

RECEIVED BY
OFFICE OF CITY CLERK
1988 APR 22 10 59 AM '88
CAMBRIDGE TENANTS UNION
CAMBRIDGE MA. April 21, 1988

The Cambridge City Council
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Re: Proposed New Exemption to Rent Control Act

To the Honorable, the City Council:

At the April 11, 1988 council meeting, Councillors Wolf and Duehay introduced, as a late order, a proposal for a new exemption in Chapter 36 of the Massachusetts General Laws, the state act enabling rent control in Cambridge. Discussion of the order was tabled when Councillor Danehy exercised his right under the city charter. The matter may come before the council again on April 25, 1988.

The Cambridge Tenants Union does not favor any additional exemptions to the Rent Control Act. We believe that existing exemptions have not been interpreted narrowly as required by law and have in fact been broadened both by regulation and by practice of the Cambridge Rent Control Board (the Board).

The loss of rent-controlled units -- by conservative estimate at least one-third of all units initially entrusted to the Board -- is close to becoming a scandal for a city which has long supported rent control. We urge the City Council to reject the proposed new exemption. We do so for the following reasons.

1. No evidence has been put forward to show that the exemption is needed. All we have heard are vague, anecdotal stories that do not spell out what special problems owners face. We are not aware of any cases where the existing language of the law has created practical difficulties for owners of single-family houses. Who is being helped by this exemption and why? Given the inordinately tight Cambridge housing market, the burden properly rests upon the proponents to show why a new exemption should be introduced into the Act.
2. Rent control's effectiveness as a program depends on the maintenance of a sufficiently large pool of rental apartments to assure that a diverse population -- in terms of income and class -- will be able to live in Cambridge. How many units within the actual and potential pool of controlled rental housing will be affected by this proposed exemption? In particular, how many "rent-controlled

condominiums" will be affected? At the March 24th Rent Control Committee hearing, tenants and landlords agreed that we do not know the number of units -- of any kind -- currently under rent control. Even if we assume, conservatively, that 15% of all rent-controlled units are "rent-controlled condominiums", the proposed exemption will have a substantial, negative effect on potential rental opportunities. Using the Board's data, there may be 4,000 to 5,000 owner-occupied units, each of which could qualify for the proposed exemption.

3. All existing exemptions, except perhaps 3(b)(1) and 3(b)(7), have led to enforcement problems. For the convenience of the city council we review existing exemptions:
 - a. 3(b)(2) - interpreted for years as the so-called "new construction" exemption - was closed just last month after the number of units being lost rose precipitously. The losses occurred for no reason that an ordinarily skilled reader of English could have predicted; a loophole was simply created.
 - b. 3(b)(3) - government ownership, rental regulation, or subsidy: here again "creative" interpretations have cost the city far too many rental units. The board has had to spend much legal time and effort fighting HUD and other agencies. From the point of view of tenants, no useful purpose is served by the city ceding its authority to others, without clear legal necessity.
 - c. 3(b)(4) - cooperatives: the Removal Permit Ordinance had to be amended to close this loophole.
 - d. 3(b)(5) - units operated exclusively for charitable or educational purposes: perhaps the granddaddy of all rent-control loopholes. Who would have thought, on reading the language of the Act back in 1970, that someone would interpret units rented to university affiliates as one-unit "dormitories" and that more than 1,000 units would be decontrolled as a result?
 - e. 3(b)(6) - owner-occupied two- and three-families: in the early 1980's real estate brokers started an aggressive campaign to buy these properties and "flip" them to real or straw owner-occupants. Most rental units in these buildings are now gone. Before the condominium boom, the Supreme Judicial Court rationalized the political decision to exempt these units. When the exemption is claimed now, it is little more than a highway to condominium conversion.

How will the proposed exemption be any different? The kind of monitoring required to assure compliance with the terms of this exemption is beyond the current capacity of the Board. In these circumstances and with its imprecise language, the proposed exemption will simply be used by many to evade rent control.

4. The proposed exemption will further weaken the Board's already feeble efforts to prevent decontrol and conversion to condominiums of two- and three-family houses through fraudulent claims of owner-occupancy (e.g. 73 Fayette St.). The Board has unfortunately taken the view that these properties will sooner or later be lost through decontrol and subsequent conversion. That fact, however, is no reason to increase, through a new exemption, the complexity of determining whether there was a legitimate owner-occupant and to discourage the Board even more from tackling fraudulent claims of owner-occupancy. This is especially important in view of the recent Appeals Court decision on a Brookline case.
5. One important function of rent control is to serve as a brake on housing speculation. The proposed exemption appears to create new opportunities to profit from real estate speculation in Cambridge. To grant a latter-day Henry Kissinger, heading off to Washington, the right to charge a speculative, market rent on a Cambridge condo is to preclude the possibility that a moderate-income tenant might be housed in the city while the owner is absent. We believe that where condominiums are concerned the potential loss will be serious. These are the cases where rental opportunities may be created under rent control at rents that moderate-income people can afford.
6. The proposed exemption, as written, has a number of serious deficiencies.
 - a. The term "principal residence" is not defined in the act or regulations. (It is used in 13-01 (k) to help define "owner-occupied" and in 13-01 (y) to help define "continuously occupied".)
 - b. The exemption is presumably meant to apply only to a unit while rented, since while "owner-occupied" the unit may already be exempt; its language, however, is not clear.
 - c. No unit can be "vacated and rented" at the same time.

- d. The clause "if the owner....before vacating it" has two negatives and is not capable of precise interpretation, and "immediately before vacating" is not connected in time to the rental for which an exemption is proposed.
 - e. Whenever "intention" is used as part of a law, there must be an objective standard by which a person's intentions may be judged. Without a standard, intentions cannot be proven and are unenforceable.
 - f. Leases in Cambridge commonly run for one year; many tenants rent month to month as leases are extended or as tenants at will. In these circumstances, two years is not, by any stretch of the imagination, "a limited period of time".
7. What is in the Act is what counts. The Act is state law. Good intentions expressed in council orders or requests for tight regulations (which the Board may not pass) cannot undo damage caused by bad law.

For these reasons, the Cambridge Tenants Union is unalterably opposed to passage of the proposed order and home rule petition. We urge this city council to defeat the proposal.

If, however, the council is moved to pass a new exemption, it is our belief that the proper way to amend the Act, a law upon which thousands of Cambridge tenants depend, is to provide adequate time for careful deliberation. We would request, therefore, that this or any proposal for a new exemption be referred to the Rent Control Committee for hearings and that the public, attorneys familiar with rent control, members of the Board's staff, and other interested persons be invited to attend.

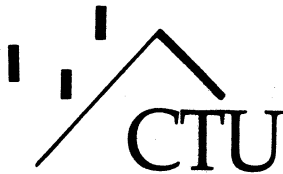
Respectfully submitted,



(for)

CAMBRIDGE TENANTS UNION
(William S. Noble, Secretary)

cc: D. Margaret Drury, Ex. Dir.
Cambridge Rent Control Board



RECEIVED BY
OFFICE OF CITY CLERK
CAMBRIDGE TENANTS UNION
1988 APR 22 AM 9:13
CAMBRIDGE MA.

April 21, 1988

The Cambridge City Council
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Re: Proposed New Exemption to Rent Control Act

To the Honorable, the City Council:

At the April 11, 1988 council meeting, Councillors Wolf and Duehay introduced, as a late order, a proposal for a new exemption in Chapter 36 of the Massachusetts General Laws, the state act enabling rent control in Cambridge. Discussion of the order was tabled when Councillor Danehy exercised his right under the city charter. The matter may come before the council again on April 25, 1988.

The Cambridge Tenants Union does not favor any additional exemptions to the Rent Control Act. We believe that existing exemptions have not been interpreted narrowly as required by law and have in fact been broadened both by regulation and by practice of the Cambridge Rent Control Board (the Board).

The loss of rent-controlled units -- by conservative estimate at least one-third of all units initially entrusted to the Board -- is close to becoming a scandal for a city which has long supported rent control. We urge the City Council to reject the proposed new exemption. We do so for the following reasons.

