



City of Cambridge

Committee Report #3

IN CITY COUNCIL

January 11, 1999

COUNCILLOR DAVIS

ORDERED: That the City Manager be and hereby is requested to confer with the City Solicitor and the Assistant City Manager for Community Development to provide the following information to the Ordinance Committee:

- Comparison of provisions of existing state law and proposed ordinance, if possible in a redlined format;
- Comparison of provisions of proposed ordinance with provisions of other local ordinances enacted pursuant to Chapter 427;
- Information as to any pending legal challenges to or lawsuits pertaining to local ordinances strengthening the state law protections of Chapter 527;
- Supreme Judicial Court decision on the Boston ordinance;
- Costs to the City to administer the proposed ordinance;
- Information on what buildings have been converted to condominiums in Cambridge, numbers of units and costs, with enough historical data to show trends; and
- Any other information that the community Development Department's Housing Director believes would assist the Ordinance Committee in its consideration of this proposed ordinance.

In City Council January 11, 1999.

Adopted by the affirmative vote of nine members.

Attest:- D. Margaret Drury, City Clerk.

A true copy;

ATTEST:-

A handwritten signature in black ink, reading "D. Margaret Drury".

D. Margaret Drury
City Clerk



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Ms. Schacter noted that the definition of "intent to convert" has added some criteria that in their experience with Cambridge landlord/tenant circumstances, are correlated with and do evidence intent to convert.

With regard to the conversion permit system, Attorney Schacter pointed out that the provisions only apply when the vacancy rate falls below 5%. She stated that much of the documentation required to be filed with the Community Development Department is already required by state law. The only additions are a list of the names and addresses of tenants and a requirement for certification that there have been no condominium evictions in the last six months.

One of the key problems now is that landlords do not give the required notice of intent to convert.

Attorney Schacter stated that there are two ways to meet the requirement to making a provision for low-income tenants. It can always be met by a 15% set-aside for low-income tenants; however, owners can also choose to construct a plan tailored to the needs of the particular situation.

With regard to the requirement to locate housing or extend notice, Ms. Schacter stated that this provision is already required by the state law. Ms. Schacter said that Section 6 (page 22, line 4) provides that the tenant can be evicted for cause as required in the state law; the proposed ordinance has been modified to require that the reasons be stated (page 23, line 3). Ms. Schacter explained that the biggest barrier to enforcement of the law is that tenants have no place to go to find out whether the law applies to them. This law provides an opportunity to go to an entity, here the Community Development Department (CDD) for a determination of whether the ordinance applies to them. Ms. Schacter noted that at line 10 on page 23, there is a provision for the Community Development Department to intervene but intervention is not mandated.

Ms. Schacter pointed out that as set forth on page 24, line 11, in general, the ordinance would be effective upon enactment, but it would not apply to units where there was already a master deed and sales of individual units. This provision is the same as in the state law.

Councillor Sullivan asked what if only one unit has been sold. Ms. Schacter stated that the building would not be subject to the law if more than 50% of the units have been individually sold.

Councillor Davis then invited questions from the members of the committee.

Councillor Russell asked if there is a list of condominium conversions in Cambridge and what is the source of the cost information. Attorney Schacter said that she does have a list, and that information about price comes from the April, 1998 Community Development Department report.

Attorney Schacter stated that the intent of the ordinance is not to prevent condominium conversion. It is an attempt to balance those opportunities with the need to offer reasonable notice to tenants who may face displacement because of the condominium conversion. However, the Community Development Department home ownership program has indicated that there are not very many condominiums affordable to low and moderate income persons in Cambridge.

Councillor Russell asked whether the law protects just low and moderate tenants or all tenants. Attorney Schacter stated that by the "mandatory minimum" state law there is protection for all tenants in buildings being converted to condominiums, however, there are greater protections for low-income tenants. Councillor Russell asked about the vacancy provisions. Ms. Schacter emphasized that this protection only applies to tenants who occupy units at the time of conversion.

Councillor Russell asked about the fact that buildings with fewer than four units are exempt. Attorney Schacter stated that this is a matter of state law and cannot be changed.

Councillor Russell asked about the requirement to notify new tenants that the unit is going to be sold. Attorney Korman stated that this is the existing state law.

Councillor Russell asked about the relocation program. Attorney Korman stated that under existing state law, low income, elderly or disabled persons are entitled to relocation payments if they voluntarily leave. The amounts in the proposed ordinance have been changed to reflect 1998 economic realities.

