RENT BOARD
October 25, 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/u/kcbNofunj0

II. ROLL CALL:

III. APPROVAL OF MINUTES

a. September 27, 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 needs to read "Written Public Comment"

a. Memo from Staff

V. UNFINISHED BUSINESS:

a. Annual Rent Board Report Update

VI. NEW BUSINESS

a. Rent Increase Application - Public Comment
Owner: Trelawny 657 LLC
Agent: Paul Bulger, Esq with Jewell & Bulger, P.A.
Address: 655 Congress St
CBL: 046-D-021-001

VII. ADJOURN

Remote Rent Board Meeting Minutes - Held Via Zoom

Wednesday, September 27, 2023

II. Roll Call

Elliott Simpson, Tenant, At-Large - Chair
Barbara Vestal, Landlord, At-Large
Patricia Jane Washburn, Tenant, District 1
Matthew Walker, Tenant, District 2
Vacant, District 3
Antwane Mills, Tenant, District 4
Philip Mathieu, Tenant, District 5

Staff present:
Zachary Lenhert, Licensing & Housing Safety Manager
Amy McNally, Associate Corporation Counsel

III. Approval of Minutes - 00:01:44

A. August 23, 2023 Minutes

Barbara Vestal makes a motion to approve the minutes as written, seconded by the Vice Chair. Vote: 6-0 (one vacancy on the Board).

IV. Communications - 00:02:19

A. Sec 6-234(a) - 2024 Annual Increase Percentage (AIP) - Public Comment

Zachary Lenhert, Licensing & Housing Safety Manager, reviews the publication of this and where it is located on the City's website.

No public comment was received from either the Board nor members of the public.

B. Written Public Comment -

This is a general public comment, not related to any application on the agenda, that was submitted by a member of the Board.

V. Unfinished Business - 00:06:50

A. Rent Increase Application - Public Comment
Owner: Louis Christen
Agent: Bernstein Shur, Attorney Zachary Brandwein
Property Address: 164 Pearl St, Conod #C
CBL: 026-L-004-00C

No tenants spoke as objectors.

No public comment was received.

00:29:27 - Barbara Vestal makes a motion that the Board finds that the applicant has submitted adequate documentation of the 2019 and 2022 expenses and the application MNOI methodology that justifies an increase of $240.32 but that the Board also finds that the applicant has not carried the burden of proof that the Board should adjust the base year calculations pursuant to Sec 19 of the MNOI analysis due to special or peculiar circumstances. Seconded by the Vice Chair. Vote: 6-0 (one vacancy on the Board).

00:33:38 - Amy McNally, Associate Corporation Counsel shared her screen to review the Decision Form for this application with members of the Board.

Edits were made to the form.

00:56:47 - The Vice Chair makes a motion that the Board approves the form as presented. Seconded by Barbara Vestal. Vote: 6-0 (one vacancy on the Board).

VI. New Business

There are no items to be discussed under this section.

00:57:55 - The Chair provides an update regarding the report

00:59:10 - The Chair shares his screen for the Board to review the report. No voting will take place regarding this item.

VII. Adjourn - 01:01:10

Barbara Vestal makes a motion to adjourn the meeting. Seconded by Antwane Mills. Vote: 6-0 (one vacancy on the Board).

City of Portland | Permitting and Inspections
Zachary Lenhert, Licensing and Housing Safety Manager

To: City of Portland Rent Board
From: Licensing and Housing Safety Office
Re: Communication to the Board

The Licensing and Housing Safety office would like to introduce Dylan Orr as the new Rental Registration Coordinator for the City of Portland's Licensing and Housing Safety Office. He will be acting as Secretary for the Rent Board as well as administering and enforcing Portland's Rent Control ordinance and rental registrations. Dylan has been working for the City of Portland since 2020 and spent the last year working in the Licensing and Safety Office. Dylan will be the primary staff contact for the Rent Board and can be reached at dorr@portlandmaine.gov, or 207-874-8966.

The Licensing and Housing Safety Office would also like to inform the Rent Board that it has received some inquiries from property owners about how to apply for a determination of an appropriate increased Base Rent pursuant to Sec. 6-233(c) *Base rent following major renovation or reconfiguration of Covered Units.* Since the MNOI application was adopted there is no longer a current application to apply to the Rent Board pursuant to that section. The Licensing and Housing Safety Office has advised inquirers to use the old application and cost allowance forms, until/unless the Rent board creates a new form, but the office has not received any applications recently.

