# RENT BOARD
**August 11, 2025**
**7:30 PM**

**ZOOM INFORMATION:**

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**II.** **ROLL CALL:**

**III.** **COMMUNICATIONS:**

**IV.** **UNFINISHED BUSINESS:**

a. Approval of Written Findings of Fact & Conclusions

**V.** **Adjourn**

**CITY OF PORTLAND**
**RENT BOARD**
**TENANT COMPLAINT PURSUANT TO SECTION 6-263(C) OF THE RENT STABILIZATION ORDINANCE**

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| DATE OF PUBLIC HEARINGS: | June 11, 2025 |
| LANDLORD NAME AND ADDRESS: | John Clemons<br>Abigail Harper<br>114 Baxter Blvd<br>Portland, ME 04101 |
| PROPERTY ADDRESS, UNIT, AND CBL: | 28 Saint George Street,<br>CBL 082-E-011-001 |
| TENANTS/INTERESTED PARTIES: | Helen Carter<br>Reo Miyake<br>Samantha Smith |
| REQUEST BEFORE THE BOARD: | Pursuant to section 6-263(c) of the Rent Stabilization Ordinance ("RSO), the Portland Tenants Union (the "Union") is requesting that the Rent Board review its formal complaint against John Clemons and Abigail Harper (collectively, the "Landlords") for violations of the RSO. |

## FINDINGS OF FACT

After consideration of the evidence and testimony presented to it, the Portland Rent Board (the "Rent Board" or "Board") finds as follows:

1. The Landlords own property located at 28 Saint George Street (the "Property").

2. There are three (3) covered units located at the Property.

3. Helen Carter and Reo Miyake rent unit 3 ("Unit 3") at the Property.

4. Samantha Smith rents unit 1 ("Unit 1") at the Property.

5. Unit 2 ("Unit 2") at the Property is currently vacant. Unit 2 was previously occupied by Grace Harvey, Abigail McKinley and Ethan Testa.

6. On May 10, 2024, the Landlords acquired the Property.

7. James Coleman and Laura Motley (the "Prior Landlords") owned the Property prior to the Landlords' acquisition.

8. Beginning on July 1, 2020, and perhaps earlier, the Prior Landlords rented Unit 3 at the Property for $1,100 per month. Unit 3's former tenant paid rent as consideration for the use of Unit 3 and the following amenities and/or housing services: (1) use of the porch connected to Unit 3, (2) use of the Property's yard and garden, (3) use of a hallway closet located near Unit 3, (4) use of a parking space and a bay in the Property's garage, (5) use of the Property's laundry room, and (6) allowance of a pet.

9. At the Board's June 11, 2025 hearing, the Prior Landlords confirmed that the rent paid by the former tenant of Unit 3 was consideration for the use and occupancy of Unit 3, as well as use of the porch connected to Unit 3, the Property's yard and garden, the hallway closet located near Unit 3, a parking space and a bay in the Property's garage, and the Property's laundry room.

10. On or about May 9, 2024, the day before the Landlords acquired the Property, the Landlords sent an email to the tenant who rented Unit 3 at the time stating: "[w]e would love to have you stay in 28 Saint George if you would like, however with the purchase costs and interest rates being so high, we will need to increase the apartment rates up to market rate. Your monthly amount will increase to $2,300. If you do intend to stay, we'd be thrilled, and if you don't intend to stay with this increased rent, we certainly understand and please let us know when you'd like to move out.

11. Only Unit 3 was occupied by a tenant when the Landlords acquired the Property .

12. The tenant who rented Unit 3 at the time the Landlords acquired the Property—who had occupied that Unit for ten years—was forced to move due to the rent increase that the Landlords planned to impose.

13. The Landlords did not register Unit 3 with the City from the time they acquired the Property until November of 2024.

14. The Landlords leased Units 1 and 2 to new tenants in May of 2024. The Landlords increased Unit 1's rent from $1,650 to $2,600. The Landlords increased Unit 2's rent from $1,400 to $2,450.

15. The Landlords represented, in a written statement to the Board, that they initially intended to owner-occupy Unit 1 when they purchased the Property. After Unit 1 was leased to a tenant in May of 2024, the Landlords represented that they intended to occupy Unit 3.

16. On June 14, 2024, Mr. Clemons purchased a home. At this time, the Landlords represent that they abandoned their plans to owner-occupy Unit 3.

17. The Landlords subsequently marketed Unit 3 for rent. The Landlords' advertisements for Unit 3 listed it for rent for $2,600 a month. Nothing in the Landlords' advertisement indicated that a tenant could opt into or out of paying for certain amenities and/or housing services available at the Property.

18. Bradley Davis, a member of the Union, toured Unit 3 at the time it was listed. The Landlords never indicated that the advertised monthly rent for Unit 3 was contingent upon whether or not a tenant renting the Unit opted to pay for certain housing services.

19. Helen Carter and Reo Miyake (the "Unit 3 Tenants") also toured Unit 3 in 2024. The Unit 3 Tenants decided to rent Unit 3, and the Landlords presented a lease to them.

20. The Landlords' lease terms indicated that the Unit 3 Tenants could opt into or out of paying for the following amenities/housing services: use of Unit 3's porch, a parking spot, a bay in the Property's garage, a storage area, use of the yard and garden, and use of the laundry room. The lease also required the Unit 3 Tenants to pay a non-refundable $100 pet deposit, and a pet fee of $50.

21. The Landlords lease for Unit 3 offered the: parking space for a monthly fee of $150; the garage bay for a monthly fee of $300; the storage area for a monthly fee of $176; use of the yard and garden for a monthly fee of $140; use of the laundry area/washer and dryer for monthly fee of $60; and use of the deck attached to Unit 3 for a monthly fee of $310.

22. Prior to signing their lease, the Unit 3 Tenants inquired whether the monthly fees associated with the use of these amenities and housing services were optional or not. In response, the Landlords essentially informed the Unit 3 Tenants that if they were unwilling to pay the monthly fees, then the Landlords would find another tenant who was willing to pay those fees.

23. The Landlords' representation to the Unit 3 Tenants left them with the impression that they were required to pay the monthly fees included in the lease in order to rent Unit 3.

24. On July 7, 2024, the Unit 3 Tenants executed the lease to rent Unit 3. The lease purported to give the Unit 3 Tenants the option to opt in or opt out of paying the monthly housing service fees. In total, the lease required the Unit 3 Tenants to pay $2,650 per month to rent the Unit and use the Property's amenities/housing services.

25. The leases that the Landlords executed to rent Units 1 and 2 did not contain any language permitting the tenants renting those Units to opt out of paying the monthly fees to use the Property's amenities and housing services.

26. On December 1, 2024, the Landlords imposed an $85 rent increase to the Unit 3 Tenants, bringing their total rent to $2,735.

27. On February 20, 2025, the Union filed a complaint with the City of Portland's ("City") Licensing and Housing Safety Division ("LHSD") asserting that the Landlords were in violation of multiple provisions of the Rent Stabilization Ordinance (the "RSO").

28. On March 18, 2025, LHSD issued a notice of violation to the Landlords (the "NOV"). The NOV found, in part, that the Landlords violated RSO § 6-234(c) by raising the rents of all the Property's covered units more than 10% in a calendar year.

29. The NOV provided that the Landlords could appeal LHSD's decision to Superior Court within thirty days. No appeal from the NOV was taken by the Landlords.

30. On April 24, 2025, LHSD issued an Amendment of Notice of Violation and Order to Correct (the "Amendment") amending the NOV's findings. The Amendment concluded that the monthly fees for the Unit 3 Tenants' use of "Garage Bay(s), Storage Area(s), Yard/Garden, Laundry Area, and Deck(s) . . . were optional," and thus not considered rent that is "subject to the increase limitations found in the [RSO]."

31. On May 9, 2025, the Landlord sent "Rent Decrease Letter[s]" to the Unit 3 Tenants and Samantha Smith (Unit 1's current tenant). These letters stated that the refund required by the NOV and the Amendment would be "divided into 12 monthly payments . . . credited towards your rent."

32. The Unit 3 Tenants have not signed the Rent Decrease Letter.

33. On May 20, 2025, the Union filed a complaint with the Board (the "Complaint"), pursuant to RSO §§ 6-243(a) and 6-263(c), requesting that it adjudicate, among other things, whether the monthly housing service fees charged to the Unit 3 Tenants are subject to the RSO's provisions and limitations.

34. The Complaint was provided to the Landlords at or near the time it was filed with the Board.

35. On or about June 1, 2025, shortly after the Union filed the Complaint, the Landlords sent 90-day notices to vacate to the Unit 3 Tenants and Samantha Smith terminating their tenancies.

36. When one of the Property's current tenants asked the Landlords if they had the option to continue to lease one of the Property's Units, the Landlords responded

that "I don't know the future of the property, it seems it will likely be up for sale soon, so I don't want to put your unit into an annual lease at this time."

37. Notwithstanding that representation, the Landlords advertised Unit 2 for rent on May 30, 2025.

38. The Landlords charged the Unit 3 Tenants $2,286 to rent Unit 3 in the month of June 2025.

39. On June 3, 2025, the Union filed an addendum to the Complaint (the "Addendum") requesting that the Board determine whether the Landlords' issuance of notices to vacate was a retaliatory act that violates RSO § 6-237(e).

40. The Board held a public hearing, and considered the Complaint and Addendum, on June 11, 2025.

41. On June 4, 2025, the City issued notice of the Board's public hearing to all parties involved, including the Landlords.

42. Representatives from the Union, one of the Prior Landlords, the Unit 3 Tenants, Samantha Smith, Unit 3's former tenant, and an LHSD representative were present and testified at the Board's public hearing. The Board also received substantial public comment concerning the Complaint and Addendum.

43. The Landlords were not present at the Board's public hearing, and did not present any testimony to the Board other than a letter that was filed prior to the Board's hearing.

## CONCLUSIONS OF LAW

### I. Jurisdiction.

As a preliminary matter, the Rent Board finds that the Union has standing to bring this Complaint, and the Addendum to it, on behalf of the Unit 3 Tenants and Samantha Smith. Section 6-243(a) of the RSO provides that "[a]ny Tenants Union shall have standing as a party to assert the rights or interests of any Tenants, individually or collectively, under this Chapter in any complaint, appeal, or other proceeding brought before the Housing Safety Office, the Rent Board, or the Superior Court in an appeal from any final decision under this Chapter in accordance with Rule 80B of the Maine Rules of Civil Procedure." The Unit 3 Tenants and Samantha Smith were both present at the Board's public hearing, and actively participated in the Board's consideration of the Complaint and the Addendum to it. The Union's Complaint represented that it was brought on behalf of the Unit 3 Tenants, and the Addendum represented that it was brought on behalf of the Unit 3 Tenants and Samantha Smith.

The Board also concludes that it has jurisdiction to consider the Complaint and the Addendum to it. The RSO does not provide the Board with jurisdiction to hear appeals from notices of violation issued by the LHSD. However, section 6-263(c) of the RSO broadly vests the Rent Board with jurisdiction to:

> [t]o hear, review, and grant or deny complaints or appeals from Tenants, individually or collectively, regarding Rent charges or Rent increases not in compliance with the Rent Stabilization Ordinance, or other matters falling within the scope of the Rent Stabilization Ordinance, or allegations violations of Maine statute regarding the habitability of residential units; such appeals shall be heard and decided de novo.

Additionally, section 6-238(f) of the RSO confers the Board with jurisdiction "[t]o determine, in a manner consistent with the provisions of this Code, what penalties are appropriate for violations of the provisions of the Rent Stabilization Ordinance that are determined by the Rent Board."

The Rent Board concludes that the Complaint and the Addendum falls within the Board's jurisdiction to "hear, review, and grant or deny complaints . . . from Tenants . . . regarding Rent charges or Rent increases not in compliance with the Rent Stabilization Ordinance, or other matters falling within the scope of the Rent Stabilization Ordinance." The Complaint and Addendum involve questions concerning whether the monthly fees charged to the Unit 3 Tenants complied with the RSO, and whether the Landlords retaliated against the Unit 3 Tenants and Samantha Smith. The Board concludes that it falls well within its jurisdiction to adjudicate these questions. Additionally, the Board concludes that section 6-238(f) of the RSO vests that Board with jurisdiction to determine whether violations of the RSO exist, and to determine what penalties are appropriate to address those violations.

**II. The Monthly Fees Charged to the Unit 3 Tenants Constitute "Rent" that is Subject to the RSO's Limitations.**

The Board finds that the monthly fees charged to the Unit 3 Tenants for keeping a pet, use a parking space, use of a garage bay, use of a storage area, use of the Property's yard and garden, use of the laundry area/washer and dryer, and use of the deck attached to Unit 3 constitute rent, as that term is defined by the RSO, that is subject to the rent increase limitations of RSO § 6-234(c). Consequently, the Board concludes that the Landlords violated RSO § 6-234(c) by raising the rent charged for the use and occupancy of Unit 3 by more than 10% in a calendar year.

The RSO defines "Rent" to mean "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." RSO § 6-232.

The monthly fees charged by the Landlords to the Unit 3 Tenants for the use of these various amenities/housing services is plainly "consideration . . . demanded . . . for . . . use . . . of .

