

# City of Cambridge

MASSACHUSETTS

# 11 Unfinished

In City Council 11-18-, 1996

Expung Use

Home Rule Petition

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

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RIF 0-9



# OFFICE OF THE CITY CLERK

CITY OF CAMBRIDGE

(617) 349-4260

FAX (617) 349-4307

tty/TDD (617) 492-0235

D. MARGARET DRURY  
CITY CLERK

DONNA P. LOPEZ  
DEPUTY CITY CLERK

November 20, 1996

The Honorable Timothy J. Toomey, Jr.  
House of Representatives  
State House  
Boston, MA 02133

Dear Representative Toomey:

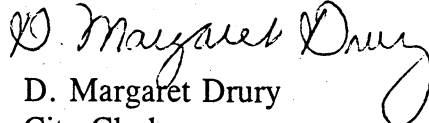
Pursuant to the request of the City Council in accordance with the arrangements made previously with Speaker Flaherty, I am forwarding to you for filing with the Massachusetts House of Representatives, the enclosed order adopted by the Cambridge City Council at its meeting of Monday, November 18, 1996 approving the filing of the following attached legislation entitled:

"AN ACT RELATIVE TO GOVERNMENTALLY INVOLVED HOUSING IN THE CITY OF CAMBRIDGE;"

It is my understanding that upon receipt of this legislation you and your staff will review the text of the enclosed legislation to determine its appropriateness for filing and if any changes or corrections are necessary, your office will contact me as soon as possible.

Thank you for your cooperation in this matter.

Very truly yours,

  
D. Margaret Drury  
City Clerk

DMD:gwj

Encs.

cc: Representative Thompson  
Representative DeMakis



# City of Cambridge

Calendar Item # 11

IN CITY COUNCIL

November 18, 1996

COUNCILLOR TOOMEY

ORDERED: That a petition to the General Court, accompanied by a bill for a special law relating to the City of Cambridge to be filed with an attested copy of this order be, and hereby is, approved under Clause (1) of Section eight of Article two, as amended, of the Amendments to the Constitution of the Commonwealth of Massachusetts, to the end that legislation be adopted precisely as follows, except for clerical or editorial changes of form only:

## AN ACT RELATIVE TO GOVERNMENTALLY-INVOLVED HOUSING IN THE CITY OF CAMBRIDGE

In City Council November 18, 1996.

Adopted by a yea and nay vote:-

Yeas 8; Nays 1; Absent 0.

Attest:- D. Margaret Drury, City Clerk.

A true copy;

ATTEST:-

*D. Margaret Drury*  
D. Margaret Drury,  
City Clerk

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

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

AN ACT RELATIVE TO GOVERNMENTALLY INVOLVED HOUSING IN THE CITY OF CAMBRIDGE

Petitioners are requested to sign names and addresses legibly.

Shelia T. Russell  
Ingrid Loomer  
Catherine Triantafyllou  
Richard J. Pollock  
Ann B. Doherty  
Kathleen S. Power  
Hannah Davis  
Katherine E. Rees

5 Hawthorne Park Camb 02135  
88 Sixth St. Cambridge 02141  
90 Reed Street, Cambridge, 0214  
28 Putnam Avenue Cambridge 02137  
26 Lowell Street Cambridge 02138  
36 Walnut Avenue Cambridge 02140  
170 Chestnut St. Cambridge, Ma  
340 Harvard St 02139  
Camb 02139



# The Commonwealth of Massachusetts

IN THE YEAR ONE THOUSAND NINE HUNDRED AND NINETY- SIX

## AN ACT RELATIVE TO GOVERNMENTALLY INVOLVED HOUSING IN THE CITY OF CAMBRIDGE

*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, a serious public emergency exists with respect to the housing of citizens of Cambridge 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 within the city for low-income families and individuals, and whereas, in adopting Chapter forty O of the General Laws, the voters expressly exempted such housing, and whereas it is the city'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 with due regard for the rights and responsibilities of the city; therefore, this act is declared to be in the public interest.

