



City of Cambridge

Amended Order
Committee Report #5

IN CITY COUNCIL

June 24, 1996

- WHEREAS: The end of rent control has significantly reduced affordable housing opportunities in the City of Cambridge; and
- WHEREAS: Harvard University owns approximately five percent of the City's previously rent-controlled units; and
- WHEREAS: Harvard's physical resources support its critical teaching and research mission; and
- WHEREAS: Harvard University has proposed a housing program which would allocate approximately 26% of its overall formerly rent-controlled portfolio to use as affordable housing in Cambridge through either sales to the City or extended protection to tenants; and
- WHEREAS: Harvard has agreed to encourage longer-term tenants in properties on Prescott and Ware Streets due to the higher concentration of units thereby undertaking affirmative marketing of these properties to longer-term affiliates, agreeing to enter into longer-term leases in these properties, and exploring the use of the smaller buildings on Ware Street for use as faculty housing; and
- WHEREAS: Harvard agrees to pay property taxes or an equivalent payment in lieu of taxes on the formerly rent controlled buildings to be retained by Harvard; and
- WHEREAS: The City and Harvard will jointly plan transition zones, as suggested in the Riverside Neighborhood Study, in areas where higher density institutional uses now threaten low-rise residential zoning; and
- WHEREAS: Harvard has agreed to advocate that other Cambridge landlords follow its model of creating affordable housing; now therefore be it

ORDERED: That the Cambridge City Council supports and endorses the program that Harvard University has proposed for its formerly rent-controlled housing. This program consists of the following inseparable components:

- * For currently "protected" households now in Harvard's formerly rent-controlled housing (i.e., designated families, elderly and the disabled), the continuation of below-market rents consistent with those provided for in the expired statute (MGL Chapter 282) for as long as those households remain qualified based on the income criteria of said statute; and
- * The offer of sale of 100 apartment units of Harvard-owned housing to the City (or to a City-designated non-profit agency) at below market-value prices for the creation of permanent affordable housing; and
- * Use by Harvard of the remaining units to house Harvard affiliates (faculty, students and employees) through a process of gradual transition without eviction of tenants in good standing; and be it further

ORDERED: That the City Manager is hereby authorized to finalize arrangements with Harvard University concerning the financial terms for the affordable housing program, and to execute an agreement for implementation of Harvard's proposal; and be it further

ORDERED: That the City Manager be and hereby is requested to ensure that said agreement include an agreement that calls for Harvard to recognize its responsibility to pay either property taxes and/or an equivalent payment in lieu of taxes on the formerly rent controlled buildings to be retained by Harvard.

In City Council June 24, 1996

Adopted as amended by the affirmative vote of nine members.

Attest:- D. Margaret Drury, City Clerk.

A true copy;

ATTEST:-



D. Margaret Drury
City Clerk



City of Cambridge

IN CITY COUNCIL

June 24, 1996

WHEREAS: The end of rent control has significantly reduced affordable housing opportunities in the City of Cambridge; and

WHEREAS: Harvard University owns approximately five percent of the City's previously rent-controlled units; and

WHEREAS: Harvard's physical resources support its critical teaching and research mission; and

WHEREAS: Harvard University has proposed a housing program which would allocate approximately 26% of its overall formerly rent-controlled portfolio to use as affordable housing in Cambridge through either sales to the City or extended protection to tenants; and

WHEREAS: Harvard has agreed to encourage longer-term tenants in properties on Prescott and Ware Streets due to the higher concentration of units thereby undertaking affirmative marketing of these properties to longer-term affiliates, agreeing to enter into longer-term leases in these properties, and exploring the use of the smaller buildings on Ware Street for use as faculty housing; and

*MAS
amend
repeat as 9
Order*

WHEREAS: Harvard agrees to pay property taxes or an equivalent payment in lieu of taxes on the formerly rent controlled buildings to be retained by Harvard; and

WHEREAS: The City and Harvard will jointly plan transition zones, as suggested in the Riverside Neighborhood Study, in areas where higher density institutional uses now threaten low-rise residential zoning; and

WHEREAS: Harvard has agreed to advocate that other Cambridge landlords follow its model of creating affordable housing; now therefore be it

ORDERED: That the Cambridge City Council supports and endorses the program that Harvard University has proposed for its formerly rent-controlled housing. This program consists of the following inseparable components:

- * For currently "protected" households now in Harvard's formerly rent-controlled housing (i.e., designated families, elderly and the disabled), the continuation of below-market rents consistent with those provided for in the expired statute (MGL Chapter 282) for as long as those households remain qualified based on the income criteria of said statute; and
- * The offer of sale of 100 apartment units of Harvard-owned housing to the City (or to a City-designated non-profit agency) at below market-value prices for the creation of permanent affordable housing; and
- * Use by Harvard of the remaining units to house Harvard affiliates (faculty, students and employees) through a process of gradual transition without eviction of tenants in good standing; and be it further

ORDERED: That the City Manager is hereby authorized to finalize arrangements with Harvard University concerning the financial terms for the affordable housing program, and to execute an agreement for implementation of Harvard's proposal, *and be it further*

MAS Friendly amendment

Ordered: That any agreement shall provide that Harvard continue to pay property taxes or an equivalent payment in lieu of taxes on the formerly rent controlled buildings to be returned by Harvard

and be it further

Ordered:

That the City Manager is hereby requested to ensure that said agreement include an agreement that ~~recognize~~ calls for Howard to recognize its responsibility ^{and} to pay either property taxes or an equivalent payment in lieu of taxes on the formerly city controlled building to be retained by Howard. ~~and~~

Agassiz Tenants Association

For thirty years, the greatest issue facing the City of Cambridge has been housing for its low and moderate income residents. The City has done well - until now. The imposition, by outside forces, of an end to rent control has displaced thousands of residents. Many have been forced to leave Cambridge. Thousands more face a crisis in the months to come.

Immediately upon passage of the transitional law, the Agassiz Tenants Association raised the question, "What will Harvard, the city's largest rent control land holder, do with these properties?" We proposed a plan for affordable housing based on these properties and enlisted the aid of the Harvard-Radcliff Committee on Affordable Housing, the City Council Committee on Housing and Community Development and the Community Development Department.

After a year of demonstrations, letter writing campaigns, community meetings, and Council Committee hearings, Harvard Real Estate and Planning responded with a plan that makes a significant number of units available to the City at a price it can afford. The plan extends reasonable protections to tenants in the remaining formerly rent controlled properties.

To some groups in the city, affordable housing is a "component" which is "nice". The fear of Ph.D. students ratiocinating in public seems to be their overriding concern. With the rest of the City near agreement with Harvard, they want to "do over" this last year in the blind hope of a different result. We believe there are very few things more important than affordable housing - perhaps affordable food and affordable clothing.

If the Agassiz Tenants hadn't brought this before the community, Harvard might well have sold many more properties to private concerns and replaced all the remaining tenants with Harvard affiliates. Commission driven brokers could have turned over units more frequently than Harvard Real Estate. The community would have no knowledge of the extent of these changes until they were already made.

Therefore, the Agassiz Tenants Association, representing tenants living in or recently displaced from the Agassiz/Peabody neighborhood, urges the City Council to:

- 1) Support the plan proposed by Harvard Planning and Real Estate to sell 100 units to the City at a discount and protect tenants in the remaining units.
- 2) Acknowledge, as part of this plan, Harvard's legal right to place affiliates in the remainder of the portfolio. The City should not engage in a legal contest it cannot win.
- 3) Act on this matter immediately so as to alleviate the anxiety of Harvard tenants and to make this plan available as a model for dealings between other landlords and the City.

Councillor Reeves raised the issue of Prescott and Ware Streets. That area would become, in some sense, an extension of the campus. He asked whether Harvard's proposal for neighborhood protection could be more specific. Ms. Spiegelman said that there are some specifics: units in that area will be marketed to students of the GSAS, where graduate students stay six to eight years, and there will be leases for longer than one year, which are not available for other portfolio units.

Councillor Reeves asked if there had been any thought to trying to make family size units. Kathy Spiegelman said that there had been such consideration but the buildings cover the whole lot area so there is not the open space that helps to make the family housing units at Peabody Terrace.

Vice Mayor Born noted the difference from one previous report and asked what is meant by "jointly planned transition zones." She questioned if this means downzoning.

Ms. Schlesinger said that it was more the idea of design planning. Ms. Spiegelman said that this is not a proposal for downzoning but it is not ruled out that there could be some codification of planning principles in the zoning law.

Vice Mayor Born asked whether the concept included sitting down and meeting and planning with neighbors and concerned parties before going ahead with the permitting and building process, and Ms. Spiegelman replied in the affirmative.

Vice Mayor Born asked whether, if the buildings were demolished, Harvard could build tax exempt property on the location. Ms. Spiegelman said that Harvard does not intend to lose its rental income stream but she was not intending in this proposal to commit beyond the existence of the present buildings.

Vice Mayor Born noted that the agreement already covers alternate use of the building space for classrooms, etc. Vice Mayor Born then raised the issue of tenants who cannot pay rent and a concern that an unreasonable rent increase could be used as reason for eviction and then the units rented at a lower cost to an affiliate. Ms. Spiegelman said that Harvard does intend to raise rents to market rates, but intends to do so on a reasonable schedule, not an aggressive schedule.

Councillor Reeves asked Robert Healy what could be added to the order as drafted, which states a general theme of neighborhood protection, to include more of what the City Council means by neighborhood protection. Mr. Healy said that he does not know whether he would be able to negotiate any further restrictions.

Councillor Duchay said that the University can buy residential property in zones up to C-1 but cannot convert them to institutional use. It can only do that in C-2 and C-3 zones. In addition, the Neighborhood Conservation District Commission must approve any changes.

Vice Mayor Born asked whether parking requirements would kick in, if there were a change to institutional use in C-2 and C-3 zones. Lester Barber, Community Development Department, said that there would be additional parking requirements but Harvard is allowed to provide that parking off-site.

Councillor Duehay asked how much C-2 or C-3 zoning exists in the area. Mr. Barber said that it is mostly C-1; C-2 and C-3 zones occur on Cambridge Street and Broadway. The C-1 zoning within the Harvard Overlay District can be converted if Harvard replaces the units one-for-one in the other areas of the city.

