City of Cambridge

CITY COUNCIL HEARING SCHEDULE

Monday, February 12, 1979	5:00 P. M.	The Committee on Ordinances will hold a public hearing on the petition of the Planning Board for an amendment to the Zoning Ordinances of the City of Cambridge by changing the regulations for townhouse development and multi-family dwellings. (Council Chamber)
	6:00 P. M.	The Committee on Ordinances will hold a public hearing on the petition of the Planning Board for an amendment to the Zoning Ordinances of the City of Cambridge by changing the district designations in the area bounded by Second St., Otis St., Max Ave., Cambridge St., Charles St. and Fulkerson St. (Council Chamber)
	7:00 P. M.	Regular City Council Meeting.
Tuesday, February 20, 1979	7:30 P. M.	The Rent Control Committee will meet to discuss three Council orders which have been referred to the committee by the City Council. (Council Chamber)
Wednesday, February 21, 1979	7:30 P. M.	The City Manager will hold a public hearing regarding the petition for determination whether the licensing process for a cable television franchise should be undertaken in Cambridge. (Council Chamber)
Monday, February 26, 1979	7:00 P. M.	Regular City Council Meeting.
Monday, March 5, 1979	7:00 P. M.	Regular City Council Meeting.
Monday, March 12, 1979	7:00 P. M.	Regular City Council Meeting.
Monday, March 19, 1979	7:00 P. M.	Regular City Council Meeting.
Wednesday, March 21, 1979	7:30 P. M.	The Committee on Ordinances will hold a public hearing relative to a proposed amendment to the General Ordinances of the City of Cambridge regarding the regulation of signs. (Council Chamber)

CAMBRIDGE CITY COUNCIL

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139

(617) 876-6800

January 24, 1979

RENT CONTROL COMMITTEE

Chairman - David A. Wylie
Member - Mary Ellen Preusser
Member - Lawrence W. Frisoli

Report on Hearings on Cambridge Rent Control Program which were held April 6, 13, 20 and 27, 1978

Introduction

The Rent Control Subcommittee of the City Council held four hearings in April, 1978, to permit interested members of the public to comment upon the operation of Cambridge's rent control program. The hearings were intentionally devoted to the program as it operates rather than to the question whether the program should be continued or discontinued. The following report is intended to summarize the comments that were made and to provide the City Council with recommendations for improving the program.

For the Committee,

David Wylie

David A. Wylie
Chairman

Scope of the Program

Rent control was introduced in Cambridge in September, 1970. It began effectively to control rents in 1971. About 23,000 of the housing units in the city are controlled. Excluded are 3,729 public housing units, 11,000 units in excluded owner occupied one, two and three family houses, and all units constructed since January 1, 1969. In the 23,000 controlled units, the statute requires that rents be set in such a manner as to guarantee a fair net operating income to the owner. The Cambridge Rent Control Board has interpreted this requirement to require that an owner's purchasing power be protected as it existed in 1967.

The functions of the Rent Control Board are to:

(1) Make periodic general adjustments for all units. There have been four since 1973. The Board makes such an adjustment when some particularly heavy financial burden occurs, such as a substantial tax increase, or the large increase in fuel cost which occurred two years ago. In August, 1977, all controlled units were increased 6%, excepting 1,200 units which were increased only 2% (all of the units in the 2% category having previously received individual adjustments). Landlords think there should be a regular annual general adjustment, that the adjustments should follow increased costs more promptly, and reflect all increased costs rather than selected costs. Tenants believe rent control should protect against inflation, or at least make landlords share the burden of inflation. These issues will be treated more fully in the section titled "Economics."

(2) Process individual rent adjustment petitions from both landlords and tenants. Only 176 petitions, covering 1225

units, were filed in 1977 and 233 petitions, covering 1873 units were filed in 1978.

(3) Verify the condition of controlled rental units before the granting of increases. At least 1000 separate inspections were conducted by rent control inspectors in 1978 in addition to 15,745 inspections conducted by the Department of Health and Hospitals.

(4) Process petitions for eviction, primarily for nonpayment of rent (416 cases in 1977 and 557 in 1978). The staff believes this has proved an extremely useful public service, in that, without going to court most of such cases, which often are acrimonious and emotional, are resolved informally and cheaply for both parties.

