



RENT BOARD

June 28, 2023

5:00 PM

ZOOM INFORMATION:

- a. Please click the link below to join the webinar:

<https://portlandmaine-gov.zoom.us/j/85197146617?pwd=UzNBeTkvcWNPUWFKeHNpWk1ScVpuQT09>

Passcode: 798946

Or One tap mobile :

+19292056099,,85197146617#,,, *798946# US (New York)

+13017158592,,85197146617#,,, *798946# US (Washington DC)

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

+1 929 205 6099 US (New York)

+1 301 715 8592 US (Washington DC)

+1 305 224 1968 US

+1 309 205 3325 US

+1 312 626 6799 US (Chicago)

+1 646 931 3860 US

+1 253 205 0468 US

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 360 209 5623 US

+1 386 347 5053 US

+1 507 473 4847 US

+1 564 217 2000 US

+1 669 444 9171 US

+1 669 900 6833 US (San Jose)

+1 689 278 1000 US

+1 719 359 4580 US

Webinar ID: 851 9714 6617

Passcode: 798946

International numbers available: <https://portlandmaine-gov.zoom.us/j/85197146617?pwd=UzNBeTkvcWNPUWFKeHNpWk1ScVpuQT09>

II. ROLL CALL:

III. APPROVAL OF MINUTES

- a. May 24, 2023 Minutes

IV. COMMUNICATIONS:

Please note: Written public comment must be received via email (rentboard@portlandmaine.gov) by 12pm the day before the scheduled meeting. The subject line must read "Written Public Comment".

V. UNFINISHED BUSINESS:

- a. Rent Increase Application - Public Comment
Owner: Eastern Residential Inc.
Landlord's Representative: David Bergeron with Port Property
Property Address: 13 Montreal St, Units 1-8 (Legal address is 304 Eastern Prom)
CBL: 015-B-001-002
Increase Requested: Increased Housing Service Costs
- b. Rent Increase Application - Public Comment
Owner: Eastern Residential Inc.
Landlord's Representative: David Bergeron with Port Property
Property Address: 19 Montreal St, Units 1-8 & B (Legal address is 304 Eastern Prom)
CBL: 015-B-001-002
Increase Requested: Increased Housing Service Costs
- c. Rent Increase Application - Public Comment
Owner: Eastern Residential Inc.
Landlord's Representative: David Bergeron with Port Property
Property Address: 25-27 Montreal St, Units 1-8 (Legal address is 304 Eastern Prom)
CBL: 015-B-001-002
Increase Requested: Capital Improvement Costs & Increased Housing Service Costs
- d. Rent Increase Application - Public Comment
Owner: Eastern Residential Inc.

Landlord's Representative: David Bergeron with Port Property
Property Address: 304 Eastern Prom
CBL: 015-B-001-002
Increase Requested: Increased Housing Service Costs

- e. Rent Increase Application - Public Comment
Owner: Grant Street Realty Group LLC
Landlord's Representative: David Bergeron with Port Property
Property Address: 63 Grant St, Units 1-6 (Legal address is 65 Grant St)
CBL: 048-B-016-001
Increase Requested: Increased Housing Service Costs
- f. Rent Increase Application - Public Comment
Owner: Grant Street Realty Group LLC
Landlord's Representative: David Bergeron with Port Property
Property Address: 65 Grant Street, Units 1-6
CBL: 048-B-016-001
Increase Requested: Increased Housing Service Costs
- g. Rent Increase Application - Public Comment
Owner: Grant Street Realty Group LLC
Landlord's Representative: David Bergeron with Port Property
Property Address: 69 Grant St, Units 1-6
CBL: 048-B-015-001
Increase Requested: Increased Housing Service Costs

VI. NEW BUSINESS

- a. Rent Increase Application - Public Comment
Owner: Joanne Stamplis
Property Address: 34 Cushman St (Legal address is 36 Cushman St)
CBL: 056-D-005-001
- b. Rent Increase Application - Public Comment
Owner: Trelawny 657 LLC
Landlord's Representative: Paul S Bulger, Esq. with Jewell & Bulger, P.A.
Property Address: 655 Congress St
CBL: 046-D-021-001
- c. Continued Discussion for Annual Report

VII. ADJOURN

Remote Rent Board Meeting Minutes - Held Via Zoom

Wednesday, May 24, 2023

II. Roll Call

Elliott Simpson, Tenant, District 3 - Chair
Barbara Vestal, Landlord, At-Large - Vice Chair
Vacant, District 1
Matthew Walker, Tenant, District 2
Ian McCracken, Landlord, District 4
Philip Mathieu, Tenant, District 5
Vacant, At-Large

Staff present:

Zachary Lenhert Licensing & Housing Safety Manager
Benjamin Plante, Esq., Counsel for the Rent Board

III. Approval of Minutes - 00:00:50

The Vice Chair made a motion to approve the minutes as written, seconded by Philip. Vote: 5-0 (Two vacancies on the Board)

IV. Communications - 00:04:14

A. Written Public Comments

There were two comments submitted which can be found in the agenda packet

V. Unfinished Business - 00:05:30

A. Rent Increase Application - Public Comment

Owner: Eastern Residential Inc

Landlord's Representative: Dave Bergeron with Port Property

Property Address: 16 Walnut St, Units 1-8 & B (Legal Address is 304 Eastern Prom)

CBL: 015-B-001-002

Type of Increase: Increased Housing Service Costs

Benjamin Plante, Esq., Counsel for the Board reminded the Chair that Matt Walker's participation on this agenda item should be addressed again, as the recusal would not carry over from meeting to meeting.

00:07:38 - Matt Walker voluntarily recused himself from participating on this agenda item due to concerns about comments made as a member of the public before becoming a Board member

The Chair allowed Matt Walker to participate as a member of the public

No tenants spoke as objectors

00:16:18 through 00::24:38 - Public comment was taken

1. Matt Walker, a tenant at 655 Congress St
2. Vivienda Apoyo, a tenant at 231 State St
3. Jessica Purser, a former tenant of 132 Marginal Way

00:33:54 - Philip makes a motion to approve the \$88.99 per month increase referenced on the most recently submitted application as presented, seconded by the Vice Chair. Vote: 4-0 (Matt Walker recused himself, and there are two vacancies on the Board)

The Board will return to the Decision Form at the end of the meeting.

