

CAMBRIDGE AFFORDABLE HOUSING TRUST
c/o Community Development Department
City Hall Annex
57 Inman Street
Cambridge, MA 02139

November 18, 1994

To the Honorable, the City Council:

The Cambridge City Council established the Cambridge Affordable Housing Trust in 1988. The purpose of this Trust is to encourage the expansion and upgrading of the City's housing stock, and to provide the Council with policy suggestions related to affordable housing. The Trust provides loan funds to build new affordable units, as well as finance substantial rehab of distressed properties.

The Trust has used its funds to help finance nineteen (19) affordable housing developments, with a total of 383 housing units. Three hundred and thirty (330) of these units (86%) are affordable to low and moderate income families. The total amount of financing committed by the Trust to these developments is approximately \$2.5 million.

Given this broad experience in the financing of affordable housing production and its purpose as defined in the Incentive Zoning Ordinance, the Trust is uniquely situated to advise the City Council as it deliberates its options with regards to the rent control issue.

As you are aware, there continues to be an affordable housing crisis in the City of Cambridge. The scarcity of land and resources in tandem with the increased cost of existing housing make the provision of affordable housing even at current levels difficult. This crisis may be exacerbated by the discontinuance of rent control, particularly if protection for low and moderate income households and the elderly are not included in a future Home Rule petition. The demand for affordable housing by low and moderate income Cambridge residents has consistently exceeded the supply of such units. Both the publicly- and privately-owned subsidized housing stock are fully occupied, with extensive waiting lists for the foreseeable future.

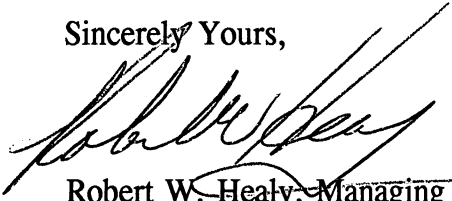
As you consider the alternatives before you, the Trust recommends that the City Council use the following criteria as it crafts a new Home Rule petition:

1. Prevent the displacement of and provide significant protection for all low and moderate income and elderly tenants in the controlled housing stock.

2. Provide incentives which ensure the availability of affordable housing over the long term through a variety of methods, such as a set-aside of units for low and moderate income tenants within the existing stock, or the development of additional resources.
3. Support the development of affordable housing by raising a significant pool of capital to allow for:
 - ** purchase and rehab of existing properties by non-profit housing development organizations;
 - ** increasing homeownership opportunities; and,
 - ** new construction of affordable housing.

We believe that the incorporation of these criteria into the new Home Rule petition will support the goals of meeting the demand for affordable housing and maintaining the diversity of the City. Thank you for your consideration of these recommendations.

Sincerely Yours,



Robert W. Healy, Managing Trustee for
Cambridge Affordable Housing Trust

Peter Daly, Trustee
Florrie Darwin, Trustee
Michael Haran, Trustee
Gwen Noyes, Trustee
Kathy Spiegelman, Trustee
Jim Stockard, Trustee
William Tibbs, Trustee

GOALS OF COMPROMISE PLAN:

1. To the greatest degree possible allow for an orderly transition and permit children to finish the school year in their schools.
2. To provide the benefits of rent and limited eviction protections solely for tenants most in need for the next several years.
3. To remove the special owner occupancy restrictions on ordinated condominiums.
4. To recognize the differences based on size between larger properties (7+ units) and small properties (1-6 units).
5. To streamline procedures for tenants and owners for all properties subject to controls over the next several years.

PROVISIONS OF THE COMPROMISE PLAN

Definitions

"Income Eligible" as it applies to Specially Protected Tenants and Protected Tenants shall mean those with incomes at 90% or less of the HUD median income which is \$31,455 for a 1 person household, \$35,910 for a 2 person household, \$40,410 for a 3 person household, \$44,910 for a 4 person household, and \$48,510 for a 5 person household.

"Protected Tenants" shall mean (1) all Income Eligible tenants, or (2) those 62 years of age or older, or (3) physically handicapped tenants.

"Specially Protected Tenants" shall mean (1) Income Eligible families with a child age 19 or under; or (2) Income Eligible elderly 62 years of age or older.

1. One, Two, and Three Unit Buildings

* one, two, and three unit buildings decontrolled on 1-1-95.

2. Four, Five, and Six Unit Buildings

* all units in 4, 5, and 6 unit buildings decontrolled on 3-31-95, except that units occupied by Specially Protected Tenants shall be protected for five years or until vacancy.

3. Buildings of Seven Units or More

* all units decontrolled on 7-31-95, except that units occupied by Protected Tenants shall be protected for five years or until vacancy.

4. Ordinanced Condos

* currently ordinanced condos can be owner occupied on 1-1-95 or thereafter.

* all non-owner occupied condos decontrolled on 1-1-95, except that units occupied by Specially Protected Tenants shall be protected for five years or until owner occupancy or vacancy.

5. Rent and Eviction Procedures

* rent increases for protected tenants allowed at 5% or CPI annually, but may exceed 5% or CPI if allowed by Board.

* protected tenants can be evicted for non-payment of rent and for other just cause, non-payment cases tried by courts not the Rent Equity Board.

To the Honorable Senate and House of Representatives of The Commonwealth of Massachusetts
in General Court assembled.

The undersigned, citizens of Cambridge, respectfully
petition for the passage of the accompanying bill or resolve, and/or for legislation enabling the City of
Cambridge to provide an orderly transition from rent control.

Petitioners are requested to sign names and addresses legibly.

Kenneth E. Reines
Kathleen J. Born
Michael A. Spahn
Shula T. Russell
W. H. Smith
Timothy J. Torrey Jr.

11 Everett St., Camb.
02138
3 Walker Ave. Camb. 02140
28 Johnson Ave., Cambridge, 02139
5 Hawthorne Park Camb.
02138
26 Lowell St. Cambridge
88 Sixth St. Cambridge



The Commonwealth of Massachusetts

IN THE YEAR ONE THOUSAND NINE HUNDRED AND NINETY- FOUR

AN ACT

AN ACT ENABLING THE CITY OF CAMBRIDGE TO PROVIDE AN ORDERLY TRANSITION FROM RENT CONTROL

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Declaration of Emergency.

The General Court finds and declares that a serious public emergency exists with respect to the housing of low and moderate income families, the elderly, and the disabled in the City of Cambridge. This emergency has been created by insufficient new rental housing construction affordable to low and moderate income persons and families, increased costs of construction and finance, lack of sufficient vacant land for the construction of new rental housing, the gap between housing costs and income for low and moderate income persons and families, long waiting lists for public and subsidized housing, and the displacement of low and moderate income persons and families, as well as elderly persons, from their homes. This emergency has resulted in a substantial and increasing shortage of decent rental housing accommodations. The General

Court further finds that the effect of Chapter 400, and the sudden elimination of all existing local rent and eviction regulation will produce serious threats to the public health, safety and general welfare of the citizens of Cambridge and particularly to low and moderate income persons and families, disabled persons, and the elderly. This act shall apply notwithstanding any general or special law to the contrary, including Chapter 400 of the General Laws.

SECTION 2. Effective Date.

This act shall take effect in the City of Cambridge on January 1, 1995. Passage of this act shall be deemed to constitute the initial acceptance of this act by the City of Cambridge. Once this act has been accepted, it may be repealed, revoked, or otherwise nullified by a majority vote of the Cambridge City Council, or by a ballot measure submitted to the registered voters of the City of Cambridge in accordance with the procedures of Sections 37 through 40 of Chapter 43 of the General Laws. If this act is repealed, revoked, or otherwise nullified, the provisions of this act shall be treated as still remaining in force for the purpose of sustaining any proper suit, action or prosecution with respect to any right, liability or offense arising under the provisions of this act. If repealed, revoked, or otherwise nullified, it may be re-accepted in one of the following ways:

- (a) by a majority vote of the members of the Cambridge City Council, or
- (b) by initiative petition and vote pursuant to the procedures of Sections 37 through 40 of Chapter 43 of the General Laws.

SECTION 3. Definitions.

When used in this act, unless the context otherwise requires, the following words or phrases shall have the following meanings:

- (a) "Board" means the Rent Equity Board described in Section 4 of this act.
- (b) "Consumer Price Index (CPI)" shall mean the consumer price index for all urban consumers in the Boston SMSA as published by the United States Department of Labor Bureau of Labor Statistics.
- (c) "Controlled rental units" shall mean any unit which was a controlled rental unit under Chapter 36 of the Acts of 1976 on November 8, 1994, or a Subsidized Rental Unit provided that such a unit shall be deemed a Controlled Rental Unit only after such time as the tenant loses the subsidy.
- (d) "Covered Rental Unit" shall mean any Controlled Rental Unit which:

- (1) until March 31, 1995 is a unit occupied by a tenant in a four to six unit building; or
 - (2) is a unit occupied by a Specially Protected Tenant in a four to six unit building; or
 - (3) until July 31, 1995, is a unit occupied by a tenant in a building of seven (7) or more units; or
 - (4) is a unit occupied by a Protected Tenant in a building of seven (7) or more units; or
 - (5) is a unit that is a condominium unit occupied by a Specially Protected Tenant.
- (e) "Income Eligible" shall mean those persons whose income is 90% or less of the median income for the Boston SMSA as set forth in or determined based upon regulations promulgated from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the Housing Act of 1937 as amended, and calculated pursuant to said regulations;
- (f) "Ordinanced Condominium" shall mean a Controlled Rental Unit which is a condominium unit for which a unit deed was recorded on or before November 8, 1994 and for which no certificate of exemption had been issued on or before November 8, 1994 and for which no certificate of exemption could have been obtained as of right on or before November 8, 1994.
- (g) "Protected Tenant" shall mean a person who:
- (1) had protection as a tenant in a Controlled Rental

Unit on November 8, 1994 pursuant Chapter 36 of the Acts of 1976 as amended, and

- (i) is an Income Eligible person or group of persons residing in the same unit; or
 - (ii) is an elderly tenant who is at least 62 years of age; or
 - (iii) is a disabled tenant who is physically handicapped as defined in M.G.L. c. 22, Section 13A.
- (h) "Specially Protected Tenant" shall mean a person who:
- (1) had protection as a tenant in a Controlled Rental Unit on November 8, 1994 pursuant Chapter 36 of the Acts of 1976 as amended, and
 - (i) is an Income Eligible family with a child age 19 or under; or
 - (ii) is an Income Eligible elderly tenant who is at least 62 years of age;
- (i) "Subsidized Rental Unit" shall mean a unit that was exempt under Chapter 36 of the Acts of 1976 solely because it was occupied by a tenant receiving a federal or state rental subsidy.
- (j) "Voluntary vacancy" shall mean a vacancy created when a tenant permanently and of his or her own free will, unconstrained by interference by the landlord, leaves a unit. A vacancy shall not be deemed voluntary when a tenant leaves as a result of the landlord engaging in any

of the following conduct:

- (1) harassment, coercion or forcible conduct;
- (2) unreasonable interruption of heat, utilities or other essential housing services;
- (3) locking the protected tenant out of the unit;
- (4) failure to correct code violations materially impairing the health or safety of the tenant within a reasonable time after the notice;
- (5) knowingly demanding rent in excess of the maximum rent;
- (6) failure to perform ordinary and necessary repairs or maintenance within a reasonable time after notice of the need therefor;
- (7) fraud or knowing misrepresentation;
- (8) failure to provide services;
- (9) failure to maintain the unit in a habitable condition or to give the tenant quiet enjoyment of the unit.

SECTION 4. Rent Equity Board

This act shall be administered by a Rent Equity Board consisting of three members and two alternates. The City Manager shall appoint the members of the Rent Equity Board. The term of each member of the Board shall be one year, and any vacancy on the Board shall be filled within sixty days of notice to the City

Manager of said vacancy. The Board shall be responsible for carrying out the provisions of this act. The City Manager shall appoint such personnel as needed. The Board shall promulgate such policies, rules and regulations as will further the provisions of this act and shall recommend to the City Council for adoption such ordinances as may be necessary to effectuate the purposes of this act. The City Council shall hereby have authority for the adoption of all such ordinances, provided however, that a two-thirds vote of the City Council shall be required for said ordinances to become effective. The Rent Equity Board shall assume possession of all records, documents and other materials in possession of the board established and operated under Chapter 842 of the Acts of 1970, or Chapter 36 of the Acts of 1976, or any special or general laws regulating rents and evictions enacted subsequent to Chapter 842 of the Acts of 1970 or Chapter 36 of the Acts of 1976.

SECTION 5. Transition

For all Covered Rental Units, rents shall be set at the legal maximum controlled rents established for each unit and in effect on November 8, 1994.

SECTION 6. Decontrol

- (a) Any Covered Rental Unit in a building of 4 to 6 units that is not occupied by a Specially Protected Tenant

shall be decontrolled on March 31, 1995 or sooner if the tenant voluntarily vacates or is lawfully evicted.

- (b) Any Covered Rental Unit in a building of 4 to 6 units that is occupied by a Specially Protected Tenant shall be decontrolled if the tenant voluntarily vacates, is lawfully evicted or in accordance with the sunset provision in Section 12 of this Act.
- (c) Any Covered Rental Unit in a building of 7 or more units that is not occupied by a Protected Tenant shall be decontrolled on July 31, 1995 or sooner if the tenant voluntarily vacates or is lawfully evicted.
- (d) Any Covered Rental Unit in a building of 7 or more units that is occupied by a Protected Tenant shall be decontrolled if the tenant voluntarily vacates, is lawfully evicted or in accordance with the sunset provision in Section 12 of this Act.
- (e) Any Covered Rental Unit that is a condominium unit that is not occupied by a Specially Protected Tenant shall be decontrolled on January 1, 1995.
- (f) Any Covered Rental Unit that is a condominium unit that is occupied by a Specially Protected Tenant shall be decontrolled if the tenant voluntarily vacates, is lawfully evicted or in accordance with the sunset provision of Section 12 of this act. Nothing in this Act shall prevent an owner of an Ordinance Condominium Unit from evicting any tenant, including a Specially Protected

Tenant for owner occupancy.

- (g) Any Controlled Rental Unit in a building of one to three units shall be decontrolled on January 1, 1995.

SECTION 7. Rent for Covered Rental Units

- (a) Within 60 days of the establishment of a Rent Equity Board, and in no event longer than 90 days after enactment of this law, a minimum rent shall be set for all units that will be Covered Rental Units after July 31, 1995, the criteria to be set by the Rent Equity Board.
- (b) Beginning on April 1, 1995 rents for any Covered Rental Unit may be increased by 5% or the percentage increase in the CPI for the preceding twelve months whichever is greater, subject to all statutory notices. Notwithstanding this provision, said per annum increase may exceed 5% or the CPI, provided however, if the tenant is aggrieved by said increase, the tenant may seek redress before the Rent Equity Board. The tenant shall be required to pay only the increase that does not exceed 5% or the CPI until such time as the Board rules on the tenant's petition, provided however that the increase shall be deemed approved if the Board has not ruled on the petition within 60 days. The Rent Equity Board shall

establish criteria by regulation for determining the appropriateness for said increases. The criteria for said increases shall include but not be limited to:

- (1) the determination of whether the said new rent shall exceed 30% of the tenant's gross income;
- (2) the condition of the unit;
- (3) rents charged for similar units;
- (4) increases or decreases in property taxes;
- (5) capital improvements of the housing unit as distinguished from ordinary repair, replacement and maintenance;
- (6) unavoidable increases or any decreases in operating and maintenance expenses;
- (7) increases or decreases in living space, services, furniture, furnishings, or equipment;
- (8) failure to perform ordinary repair, replacement, and maintenance.

SECTION 8. Evictions

(a) No person shall bring any action to recover possession of a Covered Rental Unit, unless:

- (1) the tenant has failed to pay the rent to which the landlord is entitled;

- (2) the tenant has violated an obligation or covenant of his tenancy not inconsistent with Chapter 93A of the General Laws, or this act, or the regulations issued pursuant thereto, other than the obligation to surrender possession upon proper notice; and the tenant has failed to cure such violation after having received written notice thereof from the landlord;
- (3) the tenant is committing or permitting to exist a nuisance in or is causing substantial damage to the Covered Rental Unit, or is creating a substantial interference with the comfort, safety, or enjoyment of the landlord or other occupants of the same or any adjacent accommodations;
- (4) the tenant is convicted of using or permitting a Covered Rental Unit to be used for any illegal purpose;
- (5) the tenant, who had a written lease or rental agreement which terminated on or after this act has taken effect has refused, after written request or demand by the landlord, to execute a written extension or renewal thereof for a further term of like duration and in such terms that are not

inconsistent with or violative of any provision of Chapter 93A of the General Laws, or of this act or the regulations issued pursuant thereto;

- (6) the tenant has refused the landlord reasonable access to the unit for the purpose of making necessary repairs or improvements required by the laws of the Commonwealth or any political subdivision thereof, or for the purpose of inspection as permitted or required by the lease or by law, or for the purpose of showing the rental unit to any prospective purchaser or mortgagee;
- (7) the person holding at the end of a lease term is a subtenant not approved by the landlord;
- (8) the landlord seeks to recover possession in good faith for his or her use and occupancy for the following Covered Rental Units:
 - (i) a unit in a four to six unit building;
 - (ii) a condominium unit.
- (9) the landlord seeks to recover possession in good faith of a unit which is a Covered Rental Unit not occupied by a Protected Tenant or a Specially Protected Tenant for use and occupancy by his

children, grandchildren, great-grandchildren, parents, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law;

(10) the landlord seeks to recover possession for any other just cause, provided that his purpose is not in conflict with the provisions and purpose of Chapter 93A of the General Laws, or this act, or the regulations issued pursuant thereto.

(b) A landlord seeking to recover possession of a Covered Rental Unit shall apply to the Board for a certificate of eviction. Where the sole basis for an eviction is non-payment of rent, the owner shall file a sworn affidavit alleging that such non-payment has occurred. The board within thirty (30) days shall either resolve the matter to the satisfaction of the tenant and owner or shall grant the certificate of eviction administratively. Any tenant defenses to said eviction may be raised by the tenant in court and shall not be deemed to be waived as a result of the administrative issuance of a certificate of eviction.

(c) A landlord seeking to recover possession of a Covered Rental Unit for any cause other than non-payment shall apply to the Board for a certificate of eviction. Upon

receipt of such an application, the board shall send a copy of the application to the tenant of the Covered Rental Unit, together with a notification of all rights and procedures available under this section. If the board finds that the facts attested to in the landlord's petition are valid and in compliance with Section 8(a) of this act, the certificate of eviction shall be issued.

- (d) The provisions of this section shall be construed as additional restrictions on the right to recover possession of a Covered Rental Unit. No provision of this section shall entitle any person to recover possession of such a unit.

SECTION 9. Judicial Review

- (a) Any person who is aggrieved by any action, regulation or order of the board may file a complaint for judicial review against the board either in the Cambridge Division of the District Court Department or the Superior Court Department for Middlesex County. If the complaint is filed in the Cambridge Division of the District Court Department, said court shall be authorized to take such action with respect thereto as is provided in the case of the Superior Court under the provisions of Chapter 231A of the General Laws, except that section 3 of said

Chapter 231A shall not apply. Judicial review of adjudicatory decisions shall be conducted in accordance with section 14 of Chapter 30A of the General Laws. Judicial review of regulations shall be in accordance with section 7 of said Chapter 30A.

- (b) The Cambridge Division of the District Court Department and the Superior Court Department for Middlesex County shall have concurrent original jurisdiction over actions arising out of the provisions of section 10. Notwithstanding any other provision of law relating to appeals, appeal from the judgment of whichever court enters the judgment, under the provisions of either section 9 or Section 10, shall be to the Appeals Court.

SECTION 10. Civil Remedies

- (a) If any person demands, accepts, receives, or retains payment of rent in excess of the maximum lawful rent or otherwise violates any provision of this law or any regulation promulgated hereunder, shall be liable as hereinafter provided to any person or persons actually damaged by said violation:
- (1) In the case of any overcharge, damages shall be liquidated in the amount of one hundred dollars

(\$100) or not more than triple the payment or payments demanded, accepted, received, or retained in excess of the maximum rent that could lawfully have been demanded, accepted, received, or retained, whichever is greater. Provided however, if the defendant proves that the violation was not willful, the amount of said liquidated damages shall be the amount of the overcharge.

(2) Actions to recover liquidated damages under the provisions of this section shall not be brought later than one year after the date of said violation. A single action for damages under the provisions of this section may include all violations of the provisions of this act committed by the same person against the same person.

(b) The board may elect to enforce the provisions of this act or any rule or regulation promulgated hereunder either in a civil action for damages or declaratory or injunctive relief.

SECTION 11. Severability

If any provision of this act or the application of such provision to any person or circumstance shall be held invalid, the

validity of the remainder of this act and the applicability of such provision to other persons or circumstances shall not be affected thereby.

SECTION 12. Sunset

The provisions of this act shall cease to be effective on December 31, 1999.



OFFICE OF THE CITY CLERK

CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 349-4260

FAX (617) 349-4307

D. MARGARET DRURY
CITY CLERK

JOHN E. FLYNN
DEPUTY CITY CLERK

NOVEMBER 21, 1994

The Honorable Representative Warren Tolman
State House
Boston, MA 02133

Dear Representative Tolman:

Enclosed for your records is a copy of the Home Rule Petition adopted by the Cambridge City Council on November 20, 1994 entitled: "AN ACT ENABLING THE CITY OF CAMBRIDGE TO PROVIDE AN ORDERLY TRANSITION FROM RENT CONTROL" and filed by Representative Toomey with the House of Representatives on November 21, 1994.

Also enclosed for your information is a summary prepared by City Manager Robert W. Healy for the City Council.

Thank you for your cooperation in this matter.

Very truly yours,

D. Margaret Drury
D. Margaret Drury
City Clerk

DMD/dl

Enc. (2)

c.c. Representative Timothy J. Toomey, Jr.
Speaker Charles F. Flaherty



OFFICE OF THE CITY CLERK

CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 349-4260

FAX (617) 349-4307

D. MARGARET DRURY
CITY CLERK

JOHN E. FLYNN
DEPUTY CITY CLERK

NOVEMBER 21, 1994

The Honorable Senator Robert Travaglini
State House
Boston, MA 02133

Dear Senator Travaglini:

Enclosed for your records is a copy of the Home Rule Petition adopted by the Cambridge City Council on November 20, 1994 entitled: "AN ACT ENABLING THE CITY OF CAMBRIDGE TO PROVIDE AN ORDERLY TRANSITION FROM RENT CONTROL" and filed by Representative Toomey with the House of Representatives on November 21, 1994.

Also enclosed for your information is a summary prepared by City Manager Robert W. Healy for the City Council.

Thank you for your cooperation in this matter.

Very truly yours,

D. Margaret Drury
D. Margaret Drury
City Clerk

DMD/dl

Enc. (2)

c.c. Representative Timothy J. Toomey, Jr.
Speaker Charles F. Flaherty



OFFICE OF THE CITY CLERK

CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 349-4260

FAX (617) 349-4307

D. MARGARET DRURY
CITY CLERK

JOHN E. FLYNN
DEPUTY CITY CLERK

NOVEMBER 21, 1994

The Honorable Senator Michael Barrett
State House
Boston, MA 02133

Dear Senator Barrett:

Enclosed for your records is a copy of the Home Rule Petition adopted by the Cambridge City Council on November 20, 1994 entitled: "AN ACT ENABLING THE CITY OF CAMBRIDGE TO PROVIDE AN ORDERLY TRANSITION FROM RENT CONTROL" and filed by Representative Toomey with the House of Representatives on November 21, 1994.

Also enclosed for your information is a summary prepared by City Manager Robert W. Healy for the City Council.

Thank you for your cooperation in this matter.

Very truly yours,

D. Margaret Drury
D. Margaret Drury
City Clerk

DMD/dl

Enc. (2)

c.c. Representative Timothy J. Toomey, Jr.
Speaker Charles F. Flaherty



OFFICE OF THE CITY CLERK

CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 349-4260

FAX (617) 349-4307

D. MARGARET DRURY
CITY CLERK

JOHN E. FLYNN
DEPUTY CITY CLERK

NOVEMBER 21, 1994

The Honorable Senator Robert Havern
State House
Boston, MA 02133

Dear Senator Havern:

Enclosed for your records is a copy of the Home Rule Petition adopted by the Cambridge City Council on November 20, 1994 entitled: "AN ACT ENABLING THE CITY OF CAMBRIDGE TO PROVIDE AN ORDERLY TRANSITION FROM RENT CONTROL" and filed by Representative Toomey with the House of Representatives on November 21, 1994.

Also enclosed for your information is a summary prepared by City Manager Robert W. Healy for the City Council.

Thank you for your cooperation in this matter.

Very truly yours,

D. Margaret Drury
D. Margaret Drury
City Clerk

DMD/dl

Enc. (2)

c.c. Representative Timothy J. Toomey, Jr.
Speaker Charles F. Flaherty



OFFICE OF THE CITY CLERK

CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 349-4260

FAX (617) 349-4307

D. MARGARET DRURY
CITY CLERK

JOHN E. FLYNN
DEPUTY CITY CLERK

NOVEMBER 21, 1994

The Honorable Charles F. Flaherty, Speaker
House of Representatives
State House
Boston, MA 02133

Dear Speaker Flaherty:

Enclosed for your records is a copy of the Home Rule Petition adopted by the Cambridge City Council on November 20, 1994 entitled: "AN ACT ENABLING THE CITY OF CAMBRIDGE TO PROVIDE AN ORDERLY TRANSITION FROM RENT CONTROL" and filed by Representative Toomey with the House of Representatives on November 21, 1994.

Also enclosed for your information is a summary prepared by City Manager Robert W. Healy for the City Council.

Thank you for your cooperation in this matter.

Very truly yours,

D. Margaret Drury
D. Margaret Drury
City Clerk

DMD/dl

Enc. (2)

c.c. Representative Timothy J. Toomey, Jr.



OFFICE OF THE CITY CLERK

CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 349-4260

FAX (617) 349-4307

D. MARGARET DRURY
CITY CLERK

JOHN E. FLYNN
DEPUTY CITY CLERK

NOVEMBER 21, 1994

The Honorable Alvin Thompson
House of Representatives
State House
Boston, MA 02133

Dear Representative Thompson:

Enclosed for your records is a copy of the Home Rule Petition adopted by the Cambridge City Council on November 20, 1994 entitled: "AN ACT ENABLING THE CITY OF CAMBRIDGE TO PROVIDE AN ORDERLY TRANSITION FROM RENT CONTROL" and filed by Representative Toomey with the House of Representatives on November 21, 1994.

Also enclosed for your information is a summary prepared by City Manager Robert W. Healy for the City Council.

Thank you for your cooperation in this matter.

Very truly yours,

D. Margaret Drury
D. Margaret Drury
City Clerk

DMD/dl

Enc. (2)

c.c. Speaker Charles F. Flaherty
Representative Timothy J. Toomey, Jr.



OFFICE OF THE CITY CLERK

CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 349-4260

FAX (617) 349-4307

D. MARGARET DRURY
CITY CLERK

JOHN E. FLYNN
DEPUTY CITY CLERK

NOVEMBER 21, 1994

The Honorable Senator Thomas Birmingham
State House
Boston, MA 02133

Dear Senator Birmingham:

Enclosed for your records is a copy of the Home Rule Petition adopted by the Cambridge City Council on November 20, 1994 entitled: "AN ACT ENABLING THE CITY OF CAMBRIDGE TO PROVIDE AN ORDERLY TRANSITION FROM RENT CONTROL" and filed by Representative Toomey with the House of Representatives on November 21, 1994.

