



City of Cambridge

Committee Report #1

IN CITY COUNCIL

January 13, 1997

COUNCILLOR DUEHAY
VICE MAYOR BORN
COUNCILLOR DAVIS
COUNCILLOR GALLUCCIO
COUNCILLOR REEVES

ORDERED: That the City Council hereby accepts the recommendation of the Housing and Community Development Committee to recommend, approve, and request that the City Manager fund the plan for housing and case management services presented to the Committee at its January 8, 1997 meeting.

In City Council January 13, 1997
Adopted by the affirmative vote of nine members.
Attest:- D. Margaret Drury, City Clerk.

A true copy:

A handwritten signature in black ink that reads "D. Margaret Drury". The signature is written in a cursive style and is positioned over a dark, rectangular stamp or seal.

ATTEST:-

D. Margaret Drury
City Clerk

City of Cambridge

The Housing and Community Development Committee held a public meeting on January 8, 1997, beginning at 4:28 p.m. in the Ackermann Room for the purpose of continuing its recessed public meeting of December 2, 1996 to discuss housing issues including efforts to assist tenants who have lost their protected tenant status, expiring use legislation, real estate tax possibilities, an update on the Harvard housing transfer and other business.

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, Mayor Sheila T. Russell, Councillor Michael A. Sullivan, Councillor Timothy J. Toomey, Jr., Councillor Katherine Triantafillou, and City Clerk D. Margaret Drury. Also present were Robert W. Healy, City Manager; Susan Schlesinger, Assistant City Manager for Community Development; Jill Herold, Assistant City Manager for Human Services; Ellen Semonoff, Deputy Director of Human Services; Roger Herzog, Housing Director, Community Development Department; Donald Drisdell, Deputy City Solicitor; and Vali Buland, Legal Counsel.

Councillor Duehay convened the hearing and explained the purpose. He distributed copies of a summary of options presented at the December 2, 1996 meeting. Attachment 1.

Councillor Duehay began with the first item on Attachment 1; housing case management for protected tenants. He asked Mr. Healy whether he was recommending this item. Mr. Healy said that he is recommending this as a short term measure. Mr. Healy stated that some case management has been done already.

Councillor Anthony Galluccio asked how much has been done. Ms. Susan Schlesinger, Assistant City Manager, Community Development Department, described what has happened. Attempts were made to contact by telephone all protected elderly tenants but not families and disabled tenants. Ms. Schlesinger stated that up to three phone calls were made to all elderly tenants and of the 330 elderly for whom contact was attempted, 120 were spoken to. Ms. Schlesinger stated that communication with other protected tenants has been by mail over the two years since the end of rent control.

Vice Mayor Born said that the case management services need to be more than have already been done.

Councillor Galluccio presented his idea of case management. He said that case management must be done by someone who can work diplomatically with landlords.

Ellen Semonoff, Deputy Director, Department of Human Resources (DHS) described the additional services that the Department of Human Resources housing case management would be able to offer.

City of Cambridge

Vice Mayor Born asked whether these services would include any advocacy services. Ms. Semonoff said that legal representation would not be within the scope of services, but other advocacy, for example advocacy of the tenant's case to the landlord is done in the DHS case management services for the homeless and would be done for these protected tenant cases.

Vice Mayor Born asked about the funding. Mr. Healy said that the staffing would be two case managers and an aide, with budget of approximately \$70,000 plus benefits for a total cost of about \$85,000. The estimates for an accompanying emergency short term fund would be about \$250,000.

Councillor Michael Sullivan said that he does not see this as a one year program because the housing problem is not a one-year program. He questioned whether it would be better to develop the expertise and have it available for more than a year. Mr. Healy said that if the protected tenants are helped to find housing this year, he would expect less need next year.

Councillor Galluccio asked about emergency subsidy funds. Jill Herold, Assistant City Manager for Human Services, said that the homelessness services currently have this emergency short term fund, and it works quite well.

Councillor Duehay asked if it was the sense of the Committee to recommend that the Council recommend and approve housing case management funds; and it was agreed upon unanimously.

Councillor Galluccio said that he was not sure that the \$250,000 fund would be enough. Mr. Healy noted that the scope of services would be continued services for the elderly, and services for families and disabled protected tenants.

Councillor Sullivan asked what the funding mechanism would be. Mr. Healy responded that it would come from the reserve fund balance.

Vice Mayor Born asked whether the reserve fund could be reimbursed if the transfer tax is enacted. Mr. Healy said that he doubted that this would end up being a use of transfer tax funds.

Councillor Duehay asked the Committee whether they wished to recommend this proposal to the full City Council and the Committee responded in the affirmative.

Councillor Duehay then moved on to property tax incentives for owners who keep rents affordable for low income tenants. He noted that it would take legislative approval and would probably need a very solid vote of the City Council.

Mr. Healy distributed a memorandum from Susan Schlesinger to Mr. Healy dated January 7, 1997. Attachment 2.

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Councillor Henrietta Davis asked what criteria an owner would have to meet to receive the tax benefit. Mr. Healy explained the existing state law, with the requirement for taxing at full and fair value. The City would like to find a way not to drive rents up through its taxing policies. Mr. Donald Drisdell, Deputy City Solicitor, City of Cambridge, noted that there are many legal obstacles. It is not clear that it could be done by home rule petition; it may take a legislative special act, and even with a special act, the requirements of state tax law will be technical and quite burdensome to property owners. Councillor Davis said that it does not sound like a workable option to her.

Councillor Galluccio stated that landlords are probably most interested in a subsidy, but landlords want to and need to be involved in this area. Landlords often want to be helpful, but they have lawyers who advise them not to make binding agreements that sacrifice valuable property rights. Requiring landlords to sign binding agreements is problematic.

