



RENT BOARD

July 26, 2023

5:00 PM

ZOOM INFORMATION:

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/kcbNofunj0>

II. ROLL CALL:

III. EXECUTIVE SESSION

IV. APPROVAL OF MINUTES

- a. June 28, 2023 Minutes

V. 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".

VI. UNFINISHED BUSINESS:

- a. Rent Increase Application - Public Comment
Owner: Eastern Residential Inc
Landlord's Representative: David Bergeron with Port Property
Address: 13 Montreal St, Units 1-8
CBL: 015-B-001-002
Type of Increase: Increased Housing Service Costs
- b. Rent Increase Application - Public Comment
Owner: Eastern Residential Inc
Landlord's Representative: David Bergeron with Port Property
Address: 19 Montreal St, Units 1-8 & B
CBL: 015-B-001-002
Type of Increase: Increased Housing Service Costs
- c. Rent Increase Application - Public Comment
Owner: Eastern Residential Inc
Landlord's Representative: David Bergeron with Port Property
Address: 25-27 Montreal St, Units 1-8
CBL: 015-B-001-002
Type of Increase: 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
Address: 304 Eastern Prom, Units 1-8
CBL: 015-B-001-002
Type of Increase: Increased Housing Service Costs
- e. Rent Increase Application - Public Comment
Owner: Grant Street Realty Group LLC
Landlord's Representative: David Bergeron with Port Property
Address: 63 Grant St, Units 1-6
CBL: 048-B-016-001
Type of Increase: Increased Housing Service Costs
- f. Rent Increase Application - Public Comment
Owner: Grant Street Realty Group LLC
Landlord's Representative: David Bergeron with Port Property
Address: 65 Grant St, Units 1-6
CBL: 048-B-016-001
Type of Increase: Increased Housing Service Costs
- g. Rent Increase Application - Public Comment
Owner: Grant Street Realty Group LLC
Landlord's Representative: David Bergeron with Port Property
Address: 69 Grant St, Units 1-6
CBL: 048-B-015-001
Type of Increase: Increased Housing Service Costs
- h. Rent Increase Application - Public Comment
Owner: Joanne Stamplis
Address: 34 Cushman St, all 3 units
CBL: 056-D-005-001
- i. Rent Increase Application - Public Comment
Owner: Trelawny 657 LLC
Landlord's Representative: Paul S. Bulger, Esq. with Jewell & Bulger, P.A.
Address: 655 Congress St
CBL: 046-D-021-001

VII. NEW BUSINESS

- a. Rent Increase Application - Public Comment
Owner: Rudolph Casparius
Agent: Erik Casparius with Casparius Holdings LLC
Address: 105 Woodford St, all 5 units
CBL: 129-E-019-001
- b. Continued Discussion for Annual Report

VIII. ADJOURN

Remote Rent Board Meeting Minutes - Held Via Zoom

Wednesday, June 28, 2023

II. Roll Call

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

Staff present:

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

III. Approval of Minutes - 00:00:56

A. May 24, 2023 Minutes

Barbara Vestal made a motion to approve the minutes as presented, seconded by Matt Walker. Vote: 4-0
(Three vacancies on the Board)

IV. Communications - 00:02:32

There are no items to be discussed

V. Unfinished Business

00:02:51 through 00:29:01 - Benjamin Plante, Esq., Counsel for the Rent Board discusses concerns about Rent Board member, Matt Walker, and the appearance of bias and/or conflict of interest for the applications listed in Unfinished Business. Along with that, if Matt Walker was recused from these applications, the Board would not meet quorum and the applications would be tabled for yet another meeting until a new member has been appointed. There was discussion amongst Board members and Mr Plante.

00:29:07 - Barbara Vestal makes a motion that the Board finds that Matt Walker should be recused from participating in the applications filed by Port Property on the basis that there is an appearance of bias or lack of objectivity. Seconded by the Chair.

Benjamin Plante, Esq., stated that the vote should be amongst the three board members (Elliott, Barbara, and Philip) and that the affected member should not be voting on the recusal itself.

Vote: 3-0 (Matt Walker did not vote and there are 3 vacancies on the Board).

00:30:54 - All Port Properties applications have been tabled (Agenda Item V, Sections A-G)

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

See timestamp 00:30:54

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

See timestamp 00:30:54

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

See timestamp 00:30:54

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

See timestamp 00:30:54

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

See timestamp 00:30:54

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

See timestamp 00:30:54

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

See timestamp 00:30:54

VI. New Business - 00:34:24

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

This is the first application submitted using the new MNOI worksheet.