Resources

The Rent Control Program consists of (1) a five-member unpaid Board which meets once a week for a 3-4 hour evening session, reviewing all staff recommendations for rent adjustments and evictions, and (2) a sixteen person full-time paid staff.

The July 1, 1978-June 30, 1979 budget is $302,000. The staff consists of an Executive Director (salary $22,000), six hearing examiners (salaries from $13,200 to $14,000), a legal counsel, an assistant director, a special assistant, a computer program analyst, and 5 clerks and secretaries.

The key employees, so far as administering individual cases is concerned, are the six Hearing Examiners. All are lawyers. They hear all of the evidence, both on eviction and rent adjustment cases. The Rent Control Board itself hears no evidence and in cases where it disagrees with the Hearing Examiner it remands the case to the Examiner. Over 45 applications for Hearing Examiner were filed when a vacancy was last advertised.

All of the controlled units in the city are programmed into a computer, which has the capacity to report out a full range of information on every controlled building, including rent maximums for each apartment, the operating costs, and building conditions.

Processing and Procedures

Aside from basic economic and philosophic objections to rent control, the primary complaints involve processing time and cost. Horror stories are available, and some landlords and tenants continue to insist that processing takes too long and demands too much expertise from the parties. However, the Rent Control office has made a strenuous and largely successful effort to promptly and efficiently accomplish the program's purpose. For instance, at the end of 1977 only 26 individual adjustment petitions were over three months old. The average processing time is 90 days for individual petitions and 8 days for eviction petitions. Two Hearing Examiners do nothing but assist the public, mostly in filling out petitions, preparing evidence, and counseling on procedures. All cases are docketed chronologically and their "age" monitored weekly during the processing period. The Rent Control Board always completes its agenda of 15-20 cases, but the Director will sometimes hold back cases if the agenda is too crowded. However, all cases are said to reach the Board within three weeks. The process cannot be accomplished in less than three weeks because of the notice requirements.

The landlords appear to have a legitimate concern in the time required to process general adjustments. The last general adjustment required six months to process. It reflected increased costs of payroll, utilities except heat, water, management, maintenance, repairs. In addition, 55% of the net operating income (that portion adjudged affected by inflation) was increased by the increase in the consumer price index. A previous adjustment had accounted for increases in the cost of heating oil and real estate taxes.

With notices of general adjustments tenants receive a form on which they can report any of eleven conditions, the existence of which will suspend the adjustment. The eleven conditions are: building door lock not functioning, unit door lock not functioning, window locks not functioning, roaches or vermin, absence of screens, insufficient rubbish containers, clogged drains, leaking pipes, wall leaks, fallen plaster, and lack of hot water.

Placing periodically in the hands of 20,000 tenants so effective a sanction to keep these significant conditions at least minimally up to standards surely has resulted in many cases in a higher standard of repair than would otherwise exist. While the charge that rent control discourages landlords from repairs and improvements deserves fuller attention (see below under the heading "Economics"), in Cambridge rent control helps prevent the worst and most dangerous kinds of slum conditions.

It has been objected on behalf of tenants that the eleven conditions should be expanded, possibly to include all possible housing code violations. The Rent Control staff believes it could not provide prompt inspection services if the list were much expanded, since the Rent Control office is staffed with but one inspector. Tenants are of course free to secure inspections by either the Rent Control or Building Department or Health and Hospital Inspectors, and such inspections can suspend both general and individual adjustments and trigger other sanctions against the landlord.

Economics

The rent control enabling statute requires that maximum rents yield landlords a fair net operating income and specifies factors which may be taken into consideration in making adjustments. These factors include property taxes, operating and maintenance costs, capital improvements, the amount of living space, services, and furnishings and deterioration.

Taking the statutory requirements as they exist, the major economic issues of rent control, with respect to which administration of the Cambridge program ought to be judged, are as follows:

1. Are landlords provided a fair net operating income?

2. Ought landlords to be protected against all inflationary factors, or, insofar as the statutory parameters permit, should landlords absorb part of the impact of inflation? Another approach to this issue is to ask whether rent control is intended to protect tenants only against the effects of local housing shortages and local housing speculation and cost escalation which exceeds the rate of inflation in the economy as a whole, or is it intended to protect tenants, so long as landlords get a fair return on their investment, against inflation?

