

REPORT OF HEARING

CASE: #RP1982-034

ADDRESS: 211 Green Street, Apts. #4, #5, & #6

DATE: November 10, 1982

EXAMINER: Cheryl Donohue

PRESENT: James Albright - Owner

I. After explaining the purpose and procedure of the hearing, I administered the oath to the owner.

II. Testimony of James Albright - Owner

1. He purchased the property on November 30, 1981.
2. 211 Green Street is a rooming house consisting of seven (7) rooms and one apartment.
3. The property has three (3) floors.
4. The apartment is on the first floor.
5. There are two rooms and a bathroom in the basement.
6. There are two rooms and a bathroom on the second floor.
7. There are three rooms on the third floor, rooms #4, #5, and #6.
8. When he bought the house rooms #4 and #6 were empty.
9. Room #6 was left empty because the fire department said its door could not be locked since third floor access to the fire escape was through that room (See L #1). Access to the fire escape would have to be through one of the third floor rooms.
10. Room #5 had a tenant who moved in July because he wanted a bigger place to live.
11. Room #4 remained empty.
12. He does not live there, but he would like to move in.
13. He cannot rent room #6 as a separate room.
14. Room #4 is a large room with a refrigerator and stove.
15. Room #5 and #6 do not have refrigerators or stoves.
16. There are no common kitchens.

17. Rather than live in room #4, rent room #5 and always leave room #6 unoccupied, he would like to be able to occupy all three rooms.
18. He would like to break down walls between the rooms in order to be able to have an apartment for himself.
19. He would have to put a bathroom in the apartment for himself since the third floor has no bathroom.
20. The third floor residents in the past shared a common bathroom on the second floor.
21. 211 Green Street is one of six row houses; he owns three of them.
22. The row houses have fire walls.
23. The lack of egress on the third floor is the only code violation.
24. He has never applied for a Removal Permit before.
25. He thinks that the rents are: Unit #4 @ \$160, unit #5 @ \$100, and unit #6 @ \$80.

### III. Findings:

1. James Albright is the owner of 211 Green Street, which is one of three row houses he owns on Green Street.
2. The property is properly registered with the Board.
3. The property consists of three floors plus a basement.
4. There are two rooms and a bathroom in the basement.
5. There is an apartment on the first floor.
6. There are two rooms and a bathroom on the second floor.
7. There are three rooms on the third floor; rooms #4, #5, and #6.
8. James Albright bought the property on November 30, 1981.
9. In order for the third floor residents to have access to a fire escape one of the three rooms on the third floor needs a fire escape out its window.
10. Room #6 does have access to the fire escape.

11. The City of Cambridge Fire Department has ordered that the door to room #6 remain unlocked since it is the only third floor access to the fire escape.

Findings Pursuant to Regulation 46-08:

- (a) There are no major code violations of which the owner is aware other than denial of access.
- (b) The building, being a rooming house, consists of housing for low income persons. The combination of the three rooms plus renovations will likely place the rent outside of the range for low income persons.
- (c) Unit #4 and #6 were empty when the owner bought the house; unit #6 must remain unoccupied in order for third floor access to the fire escape to remain available. Unit #5 had a tenant who moved in July, 1982 because he wanted more space.
- (d) No units are currently owner-occupied.
- (e)-(i) Not applicable since there are no tenants in units #4, #5, and #6.
- (j) The Green Street neighborhood is residential. 211 Green Street is one of six connected row houses on the street. James Albright owns three of the row houses.
- (k) There have been no prior denials of Removal Permits.

Considerations under 926, as amended, Section 1(d):

- (1) The combination of three low income rooms in a rooming house into one apartment does not benefit low income persons. If the rooms, become an apartment and it returns to the rent control housing market after the owner leaves, it may be suitable for a person of moderate income. However, the amount and kind of work to be done may place this apartment in a "new construction" exempt status.
- (2) Not applicable since no tenants are residing in the unit.
- (3) There are three rooms on the third floor although room #6 cannot be used as a residence by anyone because locking the door would block the only third floor access to the fire escape. Therefore, there are, in reality, only two low income residential units on the third floor.

The landlord wishes to combine the units and thus two residential units would become one; this would remove one low income unit from the market and this removal would contribute to the shortage of decent rental housing.

IV. RECOMMENDATIONS:

I recommend that a Removal Permit not issue. I make this recommendation for the following reasons:

Ordinance 966, as amended, has as its specific purpose, the regulation of the removal of controlled rental housing units from the market.

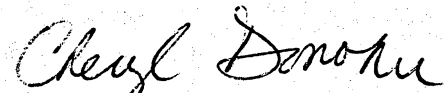
In deciding whether to grant a permit, the ordinance requires the Board to consider the three factors enumerated in Section 1 (d). In this case, the removal of these units would not impose hardships on any tenants residing in the units, because there are no tenants residing in these units at present (Section 1 (d) (3) ).

