

HOUSE No. 6299

By Ms. Graham of Cambridge, petition of David E. Sullivan, Peter A. Vellucci, Sandra Graham, Charles F. Flaherty and others (with the approval of the mayor and city council) that the city of Cambridge be authorized to continue to control rents and evictions. Local Affairs. [Local Approval Received.]

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Four.

AN ACT RELATIVE TO THE CONTROL OF RENTS AND EVICTIONS IN THE CITY OF CAMBRIDGE.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Section 5 of chapter 36 of the acts of 1976 is hereby
2 amended by adding the following paragraph: —
3 (v) The provisions relating to adjudicatory proceeding^s in chapter
4 thirty A of the General Laws, except for section nine and subsection
5 (l) of section fourteen which relate to the court in which judicial
6 review may be sought, shall be applicable to the adjudicatory hear-
7 ings held by the board.

1 SECTION 2. Section eight of chapter thirty-six of the acts of
2 nineteen hundred and seventy-six is hereby amended by striking
3 out subsection (d).

1 SECTION 3. Said chapter 36 is hereby further amended by
2 striking out section 10 and inserting in place thereof the following
3 section: —

4 Section 10. JUDICIAL REVIEW.
5 (a) Any person who is aggrieved by any action, regulation or
6 order of the board may file a complaint for judicial review against
7 the board either in the third eastern Middlesex division of the
8 district court department or the superior court for Middlesex
9 county. If the complaint is filed in the third eastern Middlesex divi-

10 sion of the district court department, said court shall be authorized
11 to take such action with respect thereto as is provided in the case of
12 the superior court under the provisions of chapter two hundred and
13 thirty-one A of the General Laws, except that section three of said
14 chapter two hundred and thirty-one A shall not apply. Judicial
15 review of judicatory decisions shall be conducted in accordance
16 with section fourteen of chapter thirty A of the General Laws.
17 Judicial review of regulations shall be in accordance with section
18 seven of said chapter thirty A.

19 (b) The third eastern Middlesex division of the district court
20 department and the superior court for Middlesex county shall have
21 concurrent original jurisdiction over actions arising out of the
22 provisions of section eleven. Notwithstanding any other provision
23 of law relating to appeals, appeal from the judgment of whichever
24 court enters the judgment, shall be to the appeals court of the
25 commonwealth.

1 SECTION 4. Section 11 of said chapter 36 is hereby amended
2 by adding the following subsection:

3 (d) The board may enforce the provisions of the act or any rule
4 or regulation promulgated hereunder in a civil action for damages
5 for declaratory or injunctive relief.

The provisions relating to adjudicatory proceedings in General Laws C. 30A, except for s.9 and the provisions in 2.14(1) which relate to the court in which judicial review may be sought, shall be applicable to the adjudicatory hearings held by the board.

S. 8(d) Delete.

S. 10(a) (amend) (changes, new language underlined)

Any person who is aggrieved by any action, regulation or order of the board may file a complaint for judicial review against the board either in the third eastern Middlesex division of the district court department or the superior court for Middlesex County. If the complaint is filed in the third eastern Middlesex division of the district court department, said court shall be authorized to take such action with respect thereto as is provided in the case of the superior court under the provisions of chapter two hundred and thirty-one A of the General Laws, except that section three of said chapter two hundred and thirty-one A shall not apply. Judicial review of adjudicatory hearings shall be conducted in accordance with General Laws C.30A s. 7. Notwithstanding any other provision of the law relating to appeals, appeal from the judgment of whichever court enters the judgment, shall be to the appeals court of the commonwealth.

S. 10(b) (new, replaces old 10(b))

The third eastern Middlesex division of the district court department and the superior court for Middlesex County shall have concurrent original jurisdiction over actions arising out of the provisions of section eleven. Notwithstanding any other provision of the law relating to appeals, appeal from the judgment of whichever court enters the judgment, shall be to the appeals court of the commonwealth.