B. Vote for the next Board Chair and Vice Chair - 00:35:46

00:37:15 - Barbara Vestal makes a motion to elect Elliott Simpson as Chair, seconded by Philip Mathieu. Vote: 5-0 (Two vacancies on the Board)

00:38:18 - Barbara Vestal makes a motion to elect Philip Mathieu as Vice Chair, seconded by Ian McCracken. Vote: 5-0 (Two vacancies on the Board)

VI. New Business - 00:39:11

A. Discussion to Prepare for the Annual Report

Board members discussed preparation for the annual report from 00:39:11 to 01:09:08 on the recorded meeting.

01:12:45 - Board returns to Decision Forms for the Rent Increase Applications

16 Walnut Street

01:48:32 - The Vice Chair makes a motion that the Board adopts the edited form as written except with the addition of language from the Southern Maine Landlord Association (SMLA) decision concerning housing service costs, seconded by Ian. Vote: 4-0 (Matt Walker recused himself and there are two vacancies on the Board)

VII. Adjourn - 01:49:16

Philip made a motion to adjourn, seconded by the Chair. Vote: 4-0 (Philip was absent at time of vote & two vacancies on the Board)

City of Portland – Housing Safety Division
LANDLORD APPLICATION FOR RENT INCREASE SUMMARY

Date of Hearing:

March 22, 2023 – Tabled to June 28, 2023

Owner Name and Address:

Eastern Residential Inc., 82 Hanover St, Portland, ME 04101

Landlord's Representative and Address:

David Bergeron with Port Property, 82 Hanover St, Portland, ME 04101

Property Address and Unit:

13 Montreal St, Units 1-8 (Legal address is 304 Eastern Prom)

CBL:

015-B-001-002

Tenants/Interested Parties:

Yes

Type of Request:

- Renovation of a unit or Reconfiguration of one or more units (6-233(c))
- Capital Improvement Costs, including financing costs (6-234(b)(5)(a))
- Uninsured repair costs (6-234(b)(5)(d))
- X** Increased housing service costs (6-234(b)(5)(c))
- Fair Rate of Return (6-234(b)(5)(d))

City of Portland – Housing Safety Division
LANDLORD APPLICATION FOR RENT INCREASE SUMMARY

Date of Hearing:

March 22, 2023 – Tabled to June 28, 2023

Owner Name and Address:

Eastern Residential Inc., 82 Hanover St, Portland, ME 04101

Landlord's Representative and Address:

David Bergeron with Port Property, 82 Hanover St, Portland, ME 04101

Property Address and Unit:

19 Montreal Street, Units 1-8 & B (Legal address is 304 Eastern Prom)

CBL:

015-B-001-002

Tenants/Interested Parties:

Yes

Type of Request:

- Renovation of a unit or Reconfiguration of one or more units (6-233(c))
- Capital Improvement Costs, including financing costs (6-234(b)(5)(a))
- Uninsured repair costs (6-234(b)(5)(d))
- X Increased housing service costs (6-234(b)(5)(c))
- Fair Rate of Return (6-234(b)(5)(d))

City of Portland – Housing Safety Division
LANDLORD APPLICATION FOR RENT INCREASE SUMMARY

Date of Hearing:

March 22, 2023 – Tabled to June 28, 2023

Owner Name and Address:

Eastern Residential Inc., 82 Hanover St, Portland, ME 04101

Landlord's Representative and Address:

David Bergeron with Port Property, 82 Hanover St, Portland, ME 04101

Property Address and Unit:

25-27 Montreal Street, Units 1-8 (Legal address is 304 Eastern Prom)

CBL:

015-B-001-002

Tenants/Interested Parties:

Yes

Type of Request:

- ☒ Renovation of a unit or Reconfiguration of one or more units (6-233(c))
- ☒ Capital Improvement Costs, including financing costs (6-234(b)(5)(a))
- ☒ Uninsured repair costs (6-234(b)(5)(d))
- ☒ Increased housing service costs (6-234(b)(5)(c))
- ☒ Fair Rate of Return (6-234(b)(5)(d))

City of Portland – Housing Safety Division
LANDLORD APPLICATION FOR RENT INCREASE SUMMARY

Date of Hearing:

March 22, 2023 – Tabled to June 28, 2023

Owner Name and Address:

Eastern Residential Inc., 82 Hanover St, Portland, ME 04101

Landlord's Representative and Address:

David Bergeron with Port Property, 82 Hanover St, Portland, ME 04101

Property Address and Unit:

304 Eastern Prom, Units 1-8

CBL:

015-B-001-002

Tenants/Interested Parties:

Yes

Type of Request:

- Renovation of a unit or Reconfiguration of one or more units (6-233(c))
- Capital Improvement Costs, including financing costs (6-234(b)(5)(a))
- Uninsured repair costs (6-234(b)(5)(d))
- X Increased housing service costs (6-234(b)(5)(c))
- Fair Rate of Return (6-234(b)(5)(d))

City of Portland – Housing Safety Division
LANDLORD APPLICATION FOR RENT INCREASE SUMMARY

Date of Hearing:

March 22, 2023 – Tabled to June 28, 2023

Owner Name and Address:

Grant Street Realty Group LLC, 82 Hanover St, Portland, ME 04101

Landlord's Representative and Address:

David Bergeron with Port Property, 82 Hanover St, Portland, ME 04101

Property Address and Unit:

63 Grant Street, Units 1-6 (Legal address is 65 Grant St)

CBL:

048-B-016-001

Tenants/Interested Parties:

Yes

Type of Request:

- Renovation of a unit or Reconfiguration of one or more units (6-233(c))
- Capital Improvement Costs, including financing costs (6-234(b)(5)(a))
- Uninsured repair costs (6-234(b)(5)(d))
- X Increased housing service costs (6-234(b)(5)(c))
- Fair Rate of Return (6-234(b)(5)(d))

City of Portland – Housing Safety Division
LANDLORD APPLICATION FOR RENT INCREASE SUMMARY

Date of Hearing:

March 22, 2023 – Tabled to June 28, 2023

Owner Name and Address:

Grant Street Realty Group LLC, 82 Hanover St, Portland, ME 04101

Landlord's Representative and Address:

David Bergeron with Port Property, 82 Hanover St, Portland, ME 04101

Property Address and Unit:

65 Grant Street, Units 1-6

CBL:

048-B-016-001

Tenants/Interested Parties:

Yes

Type of Request:

- Renovation of a unit or Reconfiguration of one or more units (6-233(c))
- Capital Improvement Costs, including financing costs (6-234(b)(5)(a))
- Uninsured repair costs (6-234(b)(5)(d))
- X Increased housing service costs (6-234(b)(5)(c))
- Fair Rate of Return (6-234(b)(5)(d))

City of Portland – Housing Safety Division
LANDLORD APPLICATION FOR RENT INCREASE SUMMARY

Date of Hearing:

March 22, 2023 – Tabled to June 28, 2023

Owner Name and Address:

Grant Street Realty Group LLC, 82 Hanover St, Portland, ME 04101

Landlord's Representative and Address:

David Bergeron with Port Property, 82 Hanover St, Portland, ME 04101

Property Address and Unit:

69 Grant Street, Units 1-6

CBL:

048-B-015-001

Tenants/Interested Parties:

Yes

Type of Request:

- Renovation of a unit or Reconfiguration of one or more units (6-233(c))
- Capital Improvement Costs, including financing costs (6-234(b)(5)(a))
- Uninsured repair costs (6-234(b)(5)(d))
- X Increased housing service costs (6-234(b)(5)(c))
- Fair Rate of Return (6-234(b)(5)(d))

City of Portland – Housing Safety Division
LANDLORD APPLICATION FOR RENT INCREASE SUMMARY

Date of Hearing:

June 28, 2023

Owner Name and Address:

Joanne Stampelis, 34 Cushman St, Portland, ME 04102

Property Address and Unit:

34 Cushman St (Legal Address is 36 Cushman St)

All 3 units

CBL:

056-D-005-001

Tenants/Interested Parties:

Yes

City of Portland – Housing Safety Division
LANDLORD APPLICATION FOR RENT INCREASE SUMMARY

Date of Hearing:

June 28, 2023

Owner Name and Address:

Trelawny 657 LLC, 657 Congress St, 1st Floor, Portland, ME 04101

Landlord's Representative and Address:

Paul S. Bulger, Esq. with Jewell & Bulger, P.A., 511 Congress St, Ste 502, Portland, ME 04101

Property Address:

655 Congress Street

CBL:

046-D-021-001

Tenants/Interested Parties:

Yes



June 21, 2023

Re: Notice of Public Hearing

To: Tenants of **655 Congress Street**

This is a notice of a public hearing before the Rent Board at their next scheduled meeting on **Wednesday, June 28, 2023 at 5pm**. This meeting will be held via Zoom.

The Landlord for the above address, **657 Congress LLC**, has requested approval from the Rent Board for the transfer of utility costs related to gas service.

The Zoom link will be accessible by Friday, **June 23, 2023** at the link below:

<http://portlandmaine.gov/129/Agendas-Minutes>

Thank you

Katlyn Sawyer
Licensing & Registration Coordinator

City of Portland
389 Congress St, Rm 307
Portland, ME 04101

Landlord's Representative ☐ No representative ☒ Attorney ☐ Non-attorney

Name: Paul S. Budger, Esq. Firm/Organization _____

Mailing Address: 75 Pearl Street Portland Suite 410D

Phone Number: 207-712-8820 Email: pbudger@jewishlandbudger.com

Tenant(s) Information: (If there are more than 3 affected tenants, attach additional sheet.)

Tenant's Name: _____
First Name Last Name Unit #

Mailing address if different _____ Email address: _____

Tenant's Name: _____
First Name Last Name Unit #

Mailing address if different _____ Email address: _____

Tenant's Name: _____
First Name Last Name Unit #

Mailing address if different _____ Email address: _____

Accommodations:

☐ Interpretation Services required for Rent Board hearing or staff interaction.

☒ Staff assistance needed.

☐ I need the provisions in the new Rent control ordinance explained to me in greater detail by the Housing Safety Office.

Jurisdiction: Please make sure that your property is controlled by the Rent Stabilization Ordinance prior to submitting this form. The following types of housing are generally exempt: units owned by Portland Housing Authority; accommodations provided in a hospital, convent, church, religious facility, or extended care facility; dormitories owned and operated by an institution of higher education or by Portland Public Schools; subsidized housing; accessory dwelling units (ADUs) as defined in Portland's Land Use Code; and units in buildings with 2, 3 or 4 dwelling units, one of which is the principal residence of the landlord. (If there is only one dwelling unit and it is rented to a tenant, it is subject to the Rent Stabilization ordinance.) If you have questions about the exemptions, please consult with the staff of the Housing Safety Office prior to submission.

Paul S. Bulger, Esq.
C/O 75 Pearl Street, Suite 410D
Portland ME 04101

City of Portland

via scan and priority mail (USPS)

Rent Control Board

365 Congress Street

Portland, Me

Attention: Amy McNally, Esq.

Re: Trelawney 657, LLC/ 655-657 Congress Street/ Request For Interpretation

Dear Chairman and Members of the Board:

On the 22d day of May 2023, Geoffrey I. Rice submitted an application for an advisory ruling on the change of utility billing at 657 Congress Street. I represent Geoffrey Rice, the Landlord. The change results in a \$14 monthly net occupancy cost reduction for each tenant in the billing. That said, the billing process must be revised in order to achieve that savings for the tenants. The change in billing is described in the application. I am writing to describe the jurisdictional authority of the board relative to the application.

Jurisdiction as a Threshold Question

Corporation Counsel has requested that I supplement the application to establish RCB jurisdiction. The Ordinance allows the RCB to review "rent increases" under section 6-234 of the Ordinance. Broadly read the charge by the Landlord is a "rent increase" only because the billing for the utility service is being changed from the gas utility to the Landlord. The change has been mandated by UNITIL in order to save cost for the utility (as described in the application). For purposes of jurisdiction the Rent Control Board must first determine whether the change in billing is a rent increase

(Intentionally left blank).

Jurisdiction to Interpret the Ordinance

The RCB could find that a change in billing in which the Landlord is made the billing and collection agent for the UNITIL is not a "service charge" by the Landlord for which the RCB lacks jurisdiction. The Landlord believes that the change in billing procedure results in a net occupancy cost decrease to the Tenants and that the RCB has authority to make an interpretation under its jurisdiction established under the Ordinance.

If the RCB interprets the change as a rent decrease, the RCB should exercise its jurisdiction in order to make that threshold determination by way of interpretation as a jurisdictional matter.

