RENT BOARD
April 27, 2022
5:00 PM

ZOOM INFORMATION:

Please click the link below to join the webinar:
https://portlandmaine-gov.zoom.us/j/82339838139?pwd=OHdNWGZmRmJlREQ4VlJKMUh0MjVtUT09
Passcode: 767680
Or One tap mobile :
US: +13017158592,,82339838139#,,,,*767680# or +13126266799,,82339838139#,,,,*767680#
Or Telephone:
Dial(for higher quality, dial a number based on your current location):
US: +1 301 715 8592 or +1 312 626 6799 or +1 929 205 6099 or +1 253 215 8782 or +1 346 248 7799 or +1 669 900 6833
Webinar ID: 823 3983 8139
Passcode: 767680
International numbers available: https://portlandmaine-gov.zoom.us/u/kbYtvwgkR

ROLL CALL:

APPROVAL OF MINUTES

April 20, 2022 Minutes

COMMUNICATIONS:

Please note: Written public comments can be submitted two business days prior to the next scheduled Rent Board Meeting. These can be

emailed to rentboard@portlandmaine.gov.. Please reference Public Comment in the subject line.

Written Public Comment

UNFINISHED BUSINESS:

Rent Increase Application - Public Comment
Landlord: Victoria Poole
Property Address: 90 Westminster Ave
CBL: 181-B-007-001
Type of Increase: Fair Rate of Return

Rent Increase Application - Public Comment
Landlord: Sherman Street Properties LLC
Property Address: 123 Sherman St, Units 01 through 13
CBL: 048-C-020-001
Type of Increase: Increased Housing Service Costs

Board to propose and vote on methodology for a Fair Rate of Return - Public Comment

NEW BUSINESS

Nomination and Appointment for the Chair and Vice Chair positions

Rent Increase Application - Public Comment
Landlord: Carol L Kelly
Property Address: 9 Briggs St, Unit 1
CBL: 057-J-019-001
Type of Increase: Fair Rate of Return

Rent Increase Application - Public Comment
Landlord: Louis A Christen
Property Address: 164 Pearl Street, Condo C
CBL: 026-L-004-00C
Type of Increase: Capital Improvement Costs, Increased Housing Service Costs, and Fair Rate of Return

ADJOURN

Minutes

Remote Rent Board Meeting - Held Via Zoom
Wednesday, April 20, 2022

Start time: 5:02pm

II. Roll Call - 00:00:38

Austin Sims, Homeowner, District 5 - Chair
Barbara Vestal, Landlord, At-Large - Vice Chair
Amir Familmohammadi, 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:

Kari Twaite, Corporation Counsel
Katlyn Sawyer, Licensing & Registration Coordinator
Zachary Lenhert Licensing & Housing Safety Manager

III. Minutes - 00:02:00

The Vice Chair makes a motion to accept the minutes as written, seconded by Elliott Simpson.
Vote: 7-0

IV. Communications - 00:03:13

A. Memo from Housing Safety Office

There was discussion amongst the Board and the Housing Safety Office (HSO) regarding some changes that can be made to the applications to better assist Landlords who may be submitting a rent increase application and the HSO in producing a better-suited packet for the Board.

V. Executive Session - 00:10:56

The Board will go into Executive Session pursuant to 1 M.R.S. 405(6)(E) to consult with its attorney regarding its legal rights and duties with respect to the Board's general approach to procedural requirements for Rent Board meetings, submission requirements for applications, and methodology for calculating permissible rent increases.

The Chair read the above stated paragraph, followed by the Vice Chair making it a motion, which was then seconded by Elias Kann. Vote: 7-0

The Board entered Executive Session at 00:12:36.

The Board returned from Executive Session at 01:48:48

VI. Unfinished Business - 01:49:25

There are no agenda items for this section.

VI. New Business - 01:49:30

A. This is a special meeting (workshop) - to further discuss methodologies for a Fair Rate of Return

The Chair requested that the Housing Safety Office (HSO) add Public Comment to the discussion of a Fair Rate of Return before proposals and decisions are made at the next meeting.

Amir Familmohammadi suggested the Board use the Maintenance of Net Operating Income (MNOI) Standards formula to make it fair for all similarly situated Landlords.