However, the removal of these units for the purpose sought by the owner in no way seeks to benefit persons sought to be protected by the Act (low and moderate income persons (Section 1 (d) (1) ).

In addition, the rooms which the owner seek to remove are rooms in a boarding house and thus are accommodations especially for low and moderate income persons. Therefore, removal of these units would aggravate the shortage of decent housing for persons sought to be protected.

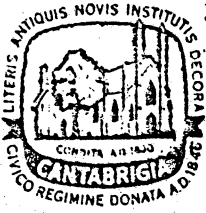
For these reasons, I recommend that the Removal Permit not issue.

Respectfully submitted,



Cheryl Donohue  
Hearing Examiner

CD/mg



# CITY OF CAMBRIDGE

949 BROADWAY, CAMBRIDGE, MASSACHUSETTS 02138 • TEL. 876-0125

FIRE DEPARTMENT HEADQUARTERS

THOMAS V. SCOTT  
Chief of Department

1-21-83

MR. JAMES ALBRIGHT  
211 GREEN STREET  
CAMBRIDGE, MA. 02139

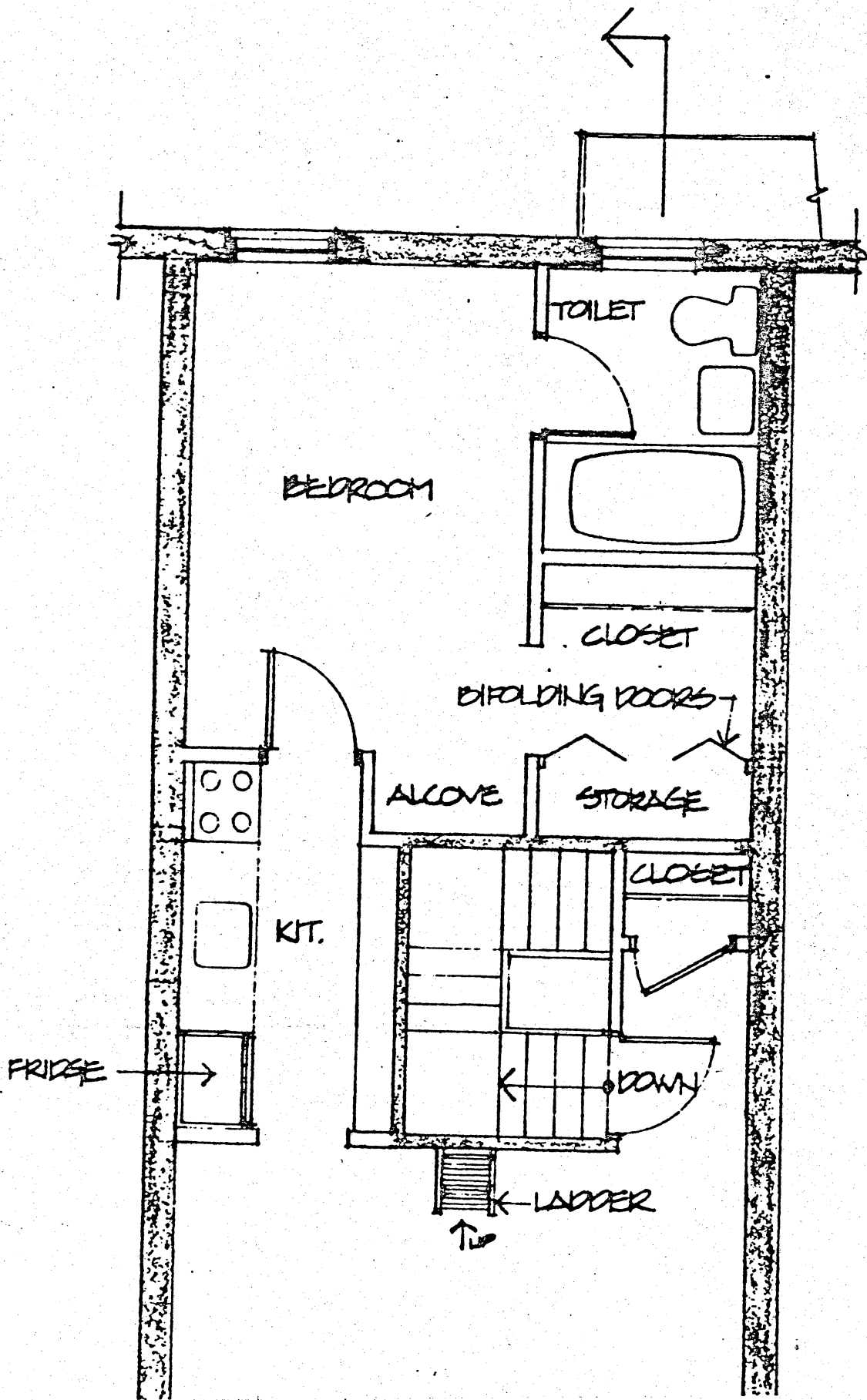
Dear Sir,

In order to maintain a clear and unobstructed second exit at 211 Green St, Room 6 cannot be used as an occupied room.

