Enclosure 1, Presently Proposed Changes

1. Proposed State Legislation.

   a. Amend chapter 527 of the Statutes of 1983, as amended, by deleting the period at the end of the third unnumbered paragraph of Section 2, and inserting the following in place thereof:

      , except that this act, including but not limited to the local legislative powers granted hereby, shall apply in the City of Cambridge to rental units the construction of which was completed on or after January one, nineteen hundred and sixty-nine, or which are housing units created by conversion from a non-housing to a housing use on or after said date. "Rental Units" as used in the immediately preceding sentence shall be defined as stated in Chapter 36 of the Acts of 1976 as amended.

[Note: tracks, word for word, section 3(b)(2) of the Rent Control Act.]

   b. Amend Chapter 36 of the Acts of 1976, as amended, by inserting a new sentence immediately following the first sentence of Section 5(a), so that, with this insertion, the first two sentences read:

      This act shall be administered by a rent control board. Said rent control board shall also administer chapter 527 of the Statutes of 1983 as amended, insofar as it is applicable in the City of Cambridge.

2. Proposed removal ordinance change.

   Amend Chapter 8.44 of the Cambridge Municipal Code by amending section 8.44.020.D.6,

   a. by inserting therein after the first "August 10, 1979,": "and which has been once legally occupied by the unit owner prior to August 1, 1990.", and

   b. by deleting the balance of that sentence so that the paragraph picks up again with the last sentence,

   as a result of which said section reads as follows:

   "Removal from the market" does not include occupancy of . . . a condominium unit as to which it can be shown with respect to its initial sale after the recording of the master deed that a purchase and sale agreement has been entered into prior to August 10, 1979, and which has been once legally occupied by the unit owner prior to May 1, 1990. No condominium unit once legally occupied by the unit owner shall ever again be subject to this section for any reason.

THE COMMONWEALTH OF MASSACHUSETTS

IN THE YEAR ONE THOUSAND NINE HUNDRED AND EIGHTY-THREE

AN ACT AUTHORIZING THE CITY OF CAMBRIDGE TO ENACT A RESIDENTIAL REAL PROPERTY EXEMPTION DIFFERENT FROM THAT CREATED UNDER THE GENERAL LAWS, CHAPTER 59, SECTION 5C

Whereas the City of Cambridge wishes to enact an exemption for real property classified as class one, residential under the General Laws, chapter 59, section 2A, and

Whereas special circumstances in the City of Cambridge make application of the residential real property exemption created under the General Laws, Chapter 59, section 5C inappropriate,

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. Effective Date, Revocation, and Reacceptance.

a. This act shall take effect in the City of Cambridge upon its passage and such passage shall be deemed to constitute the initial acceptance of this act by the City of Cambridge. Tax exemptions created by implementation of this act shall first accrue not earlier than the first full tax year after said effective date.

b. Once this act has been accepted, it may be repealed or revoked, or otherwise nullified by a majority vote of the Cambridge City Council or on a ballot measure submitted to the registered voters of the City of Cambridge in accordance with the procedures of theGeneral Laws, chapter 43, sections 37 through 40. If this act is repealed, revoked, or otherwise nullified, the rights and liabilities created as a result of agreements entered into under this act shall remain in force in accordance with the terms of said agreements for the purpose of sustaining any proper tax bill, action, suit or prosecution with regard thereto. After repeal, revokation, or other nullification, no further such agreements shall be entered into and provisions of existing agreements calling for automatic extension shall be rendered null and void.

c. If repealed, revoked, or otherwise nullified, this act may be reaccepted in one of the following ways:

1. by a majority vote of the members of the Cambridge City Council, or

2. by initiative petition and vote pursuant to the procedures of the GeneralsLaws, chapter 43, sections 37 through 40.

d. First accrual or reaccrual of tax exemptions may be delayed, accelerated or be applied to partial years for good cause shown subject to the approval of the commissioner, and subject to any conditions which the commission may reasonably apply.

