no new backlog has developed. Cases are being processed expeditiously. For instance, most routine evictions and removal permits are processed in about one month from initial hearing to final Board decision. The more complex cases take approximately two months. Furthermore, we are continuing to mediate such cases where appropriate to save the parties and the Board time and money.

Incoming Regulation 72 and 75 rent adjustment cases are being processed in 2 - 5 months. Regulation 76 capital improvement rent adjustments are being decided initially by the Board in 3 - 4 weeks. Tenant complaints and special cases are also being decided within a matter of several months. Finally, the Board will soon have the capability of generating monthly reports documenting the processing time for all pending cases (see Section I. C. Computer Database), which will provide an objective measure of our performance.

B. Personnel

No vacancies have occurred in the Rent Control Board staff since my last report and, therefore, no new hires. I view this lack of turnover at the Board as most significant. The lack of stability at the Board has in the past aggravated the delays in processing the cases. The current stability has allowed us to maintain the continuity and momentum necessary to eliminate the backlog and to be in a position to implement a general adjustment of rents later this year without sacrificing speedy processing of individual cases. While one of our most experienced Hearing Examiners will soon be leaving, I do not expect any substantial turnover in the near future.

One word of caution is probably necessary. Our professional staff, comprising 19 of our 29 employees, has organized a union which has been recognized by the City. While relations between the union and management have been thus far amicable, the upcoming collective bargaining negotiations hold the potential for undermining the esprit de corps at the Board. While I do not ultimately expect any great problems to flow from these negotiations, I believe that the potential for a deterioration in the morale of the staff does exist. However, I have found all those involved on both sides of this process to be men and women of dedication and goodwill and am, therefore, optimistic.

C. Computer/Database

Among the improvements made in our computer system are a new retrieval system which offers better access to our database and a new and better word processing capability. Each of these will help us to serve the public better. In this regard, our system is currently being programmed to generate a list of rent control units aggregated by legal maximum rents and a monthly report of pending cases. This

latter improvement, which will show aggregations of case types by the number of days pending (e.g. rent adjustments 0-30, 30-60, etc.), is particularly significant. It will provide 1) monthly reports for public review and comment, 2) an objective and generally-accepted measure of the Board's performance in processing cases, and 3) an effective internal management tool by which I can identify problem areas. Once this programming is completed in the fall, we will be submitting monthly reports to you for transmittal to the Council.

D. Legal Issues

The Board, primarily through its General Counsel, has been quite active over the last few months on the litigation front. The addition of a full-time General Counsel to our staff, as recommended by the Mayor's Commission, has greatly enhanced the efficiency and thoroughness of our litigation efforts. As a result, the Board has been able, for the first time, to initiate a variety of enforcement actions. Among these have been actions to compel registration of property with rent control and payment of rent overcharges, to punish a non-Cambridge landlord claiming owner-occupancy simultaneously of four different parcels in Cambridge, and to enforce the Board's subpoenas.

The Board has also embarked over the last several months on a major effort to codify many of its existing policies in the form of written regulations. This regulation writing represents a response to the widespread criticism that the Board has regularly failed to inform individuals in advance of their rights and responsibilities under the Act and the Ordinance. Thus, the Board has been reducing much of its "oral tradition" to written guidelines available to the public. Furthermore, before any of these regulations have been formally adopted by the Board, the public has been given notice of the Board's proposed action, copies of each of the proposals, and an ample opportunity for comment before the Board. This is merely one example of the Board's on-going efforts to maximize the public's participation in the policy-making function of the Board.

Finally, the Board is proceeding expeditiously to compile and analyze available housing data, in concert with the City's Community Development Department, to determine whether the Removal Permit Ordinance is still in effect. Given the sensitive nature of this issue, the Board is attempting to conduct its work with the utmost thoroughness and impartiality and the maximum public input. We believe that the ultimate decision of the Board in this matter will only be as credible as the process leading to it. Thus, while the Board recognizes the need to resolve the uncertainties surrounding the Ordinance as quickly as possible, it refuses to sacrifice thoroughness and openness in the meantime.