Vice Mayor Born asked what kind of revenue loss this would mean for the city. Mr. Healy said that with this matter, the city is in unchartered water. Ms. Schlesinger pointed out the similarity of principle with the 121A agreement.

Councillor Sullivan asked what happens with housing rehab loans. Mr. Healy said that in this situation, the property owner has signed a long term deed restriction and this can be taken into account in the assessment.

Councillor Sullivan asked if the tax break could be structured into the assessment process. Mr. Healy said that the problem is that landlords do not want to sign written agreements.

Councillor Sullivan asked whether five year leases could qualify for reduced assessments. Mr. Drisdell said that there are some five year binding commitments that could qualify for reduced assessments.

Councillor Duehay asked whether the Committee wants the City Manager to continue to work on developing this option.

Councillor Sullivan asked Mr. Healy whether adding this to an assortment going to the legislature makes it more difficult to get legislative approval of other parts. Mr. Healy said that if additional research shows that a general law would be required, then he would want to re-think recommending it.

Vice Mayor Born said that it is a good symbolic gesture but that she is not sure that it is a productive way to spend staff time.

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Councillor Galluccio stated that it is not that complicated and it is important to send a message of support for property owners, and to show that Cambridge is looking at the issue from many angles.

Councillor Duehay suggested holding this until later in the discussion. Councillor Duehay then moved to discuss outreach to the large property owners. Mr. Healy summarized the material presented in Attachment 2, and noted that this memorandum is also a response to Awaiting Report Numbers Twenty-One and Twenty-Six on the January 6, 1997 agenda.

Councillor Duehay asked whether these landlords had indicated that they are willing to consider individual circumstances. Mr. Healy said that these property owners have said that they will take individual hardship into account.

Councillor Duehay said that property owners may say one thing to the City Manager and something quite different to a case manager. Ms. Schlesinger said that if there is a pattern of this, case management will pick it up and refer it to the City Manager.

Ms. Schlesinger noted the Beal proposal to set aside 36 units at Walden Park as affordable housing in exchange for settling the litigation. The 36 protected tenants there now would be protected. In addition, as these tenants move out, 36 units would continue to be affordable.

Councillor Triantafillou said that she is surprised that no other landlord would be willing to set aside units for permanent affordability.

Councillor Galluccio asked if there were other buildings for which zoning litigation would be useful. Ms. Schlesinger said that depending on what happens with the expiring use buildings, zoning litigation may become important.

Councillor Duehay suggested that the Committee refer the Beal offer to the full City Council with a recommendation that it be discussed in executive session. The Committee so voted.

Councillor Duehay then moved to the category of proposed real estate fees and regulations.

Mayor Russell suggested that the Committee recommend inclusionary zoning. Councillor Duehay asked for a recommendation from Susan Schlesinger as to the percentage that she would recommend. Ms. Schlesinger said that she would prefer to see a lower percentage spread across a larger number of buildings.

City of Cambridge

Councillor Sullivan requested further details, including numbers. Ms. Schlesinger said that one way to do incentive zoning is to give a significant density bonus for making units affordable. Another way is to require that for all residential projects of more than X units, there be a requirement of a certain percentage of affordable units. North Point has a requirement that 7.5% or a total of thirty-three units be affordable.

Councillor Sullivan asked what is the downside. Ms. Schlesinger said that with the lower number of units, there is not much of a downside.

Mr. Healy said that if there were to be a downside, it would be in the smallest projects.

Councillor Sullivan asked if there could be a combination of both, so that in certain areas if the density bonus makes more sense, it is used. Ms. Schlesinger said they could look at this, although it might be a problem to make lot by lot determinations.

Councillor Duehay noted that there was general approval in the Committee for incentive zoning, and the Committee would recommend that this matter be further developed for Council consideration and approval.

Councillor Duehay then moved to the draft ordinance for condominium conversion protection, Attachment 3. He requested that Vali Buland, Law Department, explain the draft.

In response to a question from Mayor Russell, Ms. Buland stated that the proposed ordinance is not at all similar to the removal permit ordinance. It is based on the state law protection already in effect. The draft points out and leaves blanks in areas where the City Council may want somewhat different provisions from the existing law. She noted that enactment would require six Council votes.

Ms. Schlesinger said that one of the advantages of a local ordinance is the possibility of better local enforcement.

Councillor Reeves asked what possible extension of years would be feasible.

Councillor Sullivan pointed out that the state law creates a right for a tenant to seek a criminal complaint in district court, which means that it is the District Attorney who enforces it.

Councillor Sullivan asked what other cities and towns have exercised local authority. Mr. Drisdell said that a number of cities have exercised this option.

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Councillor Sullivan asked whether the statutory time has already run for someone who filed a master deed two years ago. Vali Buland said that she believes the time of protection is triggered by the intent to sell. So if someone filed a master deed but did nothing, the time would not start until there was a manifestation of an intent to convert.

In response to a question from Vice Mayor Born, Don Drisdell stated that the Law Department's analysis is that based on language in recent court cases, the ban of condo conversion based on a vacancy rate would face significant legal difficulties.

Councillor Galluccio said that he would like additional information on the number of condo conversions since the end of rent control and he would like to know what other communities have done.

Councillor Reeves asked for clarification of the relocation provisions. He then asked whether there is any difference between the way ordinated and non-ordinated condos are treated, and Ms. Buland responded that the law makes no distinction.

Councillor Duehay then requested that the Committee consider the blanks in the proposed ordinance. He asked Mr. Drisdell to the first area, the years of notice required, page 5. Mr. Drisdell said that there is no black and white or clear indication; however, in light of the recent housing events in the city, he does not see a problem with doubling the years in the present law.

