

CCA

CAMBRIDGE CIVIC ASSOCIATION

649 Massachusetts Avenue, Cambridge, MA 02139

(617) 876-9176

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Friday, November 18, 1994

CAMBRIDGE CITY COUNCIL
c/o City Clerk
City Hall
Cambridge, MA 02139

Re: **Question Nine Home Rule Petition**

Honorable Mayor and Councillors:

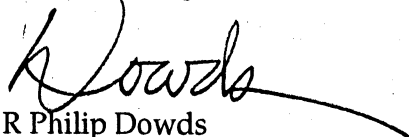
At its regular meeting of 18 Nov 94, the Cambridge Civic Association Board of Directors reaffirmed its support for rent control as an essential protection for households and neighborhoods in Cambridge. We also reaffirmed our view that Question Nine, if implemented literally, will have an enormously destructive destabilizing impact on our Cambridge community.

We also reiterate our position that rent control, as currently administered, is encumbered by a variety of unwanted side effects and shortcomings which could be ameliorated by well-crafted reforms. We transmit to you herewith recommendations for rent control program reforms recommended by our Rent Control Review Task Force, and endorsed and adopted by our Board at its regular meeting of 22 Sep 94.

We empathize with the enormous technical and political difficulties you now face as you attempt to finalize a home rule petition mitigating the damage of Question Nine. We note that the reforms we recommend share much in common with the City Manager's "Option 2, Substantial Modifications" as presented to you on 10 Sep 94. Accordingly, we hope that this Option 2 could be the baseline of departure for your home rule petition negotiations.

Please feel free to contact the CCA if you have questions or requests in this matter.

Sincerely,
The Cambridge Civic Association


R Philip Dowds
President / For the Board of Directors

cc: Mr Robert Healy, City Manager
enclosures: CCA Rent Control Review Task Force transmittal letter of 22 Sep 94 and Interim Report of Sep 94.

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To The 94/95 Board:

With the authorization of the 93/94 CCA Board of Directors, we convened as the **CCA Rent Control Review Task Force** in March of 1994. This is our **Interim Report** to the current Board. We hope that this Report will elicit an endorsement in principle of our work to date, and of continued effort in the directions we've pursued thus far.

Cambridge rent control is now a generation old. Those born at its inception in 1969 are now voting and apartment-hunting. As its departure point, our Task Force agrees that rent control — like many of the properties it governs — is showing its age, but ...

So long as rent control enjoys solid political support in Cambridge, rent control is worth fixing.

- Rent control has proven its value as an important tool in stabilizing neighborhoods and in maintaining diversity among our population. It is a housing program protecting many tenants from dislocation in a residential market like that of Cambridge.
- In many respects, rent control is working. The program has successfully constrained both rents and property values in a market which might otherwise be characterized by exceptional housing cost, and has done so while allowing many building owners and landlords to recover costs, manage investments, and maintain their properties. Even so ...
- Common sense requires that any valuable program be reviewed from time to time and *maintained* (just as buildings themselves must be maintained over time) in light of experience and changed circumstances. Rent control, after 25 years, is not an untouchable "sacred cow" — it can and should be re-formed from time to time to ensure Cambridge enjoys maximum benefit at minimum cost — both financial and political.
- Maintaining rent control (in the full sense of the word "maintain") will not merely help preserve the program and the housing stock, but can also liberate significant energy and goodwill now tied up in attacking and defending the sacred cow. Solving some rent control problems, and setting them behind us, will enable the public, the CCA and the City Council better to focus constructively on other, equally important public issues.

The members of our Committee bring to our mission varied expertise in law, housing, real estate, and construction. While we still hold divergent opinion about aspects of rent control, we join in agreement that the compromises we now propose will benefit both the program and the City. Each of us speaks in an individual capacity, not as a representative of any organization.

We have so far chosen to concentrate on two key rent control problems which we see as particularly critical. We've met almost every two weeks throughout the spring and summer of 1994; collected and read pertinent materials; and have conducted interviews and discussed issues and options with sources as varied as Just-A-Start, the Small Property Owners' Association (SPOA), Harvard, the Cambridge Tenants Union (CTU) and knowledgeable people as far away as Berkeley, CA .

The pages attached summarize where we are at the present time; while we defined some directions we believe in, there's more work to do before we reach a destination. We are well aware that a host of legal, financial and administrative details — how to define and qualify "low income" households, better alternatives for raising local revenues, better-defined priorities for the renovations we hope to encourage — all this and more will need future attention. We're also well aware of Question 9, and hope our efforts will benefit the City whatever the outcome of this referendum.

Struggling with the details of rent control reform, our dialogue and report are necessarily phrased in the language of property law, construction technology, real estate and finance. But neither we nor Cambridge can lose sight of the emotional and political reality of rent control: a program which deals with people's homes. This is a major distinction between rent control and our other local controversies (licensing, trucks, municipal spending, etc) — and "getting it right" is immediately essential to the futures and well-being of thousands of elderly, fixed-income, and low-to-middle income households throughout the City.

Please feel free to contact any of us if you have questions or suggestions regarding our efforts.

R Philip Dowds

Chairman

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Fred Cohn

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Jean LeVaux

Hans Loeser

John Moos

Anne Strong

Councilor Kathy Born, Chair of the Rent Control Subcommittee, attended most of our meetings as an observer and advisor.

Interim Report

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**INTERIM REPORT OF
THE RENT CONTROL
REVIEW TASK FORCE**

During its half-year of operation, the CCA-sponsored Rent Control Review Task Force has concentrated on two issues critical to the future of the program: (A) Increasing incentives for repair and renovation of, and more re-investment in, the rent controlled housing stock; and (B) resolving the ordinated condominium controversy. The following describes our current thinking and some preliminary conclusions.