Also enclosed for your information is a summary prepared by City Manager Robert W. Healy for the City Council.

Thank you for your cooperation in this matter.

Very truly yours,

D. Margaret Drury
D. Margaret Drury
City Clerk

DMD/dl

Enc. (2)

c.c. Representative Timothy J. Toomey, Jr.
Speaker Charles F. Flaherty

GOALS OF COMPROMISE PLAN:

1. To the greatest degree possible allow for an orderly transition and permit children to finish the school year in their schools.
2. To provide the benefits of rent and limited eviction protections solely for tenants most in need for the next several years.
3. To remove the special owner occupancy restrictions on ordinances on condominiums.
4. To recognize the differences based on size between larger properties (7+ units) and small properties (1-6 units).
5. To streamline procedures for tenants and owners for all properties subject to controls over the next several years.

PROVISIONS OF THE COMPROMISE PLAN

Definitions

"Income Eligible" as it applies to Specially Protected Tenants and Protected Tenants shall mean those with incomes at 90% or less of the HUD median income which is \$31,455 for a 1 person household, \$35,910 for a 2 person household, \$40,410 for a 3 person household, \$44,910 for a 4 person household, and \$48,510 for a 5 person household.

"Protected Tenants" shall mean (1) all Income Eligible tenants, or (2) those 62 years of age or older, or (3) physically handicapped tenants.

"Specially Protected Tenants" shall mean (1) Income Eligible families with a child age 19 or under; or (2) Income Eligible elderly 62 years of age or older.

1. One, Two, and Three Unit Buildings

* one, two, and three unit buildings decontrolled on 1-1-95.

2. Four, Five, and Six Unit Buildings

* all units in 4, 5, and 6 unit buildings decontrolled on 3-31-95, except that units occupied by Specially Protected Tenants shall be protected for five years or until vacancy.

3. Buildings of Seven Units or More

* all units decontrolled on 7-31-95, except that units occupied by Protected Tenants shall be protected for five years or until vacancy.

4. Ordinanced Condos

* currently ordinanced condos can be owner occupied on 1-1-95 or thereafter.

* all non-owner occupied condos decontrolled on 1-1-95, except that units occupied by Specially Protected Tenants shall be protected for five years or until owner occupancy or vacancy.

5. Rent and Eviction Procedures

* rent increases for protected tenants allowed at 5% or CPI annually, but may exceed 5% or CPI if allowed by Board.

* protected tenants can be evicted for non-payment of rent and for other just cause, non-payment cases tried by courts not the Rent Equity Board.



City of Cambridge

1.

IN CITY COUNCIL

November 20, 1994

MAYOR REEVES
VICE MAYOR RUSSELL
COUNCILLOR BORN
COUNCILLOR DUEHAY
COUNCILLOR SULLIVAN
COUNCILLOR TOOMEY

ORDERED: That the City Council petitions the legislature to enact the attached Home Rule Petition entitled "An Act Enabling the City of Cambridge to Provide an Orderly Transition from Rent Control"; and be it further

ORDERED: That the legislature may make reasonable technical amendments which do not vary the substance of the petition.

In City Council November 20, 1994.
Adopted by a yea and nay vote:
Yeas 6; Nays 1; Absent 0; Present 1.
Attest:- D. Margaret Drury, City Clerk.

A true copy;

ATTEST:-

D. Margaret Drury
City Clerk

To the Honorable Senate and House of Representatives of The Commonwealth of Massachusetts
in General Court assembled.

The undersigned, citizens of Cambridge, respectfully
petition for the passage of the accompanying bill or resolve, and/or for legislation enabling the City of
Cambridge to provide an orderly transition from rent control.

Petitioners are requested to sign names and addresses legibly.

Kenneth E. Reenes
Kathleen S. Born
Michael A. Spear
Shula T. Russell
W. B. Smith
Timothy J. Torrey Jr.

11 Everett St., Camb.
02138
3 Walnut Ave. Camb. 02140
28 Johnson Ave., Cambridge, 02139
5 Hawthorne Park Camb.
02138
26 Lowell St. Cambridge
88 Sixth St. Cambridge



The Commonwealth of Massachusetts

IN THE YEAR ONE THOUSAND NINE HUNDRED AND NINETY- FOUR

AN ACT

AN ACT ENABLING THE CITY OF CAMBRIDGE TO PROVIDE AN ORDERLY TRANSITION FROM RENT CONTROL

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Declaration of Emergency.

The General Court finds and declares that a serious public emergency exists with respect to the housing of low and moderate income families, the elderly, and the disabled in the City of Cambridge. This emergency has been created by insufficient new rental housing construction affordable to low and moderate income persons and families, increased costs of construction and finance, lack of sufficient vacant land for the construction of new rental housing, the gap between housing costs and income for low and moderate income persons and families, long waiting lists for public and subsidized housing, and the displacement of low and moderate income persons and families, as well as elderly persons, from their homes. This emergency has resulted in a substantial and increasing shortage of decent rental housing accommodations. The General

Court further finds that the effect of Chapter 400, and the sudden elimination of all existing local rent and eviction regulation will produce serious threats to the public health, safety and general welfare of the citizens of Cambridge and particularly to low and moderate income persons and families, disabled persons, and the elderly. This act shall apply notwithstanding any general or special law to the contrary, including Chapter 400 of the General Laws.

SECTION 2. Effective Date.

This act shall take effect in the City of Cambridge on January 1, 1995. Passage of this act shall be deemed to constitute the initial acceptance of this act by the City of Cambridge. Once this act has been accepted, it may be repealed, revoked, or otherwise nullified by a majority vote of the Cambridge City Council, or by a ballot measure submitted to the registered voters of the City of Cambridge in accordance with the procedures of Sections 37 through 40 of Chapter 43 of the General Laws. If this act is repealed, revoked, or otherwise nullified, the provisions of this act shall be treated as still remaining in force for the purpose of sustaining any proper suit, action or prosecution with respect to any right, liability or offense arising under the provisions of this act. If repealed, revoked, or otherwise nullified, it may be re-accepted in one of the following ways:

- (a) by a majority vote of the members of the Cambridge City Council, or
- (b) by initiative petition and vote pursuant to the procedures of Sections 37 through 40 of Chapter 43 of the General Laws.

SECTION 3. Definitions.

When used in this act, unless the context otherwise requires, the following words or phrases shall have the following meanings:

- (a) "Board" means the Rent Equity Board described in Section 4 of this act.
- (b) "Consumer Price Index (CPI)" shall mean the consumer price index for all urban consumers in the Boston SMSA as published by the United States Department of Labor Bureau of Labor Statistics.
- (c) "Controlled rental units" shall mean any unit which was a controlled rental unit under Chapter 36 of the Acts of 1976 on November 8, 1994, or a Subsidized Rental Unit provided that such a unit shall be deemed a Controlled Rental Unit only after such time as the tenant loses the subsidy.
- (d) "Covered Rental Unit" shall mean any Controlled Rental Unit which:

- (1) until March 31, 1995 is a unit occupied by a tenant in a four to six unit building; or
 - (2) is a unit occupied by a Specially Protected Tenant in a four to six unit building; or
 - (3) until July 31, 1995, is a unit occupied by a tenant in a building of seven (7) or more units; or
 - (4) is a unit occupied by a Protected Tenant in a building of seven (7) or more units; or
 - (5) is a unit that is a condominium unit occupied by a Specially Protected Tenant.
- (e) "Income Eligible" shall mean those persons whose income is 90% or less of the median income for the Boston SMSA as set forth in or determined based upon regulations promulgated from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the Housing Act of 1937 as amended, and calculated pursuant to said regulations;
- (f) "Ordinanced Condominium" shall mean a Controlled Rental Unit which is a condominium unit for which a unit deed was recorded on or before November 8, 1994 and for which no certificate of exemption had been issued on or before November 8, 1994 and for which no certificate of exemption could have been obtained as of right on or before November 8, 1994.
- (g) "Protected Tenant" shall mean a person who:
- (1) had protection as a tenant in a Controlled Rental

Unit on November 8, 1994 pursuant Chapter 36 of the Acts of 1976 as amended, and

- (i) is an Income Eligible person or group of persons residing in the same unit; or
- (ii) is an elderly tenant who is at least 62 years of age; or
- (iii) is a disabled tenant who is physically handicapped as defined in M.G.L. c. 22, Section 13A.

(h) "Specially Protected Tenant" shall mean a person who:

(1) had protection as a tenant in a Controlled Rental Unit on November 8, 1994 pursuant Chapter 36 of the Acts of 1976 as amended, and

- (i) is an Income Eligible family with a child age 19 or under; or
- (ii) is an Income Eligible elderly tenant who is at least 62 years of age;

(i) "Subsidized Rental Unit" shall mean a unit that was exempt under Chapter 36 of the Acts of 1976 solely because it was occupied by a tenant receiving a federal or state rental subsidy.

(j) "Voluntary vacancy" shall mean a vacancy created when a tenant permanently and of his or her own free will, unconstrained by interference by the landlord, leaves a unit. A vacancy shall not be deemed voluntary when a tenant leaves as a result of the landlord engaging in any

of the following conduct:

- (1) harassment, coercion or forcible conduct;
- (2) unreasonable interruption of heat, utilities or other essential housing services;
- (3) locking the protected tenant out of the unit;
- (4) failure to correct code violations materially impairing the health or safety of the tenant within a reasonable time after the notice;
- (5) knowingly demanding rent in excess of the maximum rent;
- (6) failure to perform ordinary and necessary repairs or maintenance within a reasonable time after notice of the need therefor;
- (7) fraud or knowing misrepresentation;
- (8) failure to provide services;
- (9) failure to maintain the unit in a habitable condition or to give the tenant quiet enjoyment of the unit.

SECTION 4. Rent Equity Board

This act shall be administered by a Rent Equity Board consisting of three members and two alternates. The City Manager shall appoint the members of the Rent Equity Board. The term of each member of the Board shall be one year, and any vacancy on the Board shall be filled within sixty days of notice to the City

Manager of said vacancy. The Board shall be responsible for carrying out the provisions of this act. The City Manager shall appoint such personnel as needed. The Board shall promulgate such policies, rules and regulations as will further the provisions of this act and shall recommend to the City Council for adoption such ordinances as may be necessary to effectuate the purposes of this act. The City Council shall hereby have authority for the adoption of all such ordinances, provided however, that a two-thirds vote of the City Council shall be required for said ordinances to become effective. The Rent Equity Board shall assume possession of all records, documents and other materials in possession of the board established and operated under Chapter 842 of the Acts of 1970, or Chapter 36 of the Acts of 1976, or any special or general laws regulating rents and evictions enacted subsequent to Chapter 842 of the Acts of 1970 or Chapter 36 of the Acts of 1976.

SECTION 5. Transition

For all Covered Rental Units, rents shall be set at the legal maximum controlled rents established for each unit and in effect on November 8, 1994.

SECTION 6. Decontrol

- (a) Any Covered Rental Unit in a building of 4 to 6 units that is not occupied by a Specially Protected Tenant

shall be decontrolled on March 31, 1995 or sooner if the tenant voluntarily vacates or is lawfully evicted.

- (b) Any Covered Rental Unit in a building of 4 to 6 units that is occupied by a Specially Protected Tenant shall be decontrolled if the tenant voluntarily vacates, is lawfully evicted or in accordance with the sunset provision in Section 12 of this Act.
- (c) Any Covered Rental Unit in a building of 7 or more units that is not occupied by a Protected Tenant shall be decontrolled on July 31, 1995 or sooner if the tenant voluntarily vacates or is lawfully evicted.
- (d) Any Covered Rental Unit in a building of 7 or more units that is occupied by a Protected Tenant shall be decontrolled if the tenant voluntarily vacates, is lawfully evicted or in accordance with the sunset provision in Section 12 of this Act.
- (e) Any Covered Rental Unit that is a condominium unit that is not occupied by a Specially Protected Tenant shall be decontrolled on January 1, 1995.
- (f) Any Covered Rental Unit that is a condominium unit that is occupied by a Specially Protected Tenant shall be decontrolled if the tenant voluntarily vacates, is lawfully evicted or in accordance with the sunset provision of Section 12 of this act. Nothing in this Act shall prevent an owner of an Ordinance Condominium Unit from evicting any tenant, including a Specially Protected

Tenant for owner occupancy.

- (g) Any Controlled Rental Unit in a building of one to three units shall be decontrolled on January 1, 1995.

SECTION 7. Rent for Covered Rental Units

- (a) Within 60 days of the establishment of a Rent Equity Board, and in no event longer than 90 days after enactment of this law, a minimum rent shall be set for all units that will be Covered Rental Units after July 31, 1995, the criteria to be set by the Rent Equity Board.
- (b) Beginning on April 1, 1995 rents for any Covered Rental Unit may be increased by 5% or the percentage increase in the CPI for the preceding twelve months whichever is greater, subject to all statutory notices. Notwithstanding this provision, said per annum increase may exceed 5% or the CPI, provided however, if the tenant is aggrieved by said increase, the tenant may seek redress before the Rent Equity Board. The tenant shall be required to pay only the increase that does not exceed 5% or the CPI until such time as the Board rules on the tenant's petition, provided however that the increase shall be deemed approved if the Board has not ruled on the petition within 60 days. The Rent Equity Board shall

establish criteria by regulation for determining the appropriateness for said increases. The criteria for said increases shall include but not be limited to:

- (1) the determination of whether the said new rent shall exceed 30% of the tenant's gross income;
- (2) the condition of the unit;
- (3) rents charged for similar units;
- (4) increases or decreases in property taxes;
- (5) capital improvements of the housing unit as distinguished from ordinary repair, replacement and maintenance;
- (6) unavoidable increases or any decreases in operating and maintenance expenses;
- (7) increases or decreases in living space, services, furniture, furnishings, or equipment;
- (8) failure to perform ordinary repair, replacement, and maintenance.

SECTION 8. Evictions

- (a) No person shall bring any action to recover possession of a Covered Rental Unit, unless:
 - (1) the tenant has failed to pay the rent to which the landlord is entitled;

- (2) the tenant has violated an obligation or covenant of his tenancy not inconsistent with Chapter 93A of the General Laws, or this act, or the regulations issued pursuant thereto, other than the obligation to surrender possession upon proper notice; and the tenant has failed to cure such violation after having received written notice thereof from the landlord;
- (3) the tenant is committing or permitting to exist a nuisance in or is causing substantial damage to the Covered Rental Unit, or is creating a substantial interference with the comfort, safety, or enjoyment of the landlord or other occupants of the same or any adjacent accommodations;
- (4) the tenant is convicted of using or permitting a Covered Rental Unit to be used for any illegal purpose;
- (5) the tenant, who had a written lease or rental agreement which terminated on or after this act has taken effect has refused, after written request or demand by the landlord, to execute a written extension or renewal thereof for a further term of like duration and in such terms that are not

inconsistent with or violative of any provision of Chapter 93A of the General Laws, or of this act or the regulations issued pursuant thereto;

- (6) the tenant has refused the landlord reasonable access to the unit for the purpose of making necessary repairs or improvements required by the laws of the Commonwealth or any political subdivision thereof, or for the purpose of inspection as permitted or required by the lease or by law, or for the purpose of showing the rental unit to any prospective purchaser or mortgagee;
- (7) the person holding at the end of a lease term is a subtenant not approved by the landlord;
- (8) the landlord seeks to recover possession in good faith for his or her use and occupancy for the following Covered Rental Units:
 - (i) a unit in a four to six unit building;
 - (ii) a condominium unit.
- (9) the landlord seeks to recover possession in good faith of a unit which is a Covered Rental Unit not occupied by a Protected Tenant or a Specially Protected Tenant for use and occupancy by his

children, grandchildren, great-grandchildren, parents, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law;

(10) the landlord seeks to recover possession for any other just cause, provided that his purpose is not in conflict with the provisions and purpose of Chapter 93A of the General Laws, or this act, or the regulations issued pursuant thereto.

(b) A landlord seeking to recover possession of a Covered Rental Unit shall apply to the Board for a certificate of eviction. Where the sole basis for an eviction is non-payment of rent, the owner shall file a sworn affidavit alleging that such non-payment has occurred. The board within thirty (30) days shall either resolve the matter to the satisfaction of the tenant and owner or shall grant the certificate of eviction administratively. Any tenant defenses to said eviction may be raised by the tenant in court and shall not be deemed to be waived as a result of the administrative issuance of a certificate of eviction.

(c) A landlord seeking to recover possession of a Covered Rental Unit for any cause other than non-payment shall apply to the Board for a certificate of eviction. Upon

receipt of such an application, the board shall send a copy of the application to the tenant of the Covered Rental Unit, together with a notification of all rights and procedures available under this section. If the board finds that the facts attested to in the landlord's petition are valid and in compliance with Section 8(a) of this act, the certificate of eviction shall be issued.

- (d) The provisions of this section shall be construed as additional restrictions on the right to recover possession of a Covered Rental Unit. No provision of this section shall entitle any person to recover possession of such a unit.

SECTION 9. Judicial Review

- (a) Any person who is aggrieved by any action, regulation or order of the board may file a complaint for judicial review against the board either in the Cambridge Division of the District Court Department or the Superior Court Department for Middlesex County. If the complaint is filed in the Cambridge Division of the District Court Department, said court shall be authorized to take such action with respect thereto as is provided in the case of the Superior Court under the provisions of Chapter 231A of the General Laws, except that section 3 of said

Chapter 231A shall not apply. Judicial review of adjudicatory decisions shall be conducted in accordance with section 14 of Chapter 30A of the General Laws. Judicial review of regulations shall be in accordance with section 7 of said Chapter 30A.

- (b) The Cambridge Division of the District Court Department and the Superior Court Department for Middlesex County shall have concurrent original jurisdiction over actions arising out of the provisions of section 10. Notwithstanding any other provision of law relating to appeals, appeal from the judgment of whichever court enters the judgment, under the provisions of either section 9 or Section 10, shall be to the Appeals Court.

SECTION 10. Civil Remedies

- (a) If any person demands, accepts, receives, or retains payment of rent in excess of the maximum lawful rent or otherwise violates any provision of this law or any regulation promulgated hereunder, shall be liable as hereinafter provided to any person or persons actually damaged by said violation:
- (1) In the case of any overcharge, damages shall be liquidated in the amount of one hundred dollars

(\$100) or not more than triple the payment or payments demanded, accepted, received, or retained in excess of the maximum rent that could lawfully have been demanded, accepted, received, or retained, whichever is greater. Provided however, if the defendant proves that the violation was not willful, the amount of said liquidated damages shall be the amount of the overcharge.

(2) Actions to recover liquidated damages under the provisions of this section shall not be brought later than one year after the date of said violation. A single action for damages under the provisions of this section may include all violations of the provisions of this act committed by the same person against the same person.

(b) The board may elect to enforce the provisions of this act or any rule or regulation promulgated hereunder either in a civil action for damages or declaratory or injunctive relief.

SECTION 11. Severability

If any provision of this act or the application of such provision to any person or circumstance shall be held invalid, the

validity of the remainder of this act and the applicability of such provision to other persons or circumstances shall not be affected thereby.

SECTION 12. Sunset

The provisions of this act shall cease to be effective on December 31, 1999.

City of Cambridge

MASSACHUSETTS

V. M. Russell move to adopt In City Council 11/20 1994

~~Substitute~~ ~~Act~~ Enabling the City of Cambridge To Provide An

Orderly Transition from Rent Control for ~~City~~ No On the Table ~~Item~~ No 1.

YEA	NAY	ABSENT	PRESENT	
✓				Ms. Kathleen L. Born
✓				Mr. Francis H. Duehay
			✓	Mr. Jonathan S. Myers
✓				Mrs. Sheila T. Russell
✓				Mr. Michael A. Sullivan
✓				Mr. Timothy J. Toomey, Jr.
	✓			Ms. Katherine Triantafillou
				Mr. William H. Walsh
✓				Mayor Kenneth E. Reeves

6 1 0 1

FD m susp 11/8
RF 0-8/11



City of Cambridge

1.

IN CITY COUNCIL

November 20, 1994

MAYOR REEVES
VICE MAYOR RUSSELL
COUNCILLOR BORN
COUNCILLOR DUEHAY
COUNCILLOR SULLIVAN
COUNCILLOR TOOMEY

ORDERED: That the City Council petitions the legislature to enact the attached Home Rule Petition entitled "An Act Enabling the City of Cambridge to Provide an Orderly Transition from Rent Control"; and be it further

ORDERED: That the legislature may make reasonable technical amendments which do not vary the substance of the petition.

In City Council November 20, 1994.
Adopted by a ye and nay vote:
Yeas 6; Nays 1; Absent 0; Present 1.
Attest:- D. Margaret Drury, City Clerk.

A true copy;

ATTEST:-

D. Margaret Drury
City Clerk

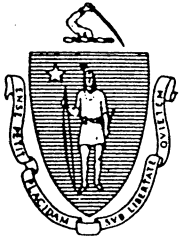
To the Honorable Senate and House of Representatives of The Commonwealth of Massachusetts
in General Court assembled.

The undersigned, citizens of Cambridge , respectfully
petition for the passage of the accompanying bill or resolve, and/or for legislation enabling the City of
Cambridge to provide an orderly transition from rent control.

Petitioners are requested to sign names and addresses legibly.

Kenneth E. Reenes
Kathleen J. Born
Michael A. O'Keefe
Sheila T. Russell
W. B. Aubrey
Timothy J. Torrey Jr.

11 Everett St., Camb.
02138
3 Walker Ave. Camb. 02140
28 Johnson Ave., Cambridge, 02139
5 Hawthorne Park Camb.
02138
26 Lowell St. Cambridge
88 Sixth St. Cambridge



The Commonwealth of Massachusetts

IN THE YEAR ONE THOUSAND NINE HUNDRED AND NINETY- FOUR

AN ACT

AN ACT ENABLING THE CITY OF CAMBRIDGE TO PROVIDE AN
ORDERLY TRANSITION FROM RENT CONTROL

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Declaration of Emergency.

The General Court finds and declares that a serious public emergency exists with respect to the housing of low and moderate income families, the elderly, and the disabled in the City of Cambridge. This emergency has been created by insufficient new rental housing construction affordable to low and moderate income persons and families, increased costs of construction and finance, lack of sufficient vacant land for the construction of new rental housing, the gap between housing costs and income for low and moderate income persons and families, long waiting lists for public and subsidized housing, and the displacement of low and moderate income persons and families, as well as elderly persons, from their homes. This emergency has resulted in a substantial and increasing shortage of decent rental housing accommodations. The General

Court further finds that the effect of Chapter 400, and the sudden elimination of all existing local rent and eviction regulation will produce serious threats to the public health, safety and general welfare of the citizens of Cambridge and particularly to low and moderate income persons and families, disabled persons, and the elderly. This act shall apply notwithstanding any general or special law to the contrary, including Chapter 400 of the General Laws.

SECTION 2. Effective Date.

This act shall take effect in the City of Cambridge on January 1, 1995. Passage of this act shall be deemed to constitute the initial acceptance of this act by the City of Cambridge. Once this act has been accepted, it may be repealed, revoked, or otherwise nullified by a majority vote of the Cambridge City Council, or by a ballot measure submitted to the registered voters of the City of Cambridge in accordance with the procedures of Sections 37 through 40 of Chapter 43 of the General Laws. If this act is repealed, revoked, or otherwise nullified, the provisions of this act shall be treated as still remaining in force for the purpose of sustaining any proper suit, action or prosecution with respect to any right, liability or offense arising under the provisions of this act. If repealed, revoked, or otherwise nullified, it may be re-accepted in one of the following ways:

- (a) by a majority vote of the members of the Cambridge City Council, or
- (b) by initiative petition and vote pursuant to the procedures of Sections 37 through 40 of Chapter 43 of the General Laws.

SECTION 3. Definitions.

When used in this act, unless the context otherwise requires, the following words or phrases shall have the following meanings:

- (a) "Board" means the Rent Equity Board described in Section 4 of this act.
- (b) "Consumer Price Index (CPI)" shall mean the consumer price index for all urban consumers in the Boston SMSA as published by the United States Department of Labor Bureau of Labor Statistics.
- (c) "Controlled rental units" shall mean any unit which was a controlled rental unit under Chapter 36 of the Acts of 1976 on November 8, 1994, or a Subsidized Rental Unit provided that such a unit shall be deemed a Controlled Rental Unit only after such time as the tenant loses the subsidy.
- (d) "Covered Rental Unit" shall mean any Controlled Rental Unit which:

- (1) until March 31, 1995 is a unit occupied by a tenant in a four to six unit building; or
 - (2) is a unit occupied by a Specially Protected Tenant in a four to six unit building; or
 - (3) until July 31, 1995, is a unit occupied by a tenant in a building of seven (7) or more units; or
 - (4) is a unit occupied by a Protected Tenant in a building of seven (7) or more units; or
 - (5) is a unit that is a condominium unit occupied by a Specially Protected Tenant.
- (e) "Income Eligible" shall mean those persons whose income is 90% or less of the median income for the Boston SMSA as set forth in or determined based upon regulations promulgated from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the Housing Act of 1937 as amended, and calculated pursuant to said regulations;
- (f) "Ordinanced Condominium" shall mean a Controlled Rental Unit which is a condominium unit for which a unit deed was recorded on or before November 8, 1994 and for which no certificate of exemption had been issued on or before November 8, 1994 and for which no certificate of exemption could have been obtained as of right on or before November 8, 1994.
- (g) "Protected Tenant" shall mean a person who:
- (1) had protection as a tenant in a Controlled Rental

Unit on November 8, 1994 pursuant Chapter 36 of the Acts of 1976 as amended, and

- (i) is an Income Eligible person or group of persons residing in the same unit; or
- (ii) is an elderly tenant who is at least 62 years of age; or
- (iii) is a disabled tenant who is physically handicapped as defined in M.G.L. c. 22, Section 13A.

(h) "Specially Protected Tenant" shall mean a person who:

(1) had protection as a tenant in a Controlled Rental Unit on November 8, 1994 pursuant Chapter 36 of the Acts of 1976 as amended, and

- (i) is an Income Eligible family with a child age 19 or under; or
- (ii) is an Income Eligible elderly tenant who is at least 62 years of age;

(i) "Subsidized Rental Unit" shall mean a unit that was exempt under Chapter 36 of the Acts of 1976 solely because it was occupied by a tenant receiving a federal or state rental subsidy.

(j) "Voluntary vacancy" shall mean a vacancy created when a tenant permanently and of his or her own free will, unconstrained by interference by the landlord, leaves a unit. A vacancy shall not be deemed voluntary when a tenant leaves as a result of the landlord engaging in any

of the following conduct:

- (1) harassment, coercion or forcible conduct;
- (2) unreasonable interruption of heat, utilities or other essential housing services;
- (3) locking the protected tenant out of the unit;
- (4) failure to correct code violations materially impairing the health or safety of the tenant within a reasonable time after the notice;
- (5) knowingly demanding rent in excess of the maximum rent;
- (6) failure to perform ordinary and necessary repairs or maintenance within a reasonable time after notice of the need therefor;
- (7) fraud or knowing misrepresentation;
- (8) failure to provide services;
- (9) failure to maintain the unit in a habitable condition or to give the tenant quiet enjoyment of the unit.