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

SECTION 2.

(A) Notwithstanding the provisions of any general or special law to the contrary, including, without limitation, the provisions of chapter two hundred and eighty-two of the acts of nineteen hundred and ninety-four, for so long as the city council of Cambridge shall determine that the circumstances described in section one hereof continue to exist, the city of Cambridge may by ordinance 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 six of chapter seven hundred and eight of the acts of nineteen hundred and sixty-six, as amended, once the basis for federal or Massachusetts Housing Finance Agency rent preemption no longer exists.

For the purposes of this act, "governmentally-involved housing" shall mean 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 City of Cambridge 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 subsection 2(B) hereof, only;
- 4) structures containing housing accommodation units which were subject to chapter thirty-six of the acts of nineteen hundred and seventy-six, but which would not otherwise come within the definition of governmentally-involved housing;
- 5) public housing owned or operated by a local housing authority under chapter one hundred and twenty-one B 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 became governmentally-involved on or after January first, nineteen hundred and seventy-five; and
- 7) housing units that the city of Cambridge or its designee may exempt from the first paragraph of subsection 2(A) for just cause; provided, however, that in no event shall more than twenty percent of the total rental units in the city of Cambridge which are or could be governed under this act be exempted under this clause.

"Formerly governmentally-involved housing" shall mean housing which was governmentally-involved as of 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.

"Low-income" shall mean an annual income which is eighty percent or less of the median income for the Boston Metropolitan Statistical Area as determined by the United States Department of Housing and Urban Development, with adjustments for smaller and larger families.

The city of Cambridge may by ordinance establish as the maximum rent for governmentally-involved and formerly governmentally-involved housing accommodations the rent in effect therefor on July first, nineteen hundred and ninety-four 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.

(B) Such ordinance may provide 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 preempted by federal law or section six of chapter seven hundred and eight of the acts of nineteen hundred and sixty-six, 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 ninety-three A 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 ninety-three A of the General Laws.

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

(C) Such ordinance may also provide 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 city of Cambridge or its designee, to the extent that such provision is not preempted by federal law or section six of chapter seven hundred and eight of the acts of nineteen hundred and sixty-six. 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 city of Cambridge, the Cambridge 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.

(D) To the extent not preempted by federal law or section six of chapter seven hundred and eight of the acts of nineteen

hundred and sixty-six, the city of Cambridge or its designee may 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.

(E) To the extent not preempted by federal law or section six of chapter seven hundred and eight of the acts of nineteen hundred and sixty-six, and, so long as such regulation is consistent with the owner's right to obtain a fair net operating income and the city's housing policy, the city of Cambridge or its designee may establish local preferences, priorities, and income limits for admission to governmentally-involved housing or formerly governmentally-involved housing upon unit turnover. No 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.

(F) The city of Cambridge or its designee 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 city of Cambridge, 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.

(G) 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 ordinance shall be conducted by the city of Cambridge or its designee in accordance with the provisions of section eleven of chapter thirty A of the General Laws except that the requirements of paragraphs (7) and (8) of said section eleven shall not apply to such hearings.

(H) All decisions of the city of Cambridge or its designee may be appealed to the Cambridge District Court or to the Middlesex Superior Court by any person aggrieved thereby, whether or not previously a party in the matter, within thirty calendar days after notice of such decision. The district and superior courts shall have jurisdiction to enforce the provisions hereof and any ordinance, rule or regulation adopted hereunder and on application of the city of Cambridge or its designee or any aggrieved person may restrain or enjoin violations of any such ordinance, 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 3. It shall be unlawful for any person to do or omit to do any action in violation of this act or any order, ordinance, rule or regulation adopted or promulgated hereunder. Whoever willfully violates any provision of this act or any order, ordinance, rule or regulation adopted or promulgated hereunder or whoever makes a false statement in any testimony before the city of Cambridge or its designee, or whoever knowingly supplies the city of Cambridge or its designee with false information, in connection with a proceeding under this act, shall be punished by a fine of not more than four hundred dollars or by imprisonment for not more than ninety 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 two thousand dollars, or imprisonment for not more than one year, or both.

