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January 13, 1994

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TO THE HONORABLE, THE CAMBRIDGE CITY COUNCIL:

Councillor Sullivan is to be commended that one of his first acts in office is to look into the issue of HUD disappearing housing.

It is shocking that Cambridge HUD tenants have less condo eviction protections than tenants in almost any other community in the state. This is because, when the state passed protective condo conversion legislation in 1983 the state did not wish to take any chances on damaging Cambridge's existing very strong protections under the Rent Control Act.

As a result, housing in Cambridge constructed during the years 1969 to 1983 have neither protection under the Rent Control removal ordinance nor protection under the state law. The state law (1) is notice legislation which applies to housing constructed in and before 1983, and (2) permits local communities to adopt more strict local regulation (i.e., removal ordinances) than the state notice provisions.

Additionally, Cambridge has a decidedly bizarre situation under certain "transition" provisions to the removal ordinance which have been interpreted by Rent Control Board staff in a manner which could destroy condo eviction protections in untold numbers of buildings with papers prior to August 1979. I am told that illegal exemption certificates have been issued by staff based on this interpretation. I have never seen any of these documents, but, at a recent Rent Control Board policy session when I objected to the standards being used, the Executive Director's response indicated concurrence with my understanding. These certificates are a time bomb, both for affected tenants and for affected owner occupants.

They are a time bomb for affected tenants because the tenants do not realize the valuelessness of the certificates under this interpretation; they normally just move out. They are a time bomb for affected owner occupants because they have relied upon certificates based on this bizarre interpretation and the certificates are not legally binding on knowledgeable tenants.

THE TRANSITION EXEMPTION EXEMPTS UNITS FOR WHICH THERE IS A PURCHASE AND SALE AGREEMENT PRIOR TO AUGUST 10, 1979, WITH REGARD TO THE FIRST SALE AFTER THE FILING OF THE MASTER DEED. The staff has been ignoring the sale requirement and ignoring the Purchase and Sale requirement. The staff has been issuing exemption certificates based solely on deed transfers without consideration that were a part of the condo conversion process, unit deeds without transfer of any consideration whatsoever, deeds to insiders or relatives which do nothing but properly complete the master deed/creation of the condominium form.

I REPEAT: SUCH EXEMPTION CERTIFICATES BEING ISSUED ARE BASED ON CONDO CREATION DEEDS TOTALLY UNRELATED TO SALES. Since there are no adversary hearings conducted, such exemption certificates are not legally binding on affected tenants.

The only time the bizarre interpretation has been presented to the Rent Control Board, the Board refused to accept the staff interpretation and told its staff to review the board decisions on the matter. I obtained this ruling from the board.

Enclosed, once again, is a copy of my legislation to remedy these problems. This legislation would give Cambridge HUD tenants and all tenants in 1969 to 1983 housing equal rights with tenants elsewhere in Massachusetts.

This proposal includes adjustments necessary to make the legislation satisfy the 1990 federal legislation. The 1990 legislation allows local regulation of Condo conversion in HUD housing. Under it state and local regulation of deregulated HUD housing is allowed if that regulation is on terms equal to other units in the housing stock. Under the adjustments housing constructed during the 1969 to 1983 time frame would be protected under the same, complete definition of controlled units as housing constructed prior to 1969 is protected under Rent Control. This broad language will certainly satisfy the federal legislation.

These protections would be administered by the Rent Control Board.

Similarly, the rather bizarre RCB staff interpretation of the transition provisions is resolved by a twilight provision, grandfathering purchasers victimized by RCB staff action, while protecting tenants from any further evictions. The "transition exemption" was intended to apply only to purchasers in the process of buying units on August 10, 1979. Under the twilight language, those "transition" purchasers who have legally occupied prior to January 1, 1994, are exempt from the removal ordinance.

I have previously provided to the council copies of documents referenced in the legislation. During the campaign, I did so to a number of non-incumbents (hopefully to all elected non-incumbents), with a detailed analysis. That analysis is enclosed for your benefit, along with appropriate documents. The copy of the state condo conversion law in the package is from the most recent printing by West and is clearer than copies provided previously.

Your consideration will be of great value to your constituents and to the positions upon which you were elected. I would also be pleased to discuss this matter with you individually.

Once again, Councillor Sullivan is to be commended, as is the city council, Councillor Sullivan for submitting a commendable order, the city council for passing it.

Sincerely,



Robert J. La Tremouille

Enclosures

1. Proposal
2. Updated 1993 summary (with the proposal moved to enclosure 1)

cc: Cambridge Rent Control Board

This package expands and updates the one I provided you after your most recent policy session on illegal condo owner occupations. It includes HUD information not previously provided and it moves the twilight provision date forward. It now grandfathers occupants up to January 1, 1994.

Enclosure 1, Proposal

1. HUD Tenants and similarly situated, post-rent control through 1983 housing:
 - a. State Condominium Conversion Statute.

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 and prior to January nineteen hundred and eighty-four. "Rental Units" as used in the immediately preceding sentence shall be defined as stated in Section 3(a) of the Chapter 36 of the Acts of 1976 as amended. "Rental Units" controlled by this act in the City of Cambridge shall be the "Controlled Rental Units" subject to said Chapter 36 of the Acts of 1976 as amended, as defined in section 3(b) thereof exclusive of Section 3(b)(2). To the extent that units receiving any or all of the benefit of this act are restricted by this act in communities other than the City of Cambridge, these definitions, in the City of Cambridge, shall replace any and all such contrary provisions elsewhere in this act. Administration of this act in the City of Cambridge shall be by the Cambridge Rent Control Board in accordance with the provisions of said Chapter 36 of the Acts of 1976 as amended.

- b. Cambridge Rent Control Act.

Amend Chapter 36 of the Acts of 1976, as amended, by inserting a new sentence immediately following the first sentence of Section 5 (1), 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 January 1, 1993." 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 January 1, 1994. No condominium unit once legally occupied by the unit owner shall ever again be subject to this section for any reason.

Key condo conversion protection documents
La Tremouille proposal

1. The proposal as most recently submitted, in June 1993. It amends for updating and refinement the proposal originally submitted to the City Council and the Rent Control Subcommittee in, I believe, November 1990.

a. Part 1.a. amends the state condominium conversion statute

(1) to allow the general regulation to apply to units constructed in Cambridge during the period not covered by rent control but covered by the state legislation, 1969 to 1983;

(a) includes ALL units covered in that period

(b) this provision is made necessary by a provision in the 1990 federal statute, below, which allows regulation of HUD disappearing housing, but only if that housing is regulated in the same manner as all other units in the housing stock; practical impact is to only cover HUD housing because almost all other housing constructed during that period is condominium and is grandfathered;

(c) the general regulation is strictly a notification provision;

(2) to allow the possibility of removal ordinance protection for these units under a provision of the state statute which permits greater regulation of condominium conversion than the minimum state provisions at local initiative;

(1) applies to ALL housing constructed during the 1969 to 1983 time frame which otherwise complies with the generally applicable definition of housing covered by rent control (except that the rent control housing is constructed prior to 1969);

(2) broader application of local option provision is required by the 1990 federal act, see below;

b. Part 1.b. amends the rent control act to place regulation as allowed by 1.a. under the Cambridge Rent Control Board; this permits consistent application of the two laws at a relatively inexpensive level and provides the greater tenant protection existing before the Cambridge Rent Control Board.

c. Part 2 amends the city removal ordinance to apply to tenants not presently covered, closing the "transition exemption". I go into greater detail because the point is more complicated, but of potentially devastating impact without the change:

(1) This is needed because of wrong interpretation of the ordinance provisions by rent control staff as a result of which they have *been giving*

exemption certificates to landlords in a much broader basis than is allowed under the act. People have been evicted as a result of this in my building because they do not realize that the eviction certificates, granted without an adversary hearing, are of no value.