. . rental units and housing services." RSO § 6-232. The monthly fees constitute "consideration"[1] that the Unit 3 Tenants must pay in order to keep a pet at Unit 3, use a parking space, use one of the Property's garage bays, use a storage area, use the Property's yard and garden, use the laundry area/washer and dryer, and use the deck attached to Unit 3. Additionally, the Board concludes that the amenities for which the Landlords charged a monthly fee are "housing services." Although the term "housing services" is undefined by the RSO, the Board concludes that term "housing services" must include the types of amenities that the Landlords offered to the Units 3 Tenants for a monthly fee. The Board's interpretation is supported by other provisions of the RSO, and the Cumberland County Superior Court's decision in *Southern Maine Landlord Ass'n v. City of Portland*. For instance, the term "Rental unit" is defined by the RSO to mean "any dwelling unit that is rented or otherwise made available for rent . . . together with all additional rights, privileges, or services connected with use or occupancy of such a unit, including but not limited to vehicle parking spaces, storage, and commons areas and/or recreational facilities held out for use by the Tenant." RSO § 6-232. Accordingly, the definition of "Rental unit" suggests that parking spaces, storage, and common areas are the types of amenities that are properly considered "housing services." Moreover, the Cumberland County Superior Court determined that "whether a 'housing service' is considered 'rent' under the Ordinance is necessarily a question of whether that housing service was part of the bargained for exchange in the overall rental agreement." No. CV-21-40, 2021 WL 5984831, at *8 (Me.Super. July 02, 2021). Here, there is no doubt that the housing services in question were part of the bargained exchange between the Landlords and the Unit 3 Tenants.

Additionally, the Board concludes that the monthly fees charged by the Landlords to the Unit 3 Tenants were not, in fact, optional charges. Rather, the evidence and testimony presented to the Board demonstrates that these monthly fees were mandatory charges the Landlords required the Unit 3 Tenants to pay in order to lease Unit 3. In May of 2024, the Landlords emailed Unit 3's former tenant to inform her that the Landlords intended to increase the rents "up to market rate." The Landlords subsequently advertised Unit 3 for rent for $2,600 per month—notwithstanding that Unit 3 was at that time subject to the RSO—without specifying that the advertised rent also encompassed purportedly optional monthly housing services fees. When the Unit 3 Tenants considered executing a lease with the Landlords to rent Unit 3 the Landlords ostensibly told them that they could agree to the monthly housing services fees, or find another place to rent. Collectively, this evidence strongly suggests that the Landlords intended to carve housing services from the consideration exchanged to use and occupy Unit 3, and charge individual fees for those housing services, as a mechanism to circumvent 6-234(c)'s rent increase limitations. Indeed, the Board's conclusion is consistent with the Landlords stated goal to bring Unit 3's rent to "market rate." Notably, and despite receiving notice, the Landlords were not present at the Board's hearing to refute any of the evidence or testimony that was

[1] The term "consideration" is not defined by the RSO. "When interpreting an ordinance," courts "look first to the plain meaning of the language in the ordinance and give any undefined terms their common and generally accepted meaning unless the context clearly indicates otherwise." *Lakeside at Pleasant Mountain Condo. Ass'n v. Town of Bridgton*, 2009 ME 64, 12, 974 A.2d 893. Maine's courts often "look[] to the dictionary for clarification of the plain meaning of terms." *Franklin Printing v. Harvest Hill Press*, 2002 ME 116, 7, 801 A.2d 1004. In this context, the Board interprets the term consideration to mean "payment." https://www.merriam-webster.com/dictionary/consideration (defining the term "consideration" to mean "recompense, payment").

presented to the Board by the Union, the Property's former and current tenants, and the Prior Landlords.

The evidence presented to the Board demonstrates that the Landlords increased the rent charged for Unit 3's use and occupancy from $1,100 to $2,650, and then from $2,650 to $2,735, in 2024. Section 6-234(c) of the RSO provides that "[a]t no time may a Landlord raise the rent of a Covered Unit by more than ten (10) percent. Any rent increases available to a Landlord in excess of ten (10) percent must be banked for later use." The Landlords imposed rent increases in 2024 that far exceeded what was allowed by section 6-234(c) of the RSO.

### III. The Landlords' Violation of 6-234(c) Constitutes Substantial Non-Compliance with the RSO.

The Board concludes that the Landlords must refund the Unit 3 Tenants for any monthly rent charged above $1,100 during the term of the Unit 3 Tenants' lease due to the Landlords' substantial non-compliance with the RSO during the lease term. *See* RSO § 6-234(f)("[a] landlord who is not in substantial compliance with . . . the Rent Stabilization Ordinance, may not demand, accept or retain any rent increase otherwise permitted by this section"). In total, the Landlords must refund the Unit 3 Tenants $18,860, which constitutes the total amount of non-compliant rent that was charged to the Unit 3 Tenants during the term of their lease. Additionally, the Board concludes that the Landlords are not entitled to accept, demand, or retain any banked rent increases that otherwise would have accrued for Units 1, 2, and 3, including the Allowable Increase Percentages, for 2024 and 2025.

Section 6-234(f) of the RSO provides that "[a] landlord who is not in substantial compliance with any provision of this chapter, including but not limited to the Rent Stabilization Ordinance, may not demand, accept or retain any rent increase otherwise permitted by this section or any other provision of this Code or Maine statute." The Board interprets section 6-234(f) to mean that a landlord who is not in substantial compliance with the RSO may not accept a rent increase from tenants, may not demand that a tenant pay more rent during a lease term, and may not retain any rent increase that is assessed upon a tenant.

In this case, the Landlords have not been in substantial noncompliance with the RSO for the entirety of the Unit 3 Tenants' lease term—or from July of 2024 to date. As explained above, the rent charged to the Unit 3 Tenants violated RSO § 6-234(c)'s rent increase limitations because the Landlords imposed two rent increases in 2024 that substantially exceeded what the RSO allows. The Landlords then continued to charge non-compliant rents to the Unit 3 Tenants for the term of the lease. The Board finds that the Landlords violation of section 6-234(c) constitutes substantial noncompliance with the RSO. Section 6-234(c) of the RSO imposes a fundamental protection for tenants—ensuring that Landlords may not substantially increase rent levels in a given year. In this case, the Landlords did just that, increasing Unit 1, 2 and 3's rent levels well beyond what the RSO allows. The Board finds that the Landlords' violations, which contravene a fundamental tenet of the RSO's rent control regulations, constitutes substantial noncompliance with the RSO.

Consequently, the Board finds that the Landlords were not entitled to demand, accept or retain any rent charged to the Unit 3 Tenants above $1,100, which was the last code-compliant rent charged to Unit 3's former tenant. Rent charged in excess of $1,100 to the Unit 3 Tenants during their lease term must be returned to them. Based on the record before it, the Board concludes that the Landlords overcharged the Unit 3 Tenants: (1) $364 for their security deposit, (2) $1,200 to rent Unit 3 in July of 2024 when the Landlords charged the Unit 3 Tenants a prorated rent amount of $2051.61 to rent Unit 3 for part of the month, (3) $6,200 to rent Unit 3 from August through November of 2024 (the Landlords charged $2,650 to the Unit 3 Tenants for these four months in 2024), (4) $9,810 to rent Unit 3 from December of 2024 to May of 2025 (the Landlords charged $2,735 to the Unit 3 Tenants for these six months from the end of 2024 to May of 2025), (5) $1,186 for the month of June 2025 (the Landlords charged $2,286 to the Unit 3 Tenants for this month), and (6) charged the Unit 3 Tenants a $100 pet deposit. In total, the Board finds that the Landlords owe the Unit 3 Tenants $18,860 for rent that was overcharged to the Unit 3 Tenants during their lease term.

Additionally, the Board concludes that the Landlords are not entitled to bank any rent increases, to which they would otherwise be entitled, for all three of the Property's units in 2024 and 2025 as a result of the Landlord's substantial non-compliance with the Ordinance. As noted above, section 6-234(f) of the RSO provides that "[a] landlord who is not in substantial compliance with any provision of . . . the Rent Stabilization Ordinance, may not demand, accept or retain any rent increase otherwise permitted by this section." The Board interprets this provision to mean that a landlord is not entitled to retain and bank any rent increase which would otherwise be permitted by section 6-234, including the Allowable Increase Percentage authorized by section 6-234(b)(1), while the landlord is not in substantial compliance with the RSO. The Allowable Increase Percentage is a "rent increase" that is "otherwise permitted" by section 6-234(b). The Board interprets section 6-234(f)'s use of the word "retain" to bar a landlord from imposing or banking a rent increase "otherwise permitted" by section 6-234(b) when a Landlord "is not in substantial compliance with . . . the Rent Stabilization Ordinance." In this case, the Landlords were not in substantial compliance with the RSO in 2024 and 2025, because the Landlords charged non-compliant rents to the tenants in Units 1, 2, and 3. As a result, the Landlords are not entitled to retain and bank the Allowable Increase Percentages, to which they otherwise would have been entitled, in 2024 and 2025 due to their substantial non-compliance with the RSO. The 2024 and 2025 Allowable Increase Percentages may not be used to raise rents charged to Units 1, 2 and 3 in subsequent rental years.

## IV. The Landlords' Failure to Register Unit 3 in 2024 Constitutes a Violation of RSO § 6-233(a).

The Board concludes that the Landlords violated section 6-233(a) of the RSO by failing to register Unit 3 from the time they acquired the Property, on May 10, 2024, until the end of 2024. Section 6-233(a) of the RSO requires that "[b]eginning on January 1, 2021, each Covered Unit shall be registered with the City in accordance with Section 6-151. Such registration must include proof of the rent charged by the Landlords for each Covered Unit as of June 1, 2020 (i.e., through presentation of a valid Rental Agreement, rent payment receipt, or other acceptable means within the opinion of the City)." The uncontroverted evidence before the Board demonstrates that the Landlords failed to register Unit 3 from the time the Property was acquired until the end of 2024. The Landlords failure to timely register the Property constitutes a violation of RSO § 6-233(a).

### V. The Landlords Violated § 6-237(e) of the RSO by Issuing a Notice to Vacate to the Tenants in Units 1 and 3 After the Union Initiated the Complaint.

The Board finds that the Landlords violated § 6-237(e) of the RSO by retaliating against the Unit 3 Tenants and Samantha Smith after the Union initiated this Complaint..

Section 6-237(e) provides that "[i]t shall be prohibited for a Landlord to refuse to rent or negotiate for the rental of, otherwise make unavailable or deny, a dwelling to a Tenant, retaliate against, or otherwise discriminate against a Tenant because the Tenant, or a Tenants Union on behalf of the Tenant, has complained or initiated a complaint or appeal to assert the Tenant's rights or interests under this Ordinance, or because the Tenant is a member of or participates in a Tenants Union." Section 6-237(e) also provides that "[t]here is rebuttable presumption that any adverse action by the Landlord, including but not limited to forcible entry and detainer, was commenced in retaliation against the Tenant if, within six months prior to the commencement of the adverse action the Tenant, or a Tenants Union on behalf of the Tenant, complained or initiated a complaint or appeal to assert the Tenant's rights or interests under this Ordinance."

Here, the Landlords issued notices to vacate to the Unit 3 Tenants and Samantha Smith only days after the Union filed this Complaint with the Board. The Union had previously filed a complaint with the LHSD, on February 20, 2025, "asserting the rights of tenants currently residing at" the Property. The Landlords issuance of these notices to vacate, which constitutes an adverse action against the Unit 3 Tenants and Samantha Smith, occurred within six months of both the Union filing a complaint with LHSD, and the Union filing this Complaint (and its Addendum) with the Board. Accordingly, the Board concludes that there is a rebuttable presumption that the Landlords issuance of the notices to vacate was commenced in retaliation against the Unit 3 Tenants and Samantha Smith for the actions taken by the Union. The Landlords did not appear at the Board's hearing, and otherwise made no effort to rebut this presumption. The timing of the Landlords issuance of the notices to vacate, only days after the Union initiated this Complaint, strongly suggests that the Landlords actions were retaliatory in nature. Moreover, the Landlords' explanation for issuing the notices to vacate is inconsistent with the Landlords actions. More specifically, the Landlords told the one of the Property's current tenants they were issuing notices to vacate because their plans for the Property were uncertain, and may include selling the Property. However, only days before representing that, the Landlords advertised Unit 2 for rent—which suggests that the Landlords have no plans to sell the Property, but rather wish to expel the Unit 3 Tenants and Samantha Smith from the Property for their involvement in the actions taken by the Union.

As a result of the foregoing testimony and evidence presented to the Board, the Board concludes that the Landlords violated § 6-237(e) of the RSO by retaliating against the Unit 3 Tenants and Samantha Smith.

### VI. Appropriate Penalties for the Landlords' Violations of the RSO.

In accordance with section 6-263(f), the Board finds that it is appropriate to assess an $1,700 penalty to the Landlords for the foregoing violations of the RSO. Additionally, the Board finds that a $200 per day fine, beginning on June 1, 2025, is appropriate, and should continue to accrue until the Landlords either: (1) reoffer Units 2 and 3, respectively, to Samantha Smith and the Unit 3 Tenants, (2) Samantha Smith and the Unit 3 Tenants vacate their respective Units by mutual agreement with the Landlords, or (3) Samantha Smith and the Unit 3 Tenants' tenancy is lawfully terminated. Below, the Board explains its basis for concluding that these penalties constitute an appropriate recommended fine for each of the RSO violations identified above.

