

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

TRIAL COURTS OF MASSACHUSETTS
MIDDLESEX DIVISION
DISTRICT COURT DEPARTMENT
CIVIL ACTION NO. 957-1987GLEN A. PU,
Plaintiff

v.

CAMBRIDGE RENT CONTROL BOARD,
DAVID JENKINS, SIRI OLSON,
JONATHAN STORM, GRETCHEN
CROWLEY,
Defendants

v.

JOHN CROWLEY,
Defendant in
CounterclaimCOUNTERCLAIMS OF DEFENDANT DAVID JENKINS

1. On or about July 1, 1985 defendant Jenkins leased unit 5 at 67 Hammond Street, Cambridge from John Crowley for \$180 per month.

2. John Crowley, who currently resides at 67 Hammond Street, is the predecessor in interest and the current mortgagee of plaintiff Glen Pu at 67 Hammond Street.

3. On September 1, 1986, defendant Jenkins' rent was increased to \$200 per month.

4. The premises, 67 Hammond Street, is subject to Chapter 36 of the Acts of 1976 (the Rent Control Act).

COUNTERCLAIM I

5. Defendant Jenkins realleges the allegations contained in paragraphs 1 through 4 as though fully set out herein.

6. John Crowley has failed to register 67 Hammond Street with the Rent Control Board in violation of the Rent Control Act.

7. John Crowley has violated the Rent Control Act by demanding, accepting, receiving and retaining \$180 and/or \$200 per month rent which is in excess of the legal maximum rent established by the Rent Control Act.

COUNTERCLAIM II

8. Defendant Jenkins realleges the allegations contained in paragraphs 1 through 7 as though fully set out herein.

9. Plaintiff Glen Pu failed to register 67 Hammond Street with the Rent Control Board in violation of the Rent Control Act.

10. Plaintiff Glen Pu has violated the Rent Control Act by demanding, accepting, receiving and retaining \$180 and/or \$200 per month rent which is in excess of the legal maximum rent established by the Rent Control Act.

COUNTERCLAIM III

11. Defendant Jenkins realleges the allegations contained in paragraphs 1 through 10 as though fully set out herein.

12. Glen Pu's failure to register with the Rent Board and his charging more than the legal maximum rent constitute unfair or deceptive practices in violation of M.G.L. c.93A and regulations promulgated pursuant thereto.

WHEREFORE, defendant Jenkins prays that this Honorable Court:

1. Award defendant Jenkins three times the amount by which his rental payments to plaintiff Pu exceeded the maximum rent, plus costs and attorney's fees pursuant to §11 of the Rent Control Act;

2. Award defendant Jenkins three times the amount by which his rental payments to plaintiff Pu and defendant in counterclaim Crowley exceeded the maximum rent, plus costs and attorney's fees pursuant to M.G.L. c.93A;

3. Award defendant Jenkins any further relief it determines meet and just.

Respectfully submitted,
Defendant David Jenkins,
By his attorney,

Michael Hays, Esquire
SCHAPIRO & MARGOLIN
44 School Street
Boston, MA 02108
723-7440

Dated: 9/11/87

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

TRIAL COURTS OF MASSACHUSETTS
MIDDLESEX DIVISION
DISTRICT COURT DEPARTMENT
CIVIL ACTION NO. 957-1987

GLEN A. PU,)
Plaintiff)

v.)

CAMBRIDGE RENT CONTROL BOARD)
DAVID JENKINS, SIRI OLSON,)
JONATHAN STORM, GRETCHEN)
CROWLEY,)
Defendants)

v.)

JOHN CROWLEY,)
Defendant in)
Counterclaim)

MOTION FOR LEAVE TO FILE COUNTERCLAIM

Now comes defendant Jenkins who moves the Court for an order permitting him to serve the attached counterclaims on the grounds that defendant Jenkins recently retained counsel and these counterclaims arise out of the same occurrence (i.e., landlord's failure to register the premises with Rent Board) that is the subject matter of this suit and does not require the presence of third parties over whom the Court cannot acquire jurisdiction.