The removal ordinance, city code, section 8.44.020.6, (copies provided, see below), as presently worded, exempts from coverage:

. . . a condominium unit . . . as to which unit 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, a cancelled check being conclusive proof of the transaction, or a unit deed recorded in the [registry] prior to August 10, 1979 . . .

This was intended to allow sales for owner occupancy in process as of August 10, 1979, to go forward, but not to create a major exemption for units in buildings which had papers filed as of date but which were still tenant occupied and had no such owner occupancy sale pending.

The staff has been interpreting this exemption to apply to ALL UNITS which have condo transfer papers prior to August 10, 1979, WHETHER OR NOT THE TRANSFER WAS A "SALE". Condo transfer deeds accepted by the staff include DEEDS WHICH ARE NOT FOR VALUE AND ARE JUST A PART OF THE CONDO CREATION PROCESS, necessary deeds to create a condominium situation, transfers to the converters or to persons close to them.

This point has only been once before the Rent Control Board, to my knowledge. The rent board refused to accept the staff position and told the staff to research early cases under the removal ordinance.

The position of the staff could wipe out "hybrid" buildings as created by the ordinance if those "hybrid" buildings were properly created, with separate deeds, not for value, as part of the creation of the condominium, because the staff does not look to see if value was transferred. The staff does not look to see if the "initial sale" requirement has been fulfilled.

This case has apparently ended without further board discussion of the issue.

(2) The change grandfathers units which have been occupied legally prior to March 1, 1993 (as most recently worded), but ends the transition exemption for occupation after that date. Thus occupation after that date is illegal as is the case for all other normal rent control units.

2. Supporting Documentation, as follows:

a. The state condominium conversion statute, taken from the ~~West pocket part to M.C.L.A., c. 183A, s. 1, provided the city council in April 1991.~~ *most recent MGLA (West) printing as of 1/94.*

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2. Supporting Documentation, as follows:

a. The state condominium conversion statute, taken from the West pocket part to M.G.L.A., c. 183A, s. 1, provided the city council in April 1991.

most recent M.G.L.A. (West) printing as of 1/94.

b. Definition of "Controlled rental units" under the Rent Control Act, from the most recent edition. This definition, with a change in dates, is made the definition of units allowed to have local regulation for construction during the 1969 to 1983 period.

c. Relevant provisions in the 1990 Cranston-Gonzalez Affordable Housing Act, provided the Rent Control Subcommittee in March 1991, probably provided the city council at a later date, but I stopped when I found this.

The act is horribly long. The relevant portion has falsely been described as fully protecting HUD tenants. It only regulates units for which the mortgages are prepaid. Owners who pay off their mortgages in the ordinary course are free and clear.

Section 232, Preemption of state and Local Laws, is the key. Section (a) prohibits state and local law singling out prepaying units. Section (b) says as relevant:

(b) EFFECT: -- This section shall not prevent the establishment, continuing in effect, or enforcement of any law or regulation . . . relating to . . . rent control, or conversion of rental housing to condominium or cooperative ownership, to the extent such law or regulation is of general applicability to both housing receiving Federal assistance and nonassisted housing. . . .

This is a copy of the provision as provided the Rent Control subcommittee in March 1991.

d. Relevant provisions of the rent control act creating the jurisdiction of the rent control board, proposed to be amended to include regulation under the state act insofar as applicable in Cambridge, provided the city council in April 1991.

e. Relevant provisions of the removal ordinance with regard to the key removal ordinance provision, section 6.44.020.6, creating the transition exemption (pages 14 and 15 of the compilation in distribution in 1991, provided the city council in April 1991).

Inclusion of specific transmittal dates should not be interpreted as being exclusive transmittal dates. In general, these documents have been provided many times under many circumstances. The biggest caveat to the dates is the extreme (and unlikely) possibility of subsequent amendment. I am not aware of any such amendment and I have made it my business to be aware.

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CONDOMINIUMS

"Building', a structure designed or used for any purpose, private or public, and containing two or more units comprising part of the condominium."

St.1972, c. 595, approved July 7, 1972, in the definition of Building, inserted "a public or private" and substituted "office or dwelling space, including garage and storage space incidental to the dwelling" for "dwelling or office purposes".

St.1972, c. 709, § 1, approved July 13, 1972, rewrote the definition of Building, which prior thereto read:

"Building', a public or private building designed for office or dwelling space, including garage and storage space incidental to the dwelling, containing one or more units comprising a part of the condominium."

Section 2 of St.1972, c. 709, deleted the definition of Bank or insurance company which read:

"Bank or insurance company', a bank as defined in chapter one hundred and sixty-seven, a federal savings and loan association, and an insurance company subject to the provisions of chapter one hundred and seventy-five."

Section 4 of St.1972, c. 709, provides:

"The provisions of this act shall apply to the regulation of condominiums created, and to amendments of the master deed or by-laws made subsequent to the effective date of this act."

St.1985, c. 788, § 1, an emergency act, approved Jan. 8, 1986, in the definition of Common areas and facilities, in cl. (4), added ", or the lessee's interest in any lease of such land which is submitted to the provisions of this chapter".

Section 2 of St.1985, c. 788, in the definition of Condominium, inserted "or the lessee's interest in any lease of such land which is submitted to the provisions of this chapter,".

Related Laws:

St.1983, c. 527, §§ 1 to 5D, 7 and 8, provide:

"Section 1. DECLARATION OF EMERGENCY. The general court finds and declares that a serious public emergency exists within the commonwealth with respect to the housing of a substantial number of the citizens of the commonwealth. This rental housing emergency has been created by the lack of sufficient new rental housing production, by prolonged increases in housing costs at a rate substantially exceeding increases in personal income, by housing abandonment, by increased costs of new housing construction and finance, and by increased residential mortgage interest rates. It has also been created by the effect of conversion of rental housing into condominiums or

cooperatives. These forms of home ownership constitute an important and positive dimension in addressing the housing needs of the commonwealth. However, absent sufficient new rental housing production, such conversion necessarily reduces the stock of rental housing otherwise available. A substantial and increasing shortage of rental housing accommodations, especially for the elderly, the handicapped, and persons and families of low and moderate income, has been and will continue to be the result of this emergency. Unless the available stock of rental housing, and the tenants who reside therein, receive further protection from the consequences of conversion of said accommodations to condominiums and cooperatives than the law now affords, this rental housing shortage will generate serious threats to the public health, safety, and general welfare of the citizens of the commonwealth, particularly the elderly, the handicapped, and persons and families of low and moderate income. It is therefore necessary that such emergency be dealt with immediately.

"Section 2. The provisions of section four of this act shall be applicable to all housing accommodations in any city or town of the commonwealth, unless otherwise provided in this section.