PART A.**INCREASING INCENTIVES FOR REPAIR
AND RENOVATION OF, AND MORE RE-IN-
VESTMENT IN, THE RENT CONTROLLED
HOUSING STOCK, WHILE PROTECTING
THE INTERESTS OF LOW-INCOME HOUSE-
HOLDS**

We conclude that there are changes, major and minor, legal and administrative, that could help to: prevent and (as necessary) reverse the gradual deterioration of much of our rent controlled housing stock; increase confidence in the benefits of rent control for households and the community at large; and be perceived as improving the all around fairness of rent control. However, such steps alone will work only for our moderate and middle income housing which, of course, is the majority of both the controlled and uncontrolled apartment stock in our City.

For the *low income* apartment stock — a minority of the total but an important sector worth preserving — rent control presents special problems. Neither tightening, nor improving, nor even abandoning rent control will forestall further deterioration of a large part of this housing. Yet any investigation such as ours into how best to prevent and reverse deterioration in our City's rental housing cannot ignore this segment. Therefore we will deal with this subject first, though it is the most intractable and least amenable to improvements by changes in rent regulations alone. We will then

address the major part of our City's rental housing, where solutions are more within our power, provided we can overcome inertia and political obstacles.

A1. *Rent control or no rent control, adequate housing for those at the low end of the income scale cannot be provided without substantial public subsidies.*

Each apartment market has a bottom end: a place where the lowest rents, the poorest tenants, the least capable landlords, and the most decrepit structures all come together. The rent controlled housing market is no exception, and "distressed buildings" — properties so deteriorated that they may soon become uninhabitable — are the primary symptoms of this bottom end. We clearly have an increasing number of such distressed buildings in Cambridge, though the exact number of them is in dispute. To what extent, if any, rent control worsens conditions at the bottom end is also disputable. What seems clear to us is that:

- First, our many distressed buildings cannot be maintained as fit for habitation without major renovations.
- Second, if the desirable renovations were implemented without subsidy, *under rent control or otherwise*, rentals would rise to a level unaffordable for low income tenants.

Neither landlords nor banks will subsidize renovations with no expectation of profitable return; seeking such return via rent increases would force low income households to vacate. Consequently, public money — low-interest loans for some buildings, but outright grants-in-aid for many others — will have to be found in order to rehabilitate the bottom end of our controlled stock. While most of us share a reluctance to burden the City with new subsidy operations, it seems inescapably clear that rent control cannot function indefinitely as a low income housing program without some form of public subsidy. This is just as true for the uncontrolled rental market as it is for the controlled.

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The possible sources of public money that we have so far been able to think of include the following:

- (a) State and federal housing subsidy and grant-in-aid programs. (Yet, these are becoming less rather than more available.)
- (b) The municipal property tax — either by reallocating money from other departments and operations, or by an over-ride surcharge. A property tax surcharge of 1%, for instance, might generate about \$1.3 million per year, which is probably enough to renovate 30 units a year.
- (c) A user fee derived from surcharges on controlled unit rents, i.e. from those who benefit most directly from rent control. Low income households should be exempted from such a fee.
- (d) Permission for the most expensive controlled units to exit the program in exchange for a fee; current enabling legislation allows for this option, for up to the top 25% of the most expensive units.

We want to reemphasize, as we have throughout the above, that while our interest in preserving the deteriorating housing stock in Cambridge made facing the low income housing issue unavoidable, we do not consider the latter primarily a rent control issue. The problem of whether and how to provide decent housing *within the private rental market* for low income households will be with us irrespective of what happens to rent control.

A2. For the long term, rent control will work better if we expedite capital reinvestment in, and capital recovery from, the controlled housing stock serving middle income households.

The Task Force considers it important that we recognize explicitly that rent control functions as a strong stabilizing factor for our City's moderate and middle income rental housing. Without question, some middle-income households could, if necessary, afford to pay more than their current controlled rent; some

could not. But absent rent control many or most of these households would eventually be compelled to evacuate to communities where the competition for housing is less intense, as those of substantially greater resources bid up the cost of living in Cambridge. Thus, as in the case of those of low income, so the issues involving the moderate and middle income housing stock and its future force us to confront squarely the strength of our commitment to diversity in this City.

Most controlled properties are not distressed. Instead, most seem to get along with cash flows and management which keep them in a fairly stable state. Yet many landlords appear to continue to encounter serious impediments to property maintenance and renovation, such as occupancies which block sensible repairs, banks which won't loan, paperwork which is too complex, administrative reviews which are too slow — and a controlled return on investment which seems low relative to the tangible and intangible costs of implementing improvements. To the extent maintenance and improvements are inadequate as a result, some parts of the controlled housing stock which are adequate today may well slip into the distressed category. This seems particularly likely for wood-frame walk-up housing.

There are differences of opinion as to how much renovation the controlled stock needs, or what standards of renovation are appropriate. Overall, the Task Force so far is inclined to think that, for rent control to survive as a moderate or middle income stabilization program, it is essential that we greatly reduce impediments to the customary processes of property rehabilitation and capital re-investment. Improvements facilitating re-investment could well include:

- (a) Speed up and simplify the process of capital improvement rent adjustments — cut the time frame of approval down from an unconscionable year or more (now customary) to a few weeks or months depending on the complexity of the case. To accomplish this the rent control office may need more staff and resources — particularly access to expertise in the technology and costs of remodeling.

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- (b) Make the process more accessible and "user friendly" for the less professional property owners who would also benefit from the services of knowledgeable staff. Provide advice and training sessions, raise the hearing threshold, isolate code complaints from the capital investment approval process, etc. (some of this is already happening).
- (c) Increase the effective rate of return on capital improvement projects which the City should especially seek to promote — like weatherization, energy conservation and electrical system upgrades, which variously lower operating costs, protect the integrity of the structure, and enhance life safety. Adjust the amortization periods allowed.
- (d) Adopt more flexible regulations which would, in appropriate situations, permit major interior work to take place in the most cost-effective ways, including vacating several apartments contemporaneously for rehabilitation.
- (e) Study in detail the mortgage approval criteria of local banks (e.g., discounting of the rental income stream due to occasional vacancies), with the intent of adjusting controlled returns to be more consistent with lending standards.