Vice Mayor Galluccio stated that he looks forward to getting from the Law Department a detailed comparison of this proposal and Chapter 527.

Vice Mayor Galluccio asked if Attorney Korman and Attorney Schacter have drafted this as employees of Cambridge and Somerville Legal Services, and asked if there is a conflict with that activity since Cambridge and Somerville Legal Services receives grant money from the City of Cambridge. Attorney Schacter stated that the ordinance was drafted by them as employees of Cambridge and Somerville Legal Services. She explained that the city grant has gone exclusively to pay for representation of individual tenants facing evictions from formerly rent-controlled units.

Vice Mayor Galluccio stated that as someone who has supported city funding for Cambridge and Somerville Legal Services, it is more difficult for him to take that position when Cambridge and Somerville Legal Services is taking controversial political stands. He suggested doing this type of work pro-bono.

Vice Mayor Galluccio stated that to him the philosophy of the ordinance is to put condominium conversion in a special category. It certainly will not facilitate condominium conversion. He stated that he believes that condominiums represent the most affordable kind of home ownership in the city.

Vice Mayor Galluccio asked whether an owner who filed a master deed in 1992 is exempt. Attorney Schacter said that the owner would be exempt from the permit provisions but, as under the existing state law, would not be exempt from the notice provisions. Attorney Korman stated that with respect to tenants' right to purchase at a time of sale and notice to new tenants, although some of the time limits are different, fundamentally the requirements are the same as under state law.

Vice Mayor Galluccio stated that the Committee needs to look at the price breakdown for condominiums. He requested that the Law Department research any pending litigation against communities that have enacted local ordinances strengthening the state law protections of Chapter 527.

Councillor Reeves stated that he has a lot of questions but he wants to get to the public comment. He requested that the speakers describe how the proposed ordinance would affect the situation at 329 Harvard Street, where the owner first said it was a condominium conversion and then said it was not.

Attorney Schacter stated that this law would have given the tenants an entity to go to to find out if they were protected. The question in this case was whether the first sales were bona fide. For the tenants that have already moved out, there is nothing to do. For existing tenants, there would be a period of notice and right of first refusal. The owner does have a right to change his or her mind, but then they cannot sell in contravention of the requirement of the law.

Councillor Reeves asked what if the whole building is sold in the middle of this. Attorney Schacter stated that the same rights would exist. She said that she does not know if there would be "tacking" of the first owner's time limits or whether the calculation would start over.

Councillor Reeves asked how the ordinance would have affected the apartments at Harvard and Inman Streets. Ms. Schacter stated that this proposal is a "piece of the puzzle;" it is not a rent control law.

Councillor Reeves raised a concern about the banking community's reaction. Ms. Schacter stated that the basic outline is that of the state law which has been in place since 1983; this ordinance could provide more clarity.

Councillor Born stated that the City Council did talk about this proposal three years ago. She stated that there are some problems with the Boston ordinance and she hopes that these problems will not be included. Councillor Born stated that she would like to see a comparison of this proposal with ordinances enacted in other communities. Councillor Born stated that she believes that at this point the discussions really should be about the goals that the City Council wants to achieve. Can we achieve the goal that we want and is it worth the social engineering. People leaving Cambridge include tenants being displaced and owners who are selling out and making a lot of money; there are also owners who do not want to see their ability to cash out limited.

Councillor Davis then invited public testimony from those who are in favor of the proposal.

William Marcotte, 19 Agassiz Street, Eviction Free Zone, stated that the proposal seeks to improve compliance and fairness. The existing state law is not enforced. This proposed ordinance tracks the state law closely but is enforceable. He urged quick action by the City Council. The need is great.

Susan Lindsay Mello, 324 Franklin Street, stated that she is speaking on behalf of Laity and Clergy for Affordable Housing in support of the proposed ordinance. The current state law is being ignored. Many of the most vulnerable citizens in Cambridge are being hurt by the wave of condominium conversions. The Laity and Clergy for Affordable Housing strongly supports home ownership but it has to be done fairly.

Steve Meacham, 10 Laurel Street, stated that he is here representing the Eviction Free Zone. He thanked Cambridge and Somerville Legal Services for their important work in drafting this bill. Most of the tenants that the Eviction Free Zone represents will not be protected by this ordinance. This ordinance speaks to one small slice of people in trouble in a context of widespread displacement of low and moderate people. He pointed to the case of Jean Keldyzs, where several units in her building were sold at huge prices. This ordinance would have protected her and would not have prevented the owner from making large profits. The burden of the current lack of clarity falls completely on tenants, and especially upon the most vulnerable tenants.

