



CAMBRIDGE TENANTS UNION
February 6, 1992

Cambridge City Council
City Hall
795 Massachusetts Avenue
Cambridge, Mass. 02139

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CAMBRIDGE MA.

To the Honorable; the City Council:

I am enclosing copies of correspondence between Terrence Morris, Executive Director of the Rent Board, and myself, in my capacity as a party to a case recently heard by the Rent Board. This exchange of letters followed Mr. Morris' issuance of a "Notice of Ruling" in that case.

The concerns raised in my letter of January 2 about procedural irregularities and the failure of the Board to carry out its responsibilities under the law remain. At the rehearing, held on January 22, the Board chair, Ms. Darwin, freely reinterpreted what the Board had originally decided, refused to acknowledge that there was a difference between a record and a written report in an adjudicatory proceeding, and was unwilling to pursue an allegation made to the Board that a violation of the Removal Ordinance had occurred.

Nonetheless, my primary purpose in forwarding this correspondence to the City Council is to draw your attention to personal remarks which Mr. Morris made in the course of responding to my request for a rehearing. I find his comments ill-considered and intemperate, and in no way compatible with his role as a public official. These remarks also cause me to question, beyond those doubts which I already had, Mr. Morris' ability to fulfill his public responsibility as Executive Director of the Cambridge Rent Control Board in a fair and dispassionate manner.

Respectfully submitted,



Michael H. Turk

cc: Robert W. Healy, City Manager -

Cambridge Tenants Union
1151 Massachusetts Avenue
Cambridge, Mass. 02138
January 2, 1992

Mr. Terrence Morris
Executive Director
Cambridge Rent Control Board
831 Massachusetts Avenue
Cambridge, Mass. 02139

RE: RPZ90-022, RPZ90-023
(20 Chilton St., #4, #6)

Dear Mr. Morris:

I want to register our strong objection to the purported "Interim Notice of Ruling" issued by you in the above-captioned matter on December 20, 1991.

The Board's decision in this case, which was made a full month earlier, on November 20, 1991, was not an interim one, nor did it appear to allow for a re-opening of the record, as the notice states now is an option available to the hearing officer. It is a cause of great concern that the Board's Executive Director was willing to allow for the re-opening of the proceedings without Board authorization, in order, one must assume, to change the existing record in this matter, because of assertions contained in an ex parte letter from Mr. Sullivan, one of the parties.

Any errors in the report must be corrected solely on the basis of what is contained in the record, that is, the taped recording of the proceeding and the exhibits accepted into evidence, including the Rent Board hearing report of which administrative notice was taken.

Moreover, a review of Mr. Sullivan's letter reveals that the supposed errors that he claims can be found in the report are largely of two sorts: those which are trivial or minor, and those which reflect an attempt by Mr. Sullivan to re-write--erroneously--what happened at 20 Chilton Street and took place in the evidentiary hearing itself.

Included in the former category are items like unit numbers, dates, and the identity of the beneficiaries of the Chilton-Sullivan Trust. The tape recording and the exhibits should make

clear, for example, whether Mr. Sullivan was identified as the sole beneficiary of the trust or as one of the beneficiaries. (See Finding #5)

In the latter category I would include several important findings that Mr. Sullivan has requested be deleted. The Bill Walsh letters (Tenant Exhibits 1 and 2), which Mr. Sullivan's counsel tried unsuccessfully to keep out of the record at the evidentiary hearing, demonstrate plainly that Mr. Sullivan's father tried to sell Units #4 and #6 to the Cox's. (See Finding #6) The tape recording will also indicate clearly that in the hearing Mr. Sullivan stipulated to the purchase price--and date of purchase--of the 20 Chilton Street property by his father, as the hearing officer accurately noted in his report. (See Finding #3)

Contrary to the impression created by Mr. Sullivan's written comments, there was significant testimony given at the evidentiary hearing about Alice Slavin's purported purchase and sale of Unit #1 at 20 Chilton Street, and about Ms. Slavin herself. Versions of Findings #8 and #11 can be made on the basis of this testimony, provided by Mr. Sullivan under cross-examination. It should be noted that Mr. Sullivan was not particularly forthcoming about this subject in the hearing. He was not directly questioned about the existence of a buyback option or the identity of the owner who purchased the unit from Ms. Slavin, and so he provided no information about either of these, nor about the financing arrangements surrounding the sale or re-sale.

The purported "Interim Notice of Ruling" is further flawed in that it directs the hearing officer to consider one party's assertions about errors in the report, rather than all parties. The notice makes no reference to an error in the report which I pointed out, namely that the legal maximum rent for Unit #6 was \$417/month, not \$454/month (see Finding #23), and hence Ms. Corey had given false testimony about the rent she actually paid.