A closing comment for Part A: Expediting investment (and consequent rent increases) in order to maintain our controlled stock, as we recommend in A2, could place some low income households at risk if we have no program of subsidy as described in A1. Although loosening some rules seems simple compared to putting public money into the system, it's the view of our Task Force that both these recommendations must advance simultaneously. Otherwise, low income tenants will be confronted by renovations they simply cannot afford.

PART B.**DE-ESCALATING THE ORDINANCED CONDO CONTROVERSY**

In 1979, the "Removal Ordinance" made it more difficult for controlled apartments to be taken off the rental market when converted into condos and purchased by a buyer who intended to take occupancy. Estimates suggest that roughly two thousand controlled units have been converted into condos and are now owned by independent purchasers. Of these: (1) maybe 250 are illegally occupied by their owners (some of whom made an "honest mistake", while others knowingly conspired to defeat the law); (2) some of the rest are owned by disgruntled landlords who thought they could move in, but found out they couldn't; and (3) the remainder are simply investor-owned.

Rightly or wrongly, the resulting public perception that "people can't live in their own homes" has caused enormous ill will, misunderstandings and general anti-rent-control sentiment. Simultaneously, a host of peculiar difficulties — residents hiding from the law in their own condos, people trapped in units they can't afford to sell, etc — are causing real hardships, often affecting the very middle-income households rent control is intended to help.

While some people think that a case-by-case adjudication of illegal occupancies is our best shot at resolution, the Task Force fears it's futile (even counter-productive) to seek to distinguish between the victims and the crooks in this situation. Further, part of this controversy has been exacerbated by inadequate legislation and administration; in this context, stringent enforcement can be unfair.

The Task Force is in agreement that a Removal Ordinance remains necessary to forestall attrition of controlled rental units through condo conversions. We are also convinced that it's vital for City to demonstrate it can get off the dime and do something constructive about the current controversy. At this point, we have a favored recommendation:

- Acknowledge that for some of its history, parts of the Removal Ordinance have not been clearly devised, consistently administered, or meaningfully enforced. Establish a timeframe for this period of ambiguity, and declare amnesty for the

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individuals and households who purchased a condo during that timeframe.

- Amnesty would consist of permission for that particular individual or household to live in, or take occupancy of, the purchased condo — provided that when said party moves out or dies, the unit returns to the controlled market, subject to all restrictions thereof. Or, as a second available option...
- Permit the condo owner to permanently remove his/her unit from control for the purpose of arms-length sale, provided that much or most of the profit of the sale (current unregulated fair market value less original purchase price, inflation-adjusted) is returned to the City as a fee (said fee to be used to help pay for renovations to other controlled units serving low income households).
- Otherwise, for any condo purchased outside the timeframe (and obviously, for any new condo transaction), the Removal Ordinance will be vigorously enforced.

Although it may prove necessary to protect certain low-income households from evictions, the Task Force does not anticipate extraordinary upheavals in the ordinated condo market due to policies suggested above. Instead, we think that this approach will extend some measure of benefit to both condo owners and the rent control system, while at the same time constraining speculation and windfall profits in the ordinated condo market. As a bonus, a compromise such as this can do much to scale down the acrimonious conflicts surrounding ordinated condo law — an enormous benefit for both rent control and civic peace.

EPILOGUE

The ordinated condo controversy is a quintessential political dilemma: The current situation is painful, far from satisfactory, and both misrepresented and misunderstood. But no remedy is perfect either; each option for

change is vigorously opposed by one or another interest group. Doing nothing (voting for status quo) seems like the path of least resistance — and we find ourselves stuck in political gridlock.

The message the Rent Control Review Task Force most wants to convey to the CCA and to the City is that **gridlock is our worst enemy**. When our body politic is paralyzed — when we can't move left or right, forward or back, on issues like health care reform, tax reform, or rent control reform — then we lose all confidence in ourselves and our future. Our political dialogue changes from informed debate of meaningful choices to fanatical exaggerations and redundant dogma. And when the citizens are so fiercely divided, so unwilling to compromise on anything at all, our elected officials are faced with a no-win situation wherein constructive leadership is thwarted by overwhelming risks.

Our Task Force may not yet have seized upon the right or best things to do. But we are ready to continue our efforts in the strong belief that **doing nothing is no longer a responsible choice**.



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We want to reemphasize, as we have throughout the above, that while our interest in preserving the deteriorating housing stock in Cambridge made facing the low income housing issue unavoidable, we do not consider the latter primarily a rent control issue. The problem of whether and how to provide decent housing *within the private rental market* for low income households will be with us irrespective of what happens to rent control.

A2. For the long term, rent control will work better if we expedite capital reinvestment in, and capital recovery from, the controlled housing stock serving middle income households.

The Task Force considers it important that we recognize explicitly that rent control functions as a strong stabilizing factor for our City's moderate and middle income rental housing. Without question, some middle-income households could, if necessary, afford to pay more than their current controlled rent; some

could not. But absent rent control many or most of these households would eventually be compelled to evacuate to communities where the competition for housing is less intense, as those of substantially greater resources bid up the cost of living in Cambridge. Thus, as in the case of those of low income, so the issues involving the moderate and middle income housing stock and its future force us to confront squarely the strength of our commitment to diversity in this City.

Most controlled properties are not distressed. Instead, most seem to get along with cash flows and management which keep them in a fairly stable state. Yet many landlords appear to continue to encounter serious impediments to property maintenance and renovation, such as occupancies which block sensible repairs, banks which won't loan, paperwork which is too complex, administrative reviews which are too slow — and a controlled return on investment which seems low relative to the tangible and intangible costs of implementing improvements. To the extent maintenance and improvements are inadequate as a result, some parts of the controlled housing stock which are adequate today may well slip into the distressed category. This seems particularly likely for wood-frame walk-up housing.