Councillor Galluccio said that he is concerned with protecting tenant opportunity for ownership, and he believes this law may negatively impact that because it is a disincentive for condo conversions. A lot of former tenants have bought condos; he is not sure that this should be foreclosed. It was agreed without objection that this matter will remain in committee pending more information and further discussion.

Councillor Reeves said that he believes there should be notice to the organized property owners for the next meeting.

Councillor Duehay said that he will request that the City Clerk poll the Committee members to set up the next meeting.

The meeting was adjourned at 6:40 p.m.

For the Committee,



Councillor Francis H. Duehay

Chair

City of Cambridge

HOUSING AND COMMUNITY DEVELOPMENT COMMITTEE MEETING

DECEMBER 2, 1996

Community Development Department - Options Presented

Housing case management for protected tenants.

Property tax incentives for property owners - tax exemption requires legislative approval

Outreach to large property owners.

Priority for protected tenants in tenant selection for publicly assisted housing.

Proposed real estate fees and regulations

- Real estate transfer fee.

- Condominium conversion fee.

- Condominium conversion ordinance.

- Inclusionary zoning.

Bond issue of \$20 million to support increased affordable housing stock.

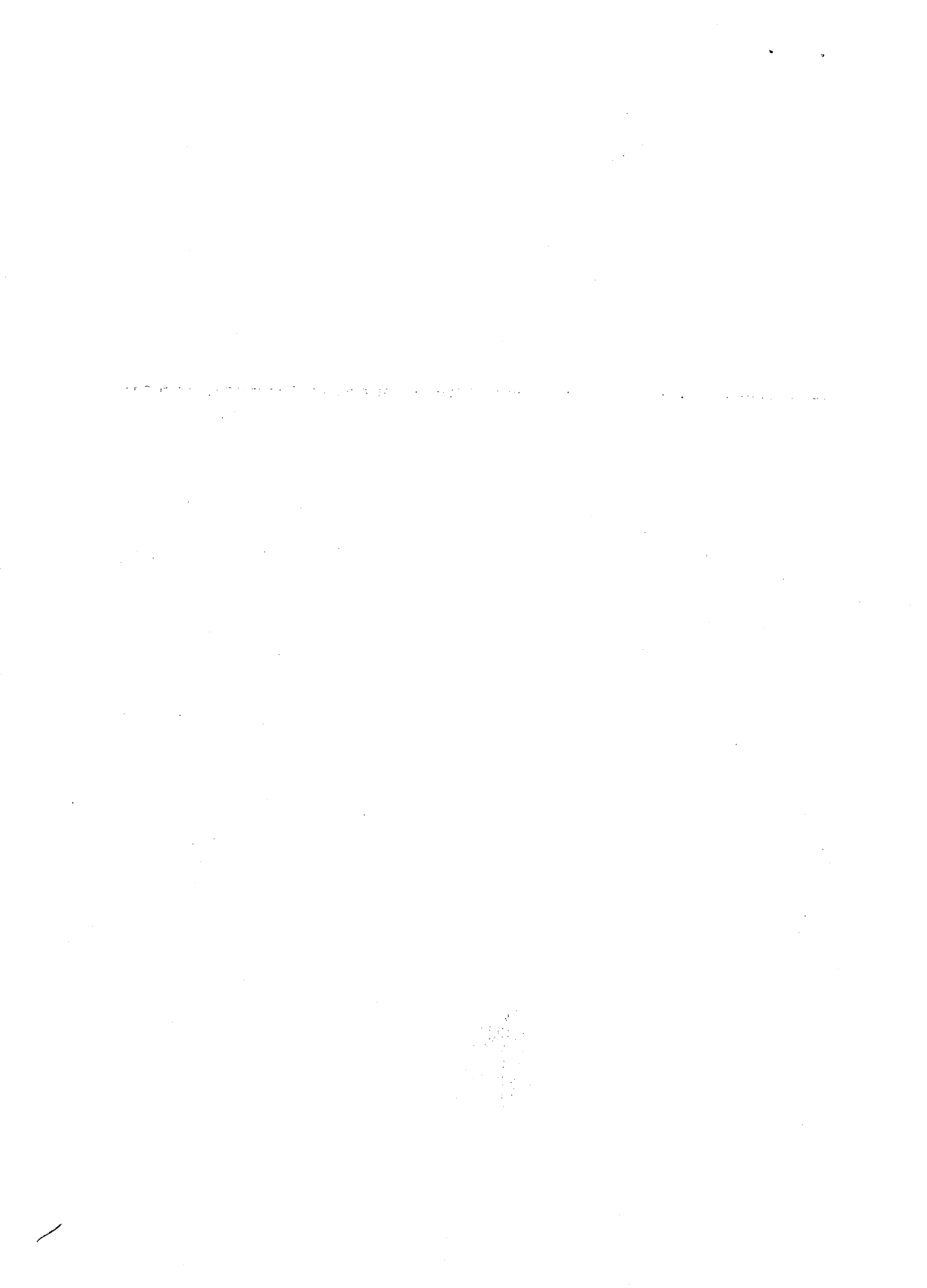
Campaign to Save 2000 Homes

Focus on the 1500 means-tested households that received protected status and the 550 Sec. 8 tenants in formerly rent controlled buildings. Goal: All 2000 households should be able to stay in their homes if they wish.

Limited rental subsidies to provide a "sweetener" for landlords who agree to do what Harvard did. E.g., \$50 per month subsidy on top of capped 5% rent increases, with perhaps somewhat larger subsidy to smaller owners. Projected cost: \$1 million.