3. Is a fair net operating income one which reflects merely a percentage profit on capital, e.g., 8% on 10% or 12% on the original capital investment, or should it permit capital growth?

4. Is the housing stock deteriorating because of an inability or unwillingness of landlords to adequately repair and maintain, resulting in a long-term erosion both of tenant living standards and of the city's tax base?

5. Do investment motivated absentee landlords have an incentive to disinvest in residential real estate, and is this desirable or undesirable?

6. Is less new housing going to be constructed, and is this desirable (assuming that new construction is more dense and destroys more neighborhoods) or undesirable (assuming every city needs to enlarge its tax base through new construction and that gradual replacement of housing stock is always necessary)?

7. Do owners and occupants of uncontrolled real estate carry a hidden burden of supporting occupants of controlled units, because (i) control reduces profits which reduces property values which reduces assessed values which reduces tax revenues; (ii) the assessors and/or the Appellate Tax Board abate taxes exceeding 30% of gross income?

8. Are there specific groups of citizens intended to be assisted by rent control and does the program predominately assist those groups?

A notable omission from the cost components which the statute permits to be counted in computing net operating income is the cost of financing, i.e., interest. This omission is of great significance.

From the viewpoint of landlords, the cost of financing is an ordinary and necessary cost of owning real estate. When a sale or refinancing are essential for a valid business reason a property, typically, must support higher interest rates. Yet rents cannot be increased for this reason.

From the viewpoint of tenants, to require tenants to bear the full cost of increased interest rates would provide property owners a sure method of avoiding the constraints of rent control. Owners would churn properties,

selling and reselling,and pyramiding mortgages. Speculators would use the leverage of a seemingly infinitely elastic rental market to increase rents every two or three years to reflect higher interest rates, while they pocket the short run profits which each sale would produce.

Fred Cohn, a member of the Rent Control Board, has produced a graph (attached) which purports to show that under rent control Cambridge property owners have suffered an erosion of net operating income since 1967. The graph shows that while, for the 2897 units studied, a $100 rent in 1967 is up to $158 as the result of general adjustments allowed by the Rent Control Board in 1972, 1974, 1976 and 1978, the various operating costs increased so much that net operating income fell from $48.82 in 1967 to the equivalent (in 1967 dollars) of $28.87. Since debt service has to be paid out of this income, as well as profits, it would appear that if the costs of the reported units are typical, or average, for all 20,000 controlled units, then the Rent Board has failed to satisfy the statutory mandate to permit a fair net operating income, the 1967 level having been established as fair by definition.

The graph is difficult to evaluate. The Committee was not informed in any detail as to how the 2897 units studied were selected, and thus cannot tell whether they accurately represent all 20,000 controlled units. In addition, the courts have taken the position that rent control is intended to protect tenants against inflation and that inflationary factors may therefore not be used in computing adjustments (see attached Order No. 2). To the extent that rent represents a landlord's principal and interest payments which remain constant over many years, an automatic percentage

inflationary increase would build up profits rapidly. On the other hand, landlords are supposed to receive enough rent to maintain the same return as they enjoyed on their base year (1967) investment. The theory of rent control is that only that portion of rents which represent operating profits should be protected by increases, not that portion which services fixed debt.

Criticism of Rent Control

The following summarizes the leading criticism voiced against rent control:

1. The Cambridge Property Owners Association believes vacancies are higher than the 1% claimed by rent control advocates. The Association claims an 8% rate. It appears that at least half of the units they refer to are in public housing, where many units have become uninhabitable because of rampant deterioration and a large-scale renovation program.

2. The City Assessors assert that assessed valuations have decreased for the first time since the depression, and associate this fact with the substantial tax rate increase since 1970 (but only 5% in the last four years). They say that the percentage of gross income expended for taxes by apartment owners, 30%, is the highest in the state, where the average is 22%. Amounts over 30% are abated and must be picked up by the rest of the community.

3. Landlords believe a reserve for replacement should be allowed in rents.

4. Landlords who in 1967 were not charging rentals as high as prevailing rentals have been penalized permanently, since 1967 was selected as the base year for pegging fair net operating return.

5. Landlords believe that controls are helping relatively few of the persons they were intended to help and relatively more of those who economically could afford to pay market rates.