The Chair requested that Amir send a copy of the MNOI table that has been referenced and discussed during this meeting to the Housing Safety Office so that it can be entered into the public record on the next Rent Board's meeting agenda.

Kari Twaite, Corporation Counsel, has summarized Amir's explanation of the benefits if the Board uses the MNOI formula -

This formula allows the Board to calculate the increases in operating costs because it allows the Board to define the inputs and to organize each as similarly situated People who have the same costs of sewer, water, per kilowatt hour, etc. - these have seen an increase in their operating costs which would be allotted as their fair rate of return

After much discussion amongst Board members, there has come a realization that there are two different types of requests for a Fair Rate of Return.

Zack Lenhert, from the Housing Safety Office, wanted to clarify with the Board what additional documentation is needed for a rent increase application from the last meeting that was tabled for next week's regularly scheduled Rent Board meeting.

> The Landlord needs to submit additional comparable rents to support her increase request for a Fair Rate of Return

The Chair wanted to remind individuals that the terms for Chair and Vice Chair are up for nominations and votes at the next meeting.

03:27:24 - The Chair makes a motion to adjourn the meeting, seconded by the Vice Chair. Vote: 7-0

VII. Adjourn -

Meeting end time: 8:31pm

Written Public Comment #1

portland City of

City Rental Board Meeting

Brian Ahern <bahern29@gmail.com>
To: rentboard@portlandmaine.gov
Cc: Micho Pilotte <micho.pilotte@gmail.com>

Mon, Apr 25, 2022 at 6:15 PM

To Whom It May Concern,

My name is Brian Ahern. My wife, Micho, and I have been living at 164 Pearl Street Unit C for almost 4 years. We moved into the unit in August of 2018 when I started dental school at The University of New England. Lou Christen rented the unit to us at $1495/month and never increased the rent for the entirety of our occupency. In our time living at 164 Pearl we got married and had a baby girl, but our time in Portland is coming to an end as I will be graduating from my program. We are moving to New Hampshire for work and to continue building our family. We know the future is bright, but Portland and this apartment will always hold such a special place in our hearts. Lou helped make our lives easier during our years here by never raising our rent and attending to any issues with the unit in a timely manner. Micho and I both lived in Boston for 6 years before moving to Portland, and Lou is by far the best landlord that either of us have ever had.

I hope this email can help speak to Lou's character and professionalism as a landlord. Please feel free to reach out with any questions you may have as we may not be able to attend the meeting on 4/27.

Thank you,
Brian Ahern

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Brian Ahern
164 Pearl Street
Portland, ME 04101
(603) 370-0230
bahern29@gmail.com

Written Public Comment #2

City of portland

Rent Board Public Comment for 4/27/2022 Meeting

Buddy Moore <cmmoore567@gmail.com> Mon, Apr 25, 2022 at 4:43 PM
To: Housing Safety <housingsafety@portlandmaine.gov>, rentboard@portlandmaine.gov
Cc: Zachary Lenhert <zlenhert@portlandmaine.gov>, caustinsims+rent@gmail.com

To be submitted as written public comment to the Portland Maine Rent Board meeting at 5:00 pm on Wednesday, April 27, 2022:

To Chairperson Sims and the Rent Board,

I'm writing today as a resident of Portland and as a follow up to my previous statements and communications on fair return made during my tenure on the Rent Board. Specifically, I want to respectfully urge my former colleagues and members of the Rent Board to consider and vote affirmatively for a fair return on *investment* standard, such as the Maintenance of Net Operating income Standard (MNOI) or other similar return on investment standards.

As I stated in an email to the Rent Board several weeks ago, a fair return on investment standard such as MNOI is most supported by case law and experts in the field, such as Dr. Kenneth Baar. It is the one most consistent with Portland's Rent Stabilization ordinance and has been successfully used for decades in other municipalities with similar laws. Additionally, the MNOI standard fits neatly within the standard laid out by the recent Maine Superior Court decision.