Transfer tax (use to finance subsidies).

Condominium ordinance.



Implement funding for Legal Services and a public housing organizer.

Seek home rule authority to continue protected status.

Ten Million Dollar Plan for Affordable Housing

This plan would direct all of the revenue from the Rent Control Board budget, increased tax revenues from formerly rent controlled buildings and a transfer tax for 10 years to programs that directly address the housing crisis. Until these revenues are fully realized at the amount of Malawian per year, the possibility of using other sources of City money (including free cash) should be explored.

At least 75% of this additional revenue should be expended for permanently affordable housing for working class households through limited equity condo/coop purchases and nonprofit purchases of multi-family buildings. Goal: Making 275 units of permanently affordable housing per year.

Limit any rental assistance to the transition period to condo/coop ownership or nonprofit ownership and to subsidies for very low income tenants incapable of being part of these new formations without financial help.

Designate \$35,000 of this revenue for a Public Housing Tenant Liaison/Coordinator to address federal and state cutbacks.

Listed criteria to determine priority for use of the 75% of the revenue: need, building where tenants have already started discussing future plans for their building, other city priorities such as purchase of Harvard properties and high risk buildings, cost of unit purchase, need to preserve housing for long-term residents.

Explore most basic level of rehab required and use of sweat equity.

Additional Suggestions Offered During Public Comment 12/2/96

Short-term subsidy program under a case management approach. Skip Schloming

Increase amount of funds approved for Legal Services and disburse them.

More investment in other community stabilization efforts, including health care, job training and education.

City Council support for housing at the neighborhood level even where there is some political opposition.

Favorable publicity for landlords who voluntarily limit rent increases for protected tenants (if they want it).

City should contact landlords for all protected tenants, not just the elderly.

Speed up the Harvard transfer and do the rehab as quickly as possible, fund overtime work if necessary.

Apply hotel tax to units being rented on a short-term basis to executives.

Offer increased community support to the tenants in need.



CITY OF CAMBRIDGE
COMMUNITY DEVELOPMENT DEPARTMENT

2

SUSAN B. SCHLESINGER
Assistant City Manager for
Community Development

ELIZABETH EPSTEIN
Deputy Director for
Community Development

To: Robert W. Healy,
City Manager

From: Susan Schlesinger *SS*
Assistant City Manager for Community Development

Re: Meetings with Property Owners

Date: January 7, 1997

Over the last month, we have contacted representatives of nine large, rental housing property owners. These property owners were selected on the basis of having a significant number (over 20) of protected tenants living in their buildings. We requested general information from the owners about the specific number of protected tenants in their buildings, plans for rent increases and any particular efforts they were making to keep rents affordable for lower income tenants. In addition, we discussed the possibility of a set-aside or sale of units targeted for long term affordability similar to the Harvard deal and requested owners to mitigate rent increases that might cause displacement, particularly for low and moderate income households.

We also discussed the possibility of adopting other City policies designed to maintain affordability, including a tax incentive for owners who keep rents lower than market rate and a city funded rental subsidy program for all or a subset of protected tenants. One large property owner was extremely enthusiastic about a City funded rental subsidy; other owners did not seem to feel that a city rental subsidy was a prerequisite for moderating rent increases to protected tenants. Although owners appreciated the City's willingness to consider a tax abatement, they had questions about the value of the abatement versus the complexity of the process to obtain one.

In general, owners stated they either already had or were planning to contact protected tenants and were willing to negotiate rent increases at levels lower than in other units. Owners seem, in general, to be moving rents towards market in a phased manner that would prevent significant vacancies. Most owners, while open to making individual arrangements with protected tenants to prevent displacement, were not willing to publicly commit to extending protections or allocating a set-aside of units for a longer term affordable use. None of the owners indicated a lack of willingness to accept Section 8 certificates if rents provided by the certificates were high enough.

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Memo to Robert W. Healy

There are two notable exceptions to this. The first is Stu-Lin Realty which committed to extending protections for its elderly tenants (about 50% of protected tenants). In addition, Stu-Lin made it clear they would continue to accept Section 8 vouchers.

The second exception is Beal Company, the owner of Walden Park; this property consists of 230 units, 36 of which contain low or moderate income households. The owner has proposed to continue protection for the 36 protected tenants and to continue to set aside these 36 units for affordable use over the long term. In exchange, Mr. Beal proposed that the City drop its lawsuit related to zoning at Walden Park and revise the Home Rule legislation related to governmentally involved housing to exclude properties financed through the federal Section 221(d)4 program from the proposed legislation. The City continues to discuss this proposal with the owners and legal counsel for the tenants.

Representatives from Niles Company, Forest Street Limited Partnership and Chiccarelli Real Estate, Inc. were contacted, but were not willing to meet with the City. They did send the attached letters.

A letter asking property owners to consider extending protections and moderating rent increases has been sent to all property owners with protected tenants. We will continue to contact smaller property owners who may have a smaller number of protected tenants. One of the recommendations suggested in the City Manager's memorandum related to a variety of responses to the loss of rent control was to hire housing case workers. One of the roles of these case workers would be to follow up with property owners and ensure that tenants are aware of owners' willingness to negotiate individual rent increases.

The attached chart summarizes the specific information we have received.