6. Business people believe that although new construction is exempt from control, controls discourage new construction because of the fear that controls will be extended. They assert that every city needs continual rebuilding.

7. As much as $2 million dollars is estimated lost in real estate taxes as the result of rent control, according to some critics of the program.

8. Some landlords believe that a rent grievance board should be established, and the Rent Control Board discontinued. They believe a means would then exist for dealing with hardship cases and rent gouging without onerous controls.

9. Landlords believe that tentative rent increases should be allowed, with the increases escrowed, when a general rent adjustment is first proposed, so that the benefit of increases is not lost while the rent board debates the issue and processes the increase.

10. Some tenants believe that tenant representatives on the Rent Control Board should be working class rather than professional, and that the Board should include minority representation. Some tenants believe that all Rent Control Board members should be tenant representatives.

11. Tenants would like a full month to respond to affidavits re code violations.

12. Some tenants would like Spanish, Portugese, and Haitian language assistance.

13. Tenants would not permit increases if any code violation exists, i.e., the eleven conditions which will suspend an increase should be expanded. It seems anomalous that a Sanitary Code Violation can stop an individual adjustment but not a general adjustment.

14. Some tenants believe that rents should have a ceiling, i.e., not increase at all.

Justification of Rent Control

The leading arguments in favor of rent control are these:

1. Very large numbers of the elderly and other poor persons are sheltered under rent control.

2. The social composition of Cambridge would change without rent control, as a significant number of social workers, laborers, nurses, teachers, artists, minorities, and city employees would have to move.

3. The hard-won improvements in schools and other city services would be inherited by newer, wealthier citizens while citizens who suffered our years of turmoil would be forced to Somerville, Everett, Chelsea, etc.

4. Uncontrolled rents would skyrocket, given Cambridge's popularity, increasing land values and making apartment house and office building financing more feasible. A dense city would become denser. Neighborhoods would vanish. Speculators and the institutional land holders (Harvard and MIT) who have time and again defeated adequate zoning controls, would reap enormous real estate profits. Cities do not need to be rebuilt every generation or two.

5. Cambridge is almost unique in the degree to which demand exceeds supply, justifying the drastic remedy of controls. In the 1960's, before rent control, the median household rent increased 70%, double the median increases for the Boston metropolitan area.

6. Rent control stimulates much more housing code enforcement than would otherwise occur, because each tenant becomes an "enforcer" whenever upward rent adjustments are proposed.

7. Rent control discourages the rampant practice of crowding unrelated persons into apartments as a means of affording high rents, a practice which displaces families and small households and which wears out the housing stock.

Proposed Study

During the last term of the City Council (1976-77), when none of the present three members of the Council's present Rent Control Committee were serving on the Council, the then Chairperson of the Committee, Barbara Ackermann, with the assistance of a group of private citizens, drafted a proposal for a survey to be accomplished, at the estimated expenditure of $100,000. The survey was in part a response to studies of Kirk McLure, an MIT Intern assigned to the Rent Control Committee, which suggested that large families, the elderly, long-term residents, and black people are not as high a proportion of the persons assisted by rent control as had been anticipated would be the case. The McClure analysis also estimated that the cost of rent control to the rental housing industry is about $2 million per year. The proposed study would have surveyed selected controlled units and selected noncontrolled units and compared various characteristics of each.

No proposal was made in the last budget session for funds for the study. Your present committee believes that such an expenditure is not warranted, for several reasons:

1. The City can and should respond to such physical deterioration as is occurring regardless whether it is greater or less than would occur absent rent control. The response includes a variety of housing activities, including code enforcement, Section 312 loans and grants, bank consortium assistance, and technical rehabilitation advise and assistance. The response should be equal to the need. If rent control accelerates deterioration, the city's housing program should be enlarged. It is noted that the Rent

Control Board's Regulation Series No. 75, adopted recently, authorizes individual rental adjustments where needed to support financially certain capital improvements accomplished by landlords. This regulation removes one of the strongest objections to the program.

2. Even if it should be proved that a somewhat lower ratio of large families, minorities, elderly, or poor people are helped by rent control than was believed, this would not mean that a very large number of the 20,000 controlled units are not occupied by such persons.