1. No evidence has been put forward to show that the exemption is needed. All we have heard are vague, anecdotal stories that do not spell out what special problems owners face. We are not aware of any cases where the existing language of the law has created practical difficulties for owners of single-family houses. Who is being helped by this exemption and why? Given the inordinately tight Cambridge housing market, the burden properly rests upon the proponents to show why a new exemption should be introduced into the Act.
2. Rent control's effectiveness as a program depends on the maintenance of a sufficiently large pool of rental apartments to assure that a diverse population -- in terms of income and class -- will be able to live in Cambridge. How many units within the actual and potential pool of controlled rental housing will be affected by this proposed exemption? In particular, how many "rent-controlled

condominiums" will be affected? At the March 24th Rent Control Committee hearing, tenants and landlords agreed that we do not know the number of units -- of any kind -- currently under rent control. Even if we assume, conservatively, that 15% of all rent-controlled units are "rent-controlled condominiums", the proposed exemption will have a substantial, negative effect on potential rental opportunities. Using the Board's data, there may be 4,000 to 5,000 owner-occupied units, each of which could qualify for the proposed exemption.

3. All existing exemptions, except perhaps 3(b)(1) and 3(b)(7), have led to enforcement problems. For the convenience of the city council we review existing exemptions:
 - a. 3(b)(2) - interpreted for years as the so-called "new construction" exemption - was closed just last month after the number of units being lost rose precipitously. The losses occurred for no reason that an ordinarily skilled reader of English could have predicted; a loophole was simply created.
 - b. 3(b)(3) - government ownership, rental regulation, or subsidy: here again "creative" interpretations have cost the city far too many rental units. The board has had to spend much legal time and effort fighting HUD and other agencies. From the point of view of tenants, no useful purpose is served by the city ceding its authority to others, without clear legal necessity.
 - c. 3(b)(4) - cooperatives: the Removal Permit Ordinance had to be amended to close this loophole.
 - d. 3(b)(5) - units operated exclusively for charitable or educational purposes: perhaps the granddaddy of all rent-control loopholes. Who would have thought, on reading the language of the Act back in 1970, that someone would interpret units rented to university affiliates as one-unit "dormitories" and that more than 1,000 units would be decontrolled as a result?
 - e. 3(b)(6) - owner-occupied two- and three-families: in the early 1980's real estate brokers started an aggressive campaign to buy these properties and "flip" them to real or straw owner-occupants. Most rental units in these buildings are now gone. Before the condominium boom, the Supreme Judicial Court rationalized the political decision to exempt these units. When the exemption is claimed now, it is little more than a highway to condominium conversion.

How will the proposed exemption be any different? The kind of monitoring required to assure compliance with the terms of this exemption is beyond the current capacity of the Board. In these circumstances and with its imprecise language, the proposed exemption will simply be used by many to evade rent control.

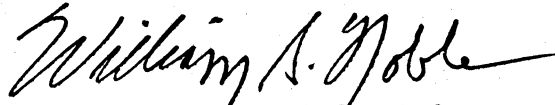
4. The proposed exemption will further weaken the Board's already feeble efforts to prevent decontrol and conversion to condominiums of two- and three-family houses through fraudulent claims of owner-occupancy (e.g. 73 Fayette St.). The Board has unfortunately taken the view that these properties will sooner or later be lost through decontrol and subsequent conversion. That fact, however, is no reason to increase, through a new exemption, the complexity of determining whether there was a legitimate owner-occupant and to discourage the Board even more from tackling fraudulent claims of owner-occupancy. This is especially important in view of the recent Appeals Court decision on a Brookline case.
5. One important function of rent control is to serve as a brake on housing speculation. The proposed exemption appears to create new opportunities to profit from real estate speculation in Cambridge. To grant a latter-day Henry Kissinger, heading off to Washington, the right to charge a speculative, market rent on a Cambridge condo is to preclude the possibility that a moderate-income tenant might be housed in the city while the owner is absent. We believe that where condominiums are concerned the potential loss will be serious. These are the cases where rental opportunities may be created under rent control at rents that moderate-income people can afford.
6. The proposed exemption, as written, has a number of serious deficiencies.
 - a. The term "principal residence" is not defined in the act or regulations. (It is used in 13-01 (k) to help define "owner-occupied" and in 13-01 (y) to help define "continuously occupied".)
 - b. The exemption is presumably meant to apply only to a unit while rented, since while "owner-occupied" the unit may already be exempt; its language, however, is not clear.
 - c. No unit can be "vacated and rented" at the same time.

- d. The clause "if the owner....before vacating it" has two negatives and is not capable of precise interpretation, and "immediately before vacating" is not connected in time to the rental for which an exemption is proposed.
 - e. Whenever "intention" is used as part of a law, there must be an objective standard by which a person's intentions may be judged. Without a standard, intentions cannot be proven and are unenforceable.
 - f. Leases in Cambridge commonly run for one year; many tenants rent month to month as leases are extended or as tenants at will. In these circumstances, two years is not, by any stretch of the imagination, "a limited period of time".
7. What is in the Act is what counts. The Act is state law. Good intentions expressed in council orders or requests for tight regulations (which the Board may not pass) cannot undo damage caused by bad law.

For these reasons, the Cambridge Tenants Union is unalterably opposed to passage of the proposed order and home rule petition. We urge this city council to defeat the proposal.

If, however, the council is moved to pass a new exemption, it is our belief that the proper way to amend the Act, a law upon which thousands of Cambridge tenants depend, is to provide adequate time for careful deliberation. We would request, therefore, that this or any proposal for a new exemption be referred to the Rent Control Committee for hearings and that the public, attorneys familiar with rent control, members of the Board's staff, and other interested persons be invited to attend.

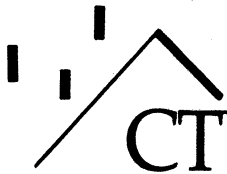
Respectfully submitted,



(for)

CAMBRIDGE TENANTS UNION
(William S. Noble, Secretary)

cc: D. Margaret Drury, Ex. Dir.
Cambridge Rent Control Board



CTU

RECEIVED BY
OFFICE OF CITY CLERK

1988 APR 22 AM 9:13

CAMBRIDGE TENANTS UNION

CAMBRIDGE MA.

April 21, 1988

The Cambridge City Council
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Re: Proposed New Exemption to Rent Control Act

To the Honorable, the City Council:

At the April 11, 1988 council meeting, Councillors Wolf and Duehay introduced, as a late order, a proposal for a new exemption in Chapter 36 of the Massachusetts General Laws, the state act enabling rent control in Cambridge. Discussion of the order was tabled when Councillor Danehy exercised his right under the city charter. The matter may come before the council again on April 25, 1988.

The Cambridge Tenants Union does not favor any additional exemptions to the Rent Control Act. We believe that existing exemptions have not been interpreted narrowly as required by law and have in fact been broadened both by regulation and by practice of the Cambridge Rent Control Board (the Board).

The loss of rent-controlled units -- by conservative estimate at least one-third of all units initially entrusted to the Board -- is close to becoming a scandal for a city which has long supported rent control. We urge the City Council to reject the proposed new exemption. We do so for the following reasons.

1. No evidence has been put forward to show that the exemption is needed. All we have heard are vague, anecdotal stories that do not spell out what special problems owners face. We are not aware of any cases where the existing language of the law has created practical difficulties for owners of single-family houses. Who is being helped by this exemption and why? Given the inordinately tight Cambridge housing market, the burden properly rests upon the proponents to show why a new exemption should be introduced into the Act.
2. Rent control's effectiveness as a program depends on the maintenance of a sufficiently large pool of rental apartments to assure that a diverse population -- in terms of income and class -- will be able to live in Cambridge. How many units within the actual and potential pool of controlled rental housing will be affected by this proposed exemption? In particular, how many "rent-controlled

condominiums" will be affected? At the March 24th Rent Control Committee hearing, tenants and landlords agreed that we do not know the number of units -- of any kind -- currently under rent control. Even if we assume, conservatively, that 15% of all rent-controlled units are "rent-controlled condominiums", the proposed exemption will have a substantial, negative effect on potential rental opportunities. Using the Board's data, there may be 4,000 to 5,000 owner-occupied units, each of which could qualify for the proposed exemption.

