



City of Cambridge

1.

IN CITY COUNCIL
January 26, 1976

Councillor Clem

WHEREAS:

The City of Cambridge elected under Chapter eight hundred forty-two of the Acts of 1970 to adopt a program for the control of rents for rental units located within the city, which program is presently in effect; and

WHEREAS:

Chapter eight hundred forty-two of the Acts of 1970, as amended, is to terminate on April the first, nineteen hundred and seventy-six; and

WHEREAS:

The City of Cambridge now desires and intends to continue its present rent control program beyond the expiration of chapter eight hundred forty-two and to administer and amend such program as it may determine in the future; therefore be it

ORDERED:

That the City of Cambridge hereby petitions the General Court of the Commonwealth of Massachusetts to enact the attached special law entitled "AN ACT TO PROVIDE FOR THE ADMINISTRATION OF RENT REGULATION AND THE CONTROL OF EVICTIONS IN HOUSING ACCOMMODATIONS IN THE CITY OF CAMBRIDGE."

City of Cambridge

-2-

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. Declaration of Emergency. The General Court finds and declares that a serious public emergency exists in the City of Cambridge with respect to the housing of a substantial number of the citizens of said city, which emergency has been created by an expanding student population, a substantial elderly population, deterioration of a substantial portion of the existing housing stock, insufficient new housing construction, increased costs of construction and finance, and inflation, and which has resulted in a substantial and increasing shortage of rental housing accommodations and in abnormally high rents; that unless residential rents and eviction of tenants are regulated and controlled, such emergency and the further inflationary pressures resulting therefrom will produce serious threats to the public health, safety and general welfare of the citizens of Cambridge, particularly families of low and moderate income and elderly on fixed income; and that such emergency should be met by the Commonwealth immediately and with due regard for the rights and responsibilities of Cambridge.

Section 2. General Powers. The City of Cambridge may by ordinance (i) regulate rents for the use or occupancy of housing accommodations in the City, (ii) control evictions of tenants therefrom, (iii) require registration by owners of housing accommodations and information relating thereto, under penalties of perjury, (iv) define what constitutes controlled rental units, and (v) establish a board to give effect to and administer the ordinance. The board shall have all powers necessary or convenient to perform its functions. Such powers shall include, without limitation,

(a) The power to make independent or general rent adjustments, either upward or downward, of the maximum rent established by the board for any controlled unit or class of controlled units, as may be necessary to assure that rents for controlled units are at levels which yield to the landlords a fair net operating income, based upon, among other relevant factors, the following factors:

1. increases or decreases in property taxes;
2. unavoidable increases or decreases in operating and maintenance expenses;
3. capital improvement of the controlled unit as distinguished from ordinary repair, replacement and maintenance;
4. increases or decreases in living space, service, furniture, furnishings or equipment;
5. substantial deterioration of the controlled units other than as a result of ordinary wear and tear; and
6. failure to perform ordinary repairs, replacement and maintenance.

City of Cambridge

-3-

- (b) The power to deny a rent increase if the controlled unit does not comply with standards established by the board and to grant a decrease in rent.
- (c) The power to remove maximum rental levels for any class of controlled units if in the board's judgment the need for continuing such maximum levels no longer exists, and the power to reimpose or adjust any rent so removed.
- (d) The power, on its own initiative, to make a general adjustment, by percentage, of the rental levels of any class of controlled units within the city.
- (e) The power to consider and make an adjustment of rent for an independent controlled unit upon receipt of a petition for such adjustment filed by the landlord or the tenant of such unit, or upon the board's own initiative.
- (f) The power to issue orders and promulgate rules and regulations to effectuate the purposes of an ordinance adopted pursuant hereto and to make such studies and investigations, conduct such hearings and obtain such information as the board deems necessary and to summon a person to attend and testify and produce books and papers in a like manner as such person may be summoned to attend as a witness before a court, and to require any person who rents or offers for rent or acts as a broker or agent for the rental of any controlled unit to furnish under oath any information required by the board and to produce records and other documents and make reports with respect thereto.
- (g) The power to sue and be sued, in its own name.
- (h) The power to grant, from time to time, exemptions from the operation of an ordinance adopted pursuant hereto provided that in no event shall more than 25% of the total rental units in the City of Cambridge be exempted under this sub-section.

Section 3. Maximum Rent. The maximum rent of a controlled unit upon adoption of an ordinance pursuant hereto shall be the maximum rent permitted with respect to such unit when the ordinance authorized hereby is adopted, or such other rent as the board may determine.

Section 4. Evictions. No person shall bring any action to recover possession of a controlled rental unit without having obtained a certificate of eviction issued by the rent board in conformity with an ordinance adopted pursuant to section two of this act and the rules and regulations of the rent board thereunder.

City of Cambridge

-4-

Section 5. Hearings. All rent adjustment hearings on individual controlled units shall be conducted in accordance with the provisions of section eleven of chapter thirty A of the General Laws. The board may, without holding a hearing, refuse to adjust a rent level for an individual unit if an adjustment of the rental level of such unit has been made within the preceding twelve-month period.