The Portland Rent Stabilization Ordinance, as implemented by the Rent Board and Housing Safety Office, currently allows for certain board-approved increases for things such as Capital Improvement costs, increased housing service costs, and uninsured repair costs. If a landlord has exhausted their ability to raise rents using one of the automatic or board-approved price escalators to which they are entitled, it is then most appropriate to compare NOI from year to year (inflation-adjusted) to determine if a landlord is entitled to a fair return on investment increase.

With that said, I strongly advise against implementing a fair return standard based on value, such as Capitalization Rate. Fair return on value standards do not work in the context of rent control as they tend to result in circular rent increases. Doing so would dilute the spirit of the ordinance and would run counter to the legal and economic mechanisms which enable rent stabilization laws to be implemented with the greatest degree of validity and efficacy.

The law already has automatic price escalators for CPI and taxes, and allows for board approved increases for things such as Capital Improvements. MNOI, or a fair return on *investment,* rather than *value*, is the most consistent with language of the ordinance which specifically allows for a "fair return on investment."

Thank you for hearing me out, and for your continued effort.

Sincerely,

Christopher "Buddy" Moore
95 Welch St
Peaks Island, Maine

Written Public Comment #3

Dear Rent Board,

I have a general comment and suggestion which might help make the Rent Board procedures slightly more transparent.

I notice in the agenda packets that there tend to be references to worksheets and additional documentation. For example, in this week's applications we see things like

"The Landlord has provided additional worksheets with backup documentation for each type of increase being requested."

and

"The Landlord has submitted the following documentation to support the rent increase request: -A financial worksheet that compares the operating budget with current rental rates to an operating budget with the proposed rent increase -A floor plan of the unit that includes square footage and layout -Rent information on three comparable units in the vicinity of the unit in question (from Trulia)"

However, the public has no access to those documents referenced. **I would request that any exhibits used in the support of an application be included in the agenda item so as to be accessible to the public.**

Of course, if there is sensitive information such as tenant names, contact information, or bank accounts those information should be redacted. Generally, however, the public should have access to the documents submitted with these applications.

I noticed that in the April 20 meeting, a memo brought up the idea of requiring applications from landlords be submitted three weeks prior to the meeting (as opposed to two). Perhaps this additional week can also be used as a time to redact and upload those application documents.

Thank you,
Matt Walker

Written Public Comment #4

Dear Rent Board,

For the application of 123 Sherman St, from David Bergeron representing Port Property, I am glad to see that the real estate tax was taken out of the application. As you know, the TRRA is an allowable increase which does not require the authorization of the rent board. I believe that the original request was an attempt to claim the TRRA twice, and trick the board into approving it. I am glad you caught that last month.

I want to further press that the board critically verify all the items on the increased housing service cost worksheet. I bet that most of the items are standard business expenses (cleaning, plowing, heat, etc), the cost of which are captured in the also allowable CPI increase. It seems to me that, just like they tried with the TRRA, Port Property is attempting to sneak in the CPI increases twice.

It was discussed last meeting, by Vice Chair Vestal, that nothing in the ordinance requires that the landlord choose to take the CPI increase instead of the increased housing service costs. However, they can not take both. Many of these units, at least units 3,4,6 and 8, have already seen at least a 10% increase in rent this year. It is quite probably that the rest of the units have also received lease adjustments which indicate rent increases based on CPI. Because they have already taken the CPI increases, I urge the board to reject the application on the ground that the increased service costs they are claiming today were already covered by the CPI increases they have already taken.

Furthermore, I have received information from current tenants of the property that the application includes a large list of background check fees. Please note that Port Property charges an application fee to cover the cost of this background check from prospective tenants. The charge to the prospective tenant is greater than the cost of the background check. Additionally, turnovers can be assessed a 5% rent increase which should definitely cover the cost of the background check. By trying to claim an increased housing cost based on background checks which are already paid for, Port Property is again trying to recover their cost twice. Obviously this should not be acceptable.

As you can see, **this application and the one preceding it have been attempts to increase rent multiple times for the same items**. They tried to collect TRRA twice, but you stopped them. Now they are trying to collect CPI twice, and increase the rent for items like background checks which are already covered with application fees. **Please reject this application on the grounds that the increases they seek <u>have already been recovered</u> through allowable channels which do not require rent board approval.**

As Mr. Bergeron mentioned last month, they plan to do this for all their properties. If you allow this you are opening the door for Port Property to come to you every month to try to trick you into approving similar increases that they can and have already taken.