3. All existing exemptions, except perhaps 3(b)(1) and 3(b)(7), have led to enforcement problems. For the convenience of the city council we review existing exemptions:
 - a. 3(b)(2) - interpreted for years as the so-called "new construction" exemption - was closed just last month after the number of units being lost rose precipitously. The losses occurred for no reason that an ordinarily skilled reader of English could have predicted; a loophole was simply created.
 - b. 3(b)(3) - government ownership, rental regulation, or subsidy: here again "creative" interpretations have cost the city far too many rental units. The board has had to spend much legal time and effort fighting HUD and other agencies. From the point of view of tenants, no useful purpose is served by the city ceding its authority to others, without clear legal necessity.
 - c. 3(b)(4) - cooperatives: the Removal Permit Ordinance had to be amended to close this loophole.
 - d. 3(b)(5) - units operated exclusively for charitable or educational purposes: perhaps the granddaddy of all rent-control loopholes. Who would have thought, on reading the language of the Act back in 1970, that someone would interpret units rented to university affiliates as one-unit "dormitories" and that more than 1,000 units would be decontrolled as a result?
 - e. 3(b)(6) - owner-occupied two- and three-families: in the early 1980's real estate brokers started an aggressive campaign to buy these properties and "flip" them to real or straw owner-occupants. Most rental units in these buildings are now gone. Before the condominium boom, the Supreme Judicial Court rationalized the political decision to exempt these units. When the exemption is claimed now, it is little more than a highway to condominium conversion.

How will the proposed exemption be any different? The kind of monitoring required to assure compliance with the terms of this exemption is beyond the current capacity of the Board. In these circumstances and with its imprecise language, the proposed exemption will simply be used by many to evade rent control.

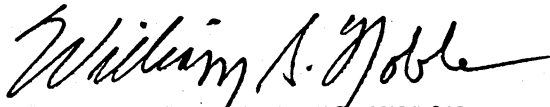
4. The proposed exemption will further weaken the Board's already feeble efforts to prevent decontrol and conversion to condominiums of two- and three-family houses through fraudulent claims of owner-occupancy (e.g. 73 Fayette St.). The Board has unfortunately taken the view that these properties will sooner or later be lost through decontrol and subsequent conversion. That fact, however, is no reason to increase, through a new exemption, the complexity of determining whether there was a legitimate owner-occupant and to discourage the Board even more from tackling fraudulent claims of owner-occupancy. This is especially important in view of the recent Appeals Court decision on a Brookline case.
5. One important function of rent control is to serve as a brake on housing speculation. The proposed exemption appears to create new opportunities to profit from real estate speculation in Cambridge. To grant a latter-day Henry Kissinger, heading off to Washington, the right to charge a speculative, market rent on a Cambridge condo is to preclude the possibility that a moderate-income tenant might be housed in the city while the owner is absent. We believe that where condominiums are concerned the potential loss will be serious. These are the cases where rental opportunities may be created under rent control at rents that moderate-income people can afford.
6. The proposed exemption, as written, has a number of serious deficiencies.
 - a. The term "principal residence" is not defined in the act or regulations. (It is used in 13-01 (k) to help define "owner-occupied" and in 13-01 (y) to help define "continuously occupied".)
 - b. The exemption is presumably meant to apply only to a unit while rented, since while "owner-occupied" the unit may already be exempt; its language, however, is not clear.
 - c. No unit can be "vacated and rented" at the same time.

- d. The clause "if the owner....before vacating it" has two negatives and is not capable of precise interpretation, and "immediately before vacating" is not connected in time to the rental for which an exemption is proposed.
 - e. Whenever "intention" is used as part of a law, there must be an objective standard by which a person's intentions may be judged. Without a standard, intentions cannot be proven and are unenforceable.
 - f. Leases in Cambridge commonly run for one year; many tenants rent month to month as leases are extended or as tenants at will. In these circumstances, two years is not, by any stretch of the imagination, "a limited period of time".
7. What is in the Act is what counts. The Act is state law. Good intentions expressed in council orders or requests for tight regulations (which the Board may not pass) cannot undo damage caused by bad law.

For these reasons, the Cambridge Tenants Union is unalterably opposed to passage of the proposed order and home rule petition. We urge this city council to defeat the proposal.

If, however, the council is moved to pass a new exemption, it is our belief that the proper way to amend the Act, a law upon which thousands of Cambridge tenants depend, is to provide adequate time for careful deliberation. We would request, therefore, that this or any proposal for a new exemption be referred to the Rent Control Committee for hearings and that the public, attorneys familiar with rent control, members of the Board's staff, and other interested persons be invited to attend.

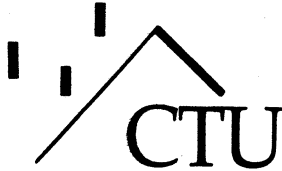
Respectfully submitted,



(for)

CAMBRIDGE TENANTS UNION
(William S. Noble, Secretary)

cc: D. Margaret Drury, Ex. Dir.
Cambridge Rent Control Board



RECEIVED BY
OFFICE OF CITY CLERK
1988 APR 21 AM 9:43
CAMBRIDGE TENANTS UNION
APR 21, 1988
CAMBRIDGE MA.

The Cambridge City Council
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Re: Proposed New Exemption to Rent Control Act

To the Honorable, the City Council:

At the April 11, 1988 council meeting, Councillors Wolf and Duehay introduced, as a late order, a proposal for a new exemption in Chapter 36 of the Massachusetts General Laws, the state act enabling rent control in Cambridge. Discussion of the order was tabled when Councillor Danehy exercised his right under the city charter. The matter may come before the council again on April 25, 1988.

The Cambridge Tenants Union does not favor any additional exemptions to the Rent Control Act. We believe that existing exemptions have not been interpreted narrowly as required by law and have in fact been broadened both by regulation and by practice of the Cambridge Rent Control Board (the Board).

The loss of rent-controlled units -- by conservative estimate at least one-third of all units initially entrusted to the Board -- is close to becoming a scandal for a city which has long supported rent control. We urge the City Council to reject the proposed new exemption. We do so for the following reasons.

1. No evidence has been put forward to show that the exemption is needed. All we have heard are vague, anecdotal stories that do not spell out what special problems owners face. We are not aware of any cases where the existing language of the law has created practical difficulties for owners of single-family houses. Who is being helped by this exemption and why? Given the inordinately tight Cambridge housing market, the burden properly rests upon the proponents to show why a new exemption should be introduced into the Act.
2. Rent control's effectiveness as a program depends on the maintenance of a sufficiently large pool of rental apartments to assure that a diverse population -- in terms of income and class -- will be able to live in Cambridge. How many units within the actual and potential pool of controlled rental housing will be affected by this proposed exemption? In particular, how many "rent-controlled

condominiums" will be affected? At the March 24th Rent Control Committee hearing, tenants and landlords agreed that we do not know the number of units -- of any kind -- currently under rent control. Even if we assume, conservatively, that 15% of all rent-controlled units are "rent-controlled condominiums", the proposed exemption will have a substantial, negative effect on potential rental opportunities. Using the Board's data, there may be 4,000 to 5,000 owner-occupied units, each of which could qualify for the proposed exemption.

3. All existing exemptions, except perhaps 3(b)(1) and 3(b)(7), have led to enforcement problems. For the convenience of the city council we review existing exemptions:
 - a. 3(b)(2) - interpreted for years as the so-called "new construction" exemption - was closed just last month after the number of units being lost rose precipitously. The losses occurred for no reason that an ordinarily skilled reader of English could have predicted; a loophole was simply created.
 - b. 3(b)(3) - government ownership, rental regulation, or subsidy: here again "creative" interpretations have cost the city far too many rental units. The board has had to spend much legal time and effort fighting HUD and other agencies. From the point of view of tenants, no useful purpose is served by the city ceding its authority to others, without clear legal necessity.
 - c. 3(b)(4) - cooperatives: the Removal Permit Ordinance had to be amended to close this loophole.
 - d. 3(b)(5) - units operated exclusively for charitable or educational purposes: perhaps the granddaddy of all rent-control loopholes. Who would have thought, on reading the language of the Act back in 1970, that someone would interpret units rented to university affiliates as one-unit "dormitories" and that more than 1,000 units would be decontrolled as a result?
 - e. 3(b)(6) - owner-occupied two- and three-families: in the early 1980's real estate brokers started an aggressive campaign to buy these properties and "flip" them to real or straw owner-occupants. Most rental units in these buildings are now gone. Before the condominium boom, the Supreme Judicial Court rationalized the political decision to exempt these units. When the exemption is claimed now, it is little more than a highway to condominium conversion.

