

City of Cambridge

The Rent Control Committee held a public hearing on Wednesday, March 31, 1993, beginning at 3:00 p.m. in the Sullivan Chamber for the purpose of continuing consideration of a proposed change in the definition of owner occupancy for the purposes of Section 3 (b) (6) of the Act. Present at the hearing were: Councillor Jonathan S. Myers, Chair; Councillor Sheila T. Russell; Councillor William H. Walsh; D. Margaret Drury, City Clerk; and Terry Morris, Executive Director of the Cambridge Rent Control Board. (CRCB)

Councillor Myers convened the hearing and explained the purpose of the hearing.

Councillor Myers requested that Terry Morris report on any relevant background or information regarding the proposal to change the definition of owner occupancy for inheritance of two and three family houses. Mr. Morris explained that Regulation 13-01 (n) defines the word "owner" for purposes of Sec. 3 (b) (6) of the Rent Control Act. A resident owner must have at least 1/3 ownership interest, with the family holding 50% in the inheritance situation. Councillors Russell's proposal would reduce the amount of ownership interest required of the resident owner.

Councillor Myers recessed the meeting briefly to move to the Ackermann Room. The meeting reconvened in the Ackermann Room.

In response to a question as to the effect of the proposal, Terry Morris reported that there are 1,845 controlled units in two and three family houses and 2,617 exempt due to owner occupancy in two and three family houses.

Mr. Morris explained the present regulation through examples. He noted that the regulation establishes a two-pronged test. At least 50% must be owned by the family and the resident owner must own at least a one-third interest.

He added that regarding Councillor Russell's proposal which the Board has considered in the past, there are three questions:

1. How long should the deceased owner have held the property?
2. Who should qualify? Should it be family or any heir or devisee which could be broader than family?
3. What percentage should family members be required to hold?

Councillor Myers noted the distinction between the use "family members" and "children" in the different sections of the proposal.

Terry Morris said that the staff proposal went to the CRCB in March, 1991. After discussion, the staff increased the family ownership requirement to 100%. When that proposal went back to the Board, the Board voted against the proposed regulation.

Councillor Walsh asked about the issue of non-traditional families. He said to deal with this issue, the terminology of "heirs" should be used as to who can get the benefit as a resident owner.

Mr. Morris said that ultimately, the reason that the CRCB did not adopt the change in regulation was because there was a feeling among Board members that it should be done by Ordinance, not by regulation.

Michael Turk, Prescott Street, disagreed with Mr. Morris' interpretation of the reason for the Board's action and noted that there were several people in the room who had been present at the Board's deliberations. Each could have a different interpretation of the reason for the Board's action. Mr. Turk said that in terms of the percentage required, there is already a distinction in the treatment of family members.

Councillor Myers asked Councillor Russell the intent of her proposal. She said the proposal was to protect larger families who lived in homes that had never been under rent control.

William Noble, 188 Franklin Street, asked why the proposal is being proposed as an amendment to the Removal Permit Ordinance.

Terry Morris said there are always three possibilities: Amend the Rent Control Act; amend the Removal Permit Ordinance; or amend the regulations.

William Noble said that since it deals with a statutory exemption, it is not appropriate to change it by ordinance. It should be by home rule petition or regulation.

Councillor Myers said that if the intention is to benefit families, then it really should be looking at families. Councillor Walsh said that there are many non-traditional families in Cambridge that need protection, like brothers and sisters.

Councillor Myers asked about the pros and cons of changing the percentage of ownership for the devisor and devisees.

Michael Turk said that for a two or three family house, a 10% interest for the owner occupant is very low and vitiates the notion of ownership, even where there is a mix of family members. If the heirs can sort out who gets to live in the house, then they can sort out the ownership interests in a way to achieve their objective of maintaining the exempt status of the property.

Councillor Russell noted that Robert LaTremouille, in his letter of March 24, 1993, which was referred to the Rent Control Committee, pointed out that this is a difficult time to make such decisions.

William Noble asked how many questions have come up under the current regulation. Mr. Morris said that he did not know. Councillor Walsh noted that it is not likely that cases would arise under this issue. Terry Morris agreed that the number of cases is probably not indicative of whether a problem is presented under the current regulations.

Michael Turk suggested checking with staff as to how many questions arise. Mr. Morris said he believes it is fair to say that such cases arise infrequently.

Councillor Myers said that it appeared that the CRCB's staff recommendation of changes to the regulations was a fair way to accommodate the interests involved.

William Noble said that most times when property is divided out, with or without rent control, there is an issue of who is going to live there. The heirs can make arrangements. He does not believe that there is a need for a change in the regulations and the proposal would dilute the requirement for ownership too much. There have been no real examples of real problems, only hypothetical.

Councillor Russell noted a family she knows with five or six children. One single woman had lived with her parents in the two family house. It was left to all children equally. She has had to get a big mortgage to buy out her brothers' and sisters' interests to have an exempt two-family.

There was a discussion of what limitations should pertain to the heir - resident. Terry Morris noted that the CRCB staff had limited the proposal to children of the deceased owner. For non-children, the present regulation would still apply so that any family member, as defined in Sec. 9 (a)(8) of the Act, who inherits a one-third interest and occupies will exempt the property so long as 50% of the property is family-owned.

Michael Turk said that he is against the proposal. It would have broader implications as it relates to what ownership means or should mean in the Act.

Councillor Walsh said that he believes this is a very limited circumstance.

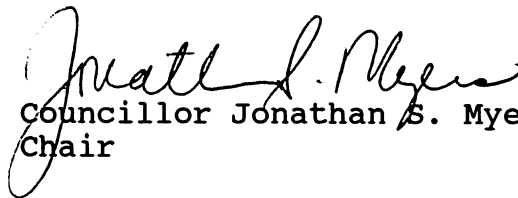
William Noble noted the section of the Act that the definitional change would affect. He said that the change would be detrimental to the concept of owner-occupancy.

Councillor Myers said that he thought the CRCB staff recommendation had balanced the issues well. He requested that the City Clerk provide additional information regarding how the Domestic Partnership Ordinance definition of family could add to this and that Terry Morris provide some additional input on how the definition of family could include non-traditional families.

William Noble requested a legal opinion on whether a 10% ownership interest in this situation would qualify as owner occupancy under the Rent Control Act. Councillor Myers agreed to request such an opinion from the City Solicitor.

The hearing was adjourned at 4:30 p.m.

For the Committee


Councillor Jonathan S. Myers
Chair

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COMMITTEE REPORT

S-~~108~~ 173

Rent Control Committee Report for a hearing held on Wednesday, March 31, 1993 regarding a proposed change in the definition of owner occupancy for the purposes of Section 3 (b) (6) of the Rent Control Act.

In City Council,

April 12, 1993

*Report accepted
Placed on file*