Thank you,

Zachary Lenhert, Licensing and Housing Safety Manager

389 Congress Street, Portland, Maine 04101 | 207-756-8131 | housingSafety@portlandmaine.gov

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

Date of Hearing:

June 28, 2023 – July 26 – August 16 – October 25, 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

October 12, 2023

Re: Notice of Public Hearing – Landlord Application Form for Rent Increase

To: Tenants of **655 Congress Street**

This is to inform you of a public hearing before the Rent Board at their next scheduled meeting on Wednesday, **October 25**, 2023 at 5pm. This meeting will be held via Zoom.

The application was last heard at the August 16, 2023 meeting.

The Zoom link will be accessible by Friday, **October 20**, 2023 at the link below:

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

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

Thank you

Katlyn Sawyer
Licensing & Registration Coordinator

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

Paul S. Bulger , Esq.

C/O 75 Pearl Street/ Suite 410D/ Portland Maine 04101

September 18, 2023

Rent Control Board
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 once again 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 application was initially filed November 19, 2021. 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 Lenhert 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.

7. 8-10-23 Board decision re continuance to examine UNITIL billing for gas utilities at 657 Congress Street continued to September 2023.

Please refer to all correspondence and documentation submitted in the earlier filings.

<u>Utility Billing</u>

Attached per your request is the summary for utility billing for gas services to the building for the period beginning 11/24/21 and ending August of

2023. Under the new system, Until has switched from 104 meters to a single meter for "the building" and an additional meter billed to the Landlord's unit. The Landlord is responsible for the payment of all bills. He is seeking reimbursement for his additional new administrative cost.

I point your attention to the categories across the top of the summary which incudes the billing period, the number of therms (measure of gas used) and cost peer therm. The Tenant meter change has not been implemented pending your decision. The column at the far right calculates the total charge per unit.

During this period that the gas cost has gone down with the market from $1.11 per therm to .59 per therm last month The customer charge for delivery has stayed relatively constant at between $205/ month for the building in 2021 and now $220 for the building in 2023.

Landlord's administrative cost

The new costs to the landlord include data entry estimated at 4.2 hours per week at $50 per employee. Additional costs will include billing and collections and bad debt (defaults) not previously incurred by the Landlord. Total administrative costs are therefore approximately $820 per month. Professional services billed over 22 months are included on a separate spreadsheet as $444.68 per month for 22 months, paid to Mike Lofman, an energy consultant exclusive of legal fees. Total Lofman billing to date is $12250.

Landlord's Position: The Statute

In addition to the other positions advanced by the Landlord, the landlord asserts that his Application for Interpretation was originally submitted to Chairman Sims in November of 2022 under the original ordinance adopted 11-3-2020, effective January 1, 2021. The definition of *Rent* under the Rent Stabilization Ordinance section 6-232 (hereafter "The Ordinance"), then in effect, was as follows:

Rent means the consideration, including any deposit, bonus, benefit, or gratuity demanded or received for, or in consideration with, the use or occupancy of rental units and housing services. Such consideration includes, but is not limited to, monies and fair value of goods and services rendered to or for the benefit of the Landlord under the Rental Agreement, or in exchange for a rental unit, or housing services of any kind.

The definition of *Rent* is unchanged in the Ordinance, adopted November of 2022, effective January 1, 2023.

Base Rent under the Ordinance means the initial amount of rent that the Landlord charged for a covered unit , plus any increase in that amount allowed under this Ordinance.....the Rent Board shall presume that the Base Rent was sufficient to have provided the Landlord with a fair rate of return on investment prior to the enactment of the Ordinance.Ordinance section 6-232 (effective January 2021).