Very truly yours,

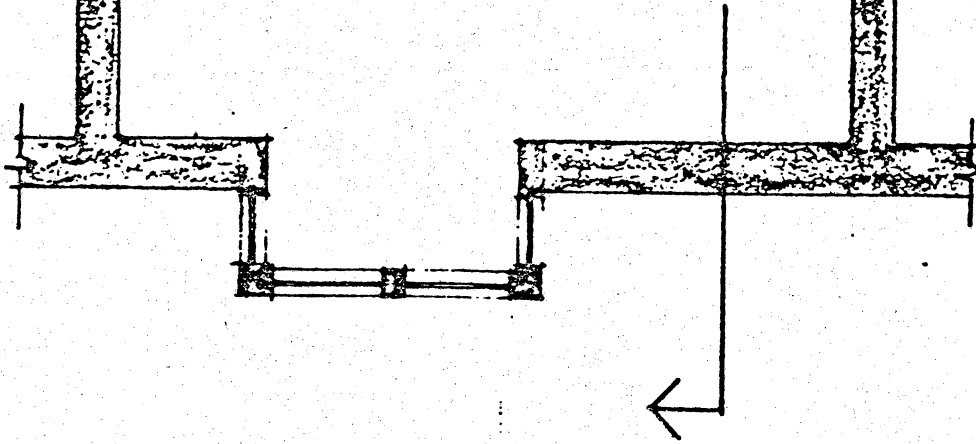
*Deputy Chief William Cantwell*  
Deputy Chief William J. Cantwell  
Fire Prevention Division

wjc/lf



STAIRS "XTH"

