

City of Cambridge

MASSACHUSETTS

In City Council

2/8

, 1999

MS

House Bill 447 "An Act Authorizing Municipalities to offer financial incentives for rental subsidies to owners of affordable housing."

	YEA	NAY	ABSENT	PRESENT
Ms. Kathleen L. Born	✓			
Ms. Henrietta Davis	✓			
V. Mayor Anthony Galluccio				✓
Mr. Kenneth E. Reeves	✓			
Ms. Sheila T. Russell	✓			
Mr. Michael A. Sullivan	✓			
Mr. Timothy J. Toomey, Jr.	✓			
Ms. Katherine Triantafillou	✓			
Mayor Francis H. Duehay	✓			

*MSSR/permissions
file*

8 0 0 1



City of Cambridge

46.

IN CITY COUNCIL
February 8, 1999

COUNCILLOR SULLIVAN

RESOLVED: That the City Council go on record support the attached House Bill 447 "AN ACT AUTHORIZING MUNICIPALITIES TO OFFER FINANCIAL INCENTIVES FOR RENTAL SUBSIDIES TO OWNERS OF AFFORDABLE HOUSING."

In City Council February 8, 1999.

Adopted by a ye and nay vote:-

Yeas 8; Nays 0; Absent 0 Present 1.

Attest:- D. Margaret Drury, City Clerk.

A true copy;

ATTEST:-

D. Margaret Drury

D. Margaret Drury

City Clerk

House Docket 501

House Bill 447

To the Honorable Senate and House of Representatives of The Commonwealth of Massachusetts
in General Court assembled.

The undersigned, citizens of, respectfully
petition for the passage of the accompanying bill or resolve, and/or for legislation.

AN ACT AUTHORIZING MUNICIPALITIES TO OFFER FINANCIAL INCENTIVES
FOR RENTAL SUBSIDIES TO OWNERS OF AFFORDABLE HOUSING

Petitioners are requested to sign names and addresses legibly.

Timothy J. Toomey, Jr.
Grant E. Maffei
Alvin K. Wolf
Jazett Tomas Barrios
Wm. H. Archangeli Mayor

29th Middlesex
Suffolk - Middlesex
27th Middlesex
28th Middlesex
26 Lowell St Cambridge



The Commonwealth of Massachusetts

IN THE YEAR ONE THOUSAND NINE HUNDRED AND NINETY-NINE

AN ACT AUTHORIZING MUNICIPALITIES TO OFFER FINANCIAL INCENTIVES FOR RENTAL SUBSIDIES TO OWNERS OF AFFORDABLE HOUSING

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Whereas, the general court finds and declares that a serious public emergency exists with respect to the housing of a substantial number of persons in certain areas of the Commonwealth residing in governmentally-involved housing, inasmuch as there is a threat that many low-income individuals and families residing in such housing, particularly those elderly and disabled, may be threatened with displacement as a result of prepayment of mortgage financing, loss of use or rent restrictions, expiring subsidy contracts, and expected increases in rent, and there is a threat that affordable housing stock will be lost due to expiration of use or rent restrictions and such pre-payment, further exacerbating an extreme housing shortage for low-income families and individuals, and whereas, in adopting chapter forty p of the General Laws, the voters expressly

NOTE. — Use ONE side of paper ONLY. DOUBLE SPACE. Insert additional leaves, if necessary.

exempted such housing, and whereas it is the Commonwealth's policy to encourage owners of this governmentally-involved housing to accept incentives to keep such housing affordable and avert displacement, that such emergency should be met by the Commonwealth immediately and with due regard for the rights and responsibilities of its local communities; therefore, this act is declared to be in the public interest.

SECTION 2. The following words or phrases as used in this act shall have the following meaning:

(A) "governmentally-involved housing," housing accommodations which the United States, the commonwealth, or any authority created under the laws thereof (i) owns, operates, finances, subsidizes, or insures the mortgage thereon and (ii) regulates the individual rents thereof, including without limitation housing accommodations constructed or rehabilitated pursuant to section 202, 221(d), or 236 of the National Housing Act or pursuant to project-based programs for low-income persons under section 8 of the United States Housing Act of 1937, but not including the following:

- (1) housing accommodations owned or acquired by the municipality through tax foreclosure;
- (2) housing units in a one to four family building or structure which is not part of a larger housing development, whether on one or more sites;
- (3) structures containing housing accommodation units subsidized with mobile tenant-based rental assistance

which would not otherwise come within the definition of governmentally-involved housing; provided, however, that those subsidized units shall be considered governmentally-involved housing accommodations for the purposes of section 4, only;

