



#29 3/12/84
CITY OF CAMBRIDGE

639 MASSACHUSETTS AVENUE
CAMBRIDGE, MASSACHUSETTS 02139

TEL. 498-9077

RENT CONTROL BOARD

ROGER MERVIS, EXECUTIVE DIRECTOR

RENT CONTROL BOARD

RENT ANALYSIS AND BUILDING/UNIT TOTALS

as of February 15, 1984

<u>Range</u>	<u># of Units</u>	<u># of Buildings</u>	<u>Median rents</u>
Condominiums	2096	2096	\$301-\$325
1 - 3 Units	2924	1423	\$201-\$225
4 - 6 Units	4086	908	\$201-\$225
7 - 10 Units	1619	220	\$226-\$250
11 - 20 Units	2135	156	\$226-\$250
20 + Units	4107	111	\$301-\$325
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Totals	16,949	4,914	\$251-\$275

<u>Range</u>	<u># of Units</u>	<u>% of Total</u>
\$1-\$100	850	5%
\$101-\$200	4575	27%
\$201-\$300	5067	30%
\$301-\$400	3950	23%
\$401-\$500	1639	10%
\$501-\$600	519	3%
\$601-\$700	192	1.1%
\$700- +	157	.9%
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Totals	16,949	100%

Roger Mervis

THE
RENT CONTROL BOARD
REGULATIONS

— in effect February 1, 1983 —

THE RENT CONTROL ENABLING ACT
AND

— ORDINANCES 966 and 980 —

CITY OF CAMBRIDGE
MASSACHUSETTS

- 1) by a majority vote of the members of the Cambridge City Council,
or
- 2) by initiative petition and vote pursuant to the procedures of Sections 37 through 40 of Chapter 43 of the General Laws.

SECTION 3. Definitions. The following words or phrases as used in this act shall have the following meanings:

a) "Rental units", any building, structure, or part thereof, or land appurtenant thereto, or any other real or personal property rented or offered for rent for living or dwelling purposes, including houses, apartments, rooming or boardinghouse units, and other properties used for living or dwelling purposes, together with all services connected with the use or occupancy or such property.

b) "Controlled rental units", all rental units except:

- 1) rental units in hotels, motels, inn, tourist homes and rooming or boarding houses which are rented primarily to transient guests for a period of less than fourteen consecutive days;

- 2) rental units the construction of which was completed on or after January one, nineteen hundred and sixty-nine, or which are housing units created by conversion from a nonhousing to a housing use on or after said date;

- 3) rental units which a governmental unit, agency, or authority either:

- i) owns or operates; or

- ii) regulates the rents, other than units regulated

- a) under the provisions of this act, or

- b) under the provisions of any other general or special law authorizing municipal control of rental levels for all or certain rental units within a municipality; or

- iii) finances or subsidizes, if the imposition of rent control would result in the cancellation or withdrawal, by law, of such financing or subsidy;

- 4) rental units in cooperatives;

- 5) rental units in any hospital, convent, monastery, asylum, public institution or college or school dormitory operated exclusively for charitable or educational purposes; or nursing home or rest home or charitable home for the aged, not organized or operated for profit;

- 6) the rental unit or units in an owner-occupied two-family or three-family house;

- 7) that the City of Cambridge may exempt those rental units for which the rent charges exceed limits specified by said municipality; provided that in no event shall more than twenty-five per cent of the total rental units in Cambridge be exempted under this subsection.

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within Cambridge or any categories of such rental units based on size, age, construction, rent, geographic area or other common characteristics, providing the board has by regulation defined any such categories.

b) The following factors, among other relevant factors, which the board by regulation may define, shall be considered in determining whether a controlled rental unit yields a fair net operating income:

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

c) For the purpose of adjusting rents under the provisions of this section, the board may promulgate a schedule of standard rental increases or decreases for improvement or deterioration in specific services and facilities.

d) The board may refuse to grant a rent increase under this section, if it determines that the affected rental unit does not comply with the state sanitary code and any applicable municipal codes, ordinances or bylaws, and if it determines that such lack of compliance is due to the failure of the landlord to provide normal and adequate repair and maintenance. The board may refuse to grant a rent decrease under this section, if it determines that a tenant is more than sixty days in arrears in payment of rent unless such arrearage is due to a withholding of rent under the provisions of Section 8A of Chapter 239, or Section 127L of Chapter 111, or Section 14 of Chapter 186 of the general laws.

e) The board may remove maximum rental levels, established under this section and section six, for any class of controlled rental units if in its judgment the need for continuing such maximum rental levels no longer exists because of sufficient construction of new rental units the rental levels for which are comparable to the rental levels of the class of controlled rental units for which maximum rental levels are to be discontinued or because the demand for rental units has been otherwise met. Any maximum rental level removed under this paragraph shall be reimposed or adjusted and reimposed upon a finding by the rent board that a substantial shortage of rental units exists in Cambridge and that the reimposition of rent control is necessary in the public interest. Any action under this paragraph shall be subject to the hearing and notice requirements of paragraph (b) of section seven.

SECTION 8. Rent Adjustment Hearings.

a) The board shall consider an adjustment of rent for an individual controlled rental unit upon receipt of a petition for adjustment filed by the landlord or tenant of such unit or upon its own initiative. The board shall notify the landlord, if the petition was filed by the tenant, or the tenant, if the petition was filed by the landlord, of the receipt of such petition and of the right of either party to request a hearing. If a hearing is requested by either party, or if the action is undertaken on the initiative of the board, the hearing shall be conducted before at least one member of the board or the board's designee prior to the decision by the board to grant or refuse a rental adjustment. Notice of the time and place of the hearing shall be furnished to the landlord and tenant. The board

MEMORANDUM

TO: Roger
FROM: Laura
RE: Survey of Rent Control Laws
DATE: January 12, 1983

I have acquired copies of rent control ordinances for five communities; Los Angeles, San Francisco, Berkeley, and Santa Monica, CA and Fort Lee, NJ.

