



CITY OF CAMBRIDGE

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EXECUTIVE DEPARTMENT
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November 25, 1996

To The Honorable, The City Council:

Enclosed for referral to the Housing & Community Development Sub-Committee meeting of December 2, 1996 are responses to Awaiting Report Item Nos. 9, 16, and 21.

As the Council is well aware, there are no simple solutions to complex problems nor are there unlimited financial resources.

The menu of potential items referenced in this report involve difficult policy and fiscal choices both locally and at the state legislature. Serious further discussions and choices will be necessary before any final plan can be adopted.

Very truly yours,

Robert W. Healy
City Manager

RWH/mec
attachments



CITY OF CAMBRIDGE
COMMUNITY DEVELOPMENT DEPARTMENT

SUSAN B. SCHLESINGER
*Assistant City Manager for
Community Development*

ELIZABETH EPSTEIN
*Deputy Director for
Community Development*

To: Robert W. Healy, City Manager

From: Susan Schlesinger, Assistant City Manager for Community Development

Date: November 25, 1996

**RE: Amended Council Order #32 dated October 7, 1996 and Council Order #029
RE: Feasibility of Home Rule Legislation on Rent Subsidies for Elderly and
Disabled protected tenants;
Council Order #028 dated October 28, 1996 RE: Tax Incentives to Property
Owners Who Provide Relief to Protected Tenants;
Council Order #033 dated October 28, 1996 RE: How Brookline Housing
Authority Increased Section 8 Rents
Council Order #020 dated November 4, 1996 RE: Negotiate Deals with Larger
Owners of Properties with Protected Tenants**

Cambridge is facing an affordable housing disaster similar to a natural disaster like a flood, hurricane or fire. Like these natural disasters, the loss of a significant number of affordable housing units and the potential displacement of over 1,300 families, elderly and other lower income households living in them will have a profound effect on the overall well being of the City. The diversity of our population and the vitality that diversity brings to Cambridge will be impacted due to rising rent levels that many Cambridge tenants won't be able to pay. Also, like a natural disaster, this affordable housing crisis was caused by forces controlled neither by the City nor its residents.

Two major shifts in public policy are impacting the ability of low and moderate income residents to continue to be able to live in Cambridge. The first is the loss of support for affordable housing on the federal level (see NY Times article in Attachment 1). This fundamental shift away from the federal government being responsible for safe, decent and affordable housing has translated to the loss of a significant number of housing programs used in Cambridge to produce or rehab units or to subsidize tenants in their existing units. Federal programs such as the HoDAG program, Section 8 New Construction and Substantial Rehabilitation programs, and new Section 8 certificates all have either been eliminated or reduced dramatically.

In addition, the federal government has chosen to deal with the "expiring use" issue by essentially allowing owners to prepay their mortgages and no longer make units available to low and moderate income residents. Although, we are extremely fortunate in Cambridge to secure commitments for over \$29 million in federal funds to help Just A Start Corp., Homeowners Rehab, Inc. and their tenant partners buy two expiring use properties with a combined 575 units, the federal program providing this funding is out of money with no commitment to future appropriations. In other developments, federal project-based Section 8 contracts are due to expire and the future of these contracts is unclear.

State programs like the SHARP program, and the 707 Rental Subsidy program have also been reduced or eliminated. Although Cambridge projects continue to receive Low Income Housing Tax Credits as well as other available State funds, the overall State commitment to the development of affordable housing has dropped significantly while competition for these resources has increased significantly. The impact of the withdrawal of the State and Federal governments puts cities in the position of deciding whether their fiscal capacity is sufficient to make up for these lost resources, given other competing priorities for limited resources.

The second major policy shift is the loss of rent control via state referendum in November, 1994. Over fifteen hundred households have qualified for protected status, defined as elderly or disabled households with incomes below 80% of area median income, or, for households with children or other lower income households, below 60% of area median income. These households will lose protection as of January 1, 1997 and be subject to unregulated rent increases. Although State action has caused this situation, there has been no move on the State's part to assist tenants in Boston, Brookline or Cambridge who are affected by rent control's demise.

The following memo details Cambridge's response to this affordable housing disaster as well as identifying new initiatives for the City to consider taking. Cambridge has reacted differently than Brookline or Boston by committing significant City tax dollars towards a variety of programs designed to ensure long term housing affordability. The CITYHOME program, along with the potential acquisition of 808 Memorial Drive, 402 Rindge Avenue, and the Harvard housing package, represents over 675 units preserved or created for low and moderate income tenants.

The potential initiatives outlined below in Section 4 will increase our ability to help current protected tenants, specifically families, the elderly and disabled. They will also continue the City's strong commitment to a diverse community by launching an aggressive effort to build or acquire additional units for future affordable use. These potential initiatives include the following:

- Housing Case Management for Protected Tenants;
- Property Tax Incentives for Property Owners;
- Outreach to Large Property Owners;
- Priority in Tenant Selection for Publicly Assisted Housing;
- Proposed Real Estate Fees and Regulation;
- Bond Issue to Support Increased Affordable Housing Development

However, without a renewed federal or State commitment to affordable housing, no City will be able to totally meet the needs of its residents for safe, decent and affordable housing. Any local strategy needs to be coupled with an appeal to our state and federal legislative delegations to become our partners in addressing the impending affordable housing disaster. Without this commitment, our efforts will be severely hampered.

1. SCOPE OF THE PROTECTED TENANT PROBLEM

Pursuant to M.G.L. Ch. 282, approximately 1,538 Cambridge tenant households were granted protected status by the Cambridge Rent Control Board (CRCB), which allowed for up to a two year extension of rent control protection for lower income households. The following table presents a breakdown of the household types receiving protected status in Cambridge:

PROTECTED TENANT HOUSEHOLDS IN CAMBRIDGE

Applied to CRCB for Protected Status	2,342 Households
Not Granted Protected Status	784 Households
Granted Protected Status by CRCB	
Elderly Households	329 (21%)
Disabled Households	169 (11%)
Households with Children up to 18	242 (16%)
Non-Elderly, Non-Disabled, No Children	718 (47%)
Not Classified	80 (5%)
Total Households	1538 (100%)

Based on the type of residential property, legal protections ended on 12/31/95 for approximately 232 tenant households. These households lived in four to twelve unit owner-occupied properties, and condominium units. The remaining 1,306 households will lose their legal protections on 12/31/96.

It is important to note that the actual number of low and moderate income households living in the rent control stock may be greater, since not all low/mod households applied for protected status.

2. CURRENT CITY EFFORTS

The City of Cambridge has a significant stock of affordable housing in relation to other communities across the Commonwealth. According to the Massachusetts Executive Office of Communities and Development (EOCD) Subsidized Housing Inventory through July 1, 1993, the City had a total of 5,825 units, or 13.93% of its total housing units. This was the sixth highest percentage in the Commonwealth at that time, and is significantly greater than the average community's affordable housing stock in the Commonwealth of 8.14%. Given recent development efforts, and the fact that EOCD did not include CDBG-funded projects, Cambridge's total is actually even higher.

Nonetheless the City has substantially increased its financial support of affordable housing in the wake of the loss of rent control. Over the past 1 ½ years, the City has committed over \$6.6 million of its property tax revenues to affordable housing efforts. This amount includes the FY 96 and FY 97 City appropriations to the Affordable Housing Trust of \$4.25 million (the CITYHOME Program), and the City's commitment of over \$2.4 million to finance the acquisition of the Harvard Housing package. Working in partnership with the Trust, the Cambridge Housing Authority (CHA) and the City's non-profit housing development organizations, the City has used these funds to create affordable homeownership and rental opportunities for low and moderate income Cambridge residents.

As shown in the chart below, these City financial resources, in combination with federal and state housing resources, have created or preserved 264 affordable units, with an additional 873 affordable units currently under development. Affordable developments funded with CITYHOME resources account for 188 of these units.

FY96 Completed Projects		
Project	# of Units	Type of Project
Auburn Court	77	rental
Swartz/Cambridge Community Properties	59	rental
Hampshire/Columbia Condominiums	16	first-time homebuyer
Allston Street	6	rental
Hampshire Homes	6	first-time homebuyer
Fulkerson Street	2	first-time homebuyer
Norfolk Street	1	first-time homebuyer
CNAHS Projects	27	rental
HIP Cases	70	existing homeowner
TOTAL	264	
FY97 Projects Under Development		
Project	# of Units	Type of Project
Harvard Housing	100	rental
808-812 Memorial Drive	301	rental
402 Rindge Avenue	274	rental
Garfield Street	8	rental
Harvard Manor	21	elderly supportive housing
Webster/Bristol Street	9	rental
Bolton Street	7	first-time homebuyer
Hurley Street	1	first-time homebuyer
Jefferson Street	4	first-time homebuyer
Seventh Street	3	first-time homebuyer
Prospect Street	6	rental
North Point/Museum Towers	33	rental
Cambridge Condo Buyer Initiative	16	first-time homebuyer
CNAHS Projects	34	rental
HIP Cases	56	existing homeowners
TOTAL	873	

The CHA has responded to the end of rent control with a series of actions to assist protected tenants. In late 1995, the CHA Board approved new preferences and priorities in its tenant selection policy for Cambridge residents at risk of displacement due to the end of rent control. In April, 1996, CDD sent a mailing to all protected tenants which included an application for the Section 8 program. Since January, 1996, the CHA has received over 400 applications for Section 8 assistance from protected tenants, including 110 elderly tenants. Fifty four (54) elderly tenant households have received assistance to date, either through placement in elderly housing or through Section 8.

In addition, in response to a request from the Council's Elder Affairs Committee, the City has conducted a survey of the elderly protected tenants. The survey was conducted by staff from CDD, the Council on Aging, and the Human Services Department. The purpose of the survey was to determine the current status of each tenant's housing situation, to inquire about future plans, and to identify any need for additional resources or services. A breakdown of the 329 elderly protected tenants is as follows:

Assisted by the CHA	54
Living in Harvard Housing	14
Moved/Deceased/Unable to Contact	141
Surveyed	120

The results of this survey of elderly protected tenants raise major issues related to new policy initiatives, which are discussed below in Section 3. The majority of the tenants surveyed (78 households, or 65% of total) have yet to receive a notice of a rent increase, while 30% (36 households) have been notified of a rent increase. Six households did not respond to the questions. Of those facing an increase, 60% stated that they did not intend to move until it was absolutely necessary. Some of these tenants have been offered a unit by the CHA and have rejected the offer. One property alone houses 25 elderly protected tenants. We contacted 17 of these tenants, who have been notified of a 10% rent increase as of January 1st, and a second 10% increase as of July 1st. Eleven of these tenants have stated that they have no intention of moving and would not consider a move to CHA elderly housing.

Finally, CDD currently offers a range of additional services to protected tenants. These services include the following:

- **Outreach to Protected Status Tenants:** CDD has sent three mailings to all protected tenants which provided information about affordable housing opportunities and related services in the City. CDD sponsored a **Housing Resource Fair** on Saturday, October 19, 1996 at the Senior Center for all protected tenants, which provided an opportunity to gather information on affordable housing options from twenty local organizations. Approximately 250 Cambridge tenants attended the Fair.