How will the proposed exemption be any different? The kind of monitoring required to assure compliance with the terms of this exemption is beyond the current capacity of the Board. In these circumstances and with its imprecise language, the proposed exemption will simply be used by many to evade rent control.

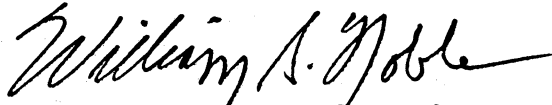
4. The proposed exemption will further weaken the Board's already feeble efforts to prevent decontrol and conversion to condominiums of two- and three-family houses through fraudulent claims of owner-occupancy (e.g. 73 Fayette St.). The Board has unfortunately taken the view that these properties will sooner or later be lost through decontrol and subsequent conversion. That fact, however, is no reason to increase, through a new exemption, the complexity of determining whether there was a legitimate owner-occupant and to discourage the Board even more from tackling fraudulent claims of owner-occupancy. This is especially important in view of the recent Appeals Court decision on a Brookline case.
5. One important function of rent control is to serve as a brake on housing speculation. The proposed exemption appears to create new opportunities to profit from real estate speculation in Cambridge. To grant a latter-day Henry Kissinger, heading off to Washington, the right to charge a speculative, market rent on a Cambridge condo is to preclude the possibility that a moderate-income tenant might be housed in the city while the owner is absent. We believe that where condominiums are concerned the potential loss will be serious. These are the cases where rental opportunities may be created under rent control at rents that moderate-income people can afford.
6. The proposed exemption, as written, has a number of serious deficiencies.
 - a. The term "principal residence" is not defined in the act or regulations. (It is used in 13-01 (k) to help define "owner-occupied" and in 13-01 (y) to help define "continuously occupied".)
 - b. The exemption is presumably meant to apply only to a unit while rented, since while "owner-occupied" the unit may already be exempt; its language, however, is not clear.
 - c. No unit can be "vacated and rented" at the same time.

- d. The clause "if the owner....before vacating it" has two negatives and is not capable of precise interpretation, and "immediately before vacating" is not connected in time to the rental for which an exemption is proposed.
 - e. Whenever "intention" is used as part of a law, there must be an objective standard by which a person's intentions may be judged. Without a standard, intentions cannot be proven and are unenforceable.
 - f. Leases in Cambridge commonly run for one year; many tenants rent month to month as leases are extended or as tenants at will. In these circumstances, two years is not, by any stretch of the imagination, "a limited period of time".
7. What is in the Act is what counts. The Act is state law. Good intentions expressed in council orders or requests for tight regulations (which the Board may not pass) cannot undo damage caused by bad law.

For these reasons, the Cambridge Tenants Union is unalterably opposed to passage of the proposed order and home rule petition. We urge this city council to defeat the proposal.

If, however, the council is moved to pass a new exemption, it is our belief that the proper way to amend the Act, a law upon which thousands of Cambridge tenants depend, is to provide adequate time for careful deliberation. We would request, therefore, that this or any proposal for a new exemption be referred to the Rent Control Committee for hearings and that the public, attorneys familiar with rent control, members of the Board's staff, and other interested persons be invited to attend.

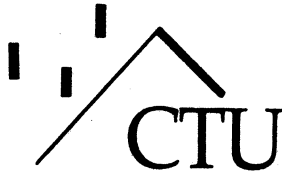
Respectfully submitted,



(for)

CAMBRIDGE TENANTS UNION
(William S. Noble, Secretary)

cc: D. Margaret Drury, Ex. Dir.
Cambridge Rent Control Board



-RECEIVED BY
OFFICE OF CITY CLERK
1988 APR 22 AM 9:13
CAMBRIDGE TENANTS UNION
CAMBRIDGE MA.

April 21, 1988

The Cambridge City Council
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Re: Proposed New Exemption to Rent Control Act

To the Honorable, the City Council:

At the April 11, 1988 council meeting, Councillors Wolf and Duehay introduced, as a late order, a proposal for a new exemption in Chapter 36 of the Massachusetts General Laws, the state act enabling rent control in Cambridge. Discussion of the order was tabled when Councillor Danehy exercised his right under the city charter. The matter may come before the council again on April 25, 1988.

The Cambridge Tenants Union does not favor any additional exemptions to the Rent Control Act. We believe that existing exemptions have not been interpreted narrowly as required by law and have in fact been broadened both by regulation and by practice of the Cambridge Rent Control Board (the Board).

The loss of rent-controlled units -- by conservative estimate at least one-third of all units initially entrusted to the Board -- is close to becoming a scandal for a city which has long supported rent control. We urge the City Council to reject the proposed new exemption. We do so for the following reasons.

1. No evidence has been put forward to show that the exemption is needed. All we have heard are vague, anecdotal stories that do not spell out what special problems owners face. We are not aware of any cases where the existing language of the law has created practical difficulties for owners of single-family houses. Who is being helped by this exemption and why? Given the inordinately tight Cambridge housing market, the burden properly rests upon the proponents to show why a new exemption should be introduced into the Act.
2. Rent control's effectiveness as a program depends on the maintenance of a sufficiently large pool of rental apartments to assure that a diverse population -- in terms of income and class -- will be able to live in Cambridge. How many units within the actual and potential pool of controlled rental housing will be affected by this proposed exemption? In particular, how many "rent-controlled

condominiums" will be affected? At the March 24th Rent Control Committee hearing, tenants and landlords agreed that we do not know the number of units -- of any kind -- currently under rent control. Even if we assume, conservatively, that 15% of all rent-controlled units are "rent-controlled condominiums", the proposed exemption will have a substantial, negative effect on potential rental opportunities. Using the Board's data, there may be 4,000 to 5,000 owner-occupied units, each of which could qualify for the proposed exemption.

3. All existing exemptions, except perhaps 3(b)(1) and 3(b)(7), have led to enforcement problems. For the convenience of the city council we review existing exemptions:
 - a. 3(b)(2) - interpreted for years as the so-called "new construction" exemption - was closed just last month after the number of units being lost rose precipitously. The losses occurred for no reason that an ordinarily skilled reader of English could have predicted; a loophole was simply created.
 - b. 3(b)(3) - government ownership, rental regulation, or subsidy: here again "creative" interpretations have cost the city far too many rental units. The board has had to spend much legal time and effort fighting HUD and other agencies. From the point of view of tenants, no useful purpose is served by the city ceding its authority to others, without clear legal necessity.
 - c. 3(b)(4) - cooperatives: the Removal Permit Ordinance had to be amended to close this loophole.
 - d. 3(b)(5) - units operated exclusively for charitable or educational purposes: perhaps the granddaddy of all rent-control loopholes. Who would have thought, on reading the language of the Act back in 1970, that someone would interpret units rented to university affiliates as one-unit "dormitories" and that more than 1,000 units would be decontrolled as a result?
 - e. 3(b)(6) - owner-occupied two- and three-families: in the early 1980's real estate brokers started an aggressive campaign to buy these properties and "flip" them to real or straw owner-occupants. Most rental units in these buildings are now gone. Before the condominium boom, the Supreme Judicial Court rationalized the political decision to exempt these units. When the exemption is claimed now, it is little more than a highway to condominium conversion.

How will the proposed exemption be any different? The kind of monitoring required to assure compliance with the terms of this exemption is beyond the current capacity of the Board. In these circumstances and with its imprecise language, the proposed exemption will simply be used by many to evade rent control.

