RENT BOARD
February 23, 2022
5:00 PM

ZOOM INFORMATION:

This meeting will take place remotely using Zoom.

This meeting will be held remotely pursuant to the Remote Meeting Policy adopted by the Rent Board and as authorized under 1 M.R.S. 403-B because of the existence of an emergency or urgent issue that requires the committee to meet by remote methods. Allow your computer to install the free Zoom app to get the best meeting experience. If you are not able to attend live, a recording will be available in the Agenda Center following the meeting.

For public comment, you will need to use the "raise your hand" feature. To raise your hand via the telephone, please hit *9. You will be unmuted by the host when it is time for public comment.

Please click the link below to join the webinar:
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ROLL CALL:

APPROVAL OF MINUTES

February 9, 2022 Minutes

COMMUNICATIONS:

Please note: Written Public Comment must be received two business days prior to the next scheduled Rent Board meeting. These can be emailed to: rentboard@portlandmaine.gov

Written Public Comment

UNFINISHED BUSINESS:

Rent Increase Appeal Decision Form - 655 Congress St

Rent Increase Application Decision Forms (2)
1. 69 Woodmont St
2. 179 Capisic St

Rent Increase Application - Public Comment
Landlord: Aaron Svedlow, North Light Energy Land Holdings LLC
Property Address: 68 Walton St, Units 2-5
CBL: 138-D-006-001
Type of Increase: Fair rate of return

NEW BUSINESS

Rent Increase Application - Public Comment
Landlord: Daniel Vallee
Property Address: 89 Irving St, Unit 1 & 2

CBL: 137-J-002-001
Type of Increase: Increased housing service costs

ADJOURN

Minutes

Remote Rent Board Meeting - Held Via Zoom
Wednesday, February 9, 2022

Start time: 5:05pm

II. Roll Call - 00:00:55

Austin Sims, Homeowner, District 5 - Chair
Barbara Vestal, Landlord, At-Large - Vice Chair
Christopher "Buddy" Moore, Tenant, District 1
Josef Kijewski, Homeowner, District 2
Elliott Simpson, Tenant, District 3
Ian McCracken, Landlord, District 4
Elias Kann, Tenant, At-Large

Staff present:

Anne Torregrossa
Katlyn Sawyer, Licensing & Registration Coordinator
Zachary Lenhert Licensing & Housing Safety Manager
Jessica Hanscombe, Permitting & Inspections Director

III. Minutes - 00:01:54

The Vice Chair moves to accept the minutes as written, seconded by Buddy Moore. Vote: 7-0.

IV. Communications - 00:02:50

A. Written Public Comment

There were 3 separate public comments submitted -

1. A follow-up to a comment that was already addressed at the last meeting
2. A member of the public who did not get to speak during public comment at the last meeting who is in support of TTU and reallocation of TRRA
3. A concern regarding harassment towards a Board member

V. Unfinished Business - 00:03:48

A. Rent Increase Appeal - 655 Congress St

The Vice Chair brought up that two members of the Board were absent at the last meeting, and it was to her understanding that if they listened to the recording that they could participate in tonight's meeting. It was requested that they state this on the record.

Both Ian and Josef confirmed that they had watched the recording.

Minutes

The Chair had advised the public that the Trelawny Tenants Union had presented a revised "ask" that largely aligns only to the 22 undersigned rather than as a collective bargaining unit.

00:14:11 - The Chair motions to approve the TRRA be distributed to Mr. Rice's tenants using the square foot methodology proposed by TTU; namely that total rent increase divided by square footage of the building and multiplied by square footage of each unit divided across the twelve months

> 00:16:52 Seconded by Buddy Moore. Vote: 6-1 (Vice Chair voted no)

The Chair had advised that the attorney for Trelawny 657 had pulled back the penthouse and the commercial space.

00:42:16 Ian McCracken makes a motion to take the total square footage of the building and subtract the owner's apartment space and the commercial space, then use the methodology from the previous topic and allocate it across the apartments in only this building. Seconded by the Vice Chair.

> 00:44:08 Buddy Moore moves to amend the motion to exclude the basement entirely as well. Seconded by Josef Kijewski. Vote to amend the motion: 5-2 (Ian and Barbara said no)
>
> 00:49:55 Vote on the amended motion:
>
>> 00:51:06 Elliott Simpson would like to table the vote to resume deliberations, seconded by Ian.
>
> 01:05:28 Josef Kijewski makes a motion to vote on what they have at hand, seconded by Buddy Moore to call the question. Vote: 4-3 (Elliott, Ian, and Barbara voted no).
>
>> The Board is excluding the basement and first floor. The representation for Trelawny 657 has excluded the penthouse.