Standard rules of construction suggest that the charge proposed by the Landlord is not "Rent" under these definitions for the following reasons:

1. The charge is not an increase in the cost of the utility service. The Tenants previously paid the cost of gas (per therm) and a much higher standard delivery charge. The Landlord is proposing to reduce the delivery charge to each user by 65% to the customer/tenant by assuming the administrative burdens of delivery at a much lower rate than the Until customer service rate.
2. The charge is clearly not capital in nature and cannot be amortized as with a capital expenditure.
3. The expense is a *new charge* to the Landlord and, therefore, not reflected in the Base Rent charged to existing Tenants per the Ordinance. To be clear, the Tenants were previously billed for the service to their individual meters. They paid the (higher) charge directly to Until.

Until still makes delivery and provides a service but they have shifted the administrative cost of delivery to the Landlord who bears the burden of billing and collection.

It is a mistake to attempt to fit this charge into "rent" as defined in the Ordinance. Simply put, this is a new service billed to the Landlord who will now bill the cost to Tenants. Most logically, it never could have been part of "Base Rent" because the Landlord did not pay any part of the cost under the prior billing regime. Fortunately, all Tenants will see a substantial reduction in the cost of the service. The Landlord seeks only to pass through the additional cost that he himself will incur without regard to the Rent Stabilization regime.

Respectfully submitted,

Paul S. Bulger

C/O 75 Pearl Street Suite 410D

Portland Maine 04101

Tel 207-712-8820

<u>CC</u>

_Geoff Rice via email

Chuck Fagone psf@portlandmaine.gov

Landlord's Representative ___ No representative [x] Attorney ___ Non-attorney

Name: Paul S. Bulger, Esq. Firm/Organization ____________

Mailing Address: 75 Pearl Street Portland Suite 410D

Phone Number: 207-712 8820 Email: pbulger@jewellandbulger.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: ____________

INTERPRETATION APPLICATION

Accommodations:

- [ ] Interpretation Services required for Rent Board hearing or staff interaction.
- [x] 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

Renat Control Board

365 Congress Street

Portland, Me

Attention: Amy McNally, Esq.

via scan and priority mail (USPS)

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

Dear Chairman and Members of the Board:

On the 22d day of May2023, 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.

<u>Jurisdiction as a Threshhold Question</u>

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:

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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 Lenhert 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.

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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.

<u>Assumptions/ Estoppel Effect</u>

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. Lenhert 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 affect when relied upon by the applicant as a matter of fundamental fairness. See <u>City of Auburn v. Desgroseilliers</u>, 578 A. 2d. 712 (1990) and <u>MSAD</u>

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 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

<u>CC</u>

_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 Until. 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.

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 Lenhert; 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

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

[redacted]

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

389 Congress Street / Portland, Maine 04101 / www.portlandmaine.gov / tel: 207-756-8131 / fax: 207-874-8716

Paul Bulger

From:	Anne Torregrossa <atorregrossa@portlandmaine.gov>
Sent:	Monday, November 29, 2021 4:10 PM
To:	Paul Bulger
Cc:	Zachary Lenhert; 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

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

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: Unitil 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

---------- Forwarded message ---------
From: **Paul Bulger** <pbulger@jewellandbulger.com>
Date: Mon, May 8, 2023 at 4:51 PM
Subject: FW: Unitil 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, Until 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: Unitil 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

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Chuck Fagone
Certified Code Enforcement Officer
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389 Congress Street / Portland, Maine 04101 / www.portlandmaine.gov / tel: 207-756-8131 / fax: 207-874-8716

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	$782.50	$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	$850.00	$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		$852.26
	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	$685.00	$34.25	$685.00	$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