SECTION 4. 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.

SECTION 5. This act shall take effect upon its passage.

November 14, 1996

CITY OF CAMBRIDGE  
IN CITY COUNCIL

ORDERED: That a petition to the General Court, accompanied by a bill for a special law relating to the City of Cambridge to be filed with an attested copy of this order be, and hereby is, approved under Clause (1) of Section eight of Article two, as amended, of the Amendments to the Constitution of the Commonwealth of Massachusetts, to the end that legislation be adopted precisely as follows, except for clerical or editorial changes of form only:

**AN ACT RELATIVE TO GOVERNMENTALLY-INVOLVED HOUSING  
IN THE CITY OF CAMBRIDGE**

SECTION 1. Whereas, a serious public emergency exists with respect to the housing of citizens of Cambridge 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 within the city for low-income families and individuals, and whereas, in adopting Chapter forty O of the General Laws, the voters did not exempt such housing from protection or regulation expressly exempted such housing, and whereas it is the city'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 with due regard for the rights and responsibilities of the city; therefore, this act is declared to be in the public interest.

SECTION 2.

(A) Notwithstanding the provisions of any general or special law to the contrary, including, without limitation, the provisions of chapter two hundred and eighty-two of the acts of nineteen hundred and ninety-four, for so long as the city council of Cambridge shall determine that the circumstances described in section one hereof continue to exist, the city of Cambridge may by ordinance 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 six of chapter seven hundred and eight of the acts of nineteen hundred and sixty-six, as amended, once the basis for federal or Massachusetts Housing Finance Agency rent preemption no longer exists.

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- 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, ~~except; provided, however, that~~ those subsidized units shall be considered governmentally-involved housing accommodations for the purposes of subsection 2(B) hereof, only;
- 4) structures containing housing accommodation units which were subject to chapter thirty-six of the acts of nineteen hundred and seventy-six, but which would not otherwise come within the definition of governmentally-involved housing;
- 5) public housing owned or operated by a local housing authority under chapter one hundred and twenty-one B 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 became governmentally-involved on or after January first, nineteen hundred and seventy-five; and
- 7) housing units that the city of Cambridge or its designee may exempt from the first paragraph of subsection 2(A) for just cause; ~~provided, however,~~ that in no event shall more than twenty percent of the total rental units in the city of Cambridge which are or could be governed under this act be exempted under this section clause.

~~"Formerly governmentally-involved housing" is defined as shall mean housing which was governmentally-involved as of 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.~~

~~"Low-income" is defined as shall mean an annual income which is eighty percent or less of the median income for the Boston Metropolitan Statistical Area as determined by the United States Department of Housing and Urban Development, with adjustments for smaller and larger families.~~

~~Said city The city of Cambridge may by ordinance establish as the maximum rent for governmentally-involved and formerly governmentally-involved housing accommodations the rent in effect therefor on July first, nineteen hundred and ninety-four or six months before the basis for federal or MHFA 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, but without consideration of any refinancing or change in the carrying charges resulting therefrom, provided, however, said ordinance shall authorize the City or its designee to make individual adjustments in such maximum rents as may be necessary to remove hardships or correct other inequities, provided further, however, in the event of any reduction in or forgiveness of mortgage debt for governmentally-involved housing or formerly governmentally-involved housing, the rent shall be reduced to reflect the corresponding reduction in operating expenses and/or debt service. In making individual adjustments to remove hardships or to correct other inequities, the City or its designee shall observe the principle of maintaining maximum rents for such housing accommodations at levels which will yield to owners a fair net operating income from such housing accommodations. In determining whether the maximum rent for such housing accommodations yields a fair net operating income, due consideration shall be given to, among other relevant factors: (1) increases in property taxes; (2) unavoidable increases in operating and maintenance expenses; (3) major capital improvement of the housing accommodations, 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 accommodations, other than ordinary wear and tear, or failure to perform ordinary repair, replacement, or maintenance; and (6) any reduction in, or forgiveness of, mortgage debt, but without consideration of any refinancing or change in the carrying charges resulting therefrom.~~