First, however, the Board notes that its authority "to determine . . . what penalties are appropriate for violations of the provisions of the Rent Stabilization Ordinance," must be "consistent with the provisions of this Code." RSO § 6-263(f). The RSO provides that "[a]ny violation of [Article XII of the RSO] is considered a civil infraction," and "all such violations, including any penalty determined to be appropriate by the Rent Board, shall be enforced pursuant to the Portland City Code Chapter 1, §1-15." Section 1-15 of the City Code, in turn, provides as follows:

> Whenever in this Code or in any ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or any ordinance shall be punished by a fine not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00) for each offense. Wherever a minimum fine is established in this Code, it shall be deemed a sum certain for each alleged offense in any action brought to enforce this Code. Whenever in this Code a minimum but no maximum fine or penalty is imposed, the court may in its discretion fine the offender any sum of money exceeding the minimum fine or penalty so fixed. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense.

The Board concludes that section 1-15 of the City Code establishes the penalty amounts that the Board may find appropriate for violations of the RSO. The RSO itself does not establish any specific penalties amounts for violations of the RSO, and section 1-15 specifically establishes a $100 to $500 penalty amount, for "[e]ach act of violation and every day upon which any such violation shall occur," when "no specific penalty" is otherwise provided by a specific Article or Chapter of the Code.

First, the Board finds that it is appropriate to assess a $100 fine to the Landlords for each instance the Landlords charged the Unit 3 Tenants rent that exceeded the limits established by section 6-234(c). From July of 2024 to June of 2025, or on 12 separate occasions, the Landlords charged the Unit 3 Tenants rent that exceeded the 10% rent increase limitation established by section 6-234(c). Accordingly, the Board finds that the Landlords violated section 6-234(c) on 12 separate occasions. In accordance with section 1-15, the Board finds that it is appropriate to assess a $100 fine for each separate offense, or in each instance the Landlords violated section 6-234(c), totaling $1,200.

Second, the Board concludes that it is appropriate to assess a $500 fine to the Landlords for failing to register Unit 3, in accordance with section 6-233(a), for most of the 2024 calendar year. During the Board's proceedings, the Board heard testimony that the Landlords failed to register Unit 3 after they purchased the Property. As the Board understands it, the Landlords did not register Unit 3 until near the end of 2024. Accordingly, and due to the extended length of time during which the Landlords failed to register Unit 3, the Board finds that it is appropriate to assess a single $500 fine for failing to register Unit 3 for several months after the Landlords acquired the Property.

Finally, the Board finds that it is appropriate to assess: (1) a $200 penalty, which began accruing on June 1, 2025, to the Landlords for retaliating against the Unit 3 Tenants; and a (2) $200 penalty, which began accruing on June 1, 2025, for retaliating against Samantha Smith. The Board concludes that the Landlords' violations of section 6-237(e) are particularly egregious, and threaten to deprive Samantha Smith and the Unit 3 Tenants of rental units they have resided in for the past year, and might otherwise wish to remain in. As explained above, the Landlords failed to offer any justification whatsoever for their decision to issue notices to vacate to Samantha Smith and the Unit 3 Tenants only days after this Complaint was filed with the Board. Indeed, without the Landlords' testimony on this issue, it appears that the Landlords actions were purely retaliatory in nature. Due to the severity of this particular violation, the Board finds that it is appropriate to assess a penalty of $200 per day, and per unit (Units 2 and 3), for each day the Landlords retaliatory action against Samantha Smith and the Unit 3 Tenants persists. These recommended penalties should continue to accrue until the Landlords either: (1) reoffer Units 2 and 3, respectively, to Samantha Smith and the Unit 3 Tenants, (2) Samantha Smith and the Unit 3 Tenants vacate their respective Units by mutual agreement with the Landlords, or (3) Samantha Smith and the Unit 3 Tenants' tenancy is lawfully terminated.

## DECISION

For the foregoing reasons, and after careful consideration of the RSO, the Union's and the Landlords' testimony and evidence, and extensive public comment, the Rent Board finds as follows:

1. The Landlords violated sections 6-233(a), 6-234(c), and 6-237(e).

2. The Landlords violations of sections 6-234(c) constitute substantial non-compliance with the RSO pursuant to section 6-234(f) of the RSO.

3. The Landlords must refund the Unit 3 Tenants $18,860 for each month that the Landlords overcharged the Unit 3 Tenants more than $1,100 to rent Unit 3.

4. The Landlords are not entitled to accept, demand, or retain the Allowable Increase Percentages for 2024 and 2025, or any other rent increase which they would be entitled to in 2024 and 2025, because the Landlords were not in substantial compliance with the Ordinance in either of these rental years. The Allowable

Increase Percentage in 2024 and 2025 may not be used as a basis to raise the rents charged to tenants renting Units 1, 2, or 3 at the Property in future rental years.

5. The Board finds that it is appropriate to assess a $1,700 fine on the Landlords for their violations of the RSO. Additionally, the Board finds that, beginning on June 1, 2025, it is appropriate to continue to assess (i) a daily $200 penalty to the Landlords for retaliating against Samantha Smith (Unit 2 resident), and (ii) a daily $200 penalty for retaliating against the Unit 3 Tenants, until one of the following three outcomes occurs: 1) the Landlords reoffer Units 2 and 3, respectively, to Samantha Smith and the Unit 3 Tenants, (2) Samantha Smith and the Unit 3 Tenants vacate their respective Units by mutual agreement with the Landlords, or (3) Samantha Smith and the Unit 3 Tenants' tenancy is lawfully terminated.

Dated: _______________

_________________________________
Matthew Lax, Chair
City of Portland Rent Board

**CITY OF PORTLAND**
**RENT BOARD**
**TENANT COMPLAINT PURSUANT TO SECTION 6-263(C) OF THE RENT STABILIZATION ORDINANCE**

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|---|---|
| DATE OF PUBLIC HEARINGS: | July 24, 2024 (Tabled),<br>August 19, 2024 (Tabled),<br>September 18, 2024 (Tabled),<br>October 23, 2023 (Tabled)<br>November 18, 2024 (Tabled)<br>January 22, 2025 (Tabled)<br>May 28, 2025 |
| LANDLORD NAME AND ADDRESS: | 59 State Street LLC<br>657 Congress Street, 1st floor<br>Portland, Maine 04101 |
| PROPERTY ADDRESS, UNIT, AND CBL: | 59 State Street<br>CBL 044 B047 001 |
| TENANTS/INTERESTED PARTIES: | Trelawny Tenants Union |
| REQUEST BEFORE THE BOARD: | Pursuant to section 6-263(c) of the City Code, the Trelawny Tenants Union (the "Union") is requesting that the Board review their formal complaint concerning 59 State Street, LLC's (the "Landlord") violations of the Rent Stabilization Ordinance (the "RSO").[1] |

**FINDINGS OF FACT**

After consideration of the evidence and testimony presented to it, the Portland Rent Board (the "Rent Board" or "Board") finds as follows:

1. The Landlord owns property located at 59 State Street (the "Property").[2]

2. There are approximately 40 covered units located at the Property.

3. The Union is comprised, in whole or part, of tenants who reside at the Property.

[1] City Code § 6-232 defines the term "Rent Stabilization Ordinance" as "Chapter 6, Articles XII and XIII of the Code of Ordinances, City of Portland, Maine, as amended."
[2] The record before the Board indicates that Geoffrey Rice is one of or the sole member of the Landlord LLC.

4. Between June of 2020 and the summer of 2024, the Landlord charged rents that did not comply with the requirements of the RSO to tenants living in the following units on the Property:

   a. Apartment 1: The Landlord charged Allan Wochomurka, the tenant living in Apartment 1, noncompliant rent from June 1, 2021 to November of 2023. On October 13, 2023, the Landlord issued a letter to Mr. Wochomurka conceding that it had charged Mr. Wochomurka noncompliant rent during this time period, and the Landlord issued Mr. Wochomurka a refund for rent that was overcharged to him from June of 2021 to October of 2023. On October 25, 2023, the Licensing & Housing Safety Department (the "LHSD") closed its rental inspection case concerning Apartment 1 and concluded that the "[t]enant was reimbursed $587.13 for 29 months of overpayment."

   b. Apartment 2: The Landlord charged Patrick Sullivan and Christina Clark, the tenants living in Apartment 2, noncompliant rent from June 1, 2021 to October of 2023. On October 4, 2023, the Landlord issued a letter to Ms. Clark and Mr. Sullivan conceding it had charged Ms. Clark and Mr. Sullivan noncompliant rent during this time period, and the Landlord issued Ms. Clark and Mr. Sullivan a refund for rent that was overcharged to them from June of 2021 to November of 2023. On October 11, 2023, LHSD closed its rental inspection case concerning Apartment 2 and concluded that the "[t]enant was reimbursed $752.16 for 24 months of overpayment."

   c. Apartment 22: The Landlord charged Lindsey Flewelling, the tenant living in Apartment 22, noncompliant rent from August of 2022 to July of 2023. On July 12, 2023, the Landlord issued a letter to Ms. Flewelling conceding it had charged her noncompliant rent during this time period, and the Landlord issued Ms. Flewelling a refund for rent that was overcharged to her from August of 2022 to July of 2023. On October 20, 2023, LHSD closed its rental inspection case concerning Apartment 22 and concluded that the "[t]enant was reimbursed $188.04 for 12 months of overpayment."

   d. Apartment 23: The Landlord charged Benjamin Spencer, the tenant living in Apartment 23, noncompliant rent from June 1, 2021, to June of 2023. On June 9, 2023, the Landlord issued a letter to Mr. Spencer conceding it had overcharged Mr. Spencer during this time period, and the Landlord issued Mr. Spencer a refund for rent that was overcharged to him from June of 2021 to June of 2023 for a total of $3,354.86.

   e. Apartment 31: The Landlord charged Emily Sanborn, the tenant living in Apartment 31, noncompliant rent from July of 2020 to September of 2023. On September 18, 2023, the Landlord issued a letter to Ms. Sanborn conceding it had charged her noncompliant rent during this time period, and the Landlord issued Ms. Sanborn a refund for rent that was overcharged to her from July of 2020 to September of 2023.On September 20, 2023, LHSD closed its rental inspection case concerning Apartment 31 and concluded that the "[t]enant was reimbursed $807.46 for 37 months of overpayment."

f. Apartment 33: The Landlord charged Andrea Croak and Christopher Chase, the tenants living in Apartment 33, noncompliant rent from May of 2021 to April of 2024. On April 15, 2024, the Landlord issued a letter to Ms. Croak and Mr. Chase conceding it had overcharged them during this time period, and the Landlord issued a refund of $922.50 to these tenants for rent that was overcharged to them from May of 2021 to April of 2024.

g. Apartment 43: The Landlord charged Eric Deerwester and Anna Lydon, the tenants living in Apartment 43, noncompliant rent from November of 2020 to April of 2024. On April 12, 2024, the Landlord issued a letter to Mr. Deerwester and Ms. Lydon conceding it had overcharged them during this time period and the Landlord issued a refund of $2,812.41 to these tenants for rent that was overcharged to them from November 2020 to April of 2024.

h. Apartment 44-45: The Landlord charged Priscilla Ragusa, the tenant living in Apartment 44-45, noncompliant rent from August of 2022 to October of 2023. On March 24, 2023 and October 23, 2023, the Landlord issued letters to Ms. Ragusa conceding it had charged her noncompliant rent during this time period, and the Landlord issued Ms. Ragusa a refund for rent that was overcharged to her from August of 2022 to October of 2023.On October 25, 2023, LHSD closed its rental inspection case concerning Apartment 44-45 and concluded that the "[t]enant was reimbursed $452.41 for 15.5 months of overpayment."

i. Apartment 46: The Landlord charged Jacob Foster and Nicholas Durand, the tenants living in Apartment 46, noncompliant rent from July 1, 2021 to June 30, 2023. On April 12, 2024, the Landlord issued a letter to Mr. Foster and Mr. Durand conceding it had overcharged them during this time period, and the Landlord issued a refund to these tenants for rent that was overcharged to them from July of 2021 to June of 2023.

j. Apartment 62: The Landlord charged Dominique and William Rosoff, the tenants living in Apartment 62, noncompliant rent from July 2021 to October of 2023. On October 23, 2023, the Landlord issued a letter to the Rosoffs conceding it had charged them noncompliant rent during this time period, and the Landlord issued the Rosoffs a refund for rent that was overcharged to them from July of 2021 to October of 2023.On October 30, 2023, LHSD closed its rental inspection case concerning Apartment 62 and concluded that the "[t]enant was reimbursed $1394.36 for 34 months of overpayment."

k. Apartment 63: The Landlord charged David Klosen, the tenant living in Apartment 63, noncompliant rent from July of 2021 to September of 2023. On September 21, 2023, the Landlord issued a letter to Mr. Klosen conceding it had overcharged him during this time period, and the Landlord issued a refund to Mr. Klosen for rent that was overcharged to him from July of 2021 to September of 2023. On October 25, 2023, LHSD closed its rental inspection case concerning Apartment 63 and concluded that the "[t]enant was reimbursed $250 for 10 months of overpayment."

l. Apartment 67: The Landlord charged Charles Skold, the tenant living in Apartment 67, noncompliant rent from July 1, 2021 to September of 2023. On September 28, 2023, the Landlord issued a letter to Mr. Skold conceding it had overcharged him during this time period, and the Landlord issued a refund to Mr. Skold for rent that was overcharged to him from July of 2021, to September of 2023. On October 11, 2023, LHSD closed its rental inspection case concerning Apartment 67 and concluded that the "[t]enant was reimbursed $612.96 for 24 months of overpayment."