LIVING ROOM

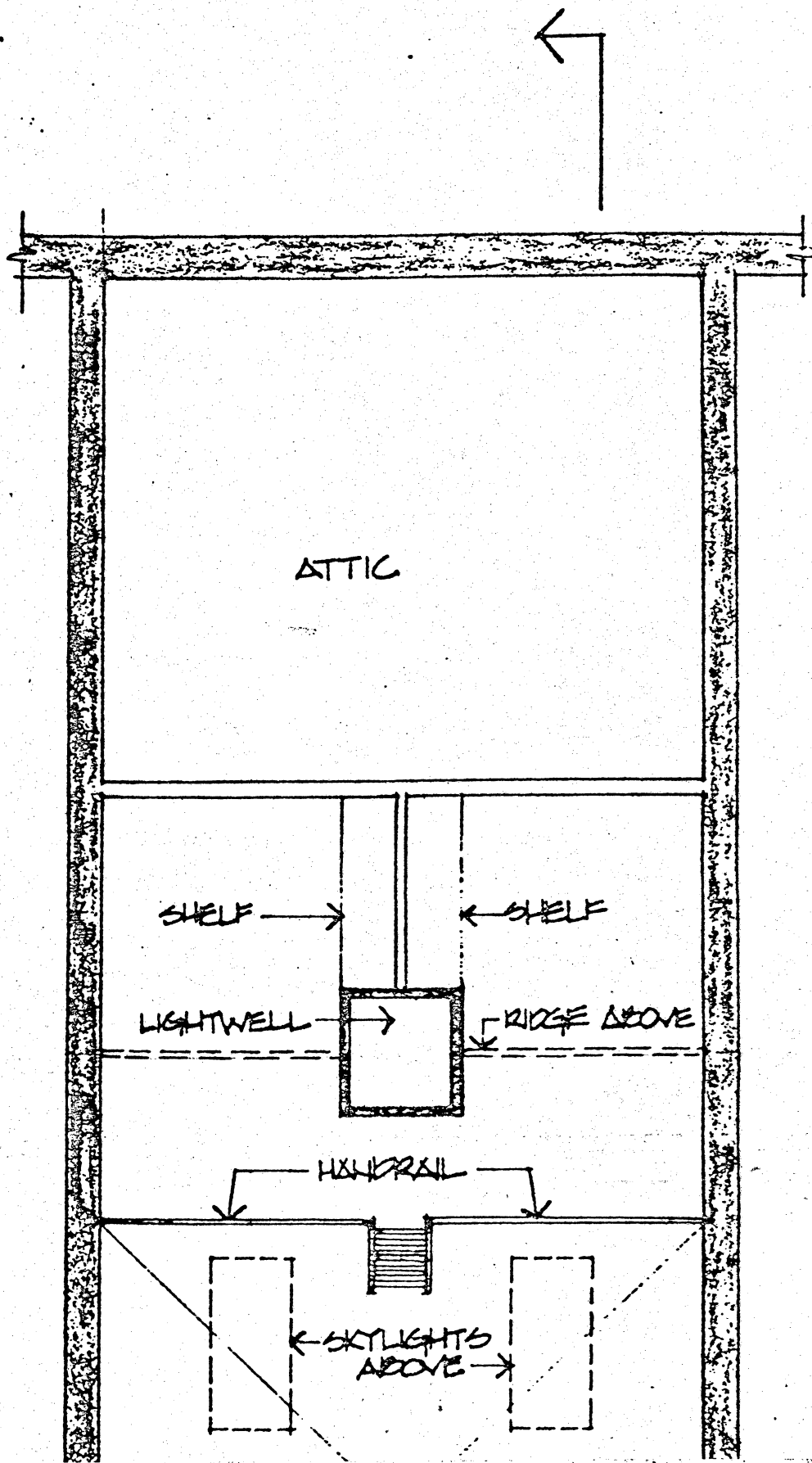


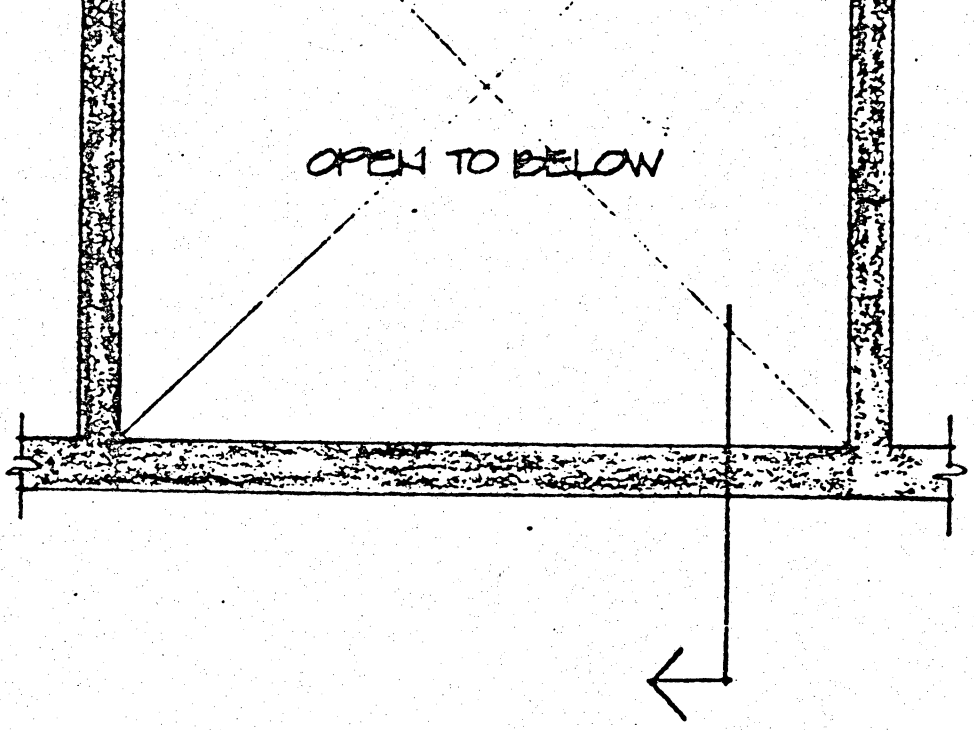
THIRD FLOOR

NEW

SE

A1 B010111 12-11-11-11-11



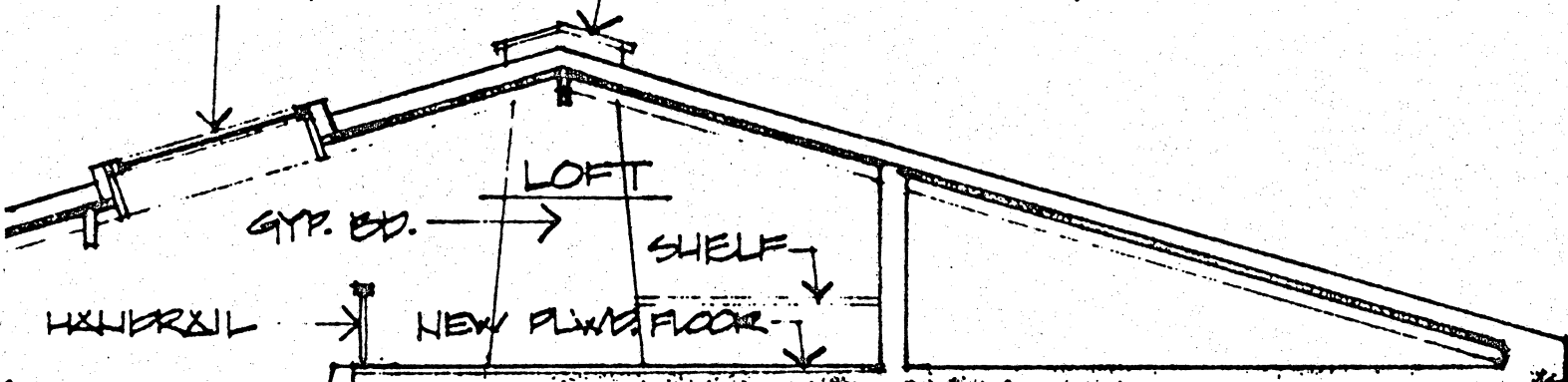


OPEN TO BELOW

LOFT

VELUX SKYLIGHT

EXISTING SKYLIGHT



LOFT

GYP. ED.