01:17:18 The Vice Chair makes a motion that the Board determines that the Downtown Improvement District (DID) tax amount that the change in that amount may be included by the Landlord in the tax rate rent adjustment calculation. Seconded by Elliott Simpson. Vote: 4-3 (Buddy, Josef, and the Chair voted no).

> The DID is included in the TRRA allocation

01:19:21 The Chair makes a motion to require that Trelawny 657 reissue accurate increase notices to all tenants residing in the building who are impacted by this ruling of the tax ruling the Board just made and that those increases obtain the full 75-day notice requirement as required by the Rent Stabilization ordinance. The basis of this is that in all prior dealings between HSO and either Trelawny 657 or specifically Geoffrey Rice, all corrections require a reset of the clock. Seconded by Josef Kijewski

> 01:20:47 The Vice Chair makes a motion to table the vote to allow for further discussion, seconded by Elias Kann. Vote: 7-0
>
> 01:38:44 The Vice Chair makes a motion to amend the motion on the floor to substitute the 22 named complainants so that notices would be reissued to those people and take out the language about all of the apartments in the building. Seconded by Ian McCracken. Vote to amend the motion: 4-3 (Buddy, Josef, and the Chair voted no).

01:41:11 Josef Kijewski makes a motion that the Landlord should also review all of the written rent increase notices and reissue any found to not be in compliance. Seconded by Elias Kann. Vote: 5-2 (Elliott & the Vice Chair voted no).

01:43:54 The Chair calls the question, seconded by Elias Kann. Vote: 7-0

The Chair advised that TTU (Trelawny Tenants Union) has an updated “ask” that has been refined down to the 22 undersigned union rather than the whole building. The Board is specifically assessing fines for the undersigned on the case. The total amount would be $15,350.00.

01:55:34 - The Chair reads a section of the ordinance into the record (Sec 6-263 Jurisdiction and Authority) and subsection (f) regarding fines

02:03:01 - The Chair makes a motion to accept the fines requested by the Trelawny Tenants Union, seconded by Josef Kijewski

02:03:16 Elias Kann makes a motion to amend with language that provides an advisory opinion to HSO. The Board accepts the proposed fines and requests that HSO re-examine the violations and issue such fines as deemed necessary. Seconded by the Chair. Vote on the amendment: 7-0

02:15:16 Elias Kann moves to call the question, seconded by the Vice Chair. Vote: 5-2 (Josef and Ian voted no).

02:16:51 The Vice Chair makes a motion to take a 3 minute break, seconded by Josef Kijewski. Vote: 7-0. The Board will resume at 7:26pm

Anne Torregrossa advised the Board that she will work on the Decision Form based on what was said this evening. The Board will need to vote on it at the next meeting. Other edits will be made at the next meeting.

A. Rent Increase Application - Public Comment - 02:25:12
Landlord: Anita S Dore
Property Address: 69 Woodmont St, Unit 1 & 2
CBL: 080-H-010-001
Type of Increase: Capital improvement costs

There were no witnesses and no tenants spoke as objectors.

No public comment was taken.

02:35:00 Elias Kann makes a motion to accept the proposed increase amortized over a period of 7 years with everything over 10% banked for future increases. Seconded by Ian McCracken. Vote: 7-0

Minutes

B. Rent Increase Application - Public Comment - 02:35:58
Landlord: Aaron Svedlow, North Light Energy Land Holdings LLC
Property Address: 68 Walton St, Units 2-5
CBL: 138-D-0006-001
Type of Increase: Fair rate of return

The Landlord was not present at the time of their item.

03:47:47 - The Chair still does not see the Landlord present for this item. This application will be tabled for the next meeting under Unfinished Business

C. Rent Increase Application - Public Comment - 02:36:56
Landlord: Andrew Burns
Property Address: 179 Capisic St, Unit 1
CBL: 192-K-051-001
Type of Increase: 1. Renovation of a unit or Reconfiguration of one or more units & 2. Fair rate of return

There were no witnesses and no objectors as the unit is vacant.

No public comment was taken.

02:51:58 Elliott Simpson makes a motion to return to question to confirm the number of units column in the form the Landlord filled out. Seconded by Josef Kijewski. Vote: 7-0

The application lists $22,616.77 of the work - if amortized across 7 years, it would be $269.24 or if amortized over 5 years, it would be $376.98. The resulting increase in rents after all banks have been taken would be $1,494.24 or $1,601.98, respectively those constitute a 21.96% increase or 30.77% increase - as stated by the Chair.

