



CAMBRIDGE CITY COUNCIL

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 498-9094

Kevin P. Crane
City Councillor

A MINORITY REPORT

Filed in dissent from the Report of the Committee on Rent Control dated
April 11, 1980.

April 28, 1980

Introduction

During February and March of this year, the Rent Control Committee of the Cambridge City Council held three public hearings to learn from the public what its experience was with the Rent Control program in our city. We were joined by a majority of the Rent Control Board and their Executive Director who participated in the hearings. One month after the hearings, the Committee issued its report under the signature of the Chairman, Councillor David E. Sullivan. After reviewing his report and recommendations, I find myself unable to concur with the tenor or specifics of that document.

Because we are in fundamental disagreement, and because the subject at hand is of central importance in Cambridge, I have elected to issue this minority statement. By doing so, I hope that fair-minded people, not just people who have long been aggrieved by the peculiarities of Cambridge Rent Control, will be given reason to feel that although my beliefs do not now prevail they shall still be maintained in the hope of someday finding a place in the system and tempering it with fairness. I do not believe that the system we now have approximates fairness; I fear that if the recommendations of my colleagues become operative, then we can only be moving even further away from such a state of affairs.

General Comments

Let's imagine that you are a small property owner who owns a six family dwelling in which you live. Your building is subject to rent control.

Your expenses are skyrocketing out of sight: fuel costs escalate at the whim of O.P.E.C. nations and American Oil companies which are now deregulated; insurance costs go up every year; the city recently imposes a sewer tax and then increases its water charges; maintenance costs and supplies are constantly pushing upward; the cost of borrowing money to improve your building nearly doubles in a single year. Everywhere you turn, prices are on the march. Yet you cannot do the one thing that everyone is doing to you; increase your prices, i.e., your rent.

Your property, which is also your home, is growing increasingly in need or repair. Your savings are depleted and you don't know if you can afford a home improvement loan at today's money rates. Even if you took out the loan, past experience and the experiences of other property owners indicate that you will never recapture your investment through either the individual or the general adjustment process.

Finding yourself in this predicament, you may now ask what will the Report of the Rent Control Committee do to assist you. Let's look briefly at several possible answers.

You will begin by dealing with a Rent Control Office whose sole "mission" as per the Report, is the protection of lessees.

You will be unable to make improvements to common areas of your home unless the lessees agree so in advance.

You will not be able to pass through the cost of inflation even though everyone is doing precisely that to you.

You will not be able to ask your lessees to share increased fuel costs.

In fact you will have to absorb those costs unless you go out and make your building energy efficient, however that term is defined. You are left

to your own devices as to how you would ever afford such an expense at today's prices.

If you do forge ahead and retrofit your building and are aggrieved by the way the Rent Control Board deals with you, assuming that you get a hearing and a decision some time prior to having to file bankruptcy, then the Report has yet another surprise in store for you: the Eastern Middlesex Housing Court. You see, even though the supporters of Rent Control have, literally, made up the rules of the game, occasionally these rules require interpretation or one party is so dismayed that he wishes to present his case in another forum. Under their rules, the forum has always been the Third District Court of Eastern Middlesex in Cambridge. My colleagues have decided that this Court has not been sufficiently "sympathetic" to lessees. Their response, unsurprisingly, is to create a "Court" of their own, the Eastern Middlesex Housing Court, staffed of course by a judge who is "sympathetic" to lessees. If not, another court will probably be proposed. I never thought that a qualification for the bench was a predisposition toward one side of a legal issue. One can only wonder where the concepts of impartiality and justice might operate in this environment.

This scenario points up the problems that many of us have with Rent Control. Most of us recognize that in a city like Cambridge, it is necessary to have some type of program that protects long-term, and/or elderly residents and those in our society who are most vulnerable from unreasonable rent increases. We feel that if such a program were run fairly, it could operate to the benefit of those most in need without imposing insurmountable burdens on any particular individuals within our community.

Yet somehow this has never been enough for the supporters of Rent Control. It seems that they will not be satisfied until the deck is so severely stacked against the property owner that the City will lose what good and responsible property owners it still has left.

Recommendations of the Committee

Many of the recommendations leave no room for disagreement and will not be discussed. Yet I should point out that we have heard it all before and if after ten years some of use are skeptical when the supporters of Rent Control issue the clarion call to "eliminate the backing of impending cases", then I trust our doubts will be viewed as reasonable.

In reviewing the recommendations of the committee which require comment, I shall use the same numbering system as they have for purposes of reference. After this section I shall issue three recommendations for the Minority.

Comments on Committee's Recommendations

A. For the Rent Control Board

(5.) It is essential that fuel costs be an allowable expense in both individual and general adjustments. Penalizing landlords who have been caught with energy inefficient buildings since the O.P.E.C. nations began to drive up prices makes no sense.

(11.) The Rent Control Board does not need to develop a solitary 'mission' to protect lessees. Furthermore, it can not handle the cases brought before it, so it certainly does not have to go out and "affirmatively" create new cases by bringing in property owners for disciplinary action.