Trelawny 657 LLC
Unitil

Billing Period	Therms		Cost Per Therm	Delivery Cost	Customer Charge	Sales Tax	Late Chg	Total Cost					(105) Ave cost per Unit
House	655 Congress Hse 2		5152561501										
11/24/21-12/27/21	1,287.35		1.11	1,424.84	205.16	89.65	1.68	1,721.33	1,721.33				16.39
12/27/21-1/26/22	1,227.82		1.11	1,358.95	205.16	86.03		1,650.14	1,650.14				15.72
1/26/22-2/24/22	1,193.15		1.11	1,324.40	205.16	83.91	4.24	1,617.71	1,617.71				15.41
2/24/22-3/28/22	1,300.43		1.11	1,439.32	205.16	90.45		1,734.93	1,734.93				16.52
3/28/22-4/26/22	1,138.05		1.11	1,259.59	205.16	80.56	3.97	1,549.28	1,549.28				14.76
4/26/22-4/30/22	147.09		1.11	162.74	209.95	72.72		445.41		One	Rate		
5/1/22-5/26/22	956.10	1,103.19	1.00	952.85				952.85	1,398.26	Bill	Change		13.32
5/26/22-5/31/22	187.90		1.00	187.26	210.69	90.06		488.01		One	Rate		
6/1/22-6/27/22	1,014.63	1,202.53	1.22	1,239.37				1,239.37	1,727.38	Bill	Change		16.45
6/27/22-6/30/22	103.09		1.23	126.72	210.90	75.34	3.44	416.40		One	Rate		
7/1/22-7/27/22	927.85	1,030.94	1.11	1,031.68				1,031.68	1,448.07	Bill	Change		13.79
7/27/22-8/26/22	1,006.64		1.11	1,121.04	210.69	73.25		1,404.98	1,404.98				13.38
8/26/22-8/31/22	178.47		1.11	198.80	210.69	95.14		504.63		One	Rate		
9/1/22-9/27/22	963.76	1,142.23	1.37	1,320.35				1,320.35	1,824.98	Bill	Change		17.38
9/27/22-9/30/22	110.57		1.38	152.09	210.69	81.47		444.25		One	Rate		
10/1/22-10/26/22	958.30	1,068.87	1.17	1,118.34				1,118.34	1,562.59	Bill	Change		14.88
10/26/22-10/31/22	174.70		1.19	207.61	212.51	103.81		523.93		One	Rate		
11/1/22-11/28/22	1,047.82	1,222.52	1.40	1,468.21				1,468.21	1,992.14	Bill	Change	New Meter	18.97
11/28/22-11/30/22	78.21		1.40	109.83	212.83	97.20		419.86		One	Rate		
12/1/22-12/27/22	1,055.87	1,134.08	1.37	1,444.54				1,444.54	1,864.40	Bill	Change		17.76
12/27/22-12/31/22	166.02		1.37	227.13	212.83	98.79		538.75		One	Rate		
1/1/23-1/25/23	1,037.60	1,203.62	1.31	1,356.14				1,356.14	1,894.90	Bill	Change		18.05
1/25/23-2/24/23	1,303.29		1.31	1,703.40	212.83	105.39	17.67	2,039.29	2,039.29				19.42
2/24/23-2/28/23	170.75		1.31	223.68	212.83	102.18	17.96	556.65		One	Rate		
3/1/23-3/28/23	1,195.24	1,365.99	1.19	1,421.86				1,421.86	1,978.51	Bill	Change		18.84
3/28/23-3/31/23	124.32		1.19	147.94	212.83	79.31		440.08		One	Rate		
4/1/23-4/26/23	1,077.45	1,201.77	1.00	1,081.22				1,081.22	1,521.30	Bill	Change		14.49
4/26/23-4/30/23	162.28		1.00	162.28	219.51	58.70		440.49		One	Rate		
5/1/23-5/26/23	1,054.83	1,217.11	0.65	684.37				684.37	1,124.86	Bill	Change		10.71
5/26/23-6/27/23	1,291.75		0.65	836.34	220.54	58.13	14.42	1,129.43	1,129.43				10.76
6/27/23-6/30/23	115.86		0.65	75.31	220.54	47.50		343.35		One	Rate		
7/1/23-7/27/23	1,042.73	1,158.59	0.54	567.78				567.78	911.13	Bill	Change		8.68
7/27/23-7/31/23	160.80		0.54	86.83	220.54	53.56		360.93		One	Rate		
8/1/23-8/28/23	1,125.60	1,286.40	0.59	666.39				666.39	1,027.32	Bill	Change		9.78