There are differences of opinion as to how much renovation the controlled stock needs, or what standards of renovation are appropriate. Overall, the Task Force so far is inclined to think that, for rent control to survive as a moderate or middle income stabilization program, it is essential that we greatly reduce impediments to the customary processes of property rehabilitation and capital re-investment. Improvements facilitating re-investment could well include:

- (a) Speed up and simplify the process of capital improvement rent adjustments — cut the time frame of approval down from an unconscionable year or more (now customary) to a few weeks or months depending on the complexity of the case. To accomplish this the rent control office may need more staff and resources — particularly access to expertise in the technology and costs of remodeling.

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- (d) Adopt more flexible regulations which would, in appropriate situations, permit major interior work to take place in the most cost-effective ways, including vacating several apartments contemporaneously for rehabilitation.
- (e) Study in detail the mortgage approval criteria of local banks (e.g., discounting of the rental income stream due to occasional vacancies), with the intent of adjusting controlled returns to be more consistent with lending standards.

A closing comment for Part A: Expediting investment (and consequent rent increases) in order to maintain our controlled stock, as we recommend in A2, could place some low income households at risk if we have no program of subsidy as described in A1. Although loosening some rules seems simple compared to putting public money into the system, it's the view of our Task Force that both these recommendations must advance simultaneously. Otherwise, low income tenants will be confronted by renovations they simply cannot afford.

PART B.**DE-ESCALATING THE ORDINANCED CONDO CONTROVERSY**

In 1979, the "Removal Ordinance" made it more difficult for controlled apartments to be taken off the rental market when converted into condos and purchased by a buyer who intended to take occupancy. Estimates suggest that roughly two thousand controlled units have been converted into condos and are now owned by independent purchasers. Of these: (1) maybe 250 are illegally occupied by their owners (some of whom made an "honest mistake", while others knowingly conspired to defeat the law); (2) some of the rest are owned by disgruntled landlords who thought they could move in, but found out they couldn't; and (3) the remainder are simply investor-owned.

Rightly or wrongly, the resulting public perception that "people can't live in their own homes" has caused enormous ill will, misunderstandings and general anti-rent-control sentiment. Simultaneously, a host of peculiar difficulties — residents hiding from the law in their own condos, people trapped in units they can't afford to sell, etc — are causing real hardships, often affecting the very middle-income households rent control is intended to help.

While some people think that a case-by-case adjudication of illegal occupancies is our best shot at resolution, the Task Force fears it's futile (even counter-productive) to seek to distinguish between the victims and the crooks in this situation. Further, part of this controversy has been exacerbated by inadequate legislation and administration; in this context, stringent enforcement can be unfair.

The Task Force is in agreement that a Removal Ordinance remains necessary to forestall attrition of controlled rental units through condo conversions. We are also convinced that it's vital for City to demonstrate it can get off the dime and do something constructive about the current controversy. At this point, we have a favored recommendation:

- Acknowledge that for some of its history, parts of the Removal Ordinance have not been clearly devised, consistently administered, or meaningfully enforced. Establish a timeframe for this period of ambiguity, and declare amnesty for the

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individuals and households who purchased a condo during that timeframe.

- Amnesty would consist of permission for that particular individual or household to live in, or take occupancy of, the purchased condo — provided that when said party moves out or dies, the unit returns to the controlled market, subject to all restrictions thereof. Or, as a second available option...
- Permit the condo owner to permanently remove his/her unit from control for the purpose of arms-length sale, provided that much or most of the profit of the sale (current unregulated fair market value less original purchase price, inflation-adjusted) is returned to the City as a fee (said fee to be used to help pay for renovations to other controlled units serving low income households).
- Otherwise, for any condo purchased outside the timeframe (and obviously, for any new condo transaction), the Removal Ordinance will be vigorously enforced.

Although it may prove necessary to protect certain low-income households from evictions, the Task Force does not anticipate extraordinary upheavals in the ordinated condo market due to policies suggested above. Instead, we think that this approach will extend some measure of benefit to both condo owners and the rent control system, while at the same time constraining speculation and windfall profits in the ordinated condo market. As a bonus, a compromise such as this can do much to scale down the acrimonious conflicts surrounding ordinated condo law — an enormous benefit for both rent control and civic peace.

EPILOGUE

The ordinated condo controversy is a quintessential political dilemma: The current situation is painful, far from satisfactory, and both misrepresented and misunderstood. But no remedy is perfect either; each option for

change is vigorously opposed by one or another interest group. Doing nothing (voting for status quo) seems like the path of least resistance — and we find ourselves stuck in political gridlock.

The message the Rent Control Review Task Force most wants to convey to the CCA and to the City is that **gridlock is our worst enemy**. When our body politic is paralyzed — when we can't move left or right, forward or back, on issues like health care reform, tax reform, or rent control reform — then we lose all confidence in ourselves and our future. Our political dialogue changes from informed debate of meaningful choices to fanatical exaggerations and redundant dogma. And when the citizens are so fiercely divided, so unwilling to compromise on anything at all, our elected officials are faced with a no-win situation wherein constructive leadership is thwarted by overwhelming risks.

Our Task Force may not yet have seized upon the right or best things to do. But we are ready to continue our efforts in the strong belief that **doing nothing is no longer a responsible choice**.



CAMBRIDGE CIVIC ASSOCIATION

649 Massachusetts Avenue, Cambridge, MA 02139

(617) 876-9176

COPY

Friday, November 18, 1994

CAMBRIDGE CITY COUNCIL

c/o City Clerk
City Hall
Cambridge, MA 02139

Re: **Question Nine Home Rule Petition**

Honorable Mayor and Councillors:

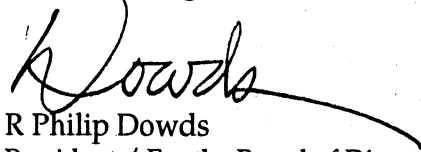
At its regular meeting of 18 Nov 94, the Cambridge Civic Association Board of Directors reaffirmed its support for rent control as an essential protection for households and neighborhoods in Cambridge. We also reaffirmed our view that Question Nine, if implemented literally, will have an enormously destructive destabilizing impact on our Cambridge community.