SHELF

NEW PLUMB FLOOR

HANDRAIL

RAFTERS

WCK

LADDER

21

NEW DOUBLE GLAZED WINDOW

CL.

STORAGE

TOILET

SECTION

NEW VEL

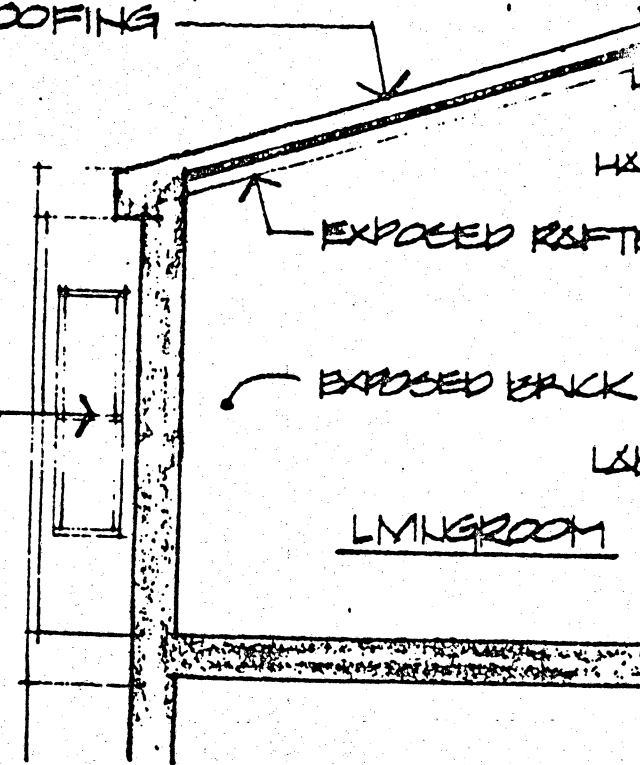
4" RIGID INSULATION  
OVER EXIST. DECK  
WITH NEW ROLL  
ROOFING

EXPOSED RAFTERS

EXPOSED BRICK

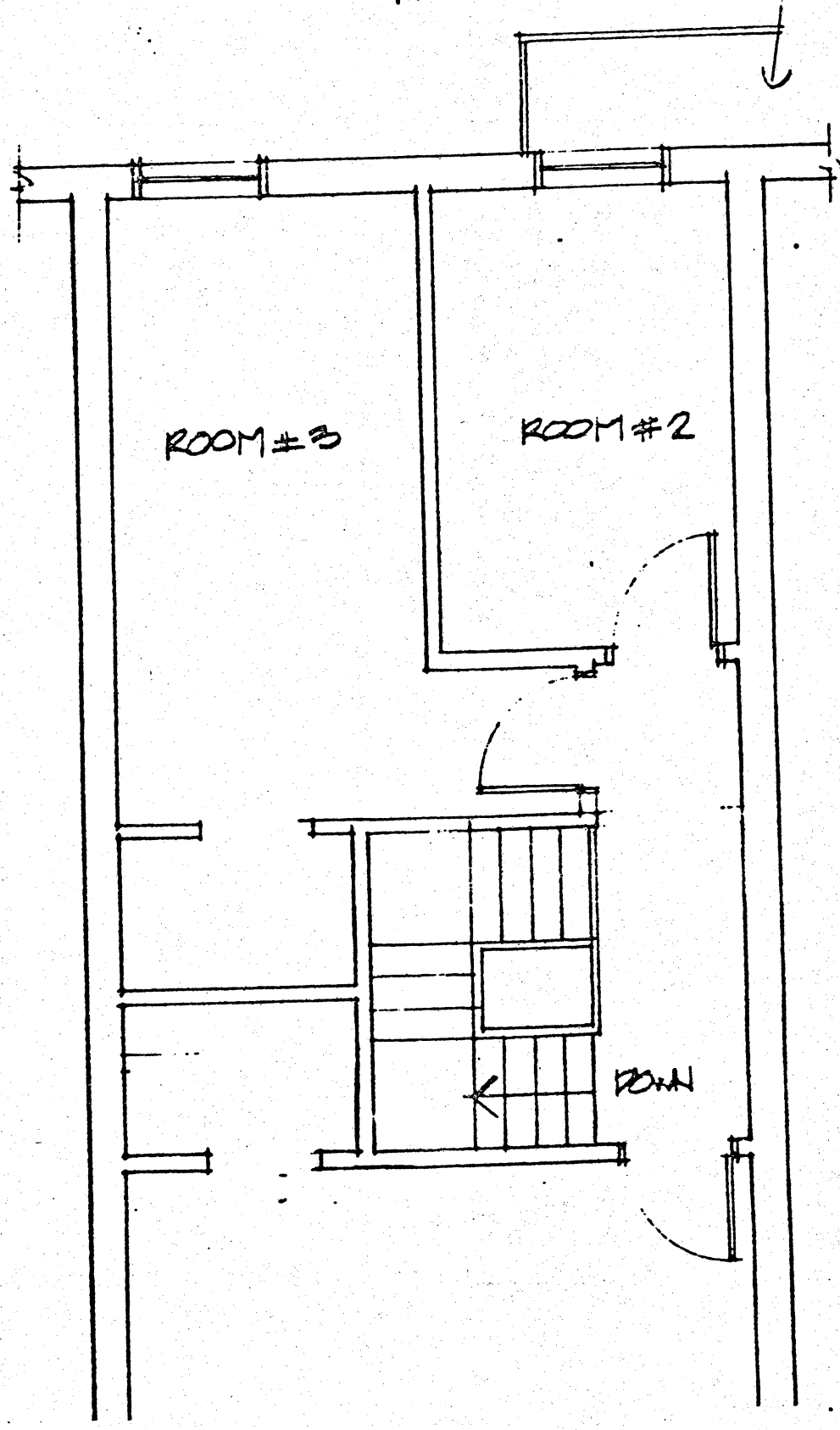
NEW DOUBLE  
GLAZED WINDOWS  
AT EAST WINDOW