03:15:24 - The Chair makes a motion to ask Mr Burns if he would like the Board to entertain this as a Capital Improvement, seconded by the Vice Chair. Vote: 7-0.

> The Landlord would prefer the Board to hear this under a Renovation and Fair Rate of Return rather than a Capital Improvement

Ian McCracken suggested that he would amortize the entire $22,616.77 over 7 years, which would be $269.24 and add that to $1,225 which would be $1,494.25, as the new base rent.

> Elias Kann makes a motion to accept Ian’s suggestion and treat it as a Renovation not as a Fair Rate of Return.

> The Vice Chair would propose to amend the motion to clarify the Board is not taking action on the Fair Rate of Return, but that the applicant would be free to come back with a request for Fair Rate of

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Return. He would need to provide more information about his costs and rate of return for comparable units. Seconded by Elias Kann. Vote on the amended motion: 7-0

The Chair states that this is Renovation that is pegged to a 7-year amortization of the amount and that the Board is not making any change on Fair Rate of return but that the applicant can submit another request for that.

Vote on the actual motion: 7-0

D. Rough Draft Outline for Annual Report - 03:30:47

Josef Kijewski had suggested getting feedback from Landlords and tenants who have experiences with the Board on processes.

Buddy Moore and Josef will work together to get more substantive information.

03:47:13 - Board returns to the decision forms

The Rent Increase Appeal form will be discussed at the next meeting

Buddy Moore requested that he present the decision forms for 69 Woodmont Street and 179 Capisic Street at the next meeting due to the new system.

The Chair makes a motion to table official sign off on these forms. He then amends his motion to say that any applicants concerned about the delay in the Board's official decision in the next two weeks confer with HSO.

03:59:36 The Chair makes a motion to table this and any guidance that the applicants need, they seek from HSO until the Board reconvenes and confirms the decision forms at the next meeting. Seconded by the Vice Chair. Vote: 7-0

VI. New Business

There are no agenda items for this section

VII. Adjourn - 04:00:10

Meeting end time: 9:01pm

Written Public Comment #1

portland City of

Katlyn Sawyer <ksawyer@portlandmaine.gov>

comment

Phil St. Germain <pstgermain@jsmccarthy.com> Mon, Feb 21, 2022 at 1:00 PM
To: "rentboard@portlandmaine.gov" <rentboard@portlandmaine.gov>

Board members,

As a small time landlord for 30 years I have been viewing your zoom meetings. I'd like to offer you the following comment regarding the issues you all considered regarding 655 Congress St.

Regarding the basement of these buildings I think you missed two and a half very important points.

1) the basement is there primarily to support the floors above and therefor it seems reasonable that this value should be borne by all occupants of the building.

2) if you asked an appraiser or the city's assessor for a value on the basement and then worked your numbers the numbers would be far different as the value of finished space (per square foot) is so much greater that the value of unfinished basement space (per square foot).

2.5) the fact that the landlord stores a few appliances and maybe some equipment needed to operate this building and maybe help a few other buildings along seems so insignificant that it should not even be worthy of consideration of your board.

Thanks for your volunteer work on behalf of our great city that I have enjoyed being a part of for nearly all of my adult life.

Thank you,

Phil

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CITY OF PORTLAND
RENT BOARD
TENANT APPEAL OF RENT INCREASE AND REQUEST FOR FINES

DATE OF PUBLIC HEARING:	January 26, 2022, tabled to February 9, 2022
DATE OF DECISION:	February 23, 2022
TENANTS NAME AND CONTACT:	Amanda Bizzarro Henry Butman Gillian Morrison Isabel Ross Michael Christman Jacob Pauley Kacey Lopez Chance Syme Dexter Syme Madeline Paradis Max Scardino Isabella Ostrowski Mary Donlan Wesley Pelletier Thomas Hamill Connor Hardiman Michael Rogers Thomas Baldwin Tiffiny McCollett Tyler Rollins James Cousens Amy Diller ℅ Trelawny Tenants Union trelawnytenantsunion@gmail.com
LANDLORD NAME AND CONTACT:	Geoffrey Rice/Trelawny 657 LLC ℅ Paul Bulger Esq. 511 Congress Street, Suite 502 Portland, Maine 04101 pbulger@jewellandbulger.com
PROPERTY ADDRESS AND CBL:	655 Congress Street CBL 046 D021001

FINDINGS

1. This matter came before the Rent Board pursuant to an appeal filed by the Trelawny Tenants Union ("TTU") on behalf of 22 tenants ("Applicants"), who live in nineteen of the units at 655 Congress Street (the "Property") against Geoffrey Rice/Trelawny 657 LLC ("Landlord").