We also reiterate our position that rent control, as currently administered, is encumbered by a variety of unwanted side effects and shortcomings which could be ameliorated by well-crafted reforms. We transmit to you herewith recommendations for rent control program reforms recommended by our Rent Control Review Task Force, and endorsed and adopted by our Board at its regular meeting of 22 Sep 94.

We empathize with the enormous technical and political difficulties you now face as you attempt to finalize a home rule petition mitigating the damage of Question Nine. We note that the reforms we recommend share much in common with the City Manager's "Option 2, Substantial Modifications" as presented to you on 10 Sep 94. Accordingly, we hope that this Option 2 could be the baseline of departure for your home rule petition negotiations.

Please feel free to contact the CCA if you have questions or requests in this matter.

Sincerely,
The Cambridge Civic Association


R Philip Dowds
President / For the Board of Directors

cc: Mr Robert Healy, City Manager
enclosures: CCA Rent Control Review Task Force transmittal letter of 22 Sep 94 and Interim Report of Sep 94.

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Executive Director
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Thursday, September 22, 1994

CAMBRIDGE CIVIC ASSOCIATION BOARD OF DIRECTORS 649 Massachusetts Avenue Cambridge, MA 02139

To The 94/95 Board:

With the authorization of the 93/94 CCA Board of Directors, we convened as the **CCA Rent Control Review Task Force** in March of 1994. This is our **Interim Report** to the current Board. We hope that this Report will elicit an endorsement in principle of our work to date, and of continued effort in the directions we've pursued thus far.

Cambridge rent control is now a generation old. Those born at its inception in 1969 are now voting and apartment-hunting. As its departure point, our Task Force agrees that rent control — like many of the properties it governs — is showing its age, but ...

So long as rent control enjoys solid political support in Cambridge, rent control is worth fixing.

- Rent control has proven its value as an important tool in stabilizing neighborhoods and in maintaining diversity among our population. It is a housing program protecting many tenants from dislocation in a residential market like that of Cambridge.
- In many respects, rent control is working. The program has successfully constrained both rents and property values in a market which might otherwise be characterized by exceptional housing cost, and has done so while allowing many building owners and landlords to recover costs, manage investments, and maintain their properties. Even so ...
- Common sense requires that any valuable program be reviewed from time to time and *maintained* (just as buildings themselves must be maintained over time) in light of experience and changed circumstances. Rent control, after 25 years, is not an untouchable "sacred cow" — it can and should be re-formed from time to time to ensure Cambridge enjoys maximum benefit at minimum cost — both financial and political.
- Maintaining rent control (in the full sense of the word "maintain") will not merely help preserve the program and the housing stock, but can also liberate significant energy and goodwill now tied up in attacking and defending the sacred cow. Solving some rent control problems, and setting them behind us, will enable the public, the CCA and the City Council better to focus constructively on other, equally important public issues.

The members of our Committee bring to our mission varied expertise in law, housing, real estate, and construction. While we still hold divergent opinion about aspects of rent control, we join in agreement that the compromises we now propose will benefit both the program and the City. Each of us speaks in an individual capacity, not as a representative of any organization.

We have so far chosen to concentrate on two key rent control problems which we see as particularly critical. We've met almost every two weeks throughout the spring and summer of 1994; collected and read pertinent materials; and have conducted interviews and discussed issues and options with sources as varied as Just-A-Start, the Small Property Owners' Association (SPOA), Harvard, the Cambridge Tenants Union (CTU) and knowledgeable people as far away as Berkeley, CA.

The pages attached summarize where we are at the present time; while we defined some directions we believe in, there's more work to do before we reach a destination. We are well aware that a host of legal, financial and administrative details — how to define and qualify "low income" households, better alternatives for raising local revenues, better-defined priorities for the renovations we hope to encourage — all this and more will need future attention. We're also well aware of Question 9, and hope our efforts will benefit the City whatever the outcome of this referendum.

Struggling with the details of rent control reform, our dialogue and report are necessarily phrased in the language of property law, construction technology, real estate and finance. But neither we nor Cambridge can lose sight of the emotional and political reality of rent control: a program which deals with people's homes. This is a major distinction between rent control and our other local controversies (licensing, trucks, municipal spending, etc) — and "getting it right" is immediately essential to the futures and well-being of thousands of elderly, fixed-income, and low-to-middle income households throughout the City.

Please feel free to contact any of us if you have questions or suggestions regarding our efforts.

R Philip Dowds
Chairman

Charles Ash

Fred Cohn

Judy Cohen

Jean LeVaux

Hans Loeser

John Moos

Anne Strong

Councilor Kathy Born, Chair of the Rent Control Subcommittee, attended most of our meetings as an observer and advisor.

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INTERIM REPORT OF THE RENT CONTROL REVIEW TASK FORCE

During its half-year of operation, the CCA-sponsored Rent Control Review Task Force has concentrated on two issues critical to the future of the program: (A) Increasing incentives for repair and renovation of, and more re-investment in, the rent controlled housing stock; and (B) resolving the ordinated condominium controversy. The following describes our current thinking and some preliminary conclusions.

PART A.

INCREASING INCENTIVES FOR REPAIR AND RENOVATION OF, AND MORE RE-IN- VESTMENT IN, THE RENT CONTROLLED HOUSING STOCK, WHILE PROTECTING THE INTERESTS OF LOW-INCOME HOUSE- HOLDS

We conclude that there are changes, major and minor, legal and administrative, that could help to: prevent and (as necessary) reverse the gradual deterioration of much of our rent controlled housing stock; increase confidence in the benefits of rent control for households and the community at large; and be perceived as improving the all around fairness of rent control. However, such steps alone will work only for our moderate and middle income housing which, of course, is the majority of both the controlled and uncontrolled apartment stock in our City.