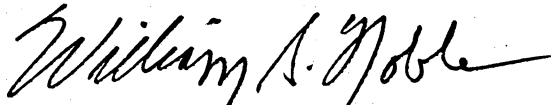
4. The proposed exemption will further weaken the Board's already feeble efforts to prevent decontrol and conversion to condominiums of two- and three-family houses through fraudulent claims of owner-occupancy (e.g. 73 Fayette St.). The Board has unfortunately taken the view that these properties will sooner or later be lost through decontrol and subsequent conversion. That fact, however, is no reason to increase, through a new exemption, the complexity of determining whether there was a legitimate owner-occupant and to discourage the Board even more from tackling fraudulent claims of owner-occupancy. This is especially important in view of the recent Appeals Court decision on a Brookline case.
5. One important function of rent control is to serve as a brake on housing speculation. The proposed exemption appears to create new opportunities to profit from real estate speculation in Cambridge. To grant a latter-day Henry Kissinger, heading off to Washington, the right to charge a speculative, market rent on a Cambridge condo is to preclude the possibility that a moderate-income tenant might be housed in the city while the owner is absent. We believe that where condominiums are concerned the potential loss will be serious. These are the cases where rental opportunities may be created under rent control at rents that moderate-income people can afford.
6. The proposed exemption, as written, has a number of serious deficiencies.
 - a. The term "principal residence" is not defined in the act or regulations. (It is used in 13-01 (k) to help define "owner-occupied" and in 13-01 (y) to help define "continuously occupied".)
 - b. The exemption is presumably meant to apply only to a unit while rented, since while "owner-occupied" the unit may already be exempt; its language, however, is not clear.
 - c. No unit can be "vacated and rented" at the same time.

- d. The clause "if the owner....before vacating it" has two negatives and is not capable of precise interpretation, and "immediately before vacating" is not connected in time to the rental for which an exemption is proposed.
 - e. Whenever "intention" is used as part of a law, there must be an objective standard by which a person's intentions may be judged. Without a standard, intentions cannot be proven and are unenforceable.
 - f. Leases in Cambridge commonly run for one year; many tenants rent month to month as leases are extended or as tenants at will. In these circumstances, two years is not, by any stretch of the imagination, "a limited period of time".
7. What is in the Act is what counts. The Act is state law. Good intentions expressed in council orders or requests for tight regulations (which the Board may not pass) cannot undo damage caused by bad law.

For these reasons, the Cambridge Tenants Union is unalterably opposed to passage of the proposed order and home rule petition. We urge this city council to defeat the proposal.

If, however, the council is moved to pass a new exemption, it is our belief that the proper way to amend the Act, a law upon which thousands of Cambridge tenants depend, is to provide adequate time for careful deliberation. We would request, therefore, that this or any proposal for a new exemption be referred to the Rent Control Committee for hearings and that the public, attorneys familiar with rent control, members of the Board's staff, and other interested persons be invited to attend.

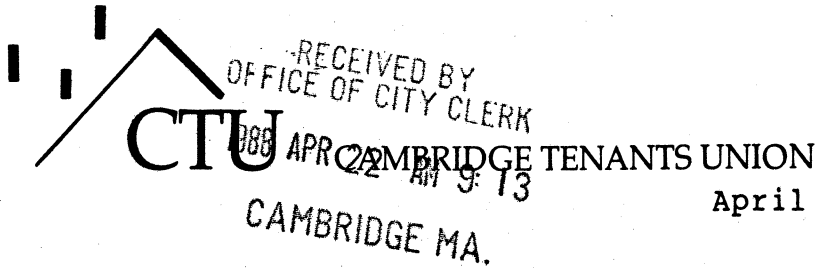
Respectfully submitted,



(for)

CAMBRIDGE TENANTS UNION
(William S. Noble, Secretary)

cc: D. Margaret Drury, Ex. Dir.
Cambridge Rent Control Board



April 21, 1988

The Cambridge City Council
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Re: Proposed New Exemption to Rent Control Act

To the Honorable, the City Council:

At the April 11, 1988 council meeting, Councillors Wolf and Duehay introduced, as a late order, a proposal for a new exemption in Chapter 36 of the Massachusetts General Laws, the state act enabling rent control in Cambridge. Discussion of the order was tabled when Councillor Danehy exercised his right under the city charter. The matter may come before the council again on April 25, 1988.

The Cambridge Tenants Union does not favor any additional exemptions to the Rent Control Act. We believe that existing exemptions have not been interpreted narrowly as required by law and have in fact been broadened both by regulation and by practice of the Cambridge Rent Control Board (the Board).

The loss of rent-controlled units -- by conservative estimate at least one-third of all units initially entrusted to the Board -- is close to becoming a scandal for a city which has long supported rent control. We urge the City Council to reject the proposed new exemption. We do so for the following reasons.

1. No evidence has been put forward to show that the exemption is needed. All we have heard are vague, anecdotal stories that do not spell out what special problems owners face. We are not aware of any cases where the existing language of the law has created practical difficulties for owners of single-family houses. Who is being helped by this exemption and why? Given the inordinately tight Cambridge housing market, the burden properly rests upon the proponents to show why a new exemption should be introduced into the Act.
2. Rent control's effectiveness as a program depends on the maintenance of a sufficiently large pool of rental apartments to assure that a diverse population -- in terms of income and class -- will be able to live in Cambridge. How many units within the actual and potential pool of controlled rental housing will be affected by this proposed exemption? In particular, how many "rent-controlled

condominiums" will be affected? At the March 24th Rent Control Committee hearing, tenants and landlords agreed that we do not know the number of units -- of any kind -- currently under rent control. Even if we assume, conservatively, that 15% of all rent-controlled units are "rent-controlled condominiums", the proposed exemption will have a substantial, negative effect on potential rental opportunities. Using the Board's data, there may be 4,000 to 5,000 owner-occupied units, each of which could qualify for the proposed exemption.

3. All existing exemptions, except perhaps 3(b)(1) and 3(b)(7), have led to enforcement problems. For the convenience of the city council we review existing exemptions:
 - a. 3(b)(2) - interpreted for years as the so-called "new construction" exemption - was closed just last month after the number of units being lost rose precipitously. The losses occurred for no reason that an ordinarily skilled reader of English could have predicted; a loophole was simply created.
 - b. 3(b)(3) - government ownership, rental regulation, or subsidy: here again "creative" interpretations have cost the city far too many rental units. The board has had to spend much legal time and effort fighting HUD and other agencies. From the point of view of tenants, no useful purpose is served by the city ceding its authority to others, without clear legal necessity.
 - c. 3(b)(4) - cooperatives: the Removal Permit Ordinance had to be amended to close this loophole.
 - d. 3(b)(5) - units operated exclusively for charitable or educational purposes: perhaps the granddaddy of all rent-control loopholes. Who would have thought, on reading the language of the Act back in 1970, that someone would interpret units rented to university affiliates as one-unit "dormitories" and that more than 1,000 units would be decontrolled as a result?
 - e. 3(b)(6) - owner-occupied two- and three-families: in the early 1980's real estate brokers started an aggressive campaign to buy these properties and "flip" them to real or straw owner-occupants. Most rental units in these buildings are now gone. Before the condominium boom, the Supreme Judicial Court rationalized the political decision to exempt these units. When the exemption is claimed now, it is little more than a highway to condominium conversion.

How will the proposed exemption be any different? The kind of monitoring required to assure compliance with the terms of this exemption is beyond the current capacity of the Board. In these circumstances and with its imprecise language, the proposed exemption will simply be used by many to evade rent control.