"Any city or town may, by ordinance or by-law, impose provisions or requirements to regulate for the protection of tenants with respect to the conversion of housing accommodations to the condominium or cooperative forms of ownership and evictions related thereto which differ from those set forth in this act, upon a two-thirds vote of the city council with the approval of the mayor, in the case of a city, or a two-thirds vote of a town meeting, or town council, in the case of a town; provided, however, that no such ordinance or by-law which imposes additional provisions or requirements than those set forth in this act shall be applicable to any of the following housing accommodations: (i) housing accommodations constructed or converted from a non-housing to a housing use after the effective date of this act; (ii) housing accommodations which were constructed or substantially rehabilitated pursuant to any federal mortgage insurance program, without any interest subsidy or tenant subsidy attached thereto; and (iii) housing accommodations financed through the Massachusetts Housing Finance Agency, with an interest subsidy attached thereto.

"Any city or town, which has adopted an ordinance or by-law for the regulation of the conversion of housing accommodations to the condominium or cooperative forms of ownership and evictions related thereto pursuant to the authority conferred upon such city or town by special act, shall be exempt from the provi-

SOURCE: MGLA (West), c. 183A, 2.1 (most recent printing as of 1/94)

sions of this act, and this act shall not be construed to restrict the authority of any such city or town to amend or repeal any ordinance or by-law in accordance with the provisions of such special act.

"Local legislative action shall be accompanied by a declaration, in the form of findings, that local conditions constitute an acute rental housing emergency requiring local action, on account of the aggravating impact of the factors set forth in section one of this act.

"Section 3. As used in this act, the following words shall, unless the context clearly requires otherwise, have the following meanings:—

"Condominium unit', a unit in a housing condominium as that term is defined in chapter one hundred and eighty-three A.

"Cooperative unit', a unit in a housing cooperative which has been organized under the provisions of General Laws including, without limitation, the provisions of chapter one hundred and fifty-six B, one hundred and fifty-seven, or one hundred and fifty-seven B.

"Condominium or cooperative conversion eviction', an eviction of a tenant for the purpose of removing such tenant from a housing accommodation in order to facilitate the initial sale and transfer of legal title to that housing accommodation as a condominium or cooperative unit to a prospective purchaser or an eviction of a tenant by any other person who has purchased a housing accommodation as a condominium or cooperative unit when the tenant whose eviction is sought was a resident of the housing accommodation at the time the notice of intent to convert is given to convert the building or buildings to the condominium or cooperative form of ownership pursuant to section four; provided, however, that the eviction of a tenant for non-payment of rent or other violation of a rental agreement shall in no event be deemed a condominium or cooperative conversion eviction.

"For purposes of this definition, the word 'eviction' shall include, without limitation, any action by an owner of a housing accommodation which causes substantial deprivation of a tenant's beneficial use of such housing accommodation, materially impairs such tenant's beneficial enjoyment of such housing accommodation, or is intended to compel such tenant to vacate or to be constructively evicted from such housing accommodation. An eviction shall be presumed to be a condominium or cooperative conversion eviction if the owner has the intent to convert, as defined herein.

"Convert, the initial offer, in any manner, for sale and transfer of title to any residential unit as one or more condominium units pursuant to an individual unit deed or deeds or, if

the case of a cooperative, an individual proprietary lease or leases.

"Elderly tenant', a tenant who is a person or group of persons residing in the same housing accommodation any of whom has reached the age of sixty-two years or over as of the date of receipt of the notice provided for hereunder.

"Handicapped tenant', a person entitled to occupy a housing accommodation who is physically handicapped as defined in section thirteen A of chapter twenty-two as of the date of receipt of the notice provided for hereunder.

"Housing accommodation', any building or buildings, structure or structures, or part thereof or land appurtenant thereto, or any other real or personal property rented or offered for rent for living or dwelling purposes, together with all services connected with the use or occupancy of such property, but not including the following:

"(i) housing accommodations which the United States or the commonwealth or any authority created under the laws thereof either owns or operates;

"(ii) housing accommodations in any hospital, convent, monastery, asylum, public institution or college or school dormitory operated exclusively for charitable or educational purposes, or in any nursing or rest home for the aged;

"(iii) buildings containing fewer than four residential units, except for buildings which are part of a housing development as defined herein;

"(iv) housing accommodations in hotels, motels, inns, tourist homes, and rooming and boarding houses which are occupied by transient guests staying for a period of fewer than fourteen consecutive calendar days.

"Housing development', two or more adjacent, adjoining, or contiguous buildings under common legal or beneficial ownership which are used in whole or in part for residential purposes, and which contain four or more units.

"Intent to convert', the intent to make the initial sale and transfer of title to a residential unit as one or more condominium or cooperative units pursuant to an individual unit deed or deeds, or, in the case of a cooperative, a proprietary lease or leases. Factors which shall be considered in determining whether an owner has the intent to convert are:

"(i) a master deed or articles of organization for the housing accommodation has been prepared or recorded;

"(ii) the owner of the housing accommodation has prepared or is in the process of preparing a purchase and sale agreement for the

sale of any unit as a condominium or cooperative unit;

"(iii) the owner has advertised for sale any unit in the housing accommodation as a condominium or cooperative unit;

"(iv) the owner has shown to any prospective purchaser a unit in the housing accommodation for the sale of such unit as a condominium or cooperative unit;

"(v) the owner has made any communication, written or oral, to any person residing in the housing accommodation expressly indicating an intent to sell any unit as a condominium or cooperative unit;

"(vi) the owner has had any unit in the housing accommodation measured or inspected to facilitate the sale of the unit as a condominium or cooperative unit; and

"(vii) the owner has had the land surveyed, an engineering study performed or architectural plans prepared for the purpose of converting such housing accommodation into one or more condominium or cooperative units.

"Interest subsidy', any payment made by the federal or state government to reduce the effective interest rate payable by a mortgagor.

"Low or moderate income tenant', a tenant who is a person or group of persons residing in the same housing accommodation so long as the total income for all such tenants for the twelve months immediately preceding the date of notice provided for hereunder is less than eighty percent of the median income for the area set forth in regulations promulgated from time to time by the Department of Housing and Urban Development pursuant to 42 USC 1437 et seq., and calculated pursuant to said regulations.

"Owner', a person who holds title in any manner to a building or housing accommodation, including without limitation, a corporation, partnership or trust, and an employee, agent, servant or other representative of such owner.

"Tenant', a person or group of persons collectively entitled to occupy a housing accommodation pursuant to a rental agreement written or implied.

"Tenant subsidy', any payment made by the federal or state government for or on behalf of any tenant to be applied toward the reduction of the tenant's rental payment.

"Unit' or 'residential unit', the room or group of rooms within a building which is used or intended for use as a residence by one household." [Amended by St.1984, c. 170, § 4; St.1989, c. 709, §§ 1 to 7.]

"Section 4. (a) If a building submitted to the provisions of chapter one hundred and eighty-three A, chapter one hundred and fifty-

six B, chapter one hundred and fifty-seven, chapter one hundred and fifty-seven B or any provisions of the General Laws governing the cooperative form of ownership has been used in whole or in part for residential purposes within one year prior to the recording of a master deed creating a condominium or the filing of the articles of organization creating a housing cooperative, the owner thereof shall give each tenant of all housing accommodations in such building or buildings notice of intent to convert the building or buildings to the condominium or cooperative form of ownership. Such notice shall state in clear and conspicuous language the following:—

"(i) that the owner has filed a master deed at a registry of deeds whose location is stated in the notice or has filed articles of organization with the secretary of the commonwealth;

"(ii) that any tenant residing on the date the notice of intent is given in the unit or units converted or to be converted to the condominium or cooperative forms of ownership shall have a period of time which shall be stated in the notice, from the date of receipt of such notice, as authorized by this act, before the tenant shall be required to vacate the housing accommodation occupied on the date the notice is received;

"(iii) that any tenant residing on the date of notice of intent is given in a unit to be converted shall have a period of time, which shall be stated in the notice as authorized by this act, to purchase such unit occupied by the tenant on the date such notice is received on terms and conditions which are substantially the same as or more favorable than those which the owner extends to the public generally for the ninety days following the expiration of said tenant's right to purchase as may be required by paragraph (b);

"(iv) a statement of the rights and obligations specified in paragraphs (c), (d) and (e).