Respectfully submitted,
Defendant David Jenkins,
By his attorney,

Michael Hays, Esquire
SCHAPIRO & MARGOLIN
44 School Street
Boston, MA 02108
723-7440

Dated: 9/11/87

CERTIFICATE OF SERVICE

I, Michael Hays, attorney for defendant David Jenkins, hereby certify that on this 11th day of September 1987, that a copy of the foregoing motion has been served by first class mail, postage prepaid to the following, and that same has been marked for hearing for Wednesday, September 23, 1987 at 9:00 a.m.:

Glen Pu
65 Hammond Street
Cambridge, MA 02139

Gretchen Crowley
67 Hammond Street
Cambridge, MA 02139

Siri Olson
67 Hammond Street
Cambridge, MA 02139

Johanthan Storm
67 Hammond Street
Cambridge, MA 02139

Donna Turley, Esquire
Cambridge Rent Board
678 Massachusetts Avenue
Cambridge, MA 02139

Gordon P. Katz, Esquire
Widett, Slater & Goldman, P.C.
60 State Street
Boston, MA 02109

Michael Hays

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

TRIAL COURTS OF MASSACHUSETTS
MIDDLESEX DIVISION
DISTRICT COURT DEPARTMENT
CIVIL ACTION NO. 957-1987

GLEN A. PU,
Plaintiff

v.

CAMBRIDGE RENT CONTROL BOARD
DAVID JENKINS, SIRI OLSON,
JONATHAN STORM, GRETCHEN
CROWLEY,
Defendants

v.

JOHN CROWLEY,
Defendant in
Counterclaim

MOTION FOR LEAVE TO JOIN JOHN CROWLEY
AS DEFENDANT IN COUNTERCLAIM

Now comes defendant Jenkins who moves the Court for an order permitting him to join John Crowley on the grounds that:

1. John Crowley is the current mortgagee;
2. John Crowley is a resident of the premises involved herein and as such was required to initially be joined;
3. John Crowley is the former landlord who failed to register the premises with the rent control board;
4. John Crowley is the former landlord who rented unit 5 to defendant Jenkins for an amount in excess of the legal maximum rent;
5. The counterclaims against John Crowley grow out of the same transaction or series of transactions as the claims against plaintiff Pu.

Respectfully submitted,
Defendant David Jenkins,
By his attorney,

Michael Hays, Esquire
SCHAPIRO & MARGOLIN
44 School Street
Boston, MA 02108
723-7440

Dated: 9/11/87

CERTIFICATE OF SERVICE

I, Michael Hays, attorney for defendant David Jenkins, hereby certify that on this 11th day of September 1987, that a copy of the foregoing motion has been served by first class mail, postage prepaid to the following, and that same has been marked for hearing for Wednesday, September 23, 1987 at 9:00 a.m.:

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Cambridge, MA 02139

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Boston, MA 02109

Michael Hays

COMMONWEALTH OF MASSACHUSETTS

MIDDLESEX, SS.

TRIAL COURTS OF MASSACHUSETTS
MIDDLESEX DIVISION
SUPERIOR COURT DEPARTMENT
CIVIL ACTION NO.

87-4775

DAVID JENKINS,
Plaintiff

v.

GLEN A. PU,
DefendantVERIFIED COMPLAINT
AND DEMAND FOR INJUNCTIVE RELIEF

1. This is an action seeking an immediate order restoring tenant/plaintiff possession of his residential unit.

PARTIES

2. Plaintiff David Jenkins is a tenant-at-will in Unit 5, 67 Hammond Street, Cambridge, Massachusetts where he has resided since July 1985.

3. Defendant Glen A. Pu resides at 65 Hammond Street, Cambridge, Massachusetts and is the owner of 67 Hammond Street, which he has owned since August 1986.

FACTS

4. Plaintiff testified against defendant/landlord in a rent board initiated matter wherein the rent board ruled that 67 Hammond Street was a seven unit building subject to rent control.

5. Defendant Pu appealed the rent board's ruling to District Court and in a June 23, 1987 amended complaint named David Jenkins as an occupant of the second floor. Plaintiff, as a defendant in that District Court appeal, filed a timely answer on July 15, 1987.

6. On July 16, 1987 plaintiff left from his unit at 67 Hammond on a planned 3 week vacation in Greece. Plaintiff left most of his personal property in his unit including suits,

winter coats, clothing, books, papers, stereo, typewriter, toiletries, an in-service telephone, etc.

7. On August 7, 1987, plaintiff returned home from vacation to find that the locks to 67 Hammond Street had been changed, his key no longer worked and that he could not get into his unit.