(4) structures containing housing accommodation units which were subject to chapter 36 of the acts of 1976, as amended, chapter 797 of the acts of 1969, chapter 863 of the acts of 1970, chapter 843 of the acts of 1971, chapter 45 of the acts of 1987, and chapter 504 of the acts of 1987, all as amended, or chapter 843 of the acts of 1970 and chapter 601 of the acts of 1981, both as amended, but which would otherwise not come within the definition of governmentally-involved housing;

(5) public housing owned or operated by a local housing authority under chapter 121B of the General Laws, the United States Housing Act of 1937, or any successor act or public housing programs formerly assisted under the United States Housing Act of 1937;

(6) housing units which first become governmentally-involved after October 1, 1996, unless the municipality enacts a different date; and

(7) housing units that a municipality accepting the provisions of this act may exempt from section 3 for just cause; provided, however, that in no event shall

more than twenty percent of the total rental units which are or could be governed under this act in said municipality be exempted under this clause.

(B) "Formerly governmentally-involved housing," housing which was governmentally-involved as of July first, nineteen hundred and ninety-four, or which becomes governmentally-involved housing after July first, nineteen hundred and ninety-four, but which may no longer be owned, operated, financed, subsidized, mortgage-insured, or rent-regulated by the United States, the commonwealth, or any authority created under the laws thereof.

(C) "Low-income," an annual income which is eighty percent or less of the median income for the area as determined by the United States Department of Housing and Urban Development, with adjustments for smaller and larger families.

SECTION 3. (A) Notwithstanding the provisions of any general or special law to the contrary, including, without limitation, the provisions of chapter 282 of the acts of 1994, a municipality accepting the provisions of this act shall regulate the rent for use or occupancy of governmentally-involved or formerly governmentally-involved housing to the extent such regulation is not pre-empted by federal law or by section 6 of chapter 708 of the acts of 1966, as amended, once the basis for federal or Massachusetts Housing Finance Agency rent preemption no longer exists.

(B) Said municipality shall establish as the maximum rent for governmentally-involved and formerly governmentally-involved

housing accommodations the rent in effect therefor on July 1, 1994 or six months before the basis for federal or Massachusetts Housing Finance Agency rent preemption lapsed, whichever is later, adjusted to insure such rent provides a fair net operating income as of the date of the loss of rent preemption.

SECTION 4. (A) A municipality accepting the provisions of this act shall provide, by ordinance or by-law, that no person shall bring an action to recover possession of a governmentally-involved or formerly governmentally-involved housing accommodation to the extent that such regulation is not otherwise pre-empted by federal law or section 6 of chapter 708 of the acts of 1966, unless:

- (1) the tenant has failed to pay the rent to which the owner is entitled;
- (2) the tenant has violated an obligation or covenant of tenancy not inconsistent with chapter 93A of the General Laws or this act other than the obligation to surrender possession upon proper notice, and has failed to cure the violation after having received written notice thereof;
- (3) the tenant is causing, committing, or permitting, a nuisance in, or substantial damage to, the housing accommodation, or is creating substantial interference with the comfort, safety, or enjoyment of the owner or other occupants of the same or any adjacent accommodation;

- (4) the tenant has used or permitted use of a housing accommodation for illegal purposes;
- (5) the tenant, who had a written lease or rental agreement which has terminated, has refused, after written requests or demand by the owner, to execute a written extension or renewal thereof for a further term of like duration on terms not inconsistent with or violative of any provision of this act;
- (6) the tenant has refused the owner reasonable access to the housing accommodation for the purpose of making necessary repairs or improvements required by law, or for the purpose of inspection as permitted or required by the lease or by law, or for the purpose of showing the housing accommodations to any prospective purchaser or mortgagee;
- (7) the tenant holding at the end of a lease term is a subtenant not approved by the owner;
- (8) for tenant-based rental assistance programs only, the owner seeks to recover possession in good faith of a unit for the owner's own use and occupancy or for use and occupancy by the owner's spouse, children, grandchildren, great grandchildren, parents, grandparents, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law; or
- (9) the owner seeks to recover possession for any other just cause not in conflict with the provisions

and purposes of this act or chapter 93A of the General Laws.

(B) The provisions of this section shall be construed as additional restrictions on the right to recover possession of such housing accommodations.

SECTION 5. A municipality accepting the provisions of this act shall provide, by ordinance or by-law, that no person shall remove any governmentally-involved or formerly governmentally-involved housing accommodation from low-income rental housing use, without first obtaining permission for that purpose from the municipality or its designee, to the extent that such provision is not pre-empted by federal law or section 6 of chapter 708 of the acts of 1966. Such permission may be subject to terms and conditions not inconsistent with the purposes and provisions of this act, including, without limitation, (a) incentives to continue in effect the low-income use restrictions previously in place for the property and (b) where sale, lease, or disposition of the property may result in the loss of all or a portion of the property for low-income rental housing use, the right of an incorporated tenant association in such housing, the municipality, the local housing authority, or non-profit community development corporations to negotiate for, acquire and operate such property on substantially equivalent terms and conditions as offered or available to a bona fide third party purchaser.