5. In total, the City opened 8 rental inspection investigations regarding the Landlord's imposition of noncompliant rent increases to the Property's tenants. The City's investigations reviewed noncompliant rents charged to apartments 1, 2, 22, 31, 45, 62, 63, and 67.

6. Between January and March of 2024, the Union also discovered that: (1) the Landlord was charging the tenant renting Apartment 8 at the Property the wrong base rent, (2) the Landlord charged the tenants living in apartment 33 noncompliant rent, (3) charged the tenants living in apartment 43 noncompliant rent, and (4) charged the tenants who had lived in apartment 46 noncompliant rent.

7. On July 3, 2024, the Union filed a complaint (the "Complaint") with the Board seeking a ruling that the Landlord has not been in substantial compliance with the RSO from December 8, 2022, to the date of the Complaint's filing. The Union also requested that Board recommend that substantial fines be imposed on the Landlord for the many instances in which it charged the Property's tenants rent that did not comply with the RSO's limitations.

8. On July 3, 2024, the Union also filed a complaint concerning violations of the RSO at 655 Congress Street—a property that is owned by Trelawny 657, LLC. As the Board understands it, from the testimony presented to it, Trelawny 657, LLC is owned and controlled by Geoffrey Rice—the same individual who owns and controls the Landlord LLC.

9. The Union represented that it brought the Complaint on behalf of all tenants living at the Property.

10. The Complaint was digitally signed by: Izzy Ostrowski, Matt Walker, Brittany Herland, Brandon Pariseau, Valen Doe, James Dillon, Bligh Godin, Ethan Strimling, Ashley Cordio, Clifford Tremblay, Ian Jacob, David Klosen, Hannah

Ferguson, Victoria Van Berlo, Tiffiny McCollett, Hadrienne Hatfield, Abigail Jakub, Kshama Ananthapura, Emily Sanborn, Jacob Pauley, and Tom Baldwin.

11. On August 19, 2024, the Board held a public hearing on the Complaint (the "First Public Hearing"). The Board consolidated the public hearings for the Complaint and the Union's companion complaint concerning the 655 Congress Street property.

12. Board member Mathew Walker is a member of the Union and a tenant at a property owned by Geoffry Rice. Accordingly, he voluntarily recused himself from participating in this matter as a Board member.

13. Members of the Union and counsel for the Landlord were present at the Board's August 19, 2024, hearing. The Union presented testimony and evidence to the Board concerning the Landlord's violations of the RSO. The Landlord's counsel, Jeremy Dean, also presented a rebuttal and legal arguments concerning the Complaint. Additionally, the Board heard substantial public comment concerning the Complaint.

14. The Board did not reach a decision on the Complaint at the First Public Hearing. Rather, it tabled the Complaint to a later date for further deliberations.

15. The Union and the Landlord subsequently requested that the Board table the Complaint, and the complaint concerning the 655 Congress Street property, while the parties engaged in discussions to reach an agreement that would obviate the need for further proceedings before the Board.

16. The Union requested that the Board table the Complaint on a number of occasions to allow the parties additional time to negotiate a resolution.

17. On December 12, 2024, Attorney Jeremy Dean—counsel representing the Landlord—issued a letter to all tenants residing at the Property and the 655 Congress Street property informing them that:

> **I am aware that many of you have received rent increase notices for 2025, some including letters requiring you to sign new leases or lease amendments. At this time, you do not need to take any action in response to these communications and may disregard these notices. Until you receive further notice, your current rent and the terms of your current lease remain in effect.**
>
> **When the Union and your landlord have finalized their agreement, you will receive a follow-up letter or letters that clearly state the results of the settlement negotiations and their effect on you, which will likely include rent decreases, refunds that are owed to you, and/or any future rent increases to be applied to your unit after the appropriate notice periods have elapsed.**

18. After tabling the Complaint on a number of occasions, on January 22, 2025, the Board voted to table the Complaint until the Board's regularly scheduled

December 2025 meeting, unless the Union requests consideration of the Complaint at an earlier date, or the Union withdraws the Complaint.

19. On April 8, 2025, the Landlord sent a letter to the tenant residing in Apartment 69B at the Property informing this tenant that "[a]ccording to the Lease Agreement you signed on December 3, 2024, your rental price increased January 1, 2025, to $1,602.48. Your January through April rent checks were each short by $145.68 for a total of $582.72 (145.68 x 4) overdue."

20. The Union and the Landlord subsequently represented to the Board that they were unable to reach an agreement that would resolve the issues raised by the Complaint.

21. On May 15, 2025, the Union filed a supplemental letter informing the Board that negotiations between the Union and the Landlord had failed, and further proceedings on the Complaint would be necessary (the "Supplemental Letter"). Accordingly, the Board scheduled a second public hearing on the Complaint.

22. In the Supplemental Letter, the Union informed the Board that the Union "communicated directly with every current tenant in both buildings and, as of the date of this letter, not a single tenant has asked that we not assert their rights in this matter." The Union also represented that "[i]n addition to the notice of this hearing that was individually mailed to each affected tenant, we have also delivered notice from the [U]nion to every tenant in both buildings, just as we have for the past hearings on this matter."

23. The following individuals electronically appended their names to the Supplemental Letter: Izzy Ostrowski, Matt Walker, Brittany Herland, Brandon Pariseau, Valen Doe, James Dillon, Bligh Godin, Ethan Strimling, Ashley Cordio, Clifford Tremblay, Ian Jacob, David Klosen, Hannah Ferguson, Victoria Van Berlo, Tiffiny McCollett, Hadrienne Hatfield, Abigail Jakub, Kshama Ananthapura, Emily Sanborn, Jacob Pauley, Roy de Klerk, Tom Baldwin, Max Scardino, Morgan Schmitt, Jordan Holmes, William Maul, Rachael Bundy, Brendan Glavin, Nick Maloney, Wilhelmina Scherer, Ryer Spann, Terrance Barden, and Gregory Bussier.

24. On May 28, 2025, the Board held a second public hearing on the Complaint (the "Second Public Hearing"). Once again, the Board consolidated the public hearings for the Complaint and the Union's companion complaint concerning the 655 Congress Street property.

25. At the Second Public Hearing, the Board heard testimony from the Union and a number of tenants living within the Property concerning the Landlord's violations of the RSO. The Landlord's counsel was also present at the hearing, and he addressed the allegations raised by the Union on the Landlord's behalf.

26. The Union represented that it created flyers notifying tenants residing at the Property of the pendency of the Union's Complaint. The Union represented that it distributed these flyers to all tenants living at the Property.

27. The Union represented to the Board that not a single tenant within the building requested that the Union refrain from asserting his or her rights or interests in this Complaint after receiving notice of the Complaint.

28. The Union also represented that it hosts a Discord Group Chat for tenants living at the Property, and tenants were also notified of the Complaint in this internal group chat.

29. On June 5, 2025, the Board conducted its deliberations on the Complaint. At that meeting, the Board took oral votes on the issues raised and relief requested by the Union's Complaint. However, the Board did not take a final vote on the Complaint, or adopt written findings of fact.

## CONCLUSIONS OF LAW

### I. Jurisdiction and the Union's Standing.

As a preliminary matter, the Rent Board finds that it has jurisdiction to consider the Complaint. The Board also finds that the Union has standing "to assert the rights or interests of" tenants residing at the Property.

#### i. The Rent Board's Jurisdiction.

Section 6-263(c) broadly vests the Rent Board with jurisdiction to:

> [t]o hear, review, and grant or deny complaints or appeals from Tenants, individually or collectively, regarding Rent charges or Rent increases not in compliance with the Rent Stabilization Ordinance, or other matters falling within the scope of the Rent Stabilization Ordinance, or allegations violations of Maine statute regarding the habitability of residential units; such appeals shall be heard and decided de novo.

Additionally, section 6-263(f) of the RSO confers the Board with jurisdiction "[t]o determine, in a manner consistent with the provisions of this Code, what penalties are appropriate for violations of the provisions of the Rent Stabilization Ordinance that are determined by the Rent Board."

The Rent Board concludes that the Complaint falls within the Board's broad jurisdiction to "hear, review, and grant or deny complaints . . . from Tenants . . . regarding Rent charges or Rent increases not in compliance with the Rent Stabilization Ordinance, or other matters falling within the scope of the Rent Stabilization Ordinance." The Complaint involves questions concerning whether the Landlord has not been in substantial compliance with the RSO from

December 8, 2022, to at least the date the Complaint was originally filed, and what relief and penalties are appropriate if the Board finds that Landlord substantially noncompliant with the RSO's requirements. The adjudication of the issues raised by the Union's Complaint falls well within the Board's jurisdiction to "hear, review, and grant or deny complaints . . . from Tenants . . . regarding . . . matters falling within the scope of the Rent Stabilization Ordinance." RSO § 6-263(c). Moreover, the Board concludes that section 6-263(f) of the RSO readily vests that Board with jurisdiction to determine what penalties are appropriate to address violations of the RSO—including what penalties are appropriate when the Board or the City has determined that a landlord has charged rents that do not comply with the RSO's requirements to tenants.

**ii. The Union's Standing.**

The Board also concludes that the Union has standing to bring the Complaint on behalf of all tenants residing at the Property.

Section 6-243(a) of the RSO provides that "[a]ny Tenants Union shall have standing as a party to assert the rights or interests of any Tenants, individually or collectively, under this Chapter in any complaint, appeal, or other proceeding brought before the Housing Safety Office, the Rent Board, or the Superior Court in an appeal from any final decision under this Chapter in accordance with Rule 80B of the Maine Rules of Civil Procedure."

The Union asserts that it has brought the Complaint on behalf of all tenants residing at the Property. The Union represented to the Board that it repeatedly provided notice to the tenants at the Property informing them that the Union initiated a Complaint to the Board on the tenants' behalf. The Union's representatives testified to the Board that flyers were distributed to each tenant at the Property informing them of the pendency of the Complaint. The City also provided public notice of the First and Second Public Hearings to the tenants at the Property. The Union's representatives testified to the Board that no tenant residing at the Property requested that the Union refrain from asserting their interests in this Complaint. The Union also informed the Board that it hosts a Discord group chat for tenants residing at the Property, and the Complaint's specifics were discussed on the Union's group Discord channel.

The Board finds that the RSO generally grants tenants unions—like the Union—broad standing to represent the "rights or interests of *any* tenants." RSO § 6-243(a)(emphasis added). The RSO does not otherwise establish limits on a tenants' union's standing to assert the rights and interests of tenants residing in the City, nor does the RSO establish specific evidentiary requirements for a union to demonstrate its standing vis-à-vis the tenants residing in a particular building. Accordingly, the Board concludes that the RSO imposes a minimal evidentiary threshold for a tenants' union to demonstrate its standing to represent the tenants within a building that is subject to the RSO's rent control provisions. In this case, the Board finds that the Union has met its burden to demonstrate it represents the rights and interests of all tenants residing at the Property. As the Board understands it, several tenants residing at the Property appended their names to the Complaint and the Supplemental Letter. The Union represented to the Board that it contacted all tenants residing at the Property—using several different mediums, including paper notices and the Union's Discord channel—and that no tenant affirmatively sought to be excluded from the Complaint brought to this Board by the Union. The totality of the evidence provided to the Board demonstrates that the Union possesses the requisite standing to represent the interests of all tenants residing at the Property.

## II. The Landlord Was Not In Substantial Compliance With Sections 6-234(b)-(c) of the RSO from December 8, 2022, until July 3, 2024.

Based on the voluminous evidence and testimony that was presented to it, the Board finds that the Landlord was not in substantial compliance with the section 6-234(b) and (c) of the RSO from December 8, 2022, through July 3, 2024—which is the date the Complaint was filed. RSO § 6-234(f). The Union presented substantial evidence and testimony demonstrating that the Landlord persistently charged tenants residing at the Property rents that failed to conform the requirements of the RSO. The evidence presented to the Board demonstrates that the Landlord charged numerous tenants noncompliant rents for substantial lengths of time. The record before the Board indicates that in many cases the Landlord conceded it had charged tenants residing at the Property noncompliant rents by issuing refunds to tenants who had paid rents not allowed by the RSO for many months. Additionally, the City initiated several rental inspection cases, as evidence by records submitted to the Board, auditing noncompliant rents charged to tenants of the Property. The overwhelming evidence before the Board demonstrates that the Landlord has not complied with sections 6-234(b) and (c) from December 8, 2022—when section 6-234(f) went into effect—and July 3, 2024—when the Complaint was filed.