Councillor Galluccio asked if there are protected tenants in the forty-five units that will be sold on the open market. Ms. Spiegelman said that she believes there are about twelve protected tenants and they will be offered the opportunity to relocate to other Harvard units.

Councillor Galluccio asked whether the gradual rent increases could be defined more specifically. Ms. Spiegelman said that Harvard is not in the position to guarantee specific numbers or percentages. She pointed out that Harvard's interest as a landlord is to have a gradual transition. Councillor Galluccio urged Harvard to look at each tenant's situation individually, and Ms. Spiegelman said that Harvard will do this.

Councillor Reeves asked why the rest of the units will be affiliates. Ms. Spiegelman said that Harvard has decided that management of rental housing for populations other than its affiliates does not have a core connection to Harvard's mission.

Councillor Reeves urged Harvard to give notice to the City when the other forty five units go on the market, and Ms. Spiegelman agreed.

Vice Mayor Born thanked Councillor Duehay for his efforts and leadership on this issue. She said that this represents a real milestone.

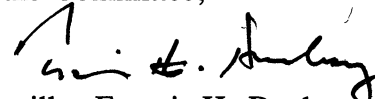
Vice Mayor Born moved that the report and order be forwarded to the full City Council for approval of the report and adoption of the order.

The motion passed unanimously on a voice vote.

Councillor Duehay thanked Robert Healy, Susan Schlesinger and her staff and Kathy Spiegelman for their hard work on this issue.

The meeting was adjourned at 4:40 p.m.

For the Committee,



Councillor Francis H. Duehay
Chair



City of Cambridge

IN CITY COUNCIL

June 24, 1996

WHEREAS: The end of rent control has significantly reduced affordable housing opportunities in the City of Cambridge; and

WHEREAS: Harvard University owns approximately five percent of the City's previously rent-controlled units; and

WHEREAS: Harvard's physical resources support its critical teaching and research mission; and

WHEREAS: Harvard University has proposed a housing program which would allocate approximately 26% of its overall formerly rent-controlled portfolio to use as affordable housing in Cambridge through either sales to the City or extended protection to tenants; and

WHEREAS: Harvard has agreed to encourage longer-term tenants in properties on Prescott and Ware Streets due to the higher concentration of units thereby undertaking affirmative marketing of these properties to longer-term affiliates, agreeing to enter into longer-term leases in these properties, and exploring the use of the smaller buildings on Ware Street for use as faculty housing; and

WHEREAS: Harvard agrees to pay property taxes or an equivalent payment in lieu of taxes on the formerly rent controlled buildings to be retained by Harvard; and

WHEREAS: The City and Harvard will jointly plan transition zones, as suggested in the Riverside Neighborhood Study, in areas where higher density institutional uses now threaten low-rise residential zoning; and

WHEREAS: Harvard has agreed to advocate that other Cambridge landlords follow its model of creating affordable housing; now therefore be it

ORDERED: That the Cambridge City Council supports and endorses the program that Harvard University has proposed for its formerly rent-controlled housing. This program consists of the following inseparable components:

- * For currently "protected" households now in Harvard's formerly rent-controlled housing (i.e., designated families, elderly and the disabled), the continuation of below-market rents consistent with those provided for in the expired statute (MGL Chapter 282) for as long as those households remain qualified based on the income criteria of said statute; and
- * The offer of sale of 100 apartment units of Harvard-owned housing to the City (or to a City-designated non-profit agency) at below market-value prices for the creation of permanent affordable housing; and
- * Use by Harvard of the remaining units to house Harvard affiliates (faculty, students and employees) through a process of gradual transition without eviction of tenants in good standing; and be it further

ORDERED: That the City Manager is hereby authorized to finalize arrangements with Harvard University concerning the financial terms for the affordable housing program, and to execute an agreement for implementation of Harvard's proposal.

City of Cambridge

Report of the Subcommittee on Housing and Community Development Regarding Harvard University's Formerly Rent-Controlled Units

After the loss of rent control, the 1994-1995 City Council subcommittee on Housing and Community Development conducted a full review of all affordable housing programs and options in the city and recommended a number of initiatives. While these initiatives will not replace 14,000 formerly rent-controlled units, these programs, adopted by the full City Council and funded by the City Manager, will insure a continuing, modest annual addition to the City's affordable housing stock. Full details are contained in the Committee's report, **CITYHOME**. During 1996, additional housing concerns have arisen, including federal proposals to privatize public housing, reduced HUD funding, and the loss of expiring use buildings, threatening the imminent displacement of 1600 means-tested tenants.

One element of the City's program is to encourage the private sector, especially owners of formerly rent-controlled buildings, to work with the City in a variety of ways to sell units to the City or to set aside rental units in return for low or no interest loans.

In the fall of 1995, Harvard University presented a proposal to the City Council Subcommittee after intensive summer discussions with city officials. The Committee rejected Harvard's offer because it would have offered only 10 units for permanent affordable status and the affordability of an additional 60 units would extend for only 20 years. The Council Subcommittee further offered, agreed to by the full Council, to purchase the entire stock of Harvard's nearly 700 formerly rent-controlled units.

Discussions continued between City Manager Healy and Harvard authorities until Harvard made a new proposal in the spring of 1996. This proposal has the following components: (1) Harvard would make approximately 100 of its units available to the city or its non-profit designee at approximately \$30,000 per unit, substantially below market value; (2) Harvard will continue below-market rents for its current 78 "protected" households so long as those tenants remain qualified based on existing income criteria; (3) the City will recognize that Harvard will use its remaining units (other than those it will sell on the private market) for housing its affiliates.

The Committee has discussed this plan at several meetings and has taken public testimony. Testimony has been given the Committee that the City can regulate affiliate housing through zoning and that Chapter 282 of the Massachusetts General Laws gives the City the power to regulate evictions. The city's law department has informed the Committee that it is likely that the city's powers, if it has them, would minimally affect this proposal. One tenant group has asked the City to ask Harvard to bind itself to "just cause" evictions, to change its guaranteed protection from 60% to 80% of area median household income, and to limit any

overall rent ceiling to 30% of tenant income. Harvard has declined to make these suggestions a part of its offer. Harvard has supplied the Committee with evidence that it consulted surrounding neighborhood organizations in the course of its negotiations with the City, in response to testimony. Harvard has indicated to the Committee that it would make every effort to stabilize the residential area bounded by Prescott and Ware Streets by offering units in buildings there to faculty and graduate students who are likely to stay several years or more. Harvard has also indicated that it will pay property taxes on its affiliate housing either through the pilot payment or direct taxes and that, with the City, it will plan transition zones, as suggested in the Riverside Neighborhood Study, in areas where higher density institutional uses now threaten low-rise residential zoning.

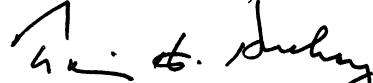
Finally, Harvard has agreed to work with the City on a long-range program to stimulate other non-profits, institutions, developers and businesses to add to the stock of affordable housing.

The City and the University have been negotiating these matters for more than a year, and it is now time for a decision to be made. There are important land-use issues between the City and Harvard that are not the subject of this agreement. For example, it is important for Harvard to recommit to its self-imposed red-line agreement with regard to university expansion. And the University should commit itself to longer-term affiliate status of buildings in Harvard Square proper. Also, the City would like to have had the opportunity to buy more than 100 units and to protect more existing tenants than this agreement would allow.

However, Harvard has made a significant proposal to add to the City's permanent affordable housing stock. While it is true that the slow change of Harvard's buildings from general tenancy to affiliate use will affect tenant diversity in nearby neighborhoods, the City lost the ability to regulate that change when it lost rent control. The City has no reason to believe that Harvard's current offer will be improved.

Therefore, the Committee recommends to the full City Council the passage of the accompanying resolution; adopted unanimously at its June 19, 1996 meeting.

For the Committee,



Councillor Francis H. Duchay, Chair
Vice Mayor Kathleen L. Born
Councillor Henrietta Davis
Councillor Anthony D. Galluccio
Councillor Kenneth E. Reeves

City of Cambridge

LIST OF ATTACHMENTS

1. Report of the Wednesday, June 19, 1996 meeting of the Housing and Community Development Committee.
 - A. Memorandum from the Community Development Department describing changes in Harvard's proposal from its initial proposal.
 - B. Legal Opinion of Donald Drisdell, Deputy City Solicitor, regarding the City's authority to regulate Harvard's affiliate housing.
 - C. Memorandum from the Community Development Department regarding the applicability of City planning policies to the proposal.
 - D. Letter from Harvard University in response to issues raised by the Eviction Free Zone at the June 12, 1996 meeting of the Housing and Community Development Committee.

2. Report of the Wednesday, June 12, 1996 meeting of the Housing and Community Development Committee.
 - A. Letter from Harvard University summarizing its affordable housing package.
 - B. Harvard University's "Response to Concerns About Affiliate Housing in the Prescott/Ware Area."



CITY OF CAMBRIDGE

Office of the City Solicitor
795 Massachusetts Avenue
Cambridge, Massachusetts 02139
Tel. (617) 349-4121
Fax. (617) 349-4134

Russell B. Higley
City Solicitor

Donald A. Drisdell
Deputy City Solicitor

Michael C. Costello
Assistant City Solicitor

Legal Counsel

Birge Albright
Gail S. Gabriel
Arthur J. Goldberg
Linda A. Stamper
Deborah R. Cautela
Nancy E. Glowa

June 18, 1996

Robert W. Healy
City Manager
City Hall
Cambridge, MA 02139

Re: *Regulation of Harvard's Affiliate Housing*

Dear Mr. Healy:

Councillor Duehay, as Chair of the Housing and Community Development Subcommittee, requested an opinion regarding whether or not the City has authority to regulate the rental of residential units owned by Harvard University to its affiliates either pursuant to the State's rent control phase-out law, St. 1984, c. 282 ("c. 282") or pursuant to the City's zoning power over Institutional Uses authorized by St. 1979, c. 565, as amended by St. 1980, c. 387 (the "zoning ordinance").

- I. It is unlikely that the City's limited authority pursuant to c. 282 extends to regulating affiliate housing.