- **Information and Referral Services:** CDD has hired a Housing Access Counselor to coordinate outreach on City housing programs, answer public inquiries, and make referrals to other appropriate local affordable housing providers. For low income elderly and disabled tenants, the primary referral is to the CHA, given its significant stock of public housing for the elderly and disabled and its administration of the Section 8 rent subsidy program. CDD has responded to over three thousand inquiries in the past year.
- **Individual Counseling Services:** The Housing Access Counselor is available to provide individual counseling sessions to tenants. These sessions assist tenants in evaluating their housing options, and identifying affordable housing opportunities in the City. Since January 1, 1996, CDD has held over 225 individual and group sessions.
- **Mediation and Dispute Resolution:** The City contracts with Just-A-Start, CEOC, and the Cambridge Dispute Settlement Center to provide stabilization services, including mediation and landlord-tenant dispute resolution for low income tenants.
- **Outreach to Property Owners:** CDD sent a letter to every property owner with an elderly protected tenant. This letter informed the owners about City-sponsored housing services and requested the owners to exercise restraint on future rent increases following the termination of rent control protections. In addition, the City intends to contact individually the largest property owners to negotiate on behalf of lower income tenants (see below).
- **Affordable Housing Lending Program:** The City contracts with Cambridge Neighborhood Housing and Apartment Housing Services (CNAHS) to administer a revolving loan fund for rental property owners. Property owners receive below-market financing to rehabilitate their property, in return for a commitment to set-aside apartments for lower-income tenants. This program provides financial incentives to landlords to maintain affordable rents for protected tenants. Properties with 55 units have received funds or are being reviewed.

3. ANALYSIS OF RENT SUBSIDY PROGRAM

As discussed in the Council's Housing and Community Development Committee meetings in the Spring of 1995, a rent subsidy program is the most costly approach to mitigating the effects of the loss of rent control since it only provides affordable housing on a year to year basis. Compared to a long-term housing development strategy which costs \$1-2,000 per unit per annum, a rent subsidy program would cost between \$3,600-\$8,400 per unit per annum depending upon how it is structured. A rent subsidy program also entails additional administrative costs, which typically adds 10% to the total subsidy cost.

We have calculated the cost of a rent subsidy program for 3 of the 4 protected classes: the elderly, the disabled, and households with children 18 and under. We have used two structures: 1) a flat \$300 per month rent subsidy to each elderly or disabled tenant household and \$400 to each household with children; and 2) an income-based subsidy

which subsidizes rents in the amount of the difference between 30% of a tenant's income and the market rent. For the elderly and disabled households, we have assumed a market rent of \$850/month including utilities, and for households with children 18 and under we have assumed a market rent of \$1,100/month including utilities. The costs of a subsidy are as follows:

COST OF RENT SUBSIDY PROGRAM

Protected Class	Flat Subsidy	Income-Based Subsidy
Elderly (240 Households)	\$860,000	\$1.34 million
Disabled (150 Households)	\$540,000	\$973,000
Households with Children (225 Households)	\$1.1 million	\$1.9 million
Subtotal	\$2.5 million	\$4.2 million
Administrative Expenses	\$250,000	\$420,000
TOTAL COST	\$2.75 million	\$4.62 million

In addition to the high cost of a rent subsidy program, there are other issues regarding a City subsidy program that need to be considered.

- The first is that it is extremely difficult to stop a subsidy program once it has started. If the City decided to terminate a rent subsidy, it may cause the displacement of a tenant. In our telephone survey of elderly tenants, 60% of those tenants faced with a rent increase said they would not move from their current apartments. The City may then be in the position of permanently subsidizing these tenants rather than assisting on a temporary basis until a tenant received CHA assistance.
- The second is the potential effect a subsidy program may have on the market. Sixty five (65%) of our elderly survey group reported that they had not been informed of a rent increase. Offering a subsidy program could, in fact, inflate rents, resulting in an unnecessary public expenditure.
- The third issue is administrative and legal. Not only is the administration of a rent subsidy program expensive and complex, but questions arise around the City's subsidy of units that do not meet code or that contain lead paint. Should the City be subsidizing units where tenants are overhoused or underhoused? In the consideration of a rent subsidy program, the City must evaluate these policy and liability issues in addition to the financial cost.

4. PROPOSED NEW INITIATIVES

We are proposing six initiatives to address the affordable housing disaster facing the City, as follows:

- Housing Case Management for Protected Tenants;
- Property Tax Incentives for Property Owners;
- Outreach to Large Property Owners;
- Priority in Tenant Selection for Publicly Assisted Housing;
- Proposed Real Estate Fees and Regulation;
- Bond Issue to Support Increased Affordable Housing Development

A. Housing Case Management for Protected Tenants

We propose to address the immediate needs of the protected tenants through a housing case management approach. The goal of this approach is to stabilize existing tenancies, or assist the tenant with securing alternative affordable housing if necessary. Case managers would work with individual tenant households and property owners to determine the status of the tenancy, identify the need for additional resources or services, assist with relocation within the City, if necessary, and assist in negotiations or mediation between the tenant and the property owner. The City is currently analyzing the costs related to staffing this initiative. The Housing Services Program, funded by the City, is an existing small-scale model of the housing case management approach.

In addition, we propose to establish an emergency pool of funds to assist in stabilizing these tenancies. Funds could be used to assist tenants for a range of needs, including short term rental assistance in cases where a relocation unit will become available in a matter of months, security deposit assistance, or moving expenses related to a relocation.

B. Property Tax Incentives for Property Owners

We propose that the City establish a new program to offer tax incentives to property owners, who agree to maintain affordable rents for protected status tenants. Such a program might provide a financial incentive to owners to support the City's efforts to maintain affordable rents for protected tenants. This new program could be structured as a new tax exemption, similar to the existing elderly or veterans tax exemption. This proposed program, if approved by the Council, will require state legislative approval.

In recent discussions with property owners, they have indicated that it is inconsistent for the City to request their assistance in keeping rents affordable without some tax relief. This proposed program would provide a financial incentive to owners at a reasonable expense to the City, in relation to the extremely high cost of a rent subsidy program described above.

C. Outreach to Large Property Owners

In response to Council Order #020, the City intends to initiate meetings with large owners to request their assistance in maintaining affordable rents for protected tenants. The support of City Councillors with this initiative could be invaluable towards their success. CDD has determined that the 21 largest property owners currently house 585 protected tenant households, or over one third of the total. We will use these meetings to inform the large owners about available City programs and request their assistance during this critical period.

D. Priority in Tenant Selection for Publicly Assisted Housing

One of the most difficult policy decisions facing the City is the determination of need for publicly assisted affordable housing. The inadequate supply of affordable housing predates the termination of rent control, as shown by the lengthy waiting lists for the CHA's public housing. The question is: should the City establish a priority for protected tenants over other low-income needy Cambridge households?

On the one hand, protected tenants had access to a scarce resource, a rent controlled unit, which many other low income households did not have. On the other hand, the protected tenants are facing an imminent crisis caused by State action. This emergency situation needs an emergency response.

We propose that protected tenants should receive a priority for publicly assisted housing, given the current crisis. This should not be an absolute priority, however, and other low income households with emergency housing needs also require assistance.

The CHA has established a priority in its tenant selection plans for elderly, family, and Section 8 housing for protected status tenants facing displacement. This allows the CHA to serve protected tenants with a portion of the openings in CHA programs. The non-profits have also agreed to prioritize protected tenants for vacancies in their affordable housing units.

We propose to request owners of existing privately-owned subsidized housing to establish similar priorities in their tenant selection plans.

E. Proposed Real Estate Fees and Regulation

We propose four separate programs which would provide either additional resources to the City to address this crisis, or additional protection to tenants. These programs include the following:

Real Estate Transfer Fee:

The Council has considered a real estate transfer fee to provide financial resources for affordable housing. We are attaching the memorandum dated March 20, 1996 which provides details on this program. We have estimated that a transfer tax at a rate of 1-2% of the sales price would generate close to \$2 million annually.

In recent months, several communities throughout the Commonwealth have sought state approval to impose real estate transfer fees to raise revenue for their cities and towns. Nantucket submitted legislation to increase their existing real estate transfer fee from two percent to four percent. Nantucket's home rule petition passed the House and the Senate but was vetoed by the Governor. However, the Governor indicated that he might act favorably on this type of legislation if there was a referendum vote of the people voluntarily agreeing to be taxed. Nantucket requested that the Governor submit the legislation with the provision for voter input and the Governor agreed. The revised legislation has now passed the House and Senate, has been engrossed, and is awaiting the Governor's signature.

Nantucket's legislation, if signed as written, would propose an increase in the real estate transfer fee to be used for preservation of open space subject to acceptance by the voters. The question will be put before Nantucket voters in a town election in April, 1997. If the voters approve, and if the Governor signs the legislation, the additional fee will be implemented.

In Barnstable County, a non-binding referendum was placed on the November 5th ballot asking voters whether they supported the establishment of a Cape Cod Land Bank to be funded by a one percent fee on all land transfers at the Barnstable Country Registry of Deeds, exempting the first one hundred thousand dollars of the purchase price. The voters approved it and the home rule legislation is currently winding its way through the legislature.

Finally, according to a recent Boston Globe article, many communities throughout the state are seeking approval to impose impact fees, although with the exception of Nantucket and Martha's Vineyard, there do not appear to be any other communities which have actually obtained legislative approval to impose real estate transfer fees.

Condominium Conversion Fee:

Based on Boston's model, this program would assess a fee on the conversion of rental properties to condominiums. The fee would be based on the number of condominium units created. In Boston, the fee is \$500 per unit. The revenues generated through this program could be used for affordable housing programs. This program would require state legislative approval.

Condominium Conversion Ordinance:

Many jurisdictions throughout the Commonwealth have adopted local ordinances to provide stronger protections than currently provided through state law to tenants facing displacement as a result of condominium conversion. The process to adopt the ordinance is locally controlled, and would require a vote of two thirds of the Council.

Inclusionary Zoning:

We propose that an inclusionary zoning program be established citywide, rather than in isolated locations and neighborhoods. This program would require developers of market-rate residential housing to include a set-aside of affordable units. This program builds mixed income communities and integrates affordable housing throughout the City. The new North Point residential development will provide 33 new affordable units, or 7.5% of the total, at no cost to the City. The Town of Brookline has just passed an inclusionary zoning measure in response to the rent control crisis requiring a minimum 15% set-aside in new developments of 10 units or greater. The procedure for adopting this program is locally controlled, and would not require state legislative approval.

E. Bond Issue to Support Increased Affordable Housing Development

We propose a City bond issue of \$20 million to provide financial resources to increase the development of affordable housing. If the City has a goal of ensuring a diverse population over the long term, the most cost-effective approach is to develop permanently affordable housing owned publicly or by non-profits. This approach requires a significant capital investment initially, but over the useful life of real estate it provides affordable housing for \$1-2,000 per unit per year.

The CITYHOME program, with its annual allocation of City funds, has been effective in generating affordable housing development. Given the current situation, the City could increase its development efforts to meet the increased demand caused by the loss of rent control and other public resources.

The City could use its bonding authority, subject to state approval, to generate a large pool of capital for this purpose. A \$20 million bond would provide the resources to develop 200-300 affordable housing units that will be available for no less than 50 years. The annual debt service on a \$20 million bond would be no greater, and likely less than, the cost of a rent subsidy program.

We have seen the costs of subsidizing housing development rise dramatically in the past two years. The primary factor is the increase in property values resulting from the end of rent control. The second factor is the reduction in and increased competition for other federal and state resources. We anticipate that the current capital subsidy needed to develop affordable housing is in the range of \$75-100,000 per unit. Nonetheless this approach remains the most cost-effective solution to meet the need for affordable housing in the City.