### i. The Landlord's Violations of Section 6-234(b)-(c) from December 8, 2022, to July 3, 2024.

Section 6-234(b) provides that a landlord may not increase the rent "charged for a Covered Unit within twelve (12) months following a previous Rent increase." Section 6-234(b) also provides that landlords may only "increase the rent charged for a Covered Unit by an amount that conforms to the" rental increases permitted by section 6-234(b)(1)-(4). Namely, a Landlord may: (1) impose an annual increase percentage allowed by the RSO, (2) increase the rent charged for a covered unit by 5% of the base rent when a tenant's tenancy is voluntarily terminated, (3) impose increases using banked rent the landlord has accrued, and (4) apply to the Rent Board for an increase necessary to ensure a fair return on investment. Section 6-234(c) provides that "[a]t no time may a Landlord raise the rent of a Covered Unit by more than ten (10) percent."

The Union presented voluminous evidence and testimony demonstrating that the Landlord has repeatedly violated the section 6-234(b)-(c) by charging tenants noncompliant rent. Specifically, the Board received evidence demonstrating that the Landlord charged rents that did not comply with section 6-234(b)'s increase limits, or imposed increases that exceeded the 10% increase limitation imposed by section 6-234(c), to: Apartment 1, Apartment 2, Apartment 22, Apartment 23, Apartment 31, Apartment 33, Apartment 43, Apartment 45, Apartment 62, Apartment 63, Apartment 67, and Apartment 69B. The Landlord issued refunds, conceding it charged noncompliant rents to the tenants in Apartments 1, 2, 22, 23, 31, 33, 43, 45, 62, 63, and 67. The City initiated rental inspection cases, to resolve violations of section 6-234, for Apartments 1, 2, 22, 31, 44-45, 62, 63, and 67. Additionally, the Board received evidence indicating that the Landlord attempted to impose a retroactive rent increase on the tenant living in Apartment 69B, after Attorney Dean issued a letter informing all tenants of the Property to disregard any such rent increases, without first providing the 90-day notice required by the RSO.

Although there is significant evidence demonstrating that the Landlord repeatedly violated the rental control regulations that applied to it from June, 2020, to December 8, 2022,[3] the Board focuses its ruling on the Landlord's violations of section 6-234(b)-(c) from December 8, 2022, to July 3, 2024. That is because, as the Board explains in greater detail below: (1) section 6-234(f) was not enacted until December 8, 2022, and thus its prohibitions are only applicable to noncompliant rent charged by the Landlord after December 8, 2022, and (2) the Complaint was initiated on July 3, 2024, and the Union has presented limited evidence concerning ongoing RSO violations at the Property after the Complaint's filing.

The refund letters issued by the Landlord and the City's rental inspection cases (and the documents associated therewith) collectively demonstrate that the Landlord repeatedly charged tenants of the Property noncompliant rent both before and after December 8, 2022. More specifically, Board finding # 4 identifies 12 separate instances where the Landlord charged noncompliant rents to Property's tenants after section 6-234(f)'s effective date. Consequently, there is substantial evidence before the Board indicating that the Landlord charged noncompliant rents to tenants, in violation of sections 6-234(b)-(c), after the enactment of section 6-234(f) on December 8, 2022. The evidence before the Board also demonstrates that the Landlords violation of sections 6-234(b)-(c) persisted at the Property until the Union filed the Complaint.

### ii. The Landlord was Not in Substantial Compliance with the Ordinance from December 8, 2022, through July 3, 2024.

The Board concludes that the totality of the evidence presented to it demonstrates that the Landlord was not in substantial compliance with the RSO from December 8, 2022, through July 3, 2024—when the Complaint was filed.

Section 6-234(f) of the RSO provides that "[a] landlord who is not in substantial compliance with any provision of this chapter, including but not limited to the Rent Stabilization Ordinance, may not demand, accept or retain any rent increase otherwise permitted by this section or any other provision of this Code or Maine statute." The RSO was originally enacted by the City's voters in November of 2020. However, the RSO did not go into effect until January 1, 2021. Notably, section 6-234(f) was not included in the version of the RSO that was enacted by the City's voters in 2020. On November 8, 2022, the City's voters passed "An Act to Protect Tenants in Portland," which enacted various amendments to the RSO (the "RSO Amendment"). Among other things, the RSO Amendment enacted section 6-234(f). The RSO Amendment specified that "except as specified herein below, all . . . amendments shall take effect thirty (30) calendar days after the official canvass of the return of the election at which this ordinance is approved." Section 6-234(f) was not subject to a special effective date, and thus it went into effect on December 8, 2022—or thirty days after the official canvass of the return of the election." In other words, section 6-234(f) did not become effective until December 8, 2022.

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[3] For instance, in the spring and summer of 2021, the Landlord imposed rent increases on Apartments 1, 2, 23, 33, 43, 46, and 67 that it later conceded did not comply with the RSO's limitations.

The RSO does not specifically define what constitutes substantial noncompliance with the RSO. When interpreting an ordinance," courts "look first to the plain meaning of the language in the ordinance and give any undefined terms their common and generally accepted meaning unless the context clearly indicates otherwise." *Lakeside at Pleasant Mountain Condo. Ass'n v. Town of Bridgton*, 2009 ME 64, 12, 974 A.2d 893. Maine's courts often "look[] to the dictionary for clarification of the plain meaning of terms." *Franklin Printing v. Harvest Hill Press*, 2002 ME 116, 7, 801 A.2d 1004. Merriam-Webster's dictionary defines "substantial" to mean "considerable in quantity: significantly great."[4] Merriam-Webster's dictionary defines "compliance" to mean "conformity in fulfilling official requirements."[5] The Board concludes that substantial noncompliance with the RSO includes a considerable or great number of failures to conform to the RSO's official requirements—such as section 6-234(b) and (c)'s rent increase limitations.

The record before the Board readily demonstrates that the Landlord repeatedly charged the Property's tenants noncompliant rents after December 8, 2022,. More specifically, the Landlord began charging at least 12 separate tenants noncompliant rents prior to December 8, 2022, and continued to charge these 12 tenants noncompliant rents until either 2023 or 2024. The Board finds that these 12 separate violations of the RSO's rent increase limitations constitute a considerable number of RSO violations. Indeed, when section 6-234(f) became effective the Landlord was charging close to or more than a quarter of the Property's covered units noncompliant rent. Consequently, the Board finds that the Landlord was not in substantial compliance with section 6-234 of the RSO from December 8, 2022, through July 3, 2024.

### III. The Landlord is Not Entitled to Retain Any Rent Increase Taken, or Any Banked Rent That Accrued, Between December 8, 2022, and July 3, 2024.

As a result of the foregoing conclusion of law, the Board finds that the Landlord was not entitled to demand, accept or retain any rent increase imposed on any tenant from December 8, 2022, through July 3, 2024. Additionally, the Board concludes that the Landlord is not entitled to retain and bank any rent increase, which the Landlord would have otherwise been entitled to impose on any tenant residing in a covered unit at the Property, during the time period in which the Board has found that the Landlord was not in substantial compliance with the RSO—i.e. December 8, 2022, through July 3, 2024.

The Board interprets the plain language of section 6-234(f) to prohibit a landlord from "demand[ing], accept[ing] or retain[ing] any rent increase otherwise permitted by" section 6-234 when a landlord "is not in substantial compliance with any provision of" the RSO. On its face, section 6-234(f) bars a landlord from imposing and retaining *any* rent increase, on *any* covered unit that is subject to the RSO's limitations, when that landlord is not in substantial compliance with the RSO's requirements. Moreover, section 6-234(f)'s prohibition is not, on its face, limited to the future imposition of a rent increase *after* the Board—or the City—finds ongoing substantial noncompliance with the RSO. Put another way, the Board interprets section 6-234(f)'s broad language to permit the retroactive application of section 6-234(f)'s rent increase prohibition whenever it is determined that a landlord has been in substantial noncompliance with

[4] https://www.merriam-webster.com/dictionary/substantial.
[5] https://www.merriam-webster.com/dictionary/compliance.

the RSO. Indeed, section 6-234(f) plainly prohibits the imposition of any rent increase permitted by the RSO whenever a landlord has not substantially complied with the RSO's provisions.

The Board also interprets section 6-234(f)'s language to bar a landlord from demanding, accepting, or retaining *any* rent increase that could be imposed on *any* covered unit owned by the landlord during the period of substantial noncompliance—irrespective of whether the covered unit was subject to the landlord's violation of the RSO. As noted above, section 6-234(f)'s prohibition is exceedingly broad. It expressly prohibits a landlord from imposing "*any* rent increase" when a landlord is not in substantial compliance with the RSO. Section 6-234(f)'s prohibition is not limited to tenants who are directly affected by, or subject to, a landlord's violation of the RSO. Rather, section 6-234(f)'s rent increase prohibition, during periods of substantial noncompliance, broadly applies to all rent increases that the RSO would otherwise authorize a landlord to impose on any tenant living in a covered unit.

The Board concludes that the Landlord was not entitled to impose *any* rent increases on *any* of the tenants residing in covered units at the Property from December 8, 2022, through July 3, 2024—or the period during which the Board has determined the Landlord was not in substantial compliance with the RSO. Accordingly, the Landlord must refund tenants living at the Property for any and all rent increases the Landlord imposed on the Property's tenants from December 8, 2022, to July 3, 2024. The plain language of section 6-234(f) prohibited the Landlord from imposing rent increases on any of the Property's tenants during the period within which it was not in substantial compliance with the RSO. Accordingly, the Landlord was not entitled to impose any rent increase while it was in substantial noncompliance with the RSO, and any rent increases that the Landlord did assess must be refunded to the Property's tenants.

Additionally, the Board concludes that the Landlord is not entitled to bank any of the rent increases he would have otherwise been entitled to, including the allowable increase percentage, for any of the Property's covered units from December 8, 2022 to July 3, 2024. As noted above, section 6-234(f) of the RSO provides that "[a] landlord who is not in substantial compliance with any provision of . . . the Rent Stabilization Ordinance, may not demand, accept or retain any rent increase otherwise permitted by this section." The Board interprets this provision to mean that a landlord is not entitled to retain and bank any rent increase which would otherwise be permitted by section 6-234, including the Allowable Increase Percentage authorized by section 6-234(b)(1), while the landlord is not in substantial compliance with the RSO. For instance, the Allowable Increase Percentage is a "rent increase" that is "otherwise permitted" by section 6-234(b). The Board interprets section 6-234(f)'s use of the word "retain" to bar a landlord from imposing or banking a rent increase "otherwise permitted" by section 6-234(b) when a Landlord "is not in substantial compliance with . . . the Rent Stabilization Ordinance." In this case, the Landlord was not in substantial compliance with the RSO from December 8, 2022 to July 3, 2024, because the Landlord charged noncompliant rents to numerous tenants in violation of sections 6-234(b)-(c). As a result, the Landlord is not entitled to retain and bank any rent increases to which it would have otherwise been entitled, including the Allowable Increase Percentage, from December 8, 2022 to July 3, 2024.

## IV. Appropriate Penalties for the Landlord's Violations of the RSO.

In accordance with section 6-263(f), the Board finds that it is appropriate to impose a $50,500 penalty to the Landlord for the foregoing violations of the RSO. The record before the Board reveals that the Landlord engaged in a clear and pervasive pattern of charging noncompliant rents to the Property's tenants. The Union presented evidence to the Board demonstrating that the breadth and scope of the Landlord's violations of the RSO were significant, occurring over an extended period of time in many cases. Consequently, and as explained in greater detail below, the Board concludes that a significant penalty should be imposed for the Landlord's persistent violations of the RSO.

First, however, the Board notes that its authority "to determine . . . what penalties are appropriate for violations of the provisions of the Rent Stabilization Ordinance," must be "consistent with the provisions of this Code." RSO § 6-263(f). The RSO provides that "[a]ny violation of [Article XII of the RSO] is considered a civil infraction," and "all such violations, including any penalty determined to be appropriate by the Rent Board, shall be enforced pursuant to the Portland City Code Chapter 1, §1-15." RSO § 6-240. Section 1-15 of the City Code, in turn, provides as follows:

> Whenever in this Code or in any ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or any ordinance shall be punished by a fine not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00) for each offense. Wherever a minimum fine is established in this Code, it shall be deemed a sum certain for each alleged offense in any action brought to enforce this Code. Whenever in this Code a minimum but no maximum fine or penalty is imposed, the court may, in its discretion, fine the offender any sum of money exceeding the minimum fine or penalty so fixed. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense.

The Board concludes that section 1-15 of the City Code establishes the penalty amounts that the Board may find appropriate for violations of the RSO. The RSO itself does not establish any specific penalties amounts for violations of the RSO, and section 1-15 specifically establishes a $100 to $500 penalty amount, for "[e]ach act of violation and every day upon which any such violation shall occur," when "no specific penalty" is otherwise provided by a specific Article or Chapter of the Code.

The Board recommends a $250 fine for the violations identified by the City in the rental inspection investigations it opened against the Landlord. The Board concludes that it is appropriate to levy a fine greater than $100—the minimum fine established by section 1-15 of the City Code—for each instance the Landlord charged noncompliant rent to the Property's tenants. The scope of the Landlord's violations—charging noncompliant rents to many of the Property's tenants over an extended time period—suggests that the Landlord often imposed rent increases with little regard for the RSO's limitations. Although the Landlord expressed that it found the RSO's limitations difficult to understand and implement, ignorance of the regulations that govern rental units in the City is not a reasonable excuse for the Landlord's many violations of the RSO. Consequently, the Board finds that a $250 fine per occurrence is an appropriate penalty.