Column1	Type	Date	Memo	Account	Amount
M.W. Lofman, LLC					
	Bill	11/30/2021	November 2021	2000 · Accounts Payable	525.00
	Bill	1/1/2022	December 2021	2000 · Accounts Payable	375.00
	Bill	1/31/2022	January 2022	2000 · Accounts Payable	375.00
	Bill	2/28/2022	February 2022	2000 · Accounts Payable	750.00
	Bill	3/24/2022	March 2022	2000 · Accounts Payable	975.00
	Bill	5/31/2022	May 2022	2000 · Accounts Payable	675.00
	Bill	6/30/2022	June 2022	2000 · Accounts Payable	750.00
	Bill	8/4/2022	July 2022	2000 · Accounts Payable	450.00
	Bill	8/31/2022	August 2022	2000 · Accounts Payable	750.00
	Bill	9/30/2022	September 2022	2000 · Accounts Payable	1,050.00
	Bill	10/31/2022	October 2022	2000 · Accounts Payable	675.00
	Bill	12/1/2022	November 2022	2000 · Accounts Payable	525.00
	Bill	12/31/2022	December 2022	2000 · Accounts Payable	300.00
	Bill	1/31/2023	January 2023	2000 · Accounts Payable	600.00
	Bill	4/1/2023	March 2023	2000 · Accounts Payable	150.00
	Bill	5/1/2023	April 2023	2000 · Accounts Payable	525.00
	Bill	5/31/2023	May 2023	2000 · Accounts Payable	525.00
	Bill	7/1/2023	June 2023	2000 · Accounts Payable	675.00
	Bill	8/2/2023	July 2023	2000 · Accounts Payable	525.00
	Bill	8/31/2023	August 2023	2000 · Accounts Payable	1,050.00

12,225.00

Consulting with Unitil regarding gas conversion management.

Trelawny Tenants Union
TrelawnyTenantsUnion@gmail.com

July 20, 2023

City of Portland Rent Board
Mr. Elliot Simpson, Chair
Via email: housingsafety@portlandmaine.gov

Chair Simpson and distinguished members of the Rent Board,

TTU submits this response as an Objector asserting the rights and interests of tenants affected by the rent increase application from Trelawny 657 LLC, CBL: 046-D-021-001, pursuant to Art VI, Sec. 2(e) of the Rent Board Rules of Procedure and Sec. 6-243(a) of the Portland City Code.

In summary, this response is to Geoffrey Rice's appeal of our complaint and the Housing Safety Office's ruling that he is in violation of rent control for imposing a $12 gas fee on all tenants in the Trelawny building, 655 Congress Street.

As we stated to HSO when we filed the initial complaint, the tenants of Trelawny do not oppose paying the gas fee as part of our monthly rent. We all paid the gas fee directly to Unitil prior to Mr. Rice converting our gas meters, and we have no issue paying Mr. Rice now that Unitil has centralized the metering.

Our issue is transparency, verification, and notice. In short, Mr. Rice has yet to provide any billing backup to justify the overall fee and he provided only four days' notice when he imposed the charge.

Our request is simply that you review the actual bill, determine the total amount he can charge tenants, verify a fair distribution method, require that he provide adequate notice going forward for charging the fee you determine is fair and that he credit any past payments collected prior to receiving rent board approval.

As background, we tried for months to get our landlord to provide us with backup for his claim that the $12 fee he demanded is solely pass-through with no added service charge or charge for profit (illegal under both federal law and the city rent control ordinance) and that his penthouse in not included in our portion of the charge (something he tried to do with his taxes a year ago).

Here is the list of our communications with his office attempting to get answers after the December 27, 2022 notice (see exhibit 1):

1) Jan. 4, 2023, we asked for a meeting with Mr. Rice to discuss tenant issues. No response.
2) Jan. 9, we followed up on the above. No response.
3) Feb. 2, we again asked for a meeting. We received a response that Mr. Rice could meet on Feb. 7.
4) Feb. 7, we met. At this meeting, Mr. Rice agreed to provide documentation on the gas fee.
5) Feb. 16, we sent a follow-up letter to Mr. Rice asking for documentation of the gas fee, among other issues. No response.
6) Mar. 7, we sent a follow-up on overcharges received by tenants. In that communication, we again asked about the gas fee.
7) Mar. 20, we received a response from Mr. Rice agreeing to rebate tenants who had been overcharged (although we still await documentation), with no response on the gas fee, or any of our other concerns. That same day we sent a note again asking for a response to the gas fee, among other issues. No response.
8) Apr. 5, we sent another request for a response to the gas fee, among other issues. No response.
9) Apr. 18, we sent another request for a response to the gas fee, among other issues. Same day, we received a response from AM, but no response to the issue of providing documentation on the gas fee.
10) Apr. 19, we sent a response again reiterating we needed documentation on the gas fee.
11) Apr. 21, we received a response from AM saying that they "do not have further information on the gas bill" and that they would keep working with Mr. Rice to get it. We responded by saying we needed information right away as a new round of notices about the gas fees had just gone out. Or, conversely, Mr. Rice could suspend the charge for tenants until documentation is provided.
12) April 21, we received a note from AM saying the staff member who was responsible for speaking with us was now on vacation for two weeks and Mr. Rice would not be back until May.