PROPERTY OWNERS	GENERAL RENT INCREASE POLICY	PROTECTED TENANT POLICY	WILLING TO SET-ASIDE UNITS	COMMENTS
Stu-Lin Realty	January 1 -approximately 20% rent increase.	Continue protection for elderly tenants; limits rent increases to 5% - will deal with individual hardships.	No	Continue to accept Section 8 certificates
Niles Company		Will not increase rents for "deserving" protected tenants by not exceeding increases allowed under rent control.	No	See attached letter
Chestnut Hill	Market rents for new tenants; phase in rents in other units close to market. - 1 br-\$1000/2br \$1250-1350	Jan 1-protected tenants increase capped at an average of \$100 per month; Will deal with individual hardship.	No	
Lovejoy Management/ Forest Street Associates L.P.		"Modest increase"	No	See attached letter
Beal Company	Increasing rent to market gradually.	Willing to continue protection for 36 lower income tenants; see memo for conditions.	Yes	
Clifford Miller	Increasing rents to market.	Deal with individual hardship.	No	Most protected tenants have left properties
Resource Capital Group		Has spoken to 50% of protected tenants; willing to take into account individual circumstances; approximately 10% increase.	No	Advocated for City funded rent subsidies
Chiccarelli Real Estate		May take into account individual circumstances. (See attached letter)	No	See attached letter
100 Memorial Drive Dolben, Inc.	10% increase every six months; still below market for existing tenants.	Agreed to contact tenants individually; Will take into account individual circumstances; 10% increase January 1 for protected tenants; no other increase planned at least this year - 22 have signed lease.	No	

THE NILES COMPANY, INC., AGENT
1039 MASSACHUSETTS AVENUE
CAMBRIDGE, MASSACHUSETTS 02138
(617) 876-9442

95 DEC 26 11 53 39
CITY MANAGER'S OFFICE

December 23, 1996

Diane Squires
City Managers Office
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

RE: The End Of Rent Control - Tenants With Protected
Status.

Dear Ms. Squires,

In response to your request, I am writing to affirm my
commitment and the commitment of the Niles Company to a
socially responsible position regarding our tenants.

First, it is important to understand that the Niles Company is
a property management company and not an owner of property.
Our clients, for the most part, are investors looking for a
reasonable return on their investment, who also find it
hypocritical of city government to now espouse fairness and
social responsibility when for so many years city government
denied them not even a pretense of fairness and knowingly
rejected any effort for social responsibility on their behalf.

Nevertheless, our clients, many of whom have lived and/or
owned property in Cambridge for decades, are committed to
making sure that none of our tenants, deserving of "Protected
Status" are forced out of their homes due to exorbitant and
unreasonable rent increases. Basically, in accordance with
our strategy set over a year ago, deserving tenants who now
enjoy protected status under rent control, will have rent
increases (if any) that will not exceed the amount currently
allowed under rent control for these tenants and in some cases
the increases will be less.

The properties affected are as follows:

9 Dana Street
353 Harvard Street
37-41 Wendell Street
79-81 Oxford Street
3-5 Concord Avenue
1 Waterhouse Street
19 Garden Street
333 Harvard Street

So that there will be no misunderstanding, when I refer to
tenants "deserving" protected status, I am talking about

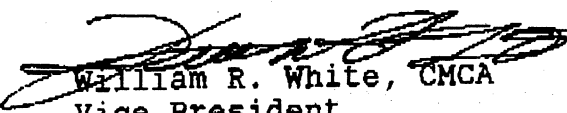
elderly, handicapped and/or single parent low income families who require consideration. I am not talking about those tenants who now enjoy protected status resulting from deceptions in reporting income or who have failed to report all those residing in the apartment who are earning full time wages. I know of four (4) such tenants at the above addresses. In any event, even these tenants who have duped rent control officials and/or who have been favored by those officials, will be given an opportunity to properly prove status eligibility.

In addition, none of our protected status tenants will automatically have their rents increased on January 1, 1997. Instead, any adjustments will be made at the end of their current one year tenancy, whenever that may be. Most of these tenants would receive increases in March.

We also manage a few affected residential properties for M.I.T. As of this date, M.I.T. has not authorized any rent increases for their protected status tenants, nor have they advised me as what probable increases would be. Therefore, as of this date I am unable to make any commitments on behalf of M.I.T. or to speak for them in any way regarding this issue.

Very Truly Yours,

THE NILES COMPANY, INC., AGENT


William R. White, CMCA
Vice President
Property Management



FOREST STREET ASSOCIATES LIMITED PARTNERSHIP

POST OFFICE BOX 6368, J.F.K. STATION

BOSTON, MASSACHUSETTS 02114

TELEPHONE (617) 367-2194

FACSIMILE (617) 367-2265

December 18, 1996

Ms. Diane Squires
City Manager's Office
City of Cambridge
795 Massachusetts Avenue
Cambridge, Mass. 02139

VIA FACSIMILE (349-4307)

Re: Our telephone call this afternoon

Dear Ms. Squires:

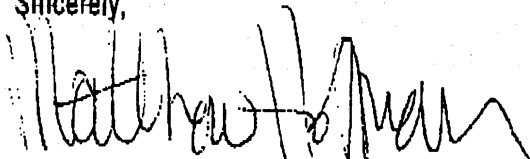
Per your request, I am providing you with written information regarding rent increases for the currently "protected" tenants of 16-19A Forest Street:

On October 3, 1996, I met with a group of tenants to discuss their concerns about the upcoming loss of their "protected" status. During that meeting, we talked about a number of issues, including what increase for 1997 would be acceptable to them.

After speaking with the owners, I proposed a modest increase, the response to which was quite positive. Although I do not feel it is appropriate to specify the rents, suffice it to say that they are several hundred dollars a month below what we obtain from "market-rate" tenants.

Thank you for your call today, and please let me know if I can be of further assistance.

Sincerely,



Matthew B. Hoffman, President
FOREST STREET MANAGEMENT, INC.