2. TTU has filed an appeal based on three issues:

a. That Landlord improperly included amounts for the Downtown Improvement District assessment ("DID Assessment") in calculating the Tax Rate Rent Adjustment provided for in Sec. 6-234(b)(2) ("TRRA");

b. That Landlord improperly allocated the increase attributable to the TRRA by not removing portions of the Property allocated to commercial tenants, his personal residence, and basement space; and

c. That Landlord improperly allocated the TRRA amounts between rental units and instead should have allocated those increases based on square footage of the different units.

3. TTU has also requested that the Rent Board impose fines on Landlord for sending improper notices of rent increase.

4. The Board took written position statements from both TTU and Landlord, heard presentations by both at its meeting on January 26, 2022, took public comment on January 26, 2022, and accepted additional written commentary from both parties after the January 26, 2022 meeting.

5. The Board then continued the matter to a special meeting on February 9, 2022.

6. Having considered written materials, testimony, and public comment, the Board makes the following findings.

Jurisdiction and Standing

7. "A Tenant who receives notice of a rent increase that they believe does not conform with this Section may file an appeal of said rent increase with the Rent Board." City Code Sec. 6-234(e).

8. The Rent Board has jurisdiction,

> To hear, review, and decide the appropriate outcome of all disputes arising between Landlords and Tenants on matters falling within the scope of Article XII of this Chapter, if both parties consent to such mediation and resolution by submitting the landlord/tenant dispute form, as maintained and edited by the Housing Safety Office, signed by both Landlord and Tenant no later than fourteen (14) days before the date on which such a hearing shall be scheduled.

City Code Sec. 6-263(e).

9. Both Tenants and Landlord have consented to have this Board hear and resolve this dispute.

10. TTU only has standing to represent the Tenants. TTU does not have standing to represent tenants of other units at the Property, the building as a whole, or tenants of other properties owned by Landlord.

Tax Rate Rent Adjustment Methodology

11. Pursuant to City Code Sec. 6-234(b)(2), "If the mil rate within the City of Portland is altered for the subsequent fiscal year a Landlord may . . . increase rent by the Tax Rate Rent Adjustment for the subsequent Rental Year." Tax Rate Rent Adjustment is defined as, "the additional amount by which a Landlord may increase the rent of a Covered Unit within a given year. . . [T]he tax rate rental adjustment is equal to the actual increase in property taxes attributable to the individual Covered Unit." City Code Sec. 6-232.

12. Landlord allocated the actual increase in property taxes for the Property to all residential units at the Property equally, regardless of square footage, condition, number of bedrooms, etc. In allocating the increase, Landlord did not allocate any amounts to Mr. Rice's personal residence, to the commercial space on the first floor of the Property, or to the basement at the Property.

13. Landlord subsequently agreed that a portion of the actual increase in property taxes should be allocated to Mr. Rice's personal residence.

14. The Board finds that the methodology used by the Landlord to allocate the actual increase in property taxes for the Property as the TRRA was unreasonable. Instead, that increase should have been allocated to the individual units based on the relative square footage of each unit.

15. Landlord may not allocate the portion of the actual increase in property taxes for the Property as a TRRA increase to the residential units that are attributable to the commercial space or the basement space, based on the square footage of those spaces.

16. The DID Assessment was properly included in the TRRA, as it is a property tax. The DID Assessment has a mil rate, is based on the assessed value of the Property, is collected in the same manner as real estate taxes, and comes with the same procedures and protections as the real estate tax.

Sufficiency of Rent Increase Notices

17. Pursuant to Sec. 6-234(d), "Before increasing the rent of a Covered Unit, a Landlord must send a signed document to the Tenant(s) no fewer than seventy-five (75) days before the effective date of the rent increase. This document must include the date on which the

Tenancy began, the date on which the rent will be increased, and the appropriate justifications for such a rent increase as defined in Section 6-234(b) above."

18. Based on the findings above with respect to the method of allocation of calculating TRRA for the Tenants, the notices of rent increase issued to the Tenants are incorrect.