It is doubtful that c. 282 can be construed to give the City authority to regulate the rental of Harvard University's units to its affiliates because, even assuming that c. 282 leaves the City with the same authority that it had pursuant to Ordinance 966 (the "Removal Permit Ordinance"), that is, the authority to regulate removals of rental housing units from the City's controlled rental housing stock, at least one Court has held that renting units to affiliates of a university does not constitute a removal. See, Weston College Corp. v. The Cambridge Rent Control Board, et al., Middlesex Superior Court, Civil Action No. 89-8292 (1990).

The Court in Weston College, supra, rejected the Cambridge Rent Control Board's contention that the reservation or rental of a controlled unit to an affiliate of the university-owner

is a removal of that unit from the controlled rental housing stock because, according to the Board, renting to an affiliate of the college was tantamount to depriving a citizen of Cambridge of access to that unit. The Court did not agree, finding that a citizen of Cambridge who happened to be affiliated with the University was not clearly distinguishable from any other citizen of Cambridge.

It is worth noting that although the Court conceded that the Board had the authority to regulate removals pursuant to Chapter 36 of the Acts of 1976, as amended, (the former rent control act) and Ordinance 966, it is less likely that a Court would find that such authority exists today under the current rent control phase-out act. Chapter 282, §8, states in relevant part that the City does not have authority to "[e]nact, implement, maintain, administer or enforce rent control except to the extent expressly set forth in this act." The definition of rent control in §3(e) of the Act, includes the removal of housing accommodations from the rental housing market. Nowhere in c. 282 is the City given express authority to regulate removals. Absent express authority in c. 282, it would appear that the City is prohibited from enacting or maintaining any such regulation.

However, the Boston Housing Court found that the City of Boston retains the same authority to regulate removals that it had prior to the passage of c. 282. See, Greater Boston Real Estate Board v. Boston Rent Equity Board, et al. Civil Action No. 475 (1995). The Court reasoned that since Chapter 527 of the Acts of 1983 (the "State Condominium Conversion Law") is expressly left unaffected by c. 282 and since Boston had adopted its own removal permit ordinance prior to the passage of the State Condominium Conversion Law, Boston's ordinance and all its future amendments were grandfathered into the state law. The Court concludes that for "covered" rental units and during the time period proscribed by the statute: "Chapter 282 leaves the Rent Board with authority to regulate all forms of removals or conversions as they have always done." *Id.* at 33.^{1/}

Although the Boston Housing Court case is not binding on Cambridge, it could be argued, by analogy, that Cambridge's former removal permit ordinance remains in effect at least as to "covered" rental units. However, whether or not Cambridge retains some authority to regulate removals, it is doubtful, based on Weston College, *supra*, that such authority extends to regulating the rental of Harvard's units to its affiliates.

II. The City's authority to regulate affiliate housing pursuant to its zoning ordinance is unsettled.

During 1982 and 1983 City Councillor David Sullivan proposed an amendment to the

^{1/} Pursuant to c. 527, Cambridge could, by a two thirds vote of the City Counsel, adopt a new ordinance regulating the conversion of residential property to either condominium or cooperative forms of ownership. However, the authority conferred upon cities and towns by c. 527, refers only to the regulation of condominium or cooperative conversion and not to removals of rental units from the housing market for other purposes.

Institutional Use Regulations of the Cambridge Zoning Ordinance whereby the City would regulate "affiliate housing". In the course of the debate over the amendment a legal opinion was requested by the Planning Board from the City Solicitor. A copy of that opinion, dated March 29, 1983 is attached. In summary, the opinion concluded that the City can regulate "affiliate housing" under its zoning power if three conditions are met:

1. The land in question must be within a residentially zoned district which requires "a lot area of one thousand two hundred square feet or more per dwelling unit."
2. The land must be "owned or leased...by a non-profit educational corporation."
3. The land or structures must be used "for educational purposes."

The opinion then examined legal precedents interpreting the term "educational purposes" and concluded that "...the provision of housing for university students, faculty and employees is, arguably, an 'educational use,' which can be regulated through the zoning power."

Having drawn these conclusions, the opinion pointed out that it would also be necessary for the City to identify a reasonable basis for concluding that a restriction against an "affiliate housing" use of residential properties would have "...some reasonable prospect of a tangible benefit to the community. 122 Main Street Corp. v. Brocton, 323 Mass. 646, 651 (1949)." The opinion stated that it was not clear that "...traffic and other 'use impacts' associated with affiliate housing are different from those associated with non-affiliate housing."

Stephen P. Lindsay, Esq., of the law firm of Ropes & Gray, submitted a response to the City Solicitor's opinion on behalf of Harvard University. That opinion is dated April 12, 1983 and a copy is attached. That opinion, in summary, argues that the City must articulate a difference in use between "affiliate housing" and non-affiliate housing in order to justify different treatment under zoning. Mr. Lindsay argued that there is no rational basis for any such distinction, and that such a regulation would be an improper regulation of ownership.

The zoning amendment addressed in the attached opinions was not adopted by the City Council, and there is currently no provision authorizing the regulation of "affiliate housing."

The only case we have found decided since the attached opinions were rendered which provides any elucidation of the particular issues raised in 1983 is the Weston College case cited above. As noted, the Court in that case found that a citizen of Cambridge who happened to be affiliated with the University was not clearly distinguishable from any other citizen of Cambridge. The finding in the Weston College case does not foreclose an argument by the City that the use impacts of affiliate housing differ from non-affiliate housing sufficiently to justify regulation. But the case demonstrates that at least one court found such arguments unpersuasive.

Applying this legal analysis to the proposal currently under consideration by the City

Council, the following observations may be made.


It has been reported to me by Susan Schlesinger, Assistant City Manager for Community Development, that Harvard currently owns 669 units of rent controlled rental housing. Of those, Harvard proposes to sell 45 units on the open market. Harvard also proposes to sell 100 of the units to the City at significantly below market value to be preserved as affordable housing units. Of the remaining 524 units, 52 units plus one building containing 16 single room occupancy units are located in zoning districts which require 1200 or more square feet of lot area per dwelling unit. Therefore, absent further special legislation, the maximum number of Harvard's units that could potentially be regulated as "affiliate housing" is 52 units and the 16 SRO's.

Even those units could not be regulated unless the City Council passes an amendment to the Zoning Ordinance. Such an amendment could be re-introduced since it has been more than two years since both the Planning Board and the City Council acted unfavorably on such a proposal. Assuming that such a zoning amendment were passed, it is possible that some of the 52 units and the 16 SRO's might be grandfathered if they were occupied as "affiliate housing" prior to the first advertisement by the Planning Board.

It is probably safe to assume that a legal challenge to such a zoning amendment would be pursued. As the attached legal opinions suggest, the outcome of such litigation is far from certain. While there will be a presumption of validity of any such zoning amendment, the City will have some burden of demonstrating a rational basis for different treatment of "affiliate housing" versus non-affiliate housing. The reasons offered by proponents of the amendment in 1983 were apparently not considered to be sufficient by the Planning Board.

Please let me know if I can be of further assistance in this matter.

Very truly yours,



Donald A. Drisdell



CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 498-9020

LAW DEPARTMENT

RUSSELL B. HIGLEY
CITY SOLICITOR

MICHAEL C. COSTELLO
ASSISTANT CITY SOLICITOR

EDWARD A. CUNNINGHAM
SEVERLIN B. SINGLETON
DAVID B. O'CONNOR
BIRGE ALBRIGHT
LEGAL COUNSEL

MAR 30 PM 1 32

CAMBRIDGE COMMUNITY
DEVELOPMENT DEPT.

March 29, 1983

Cambridge Planning Board
City Hall Annex
57 Inman Street
Cambridge, Mass.

Re: Affiliate Housing

Dear Board Members:

You have requested my opinion regarding the recent zoning petition to regulate "affiliate housing," in light of the decision in CHR General, Inc. v. City of Newton, 387 Mass. 351, 439 NE2d 788 (1982).

On March 15, Councillor David Sullivan recommended an amendment to the Zoning Ordinance, whereby the City would regulate "affiliate housing," defined as follows:

a dwelling (other than a dormitory, fraternity, or sorority) owned or controlled by an educational institution and in which the educational institution to a significant extent gives preference to persons who are employed or enrolled at the educational institution.

Affiliate housing would be treated in the same way as the Zoning Ordinance now treats dormitories, fraternities and sororities under §4.56(c)(8) (Table of Institutional Use Regulations). Such uses are forbidden outside institutional overlay districts, unless they are replacing previous institutional uses on the site and have no greater adverse impact on the neighborhood, and the Board of Zoning Appeal (BZA) issues a special permit. They are permitted within institutional overlay districts only if the BZA issues a special permit and if any housing units removed or converted are replaced indefinitely with an equivalent number of units.

The proposal thus "regulates an educational institution's acquisition or construction of, or conversion to, a dwelling in which it discriminates against non-affiliates in occupancy." Memorandum of David Sullivan (3-15-83), p. 2.

CHR General, Inc. v. City of Newton, supra, held that an ordinance governing conversion of rental units to condominium ownership was a "private or civil law governing civil relationships," and, therefore, was prohibited by §7 of the Home Rule Amendment to the Massachusetts Constitution, which states in pertinent part:

Nothing in this article shall be deemed to grant to any city or town the power...
(5) to enact private or civil law governing civil relationships except as an incident to an exercise of an independent municipal power...

After holding that the challenged ordinance was a "private or civil law governing civil relationships," the Court then examined the question of whether it could be found valid "as an incident to an exercise of an independent municipal power." The City of Newton relied on the zoning power as the individual component of its police power authorizing enactment of the ordinance.

The Court rejected Newton's zoning argument, pointing out that a "fundamental principal of zoning (is that) it deals basically with the use, without regard to the ownership, of the property involved or who may be the operator of the use. 1A Rathkopf, Zoning and Planning, §1.04, at 1-21 (4th ed. 1982)" and that "a building composed (of) condominium units does not 'use' the land it sits upon any differently than an identical building containing rental units." 439 NE2d at 791.

The Court distinguished Goldman v. Dennis, 375 Mass. 197, 375 NE2d 1212 (1978), which upheld a zoning by-law requiring owners of "cottage colonies" to conform to certain minimum lot size requirements as a precondition to obtaining permission to convert individual cottages to condominiums. The Court in Goldman concluded that "(t)he legislative body of the town could reasonably believe that conversion of a cottage colony to single family use would encourage expansion of (nonconforming) use beyond the short summer season." 375 Mass. at 199. As a result, "(a)lthough the limitation (contained in the challenged by-law) is phrased in terms of ownership," the Court found the by-law "valid as a regulation of 'change of use.'" Id.