01:20:52 - The Chair asks the applicant if she will voluntarily table her application due to additional information being needed, to which she agreed to

Additional information that can be submitted to help with the application are:

-receipts/invoices

-written statements if missing a receipt and be detailed about it

B. Rent Increase Application - Public Comment - 01:23:33

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

Per Matt Walker, he is a tenant at 655 Congress Street, therefore, there is a conflict of interest for him to participate on this application as a Board member. He has voluntarily recused himself.

01:28:22 - Barbara Vestal makes a motion that the Board tables this item until they have a quorum to be able to deal with it, seconded by the Chair.

Benjamin Plante, Esq., Counsel for the Board advised the Chair that for this purpose, it would be okay to only have the three remaining Board members vote (Elliott, Barbara, and Philip)

Vote: 3-0 (Matt Walker recused himself and there are three vacancies on the Board)

C. Continued Discussion for Annual Report - 01:29:33

Board members continued discussing preparation for the annual report from 01:29:33 to 02:02:54 on the recorded meeting.

VII. Adjourn - 02:03:03

Barbara Vestal made a motion to adjourn the meeting, seconded by Matt Walker. Vote: 4-0 (Three 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 – Tabled to July 26, 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
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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))
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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))
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City of Portland – Housing Safety Division
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Date of Hearing:

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

Date of Hearing:

March 22, 2023 – Tabled to June 28, 2023 – Tabled to July 26, 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))
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City of Portland – Housing Safety Division
LANDLORD APPLICATION FOR RENT INCREASE SUMMARY

Date of Hearing:

March 22, 2023 – Tabled to June 28, 2023 – Tabled to July 26, 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 – Tabled to July 26, 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 – Tabled to July 26, 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 – Tabled to July 26, 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

City of Portland | Permitting and Inspections

Zachary Lenhert, Licensing and Housing Safety Manager



July 17, 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, July 26, 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, **July 21, 2023** in the “Media Files” of the meeting agenda 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

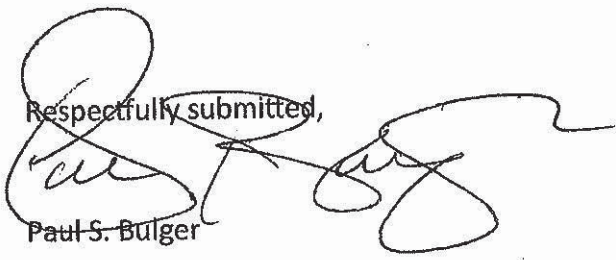
My letter of November 19, 2021, (reference attachment no.1 hereinabove) paragraphs 2 and 3 state the Landlord's position; In simple terms: UNITIL has historically billed and collected for gas and delivery charges to 655 Congress Street by billing tenants directly. For its own purposes (and efficiencies), 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:

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

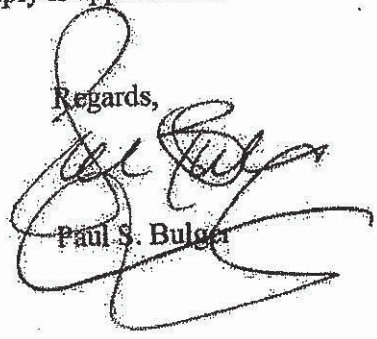
The Landlord will also charge an administrative fee for billing costs expected to average \$15 per month. The change will reduce delivery expense to Tenants by 50%. It should be emphasized that gas usage in this building is for gas stoves only at this time. Each Tenant will be required to sign a separate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

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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. Lenhert to respond to my letter and that Mr. Lenhert 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

Deadline
6/5/2023

NAME	CODE DESCRIPTION	COMMENTS
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

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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



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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

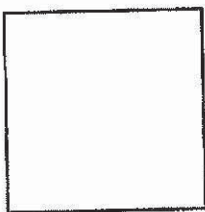
City of Portland

389 Congress Street

Portland, Maine 04101

207-874-8974

amcnally@PortlandMaine.gov



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----- 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**.