Section 6. Judicial Review. (a) Any person who is aggrieved by any action, regulation or order of the rent board may file a complaint against the board in a district court within the territorial jurisdiction of which is located the controlled rental unit affected by such action, regulation or order, and thereupon an order of notice shall be issued by such court and served on the board. Such district court shall have exclusive original jurisdiction over such proceedings and shall be authorized to take action with respect thereto as is provided in the case of the Superior Court under the provisions of chapter two hundred and thirty-one A of the General Laws, except that section three of said chapter two hundred and thirty-one A shall not apply. All orders, judgments and decrees of such district court may be appealed as is provided in the case of a civil action in such district court.

(b) The district court within the territorial jurisdiction of which is located the controlled rental unit affected shall have exclusive original jurisdiction over civil actions arising out of any exercise by the City of Cambridge of the powers conferred by this act.

Section 7. Civil Remedies. (a) Any person who demands, accepts, receives or retains any payment of rent in excess of the maximum lawful rent, in violation of the provisions of an ordinance adopted pursuant to section two of this act or any regulation or order promulgated thereunder, shall be liable as hereinafter provided to the person from whom such payment is demanded, accepted, received or retained, or to the City of Cambridge, for reasonable attorney's fees and costs as determined by the court, plus liquidated damages in the amount of one hundred dollars, or not more than three times the amount by which the payment or payments demanded, accepted, received or retained exceed the maximum rent which could be lawfully demanded, accepted, received or retained, whichever is the greater; provided that if the defendant proves that the violation was neither willful nor the result of failure to take practicable precautions against the occurrence of the violation, the amount of such liquidated damages shall be the amount of the overcharge or overcharges.

(b) If the person from whom such payment is demanded, accepted, received or retained in violation of the provisions of an ordinance adopted pursuant to section two of this act or any rule or regulation promulgated thereunder fails to bring an action under this section within thirty days from the date of the occurrence of the violation, the rent board may either settle the claim arising out of the violation or bring such action. Settlement by the rent board shall thereafter bar any other person from bringing action for the violation or violations with regard to which a settlement has

City of Cambridge

-5-

been reached. If the rent board settles said claim, it shall be entitled to retain the costs it incurred in the settlement thereof, and the person against whom the violation was committed shall be entitled to the remainder. If the rent board brings action under the provisions of this section, it shall be entitled to receive attorneys fees and costs under the provisions of paragraph (a) and the person against whom the violation was committed shall be awarded liquidated damages under said paragraph (a).

(c) A judgment for damages or on the merits in any action under this section shall be a bar to any recovery under this section in any other action against the same defendant on account of any violation with respect to the same person prior to the institution of the action in which such judgment was rendered. Action to recover liquidated damages under the provisions of this section shall not be brought later than one year after the date of the violation. A single action for damages under the provisions of this section may include all violations under the provisions of this section committed by the same defendant against the same person.

Section 8. Criminal Penalties. (a) It shall be unlawful for any person to demand, accept, receive or retain any rent for the use and occupancy of any controlled unit in excess of the maximum rent prescribed therefor under the provisions of an ordinance adopted pursuant to this Act and the rules and regulations of the board thereunder or otherwise to do or omit to do any action in violation of such provision or such order or regulation.

(b) It shall be unlawful for any person to demand, accept, receive or retain any payment which exceeds the maximum lawful rent for one month as a finder's fee or service charge for the opportunity to examine or lease any controlled unit and no such fee or service charge shall be lawful unless the person from whom the payment is demanded, accepted, received or retained actually rents or leases the controlled unit with respect to which payment of said fee or said charge has been demanded, accepted, received or retained.

(c) Whoever willfully violates a provision of any ordinance adopted pursuant to this Act or any rule or regulation promulgated by the board thereunder, or whoever knowingly makes any false statement in any testimony before the board or whoever knowingly supplies the board with any false information shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than ninety days or both; provided, however, that in the case of a second or subsequent offense, such person shall be punished by a fine of not more than three thousand dollars or by imprisonment for not more than one year or both.

(d) A landlord who seeks to recover possession of a controlled unit without first obtaining a certificate of eviction from the board shall be deemed to have violated an ordinance adopted pursuant to this Act, and the board may initiate a criminal prosecution for such violation.

Section 9. Exemption from Civil Service. The personnel of the rent board established pursuant to section two of this act shall not be subject to the provisions of section nine A of chapter thirty of the General Laws or chapter thirty-one of the General Laws.

City of Cambridge

-6-

Section 10. Extension of Existing Rent Control Law. The City of Cambridge, by vote of its City Council taken prior to the termination of chapter eight hundred and forty-two of the acts of nineteen hundred and seventy, as amended, may extend the application of the provisions of said chapter to the city for a period not to exceed six months from the date of its termination, provided that the application of said chapter to the City shall cease upon the effective date of any ordinance adopted pursuant to section two of this act. The extension of the application of the provisions of said chapter eight hundred and forty-two to the City of Cambridge pursuant to this section ten shall not affect the status of the rent board established thereunder, or its members, or any orders, rules and regulations ~~thereby~~ promulgated by it, all of which shall remain in effect unless modified pursuant to the provisions of said chapter.

Section 11. Severability. If any provision of this act or the application of such provision to any person or circumstances shall be held invalid, the validity of the remainder of this act and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 12. Effective Date. This act shall take effect upon its passage.

C. Clem re: to the enactment of the special law entitled "An Act To Provide For The Administration Of Rent Regulation And The Control Of Evictions In Housing Accommodations In The City Of Cambridge."

1/26/76

Referred to
Working Committee
By the City Council -

In City Council,
January 26, 1976