In short, the difference between CHR General and Goldman seems to be this: In CHR General, the Court concluded that the use of the land would be the same whether it had on it a building containing condominiums or a building containing apartments. In Goldman, the Court concluded that, if a cottage were converted into a condominium, the use would change from a summer use to a year-round use. Or, at least, the Court concluded that the "legislative body of the town could reasonably (so) believe." 375 Mass. at 199.

The holding in CHR General is supported by various definitions of zoning and its functions. See, e.g., 1 Rohan, Zoning and Land Use Controls, §1.02(1); 82 Am. Jur. 2d, Zoning and Planning, §2 (1976); 1 Williams, American Land Planning Law, §16.03 (1974) (functions of zoning); Black's Law Dictionary (1968) p. 1793; 8 McQuillin, Municipal Corporations, §§25.17, 25.119 (1976).

Pursuant to St. 1979, c. 565, as amended by St. 1980, c. 387, Cambridge is authorized, through zoning,

to regulate and restrict the use of land or structures...for educational purpose on land owned or leased...by a non-profit educational corporation within all residentially zoned districts which require a lot area of one thousand two hundred square feet or more per dwelling unit.

Thus, the City can regulate "affiliate housing" under its zoning power if three conditions are met:

1. The land in question must be within a residentially zoned district which requires "a lot area of one thousand two hundred square feet or more per dwelling unit."

2. The land must be "owned or leased...by a non-profit educational corporation."

3. The land or structures must be used "for educational purposes."

The third condition is the subject of the present controversy.

Interpreting the term "educational use" in a by-law, the Court in Kurz v. Board of Appeals of North Reading, 341 Mass. 110, 112 (1960), stated:

The by-law refers to "Educational use" in the ordinary sense.... They are everyday

words and should be interpreted 'according to the common and approved usages of the language...without enlargement or restriction and without regard to...(the court's) own conceptions of expediency.'... The meaning of the phrase is a question of law for the court....

In Radcliffe College v. Cambridge, 350 Mass. 613 (1966), the Court construed G.L. c. 40A, §2, which, at that time, provided:

...no ordinance...which prohibits or limits the use of land...for any educational purpose which is...public shall be valid....

The question was whether Art. VII, §2 of the Cambridge zoning ordinance, requiring provision for off-street parking, was applicable to a Radcliffe library, in light of c. 40A, §2.

The Court begins its analysis by devoting a paragraph to the parking problem in Cambridge:

Adequate provision for parking...has become of general public concern.... The reasonable premise of a requirement for off street parking spaces for new buildings is that parking automobiles near by is an established function of the use of any building wherein people live, work, study or congregate for other purposes. Such a requirement is analogous to the statutory requirements of public corridors and exits of certain size and number and somewhat analogous to requirements of fire walls, fire escapes and fireproof construction.

350 Mass. at 617.

The Court stated (p. 618):

Providing for the parking or housing of the automobiles of students, instructors, and employees of an educational institution is within the broad scope of the educational powers of the institution just as is providing for the feeding and housing of such personnel. These are secondary functions incidental to the main educational purpose.

The Court then upholds the ordinance by holding that, "At most the...ordinance requires choices among the proper educational purposes of the institution. In so doing it does not impede the reasonable use of the college's land for its educational purposes." Id. at 618.

I draw the following conclusions from Radcliffe College:

1. Providing for the housing of students, instructors and employees of the educational institution and their automobiles is "within the broad scope of the educational powers of the institution," although this is a "secondary function incidental to the main educational purpose." Arguably, therefore, such housing is an "educational use."

2. Therefore, in requiring off-street parking, as accessory to a library, Cambridge was simply requiring that the college devote a certain amount of its land to one "educational use" as opposed to another.

3. Underlying this requirement was the serious parking problem in Cambridge, a problem which makes the off-street parking requirement "somewhat analogous to requirements of fire walls, fire escapes and fireproof construction."

I conclude, therefore, that the provision of housing for university students, faculty and employees is, arguably, an "educational use," which can be regulated through the zoning power.

Having said this, I hasten to add that the City must show some need for the affiliate housing amendment. If the matter should go to Court, every presumption will be made in favor of the ordinance, and, if its reasonableness is fairly debatable, it will be sustained. Turnpike Realty Co. v. Dedham, 361 Mass. 221, 233 (1972), cert. den. 409 U.S. 1108 (1973). The constitutional test is whether the ordinance is "clearly arbitrary and unreasonable, having no substantial relation to the public health, safety, morals, or general welfare." Euclid v. Ambler Realty Co., 272 U.S. 365, 395 (1926).

Although there is a presumption of constitutionality, the Court would expect the City "to bring forward some indication that the zoning provision has some reasonable prospect of a tangible benefit to the community. 122 Main St. Corp. v. Brockton, 323 Mass. 646, 651 (1949). A showing

March 29, 1983

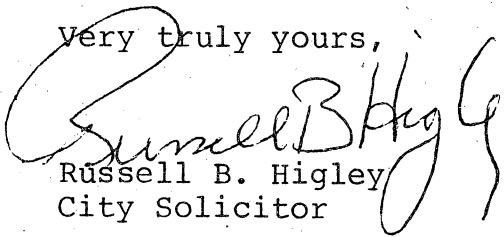
must be made, on the record, that there was a reasonable basis for the enactment." Sturges v. Town of Chilmark, Mass. Adv. Sh. (1980) 815, 402 NE2d 1346, 1353 (1980).

In his memorandum of October 19, 1982, Councillor Sullivan argues that affiliate housing should be regulated, because

its traffic, activity patterns, and other use impacts are likely to extend the university campus into previously quiet residential streets, and it removes residential units from general availability to the Cambridge community.

I do not know whether the traffic and other "use impacts" associated with affiliate housing are different from those associated with non-affiliate housing. I suggest, however, that a court would not be likely to accept the idea that Cambridge's universities are not part of the "Cambridge community."

Very truly yours,


Russell B. Higley
City Solicitor

RBH/jl

cc: Ms. Kathy Spiegelman
Mr. Robert W. Healy

ROPES & GRAY
225 FRANKLIN STREET
BOSTON, MASSACHUSETTS 02110

CABLE ADDRESS "ROPGRALOR"

(617) 423-6100

TELEX NUMBER 940519

TELECOPY (617) 423-7841

April 12, 1983

RECEIVED
IN WASHINGTON:
100 TWENTY-SECOND STREET, N.W.
WASHINGTON, D.C. 20037
20
(202) 429-1600

CAMBRIDGE COMMUNITY
DEVELOPMENT DEPT.

Planning Board
City of Cambridge
City Hall Annex
57 Inman Street
Cambridge, Massachusetts 02139

Re: Affiliate Housing

Dear Members:

This letter will summarize my comments on Harvard's behalf at your April 5 hearing with regard to the opinion of the City Solicitor to you dated March 29, 1983 and the draft recommendation prepared by the staff.

We do not disagree with the City Solicitor's opinion. We think he correctly concludes that Chapter 565 of the Acts of 1979 authorizes the City to regulate "affiliate housing" if the land or structures regulated can be said to be used "for educational purposes"; nor do we differ with his conclusion "that the provision of housing for University students, faculty and employees is, arguably, an 'educational use' . . ." (emphasis added). The best example of educational housing use is a dormitory, at least what is normally thought to be a dormitory. Like you, however, we have problems with the existing definition of "dormitory" in the Cambridge Zoning Ordinance, which would even include a single family home for a visiting professor.

The question, which the City Solicitor's opinion leaves open, is whether a residential property other than a dormitory, fraternity or sorority which otherwise meets all zoning requirements can be said to be differently used simply because of the affiliation of the occupant with the educational institution which owns the property, and, if so, at what point. Harvard's point under the CHR General case has been that any definition of "affiliate housing" must reflect a difference in use if it is to be the basis for different treatment under zoning. The City Solicitor puts this somewhat differently. He says the City must show some "need" for the regulation, some "reasonable basis" for the conclusion that "affiliated housing", however defined, reflects a different use and therefore justifies different

Planning Board

-2-

April 12, 1983

zoning treatment. He then says he "do[es] not know whether traffic and other use impacts associated with affiliate housing are different from those associated with the non-affiliate housing." This decision is yours to make.

The original proposal was that occupancy of university property "primarily" by affiliates would be prohibited. Harvard objected in principle; in the absence of any suggestion as to why occupancy of a property "primarily" by affiliates makes a use difference for zoning purposes, the proposal constitutes nothing more than an improper regulation of the identity of the owner and the educational and employment status of the occupants. Under the amended proposal, a university's preference of its affiliates to "a significant extent" would require a variance. Whatever this subjective standard means and however it is construed and applied we think it is even less use regulation than the original proposal the Planning Board previously voted down. Unless there is some reasonable "use" basis for denying educational institutions the right enjoyed by all other owners to prefer their own affiliates, the amended proposal is no less a regulation of ownership than the original. We see no rational basis for the use distinction or for the discriminatory treatment of educational institutions. Furthermore, under the amendment as set forth in the draft Planning Board recommendation, this standard would be applied to even a single dwelling unit.

In our view and, as we read it, that of the City Solicitor, to adopt the draft recommendation you must conclude on some rational basis that educational institutions are different from all other owners such that an educational institution's preference for its affiliates to "a significant extent", for even a single dwelling unit in a multitenancy building which otherwise meets zoning requirements, causes the dwelling unit to be used differently and justifies a zoning prohibition.

Thank you very much.

Very truly yours,



Stephen P. Lindsay

SPL/du

cc: Mr. Lewis A. Armistead



CITY OF CAMBRIDGE
COMMUNITY DEVELOPMENT DEPARTMENT

SUSAN B. SCHLESINGER,
Assistant City Manager for
Community Development

June 19, 1996

To: Councilor Francis Duehay, Chairman
Committee on Housing and Community Development

From: Susan Schlesinger, Assistant City Manager for Community Development

RE: Review of City Policies and Report Recommendations Related to Harvard, Formerly Rent-Controlled Properties

Because of the enduring impact and influence of the universities, any compilation of policies and recommendations developed by the City routinely highlights issues that arise between the City and its several neighborhoods and those universities. The following is a brief summary of recent policies and recommendations from a number of recently published planning documents that relate to the current proposal for disposition of Harvard-owned, formerly rent-controlled housing. It is well to remember that all the policies and recommendations contained in these documents were formulated while rent control was fully in effect. The City did not anticipate those regulations would be fundamentally changed in any foreseeable future.