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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	\$62.33	\$1,366.08
203	\$905.00	\$45.25	\$905.00	\$38.92	\$51.30	\$1,000.00
204	\$920.00	\$46.00	\$920.00	\$39.56	\$51.30	\$1,010.86
205	HOUSING					
206-208	\$1,190.00	\$59.50	\$1,190.00	\$51.17	\$62.33	\$1,363.00
209	\$1,050.00	\$52.50	\$1,050.00	\$45.15	\$54.93	\$1,176.00
211	\$745.00	\$37.25	\$745.00	\$33.65	\$36.37	\$884.51
212	\$710.00	\$35.50	\$745.50	\$32.06	\$36.37	\$849.42
214	\$710.00	\$35.50	\$710.00	\$30.53	\$36.37	\$812.40
215-217	HOUSING					
218	HOUSING					
220-221	\$995.00	\$49.75	\$1,044.75	\$44.92	\$54.93	\$1,144.60
222	\$730.00	\$36.50	\$730.00	\$31.39	\$26.34	\$787.73
223-226	\$1,425.00	\$71.25	\$1,425.00	\$61.28	\$120.15	\$1,475.00
227-228	\$1,025.00	\$51.25	\$1,025.00	\$44.08	\$54.93	\$1,180.00
301-302	\$1,225.00	\$61.25	\$1,225.00	\$52.68	\$62.33	\$1,340.01
303	\$920.00	\$46.00	\$966.00	\$41.54	\$51.30	\$1,100.00
304	\$925.00	\$46.25	\$925.00	\$39.78	\$51.30	\$1,016.08
305-306	\$1,010.00	\$50.50	\$1,010.00	\$43.43	\$54.93	\$1,158.86
307	\$860.00	\$42.50	\$875.00	\$37.63	\$51.30	\$980.00
308-309	\$1,020.00	\$51.00	\$1,182.50	\$50.85	\$62.33	\$1,241.63
310	\$710.00	\$35.50	\$745.50	\$32.06	\$36.37	\$813.93
311	\$750.00	\$37.50	\$750.00	\$32.25	\$36.37	\$818.62
312	\$735.00	\$36.75	\$775.00	\$33.33	\$36.37	\$844.70
314	\$750.00	\$37.50	\$775.00	\$33.33	\$36.37	\$844.70
315-317	\$1,200.00	\$60.00	\$1,200.00	\$51.60	\$83.78	\$1,320.00
318	\$1,050.00	\$52.50	\$1,102.50	\$47.41	\$62.33	\$1,264.74
320	\$620.00	\$31.00	\$620.00	\$26.66	\$26.34	\$673.00
321-322	\$1,050.00	\$52.50	\$1,182.50	\$50.85	\$54.93	\$1,182.50
323-324	\$945.00	\$47.25	\$945.00	\$40.64	\$54.93	\$1,039.50
325-326	\$995	\$50	\$995.00	\$42.79	\$54.93	\$1,092.72
327	\$895.00	\$44.75	\$895.00	\$38.49	\$51.30	\$984.50
401-402	HOUSING					
403	\$925.00	\$46.25	\$950.00	\$40.85	\$51.30	\$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	\$885.00	\$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

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

Date of Hearing:

July 26, 2023

Owner Name and Address:

Rudolph Casparius, 1231 Forest Ave, Portland, ME 04103

Agent Name:

Erik Casparius with Casparius Holdings LLC

Property Address and Unit:

105 Woodford St, all 5 units

CBL:

129-E-019-001

Tenants/Interested Parties:

Yes

Litigation/Legislation Pertaining to Rent Control Ordinance, July 1, 2022 through June 30, 2023

The first Annual Report of the Portland Rent Board reported on matters through June 30, 2022. During the intervening year, there have been two citizen-initiated referenda and three court cases which related to the Rent Stabilization Ordinance. They are summarized below.

1. **November 2022 Referendum:** A 24-page referendum proposing multiple changes to the original Act to Protect Tenants in Portland, first enacted by citizen-initiated referendum in November 2020, was approved by voters in November 2022 by a vote of 54.9% yes, 45.1% no, and became effective in December 2022. The enacted edits made many changes, the most notable of which:
 - Shortened timelines to register rental units and increased late fees for failing to register;
 - Eliminated many of the distinctions between a landlord's obligations to at-will tenants versus tenants under lease;
 - Required landlords to give 90-day written notice of all rent increases, 90-day notice of all decisions not to renew a lease at the end of a lease term, and 90-day notice of all terminations of a tenancy;
 - Prohibited landlords from requiring application fees for rental housing;
 - Limited security deposits to the equivalent of one (1) month's rent;
 - Reduced the annual allowable increase percentage by which landlords may increase rent from 100% to 70% of the change in the Consumer Price Index;
 - Amended the definition of "fair return on investment" and substituted a new "maintenance of net operating income" methodology as the means of assessing that which applies to all rent increase applications submitted after March 1, 2023;
 - Redefined the renovation required to justify an increase in base rent to limit it to major renovation involving construction costs exceeding 20% or more of the unit's property value;
 - Eliminated an increase in real estate taxes as a mechanism for an automatic rent increase;
 - Eliminated capital improvement costs as a standalone basis for applying to the Rent Board for an approved increase in allowable rent;
 - Limited the 5% of base rent increase allowed to a landlord for a new tenancy to only apply in situations where the tenancy was terminated voluntarily by the previous tenant (precluding a 5% new tenancy increase if termination of tenancy was due to nonpayment of rent, damage to the property, or any other involuntary termination);
 - Clarified the process by which tenants may seek relief from the Housing Safety Office or the Rent Board should they believe a rent increase does not comply with the ordinance;
 - Increased the fee payable by landlords to tenants for terminating a tenancy on less than 90 days' notice from \$500 and \$1000 to the equivalent of one (1) and two (2) months' rent for 60- or 30- days' notice respectively;
 - Included new provisions granting tenant unions standing to assert tenants' rights before the Housing Safety Office, Rent Board and Superior Court;
 - Added a provision which gives the Rent Board jurisdiction and authority to mediate disputes between landlords and tenants if both parties request such mediation;