The RCB can accept jurisdiction over the matter as a "rent increase" in which case the applicant requests that the Board take into consideration the overall cost savings to the Tenants. Each Tenant has historically been billed \$29 per month by UNITIL for delivery cost and services, irrespective of gas usage. That service charge has been eliminated under the new regime. Under the new billing arrangement, the Landlord pays all delivery charges bills the Tenants for the cost of billing and collection, approximately \$15 per month. The applicant requests that this one time increase for each occupied unit be treated as falling outside of other caps and adjustments under the Ordinance.

It should be noted that Tenants were notified of the change and each was given the opportunity to eliminate gas delivery by removing the gas appliance (the stoves in each unit). 2 tenants availed themselves of that choice and are no longer billed for gas service.

Regards,


Paul Bulger

Attorney for the Manager, Geoffrey I. Rice

Paul S. Bulger , Esq.
C/O 75 Pearl Street/ Suite 410D/ Portland Maine 04101

Rent Control Board

May 23, 2022

City of Portland

389 Congress Street

Portland Maine 04101 (via email and Ordinary U.S. Mail)

Assistant Corporation Counsel

Amy McNally, Esq.

389 Congress Street

City of Portland, ME 04101 (Via email only)

Re: 657 Trelawney , LLC/ 655-657 Congress Street/ Portland Maine;/Application For
Interpretation of Rent Control Ordinance

Ladies & Gentlemen, Chairman and Members of the Board:

I am writing on behalf of Geoffrey Rice, owner and manager of Trelawney 657, LLC, a Maine limited liability company and owner of the building located at 655-657 Congress Street (hereinafter, "The building"). The Landlord is seeking formal approval in the change of gas utility billing at the building for the portion of gas billing that has historically been billed directly to Tenants in the building.

Procedure & Jurisdiction

The Landlord is requesting an interpretation and approval of a change in billing of gas utility charges in the building. The procedural history is as follows:

1. November 2021. UNITIL mandate to Landlord to change from individual metered billing for 104 units for "appliances" only (meaning gas stoves in each unit). UNITIL to switch to a single master meter billed to Landlord.

2. Letter to Austin Sims, Chairman of Rent Control Board (RCB) dated November 19, 2021.
3. E-mail reply from Anne Torregrossa, Associate Corporation Counsel, dated November 29, 2021. Ms. Torregrossa responds on behalf of Zach Lenhart and approves the change outlined in my letter as an administrative interpretation. Ms. Torregrossa states that her opinion is "not binding on the Rent Control Board" without further explanation.
4. May 5, 2023. Notice of Violation issued by the Permitting & Inspections Department (Chuck Fagone, Code Enforcement Officer). Mr. Fagone's notice states "that the Landlord may not charge for gas utilities unless specifically approved by the RCB". No authority given.
5. 5-12-23 Letter and email to Chuck Fagone with an explanation of the procedural process and the interpretation of the Landlord with attachments.
6. Email from Amy McNally, assistant corporation counsel re: stay of Notice of Violation; agreement to reapply for interpretation. Bulger agreement to terms of stay.

All correspondence and documentation is attached for your reference.

Assumptions/ Estoppel Effect

This series of communications is important for several reasons.

First, the efforts by the Landlord to share information and educate staff about the unique situation at the 657 Congress Street building relative to utilities charges demonstrates good faith and an effort and intention to comply with the Rent Control Ordinance. As soon as the Landlord learned of the change in metering and billing he authorized my letter of November, 19, 2021.

Secondly, Mr. Rice has had a good working relationship with Mr. Lenhart and Mr. Fagone in their respective positions. He has come to rely upon them as a source of practical information relative to compliance. In all candor, he was shocked to receive a Notice of Violation after soliciting an interpretation from the RCB (referred to corporation counsel) and then relying upon it.

It can only be assumed by the Landlord under these circumstances that the change in utility billing was ministerial in nature. The email from Ms. Torregrossa of November 29, 2021, confirms as much. Further, that a formal letter to the RCB (Austin Sims), passed along within departments at City Hall and responded to by Corporation Counsel is to be given legal effect. The Maine Supreme Judicial Court has said as much. An opinion letter or communication by Code Enforcement is to be given estoppel effect when relied upon by the applicant as a matter of fundamental fairness. See City of Auburn v. Desgroseilliers, 578 A. 2d. 712 (1990) and MSAD

v. Reynolds, 413 A. 2d 523 (Me 1980). The Landlord does not know why the Rent Control Board did not address the request for interpretation directly by letter or following a hearing. That said, it is quite common that Code Enforcement Officers, Life Safety Officers in the Housing Safety Office, and other departments at City Hall will request an interpretation from Corporation Counsel. It is also black letter law that the city has jurisdiction for the reasonable interpretation of its Ordinances through the Corporation Counsel's office, to be given the force of law.

Position of the landlord Re: Interpretation of Utilities Charges

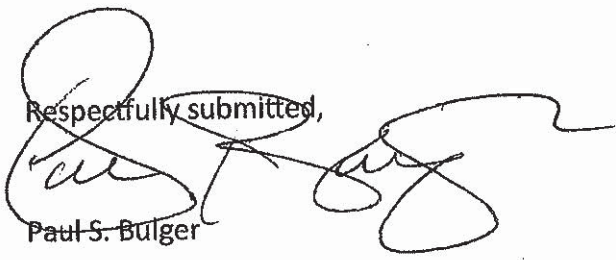
My letter of November 19, 2021, (reference attachment no.1 hereinabove) paragraphs 2 and 3 state the Landlord's position; In simple terms: UNITIL has historically billed and collected for gas and delivery charges to 655 Congress Street by billing tenants directly. For its own purposes (and efficiencies), UNITIL mandated that the Landlord switch to a single meter into the building billed to the Landlord which allowed UNITIL to eliminate 103 meters and 103 monthly meter readings. The Landlord had no say in the matter. The change eliminated a services fee of \$29 per month billed to each tenant by UNITIL. For its part the Landlord agreed to the arrangement provided that it could bill Tenants for the administrative cost of billing, collecting and remitting to UNITIL based upon an estimated cost of \$15 per tenant per month. Tenants who removed their gas stoves are not charged. (Two have requested removal of stoves). UNITIL agreed and stated that they have made similar arrangements with other Landlords in Portland.