In general, the current proposal on Harvard-owned residential properties is consistent with policies and recommendations in several planning documents prepared by the City.

1. Delineation of the Institutional District in Harvard Square

a. In the 1970's Harvard University, as part of its long range planning efforts and as a result of community concerns regarding outward expansion of the University into residential neighborhoods, defined an area beyond which the University would not acquire property for institutional purposes (i.e. the Red Line "Agreement"). The current proposal is consistent with the Red Line "Agreement" insofar as all of the residential buildings that Harvard University proposes to retain for affiliate housing fall within that Red Line boundary. The properties to be acquired by the City of Cambridge are scattered among three abutting neighborhoods and are located within and without the Red Line boundary.

b. In 1981, the City, as an element in its implementation of the newly granted authority to regulate institutional use through the zoning ordinance, created on the zoning map a series of overlay districts that are intended to identify existing concentrations of institutional use and possible areas of institutional expansion. The *Harvard, Radcliffe, Lesley Institutional Overlay District* defines that area in Harvard Square. The majority of buildings to be retained by Harvard are within the *Overlay District*, including the buildings in the Ware Street/Prescott Street block; the remainder are in immediately adjacent areas.

2. Policies of *Toward a Sustainable Future: Cambridge Growth Policy Document.*

A number of policies set forth in the Growth Policy document have relevance to the current discussion, some directly related to institutions specifically but others relevant as issues of land use planning, transportation policy, or housing objectives.

The Land Use policies suggest:

- * preserving the existing pattern of neighborhood built character (#1),
- * maintaining adequate transitions and buffers between scales of development and uses (#3);
- * limiting large institutions' development to their historic cores or adjacent areas identified by the Institutional Overlay Districts (#5);
- * reasonable densities within those campus cores to prevent unnecessary outward expansion (#6);

Transportation policies suggest:

- * that land use regulations encourage transit and other forms of non automobile forms of transportation (#15);

Housing policies suggest:

- * that the city encourage the rehabilitation of the existing stock of housing (#29);
- * that the ownership of the existing housing stock by non profit and tenant organizations be encouraged (#32);

Institutional policies suggest:

- * that there be an on-going dialogue between the city and its institutions to identify conflicts as well as opportunities (#49);
- * that the need for institutions to adjust be respected (#50);
- * that the institutions provide housing for all affiliates, preferably with new construction, using existing holdings, that that housing be retained over a long period of time; and finally that the institutions consider also providing some of that housing for the general population (#52).

As in all complex matters to which a set of policies must be applied for guidance, any action can only advance fully some of those policy objectives, only partially advance others, and may have no relevance to, or clearly not advance, others. That is true, of course, of the current housing proposal. On balance, however, the proposal as it has been constructed substantially advances not only basic city housing, land use, and transportation objectives, but many fundamental elements of our institutional objectives. Legitimate concerns have been expressed with regard to the proposal and they are reflected as well in the text of the Growth Policy document, but on balance a substantial public benefit is being served.

3. Recommendations of the *Riverside Neighborhood Study*.

A major land owner and institutional presence in the Riverside neighborhood, it is natural that the *Neighborhood Study* should address a number of recommendations to the University community. In sum those recommendations are:

- * that the University maintain a dialogue with the community with regard to future development plans and housing policy;
- * that future physical development plans be carefully reviewed with the neighborhood, preferably after development of specific design guidelines for likely development sites within a context of a larger growth management plan.

The Riverside community has been an active participant in the Joint Committee for Neighborhood/Harvard Consultation over the many months the Harvard Housing proposal has been under discussion. In making use of an existing stock of housing the proposal avoids the concerns of the neighborhood expressed in its recommendations with regard to inappropriately scaled new construction on numerous vacant but critically located sites owned by the University.

With regard to Neighborhood's more general concerns with the transition between the scale and density of the institutional precinct and the small-scaled wood-framed character of the neighborhood at its edge, the City intends to proceed in the next year with planning for appropriate transitions between the neighborhood and Harvard, particularly at Banks and Athens Streets.

4. Recommendations of the *Report of the Mayor's Committee on University-Community Relations*.

The report, published in 1991, outlines the many issues and concerns affecting jointly the universities and their neighboring communities. The report makes few specific recommendations for solutions to specific concerns, but more importantly suggests a number of procedural mechanisms for maintaining communication among the parties and working out, where possible, mutually satisfactory resolutions to outstanding issues. Use of the Growth Policy document, participation by the Planning Board, cooperation and assistance from the Community Development Department, and continual dialogue with the communities are all elements of that recommended process.

The current proposal has undergone months of discussion between the University and representatives from its abutting neighboring communities in the Joint Committee for Neighborhood/Harvard Consultation, with the Council's Committee on Housing and Community Development, and as a very technical as well as policy matter, with the City administration and the Community Development Department. The proposal and the issues it raises have had extensive airing and analysis. Genuine disagreement may still exist, and it may in the end not be possible to eliminate it, but the public process has provided the opportunity to modify and improve the proposal to the benefit of all.

5. Mid-Cambridge Neighborhood Conservation District

The Conservation District, which encompasses most of the Mid-Cambridge residential community, is authorized to review any proposal for demolition and any proposal for new construction within its area of jurisdiction. The western boundary of the District is at Prescott Street and encompasses the city block between Prescott Street and Ware Street. The Conservation District is independently established and operates separately from the provisions of the City's Zoning Ordinance and the Institutional Use Regulations and Institutional Overlay Districts that are a part of that Ordinance.



HARVARD PLANNING AND REAL ESTATE

June 19, 1996

Susan Schlessinger
Assistant City Manager
Community Development Dept.
57 Inman Street
Cambridge, MA 02139

Dear Susan:

We have been asked to respond to suggestions presented by a representative of the Eviction Free Zone at the last City Council Housing and Community Development Committee Meeting on Harvard's progress for Affordable and Affiliate Housing. Our response follows.

Protection for Those Earning 80% of Median Income

The University is committed to basing its tenant protection program on criteria established by state statute. If this higher threshold were to be used to establish tenant protections, additional tenants would qualify and fewer resources would be available for the affordable housing package being offered to the City. We believe that the existing mix of protections for tenants coupled with the establishment of 100 units as permanent affordable housing represents the most effective allocation of Harvard's resources for helping to achieve the City's housing objectives.

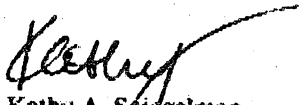
Stronger Reassurance Regarding Evictions

Harvard's formerly rent-controlled properties presently house both affiliates and non-affiliates who occupy under leases or tenants at will. In the properties that Harvard will continue to own, Harvard does not intend to terminate any existing tenancies solely to gain possession of a unit for use by an affiliate. However, we cannot adopt the suggestion that Harvard leases contain specific language requested by the Eviction Free Zone. Our intention not to evict is clear, but the language in our leases is not subject to this negotiation.

Means Testing

Harvard's management of its formerly rent controlled housing is based on the idea of gradually transitioning it to a market model. Means testing of tenants in order to set rents is inconsistent with this approach. We believe that concerns regarding the welfare of Harvard's existing tenants are addressed by our long-standing record of responsible and sensitive management, and by our commitment to gradual rent increases, to no evictions for tenants in good standing, and to providing permanent protection for tenants who qualify based on income criteria established by state statute.

Sincerely,


Kathy A. Spiegelman
Associate Vice President for
Planning and Real Estate

City of Cambridge

The Housing and Community Development Committee held a public meeting on Wednesday, June 12, 1996 at three o'clock and twenty minutes p.m. in the Sullivan Chamber, City Hall.

Present at the meeting were Councillor Francis H. Duehay, Chair of the Committee; Councillors Henrietta Davis and Anthony Galluccio, Robert W. Healy, City Manager; Susan Schlesinger, Assistant City Manager for Community Development; Les Barber, Zoning and Land Use Planner, Community Development Department; Roger Herzog, Housing Director, Community Development Department; Kathy Spiegelman, Associate Vice President for Planning and Real Estate at Harvard University and Harris Band, Harvard University representative and Donna P. Lopez, Interim Deputy City Clerk.

Councillor Duehay stated the purpose of the meeting was to continue discussion of a proposal regarding maintaining the affordability of Harvard University's previously controlled rental housing. Councillor Duehay further stated this meeting was one of a series to be held regarding Harvard University's affordable housing. Questions arose at last week's meeting regarding whether buildings Harvard may be selling on the open market are in areas with greater development potential. Also, issues about the nature of affiliate housing that Harvard would retain, the definition of "affiliate", and the impact of such housing on surrounding neighborhoods and city as a whole were discussed.

The committee heard from Kathy Spiegelman, Associate Vice President of Planning and Real Estate at Harvard University. Ms. Spiegelman gave an overview of a prepared communication outlining university plans for housing affiliates in its formerly rent controlled buildings. A summary of its affordable housing package is attached (see Attachment A). Ms. Spiegelman continued, noting that as a property owner, Harvard is making a contribution to the community's stability and diversity. Many affiliates, she stated, become permanent Cambridge residents. The university contributes to the city's economic stability; in addition, its commercial property is managed by the university to avoid chain stores, to foster smaller local establishments and to serve local (rather than tourist) markets. Ms. Spiegelman further stated the primary reason the university looked into affiliate housing was the red line agreement of 1970 which was extended in 1980. Ms. Spiegelman read from a document entitled **Responses to concerns about affiliate Housing in the Prescott/Ware Street** (See Attachment B).

Ms. Susan Schlesinger, Assistant City Manager for Community Development, stated that the Community Development Department worked as well with the university staff to firm up the proposal, particularly the impact around the Prescott/Ware edge. She stated that the protected tenants in the Harvard University properties will continue to be protected.

A suggestion was made that Harvard purchased their property during the period of rent control and kept it to make a profit. Ms. Spiegelman replied to this, claiming this was not so; two-thirds of Harvard's units in that category were purchased prior to the installation of rent control in Cambridge.