- Required the Rent Board rules and regulations to be approved by the City Council, including a new methodology for calculating the amount of rent necessary to allow the Maintenance of Net Operating Income and yield a Fair Return on Investment under various circumstances, to be applied to all applications submitted after March 1, 2023;
- Increased the fee for a condominium conversion permit from \$300 to \$25,000 per converted unit, to be adjusted annually.

2. **June 2023 Referendum:** A June 2023 referendum proposed to allow a landlord to establish a new Base Rent at the time of a new tenancy, but only in instances when the prior tenant moved out voluntarily. The other provisions of the Rent Control Ordinance were to remain unchanged. The measure was defeated on June 13, 2023 by a vote of 33% yes, 67% no.

3. **TRELAWNY 657, LLC v. RENT CONTROL BOARD, CITY OF PORTLAND, MAINE:** Plaintiff, Trelawny, LLC ("Trelawny") filed a M.R. Civ. P. 80B appeal in Cumberland County Superior Court from a February 23, 2022 Rent Board decision. Among the issues addressed by the Rent Board decision were whether the Downtown Improvement District assessment is a "tax" that may be allocated to tenants under the "tax rate rent adjustment", how different portions of the building should be considered for purposes of allocating the tax increase, and whether landlord notices to tenants complied with the Ordinance. Trelawny appealed the Rent Board's Decision on several grounds, including that (1) the Rent Board abused its discretion, (2) the retroactive rent freeze violates Maine's Constitution, and (3) penalties imposed for defective notice constitute an abuse of discretion. The appeal was pending at the time of the last Rent Board Annual Report. The Plaintiff's appeal was subsequently dismissed, with prejudice, by the Cumberland County Superior Court on January 16, 2023 for failure to timely meet several filing deadlines.

4. **BAYVIEW COURT ASSOCIATES, LLC v. CITY OF PORTLAND, MAINE:** The Plaintiffs, Bayview Court Associates, LLC and Eastern Promenade LLC, sought declaratory and injunctive relief against the City, contending that the rental registration data compiled by Plaintiffs and submitted to the City in compliance with the rental unit registration requirements constituted "trade secrets" and should be exempted from public disclosure under Maine's Freedom of Access Act (FOAA). The Business and Consumer Court held on December 22, 2022, that Plaintiffs did not carry their burden to prove that compilations of rental data created by Plaintiffs and submitted to the City constituted "trade secrets" within the meaning of the Maine Trade Secrets Act, thus the data is not exempt from public disclosure under FOAA.

5. **PVA LIMITED PARTNERSHIP v. CITY OF PORTLAND, MAINE:** The Plaintiff, PVA Limited Partnership has filed suit against the City of Portland seeking a declaratory judgment that the term "accommodation" as used in the Rent Control Ordinance means "a place of accommodation such as an apartment building or complex" as Plaintiff contends, rather than "an individual dwelling unit" as Plaintiff asserts that the City contends. At issue is whether the Rent Control Ordinance's exemption from rent control for "accommodations where the amount of rent charged is either controlled or subsidized by a federal, state, or local governmental agency" should be read as exempting all of the dwelling units at the complexes known as Princeton Pines, Princeton Ridge, Princeton Village and Princeton on Back Cove, or whether it should only exempt the 25% of the units in each complex which, by regulatory agreement with Maine State Housing Authority, provide low income housing for 30 years (until 2033) that the Plaintiff is required to reserve for occupancy by tenants whose incomes are 50% or 60% or less than the area median gross income. The matter is pending in Cumberland County Superior Court.