By federal utilities law, the Landlord cannot mark up the price of delivery service or gas. Under the new billing arrangement, each Tenant is required to sign a notice & acknowledgement of the gas delivery service fee at the time of renewal or upon entering into a new lease.

The billing change saves each Tenant approximately 50% of their service charge relative to the direct billing/meter reading under the prior system. The billing service fee charged by UNITIL at the time that rent control was adopted was not paid to the Landlord as a "rent" service and therefore does not appear in the base rent established by definition in the Rent Control Ordinance. The change in billing by UNITIL is ministerial in nature. The change saves UNITIL a substantial administrative cost now borne by the Landlord as a billing agent if you will. The applicant feels it best to clarify the justification for the service fee, as a means to reduce costs to the Tenants. It is fair to say that the Landlord is simply a mechanism in the service of greater efficiencies for all parties involved.

Please review my letter of November 19, 2021, carefully and issue your decision. If a hearing is required, please notify me at your earliest convenience.

Respectfully submitted,


Paul S. Bulger

C/O 75 Pearl Street Suite 410D

Portland Maine 04101

Tel 207-712-8820

CC

_Geoff Rice via email

Chuck Fagone psf@portlandmaine.gov

JEWELL & BULGER, P.A.

Attorneys at Law
511 Congress Street, Suite 502
Portland, ME 04101
T: (207) 774-6665
F: (207) 774-1626

Thomas F. Jewell, Esq.
tjewell@jewellandbulger.com

Paul S. Bulger, Esq.
pbulger@jewellandbulger.com

November 19, 2021

City of Portland
Rent Control Board
ATTN: Austin Sims, Chair
389 Congress Street
Portland, ME 04101

RE: 655-657 Congress Street, Portland

Dear Mr. Sims:

I am writing for the Trelawny 657 Congress Street owner of the building at 655-657 Congress Street, Portland. The manager is Geoffrey I. Rice. I am writing to request an administrative ruling in connection with a change in billing for gas utility service in the building.

The definition of "rent" under Chapter 6 § 2-632 of the ordinance is limited to "consideration with the use and occupancy of rental units and housing services". The definition does not include separately billed services.

Because gas services are not included in rent and are billed separately and directly to Tenants, the cost of gas is not "consideration for use and occupancy".

The Landlord at 655 Congress has historically not billed Tenants for gas and gas is used only for stoves. (Heat and hot water are included in the rent for Tenants in the building; gas is used exclusively for gas stoves). This year, Unitil, the local gas utility, is upgrading lines in the building, and removing all gas meters from individual units. For safety reasons, the utility will install a single meter in the basement of 655 Congress.

Tenants currently pay a meter charge and a charge for gas. The Landlord will now be required to bill Tenants for gas and administrative expenses associated with reading the meter and billing and remitting payment to Unitil. Under utility law, Unitil is not permitted to charge above cost for gas but does charge for its use of its meter per Tenant (at least \$29 per month). The Landlord will continue the practice, but will not bill for use of a meter. Tenants will save \$29 per month by the elimination of the meter charge.

November 19, 2021

Page 2

Landlord's Proposal

Trelawny 657 is not a utility and is prohibited from submetering and billing Tenants for metered gas usage under the law. Unitil recommends that the Landlord bill each apartment for gas use on a monthly basis, pro rata as follows:

$$\frac{\text{Total cost of gas for the month}}{\text{Total Dwelling Units in use}} = \text{Per dwelling unit gas cost}$$

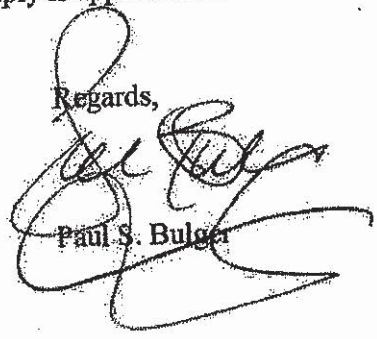
The Landlord will also charge an administrative fee for billing costs expected to average \$15 per month. The change will reduce delivery expense to Tenants by 50%. It should be emphasized that gas usage in this building is for gas stoves only at this time. Each Tenant will be required to sign a separate agreement for gas service at the time a lease is executed.

In sum, Tenants should see a substantial reduction in billing for service because of the elimination of monthly billing for the cost of a meter, which averages over \$29 per month per meter.

It is my professional opinion that the utility cost is a service, not rent, as defined in the ordinance. Moreover, the service has always been separately billed to Tenants. The only change under the new billing system is that the Landlord is required to bill for the service instead of the gas utility, and metering/submetering has been eliminated. The Landlord is prohibited from marking up gas charges.

The purpose of this letter is to solicit confirmation that utility charges do not fall under your jurisdiction under this set of circumstances because the gas utility service is not rent as defined in the ordinance. Your prompt reply is appreciated.

Regards,


Paul S. Bulger

PSB/cmk

cc: Geoffrey I. Rice

Paul Bulger

From: Anne Torregrossa <atorregrossa@portlandmaine.gov>
Sent: Monday, November 29, 2021 4:10 PM
To: Paul Bulger
Cc: Zachary Lenhart; Jessica Hanscombe
Subject: Rent Control and Utilities

Hi Paul,

Zack passed along your question regarding how the City treats utility costs with respect to the rent control ordinance. In the situation you have described, where there is no additional surcharge by the landlord for assessing the utility costs, we would not consider that a rent increase under the rent control ordinance. Our position, of course, would not be binding on a judge or the Rent Board if the matter came before either of those bodies.

Please let me know if you have any other questions.

Anne

--
Anne M. Torregrossa
Associate Corporation Counsel
City of Portland
389 Congress Street, Room 211
Portland, Maine 04101
(207)874-8426

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

via regular U.S. mail
and email: psf@portlandmaine.gov

City of Portland
Housing & Inspections Department
389 Congress Street
Portland Maine 04101
Att. Chuck Fagone; Certified Code Enforcement Officer

Dear Chuck:

I am writing for Geoffrey Rice, as manager of Trelawney 657, LLC, owner of the building at 655-657 Congress Street, Portland Maine ("The Building") in response to your Notice of Violation dated May 5, 2023. Your Letter and Notice were forwarded to Sean Smith at 657 Congress Street. Mr. Rice and Ms. Smith requested that I respond.