The Board finds that the Landlord charged noncompliant rents to the 8 covered units audited by the City in—at least—198 different instances.[6] Accordingly, the Board recommends a $49,500 fine for a 198 instances where the Landlord charged noncompliant rents to the Property's tenants. Additionally, the Board recommends an additional $1,000 fine ($250 x 4 violations) for: (1) the Landlord using an incorrect base rent to calculate allowable rent for Apartment 8, (2) charging tenants residing in Apartment 33 noncompliant rent, (3) charging tenants residing in Apartment 43 noncompliant rent, and (4) charging tenants residing in Apartment 46 noncompliant rent.

## DECISION

For the foregoing reasons, and after careful consideration of the RSO, and the record before it, the Rent Board finds as follows:

1. The Landlord violated section 6-234(b) and (c) of the RSO from December 8, 2022, to July 3, 2024.

2. The Landlord's violations of sections 6-234(b)-(c) from December 8, 2022, to July 3, 2024, constitutes substantial non-compliance with the RSO pursuant to section 6-234(f) of the RSO.

3. The Landlord must refund all tenants at the Property for any rent increases that were imposed from December 8, 2022, to July 3, 2024.

4. The Landlord is not entitled to retain and bank any rent increase to which it was otherwise entitled, for any of the Property's covered units, from December 8, 2022 to July 3, 2024, because the Landlord was not in substantial compliance with the RSO during this time period. The rent increases to which the Landlord was entitled to take from December 8, 2022 to July 3, 2024 may not be used as a basis to raise the rents charged to tenants renting apartments at the Property in future rental years.

5. The Board recommends that assessment of a $50,500 fine for the Landlords violations of the RSO.

Dated: _______________

_____________________________________
Mathew Lax, Chair
City of Portland Rent Board

[6] Notably, however, the record demonstrates that the Landlord charged noncompliant rents to the Property's tenants on many more than 198 occasions.

**CITY OF PORTLAND**
**RENT BOARD**
**TENANT COMPLAINT PURSUANT TO SECTION 6-263(C) OF THE RENT STABILIZATION ORDINANCE**

| | |
|---|---|
| DATE OF PUBLIC HEARINGS: | July 24, 2024 (Tabled),<br>August 19, 2024 (Tabled),<br>September 18, 2024 (Tabled),<br>October 23, 2024 (Tabled)<br>November 18, 2024 (Tabled)<br>January 22, 2025 (Tabled)<br>May 28, 2025 (Tabled)<br>June 25, 2025 |
| LANDLORD NAME AND ADDRESS: | Trelawny 657 LLC<br>657 Congress Street, 1st floor<br>Portland, Maine 04101 |
| PROPERTY ADDRESS, UNIT, AND CBL: | 655 Congress Street<br>CBL 046 D021 001 |
| TENANTS/INTERESTED PARTIES: | Trelawny Tenants Union |
| REQUEST BEFORE THE BOARD: | Pursuant to section 6-263(c) of the City Code, the Trelawny Tenants Union (the "Union") is requesting that the Board review their formal complaint concerning Trelawny 657, LLC's (the "Landlord") violations of the Rent Stabilization Ordinance (the "RSO").[1] |

**FINDINGS OF FACT**

After consideration of the evidence and testimony presented to it, the Portland Rent Board (the "Rent Board" or "Board") finds as follows:

1. The Landlord owns property located at 655 Congress Street (the "Property").[2]

2. There are approximately 50 covered units located at the Property.

3. The Union is comprised, in whole or part, of tenants who reside at the Property.

[1] City Code § 6-232 defines the term "Rent Stabilization Ordinance" as "Chapter 6, Articles XII and XIII of the Code of Ordinances, City of Portland, Maine, as amended."
[2] The record before the Board indicates that Geoffrey Rice is one of the members, or the sole member, of the Landlord LLC.

4. On September 18, 2023, the Landlord filed an application "seeking formal approval" that a gas utility charge that the Landlord passed to the Property's Tenants was not "rent" pursuant to the RSO's definition of that term.

5. On October 25, 2023, the Rent Board voted to find that "expenses associated with natural gas delivery are rent per the definition of the [RSO]."

6. In 2023, the City opened a code case concerning the gas delivery fee the Landlord charged to the Property's tenants. On December 7, 2023, the City of Portland's ("City") Licensing & Housing Safety Department (the "LHSD") issued a notice closing this code case. The City's closure notice found that the Landlord issued notices of reimbursement for the gas charge, which the Board had previously found to constitute rent, to the following units at the property:

| | | |
|---|---|---|
| 203 | 321/322 | 627/628 |
| 204 | 323/324 | 701/702 |
| 206/208 | 325/326 | 707/708 |
| 209 | 327 | 709 |
| 211 | 405 | 710 |
| 214 | 410 | 718 |
| 222 | 411 | 720 |
| 303 | 501/502 | 723/726 |
| 306 | 503 | 727 |
| 308/309 | 510 | 728 |
| 311 | 601 | 810/811 |
| 312 | 603/604 | 817 |
| 315/317 | 610 | 821/822 |
| 320 | 620/622 | 826 |
| | | 827 |

7. In addition, in 2023 and 2024, LHSD initiated six (6) separate rental inspection cases, and issued at least two notices of violation, concerning noncompliant rent charged by the Landlord to the Property's tenants. The City's rental inspection cases, and the first notice of violation issued by the City, demonstrate that the Landlord charged rents that did not comply with the RSO's requirements to the tenants living in the following Units at the Property:

   a. Apartment 212: The Landlord charged the tenant living in Apartment 212 noncompliant rent from August of 2022 to January of 2024. On January 10, 2024, the Landlord issued a letter to the tenant residing in Apartment 212 conceding that the Landlord had charged the tenant noncompliant rent, and providing the tenant with a credit for future rents. On January 12, 2024, LHSD closed its rental inspection case concerning Apartment 212 and concluded that the "[t]enant was reimbursed $490.08 for 18 months of overpayment."

b. Apartment 404: The Landlord charged the tenant living in Apartment 404 noncompliant rent from January of 2023 to January of 2024. On January 10, 2024, the Landlord issued a letter to the tenant residing in Apartment 404 conceding that the Landlord had charged the tenant noncompliant rent, and providing the tenant with a credit for future rents. On January 12, 2024, LHSD closed its rental inspection case concerning Apartment 404 and concluded that the "[t]enant was reimbursed $649.20 for 12 months of overpayment."

c. Apartment 415-416: The Landlord charged the tenant living in Apartment 415-416 noncompliant rent from at least September of 2023 to January of 2024. On December 19, 2023 and January 12, 2024, the Landlord issued letters to the tenant residing in Apartment 415-416 conceding that the Landlord had charged the tenant noncompliant rent, and providing the tenant with a credit for future rents. On January 12, 2024, LHSD closed its rental inspection case concerning Apartment 415-416 and concluded that the "[t]enant was reimbursed $363.25 for 5 months of overpayment."

d. Apartment 602: The Landlord charged the tenant living in Apartment 602 noncompliant rent from June of 2021 to January of 2024. On January 10 and 11, 2024, the Landlord issued letters to the former and current tenants of Apartment 602 conceding that the Landlord had charged these tenants noncompliant rent, and providing the former and current tenants with a credit for future rents. On January 12, 2024, LHSD closed its rental inspection case concerning Apartment 602 and concluded that the "[t]enant was reimbursed $707.32 for 29 months of overpayment."

e. Apartment 620-622: The Landlord charged the tenant living in Apartment 620-622 noncompliant rent from March of 2022 to November of 2023. On November 3, 2023 the Landlord issued a letter to the tenants residing in Apartment 620-622 conceding that the Landlord had charged the tenants noncompliant rent, and providing the tenants with a credit for future rents. On November 6, 2023, LHSD closed its rental inspection case concerning Apartment 620-622 and concluded that the "[t]enant was reimbursed $2545.68 for 21 months of overpayment."

f. Apartment 723-726: The Landlord charged the tenant living in Apartment 723-726 noncompliant rent from March of 2022 to January of 2024. On January 12, 2024, the Landlord issued a letter to the tenants residing in Apartment 723-726 conceding that the Landlord had charged the tenants noncompliant rent, and providing the tenants with a credit for future rents. On January 12, 2024, LHSD closed its rental inspection case concerning Apartment 723-726 and concluded that the "[t]enant was reimbursed $1,124.90 for 23 months of overpayment."

g. Apartment 819: On June 6, 2024, the City issued a notice of violation to the Landlord finding that the Landlord had charged noncompliant rent, in violation of section 6-234 of the RSO, to the tenant or tenants residing in Apartment 819 from June of 2021 to May of 2024. On June 10, 2024, the Landlord issued a refund letter to Apartment 819's tenant, James Dillion, conceding it had charged the tenant noncompliant rent from October of 2022 to June of 2024.

8. In 2021, prior to the initiation of these inspections and the first notice of violation, the Landlord had previously issued letters conceding it had charged noncompliant rents to tenants residing in the following units: Apartment 211, Apartment 303, Apartment 310, Apartment 312, Apartment 404, Apartment 505-506, Apartment 509, Apartment 602, Apartment 705, and Apartment 712-714. Landlord refunded the tenants residing in these units for noncompliant rents that were charged to them.

9. On July 3, 2024, the Union filed a complaint (the "Complaint") with the Board seeking a ruling that the Landlord has not been in substantial compliance with the RSO from December 8, 2022 to the date of the Complaint's filing. The Union also requested that Board recommend that substantial fines be imposed on the Landlord for the many instances in which it charged the Property's tenants rent that did not comply with the RSO's limitations.

10. On July 3, 2024, the Union also filed a complaint concerning violations of the RSO at 59 State Street—a property that is owned by 59 State Street, LLC. As the Board understands it, 59 State Street, LLC is owned and controlled by Geoffrey Rice—the same individual who owns and controls the Landlord LLC.

11. The Union represented that it brought the Complaint on behalf of all tenants living at the Property.

12. The Complaint was digitally signed by: Izzy Ostrowski, Matt Walker, Brittany Herland, Brandon Pariseau, Valen Doe, James Dillon, Bligh Godin, Ethan Strimling, Ashley Cordio, Clifford Tremblay, Ian Jacob, David Klosen, Hannah Ferguson, Victoria Van Berlo, Tiffiny McCollett, Hadrienne Hatfield, Abigail Jakub, Kshama Ananthapura, Emily Sanborn, Jacob Pauley, and Tom Baldwin.

13. On August 19, 2024, the Board held a public hearing on the Complaint (the "First Public Hearing"). The Board consolidated the public hearings for the Complaint and the Union's companion complaint concerning the 59 State Street property.

14. Board member Mathew Walker is a member of the Union and a tenant at a property owned by Geoffry Rice. Accordingly, he voluntarily recused himself from participating in this matter as a Board member.

15. Members of the Union and counsel for the Landlord were present at the First Public Hearing. The Union presented testimony and evidence to the Board concerning the Landlord's violations of the RSO. The Landlord's counsel, Jeremy Dean, also presented a rebuttal and legal arguments concerning the Complaint. Additionally, the Board heard substantial public comment concerning the Complaint.

16. The Board did not reach a decision on the Complaint at the First Public Hearing. Rather, it tabled the Complaint to a later date for further deliberations.

17. On August 28, 2024, after the Union filed the Complaint, LHSD issued a notice of violation (the "August 2024 NOV") finding that the Landlord charged noncompliant rents to the following units located at the Property: 203, 206-208, 211, 214, 303, 306, 307, 309, 310, 318, 321-322, 325-326, 327, 404, 408-409, 410, 421-422, 423-426, 505-506, 509, 511, 601, 602, 608, 704, 705, 707-708, 712-714, 715, 717, 718, 728, 808-809, 810-811, and 823-825. The August 2024 NOV found that the Landlord had charged noncompliant rents to the foregoing apartments in violation of either section 6-234(b), 6-234(b)(2) or 6-234(c) of the RSO.

18. The August 2024 NOV identified 47 separate violations of the RSO. In several instances, the City found that the Landlord had imposed multiple noncompliant rent increases on a covered unit.

19. The Union and the Landlord subsequently requested that the Board table the Complaint, and the complaint concerning the 59 State Street property, while the parties engaged in discussions to reach an agreement that would obviate the need for further proceedings before the Board.

20. The Union requested that the Board table the Complaint on a number of occasions to allow the parties additional time to negotiate a resolution.

21. On December 12, 2024, Attorney Jeremy Dean—counsel representing the Landlord—issued a letter to all tenants residing at the Property and the 655 Congress Street property informing them that:

> **I am aware that many of you have received rent increase notices for 2025, some including letters requiring you to sign new leases or lease amendments. At this time, you do not need to take any action in response to these communications and may disregard these notices. Until you receive further notice, your current rent and the terms of your current lease remain in effect.**
>
> **When the Union and your landlord have finalized their agreement, you will receive a follow-up letter or letters that clearly state the results of the settlement negotiations and their effect on you, which will likely include rent decreases, refunds that are owed to you, and/or any future rent increases to be applied to your unit after the appropriate notice periods have elapsed.**

22. After tabling the Complaint on a number of occasions, on January 22, 2025, the Board voted to table the Complaint until the Board's regularly scheduled December 2025 meeting, unless the Union requested consideration of the Complaint at an earlier date, or the Union withdrew the Complaint.