"If the owner of a housing development intends to convert the buildings in such housing development to the condominium or cooperative form of ownership, but intends to sell or offer for sale units in only a portion of the buildings in such development within one year after the owner forms the intent to convert such development, the owner shall give to each tenant in any unit which he does not intend to sell or offer for sale within such one year period, a notice which informs such tenant of the date when the owner reasonably expects to offer for sale or sell such unit. Thereafter, the owner shall give to each such tenant the notice of intent to convert as required by the first sentence of this paragraph.

"All notices required under this section, except as otherwise provided in this paragraph,

regarding certain housing developments, shall be given to tenants at the time the owner of a building or housing development converts any part of such property and shall be deemed to have been given when a written notice is delivered in person or mailed by certified or registered mail, return receipt requested, to the party to whom the notice is being given.

"Whenever an owner is required to give notice of intent provided for in this section, the period of notice shall not be less than the expiration of any written agreement between the owner and the tenant of the housing accommodation which governs the use and occupancy of said housing accommodation or one year from the date the tenant of such housing accommodation is given said notice of intent, whichever is greater; provided, however, that in the case of a housing accommodation occupied in whole or in part by a handicapped tenant or occupied by an elderly or low or moderate income tenant the period of notice shall not be less than two years from the date the tenant of such housing accommodation receives said notice of intent.

"No person shall seek or conduct a condominium or cooperative eviction until the expiration of the periods of time for notice to tenants specified in this act.

"The burden of proving qualifications with respect to age, handicap, and income shall rest with the tenant.

"(b) Any owner of a residential unit who converts such unit to the condominium or cooperative form of ownership shall give to any tenant who is entitled to receive the notice of intent to convert as required by the first sentence of paragraph (a) pursuant to this section the right to purchase the housing accommodation occupied by such tenant at the time such notice is delivered on terms and conditions which are substantially the same as or more favorable than those which the owner extends to the public generally for the ninety days following the expiration of said tenant's right to purchase. Such tenant may exercise a right to purchase such housing accommodations by executing a purchase and sale agreement prior to the expiration of ninety days after the date of receiving a copy of the purchase and sale agreement properly executed by the person offering the housing accommodation for sale.

"(c) The owner, as of the date the tenant vacates the unit, of a unit converted to the condominium or cooperative form of ownership shall pay to any tenant of such unit who is entitled to receive notice of the owner's intent to convert as required by the first sentence of paragraph (a) pursuant to this section and who does not purchase the housing accommodation which he occupies or another housing accommodation in the same building or buildings

relocation benefits for the actual, documented costs of moving, not to exceed seven hundred and fifty dollars per housing accommodation; provided, however, that if such housing accommodation is occupied in whole or in part by a handicapped tenant or is occupied by an elderly or low or moderate income tenant, the maximum relocation benefit shall not exceed one thousand dollars per housing accommodation. Such relocation benefits shall be payable within ten days after the date on which the tenant vacates the housing accommodation occupied by him; provided, however, that no tenant shall be eligible for such relocation benefits unless all rent due and payable for said unit under the rental agreement or extension of such agreement, if any, has been paid by the tenant prior to the date on which the housing accommodation is vacated and only as long as the tenant voluntarily vacates the housing accommodation on or before the expiration of the notice period.

"(d) Any owner of a condominium or cooperative unit during the period of the notice authorized by this section shall assist elderly, handicapped and low or moderate income tenants who qualified as such as of the date of receipt of the notice authorized pursuant to this section locating, within the period of the notice to such tenants, comparable rental housing within the same city or town in which such tenants resides which rents for at least the remainder of the notice period, for a sum which is equal to or less than the sum which such tenant had been paying for the housing accommodation occupied at the time of receipt of the notice authorized by this section. The failure of the owner of such residential property to find such substitute housing accommodation shall extend the period of notice until the owner locates such comparable rental, housing, or two additional years, whichever occurs first.

"(e) Any owner of a unit converted to the condominium or cooperative form of ownership as of the expiration date of the rental agreement for the tenant of such unit, shall give to any tenant of such unit who is entitled to receive a notice of intent to convert as required by the first sentence of this paragraph, an extension of such rental agreement until the expiration of the notice period or ninety day right to purchase period, whichever is later. Such extension, where required, shall be for such period or periods of one year or such fraction thereof as shall equal the period of notice to which such tenant is entitled pursuant to the provisions of this section. The provisions of such rental agreement may not otherwise be modified by the property owner except with respect to the amount of annual rent. The total increase in rent for any one

year during the period of notice shall not exceed an amount equal to the sum which would result by multiplying said rent by the percentage increase in the consumer price index for all urban consumers as published by the United States Department of Labor, Bureau of Labor Statistics, during the calendar year immediately preceding the date of receipt of the notice of intent to convert, or ten percent, whichever is less; provided, however, that nothing herein shall limit the right of a property owner to any amounts which may be due under a valid tax escalation clause.

"(f) The rights specified in paragraphs (a), (b), (c), (d) and (e) for tenants in a building or housing development, except as otherwise provided in paragraph (a) regarding certain housing developments, shall vest with such tenants at the time that the owner converts any unit in such property to the condominium or cooperative form of ownership." [Amended by St. 1984, c. 170, § 5; St. 1989, c. 709, §§ 7A to 19; St. 1990, c. 520, § 8.]

"Section 5. Any owner who converts residential property in violation of any provisions of this act, or any ordinance or by-law adopted pursuant to this act, shall be punished by a fine of not less than one thousand dollars, or by imprisonment of not less than sixty days. Each unit converted in violation of this act constitutes a separate offense.

"Any violation of this act, or any ordinance or by-law adopted pursuant to this act, by an owner of residential property shall not affect the validity of a conveyance of a condominium unit or an interest in a housing cooperative to a purchaser for value who has no knowledge of the violation.

"The district and superior courts, and the housing courts in the commonwealth, shall have jurisdiction over an action arising from any violation of this act, or any ordinance, or by-law adopted pursuant to this act, and shall have jurisdiction in equity to restrain any such violation." [Amended by St. 1989, c. 709, § 20.]

"Section 5A. In the case of any housing accommodation for which sufficient notice, as hereinafter defined, was given subsequent to April first, nineteen hundred and eighty-three, the period of notice required pursuant to section four of this act shall be deemed to have commenced on the date such sufficient notice was received by the tenant. Provided that sufficient notice for purposes of this section shall be defined as written notice to the tenant informing him, in substance, that said housing accommodation was being or had been converted to a condominium or cooperative form of ownership and that the tenant would be required to vacate not earlier than one year from the date of receipt of such notice. Sufficient notice given on or prior to April first,

nineteen hundred and eighty-three, shall be deemed to have been given on April second, nineteen hundred and eighty-three.

