



City of Cambridge

In the Year One Thousand, Nine Hundred Eighty-Three

AN ORDINANCE

In amendment to an ordinance formerly entitled "The General Ordinances of the City of Cambridge" as revised in 1972 and now designated as "The Code of the City of Cambridge".

Be it ordained by the City Council of the City of Cambridge as follows:
That Chapter Twenty-Three entitled "Regulations Pertaining to Controlled Rental Housing Units" is hereby amended as follows:

CHAPTER TWENTY-THREE. REGULATIONS PERTAINING TO CONTROLLED RENTAL HOUSING UNITS.

Section 1. Removal of Controlled Rental Units from Market.

(a) Declaration of emergency. A serious public emergency continues to exist in the City of Cambridge 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 2,000 or over 10 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 Cambridge 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.

City of Cambridge

(b) Definitions. As used in this section:

- (1) "Act" means Chapter 36 of the Acts of 1976, as amended from time to time.
- (2) "Board" means the Rent Control Board established by section 5 of the Act.
- (3) "Controlled rental unit" means any unit included in the definition under section 3(b) of the Act.
- (4) "Removal from the market" as applied to a controlled rental unit, includes but is not limited to:
 - (i) 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
 - (ii) demolish, but no unit has been removed from the market by demolition until its physical destruction has begun; or
 - (iii) 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
 - (iv) 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.

City of Cambridge

- (v) cause a unit, not the primary residence of a legal unit owner, to be vacant for one hundred twenty (120) days or more by refusing to rent or to offer for rent said unit in good faith or, when a unit is cited as unfit for human habitation, by failure to perform repairs required to restore said unit to habitable condition. The existence of a vacancy for one hundred twenty (120) days or more, without a showing of good cause, shall constitute removal from the market.

But, this term "removal from the market" does not include occupancy of a non-condominium 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 cancelled 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 section for any reason.

(c) Removal regulated. No owner or other person shall remove from the market any controlled rental unit, unless the board after a hearing grants a permit. The board may issue orders and promulgate regulations to effectuate the purposes of this section, and to prescribe the procedure for applications, notice, hearings, and the granting and withdrawal of permits. A permit to remove from the market a unit in a building converted or proposed to be converted to a condominium may be granted to the owner of the building before the sale of a unit. One year after the date of a notice of ruling, the Board shall review and confirm that the circumstances and conditions which led the Board to grant any removal permit hereunder, except for a condominium unit legally occupied by the unit owner, continue to warrant said permit. If, after a hearing, the Board finds that the circumstances and conditions no longer warrant the permit, the Board shall immediately treat the unit as a controlled rental unit and shall initiate whatever action is permitted and appropriate under this section.

(c¹) Prohibited acts by developers. After August 1, 1981, no owner of a building for which a condominium master deed has been recorded shall directly or indirectly sell, offer for sale, or agree to sell any controlled rental unit therein, unless the board has granted a removal permit for that unit, or unless the sale or offer is to, or the agreement is with, a current tenant of the unit who holds an exemption certificate. The board shall issue an exemption certificate to any person who files with it an affidavit in a form prescribed by the board, stating that he is a current tenant of the unit, that he occupied it as a tenant before August 10, 1979, and that he intends in good faith to occupy it indefinitely as its owner. No person shall file a false affidavit under this subsection. Nothing in this subsection shall prevent an owner of a building or any

City of Cambridge

portion thereof from conveying his entire interest in the building in good faith to one purchaser, who shall then be subject to the provisions of this subsection to the same extent as the original owner.

(d) Considerations. In deciding whether to grant a permit under this section, the board shall consider:

- (1) the benefits to the persons sought to be protected by the Act and by this section,
- (2) the hardships imposed on the tenants residing in the unit proposed to be removed, including any mitigating provisions made by the applicant, and
- (3) any aggravation of the shortage of decent rental housing accommodations, especially for families of low and moderate income and elderly people on fixed incomes, which may result from the removal.