SECTION 6. To the extent not pre-empted by federal law or

section 6 of chapter 708 of the acts of 1966, a municipality accepting the provisions of this act shall require an owner of governmentally-involved housing or formerly governmentally-involved housing, to affirmatively seek out and accept any prospective government housing resources, whether tenant-based or project-based, which maximize affordability of the housing accommodations consistent with the income character of the property and the owner's right to obtain a fair net operating income for the housing accommodations. The appropriate state and municipal agencies shall assist owners by identifying government housing resources.

SECTION 7. To the extent not pre-empted by federal law or section 6 of chapter 708 of the acts of 1966, and, so long as such regulation is consistent with the owner's right to obtain a fair net operating income and the municipality's housing policy, a municipality accepting the provisions of this act shall establish local preferences, priorities, and income limits for admission to governmentally-involved housing or formerly governmentally-involved housing upon unit turnover. No ordinance, by-law, or regulation shall require an owner to create a tenancy involving any person with a history of conduct which would, if repeated, be grounds for eviction from such housing.

SECTION 8. A municipality accepting the provisions of this act may promulgate such rules, regulations, and orders as it may deem necessary to effectuate the purposes hereof and may grant exemptions and exceptions thereto when such action would tend to

maintain or increase the supply of affordable housing in the municipality, including, without limitation, to promote the sale of the property to a bona fide tenant organization or non-profit community development corporation under terms and conditions which would tend to maintain the income character of the property.

SECTION 9. Any hearings regarding matters related to regulation of rents or removal permits for governmentally-involved housing or formerly governmentally-involved housing or regarding compliance with other provisions of this act, or any ordinance, by-law, rule, or regulation adopted hereunder, shall be conducted by the municipality or its designee in accordance with the provisions of section 11 of chapter 30A of the General Laws.

SECTION 10. All decisions of the municipality or its designee may be appealed to the Housing Court if available, the district court or the superior court in the jurisdiction or county where the municipality is located by any person aggrieved thereby, whether or not previously a party in the matter, within 30 calendar days after receipt of notice of such decision. Judicial review of adjudicatory decisions shall be conducted in accordance with section 14 of chapter 30A of the General Laws. Judicial review of regulations shall be conducted in accordance with section 7 of chapter 30A of the General Laws. The housing, district, and superior courts shall have jurisdiction to enforce the provisions hereof and any ordinance, by-law, rule, or

regulation adopted hereunder and on application of the municipality or its designee or any aggrieved person may restrain or enjoin violations of any such ordinance, by-law, rule, or regulation. In the interests of justice, the court may allow any necessary parties to be joined in or to intervene in any action brought hereunder and may in its discretion allow or require an action to proceed as a class action.

SECTION 11. It shall be unlawful for any person to do or omit to do any action in violation of this act or any order, ordinance, by-law, rule or regulation adopted or promulgated hereunder. Whoever willfully violates any provision of this act or any order, ordinance, by-law, rule, or regulation adopted or promulgated hereunder or whoever makes a false statement in any testimony before the municipality or its designee, or whoever knowingly supplies the municipality or its designee with false information, in connection with a proceeding under this act, shall be punished by a fine of not more than \$400 or by imprisonment for not more than 90 days, or both; provided, however, that in the case of a second or subsequent offense, or where the violation continues after notice thereof, such person shall be punished by a fine of not more than \$2000, or imprisonment for not more than one year, or both.

SECTION 12. This act shall be submitted to the voters of a city or town by a vote of the city council, town council or board of selectmen in the form of the following question which shall be placed upon the official ballot of a regular election "Shall an

Act passed by the general court, entitled 'an act authorizing municipalities to offer financial incentives for rental subsidies to owners of affordable housing' be accepted?" If a majority of the votes in answer to said question is in the affirmative, this act shall take full effect in such city or town.

SECTION 13. Any municipality which accepts the provisions of this act accepts full legal and financial responsibility for all claims or other legal action arising as a result of the acceptance of or the implementation of this act.

SECTION 14. The provisions of this act are severable, and if any of its provisions shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.



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February 8, 1999

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In City Council February 8, 1999.

Adopted by a ye and nay vote:-

Yeas 8; Nays 0; Absent 0 Present 1.

Attest:- D. Margaret Drury, City Clerk.

A true copy;

ATTEST:-

D. Margaret Drury
City Clerk

8-110
Consent Order #46

Councillor Sullivan re: support House
Bill 447 "AN ZCT AUTHORIZING MUNICIPALITIES
TO OFFER FINANCIAL INCENTIVES FOR RENTAL
SUBSIDIES TO OWNERS OF AFFORDABLE
HOUSING."

In City Council February 8, 1999

ORDER ADOPTED

8-0-0-1.