"Section 5B. The provisions of this act shall not be applicable to any unit in a building or buildings converted to the condominium or cooperative forms of ownership for which on the effective date of this act a master deed has been recorded or articles of organization filed and: (i) a deed or, in the case of a cooperative a proprietary lease, conveying the unit to a bona fide purchaser for value, who intends to occupy such unit as a principal residence, recorded, in the case of such deed, in the registry of deeds for the county in which such unit is located on or before October fifteenth, nineteen hundred and eighty-three; or (ii) a purchase and sale agreement was entered into on or before October fifteenth, nineteen hundred and eighty-three, with a bona fide purchaser for value who intends to occupy such unit as a principal residence. Proof of payment of a reasonable deposit or down payment shall be evidenced by a canceled check or its equivalent establishing said value.

"Section 5C. The provisions of any ordinance or by-law adopted pursuant to this act shall not be applicable to any unit in a building or buildings converted to the condominium or cooperative forms of ownership for which, on or before the date of adoption of said ordinance or by-law, a master deed has been recorded or articles of organization filed, and a deed or, in the case of a cooperative, a proprietary lease, conveying the unit to a bona fide purchaser for value who intends to occupy such unit as a principal residence has been recorded, in the case of such deed, in the registry of deeds for the county in which such unit is located.

"Section 5D. Any ordinance or by-law adopted pursuant to the provisions of this act shall not be applicable to any building or buildings converted to the condominium or cooperative forms of ownership for which, on or prior to the effective date of this act, a master deed has been recorded, or articles of organization filed, and prior to the adoption of such ordinance or by-law, for not less than one-third of the units in such building or buildings: either (i) purchase and sale agreements were entered into prior to October fifteenth, nineteen hundred and eighty-three, with bona fide purchasers for value who intend to occupy such units as a principal residence as evidenced by a canceled check or its equivalent establishing said value; or (ii) deeds, or in the case of cooperatives, proprietary leases, conveying units in such building or buildings to bona fide purchasers for value, who intend to occupy such units as a principal residence were recorded, in the case of such deed, in the

prosecution with respect to any right, liability or offense arising under the provisions of this act. If repealed or revoked, or otherwise nullified, it may be re-accepted 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 Sections 37 through 40 of Chapter 43 of the General Laws.

SECTION 3. Definitions.

The following words or phrases as used in this act shall have the following meanings:

- (a) "**Rental units**," any building, structure, or part thereof, or land appurtenant thereto, or any other real or personal property rented or offered for rent for living or dwelling purposes, including houses, apartments, rooming or boarding house units, and other properties used for living or dwelling purposes, together with all services connected with the use or occupancy of such property.
- (b) "**Controlled rental units**," all rental units except:
 - (1) rental units in hotels, motels, inns, tourist homes and rooming or boarding houses which are rented primarily to transient guests for a period of less than fourteen consecutive days;
 - (2) 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;
 - (3) rental units which a governmental unit, agency, or authority either:
 - (I) owns or operates; or
 - (II) regulates the rents, other than units regulated:
 - (a) under the provisions of this act, or
 - (b) under the provisions of any other general or special law authorizing municipal control of rental levels for all or certain rental units within a municipality; or
 - (III) finances or subsidizes, if the imposition of rent control would result in the cancellation or withdrawal, by law, of such financing or subsidy;
 - (4) rental units in cooperatives;
 - (5) rental units in any hospital, convent, monastery, asylum, public institution or college or school dormitory operated exclusively for charitable or educational purposes; or nursing home or rest home or charitable home for the aged, not organized or operated for profit;

- (6) the rental unit or units in an owner-occupied two or three-family house;
- (7) that the City of Cambridge may exempt those rental units for which the rent charges exceed limits specified by said municipality; provided that in no event shall more than twenty-five percent of the total rental units in Cambridge be exempted under this subsection.
- (8) (I) The unit that is an owner's principal residence, while vacated and rented by said owner for a period not to exceed two years, if said owner has not taken up residence elsewhere with the intention of not returning and has resided in the principal residence for at least two years immediately before vacating it.
- (II) This section shall not apply to leases agreed to and tenancies created before the effective date of this act.
- (c) "**Rent**," the consideration including any bonus, benefits, or gratuity demanded or received for or in connection with the use or occupancy of rental units or the transfer of a lease of such rental units.
- (d) "**Services**," repairs, replacement, maintenance, painting, providing light, heat, hot and cold water, elevator service, window shades and screens, storage, kitchen, bath and laundry facilities and privileges, janitor services, refuse removal, furnishings, and any other benefit, privilege or facility connected with the use or occupancy of any rental unit. Services to a rental unit shall include a proportionate part of services provided to common facilities of the building in which the rental unit is contained.

SECTION 4. Transition.

- (a) The board shall assume possession of all records, documents and other materials in possession of the board established and operated under Chapter 842 of the Acts of 1970 or any special or general laws regulating rents and evictions enacted subsequent to Chapter 842 of the Acts of 1970.
- (b) Any proceeding commenced by the board established under said Chapter 842, or orders related thereto and any rules and regulations of said board shall remain in effect for the purposes of this act unless otherwise ordered by the board.
- (c) The board shall have authority to issue regulations and orders necessary and helpful for the efficient transition from the administration of said Chapter 842, or any special or general laws regulating rents and evictions enacted subsequent to said Chapter 842, to the administration of this act.

SECTION 5. Rent Board.

- (a) This act shall be administered by a rent control board. Immediately upon the acceptance of this act the rent board established under Chapter 842 of the Acts of 1970 shall be deemed to be the rent board appointed by the city manager under this act to serve at the pleasure of the city manager or the city manager may appoint a new rent control board to serve at the pleasure of the city manager.

"SEC. 5127. IMPLEMENTATION.

"The Secretary shall issue regulations to implement this chapter within 180 days after the date of enactment of the Cranston-Gonzalez National Affordable Housing Act.

"SEC. 5128. REPORTS.

"The Secretary shall require grantees to provide periodic reports that include the obligation and expenditure of grant funds, the progress made by the grantee in implementing the plan described in section 5125(a), and any change in the incidence of drug-related crime in projects assisted under this chapter.

"SEC. 5129. MONITORING.

"The Secretary shall audit and monitor the programs funded under this chapter to ensure that assistance provided under this chapter is administered in accordance with the provisions of this chapter.

"SEC. 5130. AUTHORIZATION OF APPROPRIATIONS.

"(a) **IN GENERAL.**—There is authorized to be appropriated to carry out this chapter \$160,000,000 for fiscal year 1991 and \$166,900,000 for fiscal year 1992. Any amount appropriated under this section shall remain available until expended.

"(b) **SET-ASIDE FOR ASSISTED HOUSING.**—Of any amount made available in any fiscal year to carry out this chapter, not more than 6.25 percent of such amount shall be available for grants for federally assisted, low-income housing."

"(b) **CONFORMING AMENDMENTS.**—The table of contents for title V of Public Law 100-690 is amended by striking the items relating to chapter 2 and inserting the following new items:

"CHAPTER 2—PUBLIC AND ASSISTED HOUSING DRUG ELIMINATION

- "Sec. 5121. Short title.
- "Sec. 5122. Congressional findings.
- "Sec. 5123. Authority to make grants.
- "Sec. 5124. Eligible activities.
- "Sec. 5125. Applications.
- "Sec. 5126. Definitions.
- "Sec. 5127. Implementation.
- "Sec. 5128. Reports.
- "Sec. 5129. Monitoring.
- "Sec. 5130. Authorization of appropriations."