LIST OF ATTACHMENTS

1. Copy of New York Times article "Slamming the Door", October 20, 1996
2. Letter from City Solicitor to Robert W. Healy dated November 12, 1996 RE: Council Order #32 as Amended, Feasibility of Home Rule Legislation on Rent Subsidies for Elderly and Disabled Protected Tenants
3. Memorandum from CHA Executive Director Daniel J. Wuenschel to Robert W. Healy dated November 13, 1996 RE: Council Order #33, Section 8 Rents in Brookline
4. Memorandum from Susan Schlesinger to Robert W. Healy dated March 20, 1996 RE: Real Estate Transfer Fee

Slamming the Door

The low-wage jobs of the new economy cannot pay the rent. If stable housing keeps families together and productive, why has Washington let the number of new subsidized housing units drop — to zero?

By Jason DeParle

Photographs by Andrea Modica

THERE PROBABLY AREN'T MORE THAN A DOZEN people who have read this year's housing appropriations bill, but its eye-straining type breaks new ground in the revision of the social contract. With one obscure sentence, the Federal Government has essentially conceded defeat in its decades-long drive to make housing affordable to low-income Americans. Even in an era of Government retreats this one stands out, both for its importance and its odd election-year invisibility. No one seems to have noticed, least of all the candidates. But two decades of rising rents and falling wages have created record numbers of people, *including working people*, who can't afford to pay the rent.

The Government's response is noted on page 29 of the housing bill's accompanying report. There, Congress specifies the number of "incremental certificates and vouchers" — in English, the number of additional families that can expect rent subsidies from the Government this year. Housing analysts monitor this number the way pitchers study batting averages; it is the best single summary of what they need to know. Protesters hit the streets during the early years of Ronald Reagan's Presidency when the Government "slashed" the number of new families getting help to 40,000 a year, from previous highs of about 400,000. Oh, for the good old Reagan days: the bill that President Clinton signed last month drops the number to zero. And there is no reason to hope that it will rise again.

Stable, affordable housing keeps kids in school and adults on the job. It helps the upwardly mobile save to buy homes, and it keeps the downwardly mobile out of foster care and shelters. While the housing cuts are alarming for any number of immediate concrete reasons, they also present a troubling symbolism. The zero marks the demise not just of a budgetary line but also of a hope that has transfixed reformers for a century: that all Americans can find safe, decent and affordable housing.

These days that hope sounds quaint at best, if not impossibly naïve.

Jason DeParle is a staff writer for the Magazine based in Washington.

Housing has simply evaporated as a political issue. But housing problems are far more central to the lives of the poor than a number of the issues — immunizations, school lunches — that have made recent headlines. The cost of shelter breaks the budgets of low-income Americans or crowds them into violent ghettos, far from good jobs and schools — or both. Indeed, it's hard to imagine a poverty solution that doesn't take account of the relentless struggles most poor people face just finding a place to live.

About the time that Congress was eradicating the signature line of housing policy, another report was rolling off the Government printing presses, again in utter obscurity. It notes that five million needy households now pay more than half their pretax income for shelter, a punishing percentage that can crowd out other purchases, like food. (The Government says shelter is "affordable" if rent and utilities consume no more than 30 percent of a household's income.) These five million households constitute a record number and one that is growing at a near-record rate, through recessions and recoveries alike.

Their circumstance is not, as it might seem, the perennial condition for low-income Americans. It is something ominous and new. A generation ago, there were more cheap apartments than poor families. But demolition and gentrification have reduced the supply at a time when stagnating incomes virtually doubled the demand. As a result, there is a housing shortage that has altered the way low-income Americans live. Throughout the provinces of the new low-wage economy, people are making beds and guarding buildings, vacuuming offices and washing dishes, and they can't afford the rent.

To put things in perspective, consider that 15 million households qualify for Federal housing assistance, but only 4.5 million actually get it. (Out of these, about a third live in Government-run projects, and two-thirds rent from private landlords with Government help.) Of the 10.5 million that don't get help, the 5 million that spend at least half their income on shelter are simply the most desperate. Indeed, the scarcity of housing assistance offers a preview of how



Market forces keep people like Harold Coleman in a state of permanent crisis. Nearly half of his \$7-an-hour wage goes toward shelter.

other programs may fare in a post-entitlement, balanced-budget world. Only one eligible family in three receives aid, and the demand is so great in many cities that even the waiting lists are closed.

While those paying 50, 60 or even 70 percent of their income for shelter include the disabled, the elderly and welfare recipients, there are also surprising numbers of working families in the same fix. Two million of the five million household heads with severe rent burdens are employed, and 1.2 million are working full time. Among other things, their situation offers a dark commentary on the stringent new welfare bill. Say it proves its doubters wrong, and those pushed from the rolls find jobs. Where are they supposed to live?

THE DEATH OF AFFORDABLE HOUSING — WHAT A STRANGE notion in a nation as spectacularly housed as this one. Overall, the United States shelters more people in better-quality homes than any country in the world. (Ask the Japanese.) And it does so by offering the middle and upper classes exactly what it tells the poor it can no longer afford: generous Government subsidies. The \$66 billion a year the Federal Government now spends on mortgage-interest and property tax deductions is about

four times as much as it spends on low-income housing. More than two-thirds of it goes to families with incomes above \$75,000.

If the candidates detect any inequity in this arrangement, they haven't yet said so. For most of the campaign, they simply ignored the subject of housing costs. Then after months of silence, Bob Dole and Bill Clinton faced off this summer in a sudden competition to give prosperous homeowners even bigger breaks, by all but eliminating capital gains taxes on the sale of expensive homes. On a practical level, their proposals scarcely matter. Most homeowners already qualify for the exemptions (at a cost to the Government of another \$20 billion a year). But as a matter of symbolism, the further courtship of the lavishly housed captures all too well Washington's reverse Robin Hood ways.

Perhaps it seems there is no other choice: the very words "subsidized housing" conjure a landscape of failure and waste. But the Government is curtailing its efforts just as the low-income-housing world has produced a variety of success stories the nation could build on, if not to serve the most desperately poor then at least for those a step or two above. As counterintuitive as it seems, the past two decades have arguably produced more successes in low-income

The very words 'subsidized housing' conjure a landscape of failure and waste. But as counterintuitive as it seems, it's possible to argue that the past two decades have produced more successes in low-income housing than in any other anti-poverty field.

housing than in any other realm of anti-poverty policy. The quiet resuscitation of parts of the South Bronx is just one example.

Most of the progress has been led by nonprofit groups that, with Government and foundation support, have grown into adept landlords and developers. They screen tenants and keep projects small; they monitor maintenance and strive, when possible, to mix the poor with the working class. Henry G. Cisneros, the Secretary of Housing and Urban Development, is now trying to apply some of those lessons to an ambitious redesign of the worst public housing. So far he has presided over the destruction of 22,000 scarcely inhabitable apartments and is replacing them with smaller, mixed-income developments. But the effort comes with a cost. Since the new complexes will also be *smaller*, the overall housing shortage may grow.

I got my first sense of the problem's scale five years ago on a reporting trip to Charlotte, N.C., which as a midsize Southern city is no one's idea of an unaffordable place to live. But a few days in town and my notebooks were filled with the woes of low-wage workers stooped by their rents. One was a character of such earnest energy, and unlikely misfortune, that he's never quite left my mind; if the housing crisis hit the big screen, Harold Coleman could be its Jimmy Stewart.

A kitchen aide at a downtown hotel, he spent almost 60 percent of his income to keep his wife and two young sons in a decent apartment. He furnished his living room with a reclining chair salvaged from a Dumpster, and all was well, relatively speaking, until the police knocked one night at 3 A.M. and carted him off to jail. The incriminating evidence was the extension cord connecting his alarm clock to a neighbor's patio outlet. With no money for a utility deposit, Harold Coleman had turned into an electricity pirate.

I returned to Charlotte recently to check on its housing situation and found an impressive blend of economic growth and civic concern. The city is booming, with two major sports teams, the headquarters of two growing bank empires, a row of new skyscrapers and virtually no unemployment. The good times have kept the public purse full, and the city is spending a good sum on housing, more than \$3 million a year. The banks have been similarly generous, the housing groups are sharp and Habitat for Humanity, the nonprofit home builder, has constructed more homes in Charlotte than almost anyplace else. Citing such promise a few years ago, Jimmy Carter came to town, hammer in hand, to predict that Charlotte would become "the first American community in the whole United States that's going to succeed in eliminating poverty housing."

Guess how the story turns out.

AT 7:30 A.M. THE DOORS OF THE CRISIS ASSISTANCE MINISTRY HAVE yet to open, but the line outside is already 60 deep. Each year about 12,000 people trek to the social services center, just north of



Charlotte's downtown, for help with rent and utilities, and Crisis responds with a mix of funds from churches, businesses, the Government and individuals. Today, the first woman staked her place by arriving under moonlight at 4:20 A.M. The door flings open and the crowd rushes in, clutching the numbered cards that determine the order in which they'll be seen.

No. 4 is seeking a weekly room because a friend kicked her out. "I *am* working," she snaps at the social worker across the counter. No. 12, a groundskeeper, carries his eviction papers with him, and so does No. 17, a clerk at a temporary agency who was laid off after breaking her toe. (Hers come with a cheerful reminder from the landlady: "Only good things can come from paying your rent on time.") In an effort to keep someone's lights turned on, a Crisis worker calls Duke Power to say the ministry will send a check. Though social work is typically shrouded in euphemism, this exchange comes with an exquisite clarifying slang. In local parlance, this is "Crisis calling the Duke."

Though Charlotte is booming, so is its housing crisis. The ministry got 1,000 more requests for help last year than it did the year before; despite the city's overall prosperity, those seeking help reported incomes that were 4 percent lower and shelter costs that were 7 percent higher. Two years ago, the average person walking through the ministry's doors paid \$417 for rent and utilities out of a monthly income of \$622, a shelter burden of 67 percent. By last year, the average was \$448 out of \$596 — an astonishing 75 percent.

It's fair to question the precision of the numbers. (Poor people tend to underreport their income.) But it's hard to find anyone in Charlotte who doubts the general story the numbers tell. Charlotte's city officials are as given to boosterism as those anywhere else, but when they discuss their low-income-housing market, they start quoting Dickens. "Even with such a bright future, Charlotte is becoming a 'tale of two cities,'" says the city's official housing plan. "There is a growing economic division of the 'haves' and 'have-nots.'"

There are 160,000 households in Charlotte, and about 20 percent meet the Federal definition of "very low income"; that is, they live on less than half the area's median income, or less than \$21,000 a year. The city plan notes that these households "cannot afford adequate housing" and that they "often must make hard choices on whether to spend their limited income on shelter, food or heat." About 10 percent — 16,000 households — live on less than \$12,000 a year. About their prospects, the city is even more pessimistic. Without rental assistance, the plan says, they "are likely to be living in highly unstable situations, or doubled up with other families, behind on their rent and prone to eviction."

Each year the Federal Government publishes a list of "fair market rents," locally adjusted cost estimates of decent but modest



Mary Patton, opposite, has worked since her teens, but the \$500 rent on her house, above, takes a 61 percent bite out of what she earns in a year.

shelter. And each year the National Low Income Housing Coalition then calculates the wage needed to afford the rent. To afford a one-bedroom apartment in Charlotte (at \$454 a month), a worker needs an hourly wage of \$8.73. To afford a two-bedroom apartment (at \$511 a month), a worker needs \$9.83. That is more than twice the minimum wage of \$4.75 an hour.

