

Com. ueller Russell
Ordered:

Refer to C. W. & Aug.
Sew. Dept. for repair

Walter H. Maling
33 Lexington Ave., Apt. 6
Cambridge, MA 02138-3361

March 18, 1986

City Councilor Sheila Russell
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Dear Mrs. Russell:

Enclosed is a copy of a letter to the Commissioner of Buildings and Housing protesting the biased treatment I recently received from the Cambridge Inspectional Services Department.

Sincerely,

Walter H. Maling

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*Reply
+
refer to memo*

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Joseph J. Cellucci,
Commissioner of Buildings and Housing
Cambridge City Hall
795 Massachusetts Avenue
Cambridge, MA 02139

Dear Mr. Cellucci:

I am writing this letter to protest the biased treatment I have received from the Cambridge Inspectional Services Department. Following is an account of the events which took place regarding an inspection of a tenant's apartment in the building at 33 Lexington Avenue of which I am part owner.

On January 3, I had a new thermostat installed in a tenant's apartment. This one thermostat controls the heat for the entire seven unit apartment building of which I am also a resident. The tenant began to complain about inadequate heat immediately, and on the same day that the new thermostat was installed, I raised the thermostat setting from 72 to 75 degrees in response to the complaint. But, this did not satisfy the tenant.

On January 5, the tenant called me up and said that if I paid them \$25,000 they would vacate their apartment. This was a surprise to me because I have never asked the tenant to leave or indicated that I would like them to leave. I refused the offer; they continued to complain about the heat.

On January 9, I called the Cambridge Inspectional Services Department to request that temperature measurements be taken in the tenant's apartment. I spoke with Inspector Joseph Cremens who told me he would contact the tenant to arrange for an inspection. Inspector Cremens called me back 15 minutes later and told me that the tenant did not want an inspection that day and would get back to him. A record of these telephone conversations is on file as complaint number 20347.

On January 13, I reiterated my request in writing to the Inspectional Services Department. I asked that the inspector come and take temperature measurements as a **neutral party** to find out what was going on. The tenants claimed their thermometer was reading below 68 degrees and yet the thermostat was set at 75 degrees and its thermometer was reading 75 degrees. Since it was a new thermostat I did not know how accurate it was, so I

requested that a measurement be taken both at the thermostat and at the tenant's thermometer.

On January 14 at 4:20 pm, I received a call from Inspector Cremens. He said he had received my letter, had called the tenant and would be going out to take measurements at 5:20 pm that day. I went home to be present during the inspection. At 4:55 pm, I heard the heat come on and then turn off again a few minutes later. Since it is abnormal for the heat to turn off so soon after coming on, I went to the basement to see if something was wrong with the boiler, but everything checked out.

When Inspector Cremens arrived, he took temperature measurements in each room of the tenant's apartment. He took a measurement at the tenant's thermometer, but did not take a measurement at the thermostat as I had requested. We looked at the thermostat and I asked the Inspector to note the thermostat setting. He said it was set at 73 degrees. This was a surprise to me since I had set it at 75 degrees and the tenant was the only one who could have lowered the setting. I realized then why the heat had gone off earlier. The inspector watched me raise the setting to 76 degrees and I asked him to note that in his report. At that time he made no indication that he would not note this in his report. He took some notes on a piece of paper where he had been recording the temperature measurements and continued with his inspection.

Later, the inspector asked to see the heating system and I took him to the basement to show it to him. After that he returned to the tenant's apartment to fill out his report and I was excluded from this process. When I received my copy of the report no mention was made of the thermostat setting or the fact that I had taken immediate action to correct the problem by raising the thermostat setting. I was cited for violations of 105 CMR 410.200 and 410.201 and was directed to provide adequate heat in all habitable rooms and to provide heating facilities for the baby's room.

To correct the problem, I had the thermostat moved to the coldest location in the tenant's apartment. Inspector Cremens came back one week later (on January 21) and reported that all temperatures were above 68 degrees. He told me, however, that I still must provide heating facilities for the baby's room. The baby's room is heated by a steam riser pipe and has no radiator. The temperature he recorded that day in the baby's room was 70 degrees.

Because the tenant had withheld rent I requested a hearing before the Cambridge Rent Control Board. I called Inspector Cremens and asked him if he would furnish me with an affidavit stating what he observed the thermostat setting to be at his inspection on January 14. He told me he could not remember what the setting

was. I served a subpoena on Inspector Cremens to appear at the hearing to testify and to bring all notes and records pertaining to his inspection.

At the hearing Inspector Cremens changed his story. He no longer maintained that he could not remember the thermostat setting, but claimed that he could not read the setting because of the glare cast by a light on a clear plastic box that covered the thermostat -- a box which he testified that I removed in his presence. When asked if he had seen me raise the setting, he testified that he told me he "wasn't interested" in what I was doing to the thermostat. He did not bring to the hearing the notes that I saw him take during his inspection on January 14 and later, I was unable to find a copy of those notes on file at the Inspectional Services Department.

Inspector Cremens also testified that the call he received on January 9 was from the tenant. In fact, this call was from me. I later obtained a copy of that record (complaint number 20347) and noticed that it does not say who the caller was and states "the tenant will call when their (sic) is a problem." The details of this report correspond exactly to a written record of the call which I had made in my journal and submitted as evidence at the hearing.

In addition, Inspector Cremens testified that the steam riser pipe in the baby's room was an acceptable heat source and additional facilities were not required as long as the temperature could be maintained above 68 degrees.

I strongly protest the incredibly biased treatment I have received from the Cambridge Inspectional Services Department. I requested the services of your department as a neutral party and instead the inspector:

- o responded to my request to take a measurement at the tenant's thermometer, but not at the thermostat as I also requested.
- o led me to believe he was noting the thermostat setting.
- o failed to note that I had taken immediate action to correct the problem by raising the thermostat.
- o later testified that he "wasn't interested" in the action I took to correct the problem.
- o lied at the hearing about not being able to read the thermostat setting.
- o lied at the hearing about who requested the inspection by phone on January 9.

- o led me to believe I was required to install an additional heating facility in the baby's room and later testified that I was not required to do so.

As a citizen of Cambridge I expect your department to treat all citizens equally and without prejudice. It is my opinion that you have allowed the stereotype of the landlord as greedy and the tenant as helpless victim to prejudice your actions. In this case a greedy tenant was attempting to use the protection of Rent Control to extort money from the landlord and was using the Inspectional Services Department to exert pressure on the landlord to give in to their demands. I can only say that judging from the actions of your department it seems that you are a willing accomplice in the tenant's scheme.

Sincerely,

Walter H. Maling

Walter H. Maling

cc: Robert Healy, City Manager
✓ Sheila Russell, City Councilor
David Sullivan, City Councilor
William Walsh, City Councilor



City of Cambridge

15.

IN CITY COUNCIL

April 7, 1986

COUNCILLOR RUSSELL

ORDERED: That the attached communication be referred to the City Manager and Inspectional Services Department for report.

In City Council April 7, 1986.
Adopted by the affirmative vote of 8 members.
Attest:- Joseph E. Connarton, Acting City Clerk.

A true copy; *Joseph E. Connarton*

ATTEST:-

Joseph E. Connarton, Acting City Clerk.

Order #15

1-125

C. Russell order re: attached comm. from
Walter H. Maling regarding his dealings with
the Inspectional Services Dept. be referred
to the City Manager & Inspectional Services
Dept. for report.

*copy sent to the City Manager & the
Commissioner of Inspectional Services
4/9/86 wh*
In City Council,

April 7, 1986

C.R
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