8. Despite repeated attempts by plaintiff, defendant Pu has refused to speak to plaintiff, ~~failed to return phone calls~~ and has continued to deny plaintiff access to his unit and his personal property.

WHEREFORE, plaintiff respectfully requests that this Honorable Court:

1. Issue an order requiring defendant to restore plaintiff to possession of unit 5, 67 Hammond Street, Cambridge, Massachusetts.

2. Award plaintiff compensatory damages, including reasonable attorney's fees, pursuant to M.G.L. c.186 §§14 and 18, M.G.L. c.93A and regulations adopted pursuant thereto and c.36 of the Acts of 1976 ("Cambridge Rent Control Act").

3. Any other relief it considers meet and just.

Plaintiff,
By his attorney,

Michael Hays, Esquire
SCHAPIRO & MARGOLIN
44 School Street
Boston, MA 02108
723-7440

Dated: 8/14/87

VERIFICATION OF COMPLAINT

I, David Jenkins, plaintiff in the above matter hereby verify under the pains and penalties of perjury that I have read the complaint, understand the contents of said complaint and state that the above is true and accurate.

David Jenkins

MIDDLESEX, SS.

Commonwealth of Massachusetts

SUPERIOR COURT

No. 87-4775

David Jenkins

vs.

Gen A. PU

2/

ORDER

After hearing, all parties represented by counsel, it is hereby ordered that the defendant restore the plaintiff to possession of to Unit #5, 67 Hammond Street, Cambridge, Massachusetts upon the payment of \$720.00 representing the balance due for rent for the months of May, June, July and August. It is further ordered that rent in the sum of \$180.00 shall be due and payable on the first of each and every month that the plaintiff occupies the aforesaid premises commencing September 1, 1987 until further order of the Court.

By the Court, (Abrams, J.)

Dated: August 17, 1987

Laura M. Kurnick
Assistant Clerk

SCHAPIRO & MARGOLIN
ATTORNEYS AT LAW
A PROFESSIONAL ASSOCIATION INCLUDING PROFESSIONAL CORPORATIONS
44 SCHOOL STREET
BOSTON, MASSACHUSETTS 02108
(617) 723-7440

RECEIVED BY
OFFICE OF CITY CLERK
1987 SEP 14 PM 4:43
CAMBRIDGE MA.

SAUL A. SCHAPIRO, P.C.
KENNETH N. MARGOLIN, P.C.
MICHAEL HAYS
DAVID HOFSTETTER
ELIZABETH S. HENDLER
EDWARD F. KELLY

September 14, 1987

Joseph Connarton
City Clerk
City of Cambridge
City Hall
Cambridge, MA 02139

Re: 67 Hammond Street

Dear Mr. Connarton:

It has been brought to our attention that a matter is before the city council tonight which effects, the status of 67 Hammond Street and the rights of our client David Jenkins. My understanding is that the council is being asked to grant removal permits to Dr. Pu, the landlord. This office represents Mr. Jenkins in litigation in both the Superior Court and the Cambridge District Court against Dr. Pu. It is essential that the City Council not interfere in this situation, in particular when it is not informed of all the relevant facts.

David Jenkins is the last tenant left at 67 Hammond Street who opposed Dr. Pu at a hearing at the rent board. Jenkins states that when he returned from a three week vacation this summer, he found his locks had been changed. Jenkins had to file a complaint in the Middlesex Superior Court to gain readmission to his apartment (attachment #1). After argument by both sides, Judge Abrams ordered Dr. Pu to restore Jenkins to possession of his unit (attachment #2). When Jenkins returned to his unit pursuant to the court order, he found that all his possessions (clothes, stereo, books, papers, etc.) had been removed. Jenkins position in this dispute is supported by sworn statements of three former tenants at 67 Hammond Street, two of whom are also parties to a District Court case involving the property.

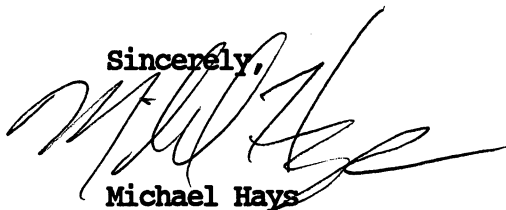
Dr. Pu and Mr. Jenkins are also parties to a District Court lawsuit wherein the court is reviewing a Rent Board decision and considering counterclaims (attachment #3) of Jenkins against Dr. Pu and the former owner who now holds the mortgage.