SEC. 582. STUDY OF PRIVATE NONPROFIT INITIATIVES.

(a) **STUDY.**—The Secretary of Housing and Urban Development shall conduct a study to examine how private nonprofit initiatives to provide low-income housing development in local communities across the country have succeeded. The Secretary shall place particular emphasis on how Federal housing policy and tax structures can best promote local private nonprofit organizations involvement in low-income housing development. The Secretary shall convene individuals, of his choosing, who have demonstrated an expertise in such private nonprofit initiatives from across the country and draw on their expertise in implementing such programs. The study shall include the results of, and suggestions by, such individuals.

(b) **REPORT.**—The Secretary shall submit a report to the Congress regarding the findings of this study not later than 1 year after the date of the enactment of this Act.

SEC. 583. EXTENSION OF CAPITAL ASSESSMENT STUDY.

Section 204(c)(1) of the Department of Housing and Urban Development Reform Act of 1989 (12 U.S.C. 1715z-1a note) is amended by striking "Not later than one year after the date of enactment of this Act" and inserting "Not later than March 1, 1992".

**TITLE VI—PRESERVATION OF
AFFORDABLE RENTAL HOUSING**

**Subtitle A—Prepayment of Mortgages Insured
Under National Housing Act**

SEC. 601. PREPAYMENT OF MORTGAGES.

(a) **IN GENERAL.**—Subtitles A and B of the Emergency Low Income Housing Preservation Act of 1987 (12 U.S.C. 1715f note) are amended to read as follows:

"Subtitle A—Short Title

"SEC. 201. SHORT TITLE.

"This title may be cited as the 'Low-Income Housing Preservation and Resident Homeownership Act of 1990'.

**"Subtitle B—Prepayment of Mortgages Insured
Under National Housing Act**

"SEC. 211. GENERAL PREPAYMENT LIMITATION.

(a) **PREPAYMENT AND TERMINATION.**—An owner of eligible low-income housing may prepay, and a mortgagee may accept prepayment of, a mortgage on such housing only in accordance with a plan of action approved by the Secretary under this subtitle or in accordance with section 224. An insurance contract with respect to eligible low-income housing may be terminated pursuant to section 229 of the National Housing Act only in accordance with a plan of action approved by the Secretary under this subtitle or in accordance with section 224.

(b) **FORECLOSURE.**—A mortgagee may foreclose the mortgage on, or acquire by deed in lieu of foreclosure, any eligible low-income housing project only if the mortgagee also conveys title to the project to the Secretary in connection with a claim for insurance benefits.

(c) **EFFECT OF UNAUTHORIZED PREPAYMENT.**—Any prepayment of a mortgage on eligible low-income housing or termination of the mortgage insurance on such housing not in compliance with the provisions of this subtitle shall be null and void and any low-income affordability restrictions on the housing shall continue to apply to the housing.

"SEC. 212. NOTICE OF INTENT.

(a) **FILING WITH THE SECRETARY.**—An owner of eligible low-income housing that intends to terminate the low-income afford-

"(iv) held by the Secretary and formerly insured under a program referred to in clause (i), (ii), or (iii); and

"(B) that, under regulation or contract in effect before February 5, 1988, is or will within 24 months become eligible for prepayment without prior approval of the Secretary.

"(2) The term 'Federal cost limit' means, for any eligible low-income housing, the amount determined under section 215(a).

"(3) The term 'low-income affordability restrictions' means limits imposed by regulation or regulatory agreement on tenant rents, rent contributions, or income eligibility in eligible low-income housing.

"(4) The terms 'low-income families or persons' and 'very low-income families or persons' mean families or persons whose incomes do not exceed the respective levels established for low-income families and very low-income families, respectively, under section 3(b)(2) of the United States Housing Act of 1937.

"(5) The term 'moderate-income families or persons' means families or persons whose incomes are between 80 percent and 95 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families.

"(6) The term 'nonprofit organization' means any private, nonprofit organization that—

"(A) is organized or chartered under State or local laws;

"(B) has no part of its net earnings inuring to the benefit of any member, founder, contributor, or individual;

"(C) complies with standards of financial accountability acceptable to the Secretary; and

"(D) has among its principal purposes significant activities related to the provision of decent housing that is affordable to very low-, low-, and moderate-income families.

"(7) The term 'owner' means the current or subsequent owner or owners of eligible low-income housing.

"(8) The term 'preservation equity' means, for any eligible low-income housing—

"(A) for purposes of determining the authorized return under section 214(a) and providing incentives to extend the low-income affordability restrictions on the housing under section 219—

"(i) the preservation value of the housing determined under section 213(b)(1); less

"(ii) any debt secured by the property; and

"(B) for purposes of determining incentives under section 220 and 221 and determining the amount of an acquisition loan under the provisions of section 241(f)(3) of the National Housing Act—

"(i) the preservation value of the housing determined under section 213(b)(2); less

"(ii) the outstanding balance of the federally-assisted mortgage or mortgages for the housing.

"(9) The term 'preservation value' means, for any eligible low-income housing, the applicable value determined under paragraph (1) or (2) of section 213(b).

"(10) The term 'Secretary' means the Secretary of Housing and Urban Development.

"(11) The term 'resident council' means any incorporated nonprofit organization or association that—

"(A) is representative of the resident of the housing;

"(B) adopts written procedures providing for the election of officers on a regular basis; and

"(C) has a democratically elected governing board, elected by the residents of the housing.

"SEC. 230. NOTICE TO TENANTS.

"Where a provision of this subtitle requires that information or material be given to tenants of the housing, the requirement may be met by (1) posting a copy of the information or material in readily accessible locations within each affected building, or posting notices in each such location describing the information or material and specifying a location, as convenient to the tenants as is reasonably practical, where a copy may be examined, and (2) supplying a copy of the information or material to a representative of the tenants.

"SEC. 231. DEFINITIONS OF QUALIFIED AND PRIORITY PURCHASER AND RELATED PARTY RULE.

"(a) PRIORITY PURCHASER.—The term 'priority purchaser' means (A) a resident council organized to acquire the housing in accordance with a resident homeownership program that meets the requirements of section 231; and (B) any nonprofit organization or State or local agency that agrees to maintain low-income affordability restrictions for the remaining useful life of the housing (as determined under section 222(d)).

"(b) QUALIFIED PURCHASER.—The term 'qualified purchaser' means any entity that agrees to maintain low-income affordability restrictions for the remaining useful life of the housing (as determined under section 222(d)), and includes for-profit entities and priority purchasers.

"(c) RELATED PARTIES.—Except as provided in subsection (d), the terms 'qualified purchaser' and 'priority purchaser' do not include any entity that, either directly or indirectly, is wholly or partially owned or controlled by the owner of the housing being transferred under this subtitle, is under whole or partial common control with such owner, or has any financial interest in such owner or in which such owner has any financial interest. The Secretary shall issue any regulations appropriate to implement the preceding sentence.

"(d) MANAGEMENT EXCEPTION.—A qualified purchaser shall not be precluded from retaining as a property management entity a company that is owned or controlled by the selling owner or a principal thereof if retention of the management company is neither a condition of sale nor part of consideration paid for sale and the property management contract is negotiated by the qualified purchaser on an arm's length basis.

"SEC. 232. PREEMPTION OF STATE AND LOCAL LAWS.