Councillor Duehay invited the public to address their questions to Ms. Spiegelman, who had a meeting to attend to at 4:00 p.m.

The committee heard from John Pitkin, who asked Ms. Spiegelman if the units on Prescott and Ware Streets were the smaller units in the university's portfolio and would they be attractive to faculty and staff. Ms. Spiegelman responded that the units on Prescott and Ware Streets are one and two bedroom units.

The committee heard from Michael Turk of 24 Prescott Street, representing Cambridge Tenants Union, who commented on Ms. Spiegelman's previous comment about Harvard students. He claimed the graduate student turnover rate of seven to ten years was questionable. Ms. Spiegelman responded that the housing units were not limited to graduate students, but that thirteen percent of the population of the Graduate School of Arts and Sciences remained in Cambridge for the full duration. Mr. Turk questioned if the affiliates would pay market rents. Ms. Spiegelman affirmed this, claiming the rent could be subsidized by individual programs in the school.

The committee heard from Neva Fowler, 29 Buckingham Street, who questioned Ms. Spiegelman on whether protected tenants pay fair market rents. Ms. Spiegelman stated that protected status is limited by Chapter 282, which limits increases to 5% per year. Harvard University only raised rents 3% for the past year.

Councillor Duehay turned the Committee's attention to the zoning issues.

Councillor Davis asked what the background zoning was on the property in question.

Mr. Les Barber, Zoning and Land Use Planner from the Community Development Department outlined a map displaying the buildings to be retained by Harvard on a zoning map. For properties located in the C-3 zone, the city may impose dimensional regulations, but it cannot prohibit institutional uses. In these districts there is no prohibition of conversion from housing use to any institutional use or redevelopment of the lot consistent with the district's dimensional requirements. However, in C-1 zone, the institutional regulations give the city more control; conversion of housing to institutional uses is prohibited. If a C-1 zone falls within an Institutional Overlay District, the regulations are relaxed, (buildings on Mellen are in an overlay district). The Board of

Zoning Appeal could grant a special permit allowing the conversion of a residential use to an institutional use, provided all housing units eliminated are replaced in the city as new additions to the housing stock. All high density zones like the C-3 or Business B districts in Harvard Square allows the potential for additional development on lots located there.

Councillor Duehay asked about the units on Prescott and Ware Streets, wondering how many more units could be added at this location. Mr. Barber responded that the calculations had not been summarized for that district specifically but, a considerable amount of development could take place on nearly all sites in that area.

Mr. Harris Band, representing Harvard University, responded that the city had no ability to prohibit Harvard University from developing these sites.

Ms. Schlesinger stated any change to a building fifty years or older must be reviewed by the Historical Commission. The density along Prescott and Ware Streets would make it difficult to tear down buildings and build new buildings, she said.

Councillor Davis questioned the zoning on Banks Street, to which Mr. Barber responded that this location was in the C-3 zone.

Councillor Davis asked Harvard what its plans were for that area. Mr. Band responded that Harvard has no pending plans to develop this area. Harvard has maintained it as a residential district and no development proposal has been considered in the Dewolfe and Athens Street area. Historically, this is a residential area. Developments for this area are not included in the University's Capital Campaign.

Councillor Duehay asked about the units on Mellen Street. The units are small and zoned C-1 and there is no development potential due to the area's low density. He questioned the use of the Mellen Street units. Mr. Band stated that the units would be used for faculty affiliates.

The committee heard from Joanne Preston, 124 Oxford Street, Co-Chair of the Agassiz Tenants Association. Ms. Preston inquired if the institutional use regulation could be altered. Councillor Duehay responded that it would have to be a new state law which would require a home rule petition, passed by the legislature and signed by the Governor.

Mr. John Pitkin, 18 Fayette Street, addressed the committee and inquired about how the Mid-Cambridge Conservation District might affect development proposals. Mr. Barber responded that the Mid Cambridge Conservation District is operative and requires a review of any proposed new development within the district and might prohibit demolition.

Councillor Davis asked if the conservation district applied in a C-2 zone. Mr. Barber responded that the institutional ordinance does not prohibit regulation by a conservation district.

The committee heard from James Williams, 17 Perry Street, who questioned what efforts were made to notify those affected by these regulations. Citizens and residents, he believes, should be included in the discussions of the transitional neighborhood. Ms. Schlesinger stated the proposal would be advertised and that the Riverside Planning Team had discussed this topic.

Councillor Duehay stated there have been public hearings on the Harvard proposal since the end of rent control. This is the third such hearing. Harvard is the only institution to come forward to make such a proposal. The city will continue to ask other institutions and businesses to contribute to affordable housing. The city would like to use Harvard's initiatives as leverage to encourage other private property owners within the city to make contributions.

The committee heard from Pebble Gifford, 15 Hilliard Street, of the Harvard Square Defense Fund. She is concerned with the impact of the change of use. Housing will be exclusive to Harvard University, and the city has not addressed this issue. Affiliates, she stated, means staff, students and faculty by Harvard's definition. The rental market is very tight in the city; Ms. Gifford inquired as to what impact the change in the use of area would have on the city.

Councillor Duehay questioned Ms. Gifford as to what legal leverage the city has in this proposal. Ms. Gifford responded that the city issues permits to the University and can exert public pressure.

Ms. Schlesinger stated affiliate housing is not regulated by zoning in a C-3 zone or overlay district. Harvard University could use these buildings for affiliates.

Mr. Band stated Harvard University would manage the units to insure buildings are not overpacked with students. Prescott and Ware Street will be used for long-time graduate students, faculty and staff. No undergraduate students will be in these buildings. Staff implies any employee of the university who can afford market rate.

Mr. Turk stated units for long-term graduate students is an overstated marketing strategy. Twenty Prescott Street has been converted to affiliate housing and houses academic departments or employees of the American Repertory Theatre; they are transients and there is a high turnover rate. The city should use all the leverage that is available to it. He stated pursuant to Chapter 282, the city does have the power to regulate removals of units from the rental housing stock. In 1983 a zoning ordinance to regulate affiliate housing was proposed, and even though it did not pass, it should be reviewed. The city should review what can legally be done.

Councillor Duehay requested the Community Development Department to request a legal opinion from the Law Department, in writing, on the potential use of Chapter 282 and any other pertinent information, such as the 1983 proposed affiliate housing regulation ordinance. This opinion is expected prior to the next meeting which is scheduled for Wednesday, June 19, 1996.

Ms. Joanne Preston stated there are hundreds of displaced tenants in the Agassiz Neighborhood and it is important to have protected status in the Harvard University buildings. Rent control gave stability to the neighborhoods and she hoped to keep some units for affordable housing and protection for residents. She urged the City Council to pass this proposal so the city can retain some of the tenants in our community.

Mr. Pitkin stated that the issues raised by Mr. Turk need to be reviewed. In the Town/Gown Report, five years ago, an agreement was reached between the Vice President of Harvard University and representatives of the city and endorsed by the City Council to recommend a proper planning process when issues such as this arise - a face to face discussion in the affected neighborhood. The city is in a critical situation and Harvard is offering first aid.

Councillor Duehay stated the city has been working on this for over a year and we have tenants and existing units which need to be dealt with.

The committee heard from Happy Green, 33 Fenno Street, former employee of Harvard University, who stated the university has been through a process with the city and the joint neighborhood associations. The minutes have been taken and she would be happy to provide the committee with these minutes. We have respectfully agreed to disagree on this issue, she said. She could not be prouder of the university by their involvement in this process. It is an enormous opportunity for a partnership.

The committee heard from Bill Cavellini, 158 Brookline Street, of the Eviction Free Zone, who applauded the efforts made by Harvard University and stated the Eviction Free Zone had three proposed amendments:

1. Grant extended protection to households with income up to 80% median income - not 60% as provided in Chapter 282.
2. Where Harvard's proposal states that no tenant in good standing will be evicted, he would like the wording changed to: there will be just cause eviction protection in every unit.
3. Harvard should agree to limit rent increases so that tenants will pay no more than 30% of their income for rent.

Where is leverage used, Mr. Cavellini inquired. Predictability is important to the universities and they are requesting a quid pro quo. The Eviction Free Zone would like to see the number of units offered to the city in this process be greater than 100. Two or three buildings on Prescott and Ware Streets should be included in the proposal.

The committee heard from Randy Fenstermacher, 1820 Massachusetts Avenue #339, the Chair of the CCA Housing Committee and former Chair of the Agassiz Tenant Association, who stated that the Board of Directors of the CCA supports this proposal of Harvard University and that the zoning issues which have been raised are not crucial. The affordable housing issue must come first. Making units affiliates are not going to change the makeup of the neighborhoods. Zoning questions would not have arisen, had we not asked Harvard what their plans were for affordable housing. Mr. Fenstermacher requested the proposal be forwarded to the full city council as time is an important fact; another batch of tenants will be homeless as of December 31, 1996.

The committee heard from William Jones, 160 Norfolk Street, who stated the Community Development Department and the committee have done a good job and recommended the proposal be passed without delay.

Councillor Galluccio stated Harvard had an opportunity to be a leader in the city and give protected tenant status and some affordable housing based on income. Seventy-eight tenants were protected and the city has to come up with the funding to purchase one hundred units. Twenty-five percent of units were already affiliates. Since there was no leverage as it relates to zoning, we must move quickly. Harvard is going to provide affiliate housing and provide means testing housing for the city.

Councillor Duehay stated he would begin drafting a set of recommendations to enable the committee to move forward. He would like a response to the Eviction Free Zone amendments from Harvard University. A meeting of the committee was scheduled for Wednesday, June 19, 1996 at 3:30 to discuss the issues raised at the meeting.

The meeting adjourned at five o'clock and forty-five minutes p.m.

For the Committee,

Francis H. Duehay (by de)

Councillor Francis H. Duehay, Chair

RESPONSE TO CONCERNS ABOUT AFFILIATE HOUSING IN THE PRESCOTT/WARE AREA

Harvard contributes enormously to community stability and diversity.

- The affordable housing package and permanent protections for those in need are important contributions to community stability.
- The University comprises a diverse population of students, faculty and staff, many of whom become permanent Cambridge residents.
- Harvard provides high-quality maintenance of its housing stock.
- The University is a steady contributor to the City's economic stability.
- Harvard manages its commercial property to avoid chains, to foster smaller local establishments, and to serve local rather than tourist markets.