Notice here that we are talking about *workers*. Whatever one chooses to think about welfare mothers and their children, the nation makes no pretense to house them: only about one in four nationwide gets rental assistance, and in North Carolina the rest live on cash stipends that average about \$270 a month. In other words, a mother on welfare could spend 100 percent of her cash income for rent and still have only half of what the Government says it costs to rent an apartment. Indeed, a welfare check won't pay the fair market rent in 48 states, which is why most recipients rely on boyfriends or unreported jobs, and why many families live doubled up. And so be it: from President Clinton on down, the nation has just said, "Get a job!" But the lesson of Charlotte's economy is that even when poor people do, at hourly wages of \$5.50, \$6 or even \$7, many will still find themselves unable to afford a place to live.

As a result, the Crisis Assistance Ministry is flooded with welfare and working families alike. At age 54, Mary Patton is a repeat client though she has been working since her teens — on farms, in textile mills and now as a night security guard at a commercial bakery. She started the job four years ago, at \$4.75 an hour. By this summer she was up to, well, \$4.75 an hour. "They don't give raises that often," she says.

Where does one live on a wage like that? Patton left one apartment when drug dealers shot through the door. She moved from a second when a police helicopter landed in the backyard while raiding her drug-dealing neighbors. Then she found a small brick cottage at the edge of a wooded cul-de-sac, which makes her yard a popular place for teen-agers to strip stolen cars. Patton stores her lawn mower in the kitchen to keep it from being stolen and has decorated her bathroom walls with red pot holders, just for the cheer. Rent and utilities for the two-bedroom house, which she shares with a granddaughter, run \$500 a month, or \$6,000 a year. That's 61 percent of the annual earnings (\$9,896) recorded on her most recent 1040 form.

Oddly enough, Charlotte's housing problems represent progress of a sort. More accurately, they represent the price of progress —



To "heat or eat" is all too often the question. The Crisis Assistance Ministry helps with rent and utilities when it can, but couldn't prevent Richard Ussery's eviction from the house above. The agency has been able to keep the lights on at the Colemans' home, opposite.

progress in this case being the eradication of the seriously substandard housing that was prevalent in the United States a generation ago. Mary Patton grew up in a house in the Carolina countryside with no running water and a wood stove for heat. It was brutish but cheap: the rent was just \$4 a month. Even Charlotte was awash in shotgun shanties at the time. Now, for the most part, the outhouses, tin roofs and slumlords are gone; they've been replaced by housing inspectors, due process — and rents that are out of reach.

Perhaps no one in Charlotte knows more about the trade-offs than Ted Fillette, a Legal Services lawyer who pushed for much of the change. He arrived in Charlotte 23 years ago, fresh from a legal clinic in Boston, then the hotbed of the tenants' rights movement. Charlotte, he says, "was literally like a third world country — tenants were like serfs." The city had an entire submarket of caveat emptor homes: take 'em as you find 'em structures with weekly rents and no heat. Tenants could be evicted on two days' notice if they dared to call a housing inspector. "I just decided this would be my focus," he says. "Tenants had to have some rights."

Now they do: rights to repairs; rights against evictions without a court order; rights to trial by judge and jury, rather than landlord-friendly

magistrates. What they don't have is money to pay for the improved housing stock. Fillette himself is ambivalent about the trade-off. "Were people better off when they were cold and paying \$150 for their own place?" he asks. "Or are they better off with heat and plumbing, but living doubled up or paying every last cent for rent? I don't know."

In the old days, one of Fillette's most frequent adversaries was Robert Pressley, a rural migrant in overalls who was among the most infamous of the city's low-income landlords. These days, the Pressley empire is run by Robert's son, Tony, who is no one's idea of a slumlord. Low-income property is a small part of his sprawling commercial and residential business. He talks of renting inexpensive housing as a "duty," and he has served on the board of Charlotte's leading nonprofit housing agency. But he owns less low-income housing than his father did for a simple reason: there's no money in it.

The market can adapt to the poor person's purse by selling cheaper toys or shoes, but there are only so many corners that can be cut in building cheaper housing. To be sure, codes should be simplified and red tape should be cut. But interest, utilities, taxes — these costs are fixed, regardless of the occupants' income. It costs between \$40,000 and \$55,000 to build an 800-square-foot two-

The market can adapt to the poor person's purse by selling cheaper shoes; but there are only so many corners that can be cut to produce cheaper housing. The only way to push the rents lower is through a subsidy — to the tenant, to the landlord or through the tax code.

bedroom apartment in Charlotte, depending on the land and the interest rate. To service the debt, maintain the building and earn a modest return, landlords need to charge rents of \$600 to \$750.

The only way to push the rents substantially lower is through a subsidy, either to the tenant or the landlord or through the tax code. "I can't walk on water — and you don't see any new \$400-a-month apartments coming on the market," Tony Pressley says. The handful he still rents are mostly old ones, already paid off. Though Fillette has spent his life suing landlords, he speaks sympathetically of the younger Pressley. "It's virtually impossible to make a profit and comply with the law because of the inadequate income of the customers," he says.

When a middle-income family spends half its budget on shelter (in fact, few do), it is making a life-style choice. When a low-income family does so, it is courting a crisis. The remaining money is rarely enough to pay for the bare necessities. Forget for a moment that these families may find themselves living in a virtual war zone. They may also be facing evictions, utility cutoffs or even shortages of food.

Poor families tend to get displaced so often it's not hard to find children in Charlotte who have attended six elementary schools in a single year. Social workers at A Child's Place, a Charlotte program for homeless children, recently saw a third grader who had been to 13 different schools in a year. In the District of Columbia, the head of foster care has estimated that as many as half the city's foster children could be reunited with their parents if the families had stable housing.

While there is surprisingly little research on the impact of rent burdens, some disturbing hints come from Dr. Alan Meyers, a pediatrician at the Boston Medical Center. In three different studies (two with a colleague, Dr. Deborah A. Frank) he found a connection between high rents and inadequate nutrition. In a 1993 study of 580 poor children, he found iron deficiencies in 19 percent of those whose families had subsidized rents. But of those in families without housing subsidies, 30 percent were iron deficient. In 1995 he published a more sophisticated study of 200 poor children, and this time the differences were even more dramatic. Only 3 percent of the children whose families got housing assistance were underweight for their age. But of the children whose families were on the housing waiting list, 22 percent were underweight. Earlier this year, Meyers published a third study. After examining the records of 11,000 children, he found that they were most likely to be underweight in the 90 days after the coldest month of the year. This bolstered his theory that families choose whether to "heat or eat."

Enough wild claims get made on the topics of homelessness and hunger that one hesitates to make too much of the findings. As Meyers is quick to note, two are based on small samples, and all come from a single hospital. As a scientist, he calls them "suggestive." But as a citizen



he speaks with less equivocation: "It's not rocket science. Without housing subsidies, the likelihood is that there will be more hungry and undernourished children."

And more parents like Richard Ussery, a veteran of the Crisis Ministry lines. His file there shows a trail 15 years long of utility cutoffs and eviction notices and doubling up with relatives, though it also shows steady employment. He's 43, separated from his wife and raising an 11-year-old son on his own. These days he's unloading trucks at piecemeal rates. He's been with the same company for about four years. His wages average less than \$6 an hour.

I found him in August in a weather-beaten two-bedroom home stuck between two car lots. He was spending about 50 percent of his income on shelter, which doesn't count the \$240 repair when Richard Jr. dropped a tennis ball down the toilet. He had curtains on the windows and napkin rings on the table. He also had a stack of eviction threats, with court dates for February, May, June and July. Each had been averted at the last minute by family loans or Crisis Ministry donations or forgone luxuries like fixing his broken false teeth. "Don't none of them go to trial," he declared. "I always pay 'em."

In a three-hour conversation, Ussery did not utter a word of malice toward his landlord, "who's doing what he got to do." And there wasn't a trace of sarcasm in his voice when he said, "I love this place."

When I called back a few weeks later, Ussery had been evicted.

THE BULLDOZER LOOKS LIKE A HORROR-FILM INSECT AS IT roars across a desolate lot in Detroit. It slams its steel claw through a second-story window and lunches on bricks and glass. The action has drawn a crowd straight out of "The Bonfire of the Vanities" — kids chomping hot dogs, guys in dashikis, television crews and a man in purple sunglasses who flashes peace signs. When the demolition dust settles and the cheers fade, another 1,064 units of public housing will lie in ruins.

The scene cries out as a metaphor, but a metaphor for what? Presiding in a ceremonial hard hat, Henry Cisneros, the Housing Secretary, hopes the rubble will stand for renewal, of public housing and of urban life more generally. At a time when most housing funds are being trimmed, Cisneros will spend \$80 million to transform the site into a smaller, mixed-income development. He is trying to bring down a total of 100,000 of the nation's most blighted units over the next few years. "This is about a *renaissance*," he tells the crowd, "a *rebuilding*."

But his efforts coincide with a second, less-happy demolition, that of the overall housing budget. Across the country, the Government is being forced to spend many new billions repairing, preserving or replacing apartments it built years ago; this leaves almost no money for new ones. Housing secretaries like

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to measure their progress by the extent to which the subsidized inventory grows. But Cisneros may be the first to see it actually shrink.

"It's like bailing water out of the boat while at the other end someone's got a hose and they're filling it from the ocean," he says, leaving the demolition site. "No matter how fast you bail, you can't beat the water coming in. I hope against hope — I hope against reason — that the other things we're doing will keep us even."

Keep us even: it says something when the nation's Housing Secretary "hopes against reason" to preserve a status quo that is at a record level of distress. But Cisneros is right to consider this an exercise in optimism, since he operates in a political climate hostile to low-income housing in every way. He runs a discredited bureaucracy with an unpopular cause at a time when even popular programs have trouble getting financed.

President Clinton came to office with a crowded agenda, and housing was nowhere on it. Moreover, housing programs always face a competitive disadvantage in Congress. They don't just serve a smattering of poor people with no political pull; they also compete in the same appropriations bill with formidable rival interests — like veterans' benefits, the space program, environmental programs and Americorps (the President's national service initiative). And Cisneros' personal clout certainly didn't grow when Federal agents began investigating his payments to a former girlfriend.

Still, he has worked Washington with the same skills he used in San Antonio to become the nation's first big-city Hispanic Mayor at the age of 33; otherwise, housing funds would be eroding even faster. After losing a fight for money for the homeless, Cisneros won an Oval Office appeal by

reminding Clinton that the inner-city vote in Cleveland and Detroit had clinched two crucial state victories.

When Vice President Al Gore thought about abolishing the Housing Department, Cisneros got out front with a "reinvention plan." He stalked around the White House after hours, slipping his plan under the doors of officials three ranks beneath him. It was demeaning, but effective. "Henry did more with less than anyone I can think of," says Christopher Edley, a former White House budget official. "Under a lesser politician, the department might be dead."

But Cisneros has little control over the broader market forces that leave those like Harold Coleman in a state of permanent crisis: rising rents and falling incomes. As recently as 1970 there were almost a million more cheap apartments nationwide than there were poor households. (The Center on Budget and Policy Priorities defines a "cheap" apartment as one that rented for the equivalent of \$325 today.) But bulldozers knocked some of those units down. Gentrification fixed others up. And rent hikes in general outstripped inflation. Meanwhile, as housing disappeared, the number of needy families exploded during two decades of wage erosion. There are now 12 percent fewer cheap apartments than there were in 1970 but 72 percent more needy households: instead of a housing surplus, there is a gap — of nearly five million apartments.

In thinking about why this matters, it's important to remember that the housing market doesn't just reflect the nation's income inequality. It also increases it. While renters are paying more and more for shelter, homeowners are now paying less — even while accumulating the ultimate prize: equity. In 1980 the average homeowner had a mortgage that consumed 30 percent of his after-tax income. Now it con-

sumes 23 percent. (The difference is due to lower interest rates and fewer overheated markets.) In fact, the average homeowner now spends a slightly smaller percentage of income on shelter than does the average renter, even while accumulating considerable wealth. In other words, the housing market offers an increasingly welcome deal to the two-thirds of Americans who can afford to buy. And it increasingly punishes the third left behind.