SECTION 4. Rent Equity Board

This act shall be administered by a Rent Equity Board consisting of three members and two alternates. The City Manager shall appoint the members of the Rent Equity Board. The term of each member of the Board shall be one year, and any vacancy on the Board shall be filled within sixty days of notice to the City

Manager of said vacancy. The Board shall be responsible for carrying out the provisions of this act. The City Manager shall appoint such personnel as needed. The Board shall promulgate such policies, rules and regulations as will further the provisions of this act and shall recommend to the City Council for adoption such ordinances as may be necessary to effectuate the purposes of this act. The City Council shall hereby have authority for the adoption of all such ordinances, provided however, that a two-thirds vote of the City Council shall be required for said ordinances to become effective. The Rent Equity Board shall assume possession of all records, documents and other materials in possession of the board established and operated under Chapter 842 of the Acts of 1970, or Chapter 36 of the Acts of 1976, or any special or general laws regulating rents and evictions enacted subsequent to Chapter 842 of the Acts of 1970 or Chapter 36 of the Acts of 1976.

SECTION 5. Transition

For all Covered Rental Units, rents shall be set at the legal maximum controlled rents established for each unit and in effect on November 8, 1994.

SECTION 6. Decontrol

- (a) Any Covered Rental Unit in a building of 4 to 6 units that is not occupied by a Specially Protected Tenant

shall be decontrolled on March 31, 1995 or sooner if the tenant voluntarily vacates or is lawfully evicted.

- (b) Any Covered Rental Unit in a building of 4 to 6 units that is occupied by a Specially Protected Tenant shall be decontrolled if the tenant voluntarily vacates, is lawfully evicted or in accordance with the sunset provision in Section 12 of this Act.
- (c) Any Covered Rental Unit in a building of 7 or more units that is not occupied by a Protected Tenant shall be decontrolled on July 31, 1995 or sooner if the tenant voluntarily vacates or is lawfully evicted.
- (d) Any Covered Rental Unit in a building of 7 or more units that is occupied by a Protected Tenant shall be decontrolled if the tenant voluntarily vacates, is lawfully evicted or in accordance with the sunset provision in Section 12 of this Act.
- (e) Any Covered Rental Unit that is a condominium unit that is not occupied by a Specially Protected Tenant shall be decontrolled on January 1, 1995.
- (f) Any Covered Rental Unit that is a condominium unit that is occupied by a Specially Protected Tenant shall be decontrolled if the tenant voluntarily vacates, is lawfully evicted or in accordance with the sunset provision of Section 12 of this act. Nothing in this Act shall prevent an owner of an Ordinance Condominium Unit from evicting any tenant, including a Specially Protected

Tenant for owner occupancy.

- (g) Any Controlled Rental Unit in a building of one to three units shall be decontrolled on January 1, 1995.

SECTION 7. Rent for Covered Rental Units

- (a) Within 60 days of the establishment of a Rent Equity Board, and in no event longer than 90 days after enactment of this law, a minimum rent shall be set for all units that will be Covered Rental Units after July 31, 1995, the criteria to be set by the Rent Equity Board.
- (b) Beginning on April 1, 1995 rents for any Covered Rental Unit may be increased by 5% or the percentage increase in the CPI for the preceding twelve months whichever is greater, subject to all statutory notices. Notwithstanding this provision, said per annum increase may exceed 5% or the CPI, provided however, if the tenant is aggrieved by said increase, the tenant may seek redress before the Rent Equity Board. The tenant shall be required to pay only the increase that does not exceed 5% or the CPI until such time as the Board rules on the tenant's petition, provided however that the increase shall be deemed approved if the Board has not ruled on the petition within 60 days. The Rent Equity Board shall

establish criteria by regulation for determining the appropriateness for said increases. The criteria for said increases shall include but not be limited to:

- (1) the determination of whether the said new rent shall exceed 30% of the tenant's gross income;
- (2) the condition of the unit;
- (3) rents charged for similar units;
- (4) increases or decreases in property taxes;
- (5) capital improvements of the housing unit as distinguished from ordinary repair, replacement and maintenance;
- (6) unavoidable increases or any decreases in operating and maintenance expenses;
- (7) increases or decreases in living space, services, furniture, furnishings, or equipment;
- (8) failure to perform ordinary repair, replacement, and maintenance.

SECTION 8. Evictions

(a) No person shall bring any action to recover possession of a Covered Rental Unit, unless:

- (1) the tenant has failed to pay the rent to which the landlord is entitled;

- (2) the tenant has violated an obligation or covenant of his tenancy not inconsistent with Chapter 93A of the General Laws, or this act, or the regulations issued pursuant thereto, other than the obligation to surrender possession upon proper notice; and the tenant has failed to cure such violation after having received written notice thereof from the landlord;
- (3) the tenant is committing or permitting to exist a nuisance in or is causing substantial damage to the Covered Rental Unit, or is creating a substantial interference with the comfort, safety, or enjoyment of the landlord or other occupants of the same or any adjacent accommodations;
- (4) the tenant is convicted of using or permitting a Covered Rental Unit to be used for any illegal purpose;
- (5) the tenant, who had a written lease or rental agreement which terminated on or after this act has taken effect has refused, after written request or demand by the landlord, to execute a written extension or renewal thereof for a further term of like duration and in such terms that are not

inconsistent with or violative of any provision of Chapter 93A of the General Laws, or of this act or the regulations issued pursuant thereto;

- (6) the tenant has refused the landlord reasonable access to the unit for the purpose of making necessary repairs or improvements required by the laws of the Commonwealth or any political subdivision thereof, or for the purpose of inspection as permitted or required by the lease or by law, or for the purpose of showing the rental unit to any prospective purchaser or mortgagee;
- (7) the person holding at the end of a lease term is a subtenant not approved by the landlord;
- (8) the landlord seeks to recover possession in good faith for his or her use and occupancy for the following Covered Rental Units:
 - (i) a unit in a four to six unit building;
 - (ii) a condominium unit.
- (9) the landlord seeks to recover possession in good faith of a unit which is a Covered Rental Unit not occupied by a Protected Tenant or a Specially Protected Tenant for use and occupancy by his

children, grandchildren, great-grandchildren, parents, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law;

(10) the landlord seeks to recover possession for any other just cause, provided that his purpose is not in conflict with the provisions and purpose of Chapter 93A of the General Laws, or this act, or the regulations issued pursuant thereto.

(b) A landlord seeking to recover possession of a Covered Rental Unit shall apply to the Board for a certificate of eviction. Where the sole basis for an eviction is non-payment of rent, the owner shall file a sworn affidavit alleging that such non-payment has occurred. The board within thirty (30) days shall either resolve the matter to the satisfaction of the tenant and owner or shall grant the certificate of eviction administratively. Any tenant defenses to said eviction may be raised by the tenant in court and shall not be deemed to be waived as a result of the administrative issuance of a certificate of eviction.

(c) A landlord seeking to recover possession of a Covered Rental Unit for any cause other than non-payment shall apply to the Board for a certificate of eviction. Upon

receipt of such an application, the board shall send a copy of the application to the tenant of the Covered Rental Unit, together with a notification of all rights and procedures available under this section. If the board finds that the facts attested to in the landlord's petition are valid and in compliance with Section 8(a) of this act, the certificate of eviction shall be issued.

- (d) The provisions of this section shall be construed as additional restrictions on the right to recover possession of a Covered Rental Unit. No provision of this section shall entitle any person to recover possession of such a unit.

SECTION 9. Judicial Review

- (a) Any person who is aggrieved by any action, regulation or order of the board may file a complaint for judicial review against the board either in the Cambridge Division of the District Court Department or the Superior Court Department for Middlesex County. If the complaint is filed in the Cambridge Division of the District Court Department, said court shall be authorized to take such action with respect thereto as is provided in the case of the Superior Court under the provisions of Chapter 231A of the General Laws, except that section 3 of said

Chapter 231A shall not apply. Judicial review of adjudicatory decisions shall be conducted in accordance with section 14 of Chapter 30A of the General Laws. Judicial review of regulations shall be in accordance with section 7 of said Chapter 30A.

- (b) The Cambridge Division of the District Court Department and the Superior Court Department for Middlesex County shall have concurrent original jurisdiction over actions arising out of the provisions of section 10. Notwithstanding any other provision of law relating to appeals, appeal from the judgment of whichever court enters the judgment, under the provisions of either section 9 or Section 10, shall be to the Appeals Court.

SECTION 10. Civil Remedies

- (a) If any person demands, accepts, receives, or retains payment of rent in excess of the maximum lawful rent or otherwise violates any provision of this law or any regulation promulgated hereunder, shall be liable as hereinafter provided to any person or persons actually damaged by said violation:

- (1) In the case of any overcharge, damages shall be liquidated in the amount of one hundred dollars

(\$100) or not more than triple the payment or payments demanded, accepted, received, or retained in excess of the maximum rent that could lawfully have been demanded, accepted, received, or retained, whichever is greater. Provided however, if the defendant proves that the violation was not willful, the amount of said liquidated damages shall be the amount of the overcharge.

(2) Actions to recover liquidated damages under the provisions of this section shall not be brought later than one year after the date of said violation. A single action for damages under the provisions of this section may include all violations of the provisions of this act committed by the same person against the same person.

(b) The board may elect to enforce the provisions of this act or any rule or regulation promulgated hereunder either in a civil action for damages or declaratory or injunctive relief.

SECTION 11. Severability

If any provision of this act or the application of such provision to any person or circumstance shall be held invalid, the

validity of the remainder of this act and the applicability of such provision to other persons or circumstances shall not be affected thereby.

SECTION 12. Sunset

The provisions of this act shall cease to be effective on December 31, 1999.

City of Cambridge

MASSACHUSETTS

C. Myers on amendment 2

In City Council

11/20

1994

to substitute

YEA	NAY	ABSENT	PRESENT	
	✓			Ms. Kathleen L. Born
	✓			Mr. Francis H. Duehay
✓				Mr. Jonathan S. Myers
	✓			Mrs. Sheila T. Russell
	✓			Mr. Michael A. Sullivan
	✓			Mr. Timothy J. Toomey, Jr.
	✓			Ms. Katherine Triantafillou
				Mr. William H. Walsh
	✓			Mayor Kenneth E. Reeves

1

7

0

0



*C. Myers
moved amendment*

CAMBRIDGE CITY COUNCIL

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 349-4280

FAX (617) 349-4287

Jonathan S. Myers
City Councillor

Restore 6(c)(1) with the following Changes:

• in line three, after decontrolled, replace "when" with "one year after"

In Section 6(c)(2) the following changes apply:

✓ in line three, change "20%" to "33%" and change "10 years" to "15 years"

Add a Section 6(c)(3) stating: A subject provision of seven years shall apply to owners who exercise their options to enter into a set-aside agreement with the City.

[July 31, 1995 or December 31, 1995].

- (b) In addition, all units in any one to six unit building which is owner occupied on [July 31, 1995 or December 31, 1995] or which becomes owner occupied thereafter, shall be decontrolled after [July 31, 1995 or December 31, 1995], or when it becomes owner occupied, except that units occupied by low and moderate income families with a child age 19 or under in a six unit owner occupied building remain regulated until the family voluntarily vacates, is lawfully evicted, or until this act ceases to be effective pursuant to Section 12 hereof.

6

(n)

- (c) (1) All units in buildings of 10 or more units that are not occupied by protected tenants shall be decontrolled ^{one year after} ~~when~~ the owner has signed a set aside agreement with the Board as provided in section 6(c) (2) or when this act seeks to be effective pursuant to Section __ hereof. Protected tenants in these buildings shall have the same rights as all other protected tenants. Units of protected or nonprotected tenants that are voluntarily vacated shall remain subject to rent and eviction regulation of this Act in the absence of a set aside agreement. ~~Nothing in this section shall be~~ deemed to interfere with an owner's right to rent a voluntarily vacant unit to any tenant of the

owner's choice.

- (2) An owner of a building of 10 or more units who signs a set aside agreement shall agree thereby to set aside ⁴⁰³³⁹¹ ~~20~~ % of the units in the building for ~~10~~ ¹⁸ years for protected tenants. The rents for protected tenants in set aside units shall be regulated pursuant to section 7. The Board shall enact regulations to further define the terms and conditions of set aside agreements. [handling of tens and the set aside]

- (d) All ordinated condominiums can be lawfully owner occupied after December 31, 1995 or at any earlier time if the unit is unit is voluntarily vacated or the tenant is lawfully evicted. Protected Tenants in these units shall be entitled to same protections afforded to Protected Tenants in other units except that they may be evicted for owner occupancy.

SECTION 7. Rent for Regulated Units

- (a) Within 60 days of the establishment of a Rent Equity Board, and in no event longer than 90 days after enactment of this law, a minimum rent shall be set for all units subject to this act, the criteria to be set by the Rent Equity Board.

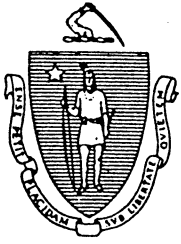
To the Honorable Senate and House of Representatives of The Commonwealth of Massachusetts
in General Court assembled.

The undersigned, citizens of.....Cambridge....., respectfully
petition for the passage of the accompanying bill or resolve, and/or for legislation enabling the City of
Cambridge to provide an orderly transition from rent control.

Petitioners are requested to sign names and addresses legibly.

Kenneth E. Reano
Kathleen S. Born
Michael A. Spelan
Sheila T. Russell
W. B. Smith
Timothy J. Torrey Jr.

11 Everett St., Camb.
02138
3 Walnut Ave. Camb. 02140
28 Johnson Ave., Cambridge, 02139
5 Hawthorn Park Camb.
02138
26 Lowell St. Cambridge
88 Sixth St. Cambridge



The Commonwealth of Massachusetts

IN THE YEAR ONE THOUSAND NINE HUNDRED AND NINETY- FOUR

AN ACT

AN ACT ENABLING THE CITY OF CAMBRIDGE TO PROVIDE AN
ORDERLY TRANSITION FROM RENT CONTROL

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Declaration of Emergency.

The General Court finds and declares that a serious public emergency exists with respect to the housing of low and moderate income families, the elderly, and the disabled in the City of Cambridge. This emergency has been created by insufficient new rental housing construction affordable to low and moderate income persons and families, increased costs of construction and finance, lack of sufficient vacant land for the construction of new rental housing, the gap between housing costs and income for low and moderate income persons and families, long waiting lists for public and subsidized housing, and the displacement of low and moderate income persons and families, as well as elderly persons, from their homes. This emergency has resulted in a substantial and increasing shortage of decent rental housing accommodations. The General

Court further finds that the effect of Chapter 400, and the sudden elimination of all existing local rent and eviction regulation will produce serious threats to the public health, safety and general welfare of the citizens of Cambridge and particularly to low and moderate income persons and families, disabled persons, and the elderly. This act shall apply notwithstanding any general or special law to the contrary, including Chapter 400 of the General Laws.

SECTION 2. Effective Date.

This act shall take effect in the City of Cambridge on January 1, 1995. Passage of this act shall be deemed to constitute the initial acceptance of this act by the City of Cambridge. Once this act has been accepted, it may be repealed, revoked, or otherwise nullified by a majority vote of the Cambridge City Council, or by a ballot measure submitted to the registered voters of the City of Cambridge in accordance with the procedures of Sections 37 through 40 of Chapter 43 of the General Laws. If this act is repealed, revoked, or otherwise nullified, the provisions of this act shall be treated as still remaining in force for the purpose of sustaining any proper suit, action or prosecution with respect to any right, liability or offense arising under the provisions of this act. ~~If repealed, revoked, or otherwise nullified, it may be~~ re-accepted in one of the following ways:

- (a) by a majority vote of the members of the Cambridge City Council, or
- (b) by initiative petition and vote pursuant to the procedures of Sections 37 through 40 of Chapter 43 of the General Laws.

SECTION 3. Definitions.

When used in this act, unless the context otherwise requires, the following words or phrases shall have the following meanings:

- (a) "Board" means the Rent Equity Board described in Section 4 of this act.
- (b) "Consumer Price Index (CPI)" shall mean the consumer price index for all urban consumers in the Boston SMSA as published by the United States Department of Labor Bureau of Labor Statistics.
- (c) "Controlled rental units" shall mean any unit which was a controlled rental unit under Chapter 36 of the Acts of 1976 on November 8, 1994, or a Subsidized Rental Unit provided that such a unit shall be deemed a Controlled Rental Unit only after such time as the tenant loses the subsidy.
- (d) "Covered Rental Unit" shall mean any Controlled Rental Unit which:

- (1) until March 31, 1995 is a unit occupied by a tenant in a four to six unit building; or
 - (2) is a unit occupied by a Specially Protected Tenant in a four to six unit building; or
 - (3) until July 31, 1995, is a unit occupied by a tenant in a building of seven (7) or more units; or
 - (4) is a unit occupied by a Protected Tenant in a building of seven (7) or more units; or
 - (5) is a unit that is a condominium unit occupied by a Specially Protected Tenant.
- (e) "Income Eligible" shall mean those persons whose income is 90% or less of the median income for the Boston SMSA as set forth in or determined based upon regulations promulgated from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the Housing Act of 1937 as amended, and calculated pursuant to said regulations;
- (f) "Ordinanced Condominium" shall mean a Controlled Rental Unit which is a condominium unit for which a unit deed was recorded on or before November 8, 1994 and for which no certificate of exemption had been issued on or before November 8, 1994 and for which no certificate of exemption could have been obtained as of right on or before November 8, 1994.
- (g) "Protected Tenant" shall mean a person who:
- (1) had protection as a tenant in a Controlled Rental

Unit on November 8, 1994 pursuant Chapter 36 of the Acts of 1976 as amended, and

- (i) is an Income Eligible person or group of persons residing in the same unit; or
- (ii) is an elderly tenant who is at least 62 years of age; or
- (iii) is a disabled tenant who is physically handicapped as defined in M.G.L. c. 22, Section 13A.

(h) "Specially Protected Tenant" shall mean a person who:

(1) had protection as a tenant in a Controlled Rental Unit on November 8, 1994 pursuant Chapter 36 of the Acts of 1976 as amended, and

- (i) is an Income Eligible family with a child age 19 or under; or
- (ii) is an Income Eligible elderly tenant who is at least 62 years of age;

(i) "Subsidized Rental Unit" shall mean a unit that was exempt under Chapter 36 of the Acts of 1976 solely because it was occupied by a tenant receiving a federal or state rental subsidy.

(j) "Voluntary vacancy" shall mean a vacancy created when a tenant permanently and of his or her own free will, ~~unconstrained by interference by the landlord, leaves a~~ unit. A vacancy shall not be deemed voluntary when a tenant leaves as a result of the landlord engaging in any

of the following conduct:

- (1) harassment, coercion or forcible conduct;
- (2) unreasonable interruption of heat, utilities or other essential housing services;
- (3) locking the protected tenant out of the unit;
- (4) failure to correct code violations materially impairing the health or safety of the tenant within a reasonable time after the notice;
- (5) knowingly demanding rent in excess of the maximum rent;
- (6) failure to perform ordinary and necessary repairs or maintenance within a reasonable time after notice of the need therefor;
- (7) fraud or knowing misrepresentation;
- (8) failure to provide services;
- (9) failure to maintain the unit in a habitable condition or to give the tenant quiet enjoyment of the unit.

SECTION 4. Rent Equity Board

This act shall be administered by a Rent Equity Board consisting of three members and two alternates. The City Manager shall appoint the members of the Rent Equity Board. The term of each member of the Board shall be one year, and any vacancy on the Board shall be filled within sixty days of notice to the City

Manager of said vacancy. The Board shall be responsible for carrying out the provisions of this act. The City Manager shall appoint such personnel as needed. The Board shall promulgate such policies, rules and regulations as will further the provisions of this act and shall recommend to the City Council for adoption such ordinances as may be necessary to effectuate the purposes of this act. The City Council shall hereby have authority for the adoption of all such ordinances, provided however, that a two-thirds vote of the City Council shall be required for said ordinances to become effective. The Rent Equity Board shall assume possession of all records, documents and other materials in possession of the board established and operated under Chapter 842 of the Acts of 1970, or Chapter 36 of the Acts of 1976, or any special or general laws regulating rents and evictions enacted subsequent to Chapter 842 of the Acts of 1970 or Chapter 36 of the Acts of 1976.

SECTION 5. Transition

For all Covered Rental Units, rents shall be set at the legal maximum controlled rents established for each unit and in effect on November 8, 1994.

SECTION 6. Decontrol

- (a) Any Covered Rental Unit in a building of 4 to 6 units that is not occupied by a Specially Protected Tenant

shall be decontrolled on March 31, 1995 or sooner if the tenant voluntarily vacates or is lawfully evicted.

- (b) Any Covered Rental Unit in a building of 4 to 6 units that is occupied by a Specially Protected Tenant shall be decontrolled if the tenant voluntarily vacates, is lawfully evicted or in accordance with the sunset provision in Section 12 of this Act.
- (c) Any Covered Rental Unit in a building of 7 or more units that is not occupied by a Protected Tenant shall be decontrolled on July 31, 1995 or sooner if the tenant voluntarily vacates or is lawfully evicted.
- (d) Any Covered Rental Unit in a building of 7 or more units that is occupied by a Protected Tenant shall be decontrolled if the tenant voluntarily vacates, is lawfully evicted or in accordance with the sunset provision in Section 12 of this Act.
- (e) Any Covered Rental Unit that is a condominium unit that is not occupied by a Specially Protected Tenant shall be decontrolled on January 1, 1995.
- (f) Any Covered Rental Unit that is a condominium unit that is occupied by a Specially Protected Tenant shall be decontrolled if the tenant voluntarily vacates, is lawfully evicted or in accordance with the sunset provision of Section 12 of this act. Nothing in this Act shall prevent an owner of an Ordinance Condominium Unit from evicting any tenant, including a Specially Protected

Tenant for owner occupancy.

- (g) Any Controlled Rental Unit in a building of one to three units shall be decontrolled on January 1, 1995.

SECTION 7. Rent for Covered Rental Units

- (a) Within 60 days of the establishment of a Rent Equity Board, and in no event longer than 90 days after enactment of this law, a minimum rent shall be set for all units that will be Covered Rental Units after July 31, 1995, the criteria to be set by the Rent Equity Board.
- (b) Beginning on April 1, 1995 rents for any Covered Rental Unit may be increased by 5% or the percentage increase in the CPI for the preceding twelve months whichever is greater, subject to all statutory notices. Notwithstanding this provision, said per annum increase may exceed 5% or the CPI, provided however, if the tenant is aggrieved by said increase, the tenant may seek redress before the Rent Equity Board. The tenant shall be required to pay only the increase that does not exceed 5% or the CPI until such time as the Board rules on the tenant's petition, provided however that the increase shall be deemed approved if the Board has not ruled on the petition within 60 days. The Rent Equity Board shall

establish criteria by regulation for determining the appropriateness for said increases. The criteria for said increases shall include but not be limited to:

- (1) the determination of whether the said new rent shall exceed 30% of the tenant's gross income;
- (2) the condition of the unit;
- (3) rents charged for similar units;
- (4) increases or decreases in property taxes;
- (5) capital improvements of the housing unit as distinguished from ordinary repair, replacement and maintenance;
- (6) unavoidable increases or any decreases in operating and maintenance expenses;
- (7) increases or decreases in living space, services, furniture, furnishings, or equipment;
- (8) failure to perform ordinary repair, replacement, and maintenance.

SECTION 8. Evictions

(a) No person shall bring any action to recover possession of a Covered Rental Unit, unless:

- (1) the tenant has failed to pay the rent to which the landlord is entitled;

- (2) the tenant has violated an obligation or covenant of his tenancy not inconsistent with Chapter 93A of the General Laws, or this act, or the regulations issued pursuant thereto, other than the obligation to surrender possession upon proper notice; and the tenant has failed to cure such violation after having received written notice thereof from the landlord;
- (3) the tenant is committing or permitting to exist a nuisance in or is causing substantial damage to the Covered Rental Unit, or is creating a substantial interference with the comfort, safety, or enjoyment of the landlord or other occupants of the same or any adjacent accommodations;
- (4) the tenant is convicted of using or permitting a Covered Rental Unit to be used for any illegal purpose;
- (5) the tenant, who had a written lease or rental agreement which terminated on or after this act has taken effect has refused, after written request or demand by the landlord, to execute a written extension or renewal thereof for a further term of like duration and in such terms that are not

inconsistent with or violative of any provision of Chapter 93A of the General Laws, or of this act or the regulations issued pursuant thereto;

- (6) the tenant has refused the landlord reasonable access to the unit for the purpose of making necessary repairs or improvements required by the laws of the Commonwealth or any political subdivision thereof, or for the purpose of inspection as permitted or required by the lease or by law, or for the purpose of showing the rental unit to any prospective purchaser or mortgagee;
- (7) the person holding at the end of a lease term is a subtenant not approved by the landlord;
- (8) the landlord seeks to recover possession in good faith for his or her use and occupancy for the following Covered Rental Units:
 - (i) a unit in a four to six unit building;
 - (ii) a condominium unit.
- (9) the landlord seeks to recover possession in good faith of a unit which is a Covered Rental Unit not occupied by a Protected Tenant or a Specially Protected Tenant for use and occupancy by his

children, grandchildren, great-grandchildren, parents, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law;

(10) the landlord seeks to recover possession for any other just cause, provided that his purpose is not in conflict with the provisions and purpose of Chapter 93A of the General Laws, or this act, or the regulations issued pursuant thereto.

(b) A landlord seeking to recover possession of a Covered Rental Unit shall apply to the Board for a certificate of eviction. Where the sole basis for an eviction is non-payment of rent, the owner shall file a sworn affidavit alleging that such non-payment has occurred. The board within thirty (30) days shall either resolve the matter to the satisfaction of the tenant and owner or shall grant the certificate of eviction administratively. Any tenant defenses to said eviction may be raised by the tenant in court and shall not be deemed to be waived as a result of the administrative issuance of a certificate of eviction.

~~(c) A landlord seeking to recover possession of a Covered Rental Unit for any cause other than non-payment shall apply to the Board for a certificate of eviction. Upon~~

receipt of such an application, the board shall send a copy of the application to the tenant of the Covered Rental Unit, together with a notification of all rights and procedures available under this section. If the board finds that the facts attested to in the landlord's petition are valid and in compliance with Section 8(a) of this act, the certificate of eviction shall be issued.

- (d) The provisions of this section shall be construed as additional restrictions on the right to recover possession of a Covered Rental Unit. No provision of this section shall entitle any person to recover possession of such a unit.

SECTION 9. Judicial Review

- (a) Any person who is aggrieved by any action, regulation or order of the board may file a complaint for judicial review against the board either in the Cambridge Division of the District Court Department or the Superior Court Department for Middlesex County. If the complaint is filed in the Cambridge Division of the District Court Department, said court shall be authorized to take such ~~action with respect thereto as is provided in the case of~~ the Superior Court under the provisions of Chapter 231A of the General Laws, except that section 3 of said

Chapter 231A shall not apply. Judicial review of adjudicatory decisions shall be conducted in accordance with section 14 of Chapter 30A of the General Laws. Judicial review of regulations shall be in accordance with section 7 of said Chapter 30A.

