



CITY OF CAMBRIDGE

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RENT CONTROL BOARD

TERRENCE P. MORRIS,
EXECUTIVE DIRECTOR

MEMORANDUM

To: Robert Healy, City Manager
From: Terrence Morris, Executive Director CRCB
Re: Council Order #17 dated 11/2/92
Date: November 19, 1992

On October 16, 1992 Superior Court Judge Gordon Doerfer issued a decision in the case of Pepita Soto vs. Cambridge Rent Control Board. This case involved a rent-controlled property located at 86 Henry Street. The four-unit building was one of fifty properties listed in the now-repealed Ordinance 1093.

The building was originally built as conventional three-family house. In 1961 the first floor apartment was subdivided into two apartments. This resulted in the creation of a four-unit building which became subject to rent control in 1970. In 1986 the house was purchased by the current owners (the plaintiffs). In 1987, the plaintiffs illegally merged the two units on the first floor in an attempt to re-create a three-family house which they could exempt through owner-occupancy.

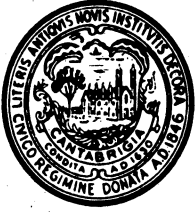
The Rent Control Board found that the property was still legally a four-unit building as a pre-existing nonconforming use. Nonetheless, they were granted a temporary removal permit to continue occupying the building as they had, conditioned upon the rental units remaining subject to control. The plaintiffs appealed the decision to the Superior Court as was their right under the State Administrative Procedures Act.

As the Soto case was not filed as a class action, strictly speaking it affects only the owners of, and the property at, 86 Henry Street. Further, since Judge Doerfer's ruling is not an appellate decision, it has no precedential effect. However, as a practical matter, it would be used by any other similarly situated owners in their appeal of an adverse Board ruling and in all likelihood be given weight by other Superior Court judges.

Not all of the original fifty properties named in Ordinance 1093 would be affected by an adverse appellate decision. Twenty-three (23) of them are distinguishable on their facts. Most of these have already been decided by the Board. The remaining twenty-seven (27) comprise one hundred thirty-four (134) units of which approximately fifty-eight (58) are currently being rented as controlled units. The other seventy-six (76) units are mostly occupied by owners occupying merged units.

At its regularly scheduled meeting on November 18, 1992, the Rent Control Board voted 4-0-1 to appeal the decision to the Appeals Court. One member recused himself and did not participate in the deliberations since he is the owner of a property listed in Ordinance 1093.

Should the Appeals Court affirm Judge Doerfer's decision, 58 rental units would be decontrolled because in virtually every case the properties would be reduced to two or three unit buildings which are owner-occupied. An additional number of units which could/should be restored to the rental market would also be lost. This number is estimated to be 30-40 units.



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EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

November 23, 1992

To The Honorable, The City Council:

With reference to Awaiting Report Item No. 24, regarding the implications of the recent ruling on Pepita Soto vs. the Cambridge Rent Control Board, please find attached a response from Terrence Morris, Executive Director of the Rent Control Board, relative to this matter.

Very truly yours,

Robert W. Healy
City Manager

RWH/mev
attachment

Consent Agenda # 21

S-995
Awaiting Report Item Number 24, regarding
implications of the recent ruling in the
Pepita Soto vs. the Cambridge Rent
Control Board.

In City Council,

November 23, 1992

Placed on file