It is logical to locate Affiliate housing close-in to the campus.

- City policy (e.g., the Institutional Overlay and the Red Line agreement) has limited where the University has been able to create housing for its students to those areas which are close-in to the core campus.
- Locating affiliates near the campus promotes academic community and reduces vehicular trips.
- Many students use lab, library and other Harvard facilities late at night, posing safety concerns for their walk home.

The Prescott/Ware area is already quite transient.*

- 70% of the households move within five years or less.
 - 72% are one-person household.
 - Only 7% of households have three or more persons.
 - 79% of the population is unmarried.
- (*Data based on 1990 Census, excluding undergraduate dormitories)

Only about half of Harvard's formerly rent control units will change to affiliate.

- 669 units -100 affordable -45 sold on market -182 already affiliate = 342
- Of those 342 units, 78 are protected and will not change for many years, leaving 264.

The impact of using Harvard's units for affiliates will not be severe.

- About one-third of these units are already affiliates.
- About 13% house "protected" tenants.
- The change will occur gradually over many years.
- Harvard expects to accommodate some of the 3,000 students who now live off-campus in Cambridge.
- No tenants in good standing will be evicted to be replaced by affiliates.
- The alternative to affiliate use is open market-rate use, which would also entail neighborhood change.

Harvard will actively market these units to longer-term affiliates.

- Harvard will actively market buildings on Ware Street for longer-term tenants.
- Harvard will work with specific faculties, such as GSAS whose students typically stay for 7-10 years.
- In its housing brochures, Harvard will describe these buildings as targeted for longer-term tenants.
- Harvard will explore opportunities to use the brick and woodframe houses on Ware Street for faculty.



CITY OF CAMBRIDGE
COMMUNITY DEVELOPMENT DEPARTMENT

SUSAN B. SCHLESINGER
Assistant City Manager for
Community Development

ELIZABETH EPSTEIN
Deputy Director for
Community Development

MEMORANDUM

TO: Councilor Francis Duehay, Chairman
Council Housing and Community Development Committee

FROM: Susan Schlesinger, Assistant City Manager for Community
Development

DATE: June 19, 1996

RE: Harvard Housing Package

The Cambridge Community Development Department has worked closely with the City Council Housing and Community Development Committee over the past year to review and discuss the proposal for the future of Harvard-owned formerly rent-controlled properties.

The year-long process has produced significant results in the affordable housing package offered by Harvard University. Harvard submitted its initial proposal to the City on June 1, 1995. The original proposal offered to maintain affordability for ten percent (10%) of the portfolio, or approximately 70 units. Harvard offered to sell the City ten (10) units and retain ownership of sixty (60) units with affordable rents. The Committee met on October 12, 1995 to discuss the original Harvard offer.

Over the past year, Harvard has significantly increased the affordable housing package to include over 26% of the portfolio. Harvard now offers to sell one hundred (100) units and maintain affordability on an additional seventy-eight (78) units. This is an increase overall of one hundred and eight (108) units, and represents a substantial commitment on the part of Harvard to balance its own needs with those of the community.

Concerns have been raised related to the impact of affiliate residential use on the neighborhoods abutting Harvard. Harvard has proposed several measures designed to mitigate the impacts. These measures include a commitment to allow existing tenants in good standing to remain as tenants. Upon turnover of existing tenants, Harvard would rent units to affiliates. Harvard has committed to undertaking affirmative marketing of the units located at Prescott and Ware Streets

to longer-term affiliates. Harvard will agree to enter into longer-term leases in these properties. Finally, Harvard will attempt to use the smaller buildings on Ware Street for faculty housing.

CDD has looked at the proposal from the planning perspective, and the attached memo describes the various planning documents which relate to the proposal. In general, the current proposal is consistent with City planning policies.

Per your request, we are attaching the following materials for your review and consideration:

1. Copies of meeting minutes from the Joint Committee for Neighborhood-Harvard Consultation during which the Harvard Housing package was discussed;
2. Letter from the Law Department regarding the authority of the City to regulate Harvard's affiliate housing;
3. Memorandum from the Community Development Department regarding the City's planning policies applicability to the proposal; and,
4. Letter from Harvard University in response to issues raised by the Eviction Free Zone at the most recent Committee meeting.

Based on our review and analysis, the Community Development Department recommends that the Committee approve the proposal on the future of Harvard-owned formerly rent-controlled properties, and recommend approval by the full City Council.

We have enjoyed working together with the Committee on this matter. Please let me know if you require any additional information.

Enclosure



HARVARD PLANNING AND REAL ESTATE

June 6, 1996

Councilor Francis Duehay
City of Cambridge
795 Massachusetts Avenue
Cambridge, MA 02139

Dear Councilor Duehay,

Attached is the information you requested about Harvard's affiliates and the University's plans for housing them in its formerly rent-controlled buildings. The information that we have provided includes:

- Material summarizing Harvard's affordable housing package.
- Data describing the population currently residing in Harvard's affiliate housing as compared to the population expected to locate in the Prescott/Ware area.
- Responses to a variety of issues which have been raised regarding Harvard's plans for housing its affiliates.

As we have discussed in the past, Harvard believes that a portion of its formerly rent-controlled units can be used to accommodate Harvard affiliates in a manner that responds to neighborhood concerns about community stability and diversity. Under the housing proposal submitted to Council on May 16, the units that will eventually change to affiliate use are only about half of Harvard's formerly rent controlled portfolio, and this change will take effect gradually over many years.

Affiliates who will be accommodated within the Prescott/Ware area comprise a very different population than those now served by the majority of Harvard's existing affiliate housing, which is largely designed for and limited to students, and which primarily serves the schools with shorter programs. In the Prescott/Ware area, we will market units to faculty, staff, and to students of the Graduate School of Arts and Sciences, who typically stay at Harvard for 7 to 10 years. These longer-term affiliates are more appropriately housed in a neighborhood setting and are most likely to benefit from and contribute to a stable community.

We hope that this information will be useful in your consideration of our affordable housing proposal.

Sincerely,

Kathy Spiegelman
Associate Vice President for Planning and Real Estate

Enclosures

cc: Members of the Housing and Community Development Committee of the City Council

SUMMARY OF HARVARD HOUSING PROPOSAL

- A. The long-term continuation of below-market rents for 78 currently "protected" households for as long as those households remain qualified based on existing income criteria.

The University will voluntarily continue protections (which have been temporarily afforded by state law) to its existing tenants that qualify for such protection based on income, age or disability guidelines. This will provide below-market rents for 78 tenants of Harvard-owned units for as long as such tenants continue to qualify based on existing income criteria as monitored by Harvard. If buildings are sold in the open market, protected tenants may need to relocate to other Harvard-owned apartments. The City will agree to tax these units based on their below-market rental, or alternatively Harvard will adjust its PILOT payments to account for any over-assessment of these 78 units.

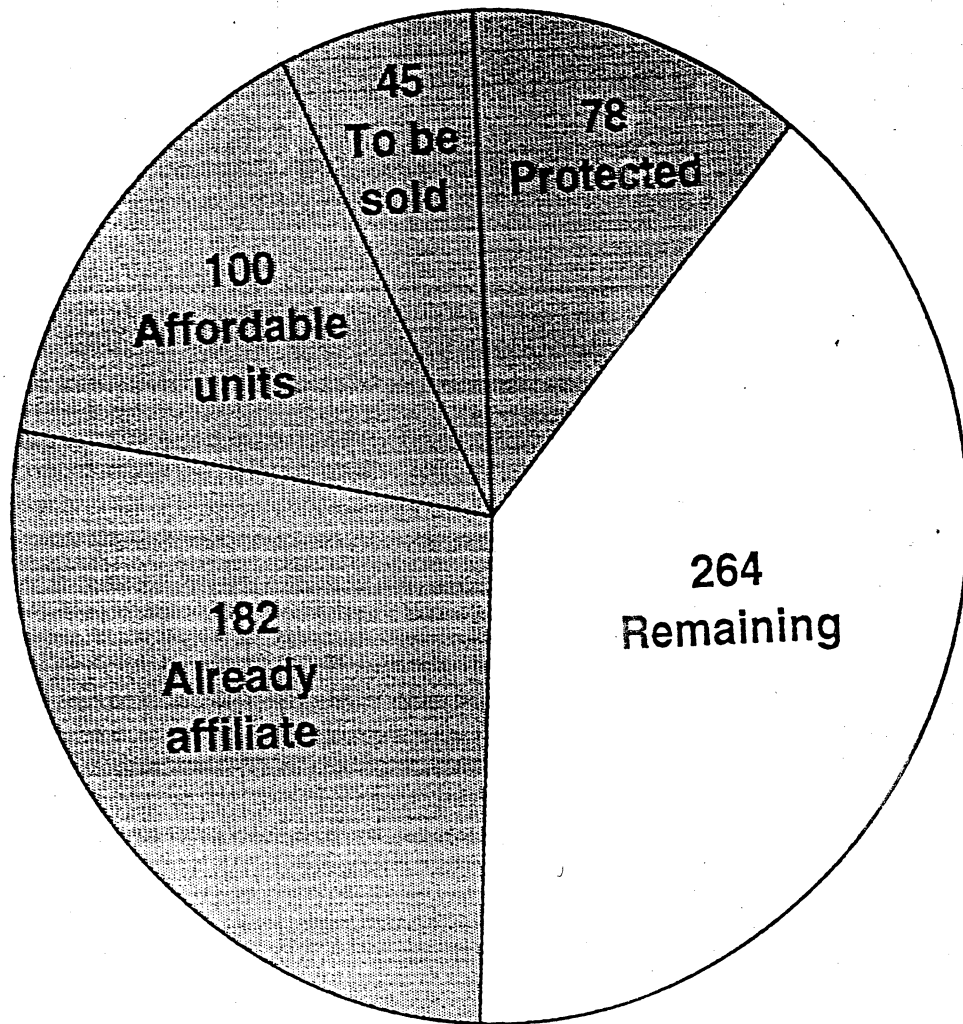
- B. The sale of 100 apartment units of Harvard-owned housing to the City (or to a City-designated non-profit agency) at below-market prices for the creation of permanent affordable housing (together, items A and B allocate more than 26% of Harvard's overall formerly rent-controlled portfolio to use as affordable housing).