- (b) The Cambridge Division of the District Court Department and the Superior Court Department for Middlesex County shall have concurrent original jurisdiction over actions arising out of the provisions of section 10. Notwithstanding any other provision of law relating to appeals, appeal from the judgment of whichever court enters the judgment, under the provisions of either section 9 or Section 10, shall be to the Appeals Court.

SECTION 10. Civil Remedies

- (a) If any person demands, accepts, receives, or retains payment of rent in excess of the maximum lawful rent or otherwise violates any provision of this law or any regulation promulgated hereunder, shall be liable as hereinafter provided to any person or persons actually damaged by said violation:
- (1) In the case of any overcharge, damages shall be liquidated in the amount of one hundred dollars

(\$100) or not more than triple the payment or payments demanded, accepted, received, or retained in excess of the maximum rent that could lawfully have been demanded, accepted, received, or retained, whichever is greater. Provided however, if the defendant proves that the violation was not willful, the amount of said liquidated damages shall be the amount of the overcharge.

(2) Actions to recover liquidated damages under the provisions of this section shall not be brought later than one year after the date of said violation. A single action for damages under the provisions of this section may include all violations of the provisions of this act committed by the same person against the same person.

(b) The board may elect to enforce the provisions of this act or any rule or regulation promulgated hereunder either in a civil action for damages or declaratory or injunctive relief.

SECTION 11. Severability

If any provision of this act or the application of such provision to any person or circumstance shall be held invalid, the

validity of the remainder of this act and the applicability of such provision to other persons or circumstances shall not be affected thereby.

SECTION 12. Sunset

The provisions of this act shall cease to be effective on December 31, 1999.

WARRANT ARTICLE 6

Amended 11/12/94

6-2

NOW, THEREFORE, Be It Enacted, etc., as follows:

Section 1. Partial Repeal of Articles 38, 39 and 39A

(a) Notwithstanding any contrary provision of Chapter 40 O of the general laws, or any general or special law to the contrary, the provisions of Chapter 843 of the Acts of 1970, as amended by Chapter 601 of the Acts of 1981, are hereby, without further action by the Town of Brookline, continued in effect, as they authorize and apply to Articles 38, 39 and 39A of the By-Laws of the Town of Brookline, but, except as otherwise provided in Section 2 of this act, Chapter 843 of the Acts of 1970, as amended by Chapter 601 of the Acts of 1981, and Articles 38, 39 and 39A of said By-Laws shall terminate on August 31, 1995.

(b) Unit decontrol permits shall be issued effective on August 31, 1995 for all controlled units that have not previously received decontrol permits, except those units regulated under Section 2.

Section 2. Continuation of Articles 38, 39 and 39A
for Qualified Tenants

Notwithstanding any general or special law to the contrary and notwithstanding the provisions of General Laws, Chapter 40 O adopted under the November 1994 ballot initiative Question Number 9, so-called, the provisions of Chapter 843 of the Acts of 1970, as amended by Chapter 601 of the Acts of 1981, are hereby, without further action by the Town of Brookline, continued in effect as they authorize and apply to Articles 38, 39 and 39A of the By-Laws of the Town of Brookline, but only to the extent that they regulate rents and evictions for tenants who either:

(A) qualify as both: (a) a "Protected Tenant" as that term was defined as of August 1, 1994 in Article 38, Section 2(r) of the Brookline By-Laws, and (b) a tenant who on June 30, 1995 and continuing thereafter is:

(i) at least 62 years of age, or

(ii) a "low income tenant" or "moderate income tenant" as those terms were defined as of August 1, 1994 in Article 39, Sections 2(f) and (g) of the Brookline By-Laws, or

(iii) a "physically handicapped person" as defined in General Laws, Chapter 22, Section 13A, or

WARRANT ARTICLE 6

Amended 11/12/94

6-2

NOW, THEREFORE, Be It Enacted, etc., as follows:

Section 1. Partial Repeal of Articles 38, 39 and 39A

(a) Notwithstanding any contrary provision of Chapter 40 O of the general laws, or any general or special law to the contrary, the provisions of Chapter 843 of the Acts of 1970, as amended by Chapter 601 of the Acts of 1981, are hereby, without further action by the Town of Brookline, continued in effect, as they authorize and apply to Articles 38, 39 and 39A of the By-Laws of the Town of Brookline, but, except as otherwise provided in Section 2 of this act, Chapter 843 of the Acts of 1970, as amended by Chapter 601 of the Acts of 1981, and Articles 38, 39 and 39A of said By-Laws shall terminate on August 31, 1995.

(b) Unit decontrol permits shall be issued effective on August 31, 1995 for all controlled units that have not previously received decontrol permits, except those units regulated under Section 2.

Section 2. Continuation of Articles 38, 39 and 39A
for Qualified Tenants

Notwithstanding any general or special law to the contrary and notwithstanding the provisions of General Laws, Chapter 40 O adopted under the November 1994 ballot initiative Question Number 9, so-called, the provisions of Chapter 843 of the Acts of 1970, as amended by Chapter 601 of the Acts of 1981, are hereby, without further action by the Town of Brookline, continued in effect as they authorize and apply to Articles 38, 39 and 39A of the By-Laws of the Town of Brookline, but only to the extent that they regulate rents and evictions for tenants who either:

(A) qualify as both: (a) a "Protected Tenant" as that term was defined as of August 1, 1994 in Article 38, Section 2(r) of the Brookline By-Laws, and (b) a tenant who on June 30, 1995 and continuing thereafter is:

(i) at least 62 years of age, or

(ii) a "low income tenant" or "moderate income tenant" as those terms were defined as of August 1, 1994 in Article 39, Sections 2(f) and (g) of the Brookline By-Laws, or

(iii) a "physically handicapped person" as defined in General Laws, Chapter 22, Section 13A, or

ARTICLE 6SIXTH ARTICLE

To see if the Town will authorize and empower the Board of Selectmen to file a petition, in substantially the following form, with the General Court:

AN ACT TO PROVIDE FOR THE CONTINUATION OF THE PRESENTLY EXISTING SYSTEM OF THE ADMINISTRATION OF RENT REGULATION AND THE CONTROL OF EVICTIONS IN CERTAIN HOUSING ACCOMMODATIONS IN THE TOWN OF BROOKLINE.

BE IT ENACTED, etc., as follows:

WHEREAS, the Town of Brookline, acting by and through its Town Meeting, finds and declares that a serious public emergency exists in the town with respect to the housing of a substantial number of the citizens of the town; that market rents and prices for housing within the town continue to be beyond the reach of many citizens; that the town's existing system of rent and condominium controls provides protection against market rents and condominium conversions; that recent reforms of the existing system of controls were designed to meet three objectives: first, to continue to protect existing tenants against unfair rents and evictions; second, to relieve the unfair burdens of regulation on the other citizens of the town; and third, to assure that at least ten percent of the housing units of the town constitute low or moderate income housing; that unless the town continues to address these objectives, the housing emergency will produce serious threats to the public health, safety and general welfare of the citizens of Brookline, particularly families of low and moderate income; that such emergency should be met by the town with due regard for the rights and responsibilities of all its citizens.

WHEREAS, the sudden and immediate abolition of the Brookline By-Laws that govern rent and eviction control and condominium conversion would negate the town's action, regulatory plan and administrative agency designed to and currently addressing the need and emergency, aforesaid.

WHEREAS, the deferred operation of this act would tend to defeat its purpose which is to provide relief and assistance to certain qualified tenants because of the impact of Question 9, so-called, and because of the substantial shortage of rental housing accommodations available for such tenants, therefore, it is hereby declared to be an emergency law which is necessary for the immediate preservation of the public health, safety and convenience;

NOW, THEREFORE, Be It Enacted, etc., as follows:

Section 1. Notwithstanding any contrary provision of Chapter 400 of the general laws, or any general or special law to the contrary, the provisions of Chapter 843 of the Acts of 1970, as amended by Chapter 601 of the Acts of 1981, are hereby, without further action by the town of Brookline, continued in effect, as they authorize and apply to Articles 38, 39 and 39A of the By-Laws of the town of Brookline, but, except as otherwise provided in Section 2 of this act, Chapter 843 of the Acts of 1981, and Articles 38, 39 and 39A of said By-Laws shall terminate on December 31st, 1996.

Section 2. Notwithstanding any general or special law to the contrary and notwithstanding the provisions of General Laws, Chapter 400 adopted under initiative Question Number 9, so called, the provisions of Chapter 843 of the Acts of 1970, as amended by Chapter 601 of the Acts of 1981, are hereby, without further action by the Town of Brookline, continued in effect as they authorize and apply to Articles 38, 39 and 39A of said By-Laws, but only to the extent that they regulate rents and evictions for tenants who qualify as both a "Protected Tenant," as that term is defined, on August 1, 1994, in ARTICLE XXXVIII, Section 2 (r), of the Brookline By-Laws, and a tenant who on September 30, 1996 is (1) at least 62 years of age, or (2) a "low or moderate income tenant" within the meaning of Article 39 Section 2 (e) of the said By-Laws, or (3) a "physically handicapped person" as defined in General Laws, Chapter 22, Section 13A, or (4) a low or moderate or upper-moderate income tenant occupying a designated affordable housing unit pursuant to a so-called "set-aside" contract entered into by the Town of Brookline under Article of said By-Laws, provided that the authorization in this Section 2 shall terminate on December 31, 1999.

Section 3. If any provisions of this act or the application of such provision to any person or circumstances shall be held invalid, the validity of the remainder of this act and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 4. This act shall take effect upon its passage. or act on anything relative thereto.

This article is inserted in the warrant on petition of registered voters who offer the following explanation:

Article six is offered for Town Meeting consideration only in the event that Question #9 passes statewide by a significant margin on November 8. This Home Rule Petition article would then have merit only if it is reliably reported that the Legislature and/or the Governor appear unwilling to extend rent controls in demonstrated need.

The dates and time frames in this article are flexible for Town Meeting discussion. The article's two essential features are:

1. Extension of Article One for all Protected Tenants beyond Question 9's January 1, 1995 effective date, because this date is too early to effectively prepare for and administer a transition.
2. Age and needs-based rent controls extended until the year 2000 at which point the Town could opt to provide direct needs-based support under a separate article.

This needs-based Petition containing a long-term rent control "sunset" provision is offered for the following reasons:

1. Likelihood of state approval, i.e. that Brookline would at least be granted an extended needs-based transition period. A petition that seeks to reverse a statewide vote and extend controls permanently without regard to need risks being rejected by the state, thereby leaving the Town with no relief whatsoever.
 2. Fairness. Many Brookline residents have expressed the view that housing subsidies, be they public or private, should be directed to those having some demonstrated need.
 3. Precedent. In June, 1991, the rents of 1,500 tenant households in two- and three-family properties were decontrolled under Article One. Under Article One's needs-based relief provisions (the identical criteria for relief as contained in this proposed Home Rule Petition), only 45 households (3%) requested and were granted continued rent control protection.
 4. Fiscal benefits. According to the Town Assessor, the current rent control system depresses the Town's tax revenues by about \$1-2 million annually. A scheduled phaseout of controls, while retaining targeted protections, would give the Town a modest revenue boost which would alleviate pressures for a Prop 2 1/2 override to service new debt on Town and School capital projects.
-

SELECTMEN'S RECOMMENDATION

This petitioned article calls for home rule legislation to allow the Town to continue its rent control laws should Question 9 on the state ballot pass.

The key difference, however, between this article and articles 4 and 5, is that this article includes a sunset provision which terminates rent control on December 31, 1996 with the following exceptions to the following categories of protected tenants:

1. a tenant who is 62 years or older;
2. a low or moderate income tenant as currently defined;
3. a physically handicapped person; and
4. low or moderate or upper-moderate income tenants in set-aside units.

Rent Control protection for these units will terminate on December 31, 1999.

The petitioners presented this article as an alternative to the home rule petition under Article 4 which continues the current rent control and decontrol laws. They argue that if Question 9 on the state ballot passes, and if the Legislature is reluctant to pass a home rule petition which would allow the Town to continue the current rent control laws indefinitely, the Legislature might be willing to pass this alternative legislation which would extend the rent control laws until December 31, 1996. This would at least allow for some phase-out of rent control protections.

While the Board is presently opposed to this article, future circumstances may require the Board to reconsider this position.

The Board unanimously recommends NO ACTION under this article.

ADVISORY COMMITTEE'S RECOMMENDATION

The Advisory Committee voted to table discussion on Article 6 until after November 8, when the article's purposes and strategy could be better judged in view of the electorate's response to Question 9. A supplementary report will be provided at Town Meeting.

ARTICLE 4

FOURTH ARTICLE

To see if the Town will authorize and empower the Board of Selectmen to file a petition, in substantially the following form, with the General Court:

AN ACT TO PROVIDE FOR THE CONTINUATION OF THE PRESENTLY EXISTING SYSTEM OF THE ADMINISTRATION OF RENT REGULATION AND THE CONTROL OF EVICTIONS IN CERTAIN HOUSING ACCOMMODATIONS IN THE TOWN OF BROOKLINE.

Be It Enacted, etc., as follows:

WHEREAS, the Town of Brookline, acting by and through its Town Meeting, finds and declares that a serious public emergency exists in the town with respect to the housing of a substantial number of the citizens of the town; that market rents and prices for housing within the town continue to be beyond the reach of many citizens; that the town's existing system of rent and condominium controls provides protection against market rents and condominium conversions; that recent reforms of the existing system of controls were designed to meet three objectives: first, to continue to protect existing tenants against unfair rents and evictions; second, to relieve the unfair burdens of regulation on the other citizens of the town; and third, to assure that at least ten percent of the housing units of the town constitute low or moderate income housing; that unless the town continues to address these objectives, the housing emergency will produce serious threats to the public health, safety and general welfare of the citizens of Brookline, particularly families of low and moderate income and elderly on fixed income; that such emergency should be met by the town with due regard for the rights and responsibilities of all its citizens; and

WHEREAS, the sudden and immediate abolition of the Brookline By-Laws that govern rent and eviction control and condominium conversion would negate the town's action, regulatory plan and administrative agency designed to and currently addressing the need and emergency, aforesaid; and

WHEREAS, the deferred operation of this act would tend to defeat its purpose which is to provide for an immediate extension of rent control for the town of Brookline, in which such controls are now in effect and about to expire, and enable such town, in which a substantial shortage of rental housing accommodations exists to continue such controls,

therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health and convenience;

NOW, THEREFORE, Be It Enacted, etc., as follows:

Section 1. Notwithstanding any general or special law to the contrary, the town of Brookline may, by by-law, continue to regulate rents for the use and occupancy of housing accommodations in the town, establish a rent board for the purpose of regulating rents, establishing rental standards, controlling evictions and governing condominium conversions, as set forth in Chapter 843 of the Acts of 1970 and Chapter 601 of the Acts of 1981, as amended, and as described in Section 2.

Section 2. Notwithstanding any general or special law to the contrary and notwithstanding the provisions of General Law Chapter 400 adopted under initiative Question Number 9, so-called, Articles 38, 39 and 39A of the By-Laws of the Town of Brookline, as they were in effect on August 1, 1994, are hereby ratified, validated, confirmed and authorized, and said by-laws shall continue in full force and effect without the need for further action by the town, until amended or repealed by the town or this enabling legislation is amended or rescinded.

Section 3. If any provision of this act or the application of such provision to any person or circumstances shall be held invalid, the validity of the remainder of this act and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 4. This act shall take effect upon its passage; or act on anything relative thereto.

SELECTMEN'S RECOMMENDATION

This article is presented by the Selectmen in response to the Statewide Referendum to abolish rent control. Question 9, as it will appear on the ballot, began as an Initiative Petition brought by a coalition of small property owners in Cambridge. Frustrated by the Cambridge rent control system and the inability to achieve any reforms, the drafters of the referendum developed this strategy which will have the effect of abolishing rent control not only in Cambridge, but also in Boston and Brookline, if-passed.

In contrast, the Brookline rent control system has undergone reform. At the 1990 Fall Town Meeting, the rent control by-law was replaced by what is referred to as Article I or Ames-Merrill. Ames-Merrill created a vacancy decontrol program that became effective February 1, 1991. All rent control units in buildings with less than ten units or hybrid buildings were permanently removed from rent control once the authorized tenants, as of February 1, 1991, (the protected tenant) voluntarily vacates, is legally evicted, or purchases the unit.

In addition, all two and three family non-owner occupied homes were decontrolled as of June 30, 1991, unless they were occupied by income qualified, elderly, or handicapped tenants. A tenant falling within this category is referred to as a Qualified Tenant.

The owners of large apartment buildings of ten or more units, may seek relief from rent control by entering into an Inclusionary Housing Contract with the Town by agreeing to set-aside 20% of their units for low to moderate income tenants (also known as Qualified Tenants), once those particular units become vacant. The remaining 80% would be subject to vacancy decontrol. The Town has entered into 65 such contracts which include nearly 400 set-aside units. Of these 400, approximately 28% (110 units) are already occupied by income qualified tenants.

Since the advent of Article I, the number of rent control units has decreased from approximately 8,200 to approximately 4,100.

The impact of the referendum, if passed by the voters of the state, is that rent control will be discontinued as of January 1, 1995. This means that all units, including Inclusionary Housing Contract buildings and their set-aside units, will no longer be protected. Since most rent control tenants are tenants at will, landlords will be able to serve a 30 day notice of a rent increase or a notice to quit. In other words, a landlord will not need "just cause" to proceed with eviction.

In addition, condominium conversion protection in effect for all tenants in Brookline, covered by Article 39A of the Town by-law, will be lost.

If Question 9 on the state ballot passes, the only way to continue the current or any other system of rent control is through a Home Rule Petition. This Article is the proposed language for a Home Rule Petition which would continue Article I as it currently exists. If approved by Town Meeting, it will be submitted to the Legislature. The objective would be to have such a Home Rule Petition passed prior to January 1, 1995.

This article reflects the overall satisfaction with Ames-Merrill and an acknowledgement that any sudden change would be

excessively disruptive to the citizens of the Town, especially the elderly population. Estimates indicate that the elderly occupy approximately 24% of rent control units, with a significant number being 80 years old or older.

The Board unanimously recommends FAVORABLE ACTION on the following vote:

VOTED: To authorize and empower the Board of Selectmen to file a petition, in substantially the following form, with the General Court:

AN ACT TO PROVIDE FOR THE CONTINUATION OF THE PRESENTLY EXISTING SYSTEM OF THE ADMINISTRATION OF RENT REGULATION AND THE CONTROL OF EVICTIONS IN CERTAIN HOUSING ACCOMMODATIONS IN THE TOWN OF BROOKLINE.

Be It Enacted, etc., as follows:

WHEREAS, the Town of Brookline, acting by and through its Town Meeting, finds and declares that a serious public emergency exists in the town with respect to the housing of a substantial number of the citizens of the town; that market rents and prices for housing within the town continue to be beyond the reach of many citizens; that the town's existing system of rent and condominium controls provide protection against market rents and condominium conversions; that recent reforms of the existing system of controls were designed to meet three objectives: first, to continue to protect existing tenants against unfair rents and evictions; second, to relieve the unfair burdens of regulation on the other citizens of the town; and third, to assure that at least ten percent of the housing units of the town constitute low or moderate income housing; that unless the town continues to address these objectives, the housing emergency will produce serious threats to the public health, safety and general welfare of the citizens of Brookline, particularly families of low and moderate income and elderly on fixed income; that such emergency should be met by the town with due regard for the rights and responsibilities of all its citizens; and

WHEREAS, the sudden and immediate abolition of the Brookline By-Laws that govern rent and eviction control and condominium conversion would negate the town's action, regulatory plan and administrative agency designed to and currently addressing the need and emergency, aforesaid; and

WHEREAS, the deferred operation of this act would tend to defeat its purpose which is to provide for an immediate extension of rent control for the town of Brookline, in which such controls are now in effect and about to expire, and enable such town, in which a substantial shortage of rental

housing accommodations exists to continue such controls, therefore, it is hereby declared to be an emergency law, necessary for the immediate preservation of the public health and convenience;

NOW, THEREFORE, Be It Enacted, etc., as follows:

Section 1. Notwithstanding any general or special law to the contrary, the town of Brookline may, by by-law, continue to regulate rents for the use and occupancy of housing accommodations in the town, establish a rent board for the purpose of regulating rents, establishing rental standards, controlling evictions and governing condominium conversions, as set forth in Chapter 843 of the Acts of 1970 and Chapter 601 of the Acts of 1981, as amended, and as described in Section 2.

Section 2. Notwithstanding any general or special law to the contrary and notwithstanding the provisions of General Law Chapter 400 adopted under initiative Question Number 9, so-called, Articles 38, 39 and 39A of the By-Laws of the Town of Brookline, as they were in effect on August 1, 1994, are hereby ratified, validated, confirmed and authorized, and said by-laws shall continue in full force and effect without the need for further action by the town, until amended or repealed by the town or this enabling legislation is amended or rescinded.

Section 3. If any provision of this act or the application of such provision to any person or circumstances shall be held invalid, the validity of the remainder of this act and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 4. This act shall take effect upon its passage.

ADVISORY COMMITTEE'S RECOMMENDATION

Articles 4 and 5, identical in wording, propose the forwarding of a home rule petition to the state legislature for approval that would allow the Town to regulate rents, condominium conversion and other aspects of housing policy. The petition would be forwarded to Beacon Hill only if Question 9 passes on the November 8 ballot, eliminating rent control and associated-regulation across the

state. The intent of the petitions would be to allow Brookline to maintain its current regulatory practices (popularly known as Ames-Merrill) that went into effect in 1991. There are approximately 4,200 units under rent control in the Town, housing some 6,000 "protected" tenants.

In examining these articles, the Advisory Committee made no judgments as to the efficacy or fairness of rent control as a practice. Rather, acting within the scope of the articles, the committee considered only what the Town's response to Question 9's passage ought to be. The committee heard two principal arguments against these articles: (1) That under a revived Ames-Merrill, there was a possibility that the by-law could be amended at some point to create a stronger form of rent control than currently exists. (2) A concern that the House, Senate and Governor will not look with favor upon a petition that flouts the will of the majority of the state's voters, and may even flout the will of the citizens of Brookline as they express it on November 8. The case remains, however, that the danger of stronger rent control regulations under a revived Ames-Merrill is no greater than under present conditions; and research by Town officials and committee members indicated, as of the date of the committee vote (10/20), that a home rule petition on rent control stood a fair to good chance of timely passage on Beacon Hill.

The Advisory Committee, therefore, strongly supports the passage of one of these articles, and for two reasons: (1) Under Ames-Merrill, a group of citizens was designated "protected" by the Town, and every good faith effort should be made to honor this commitment. (2) While the Town, with some rare exceptions, does not means-test rent control tenants and could not, therefore, provide reliable information on the effect of a return to market conditions, the existing state statutes that would govern tenant rights following the passage of Question 9 are not as strong as Brookline's current by-laws. The loss of local regulation will, unless mitigated by home rule legislation inevitably result in some degree of hardship for some currently protected tenants.

For these reasons, the Advisory Committee recommends FAVORABLE ACTION on the vote offered by the Selectmen.

ARTICLE 7SEVENTH ARTICLE

To see if the Town will authorize and empower the Board of Selectmen to file, in substantially the following form, with the General Court:

AN ACT TO AUTHORIZE THE TOWN OF BROOKLINE TO APPROPRIATE AND EXPEND FUNDS FOR THE PURPOSE OF PROVIDING RENT SUBSIDIES TO CERTAIN TENANTS

BE IT ENACTED, etc., as follows:

WHEREAS, the deferred operation of this act would tend to defeat its purpose which is to provide relief and assistance to certain qualified tenants because of the impact of Question 9, so-called, and because of the substantial shortage of rental housing accommodations available for such tenants, therefore, it is hereby declared to be an emergency law which is necessary for the immediate preservation of the public health, safety and convenience;

NOW, THEREFORE, Be It Enacted, etc., as follows:

Section 1. Notwithstanding any general or special law to the contrary and notwithstanding the provisions of General Laws, Chapter 400 adopted under initiative Question Number 9, so-called, the town of Brookline may, at any town meeting, appropriate money for providing rent subsidies for tenants who qualify as both a "Protected Tenant," as that term is defined, on August 1, 1994, in ARTICLE XXXVIII, Section 2 (r), of the Brookline By-Laws, and as a "Low Income Tenant" or "Moderate Income Tenant," as those terms are defined on August 1, 1994, in ARTICLE XXXIX, Section 2 (f) and (g) of the Brookline By-Laws.

Section 2. This act shall take effect upon its passage, or act on anything relative thereto.

This article is inserted in the warrant at the request of the Planning Director who offers the following explanation:

The Planning Department, in its capacity as staff to the Housing Advisory Board (HAB), requests that the attached article be placed on the Warrant for the 1994 Fall Town Meeting in November. It proposes home rule legislation to authorize the Town to appropriate money for rent subsidies. It is offered as a framework for discussion and revision as it proceeds through the Warrant article approval process.

The HAB voted unanimously to recommend that the Town seek the authority to appropriate funds for a local rental subsidy program for rent control tenants who are both income qualified and protected under the Town's current rent control system through home rule legislation. This authority would only be sought if Question 9 is approved on November 8th and the Commonwealth fails to enact home rule legislation providing for the maintenance of the existing system of rent control by allowing the continuation of Articles 38, 39, and 39A of the Town's By-laws.

SELECTMEN'S RECOMMENDATION

This article, which is supported by the Housing Advisory Board, calls for home rule legislation to allow the town to appropriate town funds for rent subsidies for protected tenants who are income qualified.

The concern is that if Question 9 passes and the Legislature fails to enact legislation allowing Brookline to continue its current rent control by-laws, rent control protections will terminate on January 1, 1995 leaving many tenants in a difficult, precarious position.

This legislation would at least give the Town the option of providing rent subsidies to those tenants in true need. While a majority of the Board presently supports this article, future circumstances may require the Board to reconsider its position.

A majority (3-2) of the Board recommends FAVORABLE ACTION on the following vote:

VOTED: To authorize and empower the Board of Selectmen to file, in substantially the following form, with the General Court:

AN ACT TO AUTHORIZE THE TOWN OF BROOKLINE TO APPROPRIATE AND
EXPEND FUNDS FOR THE PURPOSE OF PROVIDING RENT SUBSIDIES TO
CERTAIN TENANTS

BE IT ENACTED, etc., as follows:

WHEREAS, the deferred operation of this act would tend to defeat its purpose which is to provide relief and assistance to certain qualified tenants because of the impact of Question 9, so-called, and because of the substantial shortage of rental housing accommodations available for such tenants, therefore, it is hereby declared to be an emergency law which is necessary for the immediate preservation of the public health, safety and convenience;

NOW, THEREFORE, Be It Enacted, etc., as follows:

Section 1. Notwithstanding any general or special law to the contrary and notwithstanding the provisions of General Laws, Chapter 400 adopted under initiative Question Number 9, so-called, the town of Brookline may, at any town meeting, appropriate money for providing rent subsidies for tenants who qualify as both a "Protected Tenant," as that term is defined, on August 1, 1994, in ARTICLE XXXVIII, Section 2 (r), of the Brookline By-Laws, and as a "Low Income Tenant" or "Moderate Income Tenant," as those terms are defined on August 1, 1994, in ARTICLE XXXIX, Section 2 (f) and (g) of the Brookline By-Laws.