(B) Such ordinance may provide 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 preempted by federal law or section six of chapter seven hundred and eight of the acts of nineteen hundred and sixty-six, 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 ninety-three A 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 ninety-three A of the General Laws.

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

(C) Such ordinance may also provide that no person shall remove any governmentally-involved or formerly governmentally-involved housing accommodation from low-income rental housing use ~~(including but not limited to sale, lease or other disposition of the property which may have such an effect), or convert such housing to a condominium or cooperative,~~ without first obtaining a permit permission for that purpose from the city city of Cambridge or its designee, to the extent that such provision is not preempted by federal law or section six of chapter seven hundred and eight of the acts of nineteen hundred and sixty-six. Such permit 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 city of Cambridge, the Cambridge 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.

(D) To the extent not preempted by federal law or section six of chapter seven hundred and eight of the acts of nineteen hundred and sixty-six, the city city of Cambridge or its designee may 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.

(E) To the extent not preempted by federal law or section six of chapter seven hundred and eight of the acts of nineteen hundred and sixty-six, and, so long as such regulation is consistent with the owner's right to obtain a fair net operating income and the city's housing policy, the city city of Cambridge or its designee may establish local preferences, priorities, and income limits for admission to governmentally-involved housing or formerly governmentally-involved housing upon unit turnover. No 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.

(F) The city city of Cambridge or its designee 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 city of Cambridge, 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.

(G) 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 ordinance shall be conducted by the City of Cambridge or its designee in accordance with the provisions of section eleven of chapter thirty A of the General Laws except that the requirements of paragraphs (7) and (8) of such said section eleven shall not apply to such hearings.

(H) All decisions of the City of Cambridge or its designee may be appealed to the Cambridge District Court or to the Middlesex Superior Court by any person aggrieved thereby, whether or not previously a party in the matter, within thirty calendar days after notice of such decision. The district and superior courts shall have jurisdiction to enforce the provisions hereof and any ordinance, rule or regulation adopted hereunder and on application of the City of Cambridge or its designee or any aggrieved person may restrain or enjoin violations of any such ordinance, 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 3. It shall be unlawful for any person to do or omit to do any action in violation of this act or any order, ordinance, rule or regulation adopted or promulgated hereunder. Whoever willfully violates any provision of this act or any order, ordinance, rule or regulation adopted or promulgated hereunder or whoever makes a false statement in any testimony before the City of Cambridge or its designee, or whoever knowingly supplies the City of Cambridge or its designee with false information, in connection with a proceeding under this Act, shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than ninety 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 two thousand dollars, or imprisonment for not more than one year, or both.

SECTION 4. 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.

SECTION 5. This act shall take effect upon its passage.

All changes from the 4/11/96 draft approved by city council on 4/22/96 are indicated except for the spelling out in words of most of the numerics (e.g. dates, acts, M.G.L. chapters).