The ongoing litigation between these parties is properly in

be unconstitutional as a violation of the separation of powers doctrine.

Further, there exist appropriate channels for processing removal permits what we believe Dr. Pu has delivered to utilize. Dr. Pu has not yet filed an application for a removal permit with the Rent Control Board. A hearing on such an application would allow all sides to be presented to a fact finding body who could weigh the equities involved. Dr. Pu can appeal any decision the board makes if it is adverse to him. There is no sound reason for ignoring the statutory procedures and promulgating one set of rules for Dr. Pu and another set of rules for everyone else.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Hays', written over the word 'Sincerely,'.

Michael Hays

MH/dt
enclosure

SCHAPIRO & MARGOLIN

RECEIVED BY
ATTORNEYS AT LAW
CLERK

A PROFESSIONAL ASSOCIATION INCLUDING PROFESSIONAL CORPORATIONS

1987 SEP 18 AM 10:01
44 SCHOOL STREET
BOSTON, MASSACHUSETTS 02108

CAMBRIDGE MA.

(617) 723-7440

SAUL A. SCHAPIRO, P.C.
KENNETH N. MARGOLIN, P.C.
MICHAEL HAYS
DIANE W. CIPOLLONE*
DAVID HOFSTETTER
ELIZABETH S. HENDLER

*ADMITTED IN N.Y. AND MA.

September 17, 1987

Joseph Connarton
City Clerk
City of Cambridge
City Hall
Cambridge, MA 02139

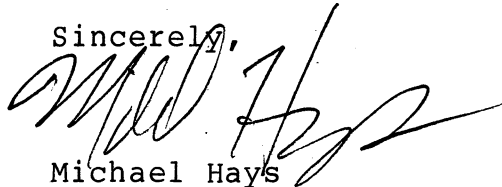
Re: 67 Hammond Street
Revised Letter

Dear Mr. Connarton:

Enclosed please find revised letter replacing original letter filed September 14, 1987. At the time this letter was printed certain lines had been omitted and this was not brought to my attention until today.

I apologize for this inconvenience and if there are any questions concerning this please do not hesitate to call me.

Sincerely,



Michael Hays

MH/dt
enclosure

SCHAPIRO & MARGOLIN
ATTORNEYS AT LAW
A PROFESSIONAL ASSOCIATION INCLUDING PROFESSIONAL CORPORATIONS
1987 SEP 18 AM 10:01
24 SCHOOL STREET
BOSTON, MASSACHUSETTS 02108
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*ADMITTED IN N.Y. AND MA.

September 14, 1987

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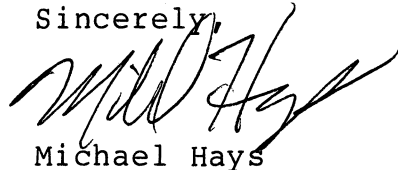
Dr. Pu and Mr. Jenkins are also parties to a District

Court lawsuit wherein the court is reviewing a Rent Board decision and considering counterclaims (attachment #3) of Jenkins against Dr. Pu and the former owner who now holds the mortgage.

The ongoing litigation between these parties is properly in the court system. The courts are designed to take evidence and render impartial decisions. Any special legislation favoring an individual and affecting the litigation would likely be unconstitutional as a violation of the separation of powers doctrine.

Further, there exist appropriate channels for processing removal permits which we believe Dr. Pu has failed to utilize. Dr. Pu has not yet filed an application for a removal permit with the Rent Control Board. A hearing on such an application would allow all sides to be presented to a fact finding body who could weigh the equities involved. Dr. Pu can appeal any decision the Board makes if it is adverse to him. There is no sound reason for ignoring the statutory procedures and promulgating one set of rules for Dr. Pu and another set of rules for everyone else.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael Hays', written in a cursive style.

Michael Hays

MH/dt
enclosure

S-547

Comm. from Michael Hays, Esq., Schapiro & Margolin, on behalf of his client, David Jenkins Re: the status of the premises numbered 67 Hammond St. & ongoing litigation in this matter.

In City Council,

September 21, 1987

Referred to
Calendar Item

#10.