

HOUSE No. 5730

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, June 15, 1987.

The committee on Local Affairs, to whom was recommitted the petition (accompanied by bill, House, No. 5181) of Peter G. Torkildsen, Thomas P. Walsh and Frederick E. Berry (with the approval of the mayor and city council) relative to the discontinuance of mobile home parks in the city of Peabody, reports recommending that the accompanying bill (House, No. 5730) ought to pass. [Local Approval Received.]

For the committee,

HENRY R. GRENIER.

The Commonwealth of Massachusetts

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

AN ACT RELATIVE TO THE DISCONTINUANCE OF MOBILE HOME PARKS IN
THE CITY OF PEABODY.

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 1 of chapter 131 of the acts of 1976 is
2 hereby amended by inserting at the end thereof the following
3 paragraph: —

4 *Whereas*, A serious public emergency exists in the city of
5 Peabody with respect to the housing of a substantial number of
6 citizens of said city, which emergency has been created by the
7 threatened discontinuance of the use of certain mobile home parks
8 by certain owners of said mobile home parks; that unless
9 discontinuances of mobile home parks are regulated and
10 controlled by the city of Peabody, such emergency will produce
11 serious threats to the public health, safety, and welfare of the
12 citizens of Peabody, and will produce a drastic loss of housing
13 units, will increase homelessness, and will cause the loss of many
14 residents' life savings, especially the elderly.

1 SECTION 2. Said chapter 131 is hereby further amended by
2 striking out section 3 and inserting in place the following
3 section: —

4 Section 3. Regulating rents: (a) The rent board established
5 under Section 2 shall make such individual or general
6 adjustments, either upward or downward, of the maximums
7 established in Section three for any mobile home park
8 accommodation (or any class of mobile home park accommoda-
9 tions) as may be necessary to assure that rents for mobile home
10 park accommodations are established at levels which yield to
11 owners a fair net operating income for such accommodations.
12 (For the purposes of this section, the word "class" shall include
13 all mobile accommodations within said city, or any categories of
14 such accommodations based on size, age, construction, rent,

15 geographic, or other common characteristics providing the board
16 has by regulation defined any such categories).

17 (b) The following factors, among other relevant factors which
18 the board by regulation may define, shall be considered in
19 determining whether a controlled rental unit yields a fair net
20 operating income: (1) increases or decreases in property taxes; (2)
21 unavoidable increases or any decreases in operating and
22 maintenance expenses; (3) capital improvement of the housing
23 unit as distinguished from ordinary repair, replacement and
24 maintenance; (4) increases or decreases in living space, services,
25 furniture, furnishings or equipment; (5) substantial deterioration
26 of the dwelling units other than as a result of ordinary wear and
27 tear; and (6) failure to perform ordinary repair, replacement and
28 maintenance.

1 SECTION 3. Said chapter 131 is hereby further amended by
2 inserting after section 9A the following section: —

3 Section 9B. Discontinuance Permits.

4 (1) Scope

5 The provisions of this section regarding the discontinuance of
6 the use of part, or all of the land owned and licensed as a mobile
7 home park shall apply to all mobile home parks and mobile home
8 park accommodations.

9 (2) Definition of "Discontinuance"

10 When used in this act the term "discontinuance" shall include
11 any change of use or discontinuance of the use of part, or all of
12 the land owned and licensed as a mobile home park requiring a
13 two year notice pursuant to subsection eight of section 32L of
14 chapter 141 of the General Laws. The term "discontinuance" shall
15 include, but is not limited to, the licensee's conversion of the
16 mobile home park, or part thereof, to a condominium or
17 cooperative corporation.

18 (3) Discontinuance Prohibited

19 It shall be unlawful for any person to discontinue the use of
20 part or all of the land owned and licensed as a mobile home park
21 without having first obtained a discontinuance permit from the
22 city council subject to the provisions contained in this act.

23 (4) Discontinuance Permit Procedure

24 (a) The city council shall consider an application for a
25 discontinuance permit for a mobile home accommodation upon

26 receipt of an application filed by the licensee or other authorized
27 person. The city council shall forward said application within
28 fourteen days to the rent control board.