For the *low income* apartment stock — a minority of the total but an important sector worth preserving — rent control presents special problems. Neither tightening, nor improving, nor even abandoning rent control will forestall further deterioration of a large part of this housing. Yet any investigation such as ours into how best to prevent and reverse deterioration in our City's rental housing cannot ignore this segment. Therefore we will deal with this subject first, though it is the most intractable and least amenable to improvements by changes in rent regulations alone. We will then

address the major part of our City's rental housing, where solutions are more within our power, provided we can overcome inertia and political obstacles.

A1. *Rent control or no rent control, adequate housing for those at the low end of the income scale cannot be provided without substantial public subsidies.*

Each apartment market has a bottom end: a place where the lowest rents, the poorest tenants, the least capable landlords, and the most decrepit structures all come together. The rent controlled housing market is no exception, and "distressed buildings" — properties so deteriorated that they may soon become uninhabitable — are the primary symptoms of this bottom end. We clearly have an increasing number of such distressed buildings in Cambridge, though the exact number of them is in dispute. To what extent, if any, rent control worsens conditions at the bottom end is also disputable. What seems clear to us is that:

- First, our many distressed buildings cannot be maintained as fit for habitation without major renovations.
- Second, if the desirable renovations were implemented without subsidy, *under rent control or otherwise*, rentals would rise to a level unaffordable for low income tenants.

Neither landlords nor banks will subsidize renovations with no expectation of profitable return; seeking such return via rent increases would force low income households to vacate. Consequently, public money — low-interest loans for some buildings, but outright grants-in-aid for many others — will have to be found in order to rehabilitate the bottom end of our controlled stock. While most of us share a reluctance to burden the City with new subsidy operations, it seems inescapably clear that rent control cannot function indefinitely as a low income housing program without some form of public subsidy. This is just as true for the uncontrolled rental market as it is for the controlled.

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The possible sources of public money that we have so far been able to think of include the following:

- (a) State and federal housing subsidy and grant-in-aid programs. (Yet, these are becoming less rather than more available.)
- (b) The municipal property tax — either by reallocating money from other departments and operations, or by an over-ride surcharge. A property tax surcharge of 1%, for instance, might generate about \$1.3 million per year, which is probably enough to renovate 30 units a year.
- (c) A user fee derived from surcharges on controlled unit rents, i.e. from those who benefit most directly from rent control. Low income households should be exempted from such a fee.
- (d) Permission for the most expensive controlled units to exit the program in exchange for a fee; current enabling legislation allows for this option, for up to the top 25% of the most expensive units.

We want to reemphasize, as we have throughout the above, that while our interest in preserving the deteriorating housing stock in Cambridge made facing the low income housing issue unavoidable, we do not consider the latter primarily a rent control issue. The problem of whether and how to provide decent housing *within the private rental market* for low income households will be with us irrespective of what happens to rent control.

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The Task Force considers it important that we recognize explicitly that rent control functions as a strong stabilizing factor for our City's moderate and middle income rental housing. Without question, some middle-income households could, if necessary, afford to pay more than their current controlled rent; some

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Interim Report

September 1994 / Page 4

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President / For the Board of Directors

cc: Mr Robert Healy, City Manager
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Carol Weinhaus

Thursday, September 22, 1994

CAMBRIDGE CIVIC ASSOCIATION

BOARD OF DIRECTORS

649 Massachusetts Avenue
Cambridge, MA 02139

To The 94/95 Board:

With the authorization of the 93/94 CCA Board of Directors, we convened as the **CCA Rent Control Review Task Force** in March of 1994. This is our **Interim Report** to the current Board. We hope that this Report will elicit an endorsement in principle of our work to date, and of continued effort in the directions we've pursued thus far.

Cambridge rent control is now a generation old. Those born at its inception in 1969 are now voting and apartment-hunting. As its departure point, our Task Force agrees that rent control — like many of the properties it governs — is showing its age, but ...

So long as rent control enjoys solid political support in Cambridge, rent control is worth fixing.

- Rent control has proven its value as an important tool in stabilizing neighborhoods and in maintaining diversity among our population. It is a housing program protecting many tenants from dislocation in a residential market like that of Cambridge.
- In many respects, rent control is working. The program has successfully constrained both rents and property values in a market which might otherwise be characterized by exceptional housing cost, and has done so while allowing many building owners and landlords to recover costs, manage investments, and maintain their properties. Even so ...
- Common sense requires that any valuable program be reviewed from time to time and *maintained* (just as buildings themselves must be maintained over time) in light of experience and changed circumstances. Rent control, after 25 years, is not an untouchable "sacred cow" — it can and should be re-formed from time to time to ensure Cambridge enjoys maximum benefit at minimum cost — both financial and political.
- Maintaining rent control (in the full sense of the word "maintain") will not merely help preserve the program and the housing stock, but can also liberate significant energy and goodwill now tied up in attacking and defending the sacred cow. Solving some rent control problems, and setting them behind us, will enable the public, the CCA and the City Council better to focus constructively on other, equally important public issues.

The members of our Committee bring to our mission varied expertise in law, housing, real estate, and construction. While we still hold divergent opinion about aspects of rent control, we join in agreement that the compromises we now propose will benefit both the program and the City. Each of us speaks in an individual capacity, not as a representative of any organization.

We have so far chosen to concentrate on two key rent control problems which we see as particularly critical. We've met almost every two weeks throughout the spring and summer of 1994; collected and read pertinent materials; and have conducted interviews and discussed issues and options with sources as varied as Just-A-Start, the Small Property Owners' Association (SPOA), Harvard, the Cambridge Tenants Union (CTU) and knowledgeable people as far away as Berkeley, CA .

The pages attached summarize where we are at the present time; while we defined some directions we believe in, there's more work to do before we reach a destination. We are well aware that a host of legal, financial and administrative details — how to define and qualify "low income" households, better alternatives for raising local revenues, better-defined priorities for the renovations we hope to encourage — all this and more will need future attention. We're also well aware of Question 9, and hope our efforts will benefit the City whatever the outcome of this referendum.