S. 11(d) (new, add)

The board may enforce the provisions of the act or any rule or regulation promulgated hereunder in a civil action for damages and/or for declaratory or injunctive relief.

Section-By-Section Summary

Section 5 (f)

This is the provision which establishes that the Board shall conduct adjudicatory hearings in accordance with the Administrative Procedure Act. The excluded sections are those which set forth the rules of adjudicatory procedure for State agencies (sec. 9) and the provision which allows petitions for judicial review to be filed in Suffolk County (sec. 14(1)).

Board regulations set forth in substance the same protections and hearing rights as the State adjudicatory rules. Therefore, it is not necessary to require the Board to meet the State rules, which in some instances are not relevant to Board proceedings. Judicial review in Suffolk County would not be appropriate for Cambridge Rent Control matters.

Section 8 (d)

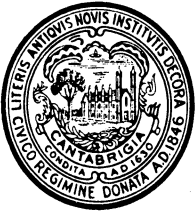
This section is deleted. C. 36 now provides for c. 30A hearings only in rent adjustment matters. Since this will no longer apply, the specific reference should be deleted.

Section 10 (a) (b)

This section establishes that judicial review shall be on the record from the Board in accordance with c. 30A sec. 14. De novo court trials will no longer be available. It also changes current practice which vests the District Court with exclusive original jurisdiction over judicial review. The new procedure gives the District and Superior Courts concurrent jurisdiction and provides that appeal from whichever court enters the judgment is directly to the Appeals Court.

Section 11(d)

This adds a new provision which permits the Board to enforce the provisions of the Rent Control Act in a civil action for damages, declaratory or injunctive relief. Under the current law, the Board only has such civil enforcement authority in rent overcharge cases. In all other



CITY OF CAMBRIDGE

CAMBRIDGE, MASSACHUSETTS 02139

Tel. 498-9011

EXECUTIVE DEPARTMENT

ROBERT W. HEALY

City Manager

June 4, 1984

To the Honorable, the City Council:

Enclosed please find copy of proposed amendments to Chapter 36 of the Acts of 1976, An Act Enabling the City of Cambridge to Continue to Control Rents and Evictions.

The proposed amendments are procedural and technical and will result in the more efficient administration of the rent control law in Cambridge. Landlords, tenants, the City and the courts will benefit from the changes.

In over ten years of rent control in Cambridge, the basic procedural provisions of the law have not been changed. During this time, it has become apparent that various aspects of the law have resulted in overly cumbersome procedures, duplication of resources and inordinate delays. These amendments are designed to correct the problems.

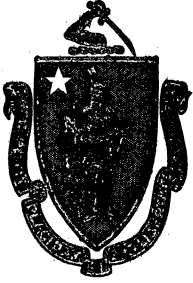
General Summary

Rent Control Board hearings on all adjudicatory cases (certificates of eviction, removal permits, tenant complaints and special cases) will be conducted in accordance with the Massachusetts Administrative Procedure Act (c. 30A of the General Laws). Now only rent adjustment cases are required to be held pursuant to c. 30A.

Judicial review of Rent Control Board decisions will be conducted pursuant to c. 30A and will not be de novo trials. Judicial review will be either by the District or Superior Court. A party dissatisfied with the court decision may then appeal to the Appeals Court. Current judicial review mandates that all cases begin in the District Court and then go to the Superior Court and then to the Appeals Court. This often involves two additional evidentiary hearings beyond that already provided by the Board. As a Superior Court judge has commented:

I also find it odd that the interest of landlords and tenants must be ranked at the very top of the list of social values to be entitled to three trials. I would hope the legislature would reconsider this ordering of affairs. (emphasis by Court)

(Robert J. Hallisey, April 15, 1983, Zaman v. Cambridge Rent Control Board, no. 82-556, Middlesex).



