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THE COMMONWEALTH OF MASSACHUSETTS

CAMBRIDGE MA.

In the Year One Thousand Nine Hundred and Ninety

AN ACT REGULATING CONDOMINIUM CONVERSION AND OTHER REMOVALS OF CONTROLLED RENTAL UNITS IN THE CITY OF CAMBRIDGE.

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

SECTION 1. The General Court finds and declares that:

(a) In order to meet the serious public emergency that continues to exist in the City of Cambridge with respect to the housing of a substantial number of its citizens, it is necessary to regulate the removal of controlled rental housing units from the market.

(b) The city's existing powers to regulate such removals pursuant to Chapter 36 of the Acts of 1976, as amended, have proven inadequate, and many such units continue to be removed from rent control.

(c) Since the November 20, 1989 Steinbergh v. Cambridge Rent Control Board decision, 406 Mass. 147 (1989), hundreds of individual condominium units have been transferred or sold thereby creating a substantial risk of the removal of controlled rental housing units from the rental market.

(d) In order to regulate such removals effectively, it is necessary to regulate the sale of condominium units by the owners of rent controlled buildings, for the reasons stated in the Report of the Cambridge City Council Committee on Rent Control dated May 28, 1981.

(e) In order to regulate such removals effectively, it is also necessary for the City of Cambridge to have the additional powers conferred by Section 3 of this Act.

SECTION 2. In the City of Cambridge, no owner of a building for which a condominium master deed has been recorded shall, directly or indirectly, sell, offer for sale, or agree to sell any controlled rental unit therein, unless the board has granted a removal permit for that unit, or unless the sale or offer is to, or the agreement is with, a current tenant of the unit who holds an exemption certificate. The board shall issue an exemption certificate to any person who files with it an affidavit in a form prescribed by the board,

stating that he is a current tenant of the unit, that he occupied it as a tenant before August 10, 1979, and that he intends in good faith to occupy it indefinitely as its owner. Nothing in this act shall prevent an owner of a building or any portion thereof from conveying his entire interest in the building in good faith to one purchaser, who shall then be subject to the provisions of this act to the same extent as the original owner.

SECTION 3. (a) Notwithstanding the provisions of any general or special law to the contrary, including without limitation, the provisions of General Laws chapters one hundred and fifty-six B, one hundred and fifty-seven, and one hundred and eighty-three A, the City of Cambridge may, by ordinance, further regulate and control the removal of controlled rental units from the rental housing market, the reduction in the total number of controlled rental units in a building, structure or part thereof, or the change in form of ownership of a building, structure or part thereof containing controlled rental units. Such regulations and controls may include, but are not limited to, the authority to:

(i) require that no person shall remove a controlled rental unit from rental housing use without first obtaining a removal permit from the rent control board. Such permit may be subject to terms and conditions not inconsistent with the purposes and provisions of this act;

(ii) require that no person shall convert a controlled rental unit to a condominium or cooperative without first obtaining a removal permit for that purpose from the rent control board. "Convert" shall include recording a master deed pursuant to the provisions of chapter one hundred and eighty-three A of the General Laws or filing articles of organization pursuant to chapters one hundred and fifty-six B or one hundred and fifty-seven of the General Laws, or advertising, offering for sale or selling a unit as a condominium or cooperative unit.

(iii) regulate evictions relating to the conversion of a controlled rental unit to a condominium or to a cooperative subject to such terms and conditions not inconsistent with the purposes and provisions of this act.

(b) Any hearings regarding matters related to removal permits or evictions shall be conducted by the board in accordance with the provisions of section five of Chapter 36 of the Acts of 1976, as amended.

SECTION 4. Section 9(a) of Chapter 36 of the Acts of 1976 is hereby amended by deleting subsection (8) thereof and by substituting the following:

(8) the landlord seeks to recover possession in good faith for use and occupancy of himself, or his children, parents, brother, sister, father-in-law, mother-in-law, son-in-law, or daughter-in-law; except that no action shall be brought under this clause to recover possession from a tenant who is sixty years of age or older and who occupied the unit continuously since before the recording of the master deed, or to recover possession of a condominium unit subject to chapter 8.44 of the Cambridge Municipal Code.

SECTION 5. Violation of any provision of this act, or of any ordinance or regulation adopted hereunder, shall constitute a violation of Chapter 36 of the Acts of 1976, as amended. In addition, the board or any person aggrieved by a violation of this act or any such ordinance or regulation may enforce its provisions in a civil action for damages or for declaratory or injunctive relief.