LIVING ROOM



Yves & Co  
211 Green St.

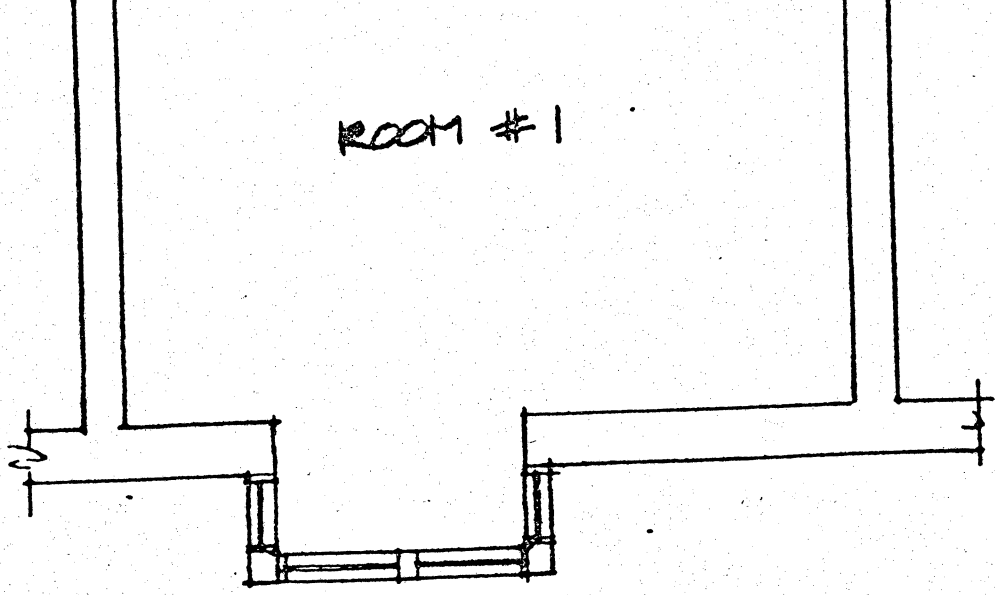
METAL FIRE ESCAPE!



ROOM #3

ROOM #2

DOWN



EXISTING THIRD FLOOR  
SCALE 1/4" = 1'-0"



# CITY OF CAMBRIDGE

639 MASSACHUSETTS AVENUE  
CAMBRIDGE, MASSACHUSETTS 02139

TEL 498-9077

RENT CONTROL BOARD

April 21, 1983

Roger Mervis, Executive Director


IN RE: 211 Green Street  
RP1982-034

## NOTICE OF RULING

At its meeting of April 6, 1983 the Board voted to Remand the case to Hearing Examiner, Cheryl Donohue to allow the landlord to testify as to his family needs and his responsibility for housing his children.

Further the Hearing Examiner is to consider a letter or report of the Fire Department regarding Room #2 on the plans.