4. The proposed exemption will further weaken the Board's already feeble efforts to prevent decontrol and conversion to condominiums of two- and three-family houses through fraudulent claims of owner-occupancy (e.g. 73 Fayette St.). The Board has unfortunately taken the view that these properties will sooner or later be lost through decontrol and subsequent conversion. That fact, however, is no reason to increase, through a new exemption, the complexity of determining whether there was a legitimate owner-occupant and to discourage the Board even more from tackling fraudulent claims of owner-occupancy. This is especially important in view of the recent Appeals Court decision on a Brookline case.
5. One important function of rent control is to serve as a brake on housing speculation. The proposed exemption appears to create new opportunities to profit from real estate speculation in Cambridge. To grant a latter-day Henry Kissinger, heading off to Washington, the right to charge a speculative, market rent on a Cambridge condo is to preclude the possibility that a moderate-income tenant might be housed in the city while the owner is absent. We believe that where condominiums are concerned the potential loss will be serious. These are the cases where rental opportunities may be created under rent control at rents that moderate-income people can afford.
6. The proposed exemption, as written, has a number of serious deficiencies.
 - a. The term "principal residence" is not defined in the act or regulations. (It is used in 13-01 (k) to help define "owner-occupied" and in 13-01 (y) to help define "continuously occupied".)
 - b. The exemption is presumably meant to apply only to a unit while rented, since while "owner-occupied" the unit may already be exempt; its language, however, is not clear.
 - c. No unit can be "vacated and rented" at the same time.

- d. The clause "if the owner....before vacating it" has two negatives and is not capable of precise interpretation, and "immediately before vacating" is not connected in time to the rental for which an exemption is proposed.
 - e. Whenever "intention" is used as part of a law, there must be an objective standard by which a person's intentions may be judged. Without a standard, intentions cannot be proven and are unenforceable.
 - f. Leases in Cambridge commonly run for one year; many tenants rent month to month as leases are extended or as tenants at will. In these circumstances, two years is not, by any stretch of the imagination, "a limited period of time".
7. What is in the Act is what counts. The Act is state law. Good intentions expressed in council orders or requests for tight regulations (which the Board may not pass) cannot undo damage caused by bad law.

For these reasons, the Cambridge Tenants Union is unalterably opposed to passage of the proposed order and home rule petition. We urge this city council to defeat the proposal.

If, however, the council is moved to pass a new exemption, it is our belief that the proper way to amend the Act, a law upon which thousands of Cambridge tenants depend, is to provide adequate time for careful deliberation. We would request, therefore, that this or any proposal for a new exemption be referred to the Rent Control Committee for hearings and that the public, attorneys familiar with rent control, members of the Board's staff, and other interested persons be invited to attend.

Respectfully submitted,



(for)

CAMBRIDGE TENANTS UNION
(William S. Noble, Secretary)

cc: D. Margaret Drury, Ex. Dir.
Cambridge Rent Control Board



RECEIVED BY
OFFICE OF CITY CLERK

1988 APR 21 AM 9:13
CAMBRIDGE TENANTS UNION

CAMBRIDGE MA.

April 21, 1988

The Cambridge City Council
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Re: Proposed New Exemption to Rent Control Act

To the Honorable, the City Council:

At the April 11, 1988 council meeting, Councillors Wolf and Duehay introduced, as a late order, a proposal for a new exemption in Chapter 36 of the Massachusetts General Laws, the state act enabling rent control in Cambridge. Discussion of the order was tabled when Councillor Danehy exercised his right under the city charter. The matter may come before the council again on April 25, 1988.

The Cambridge Tenants Union does not favor any additional exemptions to the Rent Control Act. We believe that existing exemptions have not been interpreted narrowly as required by law and have in fact been broadened both by regulation and by practice of the Cambridge Rent Control Board (the Board).

The loss of rent-controlled units -- by conservative estimate at least one-third of all units initially entrusted to the Board -- is close to becoming a scandal for a city which has long supported rent control. We urge the City Council to reject the proposed new exemption. We do so for the following reasons.

1. No evidence has been put forward to show that the exemption is needed. All we have heard are vague, anecdotal stories that do not spell out what special problems owners face. We are not aware of any cases where the existing language of the law has created practical difficulties for owners of single-family houses. Who is being helped by this exemption and why? Given the inordinately tight Cambridge housing market, the burden properly rests upon the proponents to show why a new exemption should be introduced into the Act.
2. Rent control's effectiveness as a program depends on the maintenance of a sufficiently large pool of rental apartments to assure that a diverse population -- in terms of income and class -- will be able to live in Cambridge. How many units within the actual and potential pool of controlled rental housing will be affected by this proposed exemption? In particular, how many "rent-controlled

condominiums" will be affected? At the March 24th Rent Control Committee hearing, tenants and landlords agreed that we do not know the number of units -- of any kind -- currently under rent control. Even if we assume, conservatively, that 15% of all rent-controlled units are "rent-controlled condominiums", the proposed exemption will have a substantial, negative effect on potential rental opportunities. Using the Board's data, there may be 4,000 to 5,000 owner-occupied units, each of which could qualify for the proposed exemption.

3. All existing exemptions, except perhaps 3(b)(1) and 3(b)(7), have led to enforcement problems. For the convenience of the city council we review existing exemptions:
 - a. 3(b)(2) - interpreted for years as the so-called "new construction" exemption - was closed just last month after the number of units being lost rose precipitously. The losses occurred for no reason that an ordinarily skilled reader of English could have predicted; a loophole was simply created.
 - b. 3(b)(3) - government ownership, rental regulation, or subsidy: here again "creative" interpretations have cost the city far too many rental units. The board has had to spend much legal time and effort fighting HUD and other agencies. From the point of view of tenants, no useful purpose is served by the city ceding its authority to others, without clear legal necessity.
 - c. 3(b)(4) - cooperatives: the Removal Permit Ordinance had to be amended to close this loophole.
 - d. 3(b)(5) - units operated exclusively for charitable or educational purposes: perhaps the granddaddy of all rent-control loopholes. Who would have thought, on reading the language of the Act back in 1970, that someone would interpret units rented to university affiliates as one-unit "dormitories" and that more than 1,000 units would be decontrolled as a result?
 - e. 3(b)(6) - owner-occupied two- and three-families: in the early 1980's real estate brokers started an aggressive campaign to buy these properties and "flip" them to real or straw owner-occupants. Most rental units in these buildings are now gone. Before the condominium boom, the Supreme Judicial Court rationalized the political decision to exempt these units. When the exemption is claimed now, it is little more than a highway to condominium conversion.

How will the proposed exemption be any different? The kind of monitoring required to assure compliance with the terms of this exemption is beyond the current capacity of the Board. In these circumstances and with its imprecise language, the proposed exemption will simply be used by many to evade rent control.

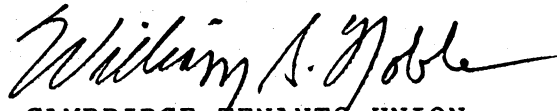
4. The proposed exemption will further weaken the Board's already feeble efforts to prevent decontrol and conversion to condominiums of two- and three-family houses through fraudulent claims of owner-occupancy (e.g. 73 Fayette St.). The Board has unfortunately taken the view that these properties will sooner or later be lost through decontrol and subsequent conversion. That fact, however, is no reason to increase, through a new exemption, the complexity of determining whether there was a legitimate owner-occupant and to discourage the Board even more from tackling fraudulent claims of owner-occupancy. This is especially important in view of the recent Appeals Court decision on a Brookline case.
5. One important function of rent control is to serve as a brake on housing speculation. The proposed exemption appears to create new opportunities to profit from real estate speculation in Cambridge. To grant a latter-day Henry Kissinger, heading off to Washington, the right to charge a speculative, market rent on a Cambridge condo is to preclude the possibility that a moderate-income tenant might be housed in the city while the owner is absent. We believe that where condominiums are concerned the potential loss will be serious. These are the cases where rental opportunities may be created under rent control at rents that moderate-income people can afford.
6. The proposed exemption, as written, has a number of serious deficiencies.
 - a. The term "principal residence" is not defined in the act or regulations. (It is used in 13-01 (k) to help define "owner-occupied" and in 13-01 (y) to help define "continuously occupied".)
 - b. The exemption is presumably meant to apply only to a unit while rented, since while "owner-occupied" the unit may already be exempt; its language, however, is not clear.
 - c. No unit can be "vacated and rented" at the same time.