Section 2. This act shall take effect upon its passage.

ADVISORY COMMITTEE'S RECOMMENDATION

The Advisory Committee voted to table discussion on Article 7 until after November 8, when the article's purpose and strategy could better be judged in view of the electorate's response to Question 9. A supplementary report will be provided at Town Meeting.

*received at Committee meeting
M 11/10/94*

Vice Mayor Russell
Councillor Sullivan
Councillor Walsh
Councillor Toomey

Affordable Housing Proposal:

Effective January 1, 1995 notwithstanding the provisions of any general or special law to the contrary, including the provisions of chapter 400 of the general laws, the City of Cambridge shall file a home rule petition for a special law relating to the City of Cambridge Affordable Housing Proposal, to the end that legislation be adopted providing precisely as follows.

All rental units in the City of Cambridge built before Sept. 1, 1969 with the exception of HUD properties and those receiving federal or state subsidies, shall be subject to the following conditions and terms.

1. If said unit on November 8, 1994 was occupied by a low or moderate income (as defined by HUD regulations 42 U.S.C. 1437 et seq.) tenant, or a person of 62 years of age or over, or physically handicapped person as defined in MGL Chapter 22, Section 13A, then the following restrictions shall apply except if the unit is located in a one to six family dwelling, or was exempt from existing local rent control restrictions which were in effect on November 8, 1994 or was a unit contained in a building where a condominium master deed and trust had been filed, the unit had been conveyed and occupied by the owner:

- a. Rent frozen at legal rent control rent existing on November 8, 1994
- b. Within 60 days of the establishment of a Rent Equity Board, and in no event longer than 90 days of enactment of this law, a minimum rent shall be set for all units subject to said act, the criteria shall be set by the Rent Equity Board. Thereafter, rents may be increased up to 10% per annum subject to all statutory notices. Notwithstanding this provision, Said increase may exceed 10%, provided however, if the tenant is aggrieved by said increase, the tenant may seek redress before the Rent Equity Board. The Rent Equity Board shall establish criteria for determining the appropriateness for said increases, said criteria shall include but not limited to:
 - i. the consideration that said new rent shall not exceed 30% of the tenant's gross income;
 - ii. the condition of the unit;
 - iii. building and rents charged for similar units;

- iv. increases or decreases in property taxes;
 - v. capital improvement of the housing unit as distinguished from ordinary repair, replacement and maintenance;
 - vi. unavoidable increases or any decreases in operating and maintenance expenses;
 - vii. increases or decreases in living space services, furniture, furnishing or equipment or;
 - viii. failure to perform ordinary repair, replacement and maintenance.
- c. All other units that were formerly under rent control as of November 8, 1994, with the exception of one to six family dwellings, shall automatically de-controlled upon receipt of twenty-five hundred (\$2,500) dollars per unit payable to the affordable housing trust fund. Upon receipt of twenty-five hundred dollars the Rent Equity Board shall issue a certificate of exemption. And all monies received shall be placed in a trust fund for the purposes of creating a rent subsidy program for low-moderate, elderly and handicapped as defined in this act. Failure to pay the twenty-five hundred dollars (\$2,500) per unit shall subject the unit to this act and the rent shall be frozen in accordance with section 1a. and adjusted in accordance with section 1b. of this act.
- d. If said unit on November 8, 1994 was an ordinated condominium, as defined by the existing city ordinance it may be owner occupied at anytime in accordance with statutory notices and the payment twenty-five hundred dollars (\$2,500) to the Affordable Housing Trust Fund, provided however, if said unit was occupied on November 8, 1994 by a low-moderate income, elderly or handicapped person, as defined by this act, then the regulations as stated above shall apply.

2. The City Manager shall establish and appoint the members to the Rent Equity Board consisting of three members and two alternates, the board shall consist of one tenant representative, one landlord representative and one public interest representative. The term of each member of the Board shall be for one year and any vacancy on the Board shall be filled within sixty days of the notice of said vacancy. The Board shall be responsible for carrying out the provisions of this law and shall hire with the assent of the manager, such personnel as needed, provided that their yearly budget shall not exceed four hundred thousand direct and indirect costs. The Board shall promulgated such policies, rules and regulations as will further the provisions of this act and shall recommend to the City Council for adoption such ordinances as may be necessary to effectuate the purposes of this act, provided however the City Council shall need a two thirds vote in order for said ordinance to become effective.

3. If any unit occupied by a low-moderate income, elderly or handicapped person, as defined by this act, becomes voluntarily vacant, then that unit shall be declared de-controlled by the Rent Equity Board, provided however that no landlord engages in any of the following conduct directed toward any tenant of a controlled unit:

- a. harassment, coercion or forcible conduct;
- b. unreasonable interruption of heat, utilities or other essential housing services;
- c. locking the protected tenant out of the unit;
- d. failure to correct code violations materially impairing the health or safety of the tenant within a reasonable time after the notice.
- e. knowingly demanding rent in excess of the maximum rent;
- f. failure to perform ordinary and necessary repairs or maintenance within a reasonable time after notice of the need therefor;
- g. fraud or knowing misrepresentation including, without limitation, knowingly false statements about the intentions of the landlord or the rights and obligations of the tenant;
- h. failure to provide services; or
- i. failure to maintain the unit in a habitable condition or to give the tenant quiet enjoyment of the unit.

4. If any person demands, accepts, receives or retains payment of rent in excess of the maximum lawful rent or otherwise violates any provision of this law or any regulation promulgated hereunder, shall be liable as hereinafter provided to any persons or persons actually damaged by said violation:

- a. In the case of any overcharge damages shall be liquidated in the amount of one hundred dollars (\$100) or not more than two times by which the payment or payments demanded, accepted, received or retained exceed maximum rent that could be lawfully demanded; accepted, received or retained, which ever is greater. Provided however if the defendant proves that the violation was not willful that amount of said liquidated damages shall be the amount of the overcharge.
- b. Actions to recover liquidated damages under provision of this section shall not be brought later than one year after the date said

violation. A single action for damages under the provisions of this section may include all violations of the provisions of this act committed by the same person against the same person.

20x
5. Any tenant ~~subject to this act~~ who withholds rents for any reason other than by order of a court of competent jurisdiction, shall automatically lose the protection of this act if all monies being withheld are deposited in escrow in an account held by the Rent Equity Board. The interest on said account shall be designated to the Affordable Housing Trust Fund. The escrow shall be turned over to the appropriate party per order of a court of competent jurisdiction or mutual agreement signed by the landlord and the tenant in a form satisfactory to the Board.

6. This act shall expire by operation of law, two years from its date of enactment or maybe extended for the maximum period of one year by a unanimous vote of the then sitting City Council.

7. If any provision of this act or the application of such act to any person of circumstances shall be held invalid, such holding shall not affect the validity of the remainder of this act or the application of such provision to other persons or circumstances.



The Commonwealth of Massachusetts

IN THE YEAR ONE THOUSAND NINE HUNDRED AND NINETY- FOUR

Text with Clerical

AN ACT

AN ACT ENABLING THE CITY OF CAMBRIDGE TO PROVIDE AN ORDERLY TRANSITION FROM RENT CONTROL

error on pg 9

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Declaration of Emergency.

The General Court finds and declares that a serious public emergency exists with respect to the housing of low and moderate income families, the elderly, and the disabled in the City of Cambridge. This emergency has been created by insufficient new rental housing construction affordable to low and moderate income persons and families, increased costs of construction and finance, lack of sufficient vacant land for the construction of new rental housing, the gap between housing costs and income for low and moderate income persons and families, long waiting lists for public and subsidized housing, and the displacement of low and moderate income persons and families, as well as elderly persons, from their homes. This emergency has resulted in a substantial and increasing shortage of decent rental housing accommodations. The General

NOTE. — Use ONE side of paper ONLY. DOUBLE SPACE. Insert additional leaves, if necessary.

Court further finds that the effect of Chapter 400, and the sudden elimination of all existing local rent and eviction regulation will produce serious threats to the public health, safety and general welfare of the citizens of Cambridge and particularly to low and moderate income persons and families, disabled persons, and the elderly. This act shall apply notwithstanding any general or special law to the contrary, including Chapter 400 of the General Laws.

SECTION 2. Effective Date.

This act shall take effect in the City of Cambridge on January 1, 1995. Passage of this act shall be deemed to constitute the initial acceptance of this act by the City of Cambridge. Once this act has been accepted, it may be repealed, revoked, or otherwise nullified by a majority vote of the Cambridge City Council, or by a ballot measure submitted to the registered voters of the City of Cambridge in accordance with the procedures of Sections 37 through 40 of Chapter 43 of the General Laws. If this act is repealed, revoked, or otherwise nullified, the provisions of this act shall be treated as still remaining in force for the purpose of sustaining any proper suit, action or prosecution with respect to any right, liability or offense arising under the provisions of this act. If repealed, revoked, or otherwise nullified, it may be re-accepted in one of the following ways:

- (a) by a majority vote of the members of the Cambridge City Council, or
- (b) by initiative petition and vote pursuant to the procedures of Sections 37 through 40 of Chapter 43 of the General Laws.

SECTION 3. Definitions.

When used in this act, unless the context otherwise requires, the following words or phrases shall have the following meanings:

- (a) "Board" means the Rent Equity Board described in Section 4 of this act.
- (b) "Consumer Price Index (CPI)" shall mean the consumer price index for all urban consumers in the Boston SMSA as published by the United States Department of Labor Bureau of Labor Statistics.
- (c) "Controlled rental units" shall mean any unit which was a controlled rental unit under Chapter 36 of the Acts of 1976 on November 8, 1994, or a Subsidized Rental Unit provided that such a unit shall be deemed a Controlled Rental Unit only after such time as the tenant loses the subsidy.
- (d) "~~Covered Rental Unit~~" shall mean any Controlled Rental Unit which:

- (1) until March 31, 1995 is a unit occupied by a tenant in a four to six unit building; or
 - (2) is a unit occupied by a Specially Protected Tenant in a four to six unit building; or
 - (3) until July 31, 1995, is a unit occupied by a tenant in a building of seven (7) or more units; or
 - (4) is a unit occupied by a Protected Tenant in a building of seven (7) or more units; or
 - (5) is a unit that is a condominium unit occupied by a Specially Protected Tenant.
- (e) "Income Eligible" shall mean those persons whose income is 90% or less of the median income for the Boston SMSA as set forth in or determined based upon regulations promulgated from time to time by the United States Department of Housing and Urban Development pursuant to Section 8 of the Housing Act of 1937 as amended, and calculated pursuant to said regulations;
- (f) "Ordinanced Condominium" shall mean a Controlled Rental Unit which is a condominium unit which for which a unit deed was recorded on or before November 8, 1994 and for which no certificate of exemption had been issued on or before November 8, 1994 and for which no certificate of exemption could have been obtained as of right on or before November 8, 1994.
- (g) "Protected Tenant" shall mean a person who:
- (1) had protection as a tenant in a Controlled Rental

Unit on November 8, 1994 pursuant Chapter 36 of the Acts of 1976 as amended, and

- (i) is an Income Eligible person or group of persons residing in the same unit; or
 - (ii) is an elderly tenant who is at least 62 years of age; or
 - (iii) is a disabled tenant who is physically handicapped as defined in M.G.L. c. 22, Section 13A.
- (h) "Specially Protected Tenant" shall mean a person who:
- (1) had protection as a tenant in a Controlled Rental Unit on November 8, 1994 pursuant Chapter 36 of the Acts of 1976 as amended, and
 - (i) is an Income Eligible family with a child age 19 or under; or
 - (ii) is an Income Eligible elderly tenant who is at least 62 years of age;
- (i) "Subsidized Rental Unit" shall mean a unit that was exempt under Chapter 36 of the Acts of 1976 solely because it was occupied by a tenant receiving a federal or state rental subsidy.
- (j) "Voluntary vacancy" shall mean a vacancy created when a tenant permanently and of his or her own free will, unconstrained by interference by the landlord, leaves a unit. A vacancy shall not be deemed voluntary when a tenant leaves as a result of the landlord engaging in any

of the following conduct:

- (1) harassment, coercion or forcible conduct;
- (2) unreasonable interruption of heat, utilities or other essential housing services;
- (3) locking the protected tenant out of the unit;
- (4) failure to correct code violations materially impairing the health or safety of the tenant within a reasonable time after the notice;
- (5) knowingly demanding rent in excess of the maximum rent;
- (6) failure to perform ordinary and necessary repairs or maintenance within a reasonable time after notice of the need therefor;
- (7) fraud or knowing misrepresentation;
- (8) failure to provide services;
- (9) failure to maintain the unit in a habitable condition or to give the tenant quiet enjoyment of the unit.

SECTION 4. Rent Equity Board

This act shall be administered by a Rent Equity Board consisting of three members and two alternates. The City Manager shall appoint the members of the Rent Equity Board. The term of each member of the Board shall be one year, and any vacancy on the Board shall be filled within sixty days of notice to the City

Manager of said vacancy. The Board shall be responsible for carrying out the provisions of this act. The City Manager shall appoint such personnel as needed. The Board shall promulgate such policies, rules and regulations as will further the provisions of this act and shall recommend to the City Council for adoption such ordinances as may be necessary to effectuate the purposes of this act. The City Council shall hereby have authority for the adoption of all such ordinances, provided however, that a two-thirds vote of the City Council shall be required for said ordinances to become effective. The Rent Equity Board shall assume possession of all records, documents and other materials in possession of the board established and operated under Chapter 842 of the Acts of 1970, or Chapter 36 of the Acts of 1976, or any special or general laws regulating rents and evictions enacted subsequent to Chapter 842 of the Acts of 1970 or Chapter 36 of the Acts of 1976.

SECTION 5. Transition

For all Covered Rental Units, rents shall be set at the legal maximum controlled rents established for each unit and in effect on November 8, 1994.

SECTION 6. Decontrol

- (a) Any Covered Rental Unit in a building of 4 to 6 units that is not occupied by a Specially Protected Tenant

shall be decontrolled on March 31, 1995 or sooner if the tenant voluntarily vacates or is lawfully evicted.

- (b) Any Covered Rental Unit in a building of 4 to 6 units that is occupied by a Specially Protected Tenant shall be decontrolled if the tenant voluntarily vacates, is lawfully evicted or in accordance with the sunset provision in Section 12 of this Act.
- (c) Any Covered Rental Unit in a building of 7 or more units that is not occupied by a Protected Tenant shall be decontrolled on July 31, 1995 or sooner if the tenant voluntarily vacates or is lawfully evicted.
- (d) Any Covered Rental Unit in a building of 7 or more units that is occupied by a Protected Tenant shall be decontrolled if the tenant voluntarily vacates, is lawfully evicted or in accordance with the sunset provision in Section 12 of this Act.
- (e) Any Covered Rental Unit that is a condominium unit that is not occupied by a Specially Protected Tenant shall be decontrolled on January 1, 1995.
- (f) Any Covered Rental Unit that is a condominium unit that is occupied by a Specially Protected Tenant shall be decontrolled if the tenant voluntarily vacates, is lawfully evicted or in accordance with the sunset provision of Section 12 of this act. Nothing in this Act shall prevent an owner of an Ordinance Condominium Unit from evicting any tenant, including a Specially Protected

Tenant for owner occupancy.

- (g) Any Controlled Rental Unit in a building of one to three units shall be decontrolled on January 1, 1995.

SECTION 7. Rent for Covered Rental Units

- (a) Within 60 days of the establishment of a Rent Equity Board, and in no event longer than 90 days after enactment of this law, a minimum rent shall be set for all units that will be Covered Rental Units after July 31, 1995, the criteria to be set by the Rent Equity Board.

- (b) Beginning ~~on January 1, 1996~~ *Jan 1, 1995 - correct date* rents for any Covered Rental Unit may be increased by 5% or the percentage increase in the CPI for the preceding twelve months whichever is greater, subject to all statutory notices. Notwithstanding this provision, said per annum increase may exceed 5% or the CPI, provided however, if the tenant is aggrieved by said increase, the tenant may seek redress before the Rent Equity Board. The tenant shall be required to pay only the increase that does not exceed 5% or the CPI until such time as the Board rules on the tenant's petition, provided however that the increase shall be deemed approved if the Board has not ruled on the petition within 60 days. The Rent Equity Board shall

establish criteria by regulation for determining the appropriateness for said increases. The criteria for said increases shall include but not be limited to:

- (1) the determination of whether the said new rent shall exceed 30% of the tenant's gross income;
- (2) the condition of the unit;
- (3) rents charged for similar units;
- (4) increases or decreases in property taxes;
- (5) capital improvements of the housing unit as distinguished from ordinary repair, replacement and maintenance;
- (6) unavoidable increases or any decreases in operating and maintenance expenses;
- (7) increases or decreases in living space, services, furniture, furnishings, or equipment;
- (8) failure to perform ordinary repair, replacement, and maintenance.

SECTION 8. Evictions

(a) No person shall bring any action to recover possession of a Covered Rental Unit, unless:

- (1) the tenant has failed to pay the rent to which the landlord is entitled;

- (2) the tenant has violated an obligation or covenant of his tenancy not inconsistent with Chapter 93A of the General Laws, or this act, or the regulations issued pursuant thereto, other than the obligation to surrender possession upon proper notice; and the tenant has failed to cure such violation after having received written notice thereof from the landlord;
- (3) the tenant is committing or permitting to exist a nuisance in or is causing substantial damage to the Covered Rental Unit, or is creating a substantial interference with the comfort, safety, or enjoyment of the landlord or other occupants of the same or any adjacent accommodations;
- (4) the tenant is convicted of using or permitting a Covered Rental Unit to be used for any illegal purpose;
- (5) the tenant, who had a written lease or rental agreement which terminated on or after this act has taken effect has refused, after written request or demand by the landlord, to execute a written ~~extension or renewal thereof for a further term of~~ like duration and in such terms that are not

inconsistent with or violative of any provision of Chapter 93A of the General Laws, or of this act or the regulations issued pursuant thereto;

- (6) the tenant has refused the landlord reasonable access to the unit for the purpose of making necessary repairs or improvements required by the laws of the Commonwealth or any political subdivision thereof, or for the purpose of inspection as permitted or required by the lease or by law, or for the purpose of showing the rental unit to any prospective purchaser or mortgagee;
- (7) the person holding at the end of a lease term is a subtenant not approved by the landlord;
- (8) the landlord seeks to recover possession in good faith for his or her use and occupancy for the following Covered Rental Units:
 - (i) a unit in a four to six unit building;
 - (ii) a condominium unit.
- (9) the landlord seeks to recover possession in good faith of a unit which is a Covered Rental Unit not occupied by a Protected Tenant or a Specially Protected Tenant for use and occupancy by his

children, grandchildren, great-grandchildren, parents, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law;

(10) the landlord seeks to recover possession for any other just cause, provided that his purpose is not in conflict with the provisions and purpose of Chapter 93A of the General Laws, or this act, or the regulations issued pursuant thereto.

(b) A landlord seeking to recover possession of a Covered Rental Unit shall apply to the Board for a certificate of eviction. Where the sole basis for an eviction is non-payment of rent, the owner shall file a sworn affidavit alleging that such non-payment has occurred. The board within thirty (30) days shall either resolve the matter to the satisfaction of the tenant and owner or shall grant the certificate of eviction administratively. Any tenant defenses to said eviction may be raised by the tenant in court and shall not be deemed to be waived as a result of the administrative issuance of a certificate of eviction.

(c) A landlord seeking to recover possession of a Covered Rental Unit for any cause other than non-payment shall apply to the Board for a certificate of eviction. Upon

receipt of such an application, the board shall send a copy of the application to the tenant of the Covered Rental Unit, together with a notification of all rights and procedures available under this section. If the board finds that the facts attested to in the landlord's petition are valid and in compliance with Section 8(a) of this act, the certificate of eviction shall be issued.

- (d) The provisions of this section shall be construed as additional restrictions on the right to recover possession of a Covered Rental Unit. No provision of this section shall entitle any person to recover possession of such a unit.

SECTION 9. Judicial Review

- (a) Any person who is aggrieved by any action, regulation or order of the board may file a complaint for judicial review against the board either in the Cambridge Division of the District Court Department or the Superior Court Department for Middlesex County. If the complaint is filed in the Cambridge Division of the District Court Department, said court shall be authorized to take such action with respect thereto as is provided in the case of the Superior Court under the provisions of Chapter 231A of the General Laws, except that section 3 of said

Chapter 231A shall not apply. Judicial review of adjudicatory decisions shall be conducted in accordance with section 14 of Chapter 30A of the General Laws. Judicial review of regulations shall be in accordance with section 7 of said Chapter 30A.

- (b) The Cambridge Division of the District Court Department and the Superior Court Department for Middlesex County shall have concurrent original jurisdiction over actions arising out of the provisions of section 10. Notwithstanding any other provision of law relating to appeals, appeal from the judgment of whichever court enters the judgment, under the provisions of either section 9 or Section 10, shall be to the Appeals Court.

SECTION 10. Civil Remedies

- (a) If any person demands, accepts, receives, or retains payment of rent in excess of the maximum lawful rent or otherwise violates any provision of this law or any regulation promulgated hereunder, shall be liable as hereinafter provided to any person or persons actually damaged by said violation:

- ~~(1) In the case of any overcharge, damages shall be~~
liquidated in the amount of one hundred dollars

(\$100) or not more than triple the payment or payments demanded, accepted, received, or retained in excess of the maximum rent that could lawfully have been demanded, accepted, received, or retained, whichever is greater. Provided however, if the defendant proves that the violation was not willful, the amount of said liquidated damages shall be the amount of the overcharge.

(2) Actions to recover liquidated damages under the provisions of this section shall not be brought later than one year after the date of said violation. A single action for damages under the provisions of this section may include all violations of the provisions of this act committed by the same person against the same person.

(b) The board may elect to enforce the provisions of this act or any rule or regulation promulgated hereunder either in a civil action for damages or declaratory or injunctive relief.

SECTION 11. Severability

If any provision of this act or the application of such provision to any person or circumstance shall be held invalid, the

validity of the remainder of this act and the applicability of such provision to other persons or circumstances shall not be affected thereby.

SECTION 12. Sunset

The provisions of this act shall cease to be effective on December 31, 1999.



CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

TEL 349-4300
FAX 349-4307

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

Proposal #1

November 10, 1994

To The Honorable, The City Council:

In addition to the options for Home Rule petitions, I would like to update the City Council on discussions at the State Legislative level.

On the House side, Speaker Flaherty and the Cambridge delegation emphatically state that there is a very "narrow window of opportunity" for the City Council to submit a petition for consideration by the House for the petition to be enacted prior to December 31, 1994. This means passage by the City Council no later than the meeting of November 21st prior to Thanksgiving. The proposal for a 90 day delay of implementation of the provision of Question 9 is not an eligible option. Content concerns focussed on protection of the elderly and low/moderate income, relief for ordinance condo owners, and minimum rents.

On the Senate side, Senator Birmingham and Tolman also cautioned the importance of an expedited filing by the Cambridge City Council of their Home Rule petition given parliamentary rules of the Senate.

I urge the City Council to heed this advice. Given the complexity of the issue, no plan can keep both sides happy. However, the failure to submit any plan will result in implementation of Question 9 on January 1, 1995.

Attached for your review are two memoranda, one that sets out some proposed home rule options and one that explains the difficulties of a rent subsidy program. I have also attached an outline of the proposed home rule options.

Very truly yours,

Robert W. Healy
City Manager

RWH/mev



CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139

TEL. 349-4300

FAX. 349-4307

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

November 10, 1994

To The Honorable, the City Council:

As you are aware, the voters of Massachusetts have voted in favor of Question 9. The effect of that vote is to abolish our current system of rent control on January 1. In preparation for this possibility, my staff and I have been engaged in a intensive planning process. Because of the serious time constraints under which the Council will be operating if you choose to seek home rule authority from the Legislature, I am focussing here only on the home rule options and on one possible ordinance change for the Council's consideration. I will in the next few days provide the Council with updates on other possible activities.

One preliminary matter needs to be addressed here. There has been considerable interest expressed in the filing of a legal challenge to Chapter 40o as enacted. As you may remember, when the Court rejected our earlier challenge to the initiative petition, it indicated that any challenges to the law as enacted would have to be brought after enactment.

In preparation for any such legal challenge, we have done an exhaustive job of looking at possible legal challenges to the new law. Based on the research of the City's lawyers and two outside firms, we have concluded that the chances of success of any legal action are minimal. Since the existence of the lawsuit may provide the Legislature with a reason to delay or refuse to act on any home rule legislation, my recommendation to the Council is that we not take that risk, in light of the very low chances of success with any litigation.

HOME RULE OPTIONS

Based on my consultations with the Legislative and Committee leadership at the State House, I believe that it will be a difficult fight in the Legislature to obtain authorization for any rent control system. Unless we are able to demonstrate that we have addressed some of the major criticisms of the existing system, it may be impossible. Even if we do address those criticisms, we still may fail to win the necessary votes.

The Council has an exceedingly short time frame within which it must act if seeking home rule legislation is the route chosen. To maximize the chances of getting any action taken by the Legislature, any home rule petition should be forwarded to the State House before Thanksgiving, which gives the Council less than two weeks to act.

Working with the expanded housing cabinet and other city staff, I have developed five options for the Council's consideration. The first of these options is not actually new but would be just a resubmittal of our current system to the Legislature for reenactment. The second option involves a substantial modification of the existing system to address some of the consistent criticisms of it. The third option is Affordability Decontrol which, at the property owner's election, targets certain units for low and moderate income households in exchange for decontrol of the balance of the units. The fourth and fifth options are different versions of Vacancy Decontrol, the fourth based on the model currently in place in Boston.

HOME RULE OPTION 1 -- THE SYSTEM AS IS

The first proposal is to reenact the existing rent control system. Nothing I have heard to date suggests that we would have any success in the Legislature should we put forward that option. Nor would I recommend that the Council spend time debating this option given its lack of viability.

HOME RULE OPTION 2 -- SUBSTANTIAL MODIFICATIONS TO EXISTING SYSTEM

There are six major components to the Substantial Modification Option that respond to consistent criticisms of the system. The major criticisms that we have attempted to address are:

- a. The system for recovering the costs of capital improvements is too complicated, takes too long, and sometimes discourages owners from putting capital into the buildings.
- b. The system does not guarantee to property owners an annual general adjustment and does not recognize, as operating expenses, costs that should be treated as reasonable costs of operating rent control housing.
- c. The system allows some rents to be set at a level that may discourage property owners from properly maintaining buildings.
- d. People cannot live in their own condominiums.
- e. The system improperly treats owner occupied 4 unit buildings as investment property and not as owner occupied housing similar to the 2 and 3 unit properties.
- f. The benefits of the rent control system are not sufficiently targeted to low and moderate income tenants.

To respond to each of these criticisms, we are proposing a set of changes to the rent control system through changes in the home rule legislation to be enacted by the Legislature. The changes will not satisfy those who want Cambridge to stop all regulation of rents and evictions. Nor will the changes satisfy those who resist any reforms which may lead to increases in rents or loss of units. But we have attempted to propose responsible modifications to the system that will permit the City to continue rent and eviction regulation if that is what the Council chooses to do. The six major categories of change are:

1. Encouraging Investment in Rent Controlled Properties

To make it easier for property owners to recover the costs of capital improvements they make to their buildings, the Rent Board will simplify the process and shorten the processing times for capital rent adjustments. If the owner lacks the documentation for the work, a rehabilitation specialist from outside the Board would examine and value the work. The Board would process capital rent adjustments within 60 days. We are also proposing that the Council make changes to the Removal Permit Ordinance to encourage property owners to make reasonable improvements to their buildings.