Thank you,
Matt Walker

Written Public Comment
#5

Dear Rent Board,

In the application of 9 Briggs St, presented by Carol Kelly, I would like to ask a couple questions about the registration.

First, I want to point out that the rental registration for this property is currently "Void".
Here is the HSO record from the Portland CSS site (linked below).

License Number: 20181011

Carol L KELLY

License Details | Tab Elements | Main Menu

License Details

License Type: Long Term Housing Registration - Two Family
District: N/A
Applied Date: 01/31/2022

Account Number:
Issued By: Wilson, Alyssa
Period Start Date:

Status: Void
Expiration Date:

Description: Long Term Rental

Business Locations Fees Inspections Attachments Contacts Holds Classifications More Info

More Info | First Tab | License Details | Main Menu

More Info

Details

Top | Main Menu

Number of Rental Units 2

BL Supplimental Information

Unit Number	Base Rent	Previous Rent	Current Rent	Banked Rent	Current Security Deposit	Other Payments Collected	Number of Bedrooms	Number of Bathrooms	K I
1	1040	1060	1060		0	0	2	1	Y
2	1500	1500	1500		1500	0	2	1	Y

https://selfservice.portlandmaine.gov/EnerGov_Prod/SelfService#/businessLicense/6cb3233c-0769-4175-ac69-8af52368a88d?tab=moreinfo

My question is, how come the registration is void here? Is this place properly registered?

I also want to mention that, in the data sheet provided to me by HSO last year, Unit 1 was registered at a cost of $1040 for both June 2020 and January 2021. In the current record above, it says that the rent for January 2021 is $1060. I am curious if the rent in January 2021 was actually $1060 or $1040.

- If the Jan2021 rent was $1040, then **the current rent of $1166 (in the application) is greater than the 10% increase limit.**
- If the Jan2021 rent was $1060, then **there must have been an increase between June2020 and Jan2021. There was a rent freeze during this period, however.**

I ask the board and HSO to please verify the Jan2021 level and determine whether the increases since June 2020 were legitimate.

Thank you,
Matt Walker

CITY OF PORTLAND
LANDLORD APPLICATION FOR RENT INCREASE SUMMARY

Date of Hearing:
Wednesday, March 23, 2022 - Tabled to April 27, 2022

Landlord Name and Address:
Victoria Poole
64 Kingsmark Ln
Portland, ME 04102

Owner Name and Address:
Same as above

Property Address, Unit, and CBL:
90 Westminster Ave
CBL: 181-B-007-001

Tenants/Interested Parties:
Yes

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

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

Summary of request:
The Landlord has submitted the following backup documentation to support the request for a fair rate of return -
- -A floor plan showing the square footage and layout of the property
- -Rent information on comparable units in the vicinity of the unit in question
- -Financial information reflecting the operating expenses for 2021

The Landlord has submitted additional documentation of comparable units (within Portland) per guidance from the Rent Board at the April 20th Special Rent Board Meeting.

90 Westminster Ave					
Unit #	**Base Rent**	**Current Rent**	**Proposed Rent**	**Number of Bedrooms**	**Number of Bathrooms**
Single Family Home	$1,300.00	$1,350.00	$2,000.00	2	1

CITY OF PORTLAND
LANDLORD APPLICATION FOR RENT INCREASE SUMMARY

Date of Hearing:
Wednesday, March 23, 2022 - Tabled to April 27, 2022

Landlord Name and Address:
Sherman Street Properties LLC
82 Hanover St, Ste 5
Portland, ME 04101

Owner Name and Address:
Same as above

Landlord's Representative:
David Bergeron, Manager Rep
Port Property Management
82 Hanover St, Ste 5
Portland, ME 04101

Property Address, Unit, and CBL:
123 Sherman St, Units 01 through 13.
CBL: 048-C-020-001

Tenants/Interested Parties:
All 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 a revised application per the Board's request from the last meeting on March 23rd.

Based on what was submitted within the worksheet, the total change in costs from 2020 to 2021 was $4,049.04. Using the formula located at the bottom of the sheet, the proposed monthly rent increase would be $25.96 per month.