23. The Union and the Landlord subsequently represented to the Board that they were unable to reach an agreement that would resolve the issues raised by the Complaint.

24. On May 15, 2025, the Union filed a supplemental letter informing the Board that negotiations between the Union and the Landlord had failed, and further proceedings on the Complaint would be necessary (the "Supplemental Letter"). Accordingly, the Board scheduled a second public hearing on the Complaint.

25. In the Supplemental Letter, the Union informed the Board that the Union "communicated directly with every current tenant in both buildings and, as of the date of this letter, not a single tenant has asked that we not assert their rights in this matter." The Union also represented that "[i]n addition to the notice of this hearing that was individually mailed to each affected tenant, we have also delivered notice from the [U]nion to every tenant in both buildings, just as we have for the past hearings on this matter."

26. The following individuals electronically appended their names to the Supplemental Letter: Izzy Ostrowski, Matt Walker, Brittany Herland, Brandon Pariseau, Valen Doe, James Dillon, Bligh Godin, Ethan Strimling, Ashley Cordio, Clifford Tremblay, Ian Jacob, David Klosen, Hannah Ferguson, Victoria Van Berlo, Tiffiny McCollett, Hadrienne Hatfield, Abigail Jakub, Kshama Ananthapura, Emily Sanborn, Jacob Pauley, Roy de Klerk, Tom Baldwin, Max Scardino, Morgan Schmitt, Jordan Holmes, William Maul, Rachael Bundy, Brendan Glavin, Nick Maloney, Wilhelmina Scherer, Ryer Spann, Terrance Barden, and Gregory Bussier.

27. On May 28, 2025, the Board held a second public hearing on the Complaint (the "Second Public Hearing"). Once again, the Board consolidated the public hearings for the Complaint and the Union's companion complaint concerning the 59 State Street property.

28. At the Second Public Hearing, the Board heard testimony from the Union and a number of tenants living within the Property concerning the Landlord's violations of the RSO. The Landlord's counsel was also present at the hearing, and he addressed the allegations raised by the Union on the Landlord's behalf.

29. At the Second Public Hearing, the Board was informed that the Landlord appealed the August 2024 NOV to the Cumberland County Superior Court. As the Board understands it, that appeal was pending when the Second Public Hearing was held.

30. As of the Second Public Hearing Date, the violations cited in the August 2024 NOV had yet to be remediated by the Landlord. As the Board understood his representations, Attorney Dean—the Landlord's representative—acknowledged that the Landlord had not remedied the violations identified in the August 2024 NOV as of the date of the Second Public Hearing. Additionally, Attorney Dean represented that the Landlord's "rent compliance person is in the process" of reviewing and issuing refunds for noncompliant rents charged to covered units identified in the August 2024 NOV.

31. The Union represented that it created flyers notifying tenants residing at the Property of the pendency of the Union's Complaint. The Union represented that it distributed these flyers to all tenants living at the Property.

32. The Union represented to the Board that not a single tenant within the building requested that the Union refrain from asserting his or her rights or interests in this Complaint after receiving notice of the Complaint.

33. The Union also represented that it hosts a Discord Group Chat for tenants living at the Property, and tenants were also notified of the Complaint in this internal group chat.

34. On June 25, 2025, the Board conducted its deliberations on the Complaint. At that meeting, the Board took oral votes on the issues raised and relief requested by the Union's Complaint. However, the Board did not take a final vote on the Complaint, or adopt written findings of fact.

## CONCLUSIONS OF LAW

### I. Jurisdiction.

As a preliminary matter, the Rent Board finds that it has jurisdiction to consider the Complaint. The Board also finds that the Union has standing "to assert the rights or interests of" tenants residing at the Property.

#### i. The Rent Board's Jurisdiction.

Section 6-263(c) broadly vests the Rent Board with jurisdiction to:

> [t]o hear, review, and grant or deny complaints or appeals from Tenants, individually or collectively, regarding Rent charges or Rent increases not in compliance with the Rent Stabilization Ordinance, or other matters falling within the scope of the Rent Stabilization Ordinance, or allegations violations of Maine statute regarding the habitability of residential units; such appeals shall be heard and decided de novo.

Additionally, section 6-263(f) of the RSO confers the Board with jurisdiction "[t]o determine, in a manner consistent with the provisions of this Code, what penalties are appropriate for violations of the provisions of the Rent Stabilization Ordinance that are determined by the Rent Board."

The Rent Board concludes that the Complaint falls within the Board's broad jurisdiction to "hear, review, and grant or deny complaints . . . from Tenants . . . regarding Rent charges or Rent increases not in compliance with the Rent Stabilization Ordinance, or other matters falling within the scope of the Rent Stabilization Ordinance." The Complaint involves questions concerning whether the Landlord has not been in substantial compliance with the RSO and what relief and penalties are appropriate if the Board finds that Landlord substantially noncompliant with the RSO's requirements. The adjudication of the issues raised by the Union's Complaint falls well within the Board's jurisdiction to "hear, review, and grant or deny complaints . . . from Tenants . . . regarding . . . matters falling within the scope of the Rent Stabilization Ordinance." RSO § 6-263(c). Moreover, the Board concludes that section 6-263(f) of the RSO readily vests that Board with jurisdiction to determine what penalties are appropriate to address violations of the RSO—including what penalties are appropriate when the Board or the City has determined that a landlord has charged rents that do not comply with the RSO's requirements to tenants.

**ii. The Union's Standing.**

The Board also concludes that the Union has standing to bring the Complaint on behalf of all tenants residing at the Property.

Section 6-243(a) of the RSO provides that "[a]ny Tenants Union shall have standing as a party to assert the rights or interests of any Tenants, individually or collectively, under this Chapter in any complaint, appeal, or other proceeding brought before the Housing Safety Office, the Rent Board, or the Superior Court in an appeal from any final decision under this Chapter in accordance with Rule 80B of the Maine Rules of Civil Procedure."

The Union asserts that it has brought the Complaint on behalf of all tenants residing at the Property. The Union represented to the Board that it repeatedly provided notice to the tenants at the Property informing them that the Union initiated a Complaint to the Board on the tenants' behalf. The Union's representatives testified to the Board that flyers were distributed to each tenant at the Property informing them of the pendency of the Complaint. The City also provided public notice of the First and Second Public Hearings to the tenants at the Property. The Union's representatives testified to the Board that no tenant residing at the Property requested that the Union refrain from asserting their interests in this Complaint. The Union also informed the Board that it hosts a Discord group chat for tenants residing at the Property, and the Complaint's specifics were discussed on the Union's group Discord channel.

The Board finds that the RSO generally grants tenants unions—like the Union—broad standing to represent the "rights or interests of *any* tenants." RSO § 6-243(a)(emphasis added). The RSO does not otherwise establish limits on a tenants' union's standing to assert the rights and interests of tenants residing in the City, nor does the RSO establish specific evidentiary requirements for a union to demonstrate its standing vis-à-vis the tenants residing in a particular building. Accordingly, the Board concludes that the RSO imposes a minimal evidentiary threshold for a tenants' union to demonstrate its standing to represent the tenants within a building that is subject to the RSO's rent control provisions. In this case, the Board finds that the Union has met its burden to demonstrate it represents the rights and interests of all tenants residing at the Property. Several tenants residing at the Property appended their names to the Complaint and the Supplemental Letter. The Union represented to the Board that it contacted all tenants residing at the Property—using several different mediums, including paper notices and the Union's Discord channel—and that no tenant affirmatively sought to be excluded from the Complaint brought to this Board by the Union. The totality of the evidence provided to the Board demonstrates that the Union possesses the requisite standing to represent the interests of all tenants residing at the Property.

## II. The Landlord Was Not In Substantial Compliance With Sections 6-234 of the RSO from December 8, 2022, until May 28, 2025.

Based on the voluminous evidence and testimony that was presented to it, the Board finds that the Landlord was not in substantial compliance with the sections 6-234(b) and (c) of the RSO from December 8, 2022, through May 28, 2025—which was the date the Board held the Second Public Hearing. RSO § 6-234(f). The Union presented substantial evidence and testimony demonstrating that the Landlord persistently charged tenants residing at the Property rents that failed to conform the requirements of the RSO. The evidence presented to the Board demonstrates that the Landlord charged numerous tenants noncompliant rents for substantial lengths of time. Indeed, the Landlord: (1) impermissibly raised the rent charged to 43 separate tenants by passing a gas utility fee to these tenants in 2023, (2) was subject to 6 rental inspection cases resulting in refunds of noncompliant rents that the Landlord charged to the Property's tenants, and (3) received the two notices of violation, which evidence that the Landlord has charged noncompliant rents to 36 of the Property's covered units during a time period spanning from May of 2021 at least the date of the second public hearing.[3] The City's notices of violation found that the Landlord has violated: (1) section 6-234 by charging more than a unit's base rent plus any increases allowed by the RSO, (2) section 6-234(b) by raising the rent charged for a covered unit within twelve (12) months following a previous rent increase, (3) section 6-234(b) by raising the rent for several covered units in 2021 by more than 5%, when the only increased allowed by the RSO in 2021 was a 5% increase for a new tenancy, and (4) section 6-234(c) by raising the rent of a covered unit by more than 10% at a given time. The record before the Board demonstrates that in many cases the Landlord conceded it had charged tenants residing at the Property noncompliant rents by issuing refunds to tenants who had paid rents that did not conform to the RSO's requirements. The overwhelming majority of the evidence before the Board demonstrates that the Landlord has not complied with sections 6-234(b) and (c) from December 8, 2022—when section 6-234(f) went into effect—to May 28, 2025—when the Board held its Second Public Hearing.

### i. The Landlord's Violations of Section 6-234 from December 8, 2022 to May 28, 2025.

[3] The August 2024 NOV found that the Landlord charged noncompliant rents to the apartments listed therein for various time periods. It is the Board's understanding that the violations identified in the August 2024 NOV have yet to be remedied.

Section 6-234(b) provides that a landlord may not increase the rent "charged for a Covered Unit within twelve (12) months following a previous Rent increase." Section 6-234(b) also provides that landlords may only "increase the rent charged for a Covered Unit by an amount that conforms to the" rental increases permitted by section 6-234(b)(1)-(4). Namely, a Landlord may: (1) impose an annual increase percentage allowed by the RSO, (2) increase the rent charged for a covered unit by 5% of the base rent when a tenant's tenancy is voluntarily terminated, (3) impose increases using banked rent the landlord has accrued, and (4) apply to the Rent Board for an increase necessary to ensure a fair return on investment. Section 6-234(c) provides that "[a]t no time may a Landlord raise the rent of a Covered Unit by more than ten (10) percent."

The Union presented voluminous evidence and testimony demonstrating that the Landlord has repeatedly violated sections 6-234(b)-(c) by charging tenants noncompliant rent. Specifically, the Landlord: (1) impermissibly raised the rents charged to the apartments identified in finding # 6 by passing along a gas utility fee, (2) charged noncompliant rents to one or more of the following apartments during a period of time from October of 2021 to June of 2024—Apartment 212, Apartment 404, Apartment 415-416, Apartment 602, Apartment 620-622, Apartment 723-726, and Apartment 819, (3) issued refund letters—in 2021—conceding it charged noncompliant rents to tenants residing in Apartment 211, Apartment 303, Apartment 310, Apartment 312, Apartment 404, Apartment 505-506, Apartment 509, Apartment 602, Apartment 705, and Apartment 712-714 and (4) charged noncompliant rents, in violation of either section 6-234(b), 6-234(b)(2) or 6-234(c), to one or more tenants residing in the following apartments from October of 2021 to May 28, 2025—Apartments 203, 206-208, 211, 214, 303, 306, 307, 309, 310, 318, 321-322, 325-326, 327, 404, 408-409, 410, 421-422, 423-426, 505-506, 509, 511, 601, 602, 608, 704, 705, 707-708, 712-714, 715, 717, 718, 728, 808-8090, 810-811, and 823-825.[4] In many instances, the Landlord has conceded it violated the RSO by issuing refunds to tenants who were charged noncompliant rents—although the Landlord had yet to issue any refunds—as of May 28, 2025—for the violations cited in the August 2024 NOV. In its totality, the evidence presented to the Board readily demonstrates that the Landlord has charged many—if not the majority—of the tenants residing at the Property noncompliant rents for a substantial period of time (dating back to 2021 in some instances).

Although there is significant evidence demonstrating that the Landlord repeatedly violated the RSO prior to December 8, 2022, the Board focuses its ruling on the Landlord's violations of section 6-234 from December 8, 2022 to May 28, 2025. That is because, as the Board explains in greater detail below: (1) section 6-234(f) was not enacted until December 8, 2022, and thus its prohibitions are only applicable to noncompliant rent charged by the Landlord

[4] The Board concludes that the August 2024 NOV, and the testimony offered by the Landlord's representative at the Second Public Hearing, sufficiently demonstrates that the Landlord was not in substantial compliance with section 6-234(b)-(c)'s requirements from the date the Complaint was filed—on July 3, 2024—to the date of the Board's Second Public Hearing. The August 2024 NOV identifies numerous violations of sections 6-234(b)-(c) existing from October of 2021 to August of 2024. At the hearing, both the Union and Attorney Dean—who represents the Landlord—provided testimony indicating that the violations identified in the August 2024 NOV were not remedied as of the date of the Second Public Hearing. In fact, Attorney Dean appeared to concede the existence of violations identified in the August 2024 NOV, noting that the Landlord's rent compliance employee is in the process of reviewing and issuing refunds for violations identified in the August 2024 NOV.

after December 8, 2022, and (2) May 28, 2025 was the date of the Board's Second Public Hearing, where it heard testimony that the Landlord has not yet addressed and resolved the violations cited in the August 2024 NOV.