(13.) If lessees have veto power over common area improvements, then these improvements will never be made and the housing stock will continue to decay.

If mistakes are made in adjustments by the Rent Control Board, then the property owner should be compensated, even if it requires retroactive billing. Why should he be asked to suffer twice because of the mistakes of others? Why should lessees be allowed to profit by the same mistakes?

C. For the City Council

(2.) (See comments on A.5)

(3.) The Rent Control Office does not need an Ombudsman. This is hardly the time to be creating new positions when all that is needed is a climate that lets the existing staff perform its tasks without constantly being deluged with more regulations from the Rent Control majority of the City Council

(4.) Neither the State, the Country nor the City of Cambridge has the funds or the need for the creation of another judicial body, the Eastern Middlesex Housing Court. I would argue that this is a self-serving idea that flies in the face of the one hope for justice that parties in dispute now have, the Third District Court of Eastern Middlesex. I might also point out to my colleagues that there are other measures available to them if they actually know of any wrongdoing on the part of any of the justices who preside in this Court. I suspect that they know of none and that in fact there are none.

Recommendations of the Minority

- (1). Improve the efficiency of the Rent Control Board by allowing the staff to operate without excessive interference from the City Council in the form of constant requests for new regulations. The "Rental Removal Ordinance", (twice amended already) is only the latest example of my colleagues adding yet another level of workload and regulation to an already overworked staff.

- (2). Exempt all owner occupied four, five and six family dwellings from rent control.

Owner occupied two and three family dwellings are exempt from the law. All of the logic of this exemption applies equally to owner occupied four, five and six family houses. It is instructive in this regard to ask yourself whether or not an owner occupied four family house is more like an owner occupied three family house or an eighty unit rent controlled apartment building. I think reasonable people can see where the similarity lies.

This recommendation would give real relief to the small owner-occupant landlord who we all claim to want to help. It would also free up time of the Rent Control Board to work on matters that more properly should come before it and remove any need for the proposed Ombudsman.

- (3). Create a positive incentive for landlords who insulate their dwellings which in no way jeopardizes their legitimate claim to fuel adjustments until such time as the retrofitting is complete. This approach would help property owners by letting them improve their buildings and in the long run will help lessees by giving them a hedge against fuel cost increases without having that hedge come straight out of the hide of the property owner.

Concluding Remarks

It has been said that there is room in this life for words other than last words. I would never presume to be the one who utters the last word on Rent Control in Cambridge. My main objective in this paper has been to offer a sensible commentary and a sensible alternative to my colleague's most recent words on this subject.

My hope in writing this statement is more ambitious. No program is sacrosanct and beyond review. After ten years of Rent Control in Cambridge, it seems to be an appropriate time for all of us to step back and take a broader view on the subject. I do not believe that our program is working. I do believe that many of the classic economic arguments apply here in Cambridge whether we like it or not. When a product is regulated it tends to become scarce and we in fact are now seeing a reduction in the number of rental housing units in our City. When the normal flow of cash is shut off and improvements are not economically feasible, then the condition of the housing stock begins to decay. We are entering a period of scarcity in terms of federal funds flowing into our City. One can only imagine the condition of our housing stock minus the huge influx of federal dollars over the past decade. And what will happen over the next decade if the spigot of adequate rent remains turned off simultaneous with the shutting down of the federal spigot? One thoughtful, knowledgeable and long time proponent of Rent Control has come to worry about the future condition and availability of our housing stock. In this light he has wondered whether in establishing Rent Control we "may have set in motion a device the outcome of which is the creation of a vast slum."

I share his concerns and I question the response of the City Council to these developments. We propose regulations to stop condominium development

of any sort, even if apartments are vacant and the "elderly scare" can not be used.

We propose regulations to keep property owners from passing on increased costs of fuel. Are we so busy applying bandaids helter-skelter that we are unable to see that the organism is in need of surgery?

The seventies are now behind and the eighties are upon us. I respectfully suggest to my colleagues that it is time all of us take a hard look at some very hard questions that will not go away until we deal with them totally, systematically and honestly, and not based on the decibel level or the political numbers game.

For the Minority,

A handwritten signature in cursive script that reads "Kevin P. Crane".

Kevin P. Crane
City Councillor

KPC/smc



CAMBRIDGE CITY COUNCIL

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 498-9094

Kevin P. Crane
City Councillor

May 2, 1980

The Honorable, the City Council:

Attached please find a copy of my Minority Report filed in dissent from the Report of the Committee on Rent Control dated April 11, 1980.

Very truly yours,

A handwritten signature in cursive script, reading "Kevin P. Crane", followed by a horizontal line.

Kevin P. Crane
City Councillor

KPC/smc

Attachment

S-222

Comm. from Councillor Kevin Crane transmitting
a Minority Report re: rent control.

In City Council,

May 5, 1980

5/5/1980

Referred to Rent
Control Committee
for

- Public Hearing -
with

The Minority Report