"(a) IN GENERAL.—No State or political subdivision of a State may establish, continue in effect, or enforce any law or regulation that—

"(1) restricts or inhibits the prepayment of any mortgage described in section 229(1) (or the voluntary termination of any insurance contract pursuant to section 229 of the National Housing Act) on eligible low income housing;

"(2) restricts or inhibits an owner of such housing from receiving the authorized annual return provided under section 214;

"(3) is inconsistent with any provision of this subtitle, including any law, regulation, or other restriction that limits or impairs the ability of any owner of eligible low income housing to receive incentives authorized under this subtitle (including authorization to increase rental rates, transfer the housing, obtain secondary financing, or use the proceeds of any of such incentives); or

"(4) in its applicability to low-income housing is limited only to eligible low-income housing for which the owner has prepaid the mortgage or terminated the insurance contract.

Any law, regulation, or restriction described under paragraph (1), (2), (3), or (4) shall be ineffective and any eligible low-income housing exempt from the law, regulation, or restriction, only to the extent that it violates the provisions of this subsection.

"(b) EFFECT.—This section shall not prevent the establishment, continuing in effect, or enforcement of any law or regulation of any State or political subdivision of a State not inconsistent with the provisions of this subtitle and relating to building standards, zoning limitations, health, safety, or habitability standards for housing, rent control, or conversion of rental housing to condominium or cooperative ownership, to the extent such law or regulation is of general applicability to both housing receiving Federal assistance and nonassisted housing. This section shall not preempt, annul, or alter any contractual restrictions or obligations existing before the date of the enactment of the Cranston-Gonzalez National Affordable Housing Act that prevent or limit an owner of eligible low-income housing from prepaying the mortgage on the housing (or terminating the insurance contract on the housing).

"SEC. 233. SEVERABILITY.

"If any provision of this subtitle, or the application of such provision with respect to any person or circumstance, is held invalid, the remainder of this Act, and the application of such provision to any other person or circumstance, shall not be affected by such holding.

"SEC. 234. AUTHORIZATION OF APPROPRIATIONS.

"(a) GENERAL.—There are authorized to be appropriated for assistance and incentives authorized under this subtitle \$425,000,000 for fiscal year 1991 and \$858,000,000 for fiscal year 1992.

"(b) GRANTS.—Of the amounts made available under subsection (a), not more than \$100,000,000 for each of fiscal years 1991 and 1992 shall be available for grants under section 221(d)(2), subject to approval in appropriations Acts.

"SEC. 235. APPLICABILITY.

"Subject to section 605 of the Cranston-Gonzalez National Affordable Housing Act, the requirements of this subtitle shall apply to any project that is eligible low-income housing on or after November 1, 1987."

(b) TABLE OF CONTENTS.—The table of contents of such Act is amended by striking the items relating to subtitles A and B of title II and inserting the following:

"Subtitle A—Short Title

"Sec. 201. Short title.

"Subtitle B—Prepayment of Mortgages Insured Under National Housing Act

- "Sec. 211. General prepayment limitation.
- "Sec. 212. Notice of intent.
- "Sec. 213. Appraisal and preservation value of eligible low-income housing.
- "Sec. 214. Annual authorized return and preservation rents.
- "Sec. 215. Federal cost limits and limitations on plans of action.
- "Sec. 216. Information from Secretary.
- "Sec. 217. Plan of action.
- "Sec. 218. Prepayment and voluntary termination.
- "Sec. 219. Incentives to extend low-income use.
- "Sec. 220. Incentives for transfer to qualified purchasers.
- "Sec. 221. Mandatory sale for housing exceeding Federal cost limits.
- "Sec. 222. Criteria for approval of plan of action involving incentives.
- "Sec. 223. Assistance for displaced tenants.
- "Sec. 224. Permissible prepayment or voluntary termination and modification of commitments.
- "Sec. 225. Timetable for approval of plan of action.
- "Sec. 226. Resident homeownership program.
- "Sec. 227. Delegated responsibility to State agencies.
- "Sec. 228. Consultations with other interested parties.
- "Sec. 229. Definitions.
- "Sec. 230. Notice to tenants.
- "Sec. 231. Definitions of qualified and priority purchasers and related party rule.
- "Sec. 232. Preemption of State and local laws.
- "Sec. 233. Severability.
- "Sec. 234. Authorization of appropriations.
- "Sec. 235. Applicability."

SEC. 602. RELATED NATIONAL HOUSING ACT AMENDMENTS.

(a) INSURANCE FOR SECOND MORTGAGE FINANCING.—Section 241(f) of the National Housing Act is amended to read as follows:

"(f)(1) Notwithstanding any other provision of this section, the Secretary may, upon such terms and conditions as the Secretary may prescribe, make a commitment to insure and insure equity loans and acquisition loans made by financial institutions approved by the Secretary and State housing finance agencies that enter into risk-sharing agreements with the Secretary.

"(2)(A) For purposes of this section, the term 'equity loan' means a loan or advance of credit to the owner of eligible low income housing (as defined in section 229 of the Low-Income Housing Preservation and Resident Homeownership Act of 1990) who agrees to extend the low-income affordability restrictions on the housing pursuant to an approved plan of action under such Act.

"(B) To be eligible for insurance under this paragraph, an equity loan shall—

"(i) be limited to an amount equal to the lesser of (I) 70 percent of the preservation equity in the project, as determined by the Secretary under such Act, or (II) the amount the Secretary determines can be supported by the project on the basis of an 8 percent return on the preservation equity (assuming normal debt service coverages); and

"(ii) provide for the lender to deposit (on behalf of the borrower) 10 percent of the loan amount in an escrow account, controlled by the Secretary or a State housing finance agency approved by the Secretary, which shall be made available to the owner upon the expiration of the 5-year period beginning on the date the loan is made, subject to compliance with section 222(d) of such Act; and

Rent Control Act, section 5

(7) that the City of Cambridge may exempt those rental units for which the rent charges exceed limits specified by said municipality; provided that in no event shall more than twenty-five percent of the total rental units in Cambridge be exempted under this subsection.

(8) (i) The unit that is an owner's principal residence, while vacated and rented by said owner for a period not to exceed two years, if said owner has not taken up residence elsewhere with the intention of not returning and has resided in the principal residence for at least two years immediately before vacating it.

(ii) This section shall not apply to leases agreed to and tenancies created before the effective date of this act.

(c) "**Rent**", the consideration including any bonus, benefits, or gratuity demanded or received for or in connection with the use or occupancy of rental units or the transfer of a lease of such rental units.

(d) "**Services**", repairs, replacement, maintenance, painting, providing light, heat, hot and cold water, elevator service, window shades and screens, storage, kitchen, bath and laundry facilities and privileges, janitor services, refuse removal, furnishings, and any other benefit, privilege or facility connected with the use or occupancy of any rental unit. Services to a rental unit shall include a proportionate part of services provided to common facilities of the building in which the rental unit is contained.

SECTION 4. Transition.

(a) The board shall assume possession of all records, documents and other materials in possession of the Board established and operated under Chapter 842 of the Acts of 1970 or any special or general laws regulating rents and evictions enacted subsequent to Chapter 842 of the Acts of 1970.

(b) Any proceeding commenced by the board established under said Chapter 842, or orders related thereto and any rules and regulations of said board shall remain in effect for the purposes of this act unless otherwise ordered by the board.

(c) The board shall have authority to issue regulations and orders necessary and helpful for the efficient transition from the administration of said Chapter 842, or any special or general laws regulating rents and evictions enacted subsequent to said Chapter 842, to the administration of this act.

SECTION 5. Rent Board.