2. Expanding the Allowable Categories of Expenses

The Rent Board would be required to provide general adjustments on an annual basis for all properties. The legal standard for what operating costs are allowable would be changed to a more inclusive standard, and the Board would also allow as operating expenses vacancy losses and uncollected rents.

3. Establishing Minimum Rents

The Rent Board would be required to establish a formula to ensure that there was a minimum net operating income related to the operating expenses of the property. The Board would be required to address the low income properties by July 1. This would prevent properties which had very low rents in the base year from continuing to be disadvantaged by those rents. In addition, the Board would be permitted to use an alternative formula to set rents in hardship situations where necessary to allow improvements to a property.

4. Permitting Owner Occupancy of Ordinanced Condos

All units that have previously been converted could lawfully be occupied by the owner. The Council may want to condition the granting of the removal permits for owner occupancy on a payment of a fee, to be used to mitigate, in part, the loss of rental units through owner occupancy. Elderly and low and moderate income tenants could not be evicted for owner occupancy, but other tenants could be evicted for permissible reasons under the Act, including owner occupancy. While the release of all owner occupancy restrictions on these units will

reward some owners who knowingly violated the removal permit ordinance, we believe that the overwhelmingly negative response that this aspect of the rent control system generally receives makes it prudent to act. Historically the City's attempts to prevent rental units from being converted to condominiums were subverted by sales of units to individuals who may or may not have been aware that their units legally had to remain as rental units. Chapter 52 now makes the sale of individual condominiums less likely which reduces the possibility that in the future there will be a new class of noninvestor owners of units.

5. Decontrol of owner occupied 4 unit buildings

For most purposes, except rent control, owner occupied 4 unit buildings are treated as homes and not as investment properties. Banks and federal loan programs and the secondary mortgage market all treat owner occupied 4's in the same manner as they treat 3 unit owner occupied properties. We propose that the City recognize this status of 4 unit properties and exempt them when owner occupied. There are currently 1175 units in 4 unit buildings, and those units would be decontrolled when and if the buildings became owner occupied. We have not proposed the decontrol of the 5 and 6 unit buildings. By contrast to the 4 unit buildings, the 5's and 6's are treated by banks and the federal government as investment property, even where they are owner occupied. They are also, especially the 6's, units that generally are appropriate for families, and their decontrol, in addition to the decontrol of the 4's, would result in the decontrol of approximately 25% of the existing rent controlled housing stock.

6. Providing Incentives for Affordability

We propose providing owners with incentives to rent units to lower income households by permitting them, in exchange, to charge market rents to higher income tenants. The specific program standards would have to be promulgated in regulations and not in the statute, but the basic program is proposed for the statute. For each designated affordability unit in a building that an owner rented to a low income household, the owner would be permitted to designate an incentive unit. Owners are encouraged to choose as the incentive units, units that are vacant or occupied by the highest income tenants. The owner could set a market rent for an incentive unit that is vacant or occupied by a tenant at or above median income. For an incentive unit occupied by a tenant with an income between moderate and median income, the owner could set a rent that was no more than 30% of a tenant's income; units of low income tenants could not be designated as incentive units.

An owner could continue to collect a market or increased rent for the incentive unit as long as both the units remain designated. The units remain subject to the regulation of the Board for eviction and removal. The designated and incentive units would have to be comparable in terms of size and amenities when designated. The Board would directly or by contract with an outside agency provide for income certification and recertification for both the affordability unit and for the incentive unit if the tenant is seeking a below market rental based on income.

This proposal leaves property owners entirely free to rent their units to whomever they choose. It does not dictate to whom an owner can rent, nor does it prevent owners from choosing to rent all their units to higher income tenants. It does, however, provide owners with real incentives to rent some of their rent control housing to those most in need.

HOME RULE OPTION 3 -- Affordability Decontrol

If the Council decides that it needs or wants to adopt an option that includes a significant decontrol component based on affordability, this option could be substituted for the Incentive Program described above. The Affordability Decontrol Proposal has as a goal the preservation of the ongoing diversity of the City by targeting a significant portion of the rent control units to low and moderate income households. The units would remain regulated units for as long as the City continues its rent control system. This proposal would give property owners the option of permanently decontrolling some of their units by designating other units for lower income households. Unlike the Incentive program of the Substantial Modification Option, the units that are decontrolled are exempt from rent controls and from the jurisdiction of the Board. To the extent that owners take advantage of this decontrol option, it will permanently remove units from the rent control stock while, at the same time, ensuring that there will be units available to low and moderate income households. This decontrol option would be totally at the option of each individual property owner who would otherwise continue to be controlled under the rent control system, as it may be modified.

As currently conceived, property owners could permanently decontrol 60% of their units in a building by designating the remaining 40% for low and moderate income households. Owners could raise rents in decontrolled units to market rent upon vacancy, and for occupied units, the market rent could be phased in over a two year period to provide some protection to existing tenants.

The rents for the affordable units would continue to be controlled with provisions to ensure affordability to the targeted population. To achieve the designated affordability units, owners would be permitted to evict higher income tenants after some reasonable notice period. Because some low and moderate income tenants will be displaced over time from the decontrolled units, the City will operate a tenant matching service to help at least some of them find housing with landlords who want low and moderate income tenants.

We recognize that this proposal would cause disruption in the lives of tenants, some of whom may be unable to find affordable housing in Cambridge. It does, however, give the Council the option of targeting and preserving affordable units for low and moderate income tenants within a system that allows for some decontrol of units. While vacancy decontrol is more protective of individual tenants today, it will do nothing to ensure that there is housing affordable and available to low and moderate income households in the future.

The program standards would be promulgated in regulations which would cover the mechanisms establishing the program and for certifying and recertifying income, for ensuring that affordability units continue to be rented to low and moderate income tenants, for establishing the comparability of units designated and decontrolled, and for providing some alternative for property owners to decontrol units by providing affordable units in another location or manner.

HOME RULE OPTION 4 -- VACANCY DECONTROL -- Boston's Plan

The vacancy decontrol program, modeled very closely on the Boston system, would protect existing tenants until they voluntarily vacate. On vacancy, a landlord could set any rent for the new tenant, but once the new tenancy was established, the new tenant could not be required to pay an increase more than 10% per year or more than the CPI increase each year for elderly, disabled or low income tenants. On each turnover of the unit, the landlord could raise the rents to any level, but they would then be minimally recontrolled at that new level. Tenants in decontrolled units would be entitled to the same eviction controls as tenants in controlled units, except that nonpayment evictions would be handled administratively.

HOME RULE OPTION 5 -- VACANCY DECONTROL

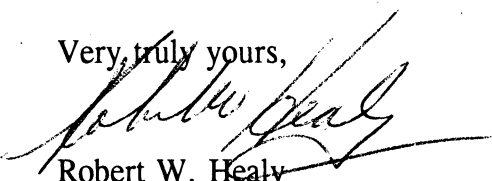
The fifth option is a vacancy decontrol plan which would protect existing tenants until they voluntarily vacate. On vacancy, the unit would be subject to no further rent controls.

Proposed Ordinance Change -- MASTER DEED REGULATION

Because we have specific authority to regulate condominium conversion of rent control housing, we are not covered by State condominium conversion protections covering other communities. Without rent control on January 1, tenants will automatically have some minimal state protections, and the City can adopt, as other communities have, additional protections by a 2/3 vote of the Council.

Any such new protections would apply only to buildings where no Master Deed has then been filed. Right now, the City does not restrict the filing of Master Deeds because we regulate only the sales and owner occupancy of units. To maintain the status quo between now and January 1, we recommend to the Council that it adopt a change in the Removal Permit Ordinance to temporarily require a removal permit for the filing of a Master Deed. That will ensure that any regulation the Council chooses to do of condominium conversion in the absence of rent control will not have been rendered ineffective by the actions of owners in the next six weeks who may be planning to file Master Deeds in anticipation that they can thereby avoid being covered by any new regulation in January.

Very, truly yours,


Robert W. Healy
City Manager

City of Cambridge Home Rule Options

- Option 1: The System As Is**
- Option 2: Substantial Modifications to Existing System**
- Option 3: Affordability Decontrol**
- Option 4: Vacancy Decontrol - Boston Model**
- Option 5: Other Vacancy Decontrol Proposals**

City of Cambridge Home Rule Options

Option 2: Substantial Modifications to Existing System

Goal: Preserve Cambridge's existing rent control system with substantial reforms to address major criticisms of the current system.

Overview: Reform Cambridge's current system to:

- Encourage investment in rent control properties
- Expand the allowable categories of expenses
- Establish minimum rents for all units
- Permit owner occupancy of ordinated condominium units
 - current elderly and low/mod tenants would be protected
 - future conversions regulated
- Decontrol owner-occupied 4 unit buildings
- Develop an incentive program for targeted affordability
 - 1:1 trade in system to allow some units to have market rents when paired with dedicated affordable units
- Amend removal permit ordinance to facilitate investment

City of Cambridge Home Rule Options

Option 3: Affordability Decontrol

Goal: Help ensure the City's diversity by providing ongoing access to affordable housing to low and moderate income households.

Overview: Property owners can decontrol 60% of their units in any building if they set aside 40% for low/moderate income occupancy

- Affordable units will have controlled, affordable rents
- Affordable units to be available to elderly, low/moderate income tenants only
- Market units to be decontrolled, with rents set by the property owner
 - for vacant units, the increase to market rents will be immediate
 - for occupied units, increases will be phased in over 2 years
 - protections for elderly
- System will include alternatives to allow property owners to provide affordable units in another location or manner

City of Cambridge Home Rule Options

Option 4: Vacancy Decontrol - Boston Model

Goal: Protect existing tenants until they voluntarily vacate.

Overview: Current tenants pay rent controlled rents until they voluntarily vacate

- On vacancy, property owners may set any rent
- Once a new tenancy is established, increases can be limited:
 - to 10% annually for most tenants
 - to CPI for elderly, disabled or low income tenants

City of Cambridge Home Rule Options

Option 5: Other Vacancy Decontrol Proposals

Goal: To allow orderly transition to a market system.

Overview: When current tenants vacate, units are permanently decontrolled

**City of Cambridge
HUD Median Income Limits**

60% of Median Income	HUD Income	Maximum rent based on	
	limit based area median	HUD 30% of monthly income excluding utilities	including utilities
1 person household	\$21,550	\$456	\$539
2 person household	\$24,600	\$517	\$615
3 person household	\$27,700	\$595	\$693
4 person household	\$30,800	\$657	\$770
5 person household	\$33,250	\$718	\$831

80% of Median Income	HUD Income	Maximum rent based on	
	limit based area median	HUD 30% of monthly income excluding utilities	including utilities
1 person household	\$27,950	\$616	\$699
2 person household	\$31,900	\$700	\$798
3 person household	\$35,900	\$800	\$898
4 person household	\$39,900	\$885	\$998
5 person household	\$43,100	\$965	\$1,078

100% of Median Income	HUD Income	Maximum rent based on	
	limit based area median	HUD 30% of monthly income excluding utilities	including utilities
1 person household	\$34,950	\$791	\$874
2 person household	\$39,900	\$900	\$998
3 person household	\$44,900	\$1,025	\$1,123
4 person household	\$49,900	\$1,135	\$1,248
5 person household	\$53,900	\$1,235	\$1,348

- o Income limits are supplied by HUD and are based on the Boston area median income
- o Utility costs deductions assume 1 bedroom per person for 1 and 2 person households; 2 bedrooms for 3 person households and 3 bedrooms for 4 and 5 person households.
- o Utility costs are based on federal leased housing standards, and include heat, hot water, cooking fuel, and electricity.



CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

TEL 349-4300
FAX 349-4307

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

November 10, 1994

To The Honorable, The City Council:

The following issues relate to the potential implementation of a City-financed rental subsidy program. Very few municipalities have taken responsibility for this type of program because of the very high costs involved, and the difficulty of controlling them.

The most familiar model of a rental subsidy program is the federally financed Section 8 Program. If the City were to implement a rental subsidy program, it would most likely be modelled after this program. Under this program, tenants pay 30% of their income towards their rent, and the balance is paid by the Housing Authority. Tenant income is verified annually, and the tenant payment share is adjusted if necessary. Units must meet minimum standards, and there are maximum rent levels. Actual rents are negotiated with the Housing Authority. The Cambridge Housing Authority currently serves 1,036 households under the Section 8 program, and there are already 2,850 households on the waiting list. The cost per household of this program is \$6,222, plus \$795 per unit in annual administrative costs.

There are no examples of other cities that run similar programs, except for Washington D.C., which implemented a City-funded rent subsidy system in 1986, which currently serves 1,911 households, down from a high of 3,000 in 1981. The City started to phase out the program in 1988 and is seeking to continue to phase out the program over a 12 year period, because it became too costly. The cost per household of this program is \$5,790, excluding administrative costs.

A municipally-funded rental subsidy program would be extremely expensive. We estimate that the cost of assisting all 4,300 low income households (defined as households earning under 50% of the area median) living in rent controlled units, which do not currently have rental assistance, would be \$12.6 million annually, excluding administration. These estimates average \$2,953 per participating household annually, and are based on the difference between average rent controlled rents and HUD fair market rents for appropriately sized units. They are significantly lower than the costs experienced by the Cambridge Housing Authority and the City of Washington for similar programs, primarily because they assume higher average incomes (and consequently lower subsidy amounts) for program participants.

Administrative costs would add another \$2 to \$4 million, depending on the program's administrative plan. This estimate is based on the Cambridge Housing Authority's administrative

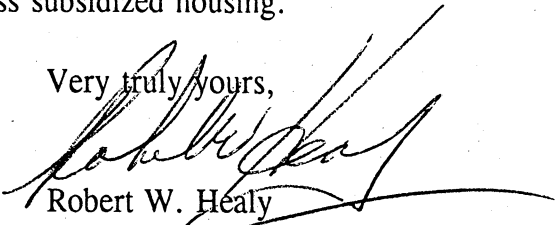
The Honorable, The City Council
November 14, 1994
Page 2

budget for a program approximately one-quarter the size. The Housing Authority currently spends \$825,000 annually, and has a staff of 13, to administer subsidies to 1,036 households.

Costs under a City-funded program could also be expected to increase annually, both with increases in rents and inflation in administrative costs. Also, program costs have the potential to increase dramatically if the program serves households which have declining incomes, or if new households who receive subsidies have lower incomes than original participants. This was the case in Washington, where a program that was originally intended to bridge relatively small rental gaps served an increasingly low income population (average annually household income for participants is now \$6,200), with commensurate increases in program cost.

The experience of Washington indicates that, once implemented, it would be very difficult to eliminate a rental subsidy program. The result of Washington's approach to phasing out their program -- using turnover in public housing and federal subsidy programs -- is that others on the waiting list will lose their ability to access subsidized housing.

Very truly yours,



Robert W. Healy
City Manager

Proposal # 1



CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

TEL 349-4300
FAX 349-4307

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

November 10, 1994

To The Honorable, The City Council:

In addition to the options for Home Rule petitions, I would like to update the City Council on discussions at the State Legislative level.

On the House side, Speaker Flaherty and the Cambridge delegation emphatically state that there is a very "narrow window of opportunity" for the City Council to submit a petition for consideration by the House for the petition to be enacted prior to December 31, 1994. This means passage by the City Council no later than the meeting of November 21st prior to Thanksgiving. The proposal for a 90 day delay of implementation of the provision of Question 9 is not an eligible option. Content concerns focussed on protection of the elderly and low/moderate income, relief for ordinance condo owners, and minimum rents.

On the Senate side, Senator Birmingham and Tolman also cautioned the importance of an expedited filing by the Cambridge City Council of their Home Rule petition given parliamentary rules of the Senate.

I urge the City Council to heed this advice. Given the complexity of the issue, no plan can keep both sides happy. However, the failure to submit any plan will result in implementation of Question 9 on January 1, 1995.

Attached for your review are two memoranda, one that sets out some proposed home rule options and one that explains the difficulties of a rent subsidy program. I have also attached an outline of the proposed home rule options.

Very truly yours,

Robert W. Healy
City Manager

RWH/mev



CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

TEL. 349-4300
FAX. 349-4307

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

November 10, 1994

To The Honorable, the City Council:

As you are aware, the voters of Massachusetts have voted in favor of Question 9. The effect of that vote is to abolish our current system of rent control on January 1. In preparation for this possibility, my staff and I have been engaged in a intensive planning process. Because of the serious time constraints under which the Council will be operating if you choose to seek home rule authority from the Legislature, I am focussing here only on the home rule options and on one possible ordinance change for the Council's consideration. I will in the next few days provide the Council with updates on other possible activities.

One preliminary matter needs to be addressed here. There has been considerable interest expressed in the filing of a legal challenge to Chapter 40o as enacted. As you may remember, when the Court rejected our earlier challenge to the initiative petition, it indicated that any challenges to the law as enacted would have to be brought after enactment.

In preparation for any such legal challenge, we have done an exhaustive job of looking at possible legal challenges to the new law. Based on the research of the City's lawyers and two outside firms, we have concluded that the chances of success of any legal action are minimal. Since the existence of the lawsuit may provide the Legislature with a reason to delay or refuse to act on any home rule legislation, my recommendation to the Council is that we not take that risk, in light of the very low chances of success with any litigation.

HOME RULE OPTIONS

Based on my consultations with the Legislative and Committee leadership at the State House, I believe that it will be a difficult fight in the Legislature to obtain authorization for any rent control system. Unless we are able to demonstrate that we have addressed some of the major criticisms of the existing system, it may be impossible. Even if we do address those criticisms, we still may fail to win the necessary votes.

The Council has an exceedingly short time frame within which it must act if seeking home rule legislation is the route chosen. To maximize the chances of getting any action taken by the Legislature, any home rule petition should be forwarded to the State House before Thanksgiving, which gives the Council less than two weeks to act.

Working with the expanded housing cabinet and other city staff, I have developed five options for the Council's consideration. The first of these options is not actually new but would be just a resubmittal of our current system to the Legislature for reenactment. The second option involves a substantial modification of the existing system to address some of the consistent criticisms of it. The third option is Affordability Decontrol which, at the property owner's election, targets certain units for low and moderate income households in exchange for decontrol of the balance of the units. The fourth and fifth options are different versions of Vacancy Decontrol, the fourth based on the model currently in place in Boston.

HOME RULE OPTION 1 -- THE SYSTEM AS IS

The first proposal is to reenact the existing rent control system. Nothing I have heard to date suggests that we would have any success in the Legislature should we put forward that option. Nor would I recommend that the Council spend time debating this option given its lack of viability.

HOME RULE OPTION 2 -- SUBSTANTIAL MODIFICATIONS TO EXISTING SYSTEM

There are six major components to the Substantial Modification Option that respond to consistent criticisms of the system. The major criticisms that we have attempted to address are:

- a. The system for recovering the costs of capital improvements is too complicated, takes too long, and sometimes discourages owners from putting capital into the buildings.
- b. The system does not guarantee to property owners an annual general adjustment and does not recognize, as operating expenses, costs that should be treated as reasonable costs of operating rent control housing.
- c. The system allows some rents to be set at a level that may discourage property owners from properly maintaining buildings.
- d. People cannot live in their own condominiums.
- e. The system improperly treats owner occupied 4 unit buildings as investment property and not as owner occupied housing similar to the 2 and 3 unit properties.
- f. The benefits of the rent control system are not sufficiently targeted to low and moderate income tenants.

To respond to each of these criticisms, we are proposing a set of changes to the rent control system through changes in the home rule legislation to be enacted by the Legislature. The changes will not satisfy those who want Cambridge to stop all regulation of rents and evictions. Nor will the changes satisfy those who resist any reforms which may lead to increases in rents or loss of units. But we have attempted to propose responsible modifications to the system that will permit the City to continue rent and eviction regulation if that is what the Council chooses to do. The six major categories of change are:

1. Encouraging Investment in Rent Controlled Properties

To make it easier for property owners to recover the costs of capital improvements they make to their buildings, the Rent Board will simplify the process and shorten the processing times for capital rent adjustments. If the owner lacks the documentation for the work, a rehabilitation specialist from outside the Board would examine and value the work. The Board would process capital rent adjustments within 60 days. We are also proposing that the Council make changes to the Removal Permit Ordinance to encourage property owners to make reasonable improvements to their buildings.

2. Expanding the Allowable Categories of Expenses

The Rent Board would be required to provide general adjustments on an annual basis for all properties. The legal standard for what operating costs are allowable would be changed to a more inclusive standard, and the Board would also allow as operating expenses vacancy losses and uncollected rents.

3. Establishing Minimum Rents

The Rent Board would be required to establish a formula to ensure that there was a minimum net operating income related to the operating expenses of the property. The Board would be required to address the low income properties by July 1. This would prevent properties which had very low rents in the base year from continuing to be disadvantaged by those rents. In addition, the Board would be permitted to use an alternative formula to set rents in hardship situations where necessary to allow improvements to a property.

4. Permitting Owner Occupancy of Ordinanced Condos

All units that have previously been converted could lawfully be occupied by the owner. The Council may want to condition the granting of the removal permits for owner occupancy on a payment of a fee, to be used to mitigate, in part, the loss of rental units through owner occupancy. Elderly and low and moderate income tenants could not be evicted for owner occupancy, but other tenants could be evicted for permissible reasons under the Act, including owner occupancy. While the release of all owner occupancy restrictions on these units will

reward some owners who knowingly violated the removal permit ordinance, we believe that the overwhelmingly negative response that this aspect of the rent control system generally receives makes it prudent to act. Historically the City's attempts to prevent rental units from being converted to condominiums were subverted by sales of units to individuals who may or may not have been aware that their units legally had to remain as rental units. Chapter 52 now makes the sale of individual condominiums less likely which reduces the possibility that in the future there will be a new class of noninvestor owners of units.

5. Decontrol of owner occupied 4 unit buildings

For most purposes, except rent control, owner occupied 4 unit buildings are treated as homes and not as investment properties. Banks and federal loan programs and the secondary mortgage market all treat owner occupied 4's in the same manner as they treat 3 unit owner occupied properties. We propose that the City recognize this status of 4 unit properties and exempt them when owner occupied. There are currently 1175 units in 4 unit buildings, and those units would be decontrolled when and if the buildings became owner occupied. We have not proposed the decontrol of the 5 and 6 unit buildings. By contrast to the 4 unit buildings, the 5's and 6's are treated by banks and the federal government as investment property, even where they are owner occupied. They are also, especially the 6's, units that generally are appropriate for families, and their decontrol, in addition to the decontrol of the 4's, would result in the decontrol of approximately 25% of the existing rent controlled housing stock.

6. Providing Incentives for Affordability

We propose providing owners with incentives to rent units to lower income households by permitting them, in exchange, to charge market rents to higher income tenants. The specific program standards would have to be promulgated in regulations and not in the statute, but the basic program is proposed for the statute. For each designated affordability unit in a building that an owner rented to a low income household, the owner would be permitted to designate an incentive unit. Owners are encouraged to choose as the incentive units, units that are vacant or occupied by the highest income tenants. The owner could set a market rent for an incentive unit that is vacant or occupied by a tenant at or above median income. For an incentive unit occupied by a tenant with an income between moderate and median income, the owner could set a rent that was no more than 30% of a tenant's income; units of low income tenants could not be designated as incentive units.

An owner could continue to collect a market or increased rent for the incentive unit as long as both the units remain designated. The units remain subject to the regulation of the Board for eviction and removal. The designated and incentive units would have to be comparable in terms of size and amenities when designated. The Board would directly or by contract with an outside agency provide for income certification and recertification for both the affordability unit and for the incentive unit if the tenant is seeking a below market rental based on income.

This proposal leaves property owners entirely free to rent their units to whomever they choose. It does not dictate to whom an owner can rent, nor does it prevent owners from choosing to rent all their units to higher income tenants. It does, however, provide owners with real incentives to rent some of their rent control housing to those most in need.

HOME RULE OPTION 3 -- Affordability Decontrol

If the Council decides that it needs or wants to adopt an option that includes a significant decontrol component based on affordability, this option could be substituted for the Incentive Program described above. The Affordability Decontrol Proposal has as a goal the preservation of the ongoing diversity of the City by targeting a significant portion of the rent control units to low and moderate income households. The units would remain regulated units for as long as the City continues its rent control system. This proposal would give property owners the option of permanently decontrolling some of their units by designating other units for lower income households. Unlike the Incentive program of the Substantial Modification Option, the units that are decontrolled are exempt from rent controls and from the jurisdiction of the Board. To the extent that owners take advantage of this decontrol option, it will permanently remove units from the rent control stock while, at the same time, ensuring that there will be units available to low and moderate income households. This decontrol option would be totally at the option of each individual property owner who would otherwise continue to be controlled under the rent control system, as it may be modified.

As currently conceived, property owners could permanently decontrol 60% of their units in a building by designating the remaining 40% for low and moderate income households. Owners could raise rents in decontrolled units to market rent upon vacancy, and for occupied units, the market rent could be phased in over a two year period to provide some protection to existing tenants.

The rents for the affordable units would continue to be controlled with provisions to ensure affordability to the targeted population. To achieve the designated affordability units, owners would be permitted to evict higher income tenants after some reasonable notice period. Because some low and moderate income tenants will be displaced over time from the decontrolled units, the City will operate a tenant matching service to help at least some of them find housing with landlords who want low and moderate income tenants.

We recognize that this proposal would cause disruption in the lives of tenants, some of whom may be unable to find affordable housing in Cambridge. It does, however, give the Council the option of targeting and preserving affordable units for low and moderate income tenants within a system that allows for some decontrol of units. While vacancy decontrol is more protective of individual tenants today, it will do nothing to ensure that there is housing affordable and available to low and moderate income households in the future.

The program standards would be promulgated in regulations which would cover the mechanisms establishing the program and for certifying and recertifying income, for ensuring that affordability units continue to be rented to low and moderate income tenants, for establishing the comparability of units designated and decontrolled, and for providing some alternative for property owners to decontrol units by providing affordable units in another location or manner.

HOME RULE OPTION 4 -- VACANCY DECONTROL -- Boston's Plan

The vacancy decontrol program, modeled very closely on the Boston system, would protect existing tenants until they voluntarily vacate. On vacancy, a landlord could set any rent for the new tenant, but once the new tenancy was established, the new tenant could not be required to pay an increase more than 10% per year or more than the CPI increase each year for elderly, disabled or low income tenants. On each turnover of the unit, the landlord could raise the rents to any level, but they would then be minimally recontrolled at that new level. Tenants in decontrolled units would be entitled to the same eviction controls as tenants in controlled units, except that nonpayment evictions would be handled administratively.

HOME RULE OPTION 5 -- VACANCY DECONTROL

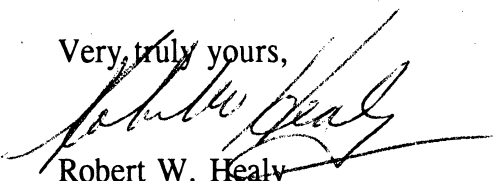
The fifth option is a vacancy decontrol plan which would protect existing tenants until they voluntarily vacate. On vacancy, the unit would be subject to no further rent controls.