3. The noncontrolled units which would be compared with controlled units would, of necessity, consist of newly constructed units and units in owner occupied two and three family residences. Differences between such units and controlled units can as well be attributed to modernity, ease of upkeep, and the maintenance incentives produced by owner occupancy as to the fact that such units are not controlled.

4. The extraordinary prices seen in the real estate market these days (e.g. many sales of "ordinary" two and three family residences for prices in excess of $100,000), the continued low vacancy rate, and the scale and hardship of displacements created by condominium conversion all suggest that rent control is needed as much as ever if Cambridge is to continue its relative stability.

Recommendations of Rent Control Committee

1. When a general adjustment is granted, tenants are sent an affidavit of eleven possible code violations which may suspend the adjustment. The affidavit should be more exhaustive. The inspectors in both the Building Department and the Department of Health and Hospitals should be made available for a month's assignment to verify the existence or non-existence of violations asserted in the tenant affidavits.

2. General adjustments should be made more promptly. Landlords should not have to lose the benefit of six to twelve months of increases after justification occurs to permit increases.

3. When individual petitions from landlords are believed to justify increases, the Rent Board should enter into something akin to consent decrees to permit different increases in selected apartments where landlords are able to demonstrate that their lower income tenants will not suffer increases or where landlords secure public housing leased housing commitments for such tenants.

4. The entirety of general adjustment notices and affidavits of violations should be printed in prevailing foreign languages, instead of merely noting in a foreign language that language assistance will be available upon request.

5. Moderate pay should be provided for Rent Control Board Members.

6. Information, forms and regulations should be mailed upon request, instead of requiring that they be picked up in person.

7. Regardless of the Rent Control Board's success in reducing the average processing time of adjustment petitions, each and every petition should be guaranteed a specified maximum processing time. Where such minimum

time must be exceeded because of unusual requirements of the parties, a written record should exist, placing the parties on notice of the reasons for the delay and of the steps being taken to resolve the matter.

8. Last year the City Council adopted a home rule petition asking the General Court to prohibit all evictions resulting from condominium conversions. The bill was defeated. That petition was seen as a stopgap measure and a similar bill has been introduced.

The sweeping prohibition approach having failed once it seems appropriate at this time to try a more moderate approach because conversions are rapidly eroding the program. The attached bill, Proposed Order No. 1, would permit conversions to go forward if 40% of the tenants in a building purchased, if four months notice were given tenants plus certain data and technical information, and even the 40% requirement would be waived if the citywide vacancy rate exceeded 4%.

9. The City Solicitor should be requested to draft legislation to authorize qualified housing inspectors on the Rent Control Board staff to enforce the State Sanitary Code. Proposed Order No. 2 would permit more rapid and efficient investigation of many asserted code violations and prove advantageous for both landlords and tenants.

10. Attached Order No. 3 should be adopted, to ask the Rent Control Board to adjust its position re the Consumer Price Index to the current state of the law.

11. Hearing Examiners should provide evening hours for parties who request such hours.

12. A clearer, more comprehensive handbook of rent control practices and procedures should be created, and the Rent Control Board should request funds for the purpose in its upcoming budget.

13. "Negotiated" packages of essential property improvements, coupled with rent increases precisely calculated to amortize the cost, should be encouraged by Hearing Examiners. A substantial number of tenants could afford higher rents and would be glad to negotiate to pay such rents in return for upgrading their apartments.