29 (b) The rent control board shall schedule a public hearing
30 within sixty-five days of receipt of the application. Notice of the
31 time and place of such public hearing, of the subject matter,
32 sufficient for identification, shall be published in a newspaper of
33 general circulation in the city of Peabody once in each of two
34 successive weeks, the first publication to be not less than fourteen
35 days before the date of the public hearing and by posting such
36 notice in a conspicuous place in City Hall for a period of not less
37 than fourteen days before the day of said hearing. The rent control
38 board shall also notify all tenants living in the affected mobile
39 home accommodations of the time, place and subject matter of
40 the public hearing. No defect in the form of any notice under this
41 section shall invalidate any grant or denial of a discontinuance
42 permit unless such defect is found to be misleading.

43 (c) No vote by the city council to grant or deny a discontinuance
44 permit shall be taken until a report with recommendations by the
45 rent control board has been submitted to the city council or
46 twenty-one days after said hearing have elapsed without
47 submission of such report. After such notice, hearing and report,
48 or after twenty-one days shall have elapsed after such hearing
49 without submission of such report, the city council may vote to
50 grant or deny the discontinuance permit. If the city council fails
51 to vote on the proposed discontinuance permit within ninety days
52 after such hearing, no action shall be taken thereon until after a
53 subsequent public hearing is held with notice and report as above
54 provided.

55 (d) No discontinuance permit may be granted except by a
56 majority vote of the city council.

57 (e) Notwithstanding any other provision of this section, the
58 rent control board may, without holding a hearing, recommend
59 the denial of a discontinuance permit if a decision has been made
60 with regard to the discontinuance of a mobile home park
61 accommodation within the preceding twelve months, and if the
62 park license fails, in the new application, to allege a substantial
63 change of circumstances since the previous hearing which would
64 merit the rent control board in hearing new evidence. In addition,

65 the rent control board may recommend denial of the discontin-
66 uance permit without holding a hearing if the application is not
67 in conformance with the requirements of this section or other
68 applicable regulations.

69 (5) Discontinuance Permit Criteria

70 In determining whether to recommend that the city council
71 grant or deny a discontinuance permit, the rent control board shall
72 consider the aggravation of the shortage of safe, decent and
73 affordable mobile home park accommodations in Peabody, which
74 may result from the discontinuance, especially for tenants of low
75 and moderate income and handicapped or elderly persons on fixed
76 incomes. In making such determination the rent control board
77 shall make findings of the following factors:

78 (a) The benefits and detriments to the persons whom this Act
79 and this section seek to protect;

80 (b) The hardships imposed on the tenant(s) residing in the
81 mobile home accommodations proposed to be discontinued;

82 (c) Circumstances demonstrating hardship and inequity to the
83 licensee seeking a discontinuance permit;

84 (d) The rate of vacancy of mobile home accommodations in
85 the city of Peabody at the time the licensee applies for a
86 discontinuance permit and the average rental rates for said
87 available accommodations;

88 (e) The availability of land zoned and otherwise suitable for
89 development or expansion of mobile home parks.

90 The rent control board, in its discretion, may also review other
91 relevant factors in making its report and recommendations. For
92 purposes of this Act, the "vacancy rate" shall be defined as that
93 percentage of the mobile home parks accommodations which are
94 empty of mobile homes and are offered for rental to mobile home
95 tenants. Further, to be considered a "vacancy" the rental offer of
96 the mobile home park accommodation must be without entrance
97 fee; without restrictions as to the age, size or character of the
98 mobile home; and, without a requirement that the prospective
99 tenant purchase a mobile home from the park owner.

100 In its report, the rent control board shall determine the current
101 vacancy rate for comparable mobile home park accommodations
102 in the city of Peabody. Any parties involved may submit evidence
103 presented to the Rent Control Board at the public hearing.

104 (6) Additional Provisions

105 (a) The licensee/applicant seeking a discontinuance permit
106 must make application to the city council for said permit within
107 thirty days of serving the tenants with the notices required under
108 the provisions of subsection eight of section thirty-two L of
109 chapter one hundred and forty of the General Laws.

110 (b) Notwithstanding the above, no eviction certificate shall be
111 issued by the Rent Control Board because of the discontinuance
112 of the use of all or a part of a mobile home park unless a
113 Discontinuance Permit has been issued by the City Council.

114 (c) This amendment to the Peabody Rent Control Ordinance
115 shall not apply to the Mobile Home Parks which have prior to
116 the enactment of this amendment, sent out notices of park closing
117 pursuant to General Laws, Chapter 140, Section 32 (L) (8).