- d. The clause "if the owner....before vacating it" has two negatives and is not capable of precise interpretation, and "immediately before vacating" is not connected in time to the rental for which an exemption is proposed.
 - e. Whenever "intention" is used as part of a law, there must be an objective standard by which a person's intentions may be judged. Without a standard, intentions cannot be proven and are unenforceable.
 - f. Leases in Cambridge commonly run for one year; many tenants rent month to month as leases are extended or as tenants at will. In these circumstances, two years is not, by any stretch of the imagination, "a limited period of time".
7. What is in the Act is what counts. The Act is state law. Good intentions expressed in council orders or requests for tight regulations (which the Board may not pass) cannot undo damage caused by bad law.

For these reasons, the Cambridge Tenants Union is unalterably opposed to passage of the proposed order and home rule petition. We urge this city council to defeat the proposal.

If, however, the council is moved to pass a new exemption, it is our belief that the proper way to amend the Act, a law upon which thousands of Cambridge tenants depend, is to provide adequate time for careful deliberation. We would request, therefore, that this or any proposal for a new exemption be referred to the Rent Control Committee for hearings and that the public, attorneys familiar with rent control, members of the Board's staff, and other interested persons be invited to attend.

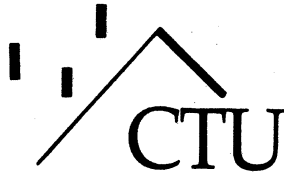
Respectfully submitted,



(for)

CAMBRIDGE TENANTS UNION
(William S. Noble, Secretary)

cc: D. Margaret Drury, Ex. Dir.
Cambridge Rent Control Board



RECEIVED BY
OFFICE OF CITY CLERK
1988 APR 22 AM 9:15
CAMBRIDGE TENANTS UNION
CAMBRIDGE MA.

April 21, 1988

The Cambridge City Council
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Re: Proposed New Exemption to Rent Control Act

To the Honorable, the City Council:

At the April 11, 1988 council meeting, Councillors Wolf and Duehay introduced, as a late order, a proposal for a new exemption in Chapter 36 of the Massachusetts General Laws, the state act enabling rent control in Cambridge. Discussion of the order was tabled when Councillor Danehy exercised his right under the city charter. The matter may come before the council again on April 25, 1988.

The Cambridge Tenants Union does not favor any additional exemptions to the Rent Control Act. We believe that existing exemptions have not been interpreted narrowly as required by law and have in fact been broadened both by regulation and by practice of the Cambridge Rent Control Board (the Board).

The loss of rent-controlled units -- by conservative estimate at least one-third of all units initially entrusted to the Board -- is close to becoming a scandal for a city which has long supported rent control. We urge the City Council to reject the proposed new exemption. We do so for the following reasons.

1. No evidence has been put forward to show that the exemption is needed. All we have heard are vague, anecdotal stories that do not spell out what special problems owners face. We are not aware of any cases where the existing language of the law has created practical difficulties for owners of single-family houses. Who is being helped by this exemption and why? Given the inordinately tight Cambridge housing market, the burden properly rests upon the proponents to show why a new exemption should be introduced into the Act.
2. Rent control's effectiveness as a program depends on the maintenance of a sufficiently large pool of rental apartments to assure that a diverse population -- in terms of income and class -- will be able to live in Cambridge. How many units within the actual and potential pool of controlled rental housing will be affected by this proposed exemption? In particular, how many "rent-controlled

condominiums" will be affected? At the March 24th Rent Control Committee hearing, tenants and landlords agreed that we do not know the number of units -- of any kind -- currently under rent control. Even if we assume, conservatively, that 15% of all rent-controlled units are "rent-controlled condominiums", the proposed exemption will have a substantial, negative effect on potential rental opportunities. Using the Board's data, there may be 4,000 to 5,000 owner-occupied units, each of which could qualify for the proposed exemption.

3. All existing exemptions, except perhaps 3(b)(1) and 3(b)(7), have led to enforcement problems. For the convenience of the city council we review existing exemptions:
 - a. 3(b)(2) - interpreted for years as the so-called "new construction" exemption - was closed just last month after the number of units being lost rose precipitously. The losses occurred for no reason that an ordinarily skilled reader of English could have predicted; a loophole was simply created.
 - b. 3(b)(3) - government ownership, rental regulation, or subsidy: here again "creative" interpretations have cost the city far too many rental units. The board has had to spend much legal time and effort fighting HUD and other agencies. From the point of view of tenants, no useful purpose is served by the city ceding its authority to others, without clear legal necessity.
 - c. 3(b)(4) - cooperatives: the Removal Permit Ordinance had to be amended to close this loophole.
 - d. 3(b)(5) - units operated exclusively for charitable or educational purposes: perhaps the granddaddy of all rent-control loopholes. Who would have thought, on reading the language of the Act back in 1970, that someone would interpret units rented to university affiliates as one-unit "dormitories" and that more than 1,000 units would be decontrolled as a result?
 - e. 3(b)(6) - owner-occupied two- and three-families: in the early 1980's real estate brokers started an aggressive campaign to buy these properties and "flip" them to real or straw owner-occupants. Most rental units in these buildings are now gone. Before the condominium boom, the Supreme Judicial Court rationalized the political decision to exempt these units. When the exemption is claimed now, it is little more than a highway to condominium conversion.

How will the proposed exemption be any different? The kind of monitoring required to assure compliance with the terms of this exemption is beyond the current capacity of the Board. In these circumstances and with its imprecise language, the proposed exemption will simply be used by many to evade rent control.

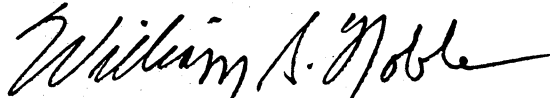
4. The proposed exemption will further weaken the Board's already feeble efforts to prevent decontrol and conversion to condominiums of two- and three-family houses through fraudulent claims of owner-occupancy (e.g. 73 Fayette St.). The Board has unfortunately taken the view that these properties will sooner or later be lost through decontrol and subsequent conversion. That fact, however, is no reason to increase, through a new exemption, the complexity of determining whether there was a legitimate owner-occupant and to discourage the Board even more from tackling fraudulent claims of owner-occupancy. This is especially important in view of the recent Appeals Court decision on a Brookline case.
5. One important function of rent control is to serve as a brake on housing speculation. The proposed exemption appears to create new opportunities to profit from real estate speculation in Cambridge. To grant a latter-day Henry Kissinger, heading off to Washington, the right to charge a speculative, market rent on a Cambridge condo is to preclude the possibility that a moderate-income tenant might be housed in the city while the owner is absent. We believe that where condominiums are concerned the potential loss will be serious. These are the cases where rental opportunities may be created under rent control at rents that moderate-income people can afford.
6. The proposed exemption, as written, has a number of serious deficiencies.
 - a. The term "principal residence" is not defined in the act or regulations. (It is used in 13-01 (k) to help define "owner-occupied" and in 13-01 (y) to help define "continuously occupied".)
 - b. The exemption is presumably meant to apply only to a unit while rented, since while "owner-occupied" the unit may already be exempt; its language, however, is not clear.
 - c. No unit can be "vacated and rented" at the same time.

- d. The clause "if the owner....before vacating it" has two negatives and is not capable of precise interpretation, and "immediately before vacating" is not connected in time to the rental for which an exemption is proposed.
 - e. Whenever "intention" is used as part of a law, there must be an objective standard by which a person's intentions may be judged. Without a standard, intentions cannot be proven and are unenforceable.
 - f. Leases in Cambridge commonly run for one year; many tenants rent month to month as leases are extended or as tenants at will. In these circumstances, two years is not, by any stretch of the imagination, "a limited period of time".
7. What is in the Act is what counts. The Act is state law. Good intentions expressed in council orders or requests for tight regulations (which the Board may not pass) cannot undo damage caused by bad law.

For these reasons, the Cambridge Tenants Union is unalterably opposed to passage of the proposed order and home rule petition. We urge this city council to defeat the proposal.

If, however, the council is moved to pass a new exemption, it is our belief that the proper way to amend the Act, a law upon which thousands of Cambridge tenants depend, is to provide adequate time for careful deliberation. We would request, therefore, that this or any proposal for a new exemption be referred to the Rent Control Committee for hearings and that the public, attorneys familiar with rent control, members of the Board's staff, and other interested persons be invited to attend.