Councillor Davis then invited testimony from those in opposition.

Lenore Schloming, 102 Inman Street, stated that she is president of the Small Property Owners Association. She owns one ten-unit property in Cambridge. Her property has been in her family for three generations and she does not want to convert to condominiums but she does not want to lose her right to convert or her sons' right to convert. This law will make conversion so expensive that small property owners will not be able to afford this. The owner of a four-unit building would have to set aside one unit, 25% of the units. For all owners of rental property, this is a back door form of rent control. Two-thirds of Cambridge's population are renters. In the rest of the country, the proportions are exactly reversed.

Skip Schloming, 102 Inman Street, stated that there is not a condominium conversion crisis. According to statistics gathered from the Assessor's Office, over the last four years, the average is 205 condominiums per year, less than 1% of the rental housing units and most is taking place in two or three unit buildings. This is McCarthyism and thought control.

Councillor Russell stated that she would like a report about the costs to the City of administration of the proposed ordinance.

Antiopi Perlegas, 39 Hammond Street, stated that this is another attempt to bury homeowners, especially small property owners. Under rent control, tenants gave landlords terrible times. It was thirty years of slavery.

Linda Levine, 26 Mount Auburn Street, stated that she hopes that the City Councillors are not taking this seriously, and that the City Council will not let the Eviction Free Zone make policy for the city. She is very concerned about the jail provision.

Ed Shanahan, Senior Vice President of the Greater Boston Real Estate Board, a resident of 3 Waldesill Drive, Peabody, spoke in opposition to the proposal. The goal of Chapter 527 was to ensure uniformity across the state. The ordinance before the Committee is a hybrid of what Chapter 527 contains and what the City of Boston tried to do. Judge Dace's decision is on appeal and a decision from the Supreme Judicial Court is expected in early January. It is clearly advisable for the Cambridge City Council to wait for this decision before acting upon this proposal.

Jessie Shu, Lexington, owner of property in Cambridge stated that he was born in China and is happy to be in America where there are many opportunities if you work hard. This ordinance will be divisive just like rent control was.

Lewis Robert, Vice President and General Manager of Stu Lin Realty, 925 Massachusetts Avenue, stated that Stu Lin owns over six hundred rental units and since the end of rent control, has not converted or sold any units. They have kept the protections for handicapped and elderly tenants. This ordinance would make it difficult to continue such a policy. This ordinance will decrease the values of properties and would mean that property owners would definitely have to ask for tax abatements.

Richard Farrington, 6 Frost Street, stated that it is very difficult to be a good landlord. He urged the use of logic in making this decision. He has not made any of his units condominiums but he cherishes his right to do so.

Fred Meyer, 83 Hammond Street, stated that there are three unstated assumptions in this proposal. He said that the first is that there are a lot of condominium conversions going on. He urged careful statistics. The second assumption is that condominium conversion is a bad thing. Assumption three is that long-term rentals are a good thing. Tenants cannot share in the appreciated values of home ownership. It is better to buy a smaller place than to rent a larger place. He suggested that those tenants at the corner of Harvard and Inman Streets would be better off buying condominiums in East Cambridge. Some unintended consequences of this ordinance would be that landlords would prefer short-term students as tenants; the price of condominiums would go up.

John Natale, 17 Chestnut Street, Winchester, spoke in opposition. This is a déjà vu all over again. He is the owner of a small rental building in East Cambridge. There will be a big negative impact on the banking industry in Cambridge. The vacancy rate will never fall below 5%. It is unrealistic, almost bizarre, that he should have to find alternative housing for tenants that have to move. He has the same tenants as in 1993; they are just paying much higher rents and they can afford them.

Salim Kabawat, 52 Shepard Street, stated that the problem that the proponents have is the baggage of the unbearable rent control bureaucracy that property owners lived through. He disagreed with the position that there is an emergency adopting this ordinance will create an emergency.

Kenneth Koplow, 60 Brattle Street, stated that he has been involved in Cambridge real estate for over forty years, and spoke in opposition to the proposed ordinance. He urged careful attention to the facts upon which the City Council's decision will be based.

Councillor Russell asked when the Supreme Judicial Court decision is expected. Attorney Drisdell said that in general, the Supreme Judicial Court decides within ninety days of the oral arguments which took place on November 3, 1998.