Attached is the relevant correspondence including an email from Anne Torregrossa, Corporation Counsel for the City dated November 29, 2021 addressing the issue of utilities charges at the Building. Ms. Torregrossa responds to my letter to Austin Sims of the Rent Control Board dated, November 19, 2021. Also attached. From the context of Corporation Counsel's e-mail it is clear that the RCB asked Mr. Lenhart to respond to my letter and that Mr. Lenhart requested that Corporation Counsel address the legal question.

As stated in my letter to the RCB, page 2, paragraph 1, the charge described is an administrative fee, a service fee related to the change in delivering gas in the Building from 104 individual meters to one master meter. The formula for the administrative cost is used by UNITIL elsewhere in the City and substantially reduces costs to tenants in the building as described in my letter. Ms. Torregrossa acknowledges that the charge for service is not a utilities charge and *is not a rent increase under the Ordinance*.

I can understand the confusion in the Building & Inspections Department given the circuitous route taken by my request for a ruling. Please confirm receipt of this response and revoke your Notice & Order. If necessary please confer with Ms. Torregrossa. I am sure that her written opinion is binding and enforceable.

Thank you for your attention to this matter.

Regards,

Paul S. Bulger

Cell: 207-712-8820

Email: pbulger@jewellandbulger.com

Mail:

Paul S. Bulger, Esq.

31311 NW 71st Avenue

Ridgeland Wa. 98642



CITY OF PORTLAND
Permitting and Inspections Department

5/5/2023

657 CONGRESS LLC
ATTN: SHAWN SMITH 657 CONGRESS ST 1 SUITE FLOOR
PORTLAND, ME 04101

RE: 655 CONGRESS ST
PORTLAND, ME

046 D021001

NOTICE OF VIOLATION AND ORDER TO CORRECT

To 657 Congress Llc,

The City of Portland Permitting and Inspections Department have been notified of a rent control violation at the above-referenced property on 5/5/2023 and found violations of the City of Portland Code of Ordinances, which are listed on the attached page(s). You are hereby ordered to correct these violations and take appropriate action as outlined in this notice by **06/05/2023 5:00 PM**.

If you do not correct the attached violations by the dates given, then this matter will be referred to the City of Portland Corporation Counsel for legal action, and may include civil penalties in the minimum of \$100 per day, and other legal remedies.

This constitutes an appealable decision under Sec. 6-96 of the City of Portland Code of Ordinances. You may appeal this decision by filing an appeal within 10 days of the date on this notice. Please contact the Zoning Division at zoning@portlandmaine.gov for appeal forms. If you choose to not appeal this notice, then you may be barred from challenging the City's determinations in the future.

Please contact me at the email and phone number listed below if you have questions about the violations, corrections or timeline.

Sincerely,

Chuck Fagone
Certified Code Enforcement Officer
psf@portlandmaine.gov
(207) 756-8131



NON-COMPLIANCE VIOLATION LIST

NAME	CODE DESCRIPTION	COMMENTS	Deadline 6/5/2023
City Code 6-233, 6-234	Landlords may not charge more than base rent plus any allowable increases under Sec. 6-234.	Landlords must reduce the rent to within the required amount and refund any excess rent collected to any tenants who were overcharged. The landlord is not allowed to charge for gas utilities unless this increase is specifically approved by the rent board. Any collection of gas fees must cease immediately and refunds made to the tenants who paid gas fees within 30 days of this notice (6/5/2023).	

Paul Bulger

From: Anne Torregrossa <atorregrossa@portlandmaine.gov>
Sent: Monday, November 29, 2021 4:10 PM
To: Paul Bulger
Cc: Zachary Lenhart; Jessica Hanscombe
Subject: Rent Control and Utilities

Hi Paul,

Zack passed along your question regarding how the City treats utility costs with respect to the rent control ordinance. In the situation you have described, where there is no additional surcharge by the landlord for assessing the utility costs, we would not consider that a rent increase under the rent control ordinance. Our position, of course, would not be binding on a judge or the Rent Board if the matter came before either of those bodies.

Please let me know if you have any other questions.

Anne

--
Anne M. Torregrossa
Associate Corporation Counsel
City of Portland
389 Congress Street, Room 211
Portland, Maine 04101
(207)874-8426

Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

Paul Bulger

From: Amy McNally <amcnally@portlandmaine.gov>
Sent: Monday, May 15, 2023 10:27 AM
To: Paul Bulger
Cc: Zachary Lenhert
Subject: Re: FW: Unitil Service Charge; Response to Inspections Dept.

Hi Paul,

I write as a follow up to our phone conversation on Friday. I confirmed the City is willing to stay the Notice of Violation while your client pursues his application to the Rent Board **so long as the application is filed no later than Friday, May 26th**. If your client fails to file the application on or before that date, and the matter is not otherwise resolved, penalties will begin to accrue once again and the City will consider additional enforcement action, if necessary.

Thank you,

Amy R. McNally
Associate Corporation Counsel
City of Portland
389 Congress Street
Portland, Maine 04101
207-874-8974
amcnally@PortlandMaine.gov



Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

On Thu, May 11, 2023 at 7:53 PM Paul Bulger <pbulger@jewellandbulger.com> wrote:

Amy,

Can you call me on Friday after 11 EST. I am on Pacific time right now. Thank you.

Paul

207-712-8820

From: Amy McNally <amcnally@portlandmaine.gov>
Sent: Thursday, May 11, 2023 5:23 AM
To: Paul Bulger <pbulger@jewellandbulger.com>
Cc: Zachary Lenhert <zlenhert@portlandmaine.gov>
Subject: Fwd: FW: Until Service Charge; Response to Inspections Dept.

Hi Paul,

Zack passed along your below email to me for review. Is there a good time today I could give you a call to discuss?

Thank you,

Amy R. McNally

Associate Corporation Counsel

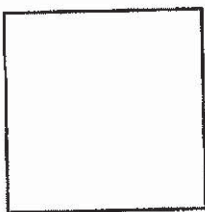
City of Portland

389 Congress Street

Portland, Maine 04101

207-874-8974

amcnally@PortlandMaine.gov



Notice: Under Maine law, documents - including e-mails - in the possession of public officials or city employees about government business may be classified as public records. There are very few exceptions. As a result, please be advised that what is written in an e-mail could be released to the public and/or the media if requested.

----- Forwarded message -----

From: **Paul Bulger** <pbulger@jewellandbulger.com>

Date: Mon, May 8, 2023 at 4:51 PM

Subject: FW: Unutil Service Charge; Response to Inspections Dept.