WITH RENTS UP and wages down, there's basically one way to fill the gap: Government help. But housing is a uniquely expensive social program. It costs more than \$6,000 a year to house each additional poor family. (By contrast, it costs \$5,000 a year to provide Medicare to an elderly person.) As budgets have tightened, it's no wonder that the number of new units has fallen.

In the heyday of housing programs, the mid-1970's, the Government was financing about 400,000 new apartments a year. In the early 1990's the average had dropped to 36,000. That meant Charlotte was housing fewer than 25 additional families a year; its waiting list is 2,900 families long.

And that was *before* the housing budget started to implode. Throughout the Housing Department, a series of old bills are wreaking havoc on the \$20 billion budget. The technical details could fill a library, but the point is easy to grasp: the cost of preserving the stock has crowded out money for expanding it.

The department now spends almost \$2.5 billion a year just to upgrade old public housing projects, replacing boilers and roofs. It spends \$550 million to bulldoze and rebuild sites like the one in Detroit. It spends another \$400 million to plug a loophole in a program from the 1960's and 70's that gave low-interest loans to private landlords willing

to house the needy: the program gave landlords the right, after two decades, to evict the poor and raise the rent, and without the new subsidies, most would.

The department even has its own miniature version of the savings-and-loan crisis looming on the horizon, which has largely gone unnoticed. The department insures the mortgages on about 700,000 financially troubled private apartments. If all the owners default, the bailout costs over the next few years could reach \$18 billion. Even a fraction of such losses, which now seem all but inevitable, promise to plunge the department into deeper political and financial turmoil.

At the moment, the old-bill problem is most severe in what's known as the Section 8 program, which has long been the flagship of the nation's affordable-housing strategy. Though conventional public housing is better known, Section 8 houses about twice as many families through payments to *private* landlords. The 2.9 million families enrolled in the program spend 30 percent of their income on rent and utilities, and the Government covers the rest. (About half the program is "project based," meaning tenants have to live in specific apartments; the other half is "tenant based," meaning families can take their subsidies and move.) Like other housing programs, this one has had its scandals, but on the whole the tenant-based certificates offer the fastest, easiest way to house the poor. And they are particularly appealing to market-oriented reformers because they "empower" tenants with choices that conventional projects don't allow: those who don't like where they live can leave.

When the certificates were first issued in the 1970's, they were financed through long-term contracts. But those contracts are now expiring in record numbers, and they cost bil-

ions to renew. Unless the department finds the money, the subsidies will expire and the families will face eviction. This year alone the department has to renege the subsidies on 800,000 apartments, at a cost of about \$3.6 billion. In the year 2000 the department will have to refinance 2.5 million apartments, at a staggering cost of \$17 billion. That is, the cost of Section 8 renewals alone could soon devour the department's entire budget.

Scrambling for ways to save money, Congress has settled on an obvious one: stop the program's expansion. In truth, the housing expansion hasn't just ended; an absolute reduction has already begun. With some technical tinkering, Congress has managed to slightly reduce the number of certificates in use at a given time. And given the imminent financial pressures, most analysts think that's just a taste of things to come; some predict the overall inventory will shrink by as much as 20 percent. "We'll be very lucky if we don't lose a million of the 4.5 million subsidized units that are already occupied by very low income people," says Cushing Dolbear, the dean of housing advocates.

The cuts make perfect sense for the Government's budget. But they offer slim hopes for those at the bottom of a new housing economy in which wages don't pay the rent. And the budget cutters know it. They don't predict that the market will fill in the gap. They're not really counting on the poor to bootstrap themselves out of trouble. (Though they sometimes express that hope.) In moments of greatest candor, they simply say that some needs are so great that the Government can't meet them and that housing is a textbook case. "It's a really nasty problem," says a Republican aide who helped

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draft the housing budget. "There's no way to put a happy face on that."

It's true that other Government programs still build housing, including a housing tax credit and two housing block grants. (But without a subsidy like Section 8, poor families can't afford the units these programs produce.) And it is true that the Government has other programs for the working poor, most notably an earned-income tax credit that provides cash payments up to \$3,500 a year. (Indeed, that's a smarter solution than many housing programs offer, since it spreads subsidies further and bypasses bureaucracies.) And it's also true that the Government can't just spend and spend. Higher deficits mean higher interest rates, and that hurts the poor, too.

The point isn't that the Government has done nothing. The point is that it hasn't done enough to give most poor families a chance at decent housing, and that it doesn't do nearly as much for the needy as it does for those with means. Government housing subsidies now do the most for those who need them least. And the politics of the country are construed in a way that pays the issue no mind.

Last month when President Clinton signed the bill that reverses decades of housing history, he actually did so in the middle of a Rose Garden celebration. A celebration, that is, of an unrelated provision in the same bill — which guarantees new mothers longer hospital stays. Surrounded by dignitaries of both parties, Clinton said it was an "honor to sign this legislation," letting the day's real news — the death of affordable housing — pass without comment.

ON THE NORTH SIDE OF Charlotte, a middle-aged woman in a shiny new van pulls over to snoop. She is

surrounded by eight square blocks of resurrected blight with an appropriately biblical name, Genesis Park. But here in their midst is a last ramshackle house, with a bare-chested man on a milk crate in the front yard. "This is Skinny's Liquor House here," she says, pointing to the neighborhood speak-easy. "Skinny has about two weeks left before he's locked out and evicted — we bought the house."

Pat Garrett is what a housing solution might look like if the country had more money and will. She's just the sort of streetwise character that a housing organization needs — part social worker, part bottom-line banker. Her precepts are those of other successful managers: screen tenants, tend to maintenance and evict troublemakers. "If you don't have a good property manager, you're going to be in a world of hurt," she says.

If Garretts are what most cities need, the good news is that many have them, at least in limited supply. There are now about 2,000 nonprofit housing groups like hers, and they've built or renovated more than 450,000 units, most of them in the past decade. They operate with Government subsidies from those programs that have survived the cuts as well as with corporate and private contributions. They also get help from two important foundations (the Enterprise Foundation and the Local Initiatives Support Corporation) in picking their way through the technical thickets of development. Their impressive track records address the fear that more subsidized housing would mean more Government-financed slums.

But the first problem is that there isn't nearly enough money to go around. With the groups now building about 50,000 units a year, it would take a century to house the five million families with severe rent burdens. The second problem is that the surviving programs aren't suffi-

ciently targeted to the poor. Nonprofit developers like Garrett rely on three main Government programs: the low-income-housing tax credit, the community development block grant and the Home block grant. Those programs generally serve less needy people — those with incomes that are 60 percent of the median, or about \$25,000 in Charlotte.

There's a reason: the less needy are easier to serve. No one really knows how to house large numbers of the poorest people, especially those on welfare. Group them together and neighborhoods collapse; spread them out in the suburbs, and their new neighbors rebel. But with more Government support, Garrett is convinced that she could build safe, affordable housing for those a half-step up — people with incomes in the \$10,000-to-\$12,000 range, like Mary Patton and Richard Ussery. "The big question is the funny money — the subsidy money," she says.

Charlotte's willingness to provide its own funny money is unusual; most cities simply spend Federal dollars. After years of dealing with Ted Fillerette's suits, the city's corporate and government elite decided it wanted to do more to house the needy. In 1986 they convened a two-day symposium and brought in James Rouse, the fabled developer and the founder of the Enterprise Foundation. Within a year, Charlotte made the decision to set aside \$4.5 million of its growing annual revenues just for low-income housing.

The main beneficiary is Garrett's group, the Charlotte-Mecklenburg Housing Partnership. It's a public-private venture set up by the city and the town's major banks. In seven years it has built or renovated more than 400 apartments, with rents starting at \$245. And it has also produced about 281 single-family homes, with mortgages in the \$400-to-\$550

range. Each deal comes with its own endlessly complex financing strategy; Garrett has grabbed loans and grants from the city, state and Feds. But her main support is a \$2 million annual contribution from the city. And the banks have established a pool of modestly subsidized loans for those who buy the partnership's homes.

No neighborhood shows the payoff more than Genesis Park. The neighborhood was a drug market of such renown that even the adjacent housing project put up a wall to protect itself. In the past four years the partnership has bought more than half of the area's 169 homes, which it has renovated and sold at below-market rates; homes start in the low \$50,000's, with monthly mortgages of about \$450. Other housing groups also

brought in two "community policemen" to bicycle down its four main streets. In 1993, Genesis Park ranked first among the city's 73 neighborhoods in violent crime. A year later it ranked 41st and violent crime had dropped 74 percent.

The encouraging thing about Charlotte is that other groups, in other neighborhoods, can boast of similar successes. There are plenty of models for the Government to build upon and expand; what's missing is the money. Even Charlotte's housing authority, which deals with the poorest tenants, has a few bright spots. Its president, Harrison Shannon, is an up-from-nothing Vietnam veteran who dresses in French cuffs and preaches a gospel of self-help. Not long ago we

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ANSWERS TO PUZZLES

OF OCTOBER 13, 1996

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IAN WHITCOMB: THE BEST OF (VINTAGE) DANCE — In the beginning was the Dance The pre-historics threw themselves around in movements of pure self-expression, . . . without direction by any authority: a jump for joy, a hop of pain, some . . . stomping to keep out the cold.

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| A. Inanity | N. Enjoined |
| B. Aphrodite | O. Bartle |
| C. New Hope | P. Euphoria |
| D. Wherewith | Q. Sixteen |
| E. Hollyhock | R. Teas |
| F. Immensity | S. Outfit |
| G. Tucson | T. Frevent |
| H. Choosy | U. Dos |
| I. Offing | V. Approved |
| J. Moe | W. Nightjar |
| K. Bumptious | X. Compresses |
| L. Trump | Y. Enters |
| M. Hogan | |

HOUSING

Continued from page 94

climbed into his car for a tour of his 5,000-unit empire. Most of the old, large complexes look like public housing everywhere: run-down acres of Government tenements with too many idle people and a general feel of menace. But as the tour went on, we started rolling through some of Charlotte's nicer neighborhoods, on the way to more public housing.

Beyond the downtown core, there are 20 "scattered site" developments of no more than 50 units each. Most had prompted tooth-and-claw fights from the neighbors, who had understandable fears about property values. Understandable but, as it turns out, unnecessary. According to a study by the University of North Carolina at Charlotte, home values in those neighborhoods rose between 84 percent and 127 percent in the decade after the public hous-

ing was built. And property values grew just as fast in those neighborhoods as in other, comparable parts of the city.

But the numbers are less impressive than the apartments themselves, which blend in with the surrounding racquet clubs and bistros. The most intriguing sight can be found off Fairview Road in Charlotte's booming southeast corridor. On one side of the road there's Morrocroft, a subdivision of million-dollar homes whose wrought-iron gates are as self-conscious as its name. Just down the road is Live Oak, 32 units of public housing on nine wooded acres. And in between, there's a fine little reminder that housing programs can work. It's a sign in a muddy field that says, "Future site of Dean & Deluca."

DURING MY VISIT TO Charlotte, I kept wondering what had become of poor Harold Coleman and his il-

legally illumined alarm clock. What picaresque strategies had he seized upon now to keep pace with the rent? He wasn't in the phone book, he wasn't on the old job and transience of the poor suggested he probably wasn't in Charlotte at all. But I found a phone number in an old notebook and dialed in on a whim.