Proposed Ordinance Change --MASTER DEED REGULATION

Because we have specific authority to regulate condominium conversion of rent control housing, we are not covered by State condominium conversion protections covering other communities. Without rent control on January 1, tenants will automatically have some minimal state protections, and the City can adopt, as other communities have, additional protections by a 2/3 vote of the Council.

Any such new protections would apply only to buildings where no Master Deed has then been filed. Right now, the City does not restrict the filing of Master Deeds because we regulate only the sales and owner occupancy of units. To maintain the status quo between now and January 1, we recommend to the Council that it adopt a change in the Removal Permit Ordinance to temporarily require a removal permit for the filing of a Master Deed. That will ensure that any regulation the Council chooses to do of condominium conversion in the absence of rent control will not have been rendered ineffective by the actions of owners in the next six weeks who may be planning to file Master Deeds in anticipation that they can thereby avoid being covered by any new regulation in January.

Very, truly yours,



Robert W. Healy
City Manager

City of Cambridge Home Rule Options

- Option 1: The System As Is**
- Option 2: Substantial Modifications to Existing System**
- Option 3: Affordability Decontrol**
- Option 4: Vacancy Decontrol - Boston Model**
- Option 5: Other Vacancy Decontrol Proposals**

City of Cambridge Home Rule Options

Option 2: Substantial Modifications to Existing System

Goal: Preserve Cambridge's existing rent control system with substantial reforms to address major criticisms of the current system.

Overview: Reform Cambridge's current system to:

- Encourage investment in rent control properties
- Expand the allowable categories of expenses
- Establish minimum rents for all units
- Permit owner occupancy of ordinated condominium units
 - current elderly and low/mod tenants would be protected
 - future conversions regulated
- Decontrol owner-occupied 4 unit buildings
- Develop an incentive program for targeted affordability
 - 1:1 trade in system to allow some units to have market rents when paired with dedicated affordable units
- Amend removal permit ordinance to facilitate investment

City of Cambridge Home Rule Options

Option 3: Affordability Decontrol

Goal: Help ensure the City's diversity by providing ongoing access to affordable housing to low and moderate income households.

Overview: Property owners can decontrol 60% of their units in any building if they set aside 40% for low/moderate income occupancy

- Affordable units will have controlled, affordable rents
- Affordable units to be available to elderly, low/moderate income tenants only
- Market units to be decontrolled, with rents set by the property owner
 - for vacant units, the increase to market rents will be immediate
 - for occupied units, increases will be phased in over 2 years
 - protections for elderly
- System will include alternatives to allow property owners to provide affordable units in another location or manner

City of Cambridge Home Rule Options

Option 4: Vacancy Decontrol - Boston Model

Goal: Protect existing tenants until they voluntarily vacate.

Overview: Current tenants pay rent controlled rents until they voluntarily vacate

- On vacancy, property owners may set any rent
- Once a new tenancy is established, increases can be limited:
 - to 10% annually for most tenants
 - to CPI for elderly, disabled or low income tenants

City of Cambridge Home Rule Options

Option 5: Other Vacancy Decontrol Proposals

Goal: To allow orderly transition to a market system.

Overview: When current tenants vacate, units are permanently decontrolled

**City of Cambridge
HUD Median Income Limits**

60% of Median Income	HUD Income limit based area median	Maximum rent based on HUD 30% of monthly income	
		excluding utilities	including utilities
1 person household	\$21,550	\$456	\$539
2 person household	\$24,600	\$517	\$615
3 person household	\$27,700	\$595	\$693
4 person household	\$30,800	\$657	\$770
5 person household	\$33,250	\$718	\$831

80% of Median Income	HUD Income limit based area median	Maximum rent based on HUD 30% of monthly income	
		excluding utilities	including utilities
1 person household	\$27,950	\$616	\$699
2 person household	\$31,900	\$700	\$798
3 person household	\$35,900	\$800	\$898
4 person household	\$39,900	\$885	\$998
5 person household	\$43,100	\$965	\$1,078

100% of Median Income	HUD Income limit based area median	Maximum rent based on HUD 30% of monthly income	
		excluding utilities	including utilities
1 person household	\$34,950	\$791	\$874
2 person household	\$39,900	\$900	\$998
3 person household	\$44,900	\$1,025	\$1,123
4 person household	\$49,900	\$1,135	\$1,248
5 person household	\$53,900	\$1,235	\$1,348

- o Income limits are supplied by HUD and are based on the Boston area median income
- o Utility costs deductions assume 1 bedroom per person for 1 and 2 person households; 2 bedrooms for 3 person households and 3 bedrooms for 4 and 5 person households.
- o Utility costs are based on federal leased housing standards, and include heat, hot water, cooking fuel, and electricity.



CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

TEL. 349-4300
FAX. 349-4307

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

November 10, 1994

To The Honorable, The City Council:

The following issues relate to the potential implementation of a City-financed rental subsidy program. Very few municipalities have taken responsibility for this type of program because of the very high costs involved, and the difficulty of controlling them.

The most familiar model of a rental subsidy program is the federally financed Section 8 Program. If the City were to implement a rental subsidy program, it would most likely be modelled after this program. Under this program, tenants pay 30% of their income towards their rent, and the balance is paid by the Housing Authority. Tenant income is verified annually, and the tenant payment share is adjusted if necessary. Units must meet minimum standards, and there are maximum rent levels. Actual rents are negotiated with the Housing Authority. The Cambridge Housing Authority currently serves 1,036 households under the Section 8 program, and there are already 2,850 households on the waiting list. The cost per household of this program is \$6,222, plus \$795 per unit in annual administrative costs.

There are no examples of other cities that run similar programs, except for Washington D.C., which implemented a City-funded rent subsidy system in 1986, which currently serves 1,911 households, down from a high of 3,000 in 1981. The City started to phase out the program in 1988 and is seeking to continue to phase out the program over a 12 year period, because it became too costly. The cost per household of this program is \$5,790, excluding administrative costs.

A municipally-funded rental subsidy program would be extremely expensive. We estimate that the cost of assisting all 4,300 low income households (defined as households earning under 50% of the area median) living in rent controlled units, which do not currently have rental assistance, would be \$12.6 million annually, excluding administration. These estimates average \$2,953 per participating household annually, and are based on the difference between average rent controlled rents and HUD fair market rents for appropriately sized units. They are significantly lower than the costs experienced by the Cambridge Housing Authority and the City of Washington for similar programs, primarily because they assume higher average incomes (and consequently lower subsidy amounts) for program participants.

Administrative costs would add another \$2 to \$4 million, depending on the program's administrative plan. This estimate is based on the Cambridge Housing Authority's administrative

The Honorable, The City Council
November 14, 1994
Page 2

budget for a program approximately one-quarter the size. The Housing Authority currently spends \$825,000 annually, and has a staff of 13, to administer subsidies to 1,036 households.

Costs under a City-funded program could also be expected to increase annually, both with increases in rents and inflation in administrative costs. Also, program costs have the potential to increase dramatically if the program serves households which have declining incomes, or if new households who receive subsidies have lower incomes than original participants. This was the case in Washington, where a program that was originally intended to bridge relatively small rental gaps served an increasingly low income population (average annually household income for participants is now \$6,200), with commensurate increases in program cost.

The experience of Washington indicates that, once implemented, it would be very difficult to eliminate a rental subsidy program. The result of Washington's approach to phasing out their program -- using turnover in public housing and federal subsidy programs -- is that others on the waiting list will lose their ability to access subsidized housing.

Very truly yours,



Robert W. Healy
City Manager



Proposal # 1

CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

TEL 349-4300
FAX 349-4307

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

November 10, 1994

To The Honorable, The City Council:

In addition to the options for Home Rule petitions, I would like to update the City Council on discussions at the State Legislative level.

On the House side, Speaker Flaherty and the Cambridge delegation emphatically state that there is a very "narrow window of opportunity" for the City Council to submit a petition for consideration by the House for the petition to be enacted prior to December 31, 1994. This means passage by the City Council no later than the meeting of November 21st prior to Thanksgiving. The proposal for a 90 day delay of implementation of the provision of Question 9 is not an eligible option. Content concerns focussed on protection of the elderly and low/moderate income, relief for ordinated condo owners, and minimum rents.

On the Senate side, Senator Birmingham and Tolman also cautioned the importance of an expedited filing by the Cambridge City Council of their Home Rule petition given parliamentary rules of the Senate.

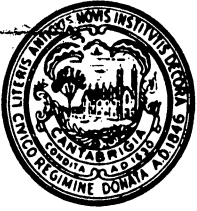
I urge the City Council to heed this advice. Given the complexity of the issue, no plan can keep both sides happy. However, the failure to submit any plan will result in implementation of Question 9 on January 1, 1995.

Attached for your review are two memoranda, one that sets out some proposed home rule options and one that explains the difficulties of a rent subsidy program. I have also attached an outline of the proposed home rule options.

Very truly yours,

Robert W. Healy
City Manager

RWH/mev



CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139

TEL. 349-4300

FAX. 349-4307

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

November 10, 1994

To The Honorable, the City Council:

As you are aware, the voters of Massachusetts have voted in favor of Question 9. The effect of that vote is to abolish our current system of rent control on January 1. In preparation for this possibility, my staff and I have been engaged in a intensive planning process. Because of the serious time constraints under which the Council will be operating if you choose to seek home rule authority from the Legislature, I am focussing here only on the home rule options and on one possible ordinance change for the Council's consideration. I will in the next few days provide the Council with updates on other possible activities.

One preliminary matter needs to be addressed here. There has been considerable interest expressed in the filing of a legal challenge to Chapter 40o as enacted. As you may remember, when the Court rejected our earlier challenge to the initiative petition, it indicated that any challenges to the law as enacted would have to be brought after enactment.

In preparation for any such legal challenge, we have done an exhaustive job of looking at possible legal challenges to the new law. Based on the research of the City's lawyers and two outside firms, we have concluded that the chances of success of any legal action are minimal. Since the existence of the lawsuit may provide the Legislature with a reason to delay or refuse to act on any home rule legislation, my recommendation to the Council is that we not take that risk, in light of the very low chances of success with any litigation.

HOME RULE OPTIONS

Based on my consultations with the Legislative and Committee leadership at the State House, I believe that it will be a difficult fight in the Legislature to obtain authorization for any rent control system. Unless we are able to demonstrate that we have addressed some of the major criticisms of the existing system, it may be impossible. Even if we do address those criticisms, we still may fail to win the necessary votes.

The Council has an exceedingly short time frame within which it must act if seeking home rule legislation is the route chosen. To maximize the chances of getting any action taken by the Legislature, any home rule petition should be forwarded to the State House before Thanksgiving, which gives the Council less than two weeks to act.

Working with the expanded housing cabinet and other city staff, I have developed five options for the Council's consideration. The first of these options is not actually new but would be just a resubmittal of our current system to the Legislature for reenactment. The second option involves a substantial modification of the existing system to address some of the consistent criticisms of it. The third option is Affordability Decontrol which, at the property owner's election, targets certain units for low and moderate income households in exchange for decontrol of the balance of the units. The fourth and fifth options are different versions of Vacancy Decontrol, the fourth based on the model currently in place in Boston.

HOME RULE OPTION 1 -- THE SYSTEM AS IS

The first proposal is to reenact the existing rent control system. Nothing I have heard to date suggests that we would have any success in the Legislature should we put forward that option. Nor would I recommend that the Council spend time debating this option given its lack of viability.

HOME RULE OPTION 2 -- SUBSTANTIAL MODIFICATIONS TO EXISTING SYSTEM

There are six major components to the Substantial Modification Option that respond to consistent criticisms of the system. The major criticisms that we have attempted to address are:

- a. The system for recovering the costs of capital improvements is too complicated, takes too long, and sometimes discourages owners from putting capital into the buildings.
- b. The system does not guarantee to property owners an annual general adjustment and does not recognize, as operating expenses, costs that should be treated as reasonable costs of operating rent control housing.
- c. The system allows some rents to be set at a level that may discourage property owners from properly maintaining buildings.
- d. People cannot live in their own condominiums.
- e. The system improperly treats owner occupied 4 unit buildings as investment property and not as owner occupied housing similar to the 2 and 3 unit properties.
- f. The benefits of the rent control system are not sufficiently targeted to low and moderate income tenants.

To respond to each of these criticisms, we are proposing a set of changes to the rent control system through changes in the home rule legislation to be enacted by the Legislature. The changes will not satisfy those who want Cambridge to stop all regulation of rents and evictions. Nor will the changes satisfy those who resist any reforms which may lead to increases in rents or loss of units. But we have attempted to propose responsible modifications to the system that will permit the City to continue rent and eviction regulation if that is what the Council chooses to do. The six major categories of change are:

1. Encouraging Investment in Rent Controlled Properties

To make it easier for property owners to recover the costs of capital improvements they make to their buildings, the Rent Board will simplify the process and shorten the processing times for capital rent adjustments. If the owner lacks the documentation for the work, a rehabilitation specialist from outside the Board would examine and value the work. The Board would process capital rent adjustments within 60 days. We are also proposing that the Council make changes to the Removal Permit Ordinance to encourage property owners to make reasonable improvements to their buildings.

2. Expanding the Allowable Categories of Expenses

The Rent Board would be required to provide general adjustments on an annual basis for all properties. The legal standard for what operating costs are allowable would be changed to a more inclusive standard, and the Board would also allow as operating expenses vacancy losses and uncollected rents.

3. Establishing Minimum Rents

The Rent Board would be required to establish a formula to ensure that there was a minimum net operating income related to the operating expenses of the property. The Board would be required to address the low income properties by July 1. This would prevent properties which had very low rents in the base year from continuing to be disadvantaged by those rents. In addition, the Board would be permitted to use an alternative formula to set rents in hardship situations where necessary to allow improvements to a property.

4. Permitting Owner Occupancy of Ordinanced Condos

All units that have previously been converted could lawfully be occupied by the owner. The Council may want to condition the granting of the removal permits for owner occupancy on a payment of a fee, to be used to mitigate, in part, the loss of rental units through owner occupancy. Elderly and low and moderate income tenants could not be evicted for owner occupancy, but other tenants could be evicted for permissible reasons under the Act, including owner occupancy. While the release of all owner occupancy restrictions on these units will

reward some owners who knowingly violated the removal permit ordinance, we believe that the overwhelmingly negative response that this aspect of the rent control system generally receives makes it prudent to act. Historically the City's attempts to prevent rental units from being converted to condominiums were subverted by sales of units to individuals who may or may not have been aware that their units legally had to remain as rental units. Chapter 52 now makes the sale of individual condominiums less likely which reduces the possibility that in the future there will be a new class of noninvestor owners of units.

5. Decontrol of owner occupied 4 unit buildings

For most purposes, except rent control, owner occupied 4 unit buildings are treated as homes and not as investment properties. Banks and federal loan programs and the secondary mortgage market all treat owner occupied 4's in the same manner as they treat 3 unit owner occupied properties. We propose that the City recognize this status of 4 unit properties and exempt them when owner occupied. There are currently 1175 units in 4 unit buildings, and those units would be decontrolled when and if the buildings became owner occupied. We have not proposed the decontrol of the 5 and 6 unit buildings. By contrast to the 4 unit buildings, the 5's and 6's are treated by banks and the federal government as investment property, even where they are owner occupied. They are also, especially the 6's, units that generally are appropriate for families, and their decontrol, in addition to the decontrol of the 4's, would result in the decontrol of approximately 25% of the existing rent controlled housing stock.

6. Providing Incentives for Affordability

We propose providing owners with incentives to rent units to lower income households by permitting them, in exchange, to charge market rents to higher income tenants. The specific program standards would have to be promulgated in regulations and not in the statute, but the basic program is proposed for the statute. For each designated affordability unit in a building that an owner rented to a low income household, the owner would be permitted to designate an incentive unit. Owners are encouraged to choose as the incentive units, units that are vacant or occupied by the highest income tenants. The owner could set a market rent for an incentive unit that is vacant or occupied by a tenant at or above median income. For an incentive unit occupied by a tenant with an income between moderate and median income, the owner could set a rent that was no more than 30% of a tenant's income; units of low income tenants could not be designated as incentive units.

An owner could continue to collect a market or increased rent for the incentive unit as long as both the units remain designated. The units remain subject to the regulation of the Board for eviction and removal. The designated and incentive units would have to be comparable in terms of size and amenities when designated. The Board would directly or by contract with an outside agency provide for income certification and recertification for both the affordability unit and for the incentive unit if the tenant is seeking a below market rental based on income.

This proposal leaves property owners entirely free to rent their units to whomever they choose. It does not dictate to whom an owner can rent, nor does it prevent owners from choosing to rent all their units to higher income tenants. It does, however, provide owners with real incentives to rent some of their rent control housing to those most in need.

HOME RULE OPTION 3 -- Affordability Decontrol

If the Council decides that it needs or wants to adopt an option that includes a significant decontrol component based on affordability, this option could be substituted for the Incentive Program described above. The Affordability Decontrol Proposal has as a goal the preservation of the ongoing diversity of the City by targeting a significant portion of the rent control units to low and moderate income households. The units would remain regulated units for as long as the City continues its rent control system. This proposal would give property owners the option of permanently decontrolling some of their units by designating other units for lower income households. Unlike the Incentive program of the Substantial Modification Option, the units that are decontrolled are exempt from rent controls and from the jurisdiction of the Board. To the extent that owners take advantage of this decontrol option, it will permanently remove units from the rent control stock while, at the same time, ensuring that there will be units available to low and moderate income households. This decontrol option would be totally at the option of each individual property owner who would otherwise continue to be controlled under the rent control system, as it may be modified.

As currently conceived, property owners could permanently decontrol 60% of their units in a building by designating the remaining 40% for low and moderate income households. Owners could raise rents in decontrolled units to market rent upon vacancy, and for occupied units, the market rent could be phased in over a two year period to provide some protection to existing tenants.

The rents for the affordable units would continue to be controlled with provisions to ensure affordability to the targeted population. To achieve the designated affordability units, owners would be permitted to evict higher income tenants after some reasonable notice period. Because some low and moderate income tenants will be displaced over time from the decontrolled units, the City will operate a tenant matching service to help at least some of them find housing with landlords who want low and moderate income tenants.

We recognize that this proposal would cause disruption in the lives of tenants, some of whom may be unable to find affordable housing in Cambridge. It does, however, give the Council the option of targeting and preserving affordable units for low and moderate income tenants within a system that allows for some decontrol of units. While vacancy decontrol is more protective of individual tenants today, it will do nothing to ensure that there is housing affordable and available to low and moderate income households in the future.

The program standards would be promulgated in regulations which would cover the mechanisms establishing the program and for certifying and recertifying income, for ensuring that affordability units continue to be rented to low and moderate income tenants, for establishing the comparability of units designated and decontrolled, and for providing some alternative for property owners to decontrol units by providing affordable units in another location or manner.

HOME RULE OPTION 4 -- VACANCY DECONTROL -- Boston's Plan

The vacancy decontrol program, modeled very closely on the Boston system, would protect existing tenants until they voluntarily vacate. On vacancy, a landlord could set any rent for the new tenant, but once the new tenancy was established, the new tenant could not be required to pay an increase more than 10% per year or more than the CPI increase each year for elderly, disabled or low income tenants. On each turnover of the unit, the landlord could raise the rents to any level, but they would then be minimally recontrolled at that new level. Tenants in decontrolled units would be entitled to the same eviction controls as tenants in controlled units, except that nonpayment evictions would be handled administratively.

HOME RULE OPTION 5 -- VACANCY DECONTROL

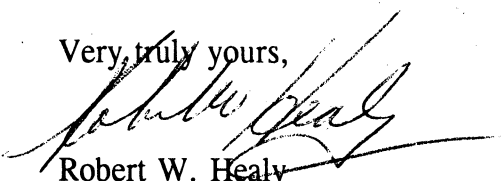
The fifth option is a vacancy decontrol plan which would protect existing tenants until they voluntarily vacate. On vacancy, the unit would be subject to no further rent controls.

Proposed Ordinance Change --MASTER DEED REGULATION

Because we have specific authority to regulate condominium conversion of rent control housing, we are not covered by State condominium conversion protections covering other communities. Without rent control on January 1, tenants will automatically have some minimal state protections, and the City can adopt, as other communities have, additional protections by a 2/3 vote of the Council.

Any such new protections would apply only to buildings where no Master Deed has then been filed. Right now, the City does not restrict the filing of Master Deeds because we regulate only the sales and owner occupancy of units. To maintain the status quo between now and January 1, we recommend to the Council that it adopt a change in the Removal Permit Ordinance to temporarily require a removal permit for the filing of a Master Deed. That will ensure that any regulation the Council chooses to do of condominium conversion in the absence of rent control will not have been rendered ineffective by the actions of owners in the next six weeks who may be planning to file Master Deeds in anticipation that they can thereby avoid being covered by any new regulation in January.

Very truly yours,


Robert W. Healy
City Manager

City of Cambridge Home Rule Options

- Option 1: The System As Is**
- Option 2: Substantial Modifications to Existing System**
- Option 3: Affordability Decontrol**
- Option 4: Vacancy Decontrol - Boston Model**
- Option 5: Other Vacancy Decontrol Proposals**

City of Cambridge Home Rule Options

Option 2: Substantial Modifications to Existing System

Goal: Preserve Cambridge's existing rent control system with substantial reforms to address major criticisms of the current system.

Overview: Reform Cambridge's current system to:

- Encourage investment in rent control properties
- Expand the allowable categories of expenses
- Establish minimum rents for all units
- Permit owner occupancy of ordinated condominium units
 - current elderly and low/mod tenants would be protected
 - future conversions regulated
- Decontrol owner-occupied 4 unit buildings
- Develop an incentive program for targeted affordability
 - 1:1 trade in system to allow some units to have market rents when paired with dedicated affordable units
- Amend removal permit ordinance to facilitate investment

City of Cambridge

Home Rule Options

Option 3: Affordability Decontrol

Goal: Help ensure the City's diversity by providing ongoing access to affordable housing to low and moderate income households.

Overview: Property owners can decontrol 60% of their units in any building if they set aside 40% for low/moderate income occupancy

- Affordable units will have controlled, affordable rents
- Affordable units to be available to elderly, low/moderate income tenants only
- Market units to be decontrolled, with rents set by the property owner
 - for vacant units, the increase to market rents will be immediate
 - for occupied units, increases will be phased in over 2 years
 - protections for elderly
- System will include alternatives to allow property owners to provide affordable units in another location or manner

City of Cambridge Home Rule Options

Option 4: Vacancy Decontrol - Boston Model

Goal: Protect existing tenants until they voluntarily vacate.

Overview: Current tenants pay rent controlled rents until they voluntarily vacate

- On vacancy, property owners may set any rent
- Once a new tenancy is established, increases can be limited:
 - to 10% annually for most tenants
 - to CPI for elderly, disabled or low income tenants

City of Cambridge Home Rule Options

Option 5: Other Vacancy Decontrol Proposals

Goal: To allow orderly transition to a market system.

Overview: When current tenants vacate, units are permanently decontrolled

**City of Cambridge
HUD Median Income Limits**

60% of Median Income	HUD Income	Maximum rent based on	
	limit based area median	HUD 30% of monthly income excluding utilities	including utilities
1 person household	\$21,550	\$456	\$539
2 person household	\$24,600	\$517	\$615
3 person household	\$27,700	\$595	\$693
4 person household	\$30,800	\$657	\$770
5 person household	\$33,250	\$718	\$831

80% of Median Income	HUD Income	Maximum rent based on	
	limit based area median	HUD 30% of monthly income excluding utilities	including utilities
1 person household	\$27,950	\$616	\$699
2 person household	\$31,900	\$700	\$798
3 person household	\$35,900	\$800	\$898
4 person household	\$39,900	\$885	\$998
5 person household	\$43,100	\$965	\$1,078

100% of Median Income	HUD Income	Maximum rent based on	
	limit based area median	HUD 30% of monthly income excluding utilities	including utilities
1 person household	\$34,950	\$791	\$874
2 person household	\$39,900	\$900	\$998
3 person household	\$44,900	\$1,025	\$1,123
4 person household	\$49,900	\$1,135	\$1,248
5 person household	\$53,900	\$1,235	\$1,348

- o Income limits are supplied by HUD and are based on the Boston area median income
- o Utility costs deductions assume 1 bedroom per person for 1 and 2 person households; 2 bedrooms for 3 person households and 3 bedrooms for 4 and 5 person households.
- o Utility costs are based on federal leased housing standards, and include heat, hot water, cooking fuel, and electricity.



CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

TEL 349-4300
FAX 349-4307

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

November 10, 1994

To The Honorable, The City Council:

The following issues relate to the potential implementation of a City-financed rental subsidy program. Very few municipalities have taken responsibility for this type of program because of the very high costs involved, and the difficulty of controlling them.

The most familiar model of a rental subsidy program is the federally financed Section 8 Program. If the City were to implement a rental subsidy program, it would most likely be modelled after this program. Under this program, tenants pay 30% of their income towards their rent, and the balance is paid by the Housing Authority. Tenant income is verified annually, and the tenant payment share is adjusted if necessary. Units must meet minimum standards, and there are maximum rent levels. Actual rents are negotiated with the Housing Authority. The Cambridge Housing Authority currently serves 1,036 households under the Section 8 program, and there are already 2,850 households on the waiting list. The cost per household of this program is \$6,222, plus \$795 per unit in annual administrative costs.

There are no examples of other cities that run similar programs, except for Washington D.C., which implemented a City-funded rent subsidy system in 1986, which currently serves 1,911 households, down from a high of 3,000 in 1981. The City started to phase out the program in 1988 and is seeking to continue to phase out the program over a 12 year period, because it became too costly. The cost per household of this program is \$5,790, excluding administrative costs.

A municipally-funded rental subsidy program would be extremely expensive. We estimate that the cost of assisting all 4,300 low income households (defined as households earning under 50% of the area median) living in rent controlled units, which do not currently have rental assistance, would be \$12.6 million annually, excluding administration. These estimates average \$2,953 per participating household annually, and are based on the difference between average rent controlled rents and HUD fair market rents for appropriately sized units. They are significantly lower than the costs experienced by the Cambridge Housing Authority and the City of Washington for similar programs, primarily because they assume higher average incomes (and consequently lower subsidy amounts) for program participants.

Administrative costs would add another \$2 to \$4 million, depending on the program's administrative plan. This estimate is based on the Cambridge Housing Authority's administrative

The Honorable, The City Council

November 14, 1994

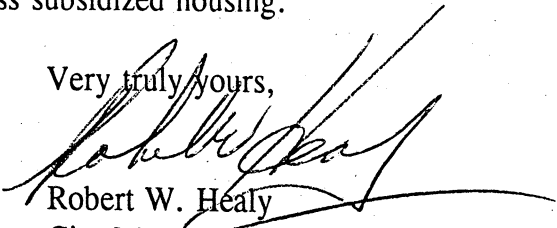
Page 2

budget for a program approximately one-quarter the size. The Housing Authority currently spends \$825,000 annually, and has a staff of 13, to administer subsidies to 1,036 households.

Costs under a City-funded program could also be expected to increase annually, both with increases in rents and inflation in administrative costs. Also, program costs have the potential to increase dramatically if the program serves households which have declining incomes, or if new households who receive subsidies have lower incomes than original participants. This was the case in Washington, where a program that was originally intended to bridge relatively small rental gaps served an increasingly low income population (average annually household income for participants is now \$6,200), with commensurate increases in program cost.