Per Order of the Board,

  
\_\_\_\_\_  
Roger Mervis  
Executive Director

ADDITIONAL TESTIMONY: (adduced from earlier testimony and a phone conversation with Mr. Albright).

1. He has two children, one age nine and the other age eleven.
2. He was divorced seven years ago.
3. Although there is no formal shared custody agreement per court order, he has an informal agreement with his ex-wife to take the children every weekend and at least one night a week.
4. When his children stay at his apartment on week nights, he takes them to school the next day.
5. He thinks that he ends up with the children about half of the time.
6. He is now living in a room in his friend's apartment.
7. When his girls come to visit him, he lets them use his room and he has to sleep on the couch in the living room.
8. He wants his children to be able to live with him and have both room and privacy.
9. If a Removal Permit is granted, 211 Green Street remains under Rent Control.

ADDITIONAL FINDINGS:

I adopt the additional testimony above as findings of fact.

RECOMMENDATION:

There is nothing in the additional testimony which would alter my original findings made pursuant to Ordinance 966 and Regulation 46-08 (see p.3 of the original report).

However, the Board is not limited to the factors enumerated in Regulation 46-08. A Notice Of Ruling dated April 21, 1983 was given to me, remanding this case in order to consider the following in my findings and recommendations:

1. the landlord's family needs and his responsibility for housing his children.
2. the letter or report of the Fire Department regarding room #2 on (sic) the plans (this should have read room #6).

Finding number eleven (11) of my original report states that the Cambridge Fire Department ordered room #6 to remain unoccupied.

Although the additional testimony does not change the findings which I originally made, if the Board finds that the additional factors which they have asked me to consider are relevant, then my recommendation will change to granting the removal permit.

In re: 211 Green Street  
cont.

It is clear from the additional testimony that Mr. Albright is divorced and has partial custody of his children. In order to accommodate his family needs, (again, assuming that the Board finds this consideration relevant), I am recommending that rooms #4 and #5 be granted a removal permit. It then does not make much sense for room #6 to remain unoccupied in order to comply with the Fire Department order. Therefore, I recommend that room #6 also be granted a removal permit; this will enable Mr. Albright to combine all three units and will also afford its occupants their necessary second means of egress.

As sympathetic as Mr. Albright's situation is, however, of great concern, also, in this case, is the rapidly diminishing supply of rooming house units in this city, of which I am sure the Board is aware.

Rooming houses have traditionally served the housing needs of low income persons as well as elderly persons on fixed incomes and the loss of these valuable resources will be deeply felt.

It is clear to me from the emergency preamble of Ordinance 966 that the purpose of the Ordinance is the preservation of low and moderate income rental facilities. The granting of a removal permit in this case does not benefit persons sought to be protected by the Act. In addition, combining these units permanently aggravates the shortage of decent rental housing accommodations for low income persons and elderly persons on a fixed income.

If Mr. Albright's situation is considered an exceptional case, it should be just that, because the existence of many more "exceptional" cases where families buy rooming houses for partial conversion for their own housing use will result in a drastic reduction of housing for low income and elderly persons.

I think it should be noted that a removal permit in this case does not take the building off of Rent Control, and if Mr. Albright moves out of these units, they will come under Rent Control jurisdiction, again.

Respectfully submitted,

Cheryl Donohue  
Hearing Examiner

CD/mg



# CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • (617) 498-9017

OFFICE OF  
THE CITY CLERK

May 11, 1983

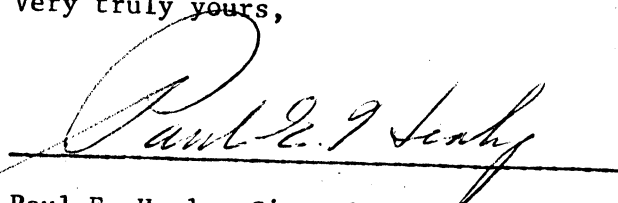
Mr. James Albright  
77 Pearl Street  
Cambridge, MA 02139

Dear Mr. Albright:

Please be advised that the City Council is in receipt of your letter dated April 15, 1983, with regard to your petition before the Rent Control Board to combine two rooms at the premises numbered 211 Green Street into an apartment for yourself and family. Pursuant to your communication, the City Council has scheduled a public hearing to discuss this matter. Said hearing to be held on Monday, May 16, 1983 at 6:00 p.m. in the City Council Chamber, City Hall.

Your presence is hereby requested at this time. Representative of the Rent Control Board are also being invited to attend. Your kind attention in this matter will be greatly appreciated by the City Council.

Very truly yours,

  
Paul E. Healy, City Clerk.