SECTION 2. Definitions. For the purposes of this act, the following definitions shall apply:

a. "Parcel" shall mean a unit of real property as defined by the assessors in accordance with the deed for such property governing the property on ~~November 1,~~ Jan. 1 1969, ~~1983~~, except that "parcel" shall not include condominium units.

b. In cases where property has been converted into condominium units by submission to the provisions of the General Laws, chapter 183A in accordance with section 16 thereof, "parcel" shall refer to that unit of real property as defined by the assessors in accordance with the last valid deed for the said property prior to ~~November 1, 1983~~ 1/1/69 which was also prior to submission of the property to the provisions of the General Laws, chapter 183A. No parcel which has been converted to condominium units shall qualify for the exemption created by this act unless and until the property in its entirety has returned to conformance with said prior deed by removal from the provisions of the General Laws, chapter 183A through the method provided in section 19 thereof.

c. "Tax year in question" shall mean that tax year during which the taxpayer receives the benefits of the exemption created by this act as implemented by the agreement between the taxpayer and the City of Cambridge.

SECTION 3. Exemptions for residential real property.

a. With respect to each parcel of real property classified as Class One, residential under the General Laws, chapter 59, section 2A, there shall be an exemption equal to not more than ten per cent of its assessed value in accordance with the provisions of this act. This exemption shall be in addition to any exemptions allowable under the General Laws, chapter 59, section 5; provided, however, that in no instance shall the taxable valuation of such property after all applicable exemptions be reduced below ten per cent of its full and fair cash valuation, except through the applicability of the General Laws, chapter 58, section 8A, and the General Laws, Chapter 59, section 5, clause eighteenth. Where under the provisions of the General Laws, Chapter 59, section 5, the exemption is based upon an amount of tax rather than on valuation, the reduction of taxable valuation for purposes of the preceding sentence shall be computed by dividing the said amount of tax by the residential class tax rate and multiplying the result by one thousand dollars.

* Dollar limits the same in each building containing the same # of units. 6 possible classes. Smaller building may get larger % exemption.

b. The residential real property exemption shall apply to parcels which are solely residential and which contain not more than six units.

c. Prior to the first accrual or reaccrual of tax exemptions under this act the Cambridge City Council shall establish the following:

1. The maximum number of units in qualifying buildings should that number be less than six.

2. The percentage of assessed value in qualifying buildings which shall be exempted from taxation should that percentage be less than ten per cent. Each qualifying parcel shall be granted the same percentage exemption as other qualifying parcels containing the same number of units except that maximum dollar limits may be established for exemptions received by parcels containing the same number of units. Each qualifying parcel shall receive a percentage exemption equal to or greater than the percentage exemption received by qualifying parcels containing a greater number of units, subject to maximum dollar limits as might be established. *

d. Provisions established by the Cambridge City Council under section 3.c. may be changed by the Cambridge City Council prior to any tax year in which the change shall be effective but only if adequate time exists for taxpayer notice and withdrawal under section 5, below.

SECTION 4. Application of Exemption. The following provisions must be satisfied in order for a parcel to qualify for the exemption:

a. The owners must be real persons and must be bona-fide occupants of one and not more than one housing unit of the housing units contained in the parcel.

b. In consideration for receipt of the residential exemption, all owners shall enter into the following agreement with the City of Cambridge:

1. The parcel shall not be changed in use, divided, or transferred so as to remove it from qualification for the exemption prior to or during the tax year in question nor during the following ten tax years, except that, in the event of a transfer as the result of the death of all owners, the provisions of section 4.a. shall be suspended for six months, or until further transfer of ownership, whichever shall occur first.

2. Should the parcel be changed in use, divided, or transferred so as to remove it from qualification for the exemption prior to or during the tax year in question, or during the following ten tax years, the tax savings resulting from the agreement shall become immediately due and payable to the City of Cambridge. No further benefits shall accrue until such time as the parcel once again qualifies for this exemption, and until a new agreement has become effective in accordance with the provisions of paragraph 3 below.

