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Cambridge, MA 02139

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November 19, 1994

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CAMBRIDGE MA.

RE: State Condo Eviction Enabling Legislation

TO THE HONORABLE, THE CAMBRIDGE CITY COUNCIL:

We are going through a very horrible time.

People's just expectations, hopes, and living situations are being destroyed. It, however, seems proper to expect that, as the City Council participates in an extremely distasteful act, the city council have accurate information.

As I listened to Terrence Morris's explanation of the removal ordinance on Friday night, I was struck by the extreme accuracy of his presentation. His presentation had omissions with regard to matters that are matters of concern to me, but those omissions are understandable in the need to present a complicated subject in a meaningful manner in a short period of time. The omissions do not significantly impact from the value of a commendable presentation. The presentation of Mr. Morris is a bright light.

The comments of the city solicitor, in key particulars, are a very different and not-pleasing matter. Those comments demonstrate the great error in the city council's new rules of permitting public comment only when it is too early for the public fully to know what is going on, or, under the latest interpretation, only when it could be too late to do good. False statements, once made, become the basis for decisions and become crucial, almost forgotten links in complicated packages of arrangements.

The city solicitor specifically stated that the state condominium conversion statute's local enabling provisions only allow regulation of conversions for short periods of phase-out of the tenants for replacement by owners. Reality is markedly different. The key provisions are in section 2 of the statute, as I provided you on Friday evening. The general provisions (section 4) are notice provisions. Section 2, however, reads as follows:

The provisions of section four of this act shall be applicable in all housing accommodations in any city of town of the commonwealth, unless otherwise provided in this section.

Any city or town may, by ordinance or by-law, impose provisions or requirements to regulate for the protection of tenants with respect to the conversion of housing accommodations to the condominium or cooperative forms of ownership and evictions related thereto which differ from those set forth in this act, upon a two-thirds vote of the city council with the approval of the mayor, in the case of a city, or [town provisions], provided, however, that no such ordinance or by-law which imposes additional provisions or requirements than those set forth in this act shall be applicable to any of the following housing accommodations: [three specified, not all inclusive, types of subsidized housing].

[Cities and towns with then existing protections exempt from the act.]

Local legislative action shall be accompanied by a declaration, in the form of findings, that local conditions constitute an acute rental housing emergency requiring local action, on account of the aggravating impact of the factors set forth in section one of this act. [Emphasis added, omissions explained.]

The provisions of the last paragraph of the section impose findings of emergency comparable to those in the city's rent control law.

*This statute imposes no time limitations on the greater protections allowed to be provided by cities and towns. The home rule enabling provisions of this statute create no requirement for phase out of tenants. The general notice requirements (section 4), by contrast, are most definitely phase out provisions. Notice is given. Tenants can stay for specified periods, but then they must leave. Why allow greater protections if the greater protections are not greater protections? The city solicitor's comments actually give the impression that the local enabling provisions are **less generous to tenants** than the general notice provisions.*

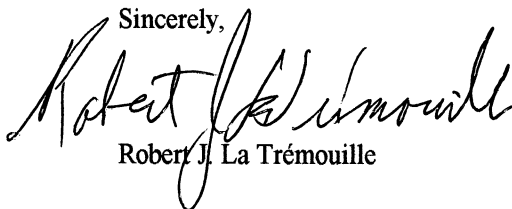
People's expectations are being destroyed as a result of this horrible situation. It is thus uncomfortable to talk in terms of expectations. One councillor proposed language to protect people who had moved into a building before the filing of a master deed. Mr. Morris stated that, in ordinance condominium buildings, perhaps 85% of occupants are tenants (is that exact figure a correct quote?). The impression I got from his comments was that these pre- 1982(?) master deeds far outnumber the C½ master deeds. Tenants who have moved into ordinance buildings did so because they knew that the master deeds had no impact on them. Those master deeds were not a threat. Under Cambridge law, the buildings were what they looked like: apartment buildings. **The numbers I heard sound like about one-seventh of Cambridge rent control tenants.** (I believe Mr. Morris mentioned a **deliberately not-all-inclusive** survey of 1000 pre-1982 master deeded ordinance units, thus the number of affected units significantly exceeds 1000.)

Please provide that existing owner-occupants be allowed to remain, but that condominium conversion evictions be evictions against which tenants are protected. The state statute clearly intends that such protections exist. I am not an expert on the Boston law but the presentation seems to state that Boston law prevents such evictions, both in controlled and in **recontrolled** apartments.

I previously provided you enabling language which could provide condo eviction protections. I would hope that you will implement the purposes of that proposal: Allow persons who have owner-occupied during the period January 1, 1969 to November 8, 1994, to remain in place. Otherwise, treat all tenants as tenants, without carving a very large, unnecessary, eviction group.

The language I gave you would provide administrative oversight by the rent control board, should you so wish, and would apply the protections to tenants in 1969 to 1983 housing based on the same criteria as pre-1969 housing. **Clearly no existing protections should be conceded to expand protections to 1969-1983 housing, but general enabling legislation, if properly understood and drafted, resolves a tremendous problem with regard to allocation of precious time.** General enabling legislation on this important, but non-core issue, permits details to be fully understood by deferring them to a later time rather than hoping to catch all the fine print created by city staff at once.

Sincerely,



Robert J. La Trémouille

- p.s. I apologize that this letter concentrates on one part of a very distasteful situation, however, this is the part I am an expert on. If the statements of the City Solicitor had constituted what I consider an accurate statement of law, you would not be getting this letter.
- p.p.s. In Monday night's package, you will have a minimum of another eight "please pass the proposal of Bob La Trémouille" letters.

Comm. # 6

S-534

Comm. from Robert LaTremcuille, 348 Franklin
Street, Cambridge regarding State Condo
Eviction Enabling Legislation.

In City Council,

November 20, 1994

Placed on file