To: Chuck Fagone <psf@portlandmaine.gov>

Chuck:

Attached is my response to your Notice Of Violation re: 655 Congress Street, Unutil administration charge. I have enclosed a copy of your letter and my letter to the Rent Control Board, and the response by Anne Torregrossa of November 29, 2021.

I will call you at the end of the week to confirm that this matter is resolved.

Is there a best time to call you on Thursday this week?

Regards,

Paul Bulger

207-712-8820

From: Paul Bulger

Sent: Monday, May 8, 2023 1:03 PM

To: geoff607@yahoo.com

Subject: Unutil Service Charge; Response to Inspections Dept.



CITY OF PORTLAND
Permitting and Inspections Department

5/5/2023

657 CONGRESS LLC
ATTN: SHAWN SMITH 657 CONGRESS ST 1 SUITE FLOOR
PORTLAND, ME 04101

RE: 655 CONGRESS ST
PORTLAND, ME

046 D021001

NOTICE OF VIOLATION AND ORDER TO CORRECT

To 657 Congress Llc,

The City of Portland Permitting and Inspections Department have been notified of a rent control violation at the above-referenced property on 5/5/2023 and found violations of the City of Portland Code of Ordinances, which are listed on the attached page(s). You are hereby ordered to correct these violations and take appropriate action as outlined in this notice by **06/05/2023 5:00 PM**.

If you do not correct the attached violations by the dates given, then this matter will be referred to the City of Portland Corporation Counsel for legal action, and may include civil penalties in the minimum of \$100 per day, and other legal remedies.

This constitutes an appealable decision under Sec. 6-96 of the City of Portland Code of Ordinances. You may appeal this decision by filing an appeal within 10 days of the date on this notice. Please contact the Zoning Division at zoning@portlandmaine.gov for appeal forms. If you choose to not appeal this notice, then you may be barred from challenging the City's determinations in the future.

Please contact me at the email and phone number listed below if you have questions about the violations, corrections or timeline.

Sincerely,

Chuck Fagone
Certified Code Enforcement Officer
psf@portlandmaine.gov
(207) 756-8131



NON-COMPLIANCE VIOLATION LIST

NAME	CODE DESCRIPTION	COMMENTS	Deadline
City Code 6-233, 6-234	Landlords may not charge more than base rent plus any allowable increases under Sec. 6-234.	Landlords must reduce the rent to within the required amount and refund any excess rent collected to any tenants who were overcharged. The landlord is not allowed to charge for gas utilities unless this increase is specifically approved by the rent board. Any collection of gas fees must cease immediately and refunds made to the tenants who paid gas fees within 30 days of this notice (6/5/2023).	6/5/2023

655 Congress	June 2020 rent	5% 2021 Rent	CPI 4.3 (2022)	Tax Rate Adjustment (2022)	November 2022
202	\$1,250.00	\$62.50	\$1,250.00	\$53.75	\$1,366.08
203	\$905.00	\$45.25	\$905.00	\$38.92	\$1,000.00
204	\$920.00	\$46.00	\$920.00	\$39.56	\$1,010.86
205	HOUSING				
206-208	\$1,190.00	\$59.50	\$1,190.00	\$51.17	\$1,363.00
209	\$1,050.00	\$52.50	\$1,050.00	\$45.15	\$1,176.00
211	\$745.00	\$37.25	\$745.00	\$33.65	\$884.51
212	\$710.00	\$35.50	\$745.50	\$32.06	\$849.42
214	\$710.00	\$35.50	\$710.00	\$30.53	\$812.40
215-217	HOUSING				
218	HOUSING				
220-221	\$995.00	\$49.75	\$1,044.75	\$44.92	\$1,144.60
222	\$730.00	\$36.50	\$730.00	\$31.39	\$787.73
223-226	\$1,425.00	\$71.25	\$1,425.00	\$61.28	\$1,475.00
227-228	\$1,025.00	\$51.25	\$1,025.00	\$44.08	\$1,180.00
301-302	\$1,225.00	\$61.25	\$1,225.00	\$52.68	\$1,340.01
303	\$920.00	\$46.00	\$966.00	\$41.54	\$1,100.00
304	\$925.00	\$46.25	\$925.00	\$39.78	\$1,016.08
305-306	\$1,010.00	\$50.50	\$1,010.00	\$43.43	\$1,158.86
307	\$860.00	\$42.50	\$875.00	\$37.63	\$980.00
308-309	\$1,020.00	\$51.00	\$1,182.50	\$50.85	\$1,241.63
310	\$710.00	\$35.50	\$745.50	\$32.06	\$813.93
311	\$750.00	\$37.50	\$750.00	\$32.25	\$818.62
312	\$735.00	\$36.75	\$775.00	\$33.33	\$844.70
314	\$750.00	\$37.50	\$775.00	\$33.33	\$844.70
315-317	\$1,200.00	\$60.00	\$1,200.00	\$51.60	\$1,320.00
318	\$1,050.00	\$52.50	\$1,102.50	\$47.41	\$1,264.74
320	\$620.00	\$31.00	\$620.00	\$26.66	\$673.00
321-322	\$1,050.00	\$52.50	\$1,182.50	\$50.85	\$1,182.50
323-324	\$945.00	\$47.25	\$945.00	\$40.64	\$1,039.50
325-326	\$995	\$50	\$995.00	\$42.79	\$1,092.72
327	\$895.00	\$44.75	\$895.00	\$38.49	\$984.50
401-402	HOUSING				
403	\$925.00	\$46.25	\$950.00	\$40.85	\$1,042.15