He answered on the first ring. "We kept the same phone number," he explained. "I'm bad at remembering phone numbers."

A few hours later, I arrive at a modest brick home on a quiet, wooded street and find an old Honda with a license plate that says, "Christian Radio: A New Way of Life." Harold and his wife, Vicky, have become devout Baptists. "It's really sparked a light in our life," he says. Now 28, Harold has stepped up from his \$5 wage as a hotel fry cook, to a \$7-an-hour job as a maintenance man at the church. Though he's had expensive eye sur-

gery as a result of his diabetes, a foundation helped with the bills, and his two boys, Tony and Joshua, look healthy and happy.

The Colemans have given up the food stamps for which they otherwise qualify, partly because of the hassle involved, but also because they do not want to be seen as charity cases by their affluent congregation. They have two nice bikes hanging from pegs on the dining-room wall, and they laugh when reminded of the old electricity caper. "Me being as naïve as I am, I didn't realize it was illegal," Vicky says.

In other words, things have fallen into place for the Colemans — everything, that is, but the rent. Assuming he works full time all year at \$7 an hour, Harold can pull in \$14,500. If he gets lucky and lands \$1,000 in overtime, that's \$15,500. Throw in the \$2,700 he gets through the earned-income tax credit, and his total income rises to \$18,200. But

his rent and utilities run \$600 a month. Or \$7,200 a year. Or about 40 percent of the Colemans' annual income. That is, after five years of striving and 10,000 hours on the job, Harold is still barely making it.

His family still has a file at the Crisis Ministry, and it's replete with utility cutoff notices — two from this year alone. He and his wife stand in line at the center together so neither suffers the indignity alone. "It's degrading in a way," Harold says. "We're like, 'Jeez, I can't believe this is happening.'"

But Harold is nothing if not an optimist. He notes that Job had it worse. With the kids in school, Vicky is about to start a job. And if the economy keeps growing, and the car doesn't quit, and Harold stays healthy — who knows? Maybe they'll keep the lights and heat on next year.

Among today's low-wage renters, this is what passes for success. ■

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Deborah R. Cautela
Nancy E. Glowa

November 12, 1996

Mr. Robert W. Healy
City Manager
City Hall
Cambridge, MA 02139

Re: Council Order No. 32 as amended, October 7, 1996

Dear Mr. Healy:

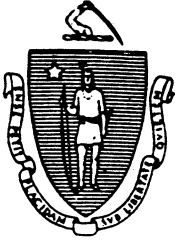
In response to Council Order No. 32, as amended, we have determined that it is feasible to file home rule legislation that would allow the City of Cambridge to provide rent subsidies to elderly and disabled tenants living in formerly rent controlled properties. We have drafted and attached a proposed Special Act which is based upon the Council Order.

Very truly yours,

Russell B. Higley
Russell B. Higley

RBH/jml
Enclosure

cc: Susan Schlesinger



The Commonwealth of Massachusetts

IN THE YEAR ONE THOUSAND NINE HUNDRED AND NINETY-SIX

AN ACT

AUTHORIZING CASH RENTAL SUBSIDIES FOR CERTAIN LOW-INCOME TENANTS IN THE CITY OF CAMBRIDGE

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. As used in this act, the following words shall have the following meanings:-

(a) "Income eligible" shall mean having an income, which when combined with the incomes of all other persons residing in the same unit, is eighty percent or less of the median income for the Boston Primary Metropolitan Statistical Area as set forth in or determined based upon regulations promulgated from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the Housing Act of 1937 as amended, and calculated pursuant to said regulations.

(b) "Landlord" the owner of a rental unit, and in the case of an owner which is not a natural person, including without limitation a corporation, trust or partnership, shall include all officers, directors, agents, stockholders, partners, trustees,

trust beneficiaries, or other beneficial owners.

(c) "Controlled Rental Unit" shall mean any unit which was subject to rent control in any respect as of November eighth, nineteen hundred and ninety-four.

SECTION 2. Notwithstanding the provisions of chapter forty O of the General Laws or chapter two hundred and eighty-two of the Acts of nineteen hundred and ninety-four or any other general or special law to the contrary the City of Cambridge may appropriate money for providing cash rent subsidies to a tenant, and to the owner of the unit occupied by a tenant, where the tenant is income eligible pursuant to subsection (a) of section one and satisfies all of the conditions of subsections (a) to (d), inclusive, of section two as set forth herein;

(a) was an occupant on November eighth, nineteen hundred and ninety-four of a controlled rental unit, in the City of Cambridge and who has continued thereafter to be and remains an occupant of a rental unit in the City of Cambridge;

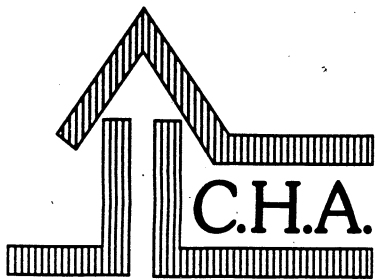
(b) had reached the age of sixty-two years on or before November eighth, nineteen hundred and ninety-four, or was physically or mentally disabled on November eighth, nineteen hundred and ninety-four and who has continued thereafter to be and remains physically or mentally disabled;

(c) was a member of a household that had obtained a determination of protected status from the Cambridge Rent Control Board pursuant to Chapter 282, between January 1, 1995 and December 31, 1996;

(d) is not related by blood or marriage to his landlord; and

SECTION 3. Said City may impose additional restrictions on eligibility for cash rental subsidies in addition to those set forth in section two and in the definitions of section one; and such cash subsidies shall be exempt from the provisions of subsections (a), (b) and (c) of section four of chapter forty 0 of the General Laws, to the extent that such provisions would be applicable and would prohibit such cash subsidies from being provided with respect to rental units owned by a person or entity owning less than ten rental units, or with respect to rental units having a fair market rent exceeding four hundred dollars, or to the extent that the municipality would be required to compensate the owner in the amount of the difference between the unit's fair market rent and the unit's below market rent.

SECTION 4. This act shall take effect upon its passage.




CAMBRIDGE HOUSING AUTHORITY

675 MASSACHUSETTS AVENUE., CAMBRIDGE, MA 02139

(617) 864-3020

MEMORANDUM

TO: Robert Healy, City Manager

FROM: Daniel J. Wuenschel, Executive Director
Cambridge Housing Authority 

DATE: November 13, 1996

RE: Council Order #33 of October 28, 1996
regarding Section Eight Rents in Brookline

Prior to receipt of the Council order, CHA had been in touch with the Brookline Housing Authority regarding their efforts to obtain HUD permission to increase Section 8 Fair Market Rents (FMRs) in Brookline as a result of the expensive rentals there. Actually, the Brookline Housing Authority was initially seeking HUD recognition of Brookline as a separate real estate market area distinct from the Greater Boston SMSA. Brookline's contention is that the Fair Market Rents which apply to the Greater Boston area are too low for the high cost Brookline rental marketespecially now that rent control has been terminated.

To buttress their argument, the Brookline Housing Authority engaged a consultant to perform a rather expensive random digit dialing (RDD) survey and results from the survey were submitted to HUD. The result was unsatisfactory in that HUD refused to consider Brookline a separate rental market area. However, on the basis of Brookline's submission, HUD did, just recently, permit the BHA to set rents as high as 120% of the Greater Boston FMRs.

Upon learning this, the CHA has contacted HUD and, with assistance from the City's Community Development Department, we are preparing a less expensive but acceptable to HUD survey and petition for permission to utilize 120% of Fair Market Rents in Cambridge. Should this be granted, where necessary and justified by market comparability, Cambridge citizens with Section 8 certificates and vouchers will be better positioned to rent units in the costly Cambridge

rental market. For example: the current FMRs for a one and three bedroom apartment are \$669.00 and \$1,048.00 respectively. 120% of FMR for the same apartment size would be \$802.00 and \$1,257.00.

I read HUD as favorably disposed to receiving our request and they understand the time sensitive nature of the Cambridge dilemma in light of the cessation of rent control protection on January 1st, 1997. I will keep you apprised of our progress in this endeavor.

cc: Susan Schlesinger
Roger Herzog
Ann Arata



CITY OF CAMBRIDGE
COMMUNITY DEVELOPMENT DEPARTMENT

SUSAN B. SCHLESINGER,
Assistant City Manager for
Community Development

To: Robert W. Healy, City Manager

From: Susan Schlesinger^{SBS}, Assistant City Manager for Community Development

Date: March 20, 1996

Re: Council Order #104 dated March 4, 1996
Transfer Fee for Affordable Housing

Council Order #104 requests information related to alternatives for a transfer fee on luxury housing to be used to support affordable housing. Specifically, the order calls for an assessment of revenues to be gained by various structures, a description of the legislative process at the state level, and a description of programs in other jurisdictions.

A transfer fee is a fee that is levied on the sale of either commercial or residential real estate. Transfer fees have been used in a number of other jurisdictions, including Nantucket County, Massachusetts, the States of Vermont, New Jersey, Florida, Maine, to raise revenue for affordable housing. Other municipalities use other kinds of fees (for example, a linkage fee in Boulder, Colorado, and a condominium formation fee in Boston.)

There is no clear definition of a "luxury" sale, either in law or in state or federal standards. Consequently, we considered a number of approaches to developing a standard, including calculating median and average sale prices, and assessing what households at different income levels, and typical first time buyers can afford. We recommend charging a fee on sales above \$250,000. This would affect approximately 288 sales (based on 1995 calendar year sale volume adjusted for anticipated increases in condominium sales), out of a total of 1260 sales. The value of \$250,000 was chosen because it is the amount that a family of three earning 150% of median income (\$76,275 annually) can afford if they are using 30% of their income to pay housing costs. It is higher than both the average (\$230,000) and median (\$170,000) 1995 sale values for Cambridge residential properties sold at over \$10,000. We have also provided information on the yield if properties over \$500,000 (74 sales) were charged, and if a graduated approach was used that applied a 1% rate to properties priced over \$250,000 and a 2% rate to properties priced over \$500,000.

There are a number of choices to be made in designing a transfer fee program, including what kinds of properties will be subject to the fee, whether it will be assessed against buyers or sellers, what kinds of transfers, if any, are exempted, penalties, and the rate. The attached draft assumes:

1. All property used in whole or in part for residential purposes will be subject to the fee.
2. The fee is paid by the purchaser, who cannot record a deed until the fee is paid.
3. Any funds received will be allocated to the Cambridge Affordable Housing Trust, to be expended for affordable housing purchases. They will be held by the Cambridge City Treasurer in an interest bearing account until expended.
4. The fee will affect all transfers, including those to or from individuals, corporations and trusts.
5. There are limited exemptions, including gifts, property conveyed by operation of law without consideration as a result of death or bankruptcy (including inheritance), partitions of property under certain circumstances, transfers for affordable housing, certain changes in corporations or partnerships that do not result in the transfer of the controlling interests, divisions of marital assets, and transfers by eminent domain.
6. Penalties for noncompliance include interest, 5% per month of the fee amount, and, in the case of fraud, a penalty equal to the amount of the fee. A lien may be placed on the property, and the City may also file a civil suit to collect.

Assessment of Revenues

A transfer fee that exempts non-luxury housing can be applied in two ways: it can exempt all transfers under a given value, or can exempt a portion of the value of all transfers. The following chart shows alternative values for a transfer fee that would apply on all sales over a given level, at two different rates, as well as a graduated approach that assesses all sales over \$250,000 at 1%, with a 1% additional fee applied to all sale value over \$500,000. Estimated revenues are based on all 1995 residential sales, and can be expected to fluctuate from year to year, depending on actual sales.