PEH/mh



**CITY OF CAMBRIDGE**  
**INTEROFFICE CORRESPONDENCE**

**To** Roger Mervis, Executive Director  
Rent Control Board  
**Date** May 11, 1983

**From** Paul E. Healy, City Clerk  
**Reference**

**Subject** Petition pending before the Rent Control Board  
regarding the premises numbered 211 Green St.

Enclosed herewith you will find a copy of a communication addressed to the City Council, dated April 15, 1983 from Mr. James Albright. Said communication with regard to his petition before the Rent Control Board to combine two rooms at the premises numbered 211 Green Street into an apartment for himself and his family.

Pursuant to Mr. Albright's communication, the City Council at its meeting held on May 9, 1983 has scheduled a public hearing to discuss this matter. Said hearing to be held on Monday, May 16, 1983 at 6:00 p.m. in the City Council Chamber, City Hall.

Your presence or that of your appropriate designee is requested at this time. Your kind attention in this matter will be greatly appreciated by the City Council.

PEH/mh

Enclosure: letter of James Albright dated 4/15/83



CITY OF CAMBRIDGE  
INTEROFFICE CORRESPONDENCE

To Acheson Callaghan, Chairman  
Rent Control Board

Date May 11, 1983

From Paul E. Healy, City Clerk

Reference

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PEH/mh

Enclosure: letter of James Albright dated 4/15/83

*papers*

April 15, 1983

To the Cambridge City Council,

On December 1, 1981, I bought three rooming houses located at 205, 207, and 211 Green st. in central square from Mr. Harold Gilboard and Dr. Kates. I've worked near central square and have long wanted to live here. These 108 year old brick row houses have been neglected for decades and are generally in deplorable condition. All together, there are almost 50 (actually 48) people living in 17 rooms and 2 apartments. This does not include the large number of people who visit nor those who "hang out" in front of the buildings.

In order to have more control over these buildings I need to live there. The only empty space is the third floor of 211 Green st. I would like to combine the three rooms there and have petitioned the rent control board to combine two rooms into an apartment for myself and my children. I say two rooms because the fire department says the third room must be left open because it blocks access to the fire escape. The rent control board has met twice now to consider the removal of rooms 4,5, and 6 (the third floor), and still the matter is not settled. At present the case has been remanded because the hearing examiner neglected to include in her report three important things which <sup>would</sup> surely influence the decision of the board.

(1) My children stay with me a significant amount of time.

(2) The letter from the fire department should have been included in the report.

(3) The architectural plans which were specifically drawn for the rent control board and were submitted to the hearing examiner were also not included in the report.

At both hearings with the board there were not enough landlord representatives. Is there ever a full board? At the last meeting the board's landlord representative said she didn't think I needed a removal permit, that I was really getting "screwed," and that I should get a lawyer. The tenant representatives said that combining rooms was reducing low income units from the market.

I could live in one of the two apartments in these buildings. In 211 an eighty year old woman and her sixty year old niece live. They have lived there for 15 years and are sick much of the time. I do not wish to evict them for owner occupancy. The family living in the other apartment have lived there for eight years and are tenants I would like to keep.

I have been renting a room in a friend's house since I bought these buildings. When my children stay with me I have to sleep on a couch in the basement. This arrangement was supposed to be temporary. I would like to move into my own house, and I want my own separate space where my two girls and I can feel safe and secure.

The rent control board is not doing its job. This petition has been on the books since last september. Soon

it will be may. The hearing examiner neglected to include or consider important information in her report. At the first board meeting I was told that the board would like to review my plans. After waiting over two weeks, I discovered that nothing had happened and proceeded to have copies made for each board member. I was then told that to get back on the board agenda I would have to write a letter to the director explaining my case. One month later at the second board meeting one board member tried to dismiss or postpone my case at the beginning of the 8 P.M. session, saying that there were other issues involved here. I insisted that those issues be clarified. After waiting my turn we discussed my children and the fire department letter. One tenant representative said that he was there only to discuss matters in the examiner's report. Thus, information about my children was not allowed to affect his decision. My children were present at these meetings, and neither were recognized.

Its been over a week since the last meeting and I have heard nothing. I'm beginning to feel like I'm getting the run around. In addition, there have been other dealings with the rent control board which have been equally frustrating. The board is not treating this new landlord fairly, and I am appealing to you for help.

Thank You,  
*James Albright*  
 James Albright

*Phone #s*  
*Home 492-8710*  
*Work 876-6943*

April 15, 1983

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*James Albright*  
James Albright

*Phone #s*  
*Home 492-8710*  
*Work 876-6943*

S-262

Comm. from James Albright Re: his petition pending before the Rent Control Board to combine two rooms into an apartment at the premises numbered 211 Green St.

Louanna Clinton

Hanning

Request  
FOR

May 16, 1983  
AT

G.P.M. James Albright,

In City Council,  
May 9, 1983

A. Henry Lallas, Chairman  
Rent Control Board  
Roger Morris,  
Exec. Dir. Rent Control Board,  
notified 5/11/83 m/h

5/9/83

Request to merge  
FOR

Report in One  
Week