II. Mayor's Commission Report

This section of the report is keyed into the specific recommendations of the Mayor's Commission which studied the administration of the Rent Control Board over several months during 1982.

Recommendation 1(a):

Hearing examiners should not do rent adjustments.
Hire two non-legal rent adjustment specialists to assist hearing examiners.

and

Recommendation 1(b):

Hearing examiners should not perform public assistance except in unusual circumstances.

It was the consensus of the Rent Control Board staff that these two recommendations were unrealistic and shortsighted and should not be implemented. While the benign intent of these proposals, to use the special skills of our Hearing Examiners more efficiently, is to be lauded, we believe that compartmentalizing the various functions of the Board (e.g. public assistance, rent adjustments, other cases) would be needlessly rigid and would move the Board toward an "assembly line" type of approach to the Board's work. While this approach might offer short-term efficiencies, we believe that it would over the long run accelerate the "burn out" and turnover of Board staff, ultimately undermining stability and, therefore, efficiency at the Board. While the Hearing Examiners would like to unburden themselves of a substantial portion of the more mundane non-legal work, they still prefer a variety of responsibilities, including a limited amount of public assistance and rent adjustments.

On the other hand, we readily agree with the Commission that much of the public assistance and rent adjustment work is non-legal in nature. Thus, last December, we hired three rent adjustment specialists, none of whom are attorneys, who spend approximately $\frac{2}{3}$ of their time on rent adjustments and $\frac{1}{3}$ of their time on public assistance. This mixture of tasks is in keeping with the earlier comment about attempting to minimize compartmentalization where appropriate. Hearing Examiners, while continuing to do public assistance and rent adjustment work, are now spending much more of their time on cases where an attorney's legal and analytical skills are needed.

Recommendation 1(c):

The Rent Control Board and City Manager should develop and implement a Pilot Mediation Project.

We have for some time been attempting to mediate cases in appropriate circumstances. Our mediation efforts have proven to be most productive in resolving evictions. Other kinds of cases don't lend themselves as readily to mediation. We also must be careful that in attempting to mediate cases, that we do not compromise our position as an impartial fact-finder and quasi-judicial body.

Recommendation 1(d):

Re-evaluate hearing examiner positions in 8-12 months to consider adding litigation tasks.

Relative to the earlier discussion in Recommendations 1(a) and (b), we have been looking for ways to improve the quality of the work experience and, thus to minimize "burn-out" and turnover. All of our Hearing Examiners are attorneys; most are interested in participating in litigation. Therefore, for the last eight months, the General Counsel has been looking for opportunities for Hearing Examiners to participate as co-counsel or in some other limited capacity under her direction. Our Hearing Examiners have responded positively, making a valuable contribution to our litigation effort. None of the on-going responsibilities of our Examiners for processing cases has been sacrificed in the interim.

Recommendation 2(a):

Divide the work of the organization into two major parts-information systems and case hearings.

and

Recommendation 2(b):

Hire a new Assistant Director for Management and Systems. Convert the existing position to Assistant Director/Chief Hearing Examiner.

and

Recommendation 2(c):

Adopt a new organization structure and budget.

Due to the generosity of the City Manager and the City Council in approving a major increase in our FY83 budget, we were able to implement a major reorganization of our staff and to create a number of new slots. Foremost among these was an Assistant Director for Administration and Systems, which gives

us not only an in-house computer programming and technical assistance capability for our extensive database, but also additional fiscal and managerial expertise. The creation of this slot has allowed us to reorganize our staff along clerical/professional lines with the new Assistant Director, Edward J. Macioci, exercising direct supervisory responsibility over the clerical and data processing staff and performing major budgetary and administrative tasks as well. I have previously alluded in this report to a number of improvements that Ed has initiated in our computer system. The incumbent Assistant Director, Margaret Turner, has continued to be responsible for the supervision of the professional staff and for the expeditious and impartial processing of cases.

The additional resources allocated to the Board will allow us to efficiently perform our statutory responsibility of administering the approximately 17,000 rental units in Cambridge subject to rent control.