	Estimated annual revenue		
	1% rate	2% rate	graduated rate
Sales over \$250,000	\$1,350,000	\$2,710,000	
Sales over \$500,000	\$ 630,000	\$1,260,000	
1% on sales over \$250,000, and additional 1% on value over \$500,000			\$1,980,000

Legislative Process

Attached is draft legislation for a Cambridge transfer fee, which was drafted based on programs operating in other jurisdictions. It has been reviewed by the Law Department.

If the City Council votes favorably on the home rule petition to implement the transfer fee, the City Clerk will transmit the petition to the Cambridge legislative delegation who will file it with the Clerk of the House of Representatives. The Clerk will refer the bill to certain committees at his discretion.

The Clerk refers the majority of home rule petitions to the Committee on Local Affairs. If this bill is referred to Local Affairs, the Committee is likely to hold a public hearing prior to reporting it out. Assuming that the bill is reported favorably out of the Local Affairs Committee, the Clerk might determine that the Committee on Taxation is appropriate. This Committee is currently chaired by Senator Warren Tolman who represents a portion of Cambridge.

The Committee on Ways and Means is another likely stopping point. If the bill is reported favorably out of all of the committees, the Clerk will send it to the House floor for a reading. It should then go to the Committee on Third Readings, where House Counsel reviews it before it goes to a floor vote for engrossment.

Assuming that it is approved by a majority vote of the House, the bill then goes through the Senate. After a second and a third reading in the Senate, it goes to the Senate floor for engrossment. Assuming a favorable vote in the Senate, it goes back to the House for enactment and then to the Senate for enactment.

At this point, the bill will reach the Governor's desk. The Governor has the option of approving it, sending it back for recommitment, or vetoing the legislation. A two-thirds vote in the house and a two-thirds vote in the Senate would be required to override a veto.

Pursuant to the new reform rules, the current legislative session will end on July 31st. Any bills requiring a roll call vote will not be acted on after that date. Since this bill may engender some controversy, it must either be passed prior to the end of the session or it will be put over to the next legislative session. Whether or not it gets acted upon in the current session depends in part on the complexity of other pending bills and in part on active sponsorship in each branch of the Legislature.

Administration

In order to implement the fee, it would be necessary to have a collecting agency, an individual responsible for researching transactions to determine whether transfers are subject to the fee, and resources for enforcement.

Transfer Fee Programs in Other Jurisdictions

General information on transfer fee programs in other jurisdictions is attached.

Home Rule Petition on Real Estate Transfer Fee
Summary of the Draft Legislation

The first section contains definitions:

Section 2. This section imposes a fee on the transfer of residential property in Cambridge. Payment of the fee is the responsibility of the buyer. The fee must be paid to the City of Cambridge ("City") and allocated to the Cambridge Affordable Housing Trust (the "Trust") before the deed can be recorded at the Registry of Deeds. The Register of Deeds for Middlesex County will not be permitted to record or register any deed, except a mortgage deed, unless the City has affixed a certificate indicating that the fee has been paid or that the transaction is exempt from the fee and stating the basis for the exemption. The amount of the fee and the amount of value upon which the fee will be assessed have been left blank in this draft.

Section 3. This section requires payment of the fee in instances where the property is held or owned by a corporation and the controlling stockholders transfer their interests of the stock of the corporation. The fee must also be paid upon the transfer of a minority stockholder's shares if it results in the transferee acquiring the right to occupy a cooperatively held apartment. This section further requires that the fee be paid when property is held in the name of a partnership and a change in the composition of said partnership results in the transfer of more than fifty percent of the total capital interests within such partnership or results in a change of the ownership rights to profit interests..

Section 4. If for any reason the property transfer is not consummated, the fee is refundable within fourteen days after the issuance of the Certificate.

Section 5. This section provides for exemptions from payment of the fee in certain circumstances including: gifts; property conveyed by operation of law without consideration as a result of death or bankruptcy; partitions of property under certain circumstances; transfers of affordable housing as defined by the Cambridge Affordable Housing Trust; certain changes in corporations and/or partnerships that do not result in the transfer of the controlling interests; property taken by eminent domain.

Section 6. This section provides for the payment of interest and penalties in the event that the buyer fails to pay the required transfer fee.

Section 7. A purchaser is entitled to an administrative hearing and review by a Court if fees or penalties are imposed. The Trust is entitled to pursue additional remedies including a lien on the property and a civil lawsuit if the required fee is not paid.

Section 8. The Trust is empowered to issue rules and regulations to further the purposes of the Act.

Section 9. In the event that the Affordable Housing Trust is dissolved, the City of Cambridge shall take over all of its legal obligations with respect to the transfer fee.

Sections 10 and 11. Standard legal language regarding the validity and construction of this Act, should it become the law.

ATTACHMENT 1

TRANSFER AND RELATED TAXES IN OTHER JURISDICTIONS

In response to the Council's request for a description of some "...other municipal taxes...", our research has determined that most transfer tax programs are created at the state level with some mechanism for distribution of the funds to municipalities. The following summary of tax provisions is provided:

I. REAL ESTATE TRANSFER TAX PROGRAMS

1. Nantucket County, Massachusetts

Nantucket County imposes a fee equal to two percent (2%) of the purchase price upon the transfer of any real property in the County. The fee is paid by the purchaser to the Nantucket Islands Land Bank Commission. This Commission uses the funds generated by this transfer tax for conservation purposes.

The draft of the home rule legislation that we are submitting to the Council is modeled on Nantucket's legislation. Since Nantucket is the only locality that has successfully enacted a transfer tax in Massachusetts, we chose to learn from their experience.

2. State of Vermont

The State of Vermont created a Housing and Conservation Trust Fund in 1987 and created a dedicated revenue source for the Fund by creating a Property Transfer Tax. The tax is currently set at one and one quarter percent (1.25%) of the sales price. One hundred thousand dollars (\$100,000) of value of a principal residence is taxed at one half of one percent (0.5%) and the balance is taxed at one and one quarter percent (1.25%). All transfers other than residential are also taxed at one and one quarter percent (1.25%). Annual revenue has ranged from \$1.45-2.7 million, but is now capped at \$1.5 million per year. This revenue is used by the Trust Fund for both affordable housing and conservation projects.

3. State of New Jersey

The State of New Jersey has created a Neighborhood Preservation Balanced Housing Program and provides a dedicated revenue source to the Program through a Real Estate Transfer Fee. The fee is structured as a graduated tax, as follows:

- a. \$1.75 for each \$500.00 (0.35%) of consideration up to \$150,000.
- b. \$2.50 for each \$500.00 (0.5%) of consideration in excess of \$150,000.

The revenue has ranged from \$10-28 million in a given year. These funds are used to support affordable housing development.

4. State of Florida

The State of Florida created a State Housing Initiatives Partnership and established a dedicated revenue source by increasing its a Documentary Stamp Tax (transfer tax) on deeds. The tax was increased by \$0.10 per \$100 (0.1%) of value. The estimated annual revenue from the tax is \$116 million. The Partnership allocates these funds to counties and municipalities to support affordable housing activities.

5. State of Maine

The State of Maine created the Housing Opportunities for Maine Program and provided a dedicated revenue source by expanding the existing real estate transfer tax of \$1.10 per \$500 (0.22%) of value of commercial and residential properties to apply to both buyers and sellers, effectively doubling the tax collected. Forty five percent (45%) of the revenues collected are deposited into the Program, which supports affordable housing.

Each of the programs summarized above contains exemptions more or less comparable to the exemptions contained in the draft home rule petition submitted with this report.

II. OTHER TAX PROGRAMS

1. Boulder, Colorado

The City of Boulder Colorado created a Housing Excise Tax/Linkage Fee on new development, which is similar to Cambridge's Incentive Zoning Ordinance. The revenues are deposited in the general fund subject to the intention that the revenues be appropriated only for the purposes of the Community Housing Assistance Plan. The ordinance requires payment by an applicant prior to the issuance of a building permit of a tax on the construction according to the following schedule:

a. Residential development:

<u>Year</u>	<u>Rate Per Sq. Ft. of Floor Area</u>
1991	\$0.322
1992	0.292
1993	0.259
1994	0.228
1995 and after	0.197

b. Commercial development:

<u>Year</u>	<u>Rate Per Sq. Ft. of Floor Area</u>
1991	\$0.272
1992	0.325
1993	0.379
1994	0.433
1995 and after	0.486

This tax is expected to generate \$350,000 per year.

2. City of Boston, Massachusetts

In 1982, the City of Boston established an excise tax upon the creation of any condominium or subdivision in the City. For condominiums, the tax rate is five hundred dollars for each unit in excess of one unit; for subdivision, the tax rate is five hundred dollars for each lot in excess of two lots. Although the revenues generated by this tax were not directed to affordable housing, the City has generated significant funds particularly at the height of the real estate boom in the mid to late 1980's.



The Commonwealth of Massachusetts

IN THE YEAR ONE THOUSAND NINE HUNDRED AND NINETY-SIX

AN ACT

AUTHORIZING THE IMPOSITION OF A FEE ON THE TRANSFER OR CONVEYANCE OF REAL PROPERTY INTERESTS IN THE CITY OF CAMBRIDGE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. For purposes of this act, the words and phrases set forth in this section shall have the following meanings:

"Affordable Housing Trust Fund" or "Trust", shall refer to the "Cambridge Affordable Housing Trust Fund", as enacted, c. 482 of the Acts of 1991.

"Board", shall refer to the Board of Trustees of the Affordable Housing Trust Fund as established by §2 of c. 482 of the Acts of 1991.

"Purchaser", the transferee, grantee or recipient of any real property interests.

"Purchase Price", all consideration paid or transferred by or on behalf of a purchaser to a seller or his nominee, or for his benefit, for the transfer of any real property interest, and shall include, but not be limited to, all cash or its equivalent so paid

or transferred; all cash or other property paid or transferred by or on behalf of the purchaser to discharge or reduce any obligation of the seller; the principal amount of all notes or their equivalent, or other deferred payments, given or promised to be given by or on behalf of the purchaser to the seller or his nominee; the outstanding balance of all obligations of the seller which are assumed by the purchaser or to which the real property interest transferred remains subject after the transfer, determined at the time of the transfer, but excluding real estate taxes and other municipal liens or assessments which are not overdue at the time of the transfer; the fair market value, at the time of the transfer, of any other consideration or thing of value paid or transferred by or on behalf of the purchaser, including but not limited to, any property, goods or services paid, transferred or rendered in exchange for such real property interest.

"Real Property Interest", any present or future legal or equitable interest in or to real property, and any beneficial interest therein, including the interest of any beneficiary in a trust which holds any legal or equitable interests in real property; but shall not include any interest which is limited to any or all of the following: the dominant estate in any easement or right of way; the right to enforce any restriction; any estate at will or at sufferance, and any estate of years having a term of less than thirty years; any reversionary right, condition, or right of entry for condition broken; the interest of a mortgage or other secured property in any mortgage or security agreement; and the

interest of a stockholder in a corporation, or a partner in a partnership.

"Seller", the transferor, grantor, or immediate former owner of any real property interests.

"Time of transfer", of any real property interests shall mean, the time at which such transfer is legally effective as between the parties thereto, and, in any event, with respect to a transfer evidenced by an instrument recorded with the appropriate registry of deeds or filed with the assistant recorder of the appropriate registry district, not later than the time of such recording or filing.