3. The agreement shall automatically renew from year to year. The owners may elect prior to a given tax year that the agreement not be renewed for that tax year and future tax years by giving written notice to the City of Cambridge. Filing of said notice shall not release the property from the above restrictions insofar

as those restrictions apply as consideration for exemptions received. Prior to subsequent tax years owners may further elect that the property return to the benefits and responsibilities created by this act by once again entering into the agreement.

4. The agreement shall, in accordance with its terms, be binding on all present and future owners of the property.

SECTION 5. Forms, time limits, notification.

a. The City of Cambridge shall prepare forms for the above described agreements and notices, and shall establish reasonable time limits for the filing thereof.

b. At a reasonable time prior to the first full tax year during which this act shall be in operation, whether as a result of acceptance or reacceptance, the City of Cambridge shall provide adequate copies of these forms to all taxpayers in the city together with a concise, clear explanation of the rights and responsibilities created by this act. Additional copies of these documents shall be provided by the city to all interested persons upon request,for the payment of a reasonable fee ' should the City of Cambridge decide to charge a fee.

c. In the event of a change in the exemption, the City of Cambridge shall provide notice of the change to all affected owners in sufficient time prior to the first tax year affected to permit withdrawal from the program by owners who wish to do so.

d. All forms and time requirements shall be submitted to the commissioner for approval or modification as the commissioner may deem appropriate for the fulfillment of the purposes of this act.

SECTION 6. Records

a. The City of Cambridge shall retain each agreement for as long as rights and responsibilities created by the agreement remain in effect and for a period of ten years thereafter.

b. Notice of restrictions created as a result of these agreements shall be included by the City of Cambridge in the public restriction tract index created by the General Laws, chapter 184, section 33.

c. All tax bills or notices issued by the City of Cambridge for properties receiving exemptions under this act shall have appended thereto, in a form approved by the commissioner, a statement of benefits received by the property during the tax year governed by the bill or notice and during the preceding ten tax years.

d. The certificate of liens created under the General Laws, chapter 60, section 23, shall, as appropriate, include a statement of benefits received by the property which are subject to being made due and payable in accordance with the terms of the agreement.

the removal ordinance be filled in accordance with my suggestion. The rent control subcommittee has recommended that post rent control HUD housing, as it is removed from HUD protection, be placed under rent control.

Regrettably, closing provisions of section 601 of the 1990 Cranston-Gonzalez National Affordable Housing Act, passed by the U.S. Congress in November 1990, prohibit singling out disappearing HUD housing, but explicitly allow regulation of such housing under general rent control or condo conversion protections. I provided the relevant provisions in my response to the rent control subcommittee's report.

Given the federal legislation, I see only two meaningful alternatives to the HUD housing recommendations of the Rent Control Subcommittee:

(1) Great general expansion of housing under Rent Control, or

(2) Protection of all post rent control units (including HUD units) under the state condo conversion law. Units constructed in Cambridge in the years 1969 to 1983 can be protected under the state law. They now have the least condo conversion protections in the state. The state law permits local regulation to exceed the specific protections in the minimum state act. Thus removal ordinance-like provisions could be applied to 1969-1983 units.

Additionally, application of the state law to post rent control units should include expansion of Cambridge Rent Control Board jurisdiction to include administration of the state condo conversion law in Cambridge. This will maximize uniform treatment of Cambridge housing, and minimize costs to all litigants.

Accordingly, I am enclosing herewith a copy of the package previously submitted to the council on these condo conversion issues. The first two points address these post-rent control issues. The third point is the one cleaning up removal ordinance holes, which point has been approved by the rent control subcommittee and, is included in its report.

b. Taxation and small ownership issues.

(1) Any responsible discussion of changes must include an analysis of the status quo.