404		\$925.00	\$46.25	\$1,023.75	\$44.02	\$51.30	\$1,175.02
405		\$885.00	\$44.25	\$885.00	\$38.06	\$54.93	\$973.50
406-407		\$785.00	\$39.25	\$785.00	\$33.76	\$51.30	\$863.50
408-409		\$1,150.00	\$57.50	\$1,207.50	\$51.92	\$54.93	\$1,380.08
410		\$750.00	\$37.50	\$775.00	\$33.33	\$36.37	\$882.20
411		\$690.00	\$34.50	\$690.00	\$29.67	\$36.37	\$756.04
412-414		\$1,000.00	\$50.00	\$1,000.00	\$43.00	\$54.93	\$1,097.93
415-416		\$890.00	\$44.50	\$995.00	\$42.79	\$62.33	\$1,094.00
417		\$715.00	\$35.75	\$715.00	\$30.75	\$51.30	\$786.50
418		\$1,100.00	\$55.00	\$1,100.00	\$47.30	\$62.33	1,209.63
420		\$630.00	\$31.50	\$635.00	\$27.31	\$26.34	688.65
421-422		\$1,050.00	\$52.50	\$1,050.00	\$45.15	\$54.93	\$1,150.00
423-426		\$1,395.00	\$69.75	\$1,395.00	\$59.99	\$120.15	\$1,644.89
427-428		\$1,025.00	\$51.25	\$1,050.00	\$45.15	\$62.33	\$1,155.00
501-502		\$1,200.00	\$60.00	\$1,200.00	\$51.60	\$62.33	1313.92
503		\$925.00	\$46.25	\$925.00	\$39.78	\$51.30	1016.08
504		\$905.00	\$45.25	\$905.00	\$38.92	\$51.30	995.22
505-506		\$1,050.00	\$52.50	\$1,102.50	\$47.41	\$54.93	\$1,204.84
507-508	HOUSING						
509		\$775.00	\$38.75	\$775.00	\$33.33	\$36.37	\$848.66
510		\$745.00	\$37.25	\$745.00	\$32.04	\$36.37	\$813.41
511		\$745.00	\$37.25	\$782.25	\$33.64	\$36.37	\$862.26
512-514		\$1,200.00	\$60.00	\$1,200.00	\$51.60	\$65.33	\$1,320.00
515-517		\$1,200.00	\$60.00	\$1,260.00	\$54.18	\$83.78	\$1,386.00
518		\$1,070.00	\$53.50	\$1,123.50	\$48.31	\$61.71	\$1,287.02
520-522	HOUSING						
523-526		\$1,650.00	\$82.50	\$1,700.00	\$73.10	\$120.15	\$1,850.00
527-528		\$1,200.00	\$60.00	\$1,200.00	\$51.60	\$62.33	\$1,200.00
601		\$850.00	\$42.50	\$850.00	\$36.55	\$36.37	\$922.92
602		\$975.00	\$48.75	\$1,050.00	\$45.15	\$51.30	\$1,146.45
603-604		\$795.00	\$39.75	\$795.00	\$34.19	\$83.78	\$825.00
605-606		\$1,175.00	\$58.75	\$1,233.75	\$53.05	\$54.93	\$1,341.73
607-608		\$695.00	\$34.75	\$695.00	\$29.89	\$54.93	\$764.50
609		\$750.00	\$37.50	\$775.00	\$33.33	\$36.37	\$844.70
610		\$665.00	\$34.25	\$665.00	\$29.46	\$36.37	\$750.83

	611-614	\$1,195.00	\$59.75	\$1,195.00	\$51.39	\$62.33	\$1,308.72
	615-617	\$960.00	\$48.00	\$960.00	\$41.28	\$83.78	\$1,056.00
	618	\$980.00	\$49.00	\$980.00	\$42.14	\$62.33	\$980.00
	620-622	\$1,050.00	\$52.50	\$1,250.00	\$53.75	\$62.33	\$1,366.08
	623-626	\$1,375.00	\$68.75	\$1,375.00	\$59.13	\$120.15	\$1,512.50
	627-628	\$1,125.00	\$56.25	\$1,125.00	\$48.38	\$62.33	\$1,235.71
	701-702	\$1,220.00	\$61.00	\$1,275.00	\$54.83	\$62.33	\$1,392.16
	703	\$975.00	\$48.75	\$975.00	\$41.93	\$51.30	\$1,068.23
	704	\$975.00	\$48.75	\$1,023.75	\$44.02	\$51.30	\$1,175.03
	705-706	\$1,150.00	\$57.50	\$1,207.50	\$51.92	\$54.93	\$1,371.85
	707-708	\$1,040.00	\$52.00	\$1,092.00	\$46.96	\$54.93	\$1,253.58
	709	\$720.00	\$36.00	\$720.00	\$30.96	\$36.37	\$787.33
	710	\$680.00	\$34.00	\$680.00	\$29.24	\$36.37	\$745.61
	711	\$880.00	\$44.00	\$895.00	\$38.49	\$62.33	\$984.50
	712-714	\$1,100.00	\$55.00	\$1,155.00	\$49.67	\$54.93	\$1,314.60
	715	\$900.00	\$45.00	\$945.00	\$40.64	\$51.30	\$1,075.00
	717	\$793.00	\$39.65	\$793.00	\$34.10	\$51.30	\$873.30
	718	\$1,150.00	\$57.50	\$1,207.50	\$51.92	\$62.33	\$1,379.25
	720	\$630.00	\$31.50	\$630.00	\$27.09	\$26.34	\$683.43
	721-722	\$955.00	\$47.75	\$955.00	\$41.07	\$54.93	\$1,050.50
	723-726	\$1,430.00	\$71.50	\$1,550.00	\$66.65	\$120.15	\$1,705.00
	727	\$950.00	\$47.50	\$950.00	\$40.85	\$54.93	\$1,045.00
	728	\$815.00	\$40.75	\$815.00	\$35.05	\$36.37	\$927.17
	808-809	\$1,175.00	\$58.75	\$1,175.00	\$50.53	\$54.93	\$1,339.21
	810-811	\$1,200.00	\$60.00	\$1,312.50	\$56.44	\$54.93	\$1,312.50
	812	\$775.00	\$38.75	\$775.00	\$33.33	\$36.37	\$844.70
	815-816	\$1,200.00	\$60.00	\$1,250.00	\$53.75	\$36.37	\$1,375.00
	817	\$1,125.00	\$56.25	\$1,125.00	\$48.38	\$62.33	\$1,235.71
	819-820	\$975.00	\$48.75	\$1,000.00	\$43.00	\$54.40	\$1,146.15
	821-822	\$1,125.00	\$56.25	\$1,125.00	\$48.38	\$54.40	\$1,228.00
	823-825	\$1,175.00	\$58.75	\$1,175.00	\$50.53	\$62.33	\$1,300.00
	826	\$850.00	\$42.50	\$850.00	\$36.55	\$54.93	\$935.00
	827	\$790.00	\$39.50	\$790.00	\$33.97	\$36.37	\$860.34