(a) This act shall be administered by a rent control board. Immediately upon the acceptance of this act the rent board established under Chapter 842 of the Acts of 1970 shall be deemed to be the rent board appointed by the city manager under this act to serve at the pleasure of the city manager or the city manager may appoint a new rent control board to serve at the pleasure of the city manager.

- (b) Members of the rent board shall receive no compensation for their services, but shall be reimbursed by the city for necessary expenses incurred in the performance of their duties.
- (c) The rent control board, hereinafter called the board, shall be responsible for carrying out the provisions of this act, and shall hire, with the approval of the city manager, such personnel, not subject to the provisions of section nine A of chapter thirty of the general laws or chapter thirty-one of the general laws, as are needed, shall promulgate such policies, rules and regulations as will further the provisions of this act, and shall recommend to the city, for adoption, such ordinances as may be necessary to carry out the purposes of this act.
- (d) The board may make such studies and investigations, conduct such hearings, and obtain such information as is deemed necessary in promulgating any regulation, rule or order under this act, or in administering and enforcing this act and regulations and orders promulgated hereunder. For the foregoing purposes, a person may be summoned to attend and testify and to produce books and papers in like manner as he may be summoned to attend as a witness before a court. Any person who rents or offers for rent or acts as broker or agent for the rental of any controlled rental unit may be required to furnish under oath any information required by the board and to produce records and other documents and make reports. Such persons shall have the right to be represented by counsel, and a transcript shall be taken of all testimony and such person shall have the right to examine said transcript at reasonable times and places. Section ten of chapter two hundred and thirty-three of the General Laws shall apply, and for the purposes of this act a justice of the district court shall have the same powers as a justice of the Supreme Judicial or Superior Court to implement the provisions of said section.
- (e) The board shall have the power to issue orders and promulgate regulations to effectuate the purposes of this act.
- (f) The provisions relating to adjudicatory proceedings in chapter thirty A of the General Laws, except for section nine and the provisions of paragraph (1) of the third paragraph of section fourteen which relates to the court in which judicial review may be sought, shall be applicable to the adjudicatory hearings held by the board.

SECTION 6. Maximum Rent.

- (a) The maximum rent of controlled rental units shall be the maximum rent most recently established under Chapter 842 of the Acts of 1970 and regulations thereunder, immediately prior to the initial acceptance of this act, for all units which were then subject to said Chapter 842. For any rental units controlled under this act which were not then subject to said Chapter 842 the maximum rent shall be the rent lawfully charged the occupant of such unit for the month six months prior to the date on which the unit became controlled. If the rental unit was unoccupied at that time but was occupied at any time prior to that date, the maximum rent shall be the rent lawfully charged therefore for the month closest to one month prior to the date on which the unit became controlled. Upon the reacceptance of this act the maximum rent of a controlled unit shall be the rent lawfully charged the occupant of such unit for the month six months prior to the reacceptance of this act unless the rent for the unit was established by the rent board within said six month period, in which case the rent shall be the rent so established by the rent board. If the rental unit was unoccupied at that time but was occupied at any time prior to the reacceptance of this act, the maximum rent shall be the rent

CHAPTER 8.44 RENT CONTROL*

Sections:

8.44.010	Findings of fact.
8.44.020	Definitions.
8.44.030	Applicability of chapter provisions.
8.44.040	Removal of controlled rental unit-Permit required-Hearing.
8.44.050	Permit-Criteria considerations.
8.44.060	Limited equity cooperative ownership.
8.44.070	Unlawful acts by developers.
8.44.080	Equitable relief.
8.44.090	Violation-Penalty

* Prior ordinance history: Ords. 926, 929, 932, 941 and 945.

8.44.101 Findings of fact.

A serious public emergency continues to exist in the City with respect to the housing of a substantial number of its citizens, as declared by Chapter 36 of the Acts of 1976, for the reasons stated in the Act. The emergency has worsened since 1976 because of the removal of a substantial number of rental housing units from the market, by condominium conversion, demolition, and other causes. As a result, more than two thousand or over ten percent of the controlled rental units in the city have been removed from the housing market since 1970, and the vacancy rate has fallen below one percent. In order to carry out the purposes of the Act, and to continue to provide a sufficient supply of decent, affordable rental housing accommodations especially for families of low and moderate income and for elderly people on fixed incomes, it is necessary for the City Council, in the exercise of its powers under Section 6 of the Home Rule Amendment and under section 5(c) of the Act, to regulate the removal of controlled rental housing units from the market.
(Ord. 966 (part), 1981; prior code Ch. 23 § 1(a))

8.44.020 Definitions.

As used in this section:

- A. **"Act"** means Chapter 36 of the Acts of 1976, as amended from time to time.
- B. **"Board"** means the Rent Control Board established by Section 5 of the Act.
- C. **"Controlled rental unit"** means any unit included in the definition under Section 3(b) of the Act.
- D. **"Removal from the market"** as applied to a controlled rental unit, means and includes but is not limited to:

1. Occupy as an owner of a unit which is a condominium unit, if the most recent occupant was a tenant, even if the prospective owner-occupant is the tenant, unless the prospective owner-occupant is the current tenant of the unit who has continuously occupied it as a tenant since before August 10, 1979 and intends in good faith to occupy it indefinitely as its owner; or
2. Demolish, but no unit has been removed from the market by demolition until its physical destruction has begun; or
3. Rehabilitate, repair or improve, other than as required by the laws of the Commonwealth or the City, in such a way as to prevent residential occupancy during the course of the rehabilitation, repair or improvement. This provision shall not apply to rehabilitation, financed at least in part by community development block grant funds, of a building owned by a non-profit corporation and intended for owner-occupancy by low and moderate income persons; or
4. Convert to a cooperative as the term is used in Section 3(b)(4) of the Act, all or part of any building which contains any controlled rental unit;
5. Cause a unit, not the primary residence of a legal unit owner, to be vacant for one hundred twenty days or more by refusing to rent or to offer for rent such unit in good faith or, when a unit is cited as unfit for human habitation, by failure to perform repairs required to restore such unit to habitable condition. The existence of a vacancy for one hundred twenty days or more, without a showing of good cause, shall constitute removal from the market.
6. ***"Removal from the market"*** does not include occupancy of a noncondominium unit by the owner of the building in which it is located or by any member of his/her immediate family; or a condominium unit which the owner occupied before the tenant occupied it; or a condominium unit as to which unit 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, a canceled check being conclusive proof of the transaction, or a unit deed recorded in the Middlesex Registry of Deeds prior to August 10, 1979, whether or not the unit was being used for rental housing on August 13, 1979. No condominium unit once legally occupied by the unit owner shall ever again be subject to this chapter for any reason. (Ord.1014 § 1, 1984; Ord. 980 § 2, 1982; Ord. 966 (part), 1981; prior code Ch. 23 § 1(b))

8.44.030

Applicability of chapter provisions.

- A. This chapter shall apply to all controlled rental units which have not been removed from the market before August 13, 1979. This section shall take effect immediately, but cease to be effective if the Board files its certificate with the City Clerk that:
 1. The vacancy rate in the total supply of controlled rental units exceeds four percent; or

Consent Communication #7 S-12

Comm. was received from Robert
La Tramouille 348 Franklin Street
re: the issue of HUD disappearing
housing and key condo conversion
protection documents.

In City Council January 24, 1994

*Referred to Rent Control
Committee*

*2/1/94 Copy sent to Rent
Control @*