Part of the reason we have tried so hard to meet with our landlord is that our calculations show that the $12 fee is double what he should be charging. Most of us use less than $5 a month in actual gas and the published service fee listed by Unitil for a building like ours is $75.39 for the entire building, less than $1 per unit (see exhibit 2). However, we have no way of verifying that without seeing his actual bill.

We should note, contrary to what Mr. Rice's lawyer contends, we did not receive notice that we could turn off the gas at any time prior to the fee being imposed. As impossible as that would be for most tenants, in fact, that notice only came months later (see exhibits 3, 4, & 5).

As you deliberate on this matter, please note that some tenants started paying immediately for fear of repercussions, despite the dearth of documentation or notice. Others have held out waiting for documentation and/or your final determination. But almost all are anxious to get this behind us.

Once again, our request is simply transparency, verification, and notice. In order to make sure our landlord does not simply raise this fee annually without backup, we must know that what he is charging is allowable. As always, we remain ready to answer any questions or provide any documentation we can regarding this issue.

Sincerely,

TTU

Trelawny 657, LLC
657 Congress Street
First Floor
Portland, Maine 04101
(207) 773-1814

December 27, 2022

RE: 657 Congress Street

Dear Tenants,

As you know, the gas company completed upgrades to the gas utility system this year.

Henceforth, you will no longer receive a separate utility bill from Unitil each month. Unitil will bill the Landlord and the Landlord will bill each Tenant at 657 Congress separately for gas, in accordance with this Notice.

In the Trelawny Building, gas is billed only for appliance use (stoves). Each Tenant will be billed monthly for the gas service and the gas consistent with historic billing practices by Unitil. Based upon last month's Unitil billing, Tenants will be billed $12 per month for gas and gas service, a 50% reduction relative to direct billing by Unitil.

You should see a decrease in service charges. However, because the market price for gas has fluctuated in the past year, you may see increases in billing associated with increases approved by the public utilities commission and billed by the gas company to us.

Please remit $12 per month by separate check at the time you pay your rent.

Thank you for your understanding.

Regards,

Geoffrey I Rice

Exhibit 1

G50	Low Annual - Low Winter Use Rates		

This rate is for customers with annual gas usage up to 8,000 therms/year and winter period (November through April) usage less than 63% of annual usage

Effective May 1, 2023

Customer Charge		$75.39	per meter per month
Distribution Rate[1]	First 70 therms @	$0.3877	per therm
Distribution Rate[1]	Excess 70 therms @	$0.3456	per therm
Energy Response Cost Rate	All therms @	$0.0018	per therm
EERA Rate	All therms @	$0.0107	per therm
Targeted Area Build-out Charge - Saco[2]	All therms @	$0.1057	per therm
Targeted Area Build-out Charge -Sanford[2]	All therms @	$0.0884	per therm

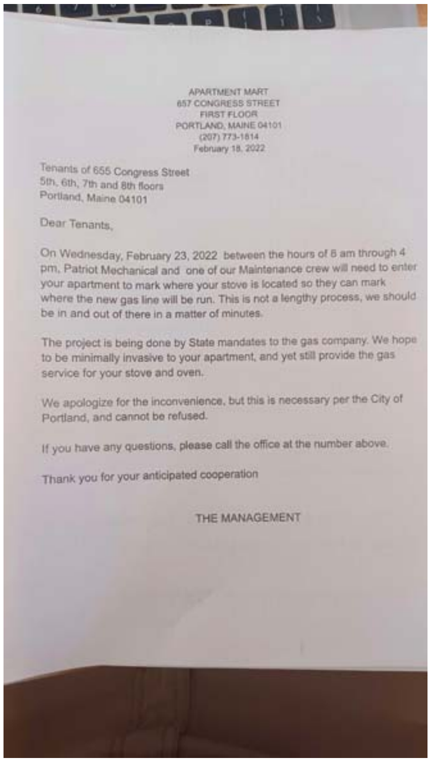
1 The distribution charge includes a Residential Low Income Program rate of $0.0016 per therm