There is presently a tax on tenants. This is the residential exemption tax. It is a very simple and extremely regressive tax. It clearly subsidizes and encourages the sale of owner-occupied rental properties for condominium conversion.

Those who cannot afford to own their homes are taxed for no other reason than that they cannot afford to own their homes. The moneys raised are given to those who can afford to own their own homes for no other reason than that they can afford to own their own homes.

There is no income exemption on those taxed. All tenants, no matter how poor, no matter how desperate, are taxed. There is no income qualification to receive the benefits created by the tax. All owner-occupants, no matter how rich, are subsidized.

In apartment/condominium buildings there are two tax rates for every apartment. Those who cannot afford to own their own property are taxed $50 per month more than those who can afford to own.

The tax subsidies on any building multiply by the number of apartments taken from the rental market. A six family building with one owner-occupant and five poor families receives $50.00 per month in benefits from the residential exemption tax. The same six family building occupied by six millionaires receives $300.00 in benefits from this tax on the poor.

Councillor Toomey has wisely said: let's clean up this mess.

(2) Councillor Toomey has asked for a feasibility study of, and the Rent Control Subcommittee has recommended, a new tax on rent control tenants for the benefit of small rent control property owners in need.

Rent Control is a consumer protection device. Its purpose is to guarantee fair rents in a situation of scarce supply of an essential commodity. A major factor in the scarcity is Cambridge's zoning policy. Cambridge could solve its housing problem by destroying its city and building high rises everywhere. Cambridge thinks that destroying Cambridge is dumb, so Cambridge has not allowed itself to be destroyed. Cambridge created Rent Control to prevent profiteering from the scarcity of housing necessarily created, at least in part, by Cambridge's zoning limitations.

It is difficult to see how a tax on tenants for paying a fair rent makes any sense.

To make it worse, the proposals I have heard are opt out taxes. People must file certificates of indigency to opt out. This is a not a good way to treat people, especially when we realize that no certificate of indigency is required to benefit from the residential exemption tax.

The opt out provisions are made worse by basic facts of common reality. The people least likely to opt out are those most in need. The really poor do not have time to keep abreast of Cambridge politics. The really poor are too busy trying to survive to read miscellaneous notices. The really poor are too scared to rock the boat. The really poor, in many cases cannot even read English.

Those opting out will be young professionals and students, especially students. Even many young professionals may find it shameful to file an affidavit of indigency.

(3) Councillor Toomey's idea of cleaning up the taxation situation in condominiums, properly implemented, is the way to clean up both problems.

During 1983 and 1984, I led successful opposition to the adoption of the residential exemption tax. During that period I submitted an alternative proposal which is transmitted herewith, with one key date changed. I wanted a middle ground which I think makes sense. That middle ground can be modified, should the council wish to use it to create a mechanism for funding the correction of problems in small rent controlled buildings.

The changes would make the residential exemption tax work in Cambridge the way it works in most of the rest of Massachusetts.

In most of Massachusetts, the dominant form of housing is owner occupied single family homes. A flat rate exemption, under such circumstances, is essentially a tax on the rich for the benefit of the less well-to-do. No affidavits of indigency are necessary because, by common sense, those who own and live in less valuable property have less money than those who own and live in more valuable property.

In Cambridge, we have a city of tenants with a very small percentage of property owners. Those tenants, overwhelmingly, are the persons being taxed by the residential exemption tax, and the tax is based solely on the fact that they do not own property. Although aberrations are said to exist, basic logic says that those who do not own the property in which they live in have less money than those who do own the property in which they live.

In Cambridge, our equivalent of small property owners in the rest of the state are the owner-occupants of one to six family homes. Why not restrict the benefits of the residential exemption tax to them? There are very clear advantages to tenants and the city as a whole to avoid absentee landlords, and that is the stated purpose of a "residential exemption".