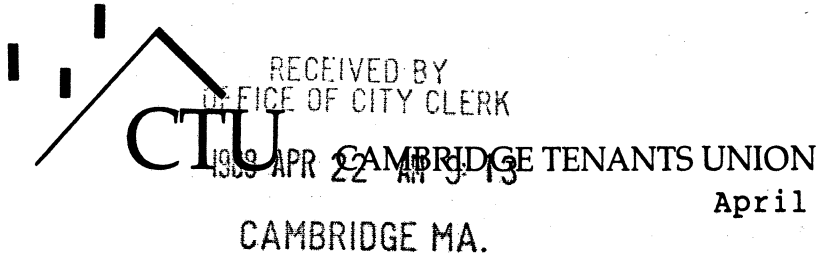
Respectfully submitted,



(for)

CAMBRIDGE TENANTS UNION
(William S. Noble, Secretary)

cc: D. Margaret Drury, Ex. Dir.
Cambridge Rent Control Board



April 21, 1988

The Cambridge City Council
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Re: Proposed New Exemption to Rent Control Act

To the Honorable, the City Council:

At the April 11, 1988 council meeting, Councillors Wolf and Duehay introduced, as a late order, a proposal for a new exemption in Chapter 36 of the Massachusetts General Laws, the state act enabling rent control in Cambridge. Discussion of the order was tabled when Councillor Danehy exercised his right under the city charter. The matter may come before the council again on April 25, 1988.

The Cambridge Tenants Union does not favor any additional exemptions to the Rent Control Act. We believe that existing exemptions have not been interpreted narrowly as required by law and have in fact been broadened both by regulation and by practice of the Cambridge Rent Control Board (the Board).

The loss of rent-controlled units -- by conservative estimate at least one-third of all units initially entrusted to the Board -- is close to becoming a scandal for a city which has long supported rent control. We urge the City Council to reject the proposed new exemption. We do so for the following reasons.

1. No evidence has been put forward to show that the exemption is needed. All we have heard are vague, anecdotal stories that do not spell out what special problems owners face. We are not aware of any cases where the existing language of the law has created practical difficulties for owners of single-family houses. Who is being helped by this exemption and why? Given the inordinately tight Cambridge housing market, the burden properly rests upon the proponents to show why a new exemption should be introduced into the Act.
2. Rent control's effectiveness as a program depends on the maintenance of a sufficiently large pool of rental apartments to assure that a diverse population -- in terms of income and class -- will be able to live in Cambridge. How many units within the actual and potential pool of controlled rental housing will be affected by this proposed exemption? In particular, how many "rent-controlled

condominiums" will be affected? At the March 24th Rent Control Committee hearing, tenants and landlords agreed that we do not know the number of units -- of any kind -- currently under rent control. Even if we assume, conservatively, that 15% of all rent-controlled units are "rent-controlled condominiums", the proposed exemption will have a substantial, negative effect on potential rental opportunities. Using the Board's data, there may be 4,000 to 5,000 owner-occupied units, each of which could qualify for the proposed exemption.

3. All existing exemptions, except perhaps 3(b)(1) and 3(b)(7), have led to enforcement problems. For the convenience of the city council we review existing exemptions:
 - a. 3(b)(2) - interpreted for years as the so-called "new construction" exemption - was closed just last month after the number of units being lost rose precipitously. The losses occurred for no reason that an ordinarily skilled reader of English could have predicted; a loophole was simply created.
 - b. 3(b)(3) - government ownership, rental regulation, or subsidy: here again "creative" interpretations have cost the city far too many rental units. The board has had to spend much legal time and effort fighting HUD and other agencies. From the point of view of tenants, no useful purpose is served by the city ceding its authority to others, without clear legal necessity.
 - c. 3(b)(4) - cooperatives: the Removal Permit Ordinance had to be amended to close this loophole.
 - d. 3(b)(5) - units operated exclusively for charitable or educational purposes: perhaps the granddaddy of all rent-control loopholes. Who would have thought, on reading the language of the Act back in 1970, that someone would interpret units rented to university affiliates as one-unit "dormitories" and that more than 1,000 units would be decontrolled as a result?
 - e. 3(b)(6) - owner-occupied two- and three-families: in the early 1980's real estate brokers started an aggressive campaign to buy these properties and "flip" them to real or straw owner-occupants. Most rental units in these buildings are now gone. Before the condominium boom, the Supreme Judicial Court rationalized the political decision to exempt these units. When the exemption is claimed now, it is little more than a highway to condominium conversion.

How will the proposed exemption be any different? The kind of monitoring required to assure compliance with the terms of this exemption is beyond the current capacity of the Board. In these circumstances and with its imprecise language, the proposed exemption will simply be used by many to evade rent control.

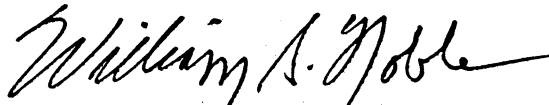
4. The proposed exemption will further weaken the Board's already feeble efforts to prevent decontrol and conversion to condominiums of two- and three-family houses through fraudulent claims of owner-occupancy (e.g. 73 Fayette St.). The Board has unfortunately taken the view that these properties will sooner or later be lost through decontrol and subsequent conversion. That fact, however, is no reason to increase, through a new exemption, the complexity of determining whether there was a legitimate owner-occupant and to discourage the Board even more from tackling fraudulent claims of owner-occupancy. This is especially important in view of the recent Appeals Court decision on a Brookline case.
5. One important function of rent control is to serve as a brake on housing speculation. The proposed exemption appears to create new opportunities to profit from real estate speculation in Cambridge. To grant a latter-day Henry Kissinger, heading off to Washington, the right to charge a speculative, market rent on a Cambridge condo is to preclude the possibility that a moderate-income tenant might be housed in the city while the owner is absent. We believe that where condominiums are concerned the potential loss will be serious. These are the cases where rental opportunities may be created under rent control at rents that moderate-income people can afford.
6. The proposed exemption, as written, has a number of serious deficiencies.
 - a. The term "principal residence" is not defined in the act or regulations. (It is used in 13-01 (k) to help define "owner-occupied" and in 13-01 (y) to help define "continuously occupied".)
 - b. The exemption is presumably meant to apply only to a unit while rented, since while "owner-occupied" the unit may already be exempt; its language, however, is not clear.
 - c. No unit can be "vacated and rented" at the same time.

- d. The clause "if the owner....before vacating it" has two negatives and is not capable of precise interpretation, and "immediately before vacating" is not connected in time to the rental for which an exemption is proposed.
 - e. Whenever "intention" is used as part of a law, there must be an objective standard by which a person's intentions may be judged. Without a standard, intentions cannot be proven and are unenforceable.
 - f. Leases in Cambridge commonly run for one year; many tenants rent month to month as leases are extended or as tenants at will. In these circumstances, two years is not, by any stretch of the imagination, "a limited period of time".
7. What is in the Act is what counts. The Act is state law. Good intentions expressed in council orders or requests for tight regulations (which the Board may not pass) cannot undo damage caused by bad law.

For these reasons, the Cambridge Tenants Union is unalterably opposed to passage of the proposed order and home rule petition. We urge this city council to defeat the proposal.

If, however, the council is moved to pass a new exemption, it is our belief that the proper way to amend the Act, a law upon which thousands of Cambridge tenants depend, is to provide adequate time for careful deliberation. We would request, therefore, that this or any proposal for a new exemption be referred to the Rent Control Committee for hearings and that the public, attorneys familiar with rent control, members of the Board's staff, and other interested persons be invited to attend.

Respectfully submitted,



(for)

CAMBRIDGE TENANTS UNION
(William S. Noble, Secretary)

cc: D. Margaret Drury, Ex. Dir.
Cambridge Rent Control Board

~~25~~ 26. S-282

Comm. from William H. Noble, Sec., Cambridge Tenants Union, recording the CTU in opposition to an order introduced by Councillor Duehay & Vice-Mayor Wolf on April 11, 1988 relative to a proposal for a new exemption in Chapter 36 of the Mass. General Laws concerning rent control.

In City Council,

April 25, 1988

H-25-88

Placed on file.