None of the above cities have in their regulations a provision limiting access to rent control units to persons of certain income groups or age groups. Richard Blumberg of the National Housing Law Project stated that he knows of no community which has enacted such a provision. He doubts its constitutionality.

Santa Monica does have a removal permit provision with does address the income category issue. Section 1803 (t) states that in order to approve a removal permit the rent control board must make the following findings:

- (1) that the controlled rental unit is not occupied by a person or family of very low income, low income, or moderate income.
- (2) that the rent of the unit is not at a level affordable by a person or family of very low income, low income, or moderate income.

Luxury Unit Exemptions

Of the above listed cities, only Los Angeles has a luxury unit exemption. Regulation 830.00 exempts units for which on May 31, 1978 the rent charged per month was at least;

- \$302 for a unit with no bedroom
- \$420 for a unit with one bedroom
- \$588 for a unit with two bedrooms
- \$756 for a unit with three bedrooms
- \$823 for a unit with four or more bedrooms

(see attached provision for additional requirements)

I have thus far identified only two court cases nationwide which might bear on the legality of such limitations on rent control. In North Bergen Township v. North Bergen, the Supreme Court of New Jersey invalidated a restriction where the rent increases were limited for senior citizens. The Court essentially said that the elderly are not entitled to subsidized housing at the expense of the landlord.

In Farrino v. Lindsay, the New York Court of Appeals held that a very limited restriction which limited the rent increases of the elderly was legal provided the town subsidized the program (i.e. reimbursed the landlord for the difference.)

**GUIDELINES FOR
DRAFTING RENT CONTROL
LAWS: LESSONS OF A
DECADE**

by
Kenneth K. Baar

RUTGERS LAW REVIEW

VOLUME 35

SUMMER 1983

NUMBER 4

four), units which are rented primarily to transient guests; rooming houses; non-profit facilities, including cooperatives; extended health care facilities; and units constructed after the adoption of the ordinance.¹²¹ Federal law preempts control of rents in federally owned and subsidized dwellings.¹²² Other types of exemptions which have been adopted include: all dwellings with less than a specified number of units, regardless of whether or not they are owner-occupied, "substantially rehabilitated" units, ["luxury" units,¹²³] and units which become vacant after a certain date.¹²⁴ Under some laws the exemptions are automatic, while under others exemption certificates have to be obtained from the board in order to qualify for some types of exemptions.¹²⁵ Before decisions are made about what classes of property should be exempted from controls in a particular city, data from the census bureau and local planning agencies on the characteristics of the housing stock should be examined.

A. *Exemptions of Owner-occupied Dwellings with Less than a Specified Number of Units*

As indicated, nearly all ordinances exempt owner-occupied dwellings of either four or less, three or less, or two units. In most cities, a substantial portion of the rental housing stock consists of dwellings of four units or less.¹²⁶ Although census bureau and city planning data generally indicate the number of rental units in varying size buildings, data on what portion of smaller buildings are owner-occupied are usually nonexistent.

121. The courts have consistently rejected the view that coverage of only a portion of all rental units or a portion of a city constitutes a denial of equal protection. See, e.g., *Marshall House, Inc. v. Rent Control Bd. of Brookline*, 358 Mass. 686, 692, 266 N.E.2d 876, 882-83 (1971) and cases cited therein.

122. 24 C.F.R. §§ 403.5-403.12 (1981).

Under the H.U.D. rule, unsubsidized insured projects are exempted on a case-by-case basis. For a discussion of H.U.D. preemption, see NATIONAL HOUSING LAW PROJECT, HUD HOUSING PROGRAMS-TENANTS RIGHTS §4.3.5 (1981).

Cases discussing the preemption issue include *City of Boston v. Harris*, 619 F.2d 87 (1st Cir. 1980); *Kargman v. Sullivan*, 552 F.2d 2 (1st Cir. 1977); *Bronstein v. Philadelphia Fair Housing Comm'n*, 488 F. Supp. 1357 (E.D. Pa. 1980); *Snyder v. Axelrod Mgmt. Co.*, 471 F. Supp. 308 (S.D.N.Y. 1979); *Gramercy Spire Tenants Ass'n v. Harris*, 446 F. Supp. 814 (S.D.N.Y. 1977); *Argo v. Hills*, 425 F. Supp. 151 (E.D.N.Y. 1977), *aff'd mem.*, 578 F.2d 1366 (2d Cir. 1978); *Five Hundred and Fifteen Associates v. City of Newark*, 424 F. Supp. 984 (D.N.J. 1977).

Berkeley exempts units leased to tenants under the Section 8 program (42 U.S.C. § 1437(f) (1977)) in order to provide incentives to rent to Section 8 assisted tenants. Berkeley, Cal., Ordinance 5261-N.S., § 5.a (1980).

123. See, e.g., Los Angeles, Cal., Ordinance ch. 15, art. I, § 151.07A5 (1979); Los Angeles, Cal., Rent Adjustment Comm'n Regulations §§ 830.00-836.04 (as amended 1982).

124. See *infra* note 391 and accompanying text.

125. For example, Los Angeles requires exemption certificates for luxury and substantial renovation exemptions. Los Angeles, Cal., Municipal Code §§ 151.02.M.7 and 151.07.A.5 (1979).

126. See *supra* note 27.

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3/12/84

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