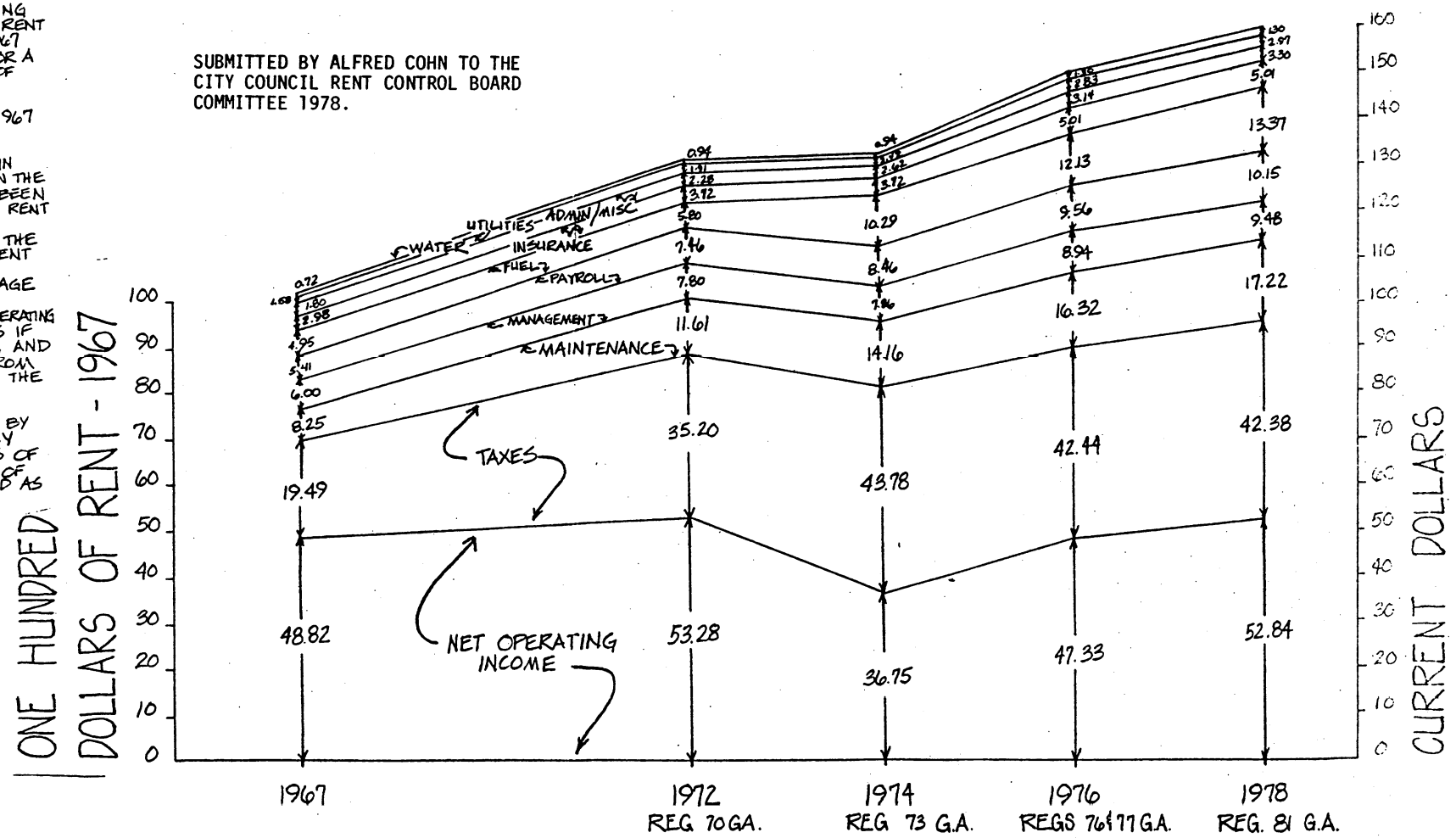
PROPOSED LEGISLATION

CHANGES IN NET OPERATING INCOME AND OPERATING EXPENSES OF CONTROLLED RENTAL PROPERTIES BASED UPON RENT ALLOWED BY GENERAL ADJUSTMENTS

ALL RENT COMPONENTS ARE BASED ON AVERAGE 1967 FIGURES TAKEN FROM A SAMPLE OF 2,697 UNITS REPORTING EXPENSES IN 1967 FOR INDIVIDUAL RENT ADJUSTMENTS. THE AVERAGE 1967 FIGURES HAVE BEEN ADJUSTED FOR A $100.00 1967 RENT FOR EASE OF UNDERSTANDING. INCREASES IN OPERATING COSTS HAVE BEEN COMPUTED BASED ON AVERAGE 1967 COSTS INFLATED BY CONSUMER PRICE INDICES, INCREASES IN INSURANCES RATES, INCREASES IN WATER RATES, AND INCREASES IN THE TAX RATE. RENT LEVELS HAVE BEEN CALCULATED BASED UPON A 1967 RENT OF $100.00 BY APPLYING THE APPROPRIATE REGULATIONS OF THE RENT BOARD FOR GENERAL RENT ADJUSTMENTS. RENT LEVELS REPRESENTED ARE NOT AVERAGE RENT LEVELS. HOWEVER, THE RELATIONSHIP BETWEEN NET OPERATING INCOME, OPERATING EXPENSES IF MAINTAINED AT 1967 LEVELS, AND INCREASES OR DECREASES FROM YEAR TO YEAR DO REPRESENT THE EFFECTS OF THE GENERAL ADJUSTMENTS.