Former title (assigned by city clerk's office after passage by city council): "An Act to Continue Affordability in Governmentally Involved Housing in the City of Cambridge"

hra13.red

November 14, 1996

CITY OF CAMBRIDGE  
IN CITY COUNCIL

ORDERED: That a petition to the General Court, accompanied by a bill for a special law relating to the City of Cambridge to be filed with an attested copy of this order be, and hereby is, approved under Clause (1) of Section eight of Article two, as amended, of the Amendments to the Constitution of the Commonwealth of Massachusetts, to the end that legislation be adopted precisely as follows, except for clerical or editorial changes of form only:

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(A) Notwithstanding the provisions of any general or special law to the contrary, including, without limitation, the provisions of chapter two hundred and eighty-two of the acts of nineteen hundred and ninety-four, for so long as the city council of Cambridge shall determine that the circumstances described in section one hereof continue to exist, the city of Cambridge may by ordinance 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 six of chapter seven hundred and eight of the acts of nineteen hundred and sixty-six, as amended, once the basis for federal or Massachusetts Housing Finance Agency rent preemption no longer exists.

For the purposes of this act, "governmentally-involved housing" ~~is defined as~~ shall mean 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:

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- 5) public housing owned or operated by a local housing authority under chapter one hundred and twenty-one B 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 became governmentally-involved on or after January first, nineteen hundred and seventy-five; and
- 7) housing units that the city of Cambridge or its designee may exempt from the first paragraph of subsection 2(A) for just cause; provided, however, that in no event shall more than twenty percent of the total rental units in the city of Cambridge which are or could be governed under this act be exempted under this section clause.

~~"Formerly governmentally-involved housing" is defined as shall mean housing which was governmentally-involved as of 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.~~

~~"Low-income" is defined as shall mean an annual income which is eighty percent or less of the median income for the Boston Metropolitan Statistical Area as determined by the United States Department of Housing and Urban Development, with adjustments for smaller and larger families.~~

~~Said city The city of Cambridge may by ordinance establish as the maximum rent for governmentally-involved and formerly governmentally-involved housing accommodations the rent in effect therefor on July first, nineteen hundred and ninety-four or six months before the basis for federal or MHFA 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., but without consideration of any refinancing or change in the carrying charges resulting therefrom, provided, however, said ordinance shall authorize the City or its designee to make individual adjustments in such maximum rents as may be necessary to remove hardships or correct other inequities, provided further, however, in the event of any reduction in or forgiveness of mortgage debt for governmentally-involved housing or formerly governmentally-involved housing, the rent shall be reduced to reflect the corresponding reduction in operating expenses and/or debt service. In making individual adjustments to remove hardships or to correct other inequities, the City or its designee shall observe the principle of maintaining maximum rents for such housing accommodations at levels which will yield to owners a fair net operating income from such housing accommodations. In determining whether the maximum rent for such housing accommodations yields a fair net operating income, due consideration shall be given to, among other relevant factors: (1) increases in property taxes; (2) unavoidable increases in operating and maintenance expenses; (3) major capital improvement of the housing accommodations, 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 accommodations, other than ordinary wear and tear, or failure to perform ordinary repair, replacement, or maintenance; and (6) any reduction in, or forgiveness of, mortgage debt, but without consideration of any refinancing or change in the carrying charges resulting therefrom.~~

(B) Such ordinance may provide 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 preempted by federal law or section six of chapter seven hundred and eight of the acts of nineteen hundred and sixty-six, 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 ninety-three A 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 ninety-three A of the General Laws.

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

(C) Such ordinance may also provide that no person shall remove any governmentally-involved or formerly governmentally-involved housing accommodation from low-income rental housing use ~~(including but not limited to sale, lease or other disposition of the property which may have such an effect), or convert such housing to a condominium or cooperative,~~ without first obtaining a permit permission for that purpose from the City city of Cambridge or its designee, to the extent that such provision is not preempted by federal law or section six of chapter seven hundred and eight of the acts of nineteen hundred and sixty-six. Such permit 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 city of Cambridge, the Cambridge 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.

(D) To the extent not preempted by federal law or section six of chapter seven hundred and eight of the acts of nineteen hundred and sixty-six, the City city of Cambridge or its designee may 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.