SECTION 6. The City of Cambridge may adopt ordinances, and the board may adopt regulations, to carry out the purposes of this act.

SECTION 7. Any person who is aggrieved by any action, regulation or order of the board may appeal or file a complaint pursuant to Section 10 of Chapter 36 of the Acts of 1976, as amended, unless otherwise defined in this act.

SECTION 8. The provisions of this act shall not apply to any building containing six or fewer units that has been occupied continuously, from on and after January 1, 1970 until January 1, 1990, by the owner of record as of January 1, 1970 or a member of that owner of record's family provided that any one family in the City of Cambridge may obtain this exemption for only one building and provided that any family seeking to avail itself of this exemption swears by affidavit, under oath, that it owns or has a beneficial interest in only one building containing rent controlled units in the City of Cambridge.

For the purposes of this section, "owner of record" shall mean any owner as of January 1, 1970 named on the deed recorded at the Middlesex Registry of Deeds for the building for which this exemption is sought provided that the owner of record is an individual and not a corporate, trust or other business entity. This exemption shall not be available to corporations, trusts or other business entities.

For the purposes of this section, "family" shall mean an individual, an individual's spouse, parents, children, brother, sister, grandchildren, great

grandchildren, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law or daughter-in-law.

For the purpose of this section, "continuous occupancy" shall mean the continuous physical residence by the owner of record as of January 1, 1970 or a family member of that owner of record of the building from on and after January 1, 1970 until January 1, 1990. The exemption shall not apply to any building that was not occupied by the owner of record as of January 1, 1970 or a family member of that owner of record for a period of more than twelve months, in the aggregate, between January 1, 1970 and January 1, 1990; and, in no event, shall the exemption apply to any building that remained unoccupied by the owner of record as of January 1, 1970 or a family member for any period of time where a tenant broke the chain of continued occupancy by the owner of record or a family member.

SECTION 9. The City of Cambridge, in consultation with organizations representing owners of rent controlled properties in Cambridge, rent controlled tenants and other interested parties, shall examine and consider the following rent control issues, particularly as they affect so-called small owners of rent controlled properties in Cambridge: (1) whether the capital improvement rent adjustment procedure, set forth in regulation 75 of the Cambridge Rent Board, operates fairly; (2) whether the fair base rent formula, set forth in regulation 75-02 of the Cambridge Rent Board, should be updated to provide for new minimum rents; (3) whether, under what circumstances and to what degree, owners of rent controlled properties should be allowed to pass along increases in property taxes, water and sewer fees and pass along increases in property insurance costs to tenants; (4) whether the allowable management fee for owner-occupiers of rent controlled properties should be increased; (5) whether prospective employees and hearing officers of the Cambridge Rent Control Board should be prohibited from owning or leasing rent controlled property in the City of Cambridge. The City of Cambridge shall examine and consider these issues and any other issues it deems relevant to the administration and enforcement of rent control, particularly as relates to the availability of decent and affordable housing for low and moderate income tenants and the problems experienced by so-called small property owners of rent controlled property who owner-occupy their property and are not actively engaged in the business of owning and renting property; and shall make findings of fact and prepare recommendations, based upon the findings, and transmit

both the findings and the recommendations to the Joint Committee On Local Affairs, not later than July 1, 1991.

SECTION 10. If any section or any provision of any section of this act or the application of such section or any such provision of any such section to any person or circumstance shall be held invalid, the validity of the remainder of the act and the applicability of such section or such provision of such section to other persons or circumstances shall not be affected thereby; provided also that nothing herein shall be construed to limit the authority of the city and the rent control board to regulate removal of controlled rental units as previously judicially determined.

SECTION 11. This act shall take effect upon its passage.

House of Representatives, May 30, 1990.

Passed to be enacted, *George Luernian*, Speaker.

In Senate, May 31, 1990.

Passed to be enacted, *William W. Bulger*, President.

June 6, 1990.

Approved,

at Four o'clock and 20 minutes, P. M.

William W. Bulger
Governor.

4. 650

Comm. from City Clerk transmitting a
copy of Chapter 52 of the Acts of 1990
the same being AN ACT REGULATING
CONDOMINIUM CONVERSION AND OTHER REMOVALS
OF CONTROLLED RENTAL UNITS IN THE CITY OF
CAMBRIDGE.

In City Council,

June 25, 1990

Placed on file