Issuance of Fines

19. TTU has requested that the Rent Board levy fines against Landlord in the amount of $15,350 for the following:

a. $100 per violation for 22 illegal rent increase notices sent to Tenants ($2,2000);

b. $100 per violation for 22 instances of failing to provide the Tenant's Rights and Responsibilities documents to Tenants ($2,200);

c. $100 per violation for 22 instances of failing to timely register the units occupied by the Tenants ($2,200);

d. $250 per violation for sending 13 additional illegal rent increase notices sent to Tenants in November of 2021 ($3,250); and

e. $250 per violation for sending 22 additional illegal rent increase notices sent to Tenants in November and December of 2021 ($5,500).

20. Sec. 6-234(e) provides that "the Board may impose such fines as are allowed by this Article" if it finds that there has been an illegal notice of rent increase. Similarly 6-263(f) provides that the Rent Board has the authority "To impose such fines as are necessary and allowed for violations of the provisions of the Rent Stabilization Ordinance."

21. The Rent Board finds that the fines proposed by TTU are reasonable based on the number of violations.

ORDER

Given the above findings, the Rent Board issues the following orders:

A. Landlord is ordered to reissue corrected notices of rent increase to the Tenants based on the modified allocation of the property tax increase as explained in this decision. Landlord may not increase rent for any Tenants until 75 days after the new and corrected notices are issued. Landlord is also expected to reevaluate other notices of rent increase that may be incorrect.

B. The Rent Board recommends that the Housing Safety Office reconsider their position on the imposition of fines in this matter and pursue fines against Landlord in the amount of $15,350.

Date: February 23, 2022

____
Austin Sims, Chair

CITY OF PORTLAND
LANDLORD APPLICATION FOR RENT INCREASE SUMMARY

Date of Hearing:

January 26, 2022 - tabled to February 9, 2022 - tabled to February 23, 2022

Landlord Name and Address:

Aaron Svedlow
North Light Energy Land Holdings LLC
7 Pine Grove Way
Falmouth, ME 04105

Owner Name and Address:

Same as above

Property Address, Unit, and CBL:

68 Walton Street, Units 2-5
CBL: 138-D-006-001

Tenants/Interested Parties:

All units listed above

Type of Request:

Fair rate of return (6-234(b)(5)(d))

Base Rent, Current Rent, Proposed Rent, Number of Bedroom/Bathroom:

See attached spreadsheet

Summary of request:

At the time of original application submission, the Landlord had not yet taken over ownership of the property but did provide the Housing Safety office with proof of a Purchase and Sale agreement, with an addendum of extended closing date.

The Landlord is requesting a rent increase for a fair rate of return and has provided a Cash Flow Analysis spreadsheet along with comparable units within the vicinity that also reflect similar square footage to each of the units listed above.

The Landlord has since closed on the property from the original submission date and has registered with our office. When he initially applied for the January 26th meeting, he was applying for a rent increase for all 5 units (Units 1-5), he has since sent a revised sheet to indicate that he only wants to apply for 4 of the units (Units 2-5)

68 WALTON STREET					
Unit #	**Base Rent**	**Current Rent**	**Proposed Rent**	**Number of Bedrooms**	**Number of Bathrooms**
2	$1,300.00	$1,300.00	$1,400.00	1	1
3	$900.00	$900.00	$1,150.00	1	1
4	$800.00	$800.00	$1,100.00	1	1
5	$1,800.00	$1,800.00	$1,950.00	3	1

CITY OF PORTLAND
LANDLORD APPLICATION FOR RENT INCREASE SUMMARY

Date of Hearing:
Wednesday, February 23, 2022

Landlord Name and Address:
Daniel M Vallee
304 Brookline St
Needham, MA 02492

Owner Name and Address:
Same as above

Property Address, Unit, and CBL:
89 Irving St, Unit 1 & 2
137-J-002-001

Tenants/Interested Parties:
Both units listed above

Type of Request:
Increased housing service costs (6-234(b)(5)(c))

Base Rent, Current rent, Proposed Rent, and Number of Bedroom/Bathroom:
See attached

Summary of request:
The Landlord has submitted documentation to support his request listed above. His total in the base year (FY2021) was $5,841, while his total in the comparison year (FY2022) was $9,416. The difference in costs is $3,575.

Receipts include: $582 base year furnace cleaning every 2 years and two receipts to reflect a monthly charge to replace 2 boilers at the property under comparison year

89 IRVING ST					
Unit #	Base Rent	Current Rent	Proposed Rent	Number of Bedrooms	Number of Bathrooms
1	$1,100.00	$1,100.00	$1,210.00	1	1
2	$1,800.00	$1,800.00	$1,980.00	4	2