Minutes

Remote Rent Board Meeting - Held Via Zoom
Wednesday, August 25, 2021

Start time: 5:01pm

II. Roll Call -

Austin Sims, Homeowner, District 5 - Chair
Barbara Vestal, Landlord, At-Large - Vice Chair
Christopher "Buddy" Moore, Tenant, District 1
Elliott Simpson, Tenant, District 3
Ian McCracken, Landlord, District 4
Elias Kann, Tenant, At-Large

There is one vacancy within the Board, so there are only 6 Board members until filled.

Staff present:

Anne Torregrossa, Corporation Counsel
Katlyn Sawyer, Licensing & Registration Coordinator
Zachary Lenhert Licensing & Housing Safety Manager

III. Minutes - 00:00:43

Barbara Vestal moves to accept the minutes as written
 2nd by Elliott Simpson
 Vote: 6-0

IV. Communications - 00:03:29

The Board inquired about the status of translating documents, where Zachary Lenhert explained that the forms need to be simplified into Plain Language. No forms have been translated as of yet, however, it is a work in progress. The Chair asked for a guide on Plain Language.

The Chair opened up for Public Comment - 00:16:40
 There was one question about the CPI process, in which the Chair addressed and advised people to reach out to rentboard@portlandmaine.gov.
Public Comment closed - 00:21:58

V. Unfinished Business - 00:22:04

Buddy Moore presented a San Jose annual rent adjustment study. The research was produced by Kenneth Baar, the same person who wrote the decision that Barbara Vestal entered into the agenda for the last meeting. Page 16 of the agenda packet talks about how the MNOI works in standard practice with the background for different standards for fair rate of return, such as, value versus investment.

Also included is a presentation from the Richmond, California Rent Stabilization office on how to apply MNOI. Page 34 of the agenda packet discusses how it might work in practice in an accessible way to understand.

Barbara Vestal referred to the Southern Maine Landlord Association (SMLA) court decision; that the justice is assuming that the Board is going to be using a rate of return on investment approach. She asked for Anne's advice on how much the Board should be putting weight on that discussion.

Anne Torregrossa explained that a judge may use something called dicta - where they might say something that is not an integral part of the decision. Then it would need to be determined if it needs to be followed, or will be followed in the future. It is believed that the Judge is borderline on dicta, but it is the only guidance the Board has currently. It is unsure whether that may hold through with appeals, at this time.

VI. New Business - 00:33:32

A. Rent Increase Application - Randy Johnson - 23 Devonshire St

Since Mr Johnson was not present at this time, Elliott Simpson has moved to table the application for the end of the meeting to give the applicant a chance to join, and if not by the end of the meeting, it would be tabled for a future meeting.

2nd by Elian Kann

Vote: 6-0

03:05:18 - The Board circles back to this application that was tabled for the end of the meeting in hopes that the applicant would be joining the meeting.

The Chair requests that the Housing Safety office reaches out to Mr Johnson to join the next month's Rent Board meeting for consideration of his application

B. Rent Increase Application - Mark Browne - 32 Rosedale St

Mark Browne presented his request to the Board:

The market value of a single family home includes a garage is $2300-2600 a month, at which he only charges $1950. The property has a new roof, brand new electric water heater, an insulated attic, and replaced the stove and the fan for above it.

Capital Improvement Costs

Completed insulation of the roof in 2019 - $2,700.00
New stove in 2020 - $672.71
New toilet valve in 2020 - $145.00
Replace garbage disposal in 2020 - $361.00
New electric water heater in 2021 - $1,650.00

The applicant has provided receipts for the above items.

The Chair opened for public comment - 00:40:54

Comments were made pertaining to the lack of background documents on the agenda for the public to actually “comment” on. A request was made to have the Board wait on discussing this item.

The Chair closed public comment - 00:46:07

Several members of the Board brought up the contemplation of posting or not posting these applications online so that members of the public can see them and respond during public comment.

Anne reminded the Board that they chose not to, in the event that financials are included, and that these are also public information, so that they can be requested at any time. She did suggest the possibility that the Board wants to post a summary sheet with details to the agenda.

The Chair opened for public comment - 01:0432

Comments pertained to:

-Agreeing on doing a summary for future rent increase applications
-Reiterating that it’s hard to give public comment without seeing the backup

Public comment ended - 01:21:00

Elias Kann motioned to approve the rent increases as capital improvement costs per the IRS schedule which is 5 years for all except the roof and insulation which is 27.5 years.

2nd by Austin Sims
Vote: 5-1
(Barbara Vestal voted against the motion)

Findings from the Board are as follows:

The IRS depreciation schedule provides for a 27.5 year amortization of improvements to a rental building, specifically including the roof and insulation.

The Board finds that it is an appropriate timeframe to recoup the cost of the roof and insulation, allowing for a rental increase of $23.60 per month.

With the exception of the expenses incurred for the toilet valve, the remaining expenses incurred by the applicant are capital improvements normally amortized over a period of 5 years under the IRS schedule.

The remaining capital expenses (less the expenses associated with the toilet) recouped over a 5 year period would allow for an additional $44.72 per month increase, which the Board finds appropriate.

This would allow for a total of $68.32 per month, which the Board finds appropriate.

The Board also found that the applicant has not provided sufficient information to be considered for his request of a fair rate of return increase. The applicant can resubmit another application in the future for consideration.

03:06:20

The Board grants the Landlord a rental increase for the property, but sets the amount at $68.32 per month, rather than the amount requested by the Landlord, for the reasons set forth above.

The Chair made a motion to approve the findings as presented. This does not differ from a previous vote in any way ascertained.

2nd by Elias Kann
Vote: 6-0

C. Methods to distribute information - Public Comment - 02:19:03

This was prompted by a public comment session from the last meeting in regards to Landlords applying rent increases in 2021 that were not legal. There were requests from members of the public that there be some sort of press release.

Buddy Moore had submitted a flow chart to assist with tenants and landlords to determine where they may fall under the Rent Control (last page of the agenda packet).

No public comment was taken

The matter concluded with no action taken.

D. Tax Rate Adjustment (Prepared Research) - 02:31:35

The Chair reminded the Board and members of the public that there is an updated FAQ - one for tenants and one for landlords. The last 2 pages of the Landlord FAQ sheet has examples of how to add tax increases to unit base rent. Advised the public to read the FAQ sheet over and if questions arise to email housingsafety@portlandmaine.gov

As a reminder to the public, the Board has no involvement in tax adjustments and that it is outside of their purview.

E. Housing Service Costs - 02:34:45

This could potentially be a proposed revised worksheet for this type of rent increase; where there could be an increased cost from one year to the next and the increase in cost could be due inflation. This revised form could adjust what the base year is for inflation and compare that adjusted base year against the current year (comparison year).

> Taxes were also removed from the worksheet as it is not authorized by the Board.

It was suggested that the line "taxes" stay on the form but add a note saying "This does not regard the mil rate, only additional taxes, please provide documentation to explain the taxes you are including as a housing service cost".

Barbara Vestal questioned how inflation was incorporated on the form. No action was taken.

Separate from subsection E -

The Chair proposes that for the month of September, specifically, applications that will be considered by the Board be summarized with the following information. This will be included in the agenda and will be done by Housing Safety.

Landlord, address & unit #, current & proposed rent, reasons for adjustment, and justification for such request. It will exclude private financial information.

Furthermore, an agenda item for the next meeting will include discussion of future summaries for rent increase applications in greater detail.

2nd by Barbara Vestal

Vote: 6-0

VII. Adjourn

Meeting end time: 8:10pm