Harvard University will offer 100 housing units for low-cost sale to the City (or to a City-designated non-profit housing agency) for the creation of permanent affordable housing in Cambridge. The total price for the 100 units will be \$3,155,200, or less than \$32,000 per unit, a significant discount from market value.

The properties will be sold as-is and with restrictions requiring continued affordability. These units will be targeted for use as rental housing for households earning roughly 60% of median income.

The properties that comprise this program have been selected to include a mix of unit sizes and building types, and include wood frame houses as well as several large brick apartment buildings. The package includes buildings located in the Agassiz, Riverside, And Mid-Cambridge neighborhoods. The following table describes the distribution of these units by location and by type:

BREAKDOWN OF HARVARD'S FORMERLY RENT-CONTROLLED UNITS



PROFILE OF HARVARD AFFILIATES

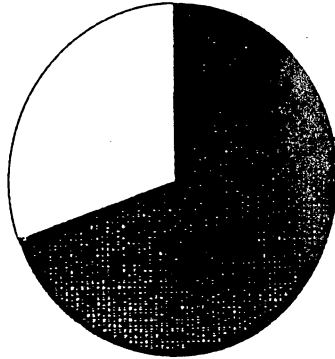
- In Harvard's affiliate housing in general, about 20% of tenants stay more than two years, but in the buildings in Cambridge that are open to all affiliates, over 50% stay more than two years.
- While faculty and staff comprise 7% of the occupants of Harvard's affiliate housing in general, they comprise 30% of the occupants in buildings in Cambridge open to all affiliates.

	<u>All Buildings</u>	<u>Cambridge bldgs. open to all affiliates</u>
Students:	93%	70%
Faculty:	5%	21%
Staff:	2%	9%

- Approximately 50% of tenants in Harvard's affiliate housing are married.
- Approximately 15% of households in affiliate housing include children.
- Between Prescott and Ware, Harvard expects to house a concentration of Graduate School of Arts and Sciences (GSAS) students.
 - GSAS accounts for 31% of the University's graduate school population, but only 13% of the population in Harvard's affiliate housing.
 - GSAS comprises a total of about 3,150 students
 - 85% stay an average of 7 to 10 years
 - Approximately 1,700 live in Cambridge
 - Approximately 800 are housed in University dorms and affiliate housing
 - Over 900 live in other Cambridge housing

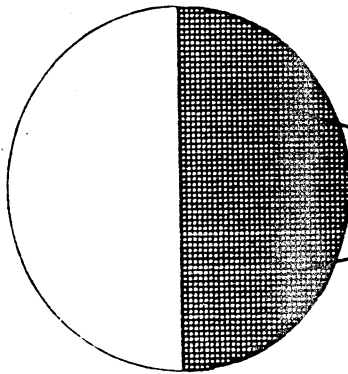
FORMERLY RENT-CONTROLLED UNITS IN THE PRESCOTT/WARE AREA

The surrounding area is already transient



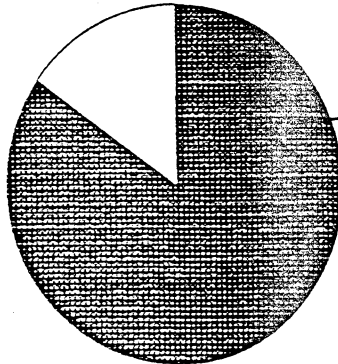
70% of households in the census block stay less than 5 years

About half of Harvard's units will experience minimal change

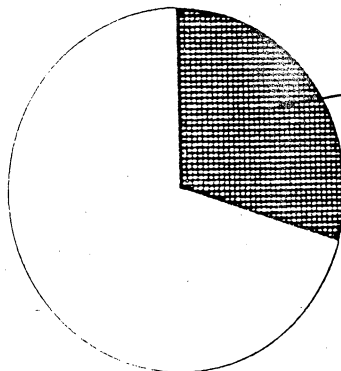


13% protected tenants
37% already affiliate

Harvard will target long-term tenants for the area



85% of GSAS students typically stay 7 - 10 years



Faculty and staff comprise 30% of Harvard's tenants in Cambridge buildings open to all affiliates

Building	Total Number of Units	Studio Units	1 Bedrm Units	2 Bedrm Units	3 Bedrm Units
50-52 Trowbridge St.	35	1	33	1	
64 Oxford St.	17	9		8	
9-19 Sacramento St.	19	1	15	3	
23 Wendell St.	3		2	1	
25 Wendell St.	3				3
84 Wendell Street	6			2	4
22-24 Flagg St.	5		4		1
23-25 Athens St.	6			6	
27-29 Athens St.	6			6	
TOTAL	100	11	54	27	8

C. A recognition of Harvard's ability to use the remaining units to house Harvard affiliates.

In addition to protecting existing tenants, and transferring buildings to the City to create permanently affordable housing, and encouraging home ownership by tenants and local residents, the University must also ensure that its resources are used to support its teaching and research mission. In the case of Harvard's formerly rent-controlled properties, such support will be realized as the University uses the remain units to house Harvard affiliates.

These affiliates are comprised of an extremely diverse population of faculty and graduate students, a significant proportion of which would otherwise be expected to reside elsewhere in Cambridge. It should be noted that approximately 3,000 affiliates currently live off-campus in Cambridge, and that about 25% of Harvard's formerly rent-controlled units are already occupied by such affiliates. The City will need to recognize the University's right to use its remaining units to house its affiliates and agree not to impede such use.

HARVARD UNIVERSITY'S AFFORDABLE / AFFILIATE HOUSING PROGRAM

Harvard's plan for its formerly rent-controlled housing seeks to make use of this property resource in ways which meet the institution's needs while being mindful of the needs of existing tenants and the broader objectives for affordable housing in the community. Affordable housing can never substitute for our teaching and research mission; the provision of such housing must therefore be compatible with our institutional responsibilities. It is only by balancing the educational mission with a sense of responsibility as an owner of residential property that we were able to craft this affiliate and affordable housing program.

PROTECTION	<i>To assist existing tenants of these units who are low income:</i> The long term continuation of below-market rents for 78 currently protected households for as long as those households remain qualified based on existing income criteria.
AFFORDABLE UNITS	<i>To participate in the City's efforts to identify units for long-term affordability:</i> The sale of 100 apartment units of Harvard-owned housing to the City (or to a City-designated non-profit agency) at a fraction of market value for the creation of permanent affordable housing.
DIVERSE STOCK	<i>To provide units diverse in terms of location, size & type:</i> The creation of permanent affordable housing units in a number of adjoining neighborhoods, in both smaller woodframe and larger brick buildings, and including unit sizes which can accommodate single persons as well as families.
STABILITY	<i>To assist our other tenants:</i> For existing tenants who do not qualify for protection, gradual transition to market rents and no eviction of tenants in good standing.
PRIVATE OWNERSHIP	<i>To return some units to non-institutional ownership:</i> The gradual sale of some units in the private market.
MISSION	<i>To provide for the housing needs of University affiliates:</i> A recognition by the City of Harvard's ability to use the remaining units to house affiliates.

This program is the culmination of an entirely voluntary process undertaken by Harvard involving months of consultation with tenants, neighbors, affordable housing advocates, City officials and our own internal constituents. Today any provision of affordable housing is almost always of limited duration; thus the establishment of 100 units of permanently affordable housing and the protection of 78 additional households for as long as the remain eligible is a notable achievement.

The University seeks a partnership with the City. We want to be the first landlord to offer such permanent affordable housing stock and long-term protections, and we want to demonstrate the possibility of working together now and in the future.

City of Cambridge

The Housing and Community Development Committee held a public meeting on June 19, 1996 beginning at 3:50 p.m. in the Ackermann Room for the purpose of considering a proposal for preserving affordability in Harvard's previously rent-controlled units.

Present at the hearing were Councillor Francis H. Duehay, Chair of the Committee, Vice Mayor Kathleen L. Born, Councillor Henrietta Davis, Councillor Anthony D. Galluccio, Councillor Kenneth E. Reeves and City Clerk D. Margaret Drury. Also present were Robert W. Healy, City Manager; Donald Drisdell, Deputy City Solicitor; Susan Schlesinger, Assistant City Manager for Community Development; and Vali Buland, Law Department.

Councillor Duehay convened the hearing and explained the purpose. He noted that the Committee will consider the draft of a report to the full Council and an accompanying order. He summarized the materials which have been prepared for distribution. (Attachments A-C). He stated that copies of the minutes of the Joint Committee for Neighborhood-Harvard Consultation, dating back to January, 1995, are available for the Committee to look at and are on file at the office of the City Clerk.

Councillor Duehay stated that the purpose of this meeting is to consider the draft report and proposed order. He noted that Robert W. Healy, Susan Schlesinger and staff members are here to answer questions, along with Kathy Spiegelman, Associate Vice President for Planning and Real Estate, Harvard University. Councillor Duehay then stated that Harvard's proposal is less than what the City Council had agreed that it was looking for; however, the City has few legal handles in this matter and he believes that it is unlikely that more is achievable.

Councillor Galluccio thanked Councillor Duehay for allowing another week for Committee consideration. He stated that the proposal is an excellent one; the best deal that he sees on the table. He is excited about the deal.

Councillor Reeves asked about the number of units.

Councillor Duehay said that there were about 700 when the process started; now there are 669.

Councillor Reeves asked how many units are presently occupied by affiliates. Ms. Spiegelman said that one-third are occupied by affiliates now. One hundred and eighty-two are being occupied by affiliates. Ms. Spiegelman gave a breakdown of Harvard's portfolio and its plan for them: one hundred would go to the City, forty five would be sold on the open market, seventy eight are occupied by protected tenants and would continue to be rented to them at affordable rents. That leaves two hundred and sixty-four units that would be targeted to affiliates upon turnover.

A communication was received from D. Margaret Drury, City Clerk transmitting a report from Councillor Duehay, Chair, Housing and Community Development Committee, on a proposal for preserving affordability in Harvard's previously rent-controlled units, and including reports for meetings held on June 12, 1996 and June 19, 1996.

In City Council June 12, 1996

*Report Accepted. Placed on file.
Order Adopted as amended by
an affirmative vote of nine
members.*