The experience of Washington indicates that, once implemented, it would be very difficult to eliminate a rental subsidy program. The result of Washington's approach to phasing out their program -- using turnover in public housing and federal subsidy programs -- is that others on the waiting list will lose their ability to access subsidized housing.

Very truly yours,



Robert W. Healy
City Manager



*C Myers
mored amendments*

CAMBRIDGE CITY COUNCIL

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 349-4280

FAX (617) 349-4287

Jonathan S. Myers
City Councillor

Restore 6(c)(1) with the following Changes:

in line three, after decontrolled, replace "when" with "one year after"

In Section 6(c)(2) the following changes apply:

in line three, change "20%" to "33%" and change "10 years" to "15 years"

Add a Section 6(c)(3) stating: A subject provision of seven years shall apply to owners who exercise their options to enter into a set-aside agreement with the City.

[July 31, 1995 or December 31, 1995].

(b) In addition, all units in any one to six unit building which is owner occupied on [July 31, 1995 or December 31, 1995] or which becomes owner occupied thereafter, shall be decontrolled after [July 31, 1995 or December 31, 1995], or when it becomes owner occupied, except that units occupied by low and moderate income families with a child age 19 or under in a six unit owner occupied building remain regulated until the family voluntarily vacates, is lawfully evicted, or until this act ceases to be effective pursuant to Section 12 hereof.



6

(n)

(c) (1) All units in buildings of 10 or more units that are not occupied by protected tenants shall be decontrolled ^{one year after} ~~when~~ the owner has signed a set aside agreement with the Board as provided in section 6(c) (2) or when this act seeks to be effective pursuant to Section __ hereof. Protected tenants in these buildings shall have the same rights as all other protected tenants. Units of protected or nonprotected tenants that are voluntarily vacated shall remain subject to rent and eviction regulation of this Act in the absence of a set aside agreement. Nothing in this section shall be deemed to interfere with an owner's right to rent a voluntarily vacant unit to any tenant of the

owner's choice.

- (2) An owner of a building of 10 or more units who signs a set aside agreement shall agree thereby to set aside ⁴⁰³⁵⁹ ~~20~~ % of the units in the building for ~~10~~ ¹⁵ years for protected tenants. The rents for protected tenants in set aside units shall be regulated pursuant to section 7. The Board shall enact regulations to further define the terms and conditions of set aside agreements. [handling of tens and the set aside]

- (d) All ordinated condominiums can be lawfully owner occupied after December 31, 1995 or at any earlier time if the unit is unit is voluntarily vacated or the tenant is lawfully evicted. Protected Tenants in these units shall be entitled to same protections afforded to Protected Tenants in other units except that they may be evicted for owner occupancy.

SECTION 7. Rent for Regulated Units

- (a) Within 60 days of the establishment of a Rent Equity Board, and in no event longer than 90 days after enactment of this law, a minimum rent shall be set for all units subject to this act, the criteria to be set by the Rent Equity Board.



*C. Myers
moved amended*

CAMBRIDGE CITY COUNCIL

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 349-4280

FAX (617) 349-4287

Jonathan S. Myers
City Councillor

Restore 6(c)(1) with the following Changes:

in line three, after decontrolled, replace "when" with "one year after"

In Section 6(c)(2) the following changes apply:

in line three, change "20%" to "33%" and change "10 years" to "15 years"

Add a Section 6(c)(3) stating: A subject provision of seven years shall apply to owners who exercise their options to enter into a set-aside agreement with the City.

[July 31, 1995 or December 31, 1995].

(b) In addition, all units in any one to six unit building which is owner occupied on [July 31, 1995 or December 31, 1995] or which becomes owner occupied thereafter, shall be decontrolled after [July 31, 1995 or December 31, 1995], or when it becomes owner occupied, except that units occupied by low and moderate income families with a child age 19 or under in a six unit owner occupied building remain regulated until the family voluntarily vacates, is lawfully evicted, or until this act ceases to be effective pursuant to Section 12 hereof.



6

(n)

(c) (1) All units in buildings of 10 or more units that are not occupied by protected tenants shall be decontrolled ^{one year after} ~~when~~ the owner has signed a set aside agreement with the Board as provided in section 6(c) (2) or when this act seeks to be effective pursuant to Section __ hereof. Protected tenants in these buildings shall have the same rights as all other protected tenants. Units of protected or nonprotected tenants that are voluntarily vacated shall remain subject to rent and eviction regulation of this Act in the absence of a set aside agreement. Nothing in this section shall be deemed to interfere with an owner's right to rent a voluntarily vacant unit to any tenant of the

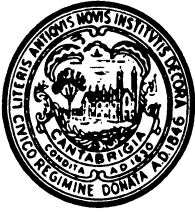
owner's choice.

- (2) An owner of a building of 10 or more units who signs a set aside agreement shall agree thereby to set aside ⁴⁰³⁵⁹ ~~20~~ % of the units in the building for ~~10~~ ¹⁵ years for protected tenants. The rents for protected tenants in set aside units shall be regulated pursuant to section 7. The Board shall enact regulations to further define the terms and conditions of set aside agreements. [handling of tens and the set aside]

- (d) All ordinated condominiums can be lawfully owner occupied after December 31, 1995 or at any earlier time if the unit is unit is voluntarily vacated or the tenant is lawfully evicted. Protected Tenants in these units shall be entitled to same protections afforded to Protected Tenants in other units except that they may be evicted for owner occupancy.

SECTION 7. Rent for Regulated Units

- (a) Within 60 days of the establishment of a Rent Equity Board, and in no event longer than 90 days after enactment of this law, a minimum rent shall be set for all units subject to this act, the criteria to be set by the Rent Equity Board.



CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139

TEL. 349-4300

FAX. 349-4307

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

November 10, 1994

To The Honorable, the City Council:

As you are aware, the voters of Massachusetts have voted in favor of Question 9. The effect of that vote is to abolish our current system of rent control on January 1. In preparation for this possibility, my staff and I have been engaged in a intensive planning process. Because of the serious time constraints under which the Council will be operating if you choose to seek home rule authority from the Legislature, I am focussing here only on the home rule options and on one possible ordinance change for the Council's consideration. I will in the next few days provide the Council with updates on other possible activities.

One preliminary matter needs to be addressed here. There has been considerable interest expressed in the filing of a legal challenge to Chapter 40o as enacted. As you may remember, when the Court rejected our earlier challenge to the initiative petition, it indicated that any challenges to the law as enacted would have to be brought after enactment.

In preparation for any such legal challenge, we have done an exhaustive job of looking at possible legal challenges to the new law. Based on the research of the City's lawyers and two outside firms, we have concluded that the chances of success of any legal action are minimal. Since the existence of the lawsuit may provide the Legislature with a reason to delay or refuse to act on any home rule legislation, my recommendation to the Council is that we not take that risk, in light of the very low chances of success with any litigation.

HOME RULE OPTIONS

Based on my consultations with the Legislative and Committee leadership at the State House, I believe that it will be a difficult fight in the Legislature to obtain authorization for any rent control system. Unless we are able to demonstrate that we have addressed some of the major criticisms of the existing system, it may be impossible. Even if we do address those criticisms, we still may fail to win the necessary votes.

The Council has an exceedingly short time frame within which it must act if seeking home rule legislation is the route chosen. To maximize the chances of getting any action taken by the Legislature, any home rule petition should be forwarded to the State House before Thanksgiving, which gives the Council less than two weeks to act.

Working with the expanded housing cabinet and other city staff, I have developed five options for the Council's consideration. The first of these options is not actually new but would be just a resubmittal of our current system to the Legislature for reenactment. The second option involves a substantial modification of the existing system to address some of the consistent criticisms of it. The third option is Affordability Decontrol which, at the property owner's election, targets certain units for low and moderate income households in exchange for decontrol of the balance of the units. The fourth and fifth options are different versions of Vacancy Decontrol, the fourth based on the model currently in place in Boston.

HOME RULE OPTION 1 -- THE SYSTEM AS IS

The first proposal is to reenact the existing rent control system. Nothing I have heard to date suggests that we would have any success in the Legislature should we put forward that option. Nor would I recommend that the Council spend time debating this option given its lack of viability.

HOME RULE OPTION 2 -- SUBSTANTIAL MODIFICATIONS TO EXISTING SYSTEM

There are six major components to the Substantial Modification Option that respond to consistent criticisms of the system. The major criticisms that we have attempted to address are:

- a. The system for recovering the costs of capital improvements is too complicated, takes too long, and sometimes discourages owners from putting capital into the buildings.
- b. The system does not guarantee to property owners an annual general adjustment and does not recognize, as operating expenses, costs that should be treated as reasonable costs of operating rent control housing.
- c. The system allows some rents to be set at a level that may discourage property owners from properly maintaining buildings.
- d. People cannot live in their own condominiums.
- e. The system improperly treats owner occupied 4 unit buildings as investment property and not as owner occupied housing similar to the 2 and 3 unit properties.
- f. The benefits of the rent control system are not sufficiently targeted to low and moderate income tenants.

To respond to each of these criticisms, we are proposing a set of changes to the rent control system through changes in the home rule legislation to be enacted by the Legislature. The changes will not satisfy those who want Cambridge to stop all regulation of rents and evictions. Nor will the changes satisfy those who resist any reforms which may lead to increases in rents or loss of units. But we have attempted to propose responsible modifications to the system that will permit the City to continue rent and eviction regulation if that is what the Council chooses to do. The six major categories of change are:

1. Encouraging Investment in Rent Controlled Properties

To make it easier for property owners to recover the costs of capital improvements they make to their buildings, the Rent Board will simplify the process and shorten the processing times for capital rent adjustments. If the owner lacks the documentation for the work, a rehabilitation specialist from outside the Board would examine and value the work. The Board would process capital rent adjustments within 60 days. We are also proposing that the Council make changes to the Removal Permit Ordinance to encourage property owners to make reasonable improvements to their buildings.

2. Expanding the Allowable Categories of Expenses

The Rent Board would be required to provide general adjustments on an annual basis for all properties. The legal standard for what operating costs are allowable would be changed to a more inclusive standard, and the Board would also allow as operating expenses vacancy losses and uncollected rents.

3. Establishing Minimum Rents

The Rent Board would be required to establish a formula to ensure that there was a minimum net operating income related to the operating expenses of the property. The Board would be required to address the low income properties by July 1. This would prevent properties which had very low rents in the base year from continuing to be disadvantaged by those rents. In addition, the Board would be permitted to use an alternative formula to set rents in hardship situations where necessary to allow improvements to a property.

4. Permitting Owner Occupancy of Ordinance Condos

All units that have previously been converted could lawfully be occupied by the owner. The Council may want to condition the granting of the removal permits for owner occupancy on a payment of a fee, to be used to mitigate, in part, the loss of rental units through owner occupancy. Elderly and low and moderate income tenants could not be evicted for owner occupancy, but other tenants could be evicted for permissible reasons under the Act, including owner occupancy. While the release of all owner occupancy restrictions on these units will

reward some owners who knowingly violated the removal permit ordinance, we believe that the overwhelmingly negative response that this aspect of the rent control system generally receives makes it prudent to act. Historically the City's attempts to prevent rental units from being converted to condominiums were subverted by sales of units to individuals who may or may not have been aware that their units legally had to remain as rental units. Chapter 52 now makes the sale of individual condominiums less likely which reduces the possibility that in the future there will be a new class of noninvestor owners of units.

5. Decontrol of owner occupied 4 unit buildings

For most purposes, except rent control, owner occupied 4 unit buildings are treated as homes and not as investment properties. Banks and federal loan programs and the secondary mortgage market all treat owner occupied 4's in the same manner as they treat 3 unit owner occupied properties. We propose that the City recognize this status of 4 unit properties and exempt them when owner occupied. There are currently 1175 units in 4 unit buildings, and those units would be decontrolled when and if the buildings became owner occupied. We have not proposed the decontrol of the 5 and 6 unit buildings. By contrast to the 4 unit buildings, the 5's and 6's are treated by banks and the federal government as investment property, even where they are owner occupied. They are also, especially the 6's, units that generally are appropriate for families, and their decontrol, in addition to the decontrol of the 4's, would result in the decontrol of approximately 25% of the existing rent controlled housing stock.

6. Providing Incentives for Affordability

We propose providing owners with incentives to rent units to lower income households by permitting them, in exchange, to charge market rents to higher income tenants. The specific program standards would have to be promulgated in regulations and not in the statute, but the basic program is proposed for the statute. For each designated affordability unit in a building that an owner rented to a low income household, the owner would be permitted to designate an incentive unit. Owners are encouraged to choose as the incentive units, units that are vacant or occupied by the highest income tenants. The owner could set a market rent for an incentive unit that is vacant or occupied by a tenant at or above median income. For an incentive unit occupied by a tenant with an income between moderate and median income, the owner could set a rent that was no more than 30% of a tenant's income; units of low income tenants could not be designated as incentive units.

An owner could continue to collect a market or increased rent for the incentive unit as long as both the units remain designated. The units remain subject to the regulation of the Board for eviction and removal. The designated and incentive units would have to be comparable in terms of size and amenities when designated. The Board would directly or by contract with an outside agency provide for income certification and recertification for both the affordability unit and for the incentive unit if the tenant is seeking a below market rental based on income.

This proposal leaves property owners entirely free to rent their units to whomever they choose. It does not dictate to whom an owner can rent, nor does it prevent owners from choosing to rent all their units to higher income tenants. It does, however, provide owners with real incentives to rent some of their rent control housing to those most in need.

HOME RULE OPTION 3 -- Affordability Decontrol

If the Council decides that it needs or wants to adopt an option that includes a significant decontrol component based on affordability, this option could be substituted for the Incentive Program described above. The Affordability Decontrol Proposal has as a goal the preservation of the ongoing diversity of the City by targeting a significant portion of the rent control units to low and moderate income households. The units would remain regulated units for as long as the City continues its rent control system. This proposal would give property owners the option of permanently decontrolling some of their units by designating other units for lower income households. Unlike the Incentive program of the Substantial Modification Option, the units that are decontrolled are exempt from rent controls and from the jurisdiction of the Board. To the extent that owners take advantage of this decontrol option, it will permanently remove units from the rent control stock while, at the same time, ensuring that there will be units available to low and moderate income households. This decontrol option would be totally at the option of each individual property owner who would otherwise continue to be controlled under the rent control system, as it may be modified.

As currently conceived, property owners could permanently decontrol 60% of their units in a building by designating the remaining 40% for low and moderate income households. Owners could raise rents in decontrolled units to market rent upon vacancy, and for occupied units, the market rent could be phased in over a two year period to provide some protection to existing tenants.

The rents for the affordable units would continue to be controlled with provisions to ensure affordability to the targeted population. To achieve the designated affordability units, owners would be permitted to evict higher income tenants after some reasonable notice period. Because some low and moderate income tenants will be displaced over time from the decontrolled units, the City will operate a tenant matching service to help at least some of them find housing with landlords who want low and moderate income tenants.

We recognize that this proposal would cause disruption in the lives of tenants, some of whom may be unable to find affordable housing in Cambridge. It does, however, give the Council the option of targeting and preserving affordable units for low and moderate income tenants within a system that allows for some decontrol of units. While vacancy decontrol is more protective of individual tenants today, it will do nothing to ensure that there is housing affordable and available to low and moderate income households in the future.

The program standards would be promulgated in regulations which would cover the mechanisms establishing the program and for certifying and recertifying income, for ensuring that affordability units continue to be rented to low and moderate income tenants, for establishing the comparability of units designated and decontrolled, and for providing some alternative for property owners to decontrol units by providing affordable units in another location or manner.

HOME RULE OPTION 4 -- VACANCY DECONTROL -- Boston's Plan

The vacancy decontrol program, modeled very closely on the Boston system, would protect existing tenants until they voluntarily vacate. On vacancy, a landlord could set any rent for the new tenant, but once the new tenancy was established, the new tenant could not be required to pay an increase more than 10% per year or more than the CPI increase each year for elderly, disabled or low income tenants. On each turnover of the unit, the landlord could raise the rents to any level, but they would then be minimally recontrolled at that new level. Tenants in decontrolled units would be entitled to the same eviction controls as tenants in controlled units, except that nonpayment evictions would be handled administratively.

HOME RULE OPTION 5 -- VACANCY DECONTROL

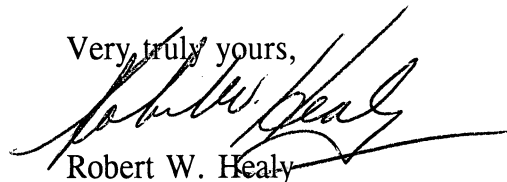
The fifth option is a vacancy decontrol plan which would protect existing tenants until they voluntarily vacate. On vacancy, the unit would be subject to no further rent controls.

Proposed Ordinance Change --MASTER DEED REGULATION

Because we have specific authority to regulate condominium conversion of rent control housing, we are not covered by State condominium conversion protections covering other communities. Without rent control on January 1, tenants will automatically have some minimal state protections, and the City can adopt, as other communities have, additional protections by a 2/3 vote of the Council.

Any such new protections would apply only to buildings where no Master Deed has then been filed. Right now, the City does not restrict the filing of Master Deeds because we regulate only the sales and owner occupancy of units. To maintain the status quo between now and January 1, we recommend to the Council that it adopt a change in the Removal Permit Ordinance to temporarily require a removal permit for the filing of a Master Deed. That will ensure that any regulation the Council chooses to do of condominium conversion in the absence of rent control will not have been rendered ineffective by the actions of owners in the next six weeks who may be planning to file Master Deeds in anticipation that they can thereby avoid being covered by any new regulation in January.

Very truly yours,



Robert W. Healy
City Manager

City of Cambridge Home Rule Options

- Option 1: The System As Is**
- Option 2: Substantial Modifications to Existing System**
- Option 3: Affordability Decontrol**
- Option 4: Vacancy Decontrol - Boston Model**
- Option 5: Other Vacancy Decontrol Proposals**

City of Cambridge Home Rule Options

Option 2: Substantial Modifications to Existing System

Goal: Preserve Cambridge's existing rent control system with substantial reforms to address major criticisms of the current system.

Overview: Reform Cambridge's current system to:

- Encourage investment in rent control properties
- Expand the allowable categories of expenses
- Establish minimum rents for all units
- Permit owner occupancy of ordinated condominium units
 - current elderly and low/mod tenants would be protected
 - future conversions regulated
- Decontrol owner-occupied 4 unit buildings
- Develop an incentive program for targeted affordability
 - 1:1 trade in system to allow some units to have market rents when paired with dedicated affordable units
- Amend removal permit ordinance to facilitate investment

City of Cambridge Home Rule Options

Option 3: Affordability Decontrol

Goal: Help ensure the City's diversity by providing ongoing access to affordable housing to low and moderate income households.

Overview: Property owners can decontrol 60% of their units in any building if they set aside 40% for low/moderate income occupancy

- Affordable units will have controlled, affordable rents
- Affordable units to be available to elderly, low/moderate income tenants only
- Market units to be decontrolled, with rents set by the property owner
 - for vacant units, the increase to market rents will be immediate
 - for occupied units, increases will be phased in over 2 years
 - protections for elderly
- System will include alternatives to allow property owners to provide affordable units in another location or manner

City of Cambridge Home Rule Options

Option 4: Vacancy Decontrol - Boston Model

Goal: Protect existing tenants until they voluntarily vacate.

Overview: Current tenants pay rent controlled rents until they voluntarily vacate

- On vacancy, property owners may set any rent
- Once a new tenancy is established, increases can be limited:
 - to 10% annually for most tenants
 - to CPI for elderly, disabled or low income tenants

City of Cambridge Home Rule Options

Option 5: Other Vacancy Decontrol Proposals

Goal: To allow orderly transition to a market system.

Overview: When current tenants vacate, units are permanently decontrolled

**City of Cambridge
HUD Median Income Limits**

60% of Median Income	HUD Income limit based area median	Maximum rent based on HUD 30% of monthly income	
		excluding utilities	including utilities
1 person household	\$21,550	\$456	\$539
2 person household	\$24,600	\$517	\$615
3 person household	\$27,700	\$595	\$693
4 person household	\$30,800	\$657	\$770
5 person household	\$33,250	\$718	\$831

80% of Median Income	HUD Income limit based area median	Maximum rent based on HUD 30% of monthly income	
		excluding utilities	including utilities
1 person household	\$27,950	\$616	\$699
2 person household	\$31,900	\$700	\$798
3 person household	\$35,900	\$800	\$898
4 person household	\$39,900	\$885	\$998
5 person household	\$43,100	\$965	\$1,078

100% of Median Income	HUD Income limit based area median	Maximum rent based on HUD 30% of monthly income	
		excluding utilities	including utilities
1 person household	\$34,950	\$791	\$874
2 person household	\$39,900	\$900	\$998
3 person household	\$44,900	\$1,025	\$1,123
4 person household	\$49,900	\$1,135	\$1,248
5 person household	\$53,900	\$1,235	\$1,348

- o Income limits are supplied by HUD and are based on the Boston area median income
- o Utility costs deductions assume 1 bedroom per person for 1 and 2 person households; 2 bedrooms for 3 person households and 3 bedrooms for 4 and 5 person households.
- o Utility costs are based on federal leased housing standards, and include heat, hot water, cooking fuel, and electricity.



CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139

TEL. 349-4300

FAX. 349-4307

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

November 10, 1994

To The Honorable, The City Council:

The following issues relate to the potential implementation of a City-financed rental subsidy program. Very few municipalities have taken responsibility for this type of program because of the very high costs involved, and the difficulty of controlling them.

The most familiar model of a rental subsidy program is the federally financed Section 8 Program. If the City were to implement a rental subsidy program, it would most likely be modelled after this program. Under this program, tenants pay 30% of their income towards their rent, and the balance is paid by the Housing Authority. Tenant income is verified annually, and the tenant payment share is adjusted if necessary. Units must meet minimum standards, and there are maximum rent levels. Actual rents are negotiated with the Housing Authority. The Cambridge Housing Authority currently serves 1,036 households under the Section 8 program, and there are already 2,850 households on the waiting list. The cost per household of this program is \$6,222, plus \$795 per unit in annual administrative costs.

There are no examples of other cities that run similar programs, except for Washington D.C., which implemented a City-funded rent subsidy system in 1986, which currently serves 1,911 households, down from a high of 3,000 in 1981. The City started to phase out the program in 1988 and is seeking to continue to phase out the program over a 12 year period, because it became too costly. The cost per household of this program is \$5,790, excluding administrative costs.

A municipally-funded rental subsidy program would be extremely expensive. We estimate that the cost of assisting all 4,300 low income households (defined as households earning under 50% of the area median) living in rent controlled units, which do not currently have rental assistance, would be \$12.6 million annually, excluding administration. These estimates average \$2,953 per participating household annually, and are based on the difference between average rent controlled rents and HUD fair market rents for appropriately sized units. They are significantly lower than the costs experienced by the Cambridge Housing Authority and the City of Washington for similar programs, primarily because they assume higher average incomes (and consequently lower subsidy amounts) for program participants.

Administrative costs would add another \$2 to \$4 million, depending on the program's administrative plan. This estimate is based on the Cambridge Housing Authority's administrative

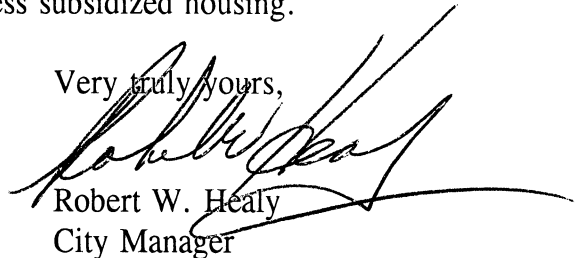
The Honorable, The City Council
November 14, 1994
Page 2

budget for a program approximately one-quarter the size. The Housing Authority currently spends \$825,000 annually, and has a staff of 13, to administer subsidies to 1,036 households.

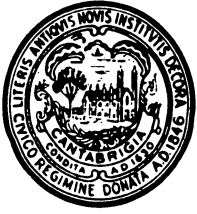
Costs under a City-funded program could also be expected to increase annually, both with increases in rents and inflation in administrative costs. Also, program costs have the potential to increase dramatically if the program serves households which have declining incomes, or if new households who receive subsidies have lower incomes than original participants. This was the case in Washington, where a program that was originally intended to bridge relatively small rental gaps served an increasingly low income population (average annually household income for participants is now \$6,200), with commensurate increases in program cost.

The experience of Washington indicates that, once implemented, it would be very difficult to eliminate a rental subsidy program. The result of Washington's approach to phasing out their program -- using turnover in public housing and federal subsidy programs -- is that others on the waiting list will lose their ability to access subsidized housing.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert W. Healy", is written over the typed name and title. The signature is fluid and cursive, with a long horizontal stroke at the end.

Robert W. Healy
City Manager



CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

TEL. 349-4300
FAX. 349-4307

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

November 14, 1994

To The Honorable, The City Council:

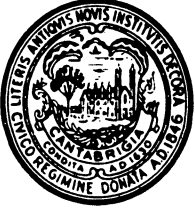
I plan to present to the joint meeting of the Council's Committees on Rent Control and Housing and Community Development several proposals for home rule legislation.

I would ask that the proposals that I submit to the Joint Committees be included here as part of this agenda item.

Very truly yours,

Robert W. Healy
City Manager

RWH/mev



CITY OF CAMBRIDGE
CAMBRIDGE, MASSACHUSETTS 02139

TEL. 349-4300
FAX. 349-4307

EXECUTIVE DEPARTMENT
ROBERT W. HEALY
City Manager

RICHARD C. ROSSI
Deputy City Manager

November 10, 1994

To The Honorable, The City Council:

In addition to the options for Home Rule petitions, I would like to update the City Council on discussions at the State Legislative level.

On the House side, Speaker Flaherty and the Cambridge delegation emphatically state that there is a very "narrow window of opportunity" for the City Council to submit a petition for consideration by the House for the petition to be enacted prior to December 31, 1994. This means passage by the City Council no later than the meeting of November 21st prior to Thanksgiving. The proposal for a 90 day delay of implementation of the provision of Question 9 is not an eligible option. Content concerns focussed on protection of the elderly and low/moderate income, relief for ordinated condo owners, and minimum rents.

On the Senate side, Senator Birmingham and Tolman also cautioned the importance of an expedited filing by the Cambridge City Council of their Home Rule petition given parliamentary rules of the Senate.

I urge the City Council to heed this advice. Given the complexity of the issue, no plan can keep both sides happy. However, the failure to submit any plan will result in implementation of Question 9 on January 1, 1995.

Attached for your review are two memoranda, one that sets out some proposed home rule options and one that explains the difficulties of a rent subsidy program. I have also attached an outline of the proposed home rule options.

Very truly yours,

Robert W. Healy
City Manager

RWH/mev

Information on Question Nine.

11/20/94 V M Russell
made a motion
to substitute Home Rule
Legislation - Carried 10 of 8
C Myers moved to Amend
the substitution - failed
1-7-0-0.

Order adopted filing
Home Rule Legislation
6-1-0-1.

In City Council,

November 14, 1994

Charter right
exercised by
Councillor Ross.
11/15/94 Failed by
Councillor Suebay.
11/17/94 No action taken