(E) To the extent not preempted by federal law or section six of chapter seven hundred and eight of the acts of nineteen hundred and sixty-six, and, so long as such regulation is consistent with the owner's right to obtain a fair net operating income and the city's housing policy, the City city of Cambridge or its designee may establish local preferences, priorities, and income limits for admission to governmentally-involved housing or formerly governmentally-involved housing upon unit turnover. No 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.

(F) The City city of Cambridge or its designee 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 city of Cambridge, 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.

(G) 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 ordinance shall be conducted by the city of Cambridge or its designee in accordance with the provisions of section eleven of chapter thirty A of the General Laws except that the requirements of paragraphs (7) and (8) of such said section eleven shall not apply to such hearings.

(H) All decisions of the city of Cambridge or its designee may be appealed to the Cambridge District Court or to the Middlesex Superior Court by any person aggrieved thereby, whether or not previously a party in the matter, within thirty calendar days after notice of such decision. The district and superior courts shall have jurisdiction to enforce the provisions hereof and any ordinance, rule or regulation adopted hereunder and on application of the city of Cambridge or its designee or any aggrieved person may restrain or enjoin violations of any such ordinance, 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 3. It shall be unlawful for any person to do or omit to do any action in violation of this act or any order, ordinance, rule or regulation adopted or promulgated hereunder. Whoever willfully violates any provision of this act or any order, ordinance, rule or regulation adopted or promulgated hereunder or whoever makes a false statement in any testimony before the city of Cambridge or its designee, or whoever knowingly supplies the city of Cambridge or its designee with false information, in connection with a proceeding under this Act, shall be punished by a fine of not more than five hundred dollars or by imprisonment for not more than ninety 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 two thousand dollars, or imprisonment for not more than one year, or both.

SECTION 4. 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.

SECTION 5. This act shall take effect upon its passage.

All changes from the 4/11/96 draft approved by city council on 4/22/96 are indicated except for the spelling out in words of most of the numerics (e.g. dates, acts, M.G.L. chapters).

Former title (assigned by city clerk's office after passage by city council): "An Act to Continue Affordability in Governmentally Involved Housing in the City of Cambridge"

hra13.red

November 14, 1996

CITY OF CAMBRIDGE  
IN CITY COUNCIL

ORDERED: That a petition to the General Court, accompanied by a bill for a special law relating to the City of Cambridge to be filed with an attested copy of this order be, and hereby is, approved under Clause (1) of Section eight of Article two, as amended, of the Amendments to the Constitution of the Commonwealth of Massachusetts, to the end that legislation be adopted precisely as follows, except for clerical or editorial changes of form only:

AN ACT RELATIVE TO GOVERNMENTALLY-INVOLVED HOUSING  
IN THE CITY OF CAMBRIDGE

SECTION 1. Whereas, a serious public emergency exists with respect to the housing of citizens of Cambridge 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 within the city for low-income families and individuals, and whereas, in adopting Chapter forty O of the General Laws, the voters expressly exempted such housing, and whereas it is the city'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 with due regard for the rights and responsibilities of the city; therefore, this act is declared to be in the public interest.

SECTION 2.

(A) Notwithstanding the provisions of any general or special law to the contrary, including, without limitation, the provisions of chapter two hundred and eighty-two of the acts of nineteen hundred and ninety-four, for so long as the city council of Cambridge shall determine that the circumstances described in section one hereof continue to exist, the city of Cambridge may by ordinance 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 six of chapter seven hundred and eight of the acts of nineteen hundred and sixty-six, as amended, once the basis for federal or Massachusetts Housing Finance Agency rent preemption no longer exists.

For the purposes of this act, "governmentally-involved housing" shall mean 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 City of Cambridge 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 subsection 2(B) hereof, only;
- 4) structures containing housing accommodation units which were subject to chapter thirty-six of the acts of nineteen hundred and seventy-six, but which would not otherwise come within the definition of governmentally-involved housing;
- 5) public housing owned or operated by a local housing authority under chapter one hundred and twenty-one B 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 became governmentally-involved on or after January first, nineteen hundred and seventy-five; and
- 7) housing units that the city of Cambridge or its designee may exempt from the first paragraph of subsection 2(A) for just cause; provided, however, that in no event shall more than twenty percent of the total rental units in the city of Cambridge which are or could be governed under this act be exempted under this clause.