DEC-26-96 THU 9:36

FAX NO. 6178622196

P.U1

CHICCARELLI REAL ESTATE, INC.
44 PHILIP ROAD
LEXINGTON, MA. 02173

12/26/96

CITY OF CAMBRIDGE
CITY HALL
MASSACHUSETTS AVENUE
CAMBRIDGE, MA. 02139

ATTN: ROBERT HEALEY, CITY MANAGER
FAX #349-4307

TO WHOM IT MAY CONCERN:

AS PER TELEPHONE CALL FROM YOUR OFFICE, YOU REQUESTED A LETTER FROM US AS TO OUR PLAN FOR RAISING RENTS TO FAIR MARKET VALUE FOR CAMBRIDGE RENT CONTROL PROTECTED TENANTS AFTER 12/31/96.

AT THIS TIME, WE ARE GIVING CAREFUL CONSIDERATION TO EACH INDIVIDUAL CASE AND WILL MAKE A DETERMINATION AS TO EACH TENANT, GIVING ATTENTION TO THEIR PARTICULAR FINANCIAL SITUATION AND OUR OPERATING EXPENSES.

WE WILL BE AS FAIR AS POSSIBLE IN EVERY CASE.

TRUSTING WE ARE RESPONDING TO YOUR REQUEST, I AM

VERY TRULY YOURS,

CHICCARELLI REAL ESTATE, INC.



RITA S. LAMBERG, TREASURER



City of Cambridge

In the Year One Thousand, Nine Hundred Ninety-Six

AN ORDINANCE

In amendment to an ordinance entitled "The Municipal Code of the City of Cambridge."

Be it ordained by the City Council of the City of Cambridge as follows:

That under authority granted by the terms and provisions of Chapter 527 of the Acts and Resolves of 1983, the Cambridge Municipal Code is hereby amended by adding a new Chapter 8.44 entitled "Condominium/Cooperative Conversions."

Chapter 8.44 Condominium/Cooperative Conversions

Sections:

- 8.44.010 Findings of Fact
- 8.44.020 Definitions
- 8.44.030 Conversion Requirements
- 8.44.040 Exemptions
- 8.44.050 Enforcement
- 8.44.060 Vesting
- 8.44.070 Severability

8.44.010 Declaration of Emergency

The City Council finds and declares that a serious public emergency exists within the City of Cambridge for a number of its citizens with respect to a shortage of affordable rental housing. This rental housing emergency especially effects the elderly, the handicapped and persons and families of low and moderate income. The emergency has been created by the lack of sufficient new rental housing production, increased costs of construction and finance, inflation, the influx of students and the desirability of Cambridge as a place to live. It has also been created by the repeal of Cambridge's special rent control and removal permit enabling legislation and the resulting loss of thousands of heretofore affordable rental housing units and the conversion of formerly rent controlled and non rent-controlled housing accommodations to condominiums. Absent sufficient new rental housing production, such

conversion necessarily reduces the stock of rental housing otherwise available. In order to ameliorate this serious public emergency, it is necessary that the City of Cambridge in the exercise of its powers under Chapter 527 of the Acts of 1983, further regulate the conversion of rental housing into condominium and cooperative units.

8.44.020 Definitions

As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:

- A. "Condominium Unit", a unit in a housing condominium as that term is defined in chapter one hundred and eighty-three A.
- B. "Cooperative unit", a unit in a housing cooperative as set forth in chapter one hundred and fifty-seven.
- C. "Condominium or cooperative conversion eviction", an eviction of a tenant for the purpose of removing such tenant from a housing accommodation in order to facilitate the initial sale and transfer of legal title to that housing accommodation as a condominium or cooperative unit to a prospective purchaser or an eviction of a tenant by any other person who has purchased a housing accommodation as a condominium or cooperative unit when the tenant whose eviction is sought was a resident of the housing accommodation at the time the notice of intent to convert is given to convert the building or buildings to the condominium or cooperative form of ownership pursuant to section 8.44.030; provided, however, that the eviction of a tenant for non-payment of rent or other violation of a rental agreement shall in no event be deemed a condominium or cooperative conversion eviction.

For purposes of this definition, the word "eviction" shall include, without limitation, any action by an owner of a housing accommodation which causes substantial deprivation of a tenant's beneficial use of such housing accommodation, materially impairs such tenant's beneficial enjoyment of such housing accommodation, or is intended to compel such tenant to vacate or to be constructively evicted from such housing accommodation. An eviction shall be presumed to be a condominium or cooperative conversion eviction if the owner has the intent to convert, as defined herein.

D. "Convert", the initial offer, in any manner, for sale and transfer of title to any residential unit as one or more condominium units pursuant to an individual unit deed or deeds or, in the case of a cooperative, an individual proprietary lease or leases.

E. "Elderly tenant", a tenant who is a person or group of persons residing in the same housing accommodation any of whom has reached

the age of sixty-two years or over as of the date of receipt of the notice provided for hereunder.

F. "Handicapped tenant", a person entitled to occupy a housing accommodation who is physically handicapped as defined in section thirteen A of chapter twenty-two as of date of receipt of the notice provided for hereunder.

G. "Housing accommodation", any building or buildings, structure or structures, or part thereof or land appurtenant thereto, or any other real or personal property rented or offered for rent for living or dwelling purposes, together with all services connected with the use or occupancy of such property, but not including the following:

(1) housing accommodations which the United States or the commonwealth or any authority created under the laws thereof either owns or operates;

(2) housing accommodations in any hospital, convent, monastery, asylum, public institution or college or school dormitory operated exclusively for charitable or educational purposes, or in any nursing or rest home for the aged;

(3) buildings containing fewer than four residential units, except for buildings which are part of a housing development as defined herein;

(4) housing accommodations in hotels, motels, inns, tourist homes, and rooming and boarding houses which are occupied by transient guests staying for a period of fewer than fourteen consecutive calendar days.

