



CITY OF SOMERVILLE, MASSACHUSETTS LAW DEPARTMENT

November 20, 2023

Re: Authority to regulate “Vacancy Decontrol” by ordinance.

Dear Committee Chair Davis, and members of the Legislative Matters Committee,

You have asked whether the City Council may regulate vacancy decontrol by local ordinance where not explicitly reserved by an Article 89 Home Rule Petition. In my opinion, based on review of applicable case law and legal authority, the City may legislate vacancy decontrol by ordinance or local regulation.

In a 1976 decision, the Massachusetts Supreme Judicial Court upheld a provision in a City of Boston ordinance incorporating vacancy decontrol provision, despite there being no explicit legislative authorization granted by the state legislature for that purpose. Church v. Boston, 370 Mass. 598. In particular, where the relevant acts provided that “[the] city may by ordinance control the rent for the use and occupancy of housing accommodations...”¹ the Court held that “the [party challenging the validity of the vacancy decontrol ordinance] are aided little by the requirement of clear authorization for local action because clearly local action is authorized here.”² I further note that the provisions of the Acts cited above are similar to those in Section 2 of the Home Rule Petition before you.

If you have any further questions, please do not hesitate to contact me.

Sincerely,

Jason Piques
Assistant City Solicitor

¹ An Act Confirming the Authority of the City Council of the City of Boston to Impose a Rent Control Law in the City of Boston, ch. 797, 1969 Mass. Acts; An Act Relative to the Control of Rents and Evictions in the City of Boston, ch. 893 § 2, 1970 Mass. Acts.

² Church at 601



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