The "advantages" of a residential exemption tax which replaced the poor in their apartments with the rich in the very same apartments are advantages primarily to real estate speculators, brokers, and others who make their livings in the industry. Such "advantages" should not be created by city tax policy.

My proposal restricts benefits of the residential exemption tax to owner-occupants of one to six family houses, with the property defined as it existed on January 1, 1969 (or at a earlier, pre-condo conversion date). Persons owning property which has been subdivided into condominiums can obtain the benefits of the residential exemption tax by returning the property to non-condominium status.

A greater percentage exemption can be given to smaller buildings. This is a provision you may want to delete. The idea was that, by basic logic, an owner-occupant of a smaller building has less money than an owner-occupant of a larger building. Given the fact that four to six unit buildings can be worth less than the small buildings, a flat percentage overall may make more sense.

The city can group flat rate exemptions based on the number of units in buildings. Percentage limitations can be changed from my language.

Under the present residential exemption tax, the benefits in a building are multiplied by the number of tenants removed. Taxes go down by $50 per month per unit in which tenants have been replaced.

Under the proposal, the more units rented, the more the exemption (subject to the vagaries of the average value of each class of building). This is a far more sensible position.

The proposal could readily be modified to act as the revenue source intended from the new tax on rent control tenants. That would be reasonable, subject to two very major overall caveats:

(a) The small property owners receiving the benefits of the residential exemption tax receive, in hand, as much they presently receive or more.

(b) The tax on tenants significantly decreases.

2. Unless changes have occurred that I am not aware of, the provisions in the zoning ordinance creating the affordable housing trust fund are so inadequate that the fund can be used for purposes contrary to its stated intent. Past experience with the zoning ordinance shows that undesirable results which are allowed are, too frequently, the results that occur. This is exacerbated by the rather distressing tendencies of committees appointed by the City Manager to pursue goals different from those stated by City Councillors creating the committees, albeit packaged nicely. This is not the time to address correction of those provisions; nevertheless the problem must be recognized as a matter for future correction.

Respectfully submitted,

Robert J. La Tremouille

Robert J. La Tremouille

348 Franklin Street
Cambridge, MA 02139-3731
March 28, 1991

MAR 28 PM 1:23

TO THE HONORABLE, THE CAMBRIDGE CITY COUNCIL:

Councillor Toomey is to be commended for his major submittal on January 25, 1991, of items intended to help improve the housing situation in the City of Cambridge. He has raised a number of issues of great importance which should be resolved. A great deal of thought and work clearly has gone into this submittal.

A. Points I particularly appreciate include the following:

1. The need to provide protection for HUD disappearing housing (see B.1.a, below);

2. A possible means of expanding rent controlled housing;

3. Addressing the real problems existing in 4 to 6 unit buildings (see B.1.b);

4. Aggressive assistance in fire prevention, de-leading, weatherization and fuel assistance;

5. Gradual attack on the institutional exemption to rent control;

6. "Discount water rate" (see B.1.b);

7. Tax incentives to condos rented below market rate to encourage rentals (B.1.b);

8. Greater coordination among agencies;

9. Consolidation of data bases;

10. Voluntary segregation of withheld rents and security deposits within the aegis of the trustees holding the various other created funds;

11. Real estate transfer tax.

B. A few suggestions in response:

1. The taxation, condo conversion and small ownership issues have long been the issues of greatest interest to me. I direct the council's attention, should it so wish, to the approaches raised in my response to the rent control subcommittee report, which are reworded in the following.

a. Condo Conversion/HUD housing.

I addressed these issues in my three part proposal for correction of loopholes in condo eviction protections. The rent control subcommittee has recommended that the loopholes which I have identified in

CONSENT

8-461

Communication received from Robert J. LaTremouille, 348 Franklin Street, re: the housing situation in Cambridge.

In City Council,

April 1, 1991.

Referred to the Housing and Community Development Committee.
Copy sent to Committee
4/3/91 dl