Struggling with the details of rent control reform, our dialogue and report are necessarily phrased in the language of property law, construction technology, real estate and finance. But neither we nor Cambridge can lose sight of the emotional and political reality of rent control: a program which deals with people's homes. This is a major distinction between rent control and our other local controversies (licensing, trucks, municipal spending, etc) — and "getting it right" is immediately essential to the futures and well-being of thousands of elderly, fixed-income, and low-to-middle income households throughout the City.

Please feel free to contact any of us if you have questions or suggestions regarding our efforts.

R Philip Dowds

Chairman

Charles Ash

Fred Cohn

Judy Cohen

Jean LeVaux

Hans Loeser

John Moos

Anne Strong

Councilor Kathy Born, Chair of the Rent Control Subcommittee, attended most of our meetings as an observer and advisor.

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INTERIM REPORT OF THE RENT CONTROL REVIEW TASK FORCE

During its half-year of operation, the CCA-sponsored Rent Control Review Task Force has concentrated on two issues critical to the future of the program: (A) Increasing incentives for repair and renovation of, and more re-investment in, the rent controlled housing stock; and (B) resolving the ordinated condominium controversy. The following describes our current thinking and some preliminary conclusions.

PART A.

INCREASING INCENTIVES FOR REPAIR AND RENOVATION OF, AND MORE RE-IN- VESTMENT IN, THE RENT CONTROLLED HOUSING STOCK, WHILE PROTECTING THE INTERESTS OF LOW-INCOME HOUSE- HOLDS

We conclude that there are changes, major and minor, legal and administrative, that could help to: prevent and (as necessary) reverse the gradual deterioration of much of our rent controlled housing stock; increase confidence in the benefits of rent control for households and the community at large; and be perceived as improving the all around fairness of rent control. However, such steps alone will work only for our moderate and middle income housing which, of course, is the majority of both the controlled and uncontrolled apartment stock in our City.

For the *low income* apartment stock — a minority of the total but an important sector worth preserving — rent control presents special problems. Neither tightening, nor improving, nor even abandoning rent control will forestall further deterioration of a large part of this housing. Yet any investigation such as ours into how best to prevent and reverse deterioration in our City's rental housing cannot ignore this segment. Therefore we will deal with this subject first, though it is the most intractable and least amenable to improvements by changes in rent regulations alone. We will then

address the major part of our City's rental housing, where solutions are more within our power, provided we can overcome inertia and political obstacles.

A1. *Rent control or no rent control, adequate housing for those at the low end of the income scale cannot be provided without substantial public subsidies.*

Each apartment market has a bottom end: a place where the lowest rents, the poorest tenants, the least capable landlords, and the most decrepit structures all come together. The rent controlled housing market is no exception, and "distressed buildings" — properties so deteriorated that they may soon become uninhabitable — are the primary symptoms of this bottom end. We clearly have an increasing number of such distressed buildings in Cambridge, though the exact number of them is in dispute. To what extent, if any, rent control worsens conditions at the bottom end is also disputable. What seems clear to us is that:

- First, our many distressed buildings cannot be maintained as fit for habitation without major renovations.
- Second, if the desirable renovations were implemented without subsidy, *under rent control or otherwise*, rentals would rise to a level unaffordable for low income tenants.

Neither landlords nor banks will subsidize renovations with no expectation of profitable return; seeking such return via rent increases would force low income households to vacate. Consequently, public money — low-interest loans for some buildings, but outright grants-in-aid for many others — will have to be found in order to rehabilitate the bottom end of our controlled stock. While most of us share a reluctance to burden the City with new subsidy operations, it seems inescapably clear that rent control cannot function indefinitely as a low income housing program without some form of public subsidy. This is just as true for the uncontrolled rental market as it is for the controlled.

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The possible sources of public money that we have so far been able to think of include the following:

- (a) State and federal housing subsidy and grant-in-aid programs. (Yet, these are becoming less rather than more available.)
- (b) The municipal property tax — either by reallocating money from other departments and operations, or by an over-ride surcharge. A property tax surcharge of 1%, for instance, might generate about \$1.3 million per year, which is probably enough to renovate 30 units a year.
- (c) A user fee derived from surcharges on controlled unit rents, i.e. from those who benefit most directly from rent control. Low income households should be exempted from such a fee.
- (d) Permission for the most expensive controlled units to exit the program in exchange for a fee; current enabling legislation allows for this option, for up to the top 25% of the most expensive units.

We want to reemphasize, as we have throughout the above, that while our interest in preserving the deteriorating housing stock in Cambridge made facing the low income housing issue unavoidable, we do not consider the latter primarily a rent control issue. The problem of whether and how to provide decent housing *within the private rental market* for low income households will be with us irrespective of what happens to rent control.

A2. For the long term, rent control will work better if we expedite capital reinvestment in, and capital recovery from, the controlled housing stock serving middle income households.

The Task Force considers it important that we recognize explicitly that rent control functions as a strong stabilizing factor for our City's moderate and middle income rental housing. Without question, some middle-income households could, if necessary, afford to pay more than their current controlled rent; some

could not. But absent rent control many or most of these households would eventually be compelled to evacuate to communities where the competition for housing is less intense, as those of substantially greater resources bid up the cost of living in Cambridge. Thus, as in the case of those of low income, so the issues involving the moderate and middle income housing stock and its future force us to confront squarely the strength of our commitment to diversity in this City.

Most controlled properties are not distressed. Instead, most seem to get along with cash flows and management which keep them in a fairly stable state. Yet many landlords appear to continue to encounter serious impediments to property maintenance and renovation, such as occupancies which block sensible repairs, banks which won't loan, paperwork which is too complex, administrative reviews which are too slow — and a controlled return on investment which seems low relative to the tangible and intangible costs of implementing improvements. To the extent maintenance and improvements are inadequate as a result, some parts of the controlled housing stock which are adequate today may well slip into the distressed category. This seems particularly likely for wood-frame walk-up housing.