Alex Steinbergh, Clinton Street, spoke in opposition to the proposal. He urged the Council to wait for the Supreme Judicial Court's decision on the Boston ordinance. He stated that he believes that the existing statute offers sufficient protection.

Paul Jefferson, 27 Whitney Avenue, spoke in opposition to the proposal. He resents having to be here. The City has other issues to deal with. Why does he have to take care of tenants. His tax money already goes to support the Cambridge Housing Authority. It is just not fair to him.

Councillor Russell moved to keep the proposal in Committee until after the Supreme Judicial Court decision on the Boston ordinance. Vice Mayor Galluccio agreed.

Councillor Born agreed on the importance of more information: number of condominium conversions and price. She stated that she would like to be sure that the ordinance would not result in landlords renting to short-term tenants. Councillor Born stated that the Cambridge Housing Authority is not supported by tax funds. She noted the unanimous vote of nine City Councillors to provide money to the Affordable Housing Trust Fund. Councillor Born pointed out that Cambridge has the lowest tax rate of surrounding communities. Councillor Born also stated that not everyone can afford to buy a house. A good American community should have a place for renters as well as owners.

Vice Mayor Galluccio stated that this ordinance punishes landlords who are renting to low income, elderly and disable tenants. If the Eviction Free Zone believes that tenants in these units are vulnerable, the City Council should take taxpayers' money to help them.

It was agreed that the proposed ordinance will remain in committee.

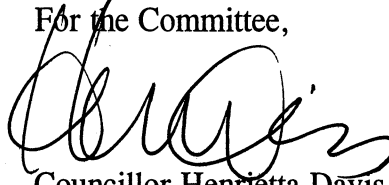
Councillor Davis noted receipt of a letter from Bennett Jones, Architect, 345 Brookline Street, in opposition to the proposed ordinance.

Councillor Davis stated that all present need a better understanding of the existing law. She proposed a motion incorporating all of the requests for information made at this hearing. The motion passed without objection.

Councillor Davis thanked all those present for their attendance.

The hearing was adjourned at 7:45 p.m.

For the Committee,

A handwritten signature in black ink, appearing to read 'Henrietta Davis', written over the printed name.

Councillor Henrietta Davis
Chair



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The Ordinance Committee held a public hearing on November 24, 1998, beginning at 5:30 p.m. in the Sullivan Chamber for the purpose of considering a proposed amendment to the Municipal Ordinance regarding condominium conversion.

Present at the hearing were Councillor Henrietta Davis, Chair of the Committee; Vice Mayor Anthony D. Galluccio; Councillor Kathleen Leahy Born; Councillor Kenneth E. Reeves; Councillor Sheila T. Russell; Councillor Michael A. Sullivan, Councillor Katherine Triantafillou; and City Clerk D. Margaret Drury. Also present were Nancy Glowa, First Assistant City Solicitor; Roger Herzog, Housing Director for the Community Development Department (CDD); and Elizabeth Steinberg, Housing Program Developer, Community Development Department.

Councillor Davis convened the hearing and explained the purpose.

Councillor Reeves asked whether the City Solicitor's Office was prepared to provide an analysis. Attorney Drisdell stated that they have begun their analysis, but it is a complex ordinance, and additional research is required.

Councillor Russell asked if the Law Department would provide an analysis of how this proposed ordinance differs from the existing state law.

Councillor Davis then invited a presentation for the proponents of the amendment.

Ellen Schacter, 17 Moody Avenue, attorney, Cambridge and Somerville Legal Services (CASLS), introduced Henry Korman, resident of 45 Wedgemere Road, Newton, Chief Council of Cambridge and Somerville Legal Services and Bill Marcotte, 19 Agassiz Street, representing the Eviction Free Zone.

Attorney Schacter stated that in 1983 the State Legislature passed Chapter 527 of the Acts of 1983. Chapter 527 sets a floor of protection for tenants in buildings being converted to condominiums and enables cities and towns to adopt stronger protections through local ordinances. Ms. Schacter outlined the goals in drafting the proposed ordinance, and then reviewed the proposed ordinance. The first six pages are the required statement of emergency.

Attorney Schacter noted that the definition of "elder" is 60 rather than 62 as the state legislation provides. In addition, the definition of disability has been expanded to comply with the current state of disability law.

A report from Councillor Davis, Chair of the Ordinance Committee, for a hearing held on November 24, 1998, for the purpose of considering a proposed amendment to the Municipal Code regarding condominium conversion.

In City Council January 11, 1999

*Report Accepted
Referred to the Petition which
remains in Committee
Order Adopted*