Recommendation 3(a):

Develop staff performance measures and implement a performance appraisal process.

While we agree that there is a need for an effective performance appraisal system, we have not yet implemented such a system because relative to the Commission's other recommendations, I did not give it a high priority. I also believe that the Commission's recommendation that performance measures be keyed into our computer does not adequately reflect the qualitative factors which influence the work of the staff. Thus, the design of this performance appraisal system will take much thought and discussion. Once our computer begins producing this fall monthly reports of pending cases, our capability for quickly identifying undue delays and those responsible for them will be greatly enhanced.

Recommendation 3(b):

Introduce at least limited opportunities for a progression in professional job responsibilities.

We have been looking for creative ways to implement this recommendation. For instance, we created two Senior Hearing Examiner slots with a higher salary scale for two of our most experienced Hearing Examiners. Both regularly attend our senior staff meetings and assist the General Counsel in major litigation. These two slots are now viewed by the rest of the professional staff as additional opportunities for upward advancement, encouraging them to remain with the Board. Other experienced Hearing Examiners are given additional professional responsibilities when the opportunity arises.

Recommendation 3(c):

Reduce the use of part-time Hearing Examiners.

I agree wholeheartedly with this recommendation. When any of our three remaining part-time Hearing Examiners leave, they will not be replaced, except possibly by combining two positions to create one full-time position.

Recommendation 4(a):

Rewrite all petition forms, back-up documentation and instruction sheets in non-legal language, with the additional requirement that they be computer-compatible.

While this recommendation is quite time-consuming, we are implementing it. The goal is to make all our forms as clear as possible for non-attorneys. We are also developing a general informational booklet for public distribution.

Recommendation 4(b):

Improve the Data Base, and add information now maintained in paper files.

As previously noted, we have implemented a new database retrieval system that gives the public greater access to our database. This database has been updated and purged of errors. Compatibility of our database with that of other City agencies, while a laudable goal, is very complicated and not totally within the realm of the Board to accomplish. On a long-term basis, we agree that as much of the relevant data as possible currently in our paper files should be inserted into our database. This will, however, take much time and is not of the highest priority.

Recommendation 4(c):

Implement Scheduling Software.

Our Assistant Director for Administration and Systems has some substantial concerns about the appropriateness of the existing software and the cost/benefit of entering the data into our computer. He is designing an alternative case transaction system which we believe will be better suited to our immediate needs.

Recommendation 5(a):

Prepare and Distribute a comprehensive informational booklet.

We are currently preparing such an informational booklet. We have also discussed with landlord groups the possibility of convening training sessions for small landlords who may not have in the past availed themselves of the services of the Board.

Recommendation 5(b):

Prepare and maintain an index or digest of board policies and precedents.

We have taken several steps to implement this recommendation. First, we are preparing an index of all important Board decisions and of all important Court decisions involving the Cambridge Rent Control Act. This index and copies of all such decisions will be made available to the public. Second, as previously noted, the Board is currently attempting to codify in regulatory form many of its existing policies. Updated copies of the Board's regulations are available to the public. Finally, the Hearing Examiners and the Executive Director are taking particular care to articulate the factual and legal basis for recommendations and final Board decisions. This is particularly important where the Board reverses or amends the recommendation of a Hearing Examiner.

Recommendation 5(c):

Add evening office hours.

The Board provides public assistance each Wednesday evening from 5:00 - 9:00 P.M.

Recommendation 5(d):

Curb discourtesy; Fix the telephones.

The most oft-repeated theme at our weekly staff meetings is the need for Rent Control Board staff to treat all members of the public with the utmost courtesy and respect. I believe that our performance has improved. Working in concert with City Hall to design a new phone system, we have greatly improved our ability to serve the public over the phone.

Recommendation 5(e):

I believe that this recommendation is one best addressed to the City Manager.

Recommendation 5(f):

Establish a Rent Control Advisory Committee.