Accordingly, I request, pursuant to Regulation 41-03, that the Board rehear this matter for the following reasons:

- 1) First, to determine whether the Board in fact had authorized a re-opening of the record;

- 2) Then, if the record can or should be re-opened, as a matter of simple procedural justice to allow for the inclusion of documents I submitted by motion to the hearing officer on July 5, 1990. The Board has already erred with respect to these documents, when it voted to exclude them from the record through the selective and arbitrary use of its procedural rules. On November

20, 1991, at that same Board hearing, the Board took new testimony from Mr. Hayes about Ms. Cox's intentions and from Mr. Sullivan about the current owner of Unit #1, in violation of Board Regulation 40-01.

3) Finally, to reconsider the Board's vote to ignore a possible violation of law with respect to the exempting of Unit #1 from the strictures of the Removal Ordinance. I believe that it is an impermissible abdication of the basic responsibility of the Board to ignore evidence brought to it of possible violations of the law which it administers. The hearing officer correctly noted that Ms. Slavin's beneficial ownership, as defined in Regulation 13-01(r), was in question. The documents I submitted on July 5, 1990 show that Ms. Slavin made no downpayment, but instead obtained 100% financing from Mr. Sullivan, and, in addition, received \$500 as part of the buyback option. Moreover, Mr. Sullivan's son's subsequent purchase of Unit #1 is consistent with the language of the buyback option. Thus, the Board's refusal to act in this instance constitutes an error of law, and must be rectified by a re-opening or review of the case in which the certificate of exemption was granted (SCE87-124).

Sincerely yours,

Michael H. Turk

Michael H. Turk
(for) Cambridge Tenants Union

cc: Mr. Frederick B. Hayes, III
Mr. David Leon



CITY OF CAMBRIDGE

831 MASSACHUSETTS AVENUE
CAMBRIDGE, MASSACHUSETTS 02139

TEL 499-6161

RENT CONTROL BOARD

TERRENCE P. MORRIS, EXECUTIVE DIRECTOR

January 6, 1992

Michael Turk
Cambridge Tenants Union
1151 Massachusetts Avenue
Cambridge, MA. 02138

Re: RPZ 90 022, 023
20 Chilton Street #4, #6

Dear Mr. Turk:

I have just received your letter of January 2, 1992 regarding the above referenced matter. This is to inform you that I have granted your request for a rehearing, notwithstanding the fact that you lack good cause within the meaning of Regulation 41-03. The reason for acceding to your request is to set the record straight.

Quite frankly, I have reached the limits of my patience with your oblique references to, and/or illusions about, the purported abuse of power by this office. For your information, the Notice of Ruling to which you so strenuously object, was reviewed by both the Board's Chairman and the General Counsel prior to issuance. I am quite confident that when the Board has the opportunity to review this matter, your assertion that something was done without the Board's authorization, will prove groundless.

Having re-read the Notice of Ruling in this matter, I find nothing to support your conspiratorial view. The attempt to cast the notice in an adversarial light by reference to "change [in] the existing record" is yet another example of your portrayal of the Rent Control system in Faustian terms of good versus evil. Were that real life were so black and white. Your proclivity for characterizing any action you disagree with as Machiavellian is wearing thin. Let me remind you that the Board did NOT vote to affirm the findings proposed by the hearing officer. Without subsidiary findings, it is legally impossible to justify any decision. Of necessity, the agenda of this office must be broader than yours. Accordingly, we are concerned with establishing a proper record for appeal. It has been my experience that the single most prevalent reason for reversal of Board decisions upon judicial review is the poor quality of the record.

It is indeed curious that while you profess concern over ex parte communication and with "procedural justice", you argue against another evidentiary hearing. As I see it, the evidentiary hearing exists as the guarantor of procedural justice and as a safeguard against ex parte influence. There should be no misunderstanding about the intent of the ruling. I took great pains to explain the procedure to you before the Notice of Ruling was issued. Since many of the Hearing Officer's proposed findings were based on positions taken and or statements made by you, reconciliation of these findings with the contrary assertions of the owner is hardly an ex parte exercise.

Sincerely,

A handwritten signature in cursive script, appearing to read "Terrence P. Morris".

TERRENCE P. MORRIS
EXECUTIVE DIRECTOR

TPM/DEB

cc: Frederick B. Hayes, III
David Leon

Consent Comm. # 6

S-170

Comm. from Michael H. Turk, Cambridge Tenants Union, relative to an issuance of a "Notice of Ruling" made by the Rent Control Board and a request for a rehearing for the premises numbered 20 Chilton Street.

In City Council,

February 10, 1992

*Referred to the
City Manager.
Copy sent to City
mgr 2/12/92 @*