SECTION 2. There is hereby imposed a fee on the transfer or conveyance of any real property interests in real property in the City of Cambridge used in whole or in part for residential purposes. Said fee shall be in the amount of ____ percent of the purchase price, on the amount in excess of \$____. Notwithstanding any general or special law to the contrary, no adjustment shall be made pursuant to section four of chapter sixty-two F of the General Laws on account of revenues received from any excise established by this section. Said fee shall be the liability of the purchaser of such real property interest, and any agreement between the purchaser and the seller or any other person with reference to the allocation of the responsibility for bearing said fee shall not affect such liability of the purchaser. The fee shall be paid to the City of Cambridge ("City") and allocated to the Cambridge Affordable Housing Trust Fund and shall be accompanied by a copy of

the deed or other instrument evidencing such transfer, if any, and an affidavit signed under oath or under the pains and penalties of perjury by the purchaser or his legal representative, attesting to the true and complete purchase price and the basis, if any, upon which the transfer is claimed to be exempt in whole or in part from the fee imposed hereby. The City shall promptly thereafter execute and issue a certificate indicating that the appropriate fee has been paid or that the transfer is exempt, in whole or in part, from the fee, stating the basis for the exemption. The Register of Deeds for Middlesex County, shall not record or register, or receive or accept for recording or registration, any deed, except a mortgage deed, to which has not been affixed such a certificate executed by the Trust. Failure to comply with this requirement shall not affect the validity of any instrument. All money collected pursuant to this Act shall be used in a manner that is consistent with the purposes of the Trust as set forth in the Declaration of Trust and in accordance with the powers granted to the Trust by c. 482 of the Acts of 1991. The Treasurer of the City of Cambridge shall prudently invest the sums collected and all income thereon shall accrue to the Trust. The fee imposed hereunder shall be due simultaneously with the time of transfer of the transfer upon which it is imposed. Notwithstanding the foregoing, whenever there is a conveyance of real property interests and a conveyance of personalty related thereto at or about the same time, the allocations of payments between real estate and personalty agreed to by the purchaser and seller shall

not determine the amount of the fee due pursuant to this section; instead the Trust may require payment of the fee referred to in real property interests so conveyed as determined by the Board.

Section 3. Unless exempted pursuant to section five infra, but notwithstanding the exemptions referred to in section 5, paragraphs (g) and (h), the following fees shall be imposed:

(a) A fee equal to ____ percent of the purchase price on the amount in excess of \$_____ of the fair market value of real property interests in real property used in whole or in part for residential purposes held in the name of or otherwise owned by a corporation, shall be paid upon the transfer of the controlling stockholders of their interests of the stock of such corporation, and upon the transfer of a minority stockholder's shares if said transfer gives the transferee the right to occupy a residential unit in cooperatively held housing accommodations. This fee is due on or before the time of transfer of the stock.

(b) A fee equal to ____ percent of the purchase price on the amount in excess of \$_____ on the fair market value of real property interests in real property used in whole or in part for residential purposes held in the name of a partnership or otherwise owned by a partnership, upon the change in composition of such partnership either in one transaction or a series of related transactions which change in composition results in a transfer of capital interests in excess of fifty per cent of the total capital interests within such partnership or results in a transfer of the ownership rights to profit interests within such partnerships.

Section 4. At any time within fourteen days following the issuance of the certificate of payment of the fee imposed by section two, the purchaser or his legal representative may return said certificate to the City for cancellation, together with an affidavit signed under oath or under the pains and penalties of perjury that the transfer, with respect to which such certificate was issued, has not been consummated, and thereupon the fee paid with respect to such transfer shall be forthwith returned to the purchaser or his legal representative.

Section 5. The following transfers of real property interest shall be exempt from the fee established by section two. Except as otherwise provided, the purchaser shall have the burden of proof that any transfer is exempt hereunder.

(a) Transfers to the government of the United States, the Commonwealth, and any of their instrumentalities, agencies or subdivisions.

(b) Transfers which, without additional consideration, confirm, correct, modify or supplement a transfer previously made.

(c) Transfers made as gifts without consideration.

(d) Transfers by operation of law without actual consideration, including but not limited to transfers occurring by virtue of the death or bankruptcy of the owner of a real property interest.

(e) Transfers made in partition of land and improvements thereto, under chapter two hundred and forty-one of the General Laws.

(f) Transfers to a mortgagee in foreclosure of the mortgage held by such mortgagee, and transfers of property subject to a mortgage to the mortgagee in consideration of the forbearance of the mortgagee from foreclosing said mortgage.

(g) Transfers made to a corporation or partnership at the time of its formation, pursuant to which transfer no gain or loss is recognized under the provisions of section three hundred and fifty-one or seven hundred and twenty-one of the Internal Revenue Code of 1986, as amended; provided, however, that such transfer shall be exempt only in the event that (i) with respect to a corporation the transferor retains a controlling interest in such corporation after such formation or (ii), with respect to a partnership, the transferor retains after such formation rights to capital interests in excess of fifty per cent of the capital interests within such partnership or retains rights to profit interests within such partnership in excess of fifty per cent of the total profit interests within such partnership.

(h) Transfers made to a stockholder of a corporation in liquidation of the corporation, and transfers made to a partner of a partnership in dissolution of the partnership; provided, however, that such transfer shall be exempt only in the event that (i) with respect to a corporation, the transferee had prior to the transfer a controlling interest in such corporation or (ii) with respect to a partnership, the transferee had prior to the transfer rights to capital interests in excess of fifty per cent of the total capital interests within such partnership or had rights to profit interests

within such partnership in excess of fifty per cent of the total profit interests within such partnership.

(i) Transfers consisting of the division of marital assets under the provisions of section thirty-four of chapter two hundred and eight of the General Laws or other provisions of law.

(j) Transfers of property consisting in part of real property interests situated in the City of Cambridge and in part of other property interests, to the extent that the property transferred consists of property other than real property situated in the City of Cambridge; provided that the purchaser shall furnish the Trust with such information as it shall require or request in support of the claim of exemption and manner of allocation of the consideration for such transfers.

(k) All transfers under \$_____.

(l) All transfers of "affordable housing", as that term is defined in regulations promulgated by the Trust.

(m) Transfers consisting of property taken by eminent domain.

Section 6. A purchaser who fails to pay all or any portion of the fee established by section two on or before the time when the same is due shall be liable for the following additional payments in addition to said fee:

(a) Interest: Interest on the unpaid amount of the fee to be calculated from the time of the transfer at a rate equal to fourteen percent per annum.

(b) Penalties: Any person who, without fraud or willful intent to defeat or evade the fee established by section three,

fails to pay all or a portion of the fee within thirty days of the time of transfer, shall pay a penalty equal to five percent of the outstanding fee as determined by the Board for each month or portion thereof thereafter that the fee is not paid in full; provided, however, that in no event shall the amount of any penalty imposed hereunder exceed twenty-five percent of the unpaid fee due at the time of transfer. Whenever the Board determines that all or a portion of a fee due under this act was not paid due to fraud or with intent to defeat or evade the fee imposed by this act, a penalty equal to the amount of said fee shall be paid by the purchaser in addition to said fee.

Section 7. (a) The Board shall notify a purchaser by registered or certified mail of any failure to discharge in full the amount of the fee due under this act and any penalty or interest assessed. The Board shall grant a hearing on the matter of the imposition of said fee or any penalty or interest assessed, if a petition requesting such hearing is received by the Board within thirty days after the mailing of said notice. The Board shall notify the purchaser in writing by registered or certified mail of its determination concerning the deficiency, penalty or interest within fifteen days after said hearing. Any party aggrieved by a determination of the Board, concerning a deficiency, penalty or interest may, after payment of said deficiency, appeal to the district or superior court within thirty days after the mailing of notification of the determination by the Board. Upon the failure to timely petition for a hearing, or appeal to said courts within

the time limits hereby established, the purchaser shall be bound by the terms of the notification, assessment or determination, as the case may be, and shall be barred from contesting the fee, and any interest and penalty, as determined by the Board. All decisions of said courts shall be appealable to the Massachusetts Appeals Court in the same manner as civil actions. Every notice to be given under this section by the Board shall be effective if mailed by certified or registered mail to the purchaser at the address stated in a recorded or registered instrument by virtue of which the purchaser holds any interest in land, the transfer of which gives rise to the fee which is the subject of such notice; and if no such address is stated or if such transfer is not evidenced by an instrument recorded or registered in the public records in Middlesex County, such notice shall be effective when mailed to the purchaser in care of any person appearing of record to have a fee interest in such land, at the address of such person, as set forth in an instrument recorded or registered in Middlesex County.

(b) All fees, penalties and interest required to be paid pursuant to this chapter shall constitute a personal debt of the purchaser and may be recovered in an action of contract or in any other appropriate action, suit or proceeding brought by the Board; said action, suit or proceeding shall be subject to the provisions of chapter two hundred and sixty.

(c) If any purchaser liable to pay the fee established by this act neglects or refuses to pay the same, the amount, including any interest or penalty thereon, shall be a lien in favor of the

Board upon all property and rights to property, whether real or personal, belonging to such purchaser. Said lien shall arise at the time of the transfer and shall continue until the liability for such amount is satisfied. Said lien shall not be valid as against any mortgagee, pledgee, purchaser or judgment creditor unless notice thereof has been filed by the Board: a) with respect to real property or fixtures, in the registry of deeds for Middlesex County, or b) with respect to personal property, in the office in which a security or financing statement or notice with respect to the property would be filed in order to perfect a nonpossessory security interest belonging to the person named in the relevant notice, subject to the same limitations as set forth in section fifty of chapter sixty-two C of the General Laws.

In any case where there has been a refusal or neglect to pay any fee, interest or penalties imposed by this act, whether or not levy has been made, the Board, in addition to other modes of relief, may direct a civil action to be filed in a district or superior court of the Commonwealth to enforce the liens of the Board under this section with respect to such liability or to subject any property of whatever nature, of the delinquent, or in which he has any right, title or interest, to the payment of such liability.

The Board may issue a waiver or release of any lien imposed by this section, pursuant to standards set forth in regulations promulgated by the Board. Such waiver or release shall be conclusive evidence that the lien upon which the property covered

by the waiver or release is extinguished.

Section 8. The Affordable Housing Trust Fund is hereby empowered to promulgate rules and regulations governing the application of the transfer fee to the transfer of any real property interest within the City of Cambridge in furtherance of the provisions of this Act.

Section 9. Upon termination or dissolution of the Affordable Housing Trust Fund, the title to all funds and other properties owned by it or owed to it which remain after payment or the making of provision for payment of all bonds, notes and other obligations of the Trust shall vest in the City of Cambridge.

Section 10. This act, being necessary for the welfare of the City of Cambridge and its inhabitants, shall be liberally construed to effect the purposes hereof.

Section 11. The provisions of this act are severable, and if any provision hereof, including without limitation any exemption from the fee imposed hereby, shall be held invalid in any circumstances such invalidity shall not affect any other provision or circumstances. This act shall be construed in all respects so as to meet all constitutional requirements. In carrying out the purposes and provisions of this act, all steps shall be taken which are necessary to meet constitutional requirements whether or not such steps are required by statute.

Section 12. The provisions of this Act shall take effect on

_____ . 19__.

Transmitting communication relative to
Awaiting Report Item Numbers Nine, Sixteen and
Twenty-one, regarding housing issues.

Original order # 30-10-7-96
see 447CM

Original order # 29 of
10-28-96
see 511CM of 10-28-96

Original order # 20 of
11-4-96
see 532S of 11-4-96

In City Council November 25, 1996

Referred to the
Housing & Community
Development Meeting
of December 2, 1996