H. "Housing development", two or more adjacent, adjoining, or contiguous buildings under common legal or beneficial ownership which are used in whole or in part for residential purposes, and which contain four or more units.

I. "Intent to convert", the intent to make the initial sale and transfer of title to a residential unit as one or more condominium or cooperative units pursuant to an individual unit deed or deeds, or, in the case of a cooperative, a proprietary lease or leases. Factors which shall be considered in determining whether an owner has the intent to convert include:

(1) a master deed or articles of organization for the housing accommodation has been prepared or recorded;

(2) the owner of the housing accommodation has prepared or is in the process of preparing a purchase and sale agreement for the sale of any unit as a condominium or cooperative unit;

(3) the owner has advertised for sale any unit in the housing accommodation as a condominium or cooperative unit;

(4) the owner has shown to any prospective purchaser a unit in the housing accommodation for the sale of such unit as a condominium or cooperative unit;

(5) the owner has made any communication, written or oral, to any person residing in the housing accommodation expressly indicating an intent to sell any unit as a condominium or cooperative unit;

(6) the owner has had any unit in the housing accommodation measured or inspected to facilitate the sale of the unit as a condominium or cooperative unit; and

(7) the owner has had the land surveyed, an engineering study performed or architectural plans prepared for the purpose of converting such housing accommodation into one or more condominium or cooperative units.

J. "Interest subsidy", any payment made by the federal or state government to reduce the effective interest rate payable by a mortgagor.

K. "Low or moderate income tenant", a tenant who is a person or group of persons residing in the same housing accommodation so long as the total income for all such tenants for the twelve months immediately preceding the date of notice provided for hereunder is less than eighty per cent of the median income for the area set forth in regulations promulgated from time to time by the Department of Housing and Urban Development pursuant to 42 USC 1437 et seq., and calculated pursuant to said regulations.

L. "Owner", a person who holds title in any manner to a building or housing accommodation, including without limitation, a corporation, partnership or trust, and an employee, agent, servant or other representative of such owner.

M. "Tenant", a person or group of persons collectively entitled to occupy housing accommodation pursuant to a rental agreement written or implied.

N. "Tenant subsidy", any payment made by the federal or state government for or on behalf of any tenant to be applied toward the reduction of the tenant's rental payment.

O. "Unit" or "residential unit", the room or group of rooms within a building which is used or intended for use as a residence by one household.

8.44.030 Conversion Requirements

(A) Any owner who intends to convert a building or buildings to a condominium or cooperative form of ownership shall provide each tenant who resides in such building or buildings, a written notice of intent to convert the building or buildings to the condominium or cooperative form of ownership. Said notice shall include in clear and conspicuous language:

(1) reference to any master deed that has been recorded at the Middlesex Registry of Deeds or articles of organization that have been filed with the Secretary of the Commonwealth.

(2) a statement enumerating all of the rights specified in sections (B) and (C) below.

(B) Whenever an owner is required to give notice of intent provided for in section (A), the period of the notice shall not be less than the expiration of any written agreement between the owner and the tenant of any housing accommodation which governs the use and occupancy of said housing accommodation or ___ years (state law provides 1 yr.) from the date that the tenant is given the notice of intent, whichever is greater, provided, however, that in the case of a housing accommodation occupied in whole or in part by a handicapped tenant or by an elderly or low or moderate income tenant the period of notice shall not be less than ___ years (state law provides 2 yrs.) from the date the tenant of such housing accommodation receives said notice of intent.

(C) Any owner who intends to convert any building or buildings to a condominium or cooperative form of ownership shall provide all of the following rights and benefits to any tenant entitled to the notice of intent:

(1) the tenant shall not be required to vacate the unit prior to the expiration of ___ years (state law provides 2 yrs.) if elderly, handicapped or low or moderate income or ___ years (state law provides 1 yr.) for all other tenants, from the date that the notice of intent is received, or prior to the expiration of their tenancy agreement whichever is longer.

(2) the tenant shall have the right of first refusal to purchase the unit and shall have (state law provides 90) ___ days after the notice of intent is received to negotiate a purchase price, provided, however, that in the case of a unit where the Cambridge Housing Authority or the City of Cambridge has the right of first refusal to purchase the unit for the purpose of providing affordable housing, said right of first refusal shall supersede the right of first refusal of said tenant.

(3) the owner may not offer the unit for sale to the general public at a purchase price or upon terms more favorable than that offered to the tenant, for (state law provides 90) ___ days after the tenant's right to purchase has expired;

(4) the tenant shall not be given a rent increase which exceeds ___ percent (state law provides ten percent) of the current rent or the percentage increase in the consumer price index for all urban consumers as published by the Bureau of Labor Statistics in the year prior to the conversion notice, whichever is less, for ___ years (state law provides 2 yrs.) for elderly, handicapped or low or moderate income tenants and (state law provides one) ___ years for all other tenants;

(5) the tenant shall receive reimbursement for relocation expenses for the actual documented costs of moving. The payment shall be up to a maximum of (state law provides \$1000.00) ___ for elderly, low income or disabled tenants and (state law provides \$750.00) ___ for all other tenants. Relocation expenses may include the required payments such as the last month's rent and security deposit (up to the (750/1000) ___ maximum), provided however that the tenant voluntarily vacates the housing accommodation on or prior to the expiration of the notice period and that said tenant has paid all rent that is due and payable. No tenant who purchases the housing accommodation which he occupies shall be entitled to receive said relocation expenses.