[2] Only applicable to customers located in targeted areas of Saco and Sanford Maine

Supplier Service (customer choice of one)*			
Unitil Cost of Gas Charge[3]		$0.3245	per therm
Competitive Supplier Charge (T50)	*Charges Established by your competitive Supplier*		

[3] Customers have the right to choose a competitive supplier. If a customer does not choose a competitive supplier, Unitil shall supply gas to the customer at the cost of gas charge.

Exhibit 2



APARTMENT MART
657 CONGRESS STREET
FIRST FLOOR
PORTLAND, MAINE 04101
(207) 773-1814
February 18, 2022

Tenants of 655 Congress Street
5th, 6th, 7th and 8th floors
Portland, Maine 04101

Dear Tenants,

On Wednesday, February 23, 2022 between the hours of 8 am through 4 pm, Patriot Mechanical and one of our Maintenance crew will need to enter your apartment to mark where your stove is located so they can mark where the new gas line will be run. This is not a lengthy process, we should be in and out of there in a matter of minutes.

The project is being done by State mandates to the gas company. We hope to be minimally invasive to your apartment, and yet still provide the gas service for your stove and oven.

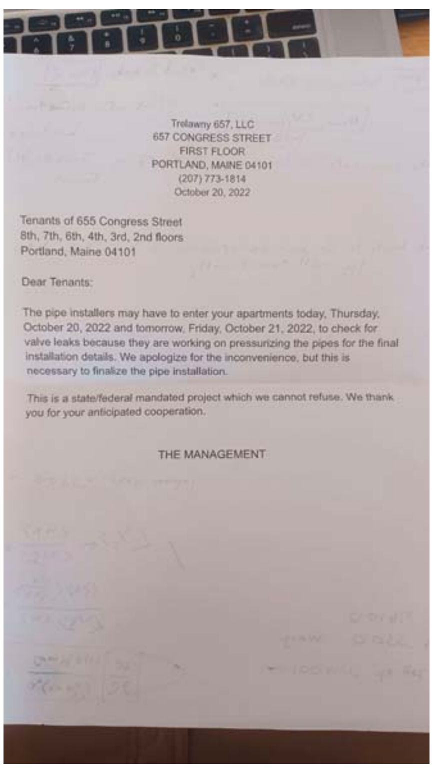
We apologize for the inconvenience, but this is necessary per the City of Portland, and cannot be refused.

If you have any questions, please call the office at the number above.

Thank you for your anticipated cooperation

THE MANAGEMENT

Exhibit 3



Trelawny 657, LLC
657 CONGRESS STREET
FIRST FLOOR
PORTLAND, MAINE 04101
(207) 773-1814
October 20, 2022

Tenants of 655 Congress Street
8th, 7th, 6th, 4th, 3rd, 2nd floors
Portland, Maine 04101

Dear Tenants:

The pipe installers may have to enter your apartments today, Thursday, October 20, 2022 and tomorrow, Friday, October 21, 2022, to check for valve leaks because they are working on pressurizing the pipes for the final installation details. We apologize for the inconvenience, but this is necessary to finalize the pipe installation.

This is a state/federal mandated project which we cannot refuse. We thank you for your anticipated cooperation.

THE MANAGEMENT

Exhibit 4

Trelawny 657, LLC
657 Congress Street
First Floor
Portland, Maine 04101
(207) 773-1814

April 19, 2023

[redacted]

Enclosed are two (2) Lease Amendments. Please sign the Amendments on the line above your name and return them to our office within seven (7) days. After receipt I will sign both copies and return one copy to you for your records. **Your lease extends to 11:59 p.m. July 31, 2024, and your rental increases to $1,407.48 beginning August 1, 2023.**

Also enclosed is a Lease Rider for the new gas payment. Please sign the Rider on the Tenant line and print your name below. Once signed, please return it to the office within 7 days. If you choose to not use your gas and omit the $12.00 monthly charge, contact the office to get your cooking gas disconnected.