COMMONWEALTH OF MASSACHUSETTS

THIRD EASTERN MIDDLESEX DIVISION

ARTHUR SHERMAN, JUSTICE

4 May 1984

Robert W. Healy
City Manager
Cambridge City Hall
795 Massachusetts Avenue
Central Square
Cambridge, Massachusetts 02139

Dear Mr. Healy:

I have been provided with a copy of the proposed procedural amendments to Chapter 36 of the Acts of 1976 (The Cambridge Rent Control Act).

After reviewing the same in light of approximately twelve years of personal working experience with rent control in the City of Cambridge, I am of the opinion that the adoption of the proposed amendments would be beneficial to tenants, landlords, the Board, and the judiciary.

Experience should have taught all parties in interest that the proposed amendments are long overdue.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Arthur Sherman".

Arthur Sherman, Justice

AS:smp

cc: Russell B. Higley, Esquire
Patricia A. Cantor, Esquire



CITY OF CAMBRIDGE

639 MASSACHUSETTS AVENUE
CAMBRIDGE, MASSACHUSETTS 02139

TEL. 498-9077

RENT CONTROL BOARD

ROGER MERVIS, EXECUTIVE DIRECTOR

H-6299

December 10, 1984

Fact Sheet on Proposed Amendments to Chapter 36 of the Acts of 1976, An Act Enabling the City of Cambridge to Continue to Control Rents and Evictions.

Introduction

On June 11, 1984 the Cambridge City Council unanimously approved the proposed amendments to the Cambridge Rent Control law. The amendments are procedural and technical and will result in the more efficient administration of rent control in Cambridge. Landlords, tenants, the City and the courts will benefit from the changes.

In over ten years of rent control in Cambridge, the basic procedural provisions of the law have not been changed. During this time, it has become apparent that various aspects of the law have resulted in overly cumbersome procedures, duplication of resources and inordinate delays. These amendments are designed to correct these problems.

General Summary

Rent Control Board hearings on all adjudicatory cases (certificates of eviction, removal permits, tenant complaints and special cases) will be conducted in accordance with the Massachusetts Administrative Procedure Act (c. 30A of the General Laws). Now only rent adjustment cases are required to be held pursuant to c. 30A.

Judicial review of Rent Control Board decisions will be conducted pursuant to c. 30A and will not be de novo trials. Judicial review will be either by the District or Superior Court. The current judicial review process mandates that all cases begin in the District Court and then go to the Superior Court and then to the Appeals Court. This often involves two additional evidentiary hearings beyond that already provided by the Board. As a Superior Court judge has commented:

I also find it odd that the interest of landlords and tenants must be ranked at the very top of the list of social values to be entitled to three trials. I would hope the legislature would reconsider this ordering of affairs. (emphasis by Court)

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Section 8 (d)

This section is deleted. C. 36 now provides for c. 30A hearings only in rent adjustment matters. Since this will no longer apply, the specific reference should be deleted.

Section 10 (a) (b)

This section establishes that judicial review shall be on the record from the Board in accordance with c. 30A sec. 14. De novo court trials will no longer be available. It also changes current practice which vests the District Court with exclusive original jurisdiction over judicial review. The new procedures give the District and Superior Courts concurrent jurisdiction and provide that appeal from whichever court enters the judgment is directly to the Appeals Court.

Section 11 (d)

This adds a new provision which permits the Board to enforce the provisions of the Rent Control Act in a civil action for damages, declaratory or injunctive relief. Under the current law, the Board only has such civil enforcement authority in rent overcharge cases. In all other matters, the Board, in order to enforce the Act, must seek criminal penalties. Civil enforcement authority would allow the Board to pursue less drastic remedies.

Conclusion

These amendments are designed to address and resolve specific problems which have arisen over the years. The amendments do not affect the substantive aspects of rent control. The amendments have been endorsed by Judge Arthur Sherman of the Cambridge District Court who is very familiar with judicial review of Board decisions. Judge Sherman urges their enactment (see letter attached).