(6) during the period of the notice authorized by this section the owner shall assist elderly, handicapped and low or moderate income tenants with locating comparable rental housing within the City of Cambridge which rents for a sum equal to or less than the sum which the tenant had been paying for the housing accommodation occupied at the time of the receipt of the notice. The failure of the owner of such residential property to find such substitute housing accommodation shall extend the period of notice until such owner locates such comparable rental housing or for an additional two years, whichever occurs first.

(7) the tenant's rental agreement in force at the time that the notice of intent was given shall be extended until the expiration of the notice of intent or until the expiration of the ___ day (state law provides 90 days) right to purchase period, whichever is later. Such extension, where required, shall be for such period or periods of one year or such fraction thereof as shall equal the period of notice to which such tenant is entitled pursuant to the provisions of this ordinance. The provisions of such rental agreement may not otherwise be modified by the property owner except with respect to the amount of annual rent which shall be increased only in accordance with section (C) (4) above.

(D) All notices required under this chapter shall be deemed to have been given when a written notice is delivered in person or mailed by certified or registered mail, return receipt requested, to the party to whom the notice is being given.

(E) No person shall seek or conduct a condominium conversion eviction before the expiration of the periods of time for notice to tenants specified in this ordinance.

(F) If a tenant who is entitled to receive notice of intent under this section vacates the residential unit and the owner intends to rent the unit to a new tenant, the owner shall give the prospective tenant of the residential unit, written notice, prior to the inception of the tenancy, which informs the prospective tenant that the unit is a condominium unit and if applicable, that the unit is currently being offered for sale, or will be

offered for sale within ninety days of the inception of the tenancy.

(G) The burden of proving qualifications with respect to age, handicap, and income shall rest with the tenant.

8.44.040 Exemptions

(A) The following housing accommodations, buildings or units shall be exempt from the provisions of this ordinance:

(1) buildings containing fewer than four residential units, except for buildings which are part of housing development as defined in section 8.44.020 H;

(2) housing accommodations which the United States or the Commonwealth or any authority created under the laws thereof either owns or operates;

(3) housing accommodations in any hospital, convent monastery, asylum, public institution or college or school dormitory operated exclusively for charitable or educational purposes, or in any nursing home or rest home for the aged;

(4) housing accommodations in hotels, motels, inns or tourist homes which are occupied by transient guests staying fewer than fourteen consecutive calendar days;

(5) buildings that were not used in whole or in part for residential purposes within one year prior to the recording of a master deed creating a condominium or the filing of the articles of organization creating a housing cooperative;

(6) housing accommodations which were constructed or substantially rehabilitated pursuant to any federal mortgage insurance program, without any interest subsidy or tenant subsidy attached thereto;

(7) housing accommodations financed through the Massachusetts Housing Finance Agency with an interest subsidy attached thereto;

(8) housing accommodations constructed or converted from a non-housing to a housing use after November 30, 1983;

(9) any unit in a building or buildings converted to the condominium or cooperative form of ownership for which on or before the effective date of this ordinance, a master deed has been recorded or articles of incorporation filed and a deed or, in the case of a cooperative a proprietary lease, conveying the unit to a bona fide purchaser for value who intends to occupy such unit as a principal residence has been recorded, in the case of such deed, in the Middlesex Registry of Deeds;

(10) any building or buildings converted to the condominium or cooperative form of ownership for which on or prior to November 30, 1983, a master deed has been recorded, or articles of organization filed, and prior to October 15, 1983, for not less than one third of the units in such building or buildings: either: (i) purchase and sale agreements were entered into with bona fide purchasers for value who intend to occupy such units as a principal residence as evidenced by a canceled check or its equivalent establishing said value; or (ii) deeds, or in the case of cooperatives, proprietary leases, conveying units in such building or buildings to bona fide purchasers for value, who intend to occupy such units as a principal residence were recorded, in the case of such deed in the Registry of Deeds for Middlesex County on or before the date of October 15, 1983.

8.44.050 Enforcement

(A) **Criminal Violation:** Any owner who converts residential property in violation of any provisions of this ordinance shall be punished by a fine of not less than one thousand dollars, or by imprisonment of not less than sixty days. Each unit covered in violation of this act constitutes a separate offense.

(B) The district and superior courts shall have jurisdiction over an action arising from any violation of this ordinance and shall have jurisdiction in equity to restrain any such violation.

8.44.060 Vesting

- A. The rights specified in 8.44.030 A, B and C for tenants in a building or housing development, shall vest with such tenants at the time that the owner converts any unit in such property to the condominium or cooperative form of ownership.

8.44.070 Severability

- (A) If any provision of this ordinance or the application to any person or circumstance shall be held to be invalid, the invalidity shall not affect any other provision of this ordinance.

It is intended that there shall be no exemptions from this ordinance other than those provided by Chapter 527 of the Acts and Resolves of 1983 and those expressly provided herein.

Notwithstanding any provision to the contrary contained in this ordinance, Chapter 527 of the Acts and Resolves of 1983 and not this ordinance shall apply to: (i) housing accommodations constructed or converted from a non-housing to a housing use after November 30, 1983; (ii) housing accommodations which were constructed or substantially rehabilitated pursuant to any federal mortgage insurance program, without any interest subsidy or tenant subsidy attached thereto; and (iii) housing accommodations financed through the Massachusetts Housing Finance Agency with an interest subsidy attached thereto.

A report was received for a meeting held on January 8, 1997 for the purpose of continuing its recessed public meeting of December 2, 1996 to discuss housing issues including efforts to assist tenants who have lost their protected tenant status, expiring use legislation, real estate tax possibilities, an update on the Harvard housing transfer and other business.

In City Council January 13, 1997

Report Accepted
Placed on File
Recommendations
Accepted.