We have some concerns about this recommendation. There are already numerous parties involved in policy-making and administration at the Board without giving another body quasi-

official status. Members of the Mayor's Commission and others have indicated their willingness to assist the Board on an ad hoc basis when the need arises.

Recommendation 6:

Revise the Work Scheduling System for Hearing Examiners to Emphasize Timely Preparation of Reports.

Timely preparation of reports is generally emphasized. With the elimination of the backlog, a new work scheduling system takes on less importance. We generally favor allowing each Hearing Examiner to design his/her schedule to suit his/her needs as long as the work gets done promptly. This system thus far seems to be working.

Recommendation 7(a):

The Board, with public input, should adopt a general adjustment formula, indicate the data used in that formula, and adopt a predictable cycle for regular review of these to assess the need for a general adjustment.

We readily endorse this recommendation. The general adjustment process has in the past been haphazard at best. A degree of predictability and consistency in this process should allow both landlords and the Rent Control Board staff to more adequately plan for the long-term allocation of resources. We also acknowledge the critical role that the public can play in adopting such a formula and are, therefore, committed to an open and impartial process including ample opportunity for public participation.

The Board expects to adopt and implement a general adjustment of rents in the fall after public notice and hearings. At that time, we will ask the Board to specifically authorize the staff to take the steps necessary to implement this recommendation. In the meantime, we have been discussing internally plans for developing a universal general adjustment program which would enable us to implement a general adjustment for any component of the legal maximum rent (e.g. heat, property taxes, etc.) without the need to reprogram our computer annually.

Recommendation 7(b):

Landlords should be able to opt for an adjustment based on capital or extraordinary operating expenses in lieu of the general rent adjustment.

We find the Commission's recommendation somewhat confusing. General adjustments are designed to compensate landlords for increases in operating expenses but not for the cost of capital

improvements. Therefore, it would be unfair to deny landlords the right to apply for a capital improvement-related increase in the legal maximum rent based on a general adjustment of that rent.

The Board has yet to take a position on requiring landlords to choose between a general adjustment and an individual adjustment of the legal maximum rent. However, it has consistently been Board policy to consider any general adjustment increase as part of any request for an individual adjustment based on increased operating expenses to avoid "double dipping."

Recommendation 7(c):

Develop a computer-based system for downward adjustment of allowable rents when costs of a capital improvement are fully amortized, or when taxes decrease.

We are currently developing a system for adjusting rents downward once a capital improvement has been fully amortized. The process, however, is time-consuming and complicated. Downward adjustments based on a decrease in property taxes will be handled as a part of the general adjustment process.

Recommendation 8:

Hire a Full-Time General Counsel to Assist the Agency and the Public

The increase in our FY83 budget allowed us to hire for the first time an in-house General Counsel. Since Patricia Cantor, our Counsel, joined the staff, she has effectively represented the Board in a variety of legal matters, as well as provided essential and comprehensive legal counsel to the Board and the staff. As the Board continues its efforts to maximize public review and participation in its policy-making function, Pat's responsibility to ensure that the Board is acting within its legal authority is becoming ever more critical.

Recommendation 9:

Identify Particular Members of the Staff Who Will Concentrate on the Backlog.

and

Recommendation 10:

Adopt Experimental Measures to Eliminate the Backlog.

The Board has been looking and continues to look for innovative ways to expedite the processing of cases without sacrificing thoroughness and fairness. We have been using two backlog teams since the first of the year to process backlogged

cases. We have also used a prioritizing scheme and mediation for backlogged cases to expedite processing where appropriate. With the backlog effectively eliminated, the need for these experimental measures has become much less. Nevertheless, we will continue to experiment with ways to improve our performance.



CITY OF CAMBRIDGE

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Tel. 498-9011

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

August 8, 1983

To the Honorable, the City Council:

Enclosed herewith for your information please find
a copy of the third in a series of management reports pre-
pared by the Executive Director of the Cambridge Rent
Control Board.

Very truly yours,

Robert W. Healy
City Manager

RWH/b

Re: management report from the Cambridge
Rent Control Board.

In City Council,

August 8, 1983

8/8/1983

Placed

on

File -