"Formerly governmentally-involved housing" shall mean

housing which was governmentally-involved as of 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.

"Low-income" shall mean an annual income which is eighty percent or less of the median income for the Boston Metropolitan Statistical Area as determined by the United States Department of Housing and Urban Development, with adjustments for smaller and larger families.

The city of Cambridge may by ordinance establish as the maximum rent for governmentally-involved and formerly governmentally-involved housing accommodations the rent in effect therefor on July first, nineteen hundred and ninety-four 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.

(B) Such ordinance may provide 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 preempted by federal law or section six of chapter seven hundred and eight of the acts of nineteen hundred and sixty-six, 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 ninety-three A 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 ninety-three A of the General Laws.

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

(C) Such ordinance may also provide 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 city of Cambridge or its designee, to the extent that such provision is not preempted by federal law or section six of chapter seven hundred and eight of the acts of nineteen hundred and sixty-six. 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 city of Cambridge, the Cambridge 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.

(D) To the extent not preempted by federal law or section six of chapter seven hundred and eight of the acts of nineteen hundred and sixty-six, the city of Cambridge or its designee may

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.

(E) To the extent not preempted by federal law or section six of chapter seven hundred and eight of the acts of nineteen hundred and sixty-six, and, so long as such regulation is consistent with the owner's right to obtain a fair net operating income and the city's housing policy, the city of Cambridge or its designee may establish local preferences, priorities, and income limits for admission to governmentally-involved housing or formerly governmentally-involved housing upon unit turnover. No 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.

(F) The city of Cambridge or its designee 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 city of Cambridge, 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.

(G) 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 ordinance shall be conducted by the city of Cambridge or its designee in accordance with the provisions of section eleven of chapter thirty A of the General Laws except that the requirements of paragraphs (7) and (8) of said section eleven shall not apply to such hearings.

(H) All decisions of the city of Cambridge or its designee may be appealed to the Cambridge District Court or to the Middlesex Superior Court by any person aggrieved thereby, whether or not previously a party in the matter, within thirty calendar days after notice of such decision. The district and superior courts shall have jurisdiction to enforce the provisions hereof and any ordinance, rule or regulation adopted hereunder and on application of the city of Cambridge or its designee or any aggrieved person may restrain or enjoin violations of any such ordinance, 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 3. It shall be unlawful for any person to do or omit to do any action in violation of this act or any order, ordinance, rule or regulation adopted or promulgated hereunder. Whoever willfully violates any provision of this act or any order, ordinance, rule or regulation adopted or promulgated hereunder or whoever makes a false statement in any testimony before the city of Cambridge or its designee, or whoever knowingly supplies the city of Cambridge or its designee with false information, in connection with a proceeding under this act, shall be punished by a fine of not more than four hundred dollars or by imprisonment for not more than ninety 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 two thousand dollars, or imprisonment for not more than one year, or both.

SECTION 4. 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.

SECTION 5. This act shall take effect upon its passage.



# CAMBRIDGE CITY COUNCIL

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 349-4280

FAX (617) 349-4287

Timothy J. Toomey, Jr.  
City Councillor

November 15, 1996

The Honorable, The City Council:

Enclosed please find the "Expiring Use" Home Rule Petition, as amended.

This matter will be before the City Council on Monday evening, November 18<sup>th</sup>. If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy J. Toomey, Jr.", is written over the typed name.

Timothy J. Toomey, Jr.

Cal 11

Home Rule petition entitled "An Act To Continue  
Affordability in Governmentally Involved Housing  
In The City of Cambridge."

S-549

In City Council November 18, 1996

Order Adopted

8-1-0