IF THE UNIT REPRESENTED BY THIS GRAPH WAS INDIVIDUALLY ADJUSTED BY THE PROVISIONS OF REG. 72 A MAXIMUM RENT OF $195.00 WOULD BE ALLOWED AS OF APRIL, 1978.

SUBMITTED BY ALFRED COHN TO THE CITY COUNCIL RENT CONTROL BOARD COMMITTEE 1978.



CCM-101

City of Cambridge

Order #1
IN CITY COUNCIL
January 29, 1979

COUNCILLOR WYLIE

WHEREAS: Chapter 36 of the Acts of 1976 declared the existence of a housing emergency in the City of Cambridge because of a substantial and increasing shortage of decent rental housing accommodations especially for families of low and moderate income and for elderly people on fixed income, and accordingly continued the rent and eviction control program; and

WHEREAS: That Act also declared the public policy of this city that conversion of rental housing units to condominium units was not a valid reason for evicting tenants; and

WHEREAS: That policy is being avoided by the sale of individual condominium units to landlords who then evict the tenants and occupy the units themselves, thus further aggravating the shortage of decent rental housing accommodations which it is the policy of this city to alleviate; now therefore be it

ORDERED: That the Cambridge City Council hereby petitions the General Court under Section 8 of Article II, as amended by Article LXXXIX, of the Amendments to the Constitution, to enact the attached special law entitled "AN ACT TO AMEND THE CAMBRIDGE RENT CONTROL LAW BY REGULATING THE EVICTION OF TENANTS IN A CONTROLLED CO-OWNERSHIP UNIT."

CCM-101

City of Cambridge

Order #2
IN CITY COUNCIL
January 29, 1979

COUNCILLOR WYLIE

ORDERED: That the City Manager be requested to instruct the City Solicitor to prepare legislation which would permit qualified housing inspectors employed by the Rent Control Board to enforce the State Sanitary Code.

The Commonwealth of Massachusetts

IN THE YEAR ONE THOUSAND NINE HUNDRED AND SEVENTY-EIGHT

AN ACT TO AMEND THE CAMBRIDGE RENT CONTROL LAW BY REGULATING THE EVICTION OF TENANTS IN A CONTROLLED CO-OWNERSHIP UNIT.

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. Section 3(b) of chapter 36 of the acts of 1976 is hereby amended by striking out subdivision (4) and inserting in place thereof the following subdivision:-

(4) rental units in cooperatives when rented by the lessee pursuant to a proprietary lease with a cooperative corporation, association, or trust.

SECTION 2. Section 3 of chapter 36 of the acts of 1976 is hereby amended by adding the following subsections:-

(e) "Co-ownership unit", any unit which is sold, whether or not actual title is transferred, together with an undivided interest in the common areas of the building in which the unit is located and/or the land appurtenant to the building in which the unit is located including, but not limited to, units in condominiums established under chapter one hundred eighty-three A of the General Laws, units in cooperatives established under section three A of chapter one hundred fifty-seven of the General Laws, or units in cooperatives established by a declaration of trust.

(f) "Co-ownership converter", any person or entity who offers, or intends to offer, any controlled rental unit for sale as a co-ownership unit.

(g) "Landlord-purchaser", any landlord who is a purchaser of a co-ownership unit.

SECTION 3. Section 9(a) of chapter 36 of the acts of 1976 is hereby amended by striking out subdivision (8) and inserting in place thereof the following subdivision:-

(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. If the landlord is a landlord-purchaser and if the tenant originally obtained possession of the unit pursuant to a lease or rental agreement entered into before the unit was first purchased as a co-ownership unit, then, the board may not issue a certificate of eviction unless the requirements of section 9A have been met and the landlord-purchaser has submitted a written statement by the co-ownership converter made under penalty of perjury verifying that requirements of section 9A have been met.

SECTION 4. Subdivision (10) of section 9(a) of chapter 36 of the acts of 1976 is hereby amended by striking out, in line 6, the words "condominium unit" and inserting in place thereof the words: co-ownership unit.