There are differences of opinion as to how much renovation the controlled stock needs, or what standards of renovation are appropriate. Overall, the Task Force so far is inclined to think that, for rent control to survive as a moderate or middle income stabilization program, it is essential that we greatly reduce impediments to the customary processes of property rehabilitation and capital re-investment. Improvements facilitating re-investment could well include:

- (a) Speed up and simplify the process of capital improvement rent adjustments — cut the time frame of approval down from an unconscionable year or more (now customary) to a few weeks or months depending on the complexity of the case. To accomplish this the rent control office may need more staff and resources — particularly access to expertise in the technology and costs of remodeling.

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- (b) Make the process more accessible and "user friendly" for the less professional property owners who would also benefit from the services of knowledgeable staff. Provide advice and training sessions, raise the hearing threshold, isolate code complaints from the capital investment approval process, etc. (some of this is already happening).
- (c) Increase the effective rate of return on capital improvement projects which the City should especially seek to promote — like weatherization, energy conservation and electrical system upgrades, which variously lower operating costs, protect the integrity of the structure, and enhance life safety. Adjust the amortization periods allowed.
- (d) Adopt more flexible regulations which would, in appropriate situations, permit major interior work to take place in the most cost-effective ways, including vacating several apartments contemporaneously for rehabilitation.
- (e) Study in detail the mortgage approval criteria of local banks (e.g., discounting of the rental income stream due to occasional vacancies), with the intent of adjusting controlled returns to be more consistent with lending standards.

A closing comment for Part A: Expediting investment (and consequent rent increases) in order to maintain our controlled stock, as we recommend in A2, could place some low income households at risk if we have no program of subsidy as described in A1. Although loosening some rules seems simple compared to putting public money into the system, it's the view of our Task Force that both these recommendations must advance simultaneously. Otherwise, low income tenants will be confronted by renovations they simply cannot afford.

PART B.**DE-ESCALATING THE ORDINANCED CONDO CONTROVERSY**

In 1979, the "Removal Ordinance" made it more difficult for controlled apartments to be taken off the rental market when converted into condos and purchased by a buyer who intended to take occupancy. Estimates suggest that roughly two thousand controlled units have been converted into condos and are now owned by independent purchasers. Of these: (1) maybe 250 are illegally occupied by their owners (some of whom made an "honest mistake", while others knowingly conspired to defeat the law); (2) some of the rest are owned by disgruntled landlords who thought they could move in, but found out they couldn't; and (3) the remainder are simply investor-owned.

Rightly or wrongly, the resulting public perception that "people can't live in their own homes" has caused enormous ill will, misunderstandings and general anti-rent-control sentiment. Simultaneously, a host of peculiar difficulties — residents hiding from the law in their own condos, people trapped in units they can't afford to sell, etc — are causing real hardships, often affecting the very middle-income households rent control is intended to help.

While some people think that a case-by-case adjudication of illegal occupancies is our best shot at resolution, the Task Force fears it's futile (even counter-productive) to seek to distinguish between the victims and the crooks in this situation. Further, part of this controversy has been exacerbated by inadequate legislation and administration; in this context, stringent enforcement can be unfair.

The Task Force is in agreement that a Removal Ordinance remains necessary to forestall attrition of controlled rental units through condo conversions. We are also convinced that it's vital for City to demonstrate it can get off the dime and do something constructive about the current controversy. At this point, we have a favored recommendation:

- Acknowledge that for some of its history, parts of the Removal Ordinance have not been clearly devised, consistently administered, or meaningfully enforced. Establish a timeframe for this period of ambiguity, and declare amnesty for the

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individuals and households who purchased a condo during that timeframe.

- Amnesty would consist of permission for that particular individual or household to live in, or take occupancy of, the purchased condo — provided that when said party moves out or dies, the unit returns to the controlled market, subject to all restrictions thereof. Or, as a second available option...
- Permit the condo owner to permanently remove his/her unit from control for the purpose of arms-length sale, provided that much or most of the profit of the sale (current unregulated fair market value less original purchase price, inflation-adjusted) is returned to the City as a fee (said fee to be used to help pay for renovations to other controlled units serving low income households).
- Otherwise, for any condo purchased outside the timeframe (and obviously, for any new condo transaction), the Removal Ordinance will be vigorously enforced.

Although it may prove necessary to protect certain low-income households from evictions, the Task Force does not anticipate extraordinary upheavals in the ordinated condo market due to policies suggested above. Instead, we think that this approach will extend some measure of benefit to both condo owners and the rent control system, while at the same time constraining speculation and windfall profits in the ordinated condo market. As a bonus, a compromise such as this can do much to scale down the acrimonious conflicts surrounding ordinated condo law — an enormous benefit for both rent control and civic peace.

EPILOGUE

The ordinated condo controversy is a quintessential political dilemma: The current situation is painful, far from satisfactory, and both misrepresented and misunderstood. But no remedy is perfect either; each option for

change is vigorously opposed by one or another interest group. Doing nothing (voting for status quo) seems like the path of least resistance — and we find ourselves stuck in political gridlock.

The message the Rent Control Review Task Force most wants to convey to the CCA and to the City is that **gridlock is our worst enemy**. When our body politic is paralyzed — when we can't move left or right, forward or back, on issues like health care reform, tax reform, or rent control reform — then we lose all confidence in ourselves and our future. Our political dialogue changes from informed debate of meaningful choices to fanatical exaggerations and redundant dogma. And when the citizens are so fiercely divided, so unwilling to compromise on anything at all, our elected officials are faced with a no-win situation wherein constructive leadership is thwarted by overwhelming risks.

Our Task Force may not yet have seized upon the right or best things to do. But we are ready to continue our efforts in the strong belief that **doing nothing is no longer a responsible choice**.

Comm. # 3

S-527

Communication from R. Philip Dowds,
President, Cambridge Civic Association,
transmitting proposals for Rent Control
Program reforms.

In City Council,

November 18, 1994

Placed on file