(d $\frac{1}{2}$) Limited equity cooperative ownership. As used in this subsection, "administrator" means the Assistant City Manager for Community Development or his or her designee. Notwithstanding the considerations of subsection (d), the board may grant a permit for conversions to limited equity cooperatives only if the administrator files with the board an agreement executed by the administrator and a cooperative housing corporation which shall contain the following provisions:

- (1) All cooperative documents and all amendments or modifications of the cooperative documents shall be valid only if executed by the administrator and the articles of incorporation shall so provide. The cooperative documents include the articles of incorporation, the by-laws, occupancy agreements, transfer agreements, and management plan. Each transfer shall be reported to the administrator and all documents effecting the transfer shall be executed by the administrator. The administrator shall execute documents only if each of the provisions of this subsection is met.
- (2) The resale price of the cooperators' membership which includes the right to occupy the unit shall not exceed the transfer value plus the amount of principal amortized by the corporation on its blanket mortgage attributed to the unit and paid by the member involved, less any amounts due to the corporation under the occupancy agreement and less the cost of all deferred maintenance and repairs deemed necessary by the corporation to put the dwelling in a suitable condition for another occupant.

The transfer value is the sum of:

City of Cambridge

- the share value paid by the former occupant of the unit (not including the amount of any subsidies) adjusted from the date of the stock payment to the Consumer Price Index for Housing for the Boston Standard Metropolitan Statistical Area.
 - the value of improvements approved by the corporation and installed by the member in his unit, including a fair value of labor donated by a member or others as conclusively established by the administrator at the time the labor is donated.
- (3) Residents of at least 80% of the units in the building as of the date of the articles of incorporation shall sign commitments to become resident shareholders of the limited equity housing corporation.

- (4) A majority of the current residents must be low and moderate income persons as defined by the current income limits set forth in regulations of Department of Housing and Urban Development, under Section 235 of the National Housing Act or its successor or comparable index as determined by the administrator.
- (5) Current residents who do not become shareholders shall have the right to remain in their units as tenants of the cooperative corporation. Controlled rental units shall remain subject to the Act and to this section and no permits shall issue for controlled rental units while occupied by non-shareholding tenants. If a controlled rental unit is vacated, that unit may be converted to a cooperative subject to the provisions of this subsection and to the cooperative documents.
- (6) Residents of the City of Cambridge who are low and moderate income persons, as defined in paragraph (4), shall be given priority when turnover or vacant units occur.
- (7) There shall be no discrimination on the basis of race, religion, color, national origin, sex, age, ancestry or marital status with respect to any aspect of the operation of the cooperative.
- (8) Family size per unit shall conform to Chapter II of the State Sanitary Code or other comparable index as determined by the administrator.
- (9) Buildings shall have at least six units.
- (10) In addition to other remedies, the city may recover in damages twice the amount of any net gain on resale which exceeds the amount allowed by paragraph (2), and this provision may not be waived in any manner.

The total number of units for which such permits may be granted shall not exceed 100.

The board shall revoke any permit granted pursuant to this subsection whenever it or the administrator determines that any of the provisions of paragraphs (1), (2), (5), (6), (7), or (9) has been materially violated or invalidated and the unit shall then again be subject to the Act and to this section, notwithstanding the last sentence of paragraph (iv) of subsection (b) or any other provisions.

City of Cambridge

(e) Effectiveness. This section shall apply to all controlled rental units which had not been removed from the market before August 13, 1979. This section shall take effect immediately, but shall 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
- (2) the total number of rental units in the city excluding public housing units, exceeds that number as of January 1, 1970.

If such a certificate ceases to be correct, the board shall withdraw it by filing a new certificate, and this section shall then again be effective until one of the above conditions again prevails.

(f) Penalty. Any person who violates this section shall be punished by a fine of not more than five hundred dollars. The removal of each unit shall constitute a separate violation. Where, after a hearing, the Board finds there are repeated and/or flagrant violations of this section, the Board shall recommend to the Cambridge City Council or to the Cambridge Housing Authority that the public interest can best be served by taking the unit(s) by power of eminent domain in order to restore the unit(s) to service as housing for people with low and moderate incomes.

(g) Equitable relief. The Board or any person aggrieved by a failure to comply with this section may enforce its provisions in a civil action for injunctive or declaratory relief.

(h) Severability. The provisions of this section are severable. If a court declares invalid any such provision, or its application to any person or circumstance, the invalidity shall not affect the validity of any other provision or application.

Chapter Twenty-Three including all of the following amendments:

- Ordinance #966 ordained on June 29, 1981
- Ordinance #980 ordained on April 26, 1982
- Ordinance #993 ordained on January 27, 1983
- Ordinance #1001 ordained on August 8, 1983
- Ordinance #1014 ordained on August 15, 1984