For further information contact:

Roger Mervis, Executive Director
Patricia A. Cantor, General Counsel
City of Cambridge Rent Control Board
639 Massachusetts Avenue
Cambridge, MA 02139
(617)498-9077



COMMONWEALTH OF MASSACHUSETTS

THIRD EASTERN MIDDLESEX DIVISION

ARTHUR SHERMAN, JUSTICE

4 May 1984

Robert W. Healy
City Manager
Cambridge City Hall
795 Massachusetts Avenue
Central Square
Cambridge, Massachusetts 02139

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After reviewing the same in light of approximately twelve years of personal working experience with rent control in the City of Cambridge, I am of the opinion that the adoption of the proposed amendments would be beneficial to tenants, landlords, the Board, and the judiciary.

Experience should have taught all parties in interest that the proposed amendments are long overdue.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Arthur Sherman".

Arthur Sherman, Justice

AS:smp

cc: Russell B. Higley, Esquire
Patricia A. Cantor, Esquire



CITY OF CAMBRIDGE

CITY HALL, CAMBRIDGE, MASSACHUSETTS 02139 • (617) 498-9017

OFFICE OF
THE CITY CLERK

July 5, 1984

Mr. Robert McQueen
House Clerk
House of Representatives
State House
Boston, MA 02133

Dear Mr. McQueen:

Pursuant to the request of the City Council, I am forwarding to you-
for filing with the Massachusetts House of Representatives the attached
Home Rule legislation entitled "An Act Enabling the City of Cambridge
to Continue to Control Rents and Evictions". Also enclosed please find
an order adopted by the Cambridge City Council on June 11, 1984
approving the filing of the above referenced legislation.

Thank you for your cooperation in this matter.

Sincerely yours,

Joseph E. Connarton
Deputy City Clerk

JEC:neh
Enc.



City of Cambridge

Calendar Item No. 10

IN CITY COUNCIL

June 11, 1984

ORDERED: That this City Council go on record approving the filing of the attached legislation entitled "PROCEDURAL AMENDMENTS TO C. 36 OF THE ACTS OF 1976, AN ACT ENABLING THE CITY OF CAMBRIDGE TO CONTINUE TO CONTROL RENTS AND EVICTIONS".

In City Council June 11, 1984.
Adopted by the affirmative vote of 7 members.
Attest:- Paul E. Healy, City Clerk.

A true copy;

ATTEST:-

Paul E. Healy, City Clerk.

To the Honorable Senate and House of Representatives of The Commonwealth of Massachusetts
in General Court assembled.

The undersigned, citizens of CAMBRIDGE, respectfully
petition for the passage of the accompanying bill or resolve, and/or for legislation

PROCEDURAL AMENDMENTS TO CHAPTER THIRTY-SIX OF THE ACTS OF 1976,
THE SAME BEING AN ACT ENABLING THE CITY OF CAMBRIDGE TO CONTINUE
TO CONTROL RENTS AND EVICTIONS.

Petitioners are requested to sign names and addresses legibly.

and E. Adhikari
Alyce K. Wolf
Mavis B. Hylton
Suzanna Graham
Liz Quinlan - Mayor
Ayesha V. Elledge
Kathleen Pealy

113 Inman St., Cambridge
48 Huron Ave Cambridge
26 Lowell Street Cambridge
189 Western Ave Camb
5 Hawthorn Pl. Camb. Wn.
42 Porter St Cambridge, Mass.
47 Morrison Ave, Lowell, MASS



The Commonwealth of Massachusetts

IN THE YEAR ONE THOUSAND NINE HUNDRED AND ~~SEVENTY~~ Eighty-Four

AN ACT PROCEDURAL AMENDMENTS TO CHAPTER THIRTY-SIX OF THE ACTS OF 1976, THE SAME BEING AN ACT ENABLING THE CITY OF CAMBRIDGE TO CONTINUE TO CONTROL RENTS AND EVICTIONS.

