

348 Franklin Street
Cambridge, MA 02139
March 24, 1993

TO THE HONORABLE, THE CAMBRIDGE CITY COUNCIL:

At the March 22, 1993, Rent Control Subcommittee meeting, I stated that Councillor Sheila Russel was raising valid questions with regard to problems in the rent control/removal ordinance with regard to difficulties arising at the death of the owner. I reaffirm that.

I do not have a copy, yet, of Councillor Russel's specific proposals, and I am sorry the daytime scheduling of the next Rent Control Subcommittee meeting keeps me from hearing her presentation. Nevertheless, there is a real problem created at the time of death which the city council may wish to correct.

The rent control ordinance does not address the situation of an owner occupied two or three family house in which a single person owning the property dies. Strict enforcement of the provisions of the ordinance result in absurd treatment which hit the survivors at a most difficult time in their lives.

A two or three family owner occupied structure is exempt. The minute a single person owning and occupying the property dies that property is no longer owner occupied. Whoever the owner is must move into the property to return it to exemption from rent control. The rent board can be quite understanding about people in transition moving in and out, however, it is not unheard of for an estate to be litigated. Litigation can result in the property being tied up for extended periods. During this period the executor of the estate is in a rather severe bind as to how to handle the apartment formerly occupied by the owner.

The removal ordinance is sufficiently flexible to respond to the situation. It allows property to be vacant for more than one hundred twenty days FOR GOOD CAUSE. There is no comparable provision in the rent control ordinance. Thus the property must be registered AT NO CHANGE IN RENT for a period which is unlikely to extend far beyond the period of litigation over the will.

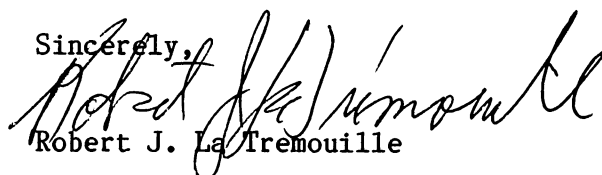
Buildings larger than two's and three's should be no real problem at time of death. Such buildings can be occupied by family up to 50% as long as they are not in condominium form. Any moving in should be deferred if a matter is in litigation, but that is a problem from the litigation, not from rent control. Since these buildings are under rent control, there is no question as to rent control status.

As a general rule, there are rather severe problems with allowing exemptions to the removal ordinance based solely on transfers at death. If such a rule is in effect, the city council is encouraging use of skillful estate planning as a technique in condo conversion.

Except for the problems specifically related to probate disputes, it seems inappropriate to create exceptions since such exemptions would do little other than ask for trouble. The situation with regard to probate disputes is extremely narrow, but the city council might consider it worthwhile to draft a specific, hopefully simple, exemption. Because of the narrowness of such a proposal, it would make good sense to include it in a package to the legislature with other rent control / condo conversion matters such as my proposal to give protection against condominium eviction to Cambridge tenants in buildings built after the period covered by rent control.

I hope these ideas are of help. I am quite confident that the average tenant would be extremely comfortable with this position.

Sincerely,


Robert J. La Tremouille

1993 MAR 25 PM 12:52

Consent Comm. # 7

S-163

Comm. from Robert J. LaTremouille,
348 Franklin Street, regarding
problems in the Rent Control/Removal
ordinance arising from the death of
the owner.

In City Council,

March 29, 1993

*Referred to the
Rent Control
Committee
Copy sent to Rent Control
4/5/93 (cc)*