The City's rental inspection cases (and the documents associated therewith), the two notices of violation issued by the City to the Landlord, and the Landlord's many refund letters collectively demonstrate that the Landlord repeatedly charged noncompliant rents to tenants of the Property both before and after December 8, 2022. Consequently, there is substantial evidence before the Board demonstrating that the Landlord charged noncompliant rents to tenants, in violation of sections 6-234, after the effective date of section 6-234(f)—on December 8, 2022. The evidence before the Board also demonstrates that the Landlords violation of sections 6-234(b)-(c) continued at the Property until the date of the Board's Second Public Hearing.

**ii. The Landlord was Not in Substantial Compliance with the Ordinance from December 8, 2022 through May 28, 2025.**

The Board concludes that the evidence presented to it demonstrates that the Landlord was not in substantial compliance with the RSO from December 8, 2022 through May 28, 2025.

Section 6-234(f) of the RSO provides that "[a] landlord who is not in substantial compliance with any provision of this chapter, including but not limited to the Rent Stabilization Ordinance, may not demand, accept or retain any rent increase otherwise permitted by this section or any other provision of this Code or Maine statute." The RSO was originally enacted by the City's voters in November of 2020. However, the RSO did not go into effect until January 1, 2021. Notably, section 6-234(f) was not included in the version of the RSO that was enacted by the City's voters in 2020. On November 8, 2022, the City's voters passed "An Act to Protect Tenants in Portland," which enacted various amendments to the RSO (the "RSO Amendment"). Among other things, the RSO Amendment enacted section 6-234(f). The RSO Amendment specified that "except as specified herein below, all . . . amendments shall take effect thirty (30) calendar days after the official canvass of the return of the election at which this ordinance is approved." Section 6-234(f) was not subject to an alternative effective date, and thus it went into effect on December 8, 2022—or thirty days after the official canvass of the return of the election. In other words, section 6-234(f) did not become effective until December 8, 2022.

The RSO does not specifically define what constitutes substantial noncompliance with the RSO. When interpreting an ordinance," courts "look first to the plain meaning of the language in the ordinance and give any undefined terms their common and generally accepted meaning unless the context clearly indicates otherwise." *Lakeside at Pleasant Mountain Condo. Ass'n v. Town of Bridgton*, 2009 ME 64, 12, 974 A.2d 893. Maine's courts often "look[] to the dictionary for clarification of the plain meaning of terms." *Franklin Printing v. Harvest Hill Press*, 2002 ME 116, 7, 801 A.2d 1004. Merriam-Webster's dictionary defines "substantial" to mean "considerable in quantity: significantly great."[5] Merriam-Webster's dictionary defines "compliance" to mean "conformity in fulfilling official requirements."[6] The Board concludes that substantial noncompliance with the RSO includes a considerable or great number of failures to

[5] https://www.merriam-webster.com/dictionary/substantial.
[6] https://www.merriam-webster.com/dictionary/compliance.

conform to the RSO's official requirements—such as section 6-234(b) and (c)'s rent increase limitations.

The record before the Board readily demonstrates that the Landlord repeatedly charged the Property's tenants noncompliant rents between December 8, 2022, and May 28, 2025. More specifically, the Landlord (1) impermissibly raised the rents charged to 43 apartments by passing along a gas utility fee to the Property's tenants, (2) charged noncompliant rents to 7 apartments from during a time period that ranged from October of 2021 to June of 2024, and (3) charged noncompliant rents, in violation of either section 6-234(b), 6-234(b)(2) or 6-234(c), to thirty-five (35) apartments from October of 2021 to May 28, 2025. Indeed, the evidence demonstrates that when section 6-234(f) became effective the Landlord was charging the majority of the Property's covered units noncompliant rent. Consequently, the Board finds that the Landlord was not in substantial compliance with the RSO from December 8, 2022 through May 28, 2025.

### III. The Landlord is Not Entitled to Retain Any Rent Increase Taken, or Any Banked Rent That Accrued, Between December 8, 2022 and May 28, 2025.

As a result of the foregoing conclusion of law, the Board finds that the Landlord was not entitled to demand, accept or retain any rent increase imposed on any tenant at the Property from December 8, 2022 through May 28, 2025. Additionally, the Board concludes that the Landlord is not entitled to retain and bank any rent increase, which the Landlord would have otherwise been entitled to impose on any tenant residing in a covered unit at the Property, during the time period in which the Board has found that the Landlord was not in substantial compliance with the RSO—i.e. December 8, 2022, to May 28, 2025.

The Board interprets the plain language of section 6-234(f) to prohibit a landlord from "demand[ing], accept[ing] or retain[ing] any rent increase otherwise permitted by" section 6-234 when a landlord "is not in substantial compliance with any provision of" the RSO. On its face, section 6-234(f) bars a landlord from imposing and retaining any rent increase, on any covered unit that is subject to the RSO's limitations, when that landlord is not in substantial compliance with the RSO's requirements. Moreover, section 6-234(f)'s prohibition is not, on its face, limited to the future imposition of a rent increase *after* the Board—or the City—finds ongoing substantial noncompliance with the RSO. Put another way, the Board interprets section 6-234(f)'s broad language to permit the retroactive application of section 6-234(f)'s rent increase prohibition whenever it is determined that a landlord has been in substantial noncompliance with the RSO. Indeed, section 6-234(f) plainly prohibits the imposition of any rent increase permitted by the RSO whenever a landlord has not substantially complied with the RSO's provisions.

The Board also interprets section 6-234(f)'s language to bar a landlord from demanding, accepting, or retaining *any* rent increase that could be imposed on *any* covered unit owned by the landlord during the period of substantial noncompliance. As noted above, section 6-234(f)'s prohibition is exceedingly broad. It expressly prohibits a landlord from imposing "*any* rent increase" when a landlord is not in substantial compliance with the RSO. Section 6-234(f)'s prohibition is not limited to tenants who are directly affected by, or subject to, a landlord's violation of the RSO. Rather, section 6-234(f)'s rent increase prohibition, during periods of substantial noncompliance, broadly applies to all rent increases that the RSO would otherwise authorize a landlord to impose on any tenant living in a covered unit owned by the Landlord.

Accordingly, the Board concludes that the Landlord was not entitled to impose *any* rent increases on *any* of the tenants residing in covered units at the Property from December 8, 2022 through May 28, 2025—or the period during which the Board has determined the Landlord was not in substantial compliance with the RSO. Accordingly, the Landlord must refund tenants living at the Property for any and all rent increases the Landlord imposed on the Property's tenants from December 8, 2022 to May 28, 2025. The plain language of section 6-234(f) prohibited the Landlord from imposing rent increases on any of the Property's tenants during the period within which it was not in substantial compliance with the RSO. Accordingly, the Landlord was not entitled to impose any rent increase while it was in substantial noncompliance with the RSO, and any rent increases that the Landlord did assess—between December 8, 2022 and May 28, 2025—must be refunded to the Property's tenants.

Additionally, the Board concludes that the Landlord is not entitled to bank any of the rent increases it would have otherwise been entitled to, including the allowable increase percentage, for any of the Property's covered units for the period during which the Landlord was not in substantial compliance with the RSO—from December 8, 2022 to May 28, 2025. As noted above, section 6-234(f) of the RSO provides that "[a] landlord who is not in substantial compliance with any provision of . . . the Rent Stabilization Ordinance, may not demand, accept or retain any rent increase otherwise permitted by this section." The Board interprets this provision to mean that a landlord is not entitled to retain and bank any rent increase which would otherwise be permitted by section 6-234, including the Allowable Increase Percentage authorized by section 6-234(b)(1), while the landlord is not in substantial compliance with the RSO. For instance, the Allowable Increase Percentage is a "rent increase" that is "otherwise permitted" by section 6-234(b). The Board interprets section 6-234(f)'s use of the word "retain" to bar a landlord from imposing or banking a rent increase "otherwise permitted" by section 6-234(b) when a Landlord "is not in substantial compliance with . . . the Rent Stabilization Ordinance." In this case, the Landlord was not in substantial compliance with the RSO from December 8, 2022 to May 28, 2025, because the Landlord charged noncompliant rents to many of the Property's tenants in violation of sections 6-234(b)-(c). As a result, the Landlord is not entitled to retain and bank any rent increases to which it would have otherwise been entitled, including the Allowable Increase Percentage, for any of the Property's covered units from December 8, 2022 to May 28, 2025.

### IV. Appropriate Penalties for the Landlord's Violations of the RSO.

In accordance with section 6-263(f), the Board finds that it is appropriate to impose a $120,000 penalty to the Landlord for the foregoing violations of the RSO. The record before the Board reveals that the Landlord engaged in a clear and pervasive pattern of charging noncompliant rents to the Property's tenants. The Union presented evidence to the Board demonstrating that the breadth and scope of the Landlord's violations of the RSO were significant, occurring over an extended period of time in many cases. Consequently, and as explained in greater detail below, the Board concludes that a significant penalty should be imposed for the Landlord's persistent violations of the RSO.

First, however, the Board notes that its authority "to determine . . . what penalties are appropriate for violations of the provisions of the Rent Stabilization Ordinance," must be "consistent with the provisions of this Code." RSO § 6-263(f). The RSO provides that "[a]ny violation of [Article XII of the RSO] is considered a civil infraction," and "all such violations, including any penalty determined to be appropriate by the Rent Board, shall be enforced pursuant to the Portland City Code Chapter 1, §1-15." Section 1-15 of the City Code, in turn, provides as follows:

> Whenever in this Code or in any ordinance of the city any act is prohibited or is made or declared to be unlawful or an offense, or whenever in such Code or ordinance the doing of any act is required or the failure to do any act is declared to be unlawful, where no specific penalty is provided therefor, the violation of any such provision of this Code or any ordinance shall be punished by a fine not less than one hundred dollars ($100.00) nor more than five hundred dollars ($500.00) for each offense. Wherever a minimum fine is established in this Code, it shall be deemed a sum certain for each alleged offense in any action brought to enforce this Code. Whenever in this Code a minimum but no maximum fine or penalty is imposed, the court may in its discretion fine the offender any sum of money exceeding the minimum fine or penalty so fixed. Each act of violation and every day upon which any such violation shall occur shall constitute a separate offense.

The Board concludes that section 1-15 of the City Code establishes the penalty amounts that the Board may find appropriate for violations of the RSO. The RSO itself does not establish any specific penalties amounts for violations of the RSO, and section 1-15 specifically establishes a $100 to $500 penalty amount, for "[e]ach act of violation and every day upon which any such violation shall occur," when "no specific penalty" is otherwise provided by a specific Article or Chapter of the Code.

The Board recommends a $250 fine for the violations identified by the City in the rental inspection investigations it opened against the Landlord. The Board concludes that it is appropriate to levy a fine greater than $100—the minimum fine established by section 1-15 of the City Code—for each instance the Landlord charged noncompliant rent to the Property's tenants. The scope of the Landlord's violations—charging noncompliant rents to many of the Property's tenants over an extended time period—suggests that the Landlord often imposed rent increases with little regard for the RSO's limitations. Although the Landlord expressed that it found the RSO's limitations difficult to understand and implement, ignorance of the regulations that govern rental units in the City is not a reasonable excuse for the Landlord's many violations of the RSO. Consequently, the Board finds that a $250 fine, per occurrence, is an appropriate penalty.

The Board finds that the Landlord charged noncompliant rents to the Property's covered units in—at least—433 different instances. Accordingly, the Board recommends a $108,250 fine for the 433 instances where the Landlord charged noncompliant rents to the Property's tenants. Additionally, the Board recommends an additional $11,750 fine ($250 x 47 violations) for the 47 separate violations identified by the August 2024 NOV.

## DECISION

For the foregoing reasons, and after careful consideration of the RSO, the Tenants' and the Landlords' testimony and evidence, and extensive public comment, the Rent Board finds as follows:

1. The Landlord violated section 6-234(b) and (c) of the RSO from December 8, 2022 to May 28, 2025.

2. The Landlord's violations of sections 6-234(b)-(c) from December 8, 2022 to May 28, 2025 constitutes substantial non-compliance with the RSO pursuant to section 6-234(f) of the RSO.

3. The Landlord must refund all tenants at the Property for any rent increases that were imposed between December 8, 2022 to May 28, 2025.

4. The Landlord is not entitled to retain and bank any rent increase to which it was otherwise entitled, for any of the Property's covered units, from December 8, 2022 to May 28, 2025, because the Landlord was not in substantial compliance with the RSO during this time period. The rent increases the Landlord was otherwise entitled to take from December 8, 2022 to May 28, 2025 may not be used as a basis to raise the rents charged to tenants renting apartments at the Property in future rental years.

5. The Board recommends that assessment of a $120,000 fine for the Landlords violations of the RSO.

Dated: ________________

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Mathew Lax, Chair
City of Portland Rent Board