Yours Truly,

Geoffrey I. Rice or His Agent

GIR/sp

Exhibit 5

Trelawny Tenants Union
TrelawnyTenantsUnion@gmail.com

October 24, 2023

City of Portland Rent Board
Mr. Elliot Simpson, Chair
Via email: housingsafety@portlandmaine.gov

Chair Simpson and distinguished members of the Rent Board,

TTU submits this response as an Objector asserting the rights and interests of tenants affected by the rent increase application from Trelawny 657 LLC, CBL: 046-D-021-001, pursuant to Art VI, Sec. 2(e) of the Rent Board Rules of Procedure and Sec. 6-243(a) of the Portland City Code.

In summary, this response is to Geoffrey Rice's appeal of our complaint, and the Housing Safety Office's ruling in our favor, that he is in violation of rent control for unilaterally imposing a $12 rent increase on all tenants in the Trelawny building, 655 Congress Street to pay for the delivery and administration of gas services to our units.

While our previous letter, dated August 7, 2023, addressed the rent board's jurisdiction (we ask that you refer to that letter if this question arises again), this letter further addresses the legitimacy of the increase. In particular, it addresses the recent submission by Mr. Rice of undocumented summary charges related to the gas conversion for which he is now charging tenants.

First and foremost, and perhaps most remarkably, the undocumented summary spreadsheet Mr. Rice has submitted, shows that the overall gas bill for the building has gone DOWN since the conversion to a single meter system. Although Mr. Rice seems to indicate that the conversion occurred in May of 2022, the conversion actually occurred on November 2, 2022, when our accounts were turned off. **Averaging the 11 months summarized in the documents prior to the conversion, gas costs were $1,603 a month. In the 9 months since, including a full winter, the costs are $1,407.**

Additionally, Mr. Rice includes in his charges to tenants his late fees for failure to pay in a timely manner and sales tax, even though there is no sales tax on heating or cooking fuel in Maine.

In terms of the administrative costs Mr. Rice attributes to his gas charge on tenants, he claims he has had to increase staff hours by 4.2 hours a week, at $50 an hour, to collect the fees. To our knowledge, no additional staff hours have been added and certainly no staff associated with collecting these fees are paid anywhere close to $50 an hour. Additionally, if there are any additional administrative fees, they are self-created because Mr. Rice is asking everyone to pay this charge separately, as opposed to it simply being included in the annual rent increase allowance.

Finally, Mr. Rice is attempting to pass along to tenants $444 per month for an “energy consultant.” There is no explanation provided as to the consultant’s scope of work, nor even a pretextual assertion that the “energy consultant” will somehow benefit tenants.

Even assuming that both these charges were “real,” it makes no sense to incur new expenses of $1,264 a month to administer, collect, and provide consultation toward a $1,400 per month energy bill. A $1,400 that Mr Rice was paying prior to the conversion.

It should be reiterated that Mr. Rice has still not submitted a single bill proving his costs related to the gas bill. Nor has he submitted any documentation related to his administrative costs or “energy consultant” fees. In both cases he is asking us to trust summary entries in a spreadsheet. From the beginning, all tenants have asked for is a bill showing the actual costs associated with the charge, and still, 11 months later, we do not have that. Especially considering Mr. Rice and Attorney Bulger’s history of dealings with the City, the Rent Board ought to insist on seeing actual receipts if this case continues.

In summary, it is clear from the undocumented information provided by Mr. Rice that he is attempting to get tenants to pay the gas bill he was already paying prior to the conversion, to pay for staffing costs he already had, and to cover a consulting fee that has nothing to do with providing cooking fuel to tenants. We have known from the beginning that the amount he was charging was well above what each of us could be using in gas, and it is now clear we were correct.

Mr. Rice’s argument is that because his tenants’ energy costs went down by $25/month, he ought to be allowed to increase rents. That’s not how the rent control ordinance works.

We ask that you reject his current application and require that he immediately reimburse his tenants who have paid or continue to pay the $12 a month fee he has been charging. Should he then choose to complete a full MNOI application for expenses related to this conversion, with actual documentation, we would be happy to review and comment then.

Thank you for your attention to this matter.

TTU