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. S. 5 (f) (new, add)

The provisions relating to adjudicatory proceedings in General Laws C. 30A, except for s.9 and the provisions in 2.14(1) which relates to the court in which judicial review may be sought, shall be applicable to the adjudicatory hearings held by the board.

S. 8(d) Delete.

S. 10(a) (amend) (changes, new language underlined)

Any person who is aggrieved by any action, regulation or order of the board may file a complaint for judicial review against the board either in the third eastern Middlesex division of the district court department or the superior court for Middlesex County. If the complaint is filed in the third eastern Middlesex division of the district court department, said court shall be authorized to take such action with respect thereto as is provided in the case of the superior

court under the provisions of chapter two hundred and thirty-one A of the General Laws, except that section three of said chapter two hundred and thirty-one A shall not apply. Judicial review of adjudicatory hearings shall be conducted in accordance with General Laws C.30A s. 7. Notwithstanding any other provision of the law relating to appeals, appeal from the judgment of whichever court enters the judgment, shall be to the appeals court of the commonwealth.

S. 10(b) (new, replaces old 10(b))

The third eastern Middlesex division of the district court department and the superior court for Middlesex County shall have concurrent original jurisdiction over actions arising out of the provisions of section eleven. Notwithstanding any other provision of the law relating to appeals, appeal from the judgment of whichever court enters the judgment, shall be to the appeals court of the commonwealth.

S. 11(d) (new, add)

The board may enforce the provisions of the act or any rule or regulation promulgated hereunder in a civil action for damages and/or for declaratory or injunctive relief.



City of Cambridge

IN CITY COUNCIL

June 4, 1984

WHEREAS:

Rent Control has operated in Cambridge for over ten years;
and

WHEREAS:

During the course of these years certain procedural matters have hampered the efficient administration of rent control; and

WHEREAS:

These procedural matters have been harmful to both landlords and tenants and have interfered with the efficient administration of the rent control law by the City and the courts; and

WHEREAS:

Certain improvements in the processing of rent control cases in the courts will result in faster decisions which will benefit landlords and tenants;

NOW, THEREFORE, BE IT ENACTED AS FOLLOWS:

Procedural Amendments to C. 36 of the Acts of 1976, the same being
An Act Enabling the City of Cambridge to Continue
To Control Rents and Evictions

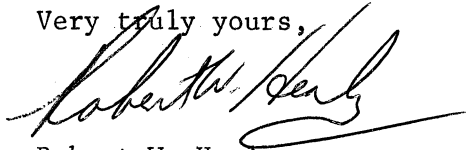
S. 5 (f) (new, add)

matters, the Board, in order to enforce the Act, must seek criminal penalties. Civil enforcement authority would allow the Board to pursue less drastic remedies.

Conclusion

These amendments are designed to address and resolve specific problems which have arisen over the years. The amendments do not affect the substantive aspects of rent control. The amendments have been endorsed by Judge Arthur Sherman of the Cambridge District Court who is very familiar with judicial review of Board decisions. Judge Sherman urges their enactment (see letter attached).

Very truly yours,

A handwritten signature in cursive script, appearing to read "Robert W. Healy", written in dark ink. The signature is fluid and somewhat stylized, with a long horizontal flourish extending to the right.

Robert W. Healy
City Manager

RWH/mbf
Encs. 2

Ord. #10 S-406 6/11/84

Re: proposed amendments to Chapter 36 of the Acts of 1976, an Act Enabling the City of Cambridge to Continue to Control Rents and Evictions.

6/11/84

Ordinance #10

Order adopted by
voice vote of 7 votes
to file the Home
Rule legislation -

In City Council,

June 4, 1984

- 6/4/84 -

TABLED

By

L. Vellocci

Filed w/Rep. Graham 7/5/84