



CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139

TEL. 498-9011

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
DEPUTY CITY MANAGER

November 4, 1985

Mr. Francis Budryk
69 Spring Street
Cambridge, MA 02141

Dear Mr. Budryk:

Subject: Hearing Examiner Report

Enclosed please find a copy of the clarification memorandum from the hearing examiner involved with your petition.

Based on my reading of this memorandum, I conclude that the hearing officer had no malicious or deliberate attempt to harm you as a person or as a candidate for public office.

However, if you continue to feel aggrieved, let me offer my public apology for any such feelings that you might still have.

Very truly yours,

Robert W. Healy
City Manager

RWH/b



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678 MASSACHUSETTS AVENUE

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RENT CONTROL BOARD

ROGER MERVIS, EXECUTIVE DIRECTOR

M E M O R A N D U M

TO: Robert W. Healy, City Manager

FROM: Patrick DeTemple, Assistant Counsel *P.D.*

RE: EVO-85057, 662 Cambridge Street, #2

DATE: November 4, 1985

Pursuant to your request, I am writing to clarify certain matters regarding the above-captioned case.

This case involved an owner petitioning the Board to issue a certificate of eviction against a tenant on grounds of owner-occupancy. Pursuant to my recommendation, the Board issued a certificate of eviction against the tenant.

Under the Rent Control Act and regulations, owners have a right to evict tenants on grounds of owner-occupancy if they meet two tests. First, they must be found to be bringing the action in good faith (e.g. no retaliatory or other illegal motive). Moreover, they must be found to have a good faith intent to occupy the unit as their principle place of residence for the foreseeable future. In both instances, the burden is on the party seeking the eviction to establish the good faith. They must do so in a formal fact-finding procedure before a hearing officer of the Cambridge Rent Control Board, who is charged with making findings regarding the credibility of the parties and the facts upon which to base a recommendation.

I am an attorney with the Rent Control Board. Part of my job involves hearing owner-occupancy cases and determining whether the petitioner has met the legal burden of providing both types of good faith. Investigation of all facts relevant to those issues and findings, including findings regarding credibility, are the bases upon which recommendations are made.

I believe that it would be inappropriate for me to discuss the specifics of this matter or my analysis of the evidence. However, I wish to emphasize that no political motive whatsoever should be attributed to my recommendation in this matter. Prior to the hearing in this case, I had never heard of either landlord or tenant. While drafting my report, I became aware through the press, that the petitioner would be running for a City Council seat. If I had been aware of this fact at the time of hearing, I would have pursued a line of questioning in this area until I was satisfied that the eviction was not being sought to satisfy residency requirements and that the owner had a good faith intent to occupy the unit indefinitely. Not to have done so

would have been a violation of my professional and ethical responsibilities as a hearing officer and as an attorney. I ultimately concluded that the issuance of a Certificate of Eviction was warranted and the Board so affirmed.

I believe that my conduct of the hearing and report to the Board were entirely proper. A party's opinions about rent control have never played a role in any of the hundreds of cases I have been involved in, nor will it ever be a factor in the future.

Last week, in regard to one of my cases, the Cambridge Chronicle quoted a tenant as saying that the Rent Control Board was a "pro-landlord agency." A few months ago I recommended eviction for a tenant who is now also running for City Council. We do not ask to be spared the politically sensitive cases because this is part of the job. We also understand that a fair amount of abuse from all sides is to be expected. It is critical, however, that we be allowed to objectively perform our duties without regard for the vicissitudes of individual political circumstances.

I sincerely hope that by submitting this memo I am not encouraging further political review of quasi-judicial functions. We have been fortunate in not having been subjected to political pressure in our decision-making procedures in the past. A change in that practice would present City employees who are members of the bar with increasingly difficult ethical problems.



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Re: transmitting for informational purposes
a copy of the clarification memorandum from
the hearing examiner involved in the petition
of Mr. Francis Budryk.

In City Council,

November 4, 1985

Placed on File
Copy to Mr. Budryk