SECTION 5. Section 9 of chapter 36 of the acts of 1976 is hereby amended by adding the following subsection:-

(f) The provisions of this section and section 9A that restrict the ability of a landlord to recover possession of a co-ownership unit or an intended co-ownership unit are deemed not in conflict with any policies, embodied in any special or general law, that may encourage home ownership.

SECTION 6. Chapter 36 of the acts of 1976 is hereby amended by adding the following section:-

9A Prerequisites for Evictions of Tenants in Converted Units

All of the following requirements must be met before the board may issue a certificate of eviction to a landlord-purchaser pursuant to section 9(a)(8):

(a) The co-ownership converter shall give the tenant written notice of his intention to convert the rental unit to a co-ownership unit. The notice shall be on a form prepared by the board. The board shall prepare a notice form containing a statement of the tenant's rights under this section. The tenant must receive the notice at least four months before the landlord-purchaser may apply for a certificate of eviction.

(b) The co-ownership converter shall offer the tenant the first right to purchase his unit for the same price and terms, or a price and terms more favorable to the tenant, as he subsequently gives the landlord-purchaser. The co-ownership converter may not revoke his exclusive offer to the tenant for a period of at least two months following the date when the tenant receives from the co-ownership converter the following:-

(1) the purchase and sale agreement and all other documents necessary for the acceptance of the offer including, but not limited to, the co-ownership declaration, by-laws and applicable occupancy regulations,

(2) a written statement of the owner's actual expenditures for utilities, maintenance, repairs, and operations that were made for the building in each of the past three years,

(3) a written statement of the projected monthly charges for each expense item and for reserves computed for all the co-ownership units and computed on a per unit basis,

(4) a written statement of other projected monthly payments of the co-ownership unit itemized as to principal, interest, and taxes, and

(5) a written property report by a certified engineer stating the condition and useful life of all common structures and facilities including, but not limited to, the roof, foundation, external and supporting walls, heating systems, electrical system, and plumbing system.

(c) Tenants representing thirty-five percent of the building's units that are occupied on the date when any tenant receives the first notice of intention to convert under subsection (a) must execute for consideration bona fide purchase and sale agreements, containing no repurchase provisions other than to protect the purchaser from loss on future resale, for co-ownership units in the building. The board may waive this requirement by regulation at times when it finds, based on a methodology that it chooses, that (a) the vacancy rate for rental units in Cambridge is greater than four percent and (b) that the supply of rental units in Cambridge is adequate to allow a tenant to relocate without severe hardship. This regulation will be effective as a waiver only if the board promulgates the regulation by the date when a tenant first receives notice of intention to convert.

SECTION 7. If any provision or clause of this chapter or application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared to be severable.

CCM-101

City of Cambridge

Order #3
IN CITY COUNCIL
January 29, 1979

COUNCILLOR WYLIE

WHEREAS: The Cambridge Rent Control Board Regulation, No. 72-04(b), provides that individual rent adjustments may be made to reflect the percentage of increases in the cost of living as calculated from the U.S. Department of Labor's Consumer Price Index; and

WHEREAS: Said Regulation No. 81 permitted a general rent adjustment intended in part to take account of the effects of inflation by adjusting 55% of the typical 1973 net operating income by the increase in the Consumer Price Index since 1973; and

WHEREAS: The Massachusetts Appeals Court in Niles v. Boston Rent Control Administration, Mass.App., 374 N.E.2d 296 (1978), held that the use of inflationary factors in computing adjustments should be prohibited, on the ground that the basic purpose of rent control is to protect tenants against inflation; now therefore be it

ORDERED: That the Cambridge City Council calls upon the Cambridge Rent Control Board to rescind Regulation No. 72-04(b) and as promptly as feasible to eradicate the effect of the prohibited portion of regulation No. 81 by adopting a reductive general adjustment or compensating in the computation of the next general adjustment which would increase rents.

C. C. 106

City of Cambridge

S-63

Comm. from C. David A. Wylie, Chairman, Rent Control Committee, with report on hearings on Cambridge Rent Control Program which were held on April 6, 13, 20 and 27, 1978.

In City Council,

February 5, 1979

2/5/1979
Placed on File