CITY OF PORTLAND
LANDLORD APPLICATION FOR RENT INCREASE SUMMARY

Backup documentation that was submitted includes:

- -a financial statement reflecting a comparison of operating expenses
- -a detailed table “line item legend” explaining the various expenses and how it aligns with the methods used on the allowance form
- -several hundred pages of invoices, receipts, and canceled checks

123 Sherman Street						
Unit #	**Exemption**	**Base Rent**	**Current Rent**	**Proposed Rent**	**Number of Bedrooms**	**Number of Bathrooms**
1		$1,600.00	$1,600.00	$1,625.96	2	1
2		$1,285.00	$1,285.00	$1,310.96	2	1
3		$1,500.00	$1,500.00	$1,525.96	2	1
4		$1,425.00	$1,425.00	$1,450.96	2	1
5		$1,250.00	$1,313.00	$1,338.96	2	1
6		$1,275.00	$1,275.00	$1,300.96	2	1
7		$1,500.00	$1,500.00	$1,525.96	2	1
8		$1,390.00	$1,390.00	$1,415.96	2	1
9		$1,575.00	$1,575.00	$1,600.96	2	1
10	Publicly rent-controlled or subsidized	$1,600.00	$920.00	$945.96	2	1
11		$1,400.00	$1,400.00	$1,425.96	2	1
12		$1,500.00	$1,500.00	$1,525.96	2	1
13		$1,285.00	$1,349.00	$1,374.96	2	1

CITY OF PORTLAND
LANDLORD APPLICATION FOR RENT INCREASE SUMMARY

Date of Hearing:
Wednesday, April 27, 2022

Landlord Name and Address:
Carol L Kelly
15 Briggs St
Portland, ME 04102

Owner Name and Address:
Same as above

Property Address, Unit, and CBL:
9 Briggs St, Unit 1
CBL: 057-J-019-001

Tenants/Interested Parties:
Vacant

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

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

Summary of request:
The Landlord has submitted the following documentation to support the rent increase request:
- -A financial worksheet that compares the operating budget with current rental rates to an operating budget with the proposed rent increase
- -A floor plan of the unit that includes square footage and layout
- -Rent information on three comparable units in the vicinity of the unit in question (from Trulia)

9 Briggs Street					
Unit #	**Base Rent**	**Current Rent**	**Proposed Rent**	**Number of Bedrooms**	**Number of Bathrooms**
1	$1,040.00	$1,166.00	$1,730.00	2	1

CITY OF PORTLAND
LANDLORD APPLICATION FOR RENT INCREASE SUMMARY

Date of Hearing:
Wednesday, April 27, 2022

Landlord Name and Address:
Louis A Christen
239 Cumberland Ave
Portland, ME 04101

Owner Name and Address:
Same as above

Property Address, Unit, and CBL:
164 Pearl St, Condo #C
026-L-004-00C

Tenants/Interested Parties:
Yes

Type of Request:
Capital improvement costs, including financing costs (6-234(b)(5)(a))
Increased housing service costs (6-234(b)(5)(c))
Fair rate of return (6-234(b)(5)(d))

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

Summary of request:
The Landlord has provided additional worksheets with backup documentation for each type of increase being requested.

Based on the Capital Improvement worksheet, the total comes to $32,805. Receipts were provided to reflect the main roof with soffit and facia work, a new roof on the bay window, brick work for new siding, and a new water heater for Condo C only.

For the Increased Housing Service Costs worksheet, the difference in cost between the most recent year (2022) and the prior year (2021) is $98.58. The backup documentation for this request includes the condo association's financial budget, tax bills, and a receipt for smoke detectors.

For the Fair Rate of Return request; the Landlord has provided copies of leases for current tenants dating back to 2018, an additional Housing Service Costs worksheet to show the changes from 2018 to current to reflect the increase in costs. Additionally, comparable units were provided as well as a layout that shows floor plans and square footage.

164 Pearl St, Condo C					
Unit #	**Base Rent**	**Current Rent**	**Proposed Rent**	**Number of Bedrooms**	**Number of Bathrooms**
C	$1,495.00	$1,495.00	$2,800.00	2	1