<u>Minutes</u>

Remote Rent Board Meeting - Held Via Zoom
Wednesday, April 27, 2022

Start time: 5:00pm

II. Roll Call - 00:01:32

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
Zachary Lenhert Licensing & Housing Safety Manager

III. Minutes - 00:01:54

The Chair suggested one minor correction to the last sentence under New Business; to add: "Austin Sims is removing his name from consideration"

The Chair makes a motion to adopt the minutes with the one addition, seconded by Elliott Simpson. Vote: 7-0

IV. Communications - 00:03:23

The Chair reminded attendees that there has been a rotation of Board members drafting decision forms, and that it is Elias Kann's turn for this meeting.

A. Written Public Comment

There were a total of 5 written public comments submitted for this meeting. The Chair gives a brief summary of each

1. From Brian Ahern who is attesting to the character and professionalism of Lou Christen, a Landlord who is requesting a rent increase for 164 Pearl St, Condo C. He supports the application in good faith

2. From a former Rent Board member, Buddy Moore, who urges the Board to adopt a fair return on investment standard in defining a Fair Rate of Return as required by the ordinance. He references prior guidance on these matters and supports why a fair return on investment is a fair approach to take.The Chair wishes to thank Buddy for his work on the Board and evidence in support of this approach

3. From Matt Walker for a request that the Board make public exhibits that are submitted for application considerations. The Chair advised new Board members and the public that the Board had previously decided to keep this information privileged for a number of reasons:
    -Board does not have dedicated staff
    -Board receives a significant amount of documentation in support of applications
    -Board cannot ensure that they would sufficiently redact those documents to secure the privacy of the individual presenting that information

   A compromise would be to present a summary which is presented in the public agenda packet. This decision can be revisited at any time.

4. From Matt Walker which pertains to the rent increase application from 123 Sherman Street which includes purported claims from current unit tenants.

5. From Matt Walk in reference to the application on 9 Briggs Street about which he raises a question about rent registration and current rent on record.

V. Unfinished Business - 00:07:33

A. 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

This application was tabled from the last regularly scheduled Rent Board meeting on March 23rd.

The Vice Chair suggested that the Landlord presents the additional submissions in support of the rent increase application. The Board will then resume with questions from members of the Board.

Board members addressed finding a better solution for information based on comparable units in relation to an application. The general consensus was to work with the Housing Safety Office to see what information could be provided to the Board to provide better details in correlation to geographical area, number of bedrooms and bath, rent amounts and average of.

01:10:56 - Elias Kann makes a motion that the Board accepts the application, capped at ten percent based on the fact that the Landlord is not receiving a fair rate of return on investment and a minimal non-arms length transaction. Seconded by Ian McCracken.

Elias made a motion to withdraw his motion pending discussion of what Barbara had asked when seeking clarification about the motion made. Seconded by Amir Familmohammadi. Vote: 7-0

01:34:33 - Vice Chair makes a motion to approve a $200 per month increase for fair rate of return, in addition to CPI, Tax Rate Rent Adjustment, and New Tenancy, all capped at ten percent per year. Seconded by Elias Kann. Vote: 7-0

B. Rent Increase Application - Public Comment - 01:40:21
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

The Board failed to have a consensus of four votes on this item, so it was tabled to the next meeting by agreement with the applicant.

The applicant was also asked to resubmit a revised application.

01:51:55 - Public comment was reopened only for discussion on the new materials submitted. Comment was only received from Matt Walker.

01:54:18 - Ian McCracken made a motion, which was seconded and amended by the Vice Chair, and then reaccepted by Ian. The Chair (Austin) put this on hold to allow for other Board members to talk.

02:03:45 - The Vice Chair reworded the proposed motion made from Ian McCracken. The motion was to grant an increase of $25.96 per month per unit for increased housing service costs above otherwise allowable increases subject to leases, notice requirements, and a ten percent per year cap on increases. Vote: 4-3 (The Chair, Amir, and Josef voted against).

C. Board to propose and vote on methodology for a Fair Rate of Return - Public Comment - 02:04:48

The Chair started off with opening public comment before discussion amongst Board members. Public comment was received from Matt Walker and David Bergeron.

Zachary Lenhert, from the Housing Safety Office, provided context as far as what the Board may deliberate on when it comes to Fair Rate of Return from questions asked by Landlords when submitting an application.

Situation one - someone was renting to a family member or someone at very below market rates or given a reduction rate due to the pandemic and were locked into the June 2020 rate

Situation two - potential buyers asking about the previous owner who didn't raise the rent in a long time and how to make the numbers work, if they proceeded with a purchase

The Chair wanted to keep in mind Corporation Counsel's advice and legal guidance received over the last year, in addition to the SMLA's case; it was suggested that "a landlord must properly demonstrate that his or her current rate of return is unreasonably low when compared to those who rent out same or similarly properties".

The court's decision does not indicate that this is how the Rent Board would consider these cases made by Landlords; because it does not specify that the above statement that the Board should be using to determine if they are getting a fair rate of return.

This leads him to believe that is the sole reason and justification how the Board would determine a fair rate of return.

02:17:06 - Amir Familmohammadi makes a motion to adopt MNOI for a fair rate of return in cases not impacted by historically low rent. Seconded by the Chair.

Amir makes a motion to amend the motion to adopt the MNOI for a fair rate of return without stipulation. Seconded by the Chair. The Board is voting on the amendment to the original motion. Vote: 4-3 (Elliott, Ian, and the Vice Chair voted against).

The Board will now vote on the amended motion on whether or not to adopt MNOI for addressing cases of fair rate of return, both in the case of historically low rent and not. Vote: 3-4 (Elliott, Elias, Ian, and the Vice Chair voted against). This did not pass.

A couple of Board members addressed why they had voted "no" on the amended motion; mainly that they do not wish for MNOI to be the sole method on determining a fair rate of return and to have flexibility when needed

03:11:28 - Elliott Simpson makes a motion to formally request access to the data that HSO has that can be utilized to compare registered rental units within the City and that it be provided to the Board in accordance with the data protection policies that the City wants to apply to that. Seconded by Amir Familmohammadi

Elliott recends his motion per Zachary's discussion about the excel spreadsheet with required rent control information included.

03:31:14 - The Vice Chair makes a motion that between now and the next meeting that two volunteers from the Board work with the HSO data to see what is available to help inform the calculation of disproportionately low base rent (Part 1). Part 2 is that the Board would accept MNOI as the default methodology for fair rate of returns calculations except in the event of disproportionately low base rent and that the Board would work toward a methodology that would look at comparables that may be developed by the Board or submitted by the applicant, while asking for submission of their NOI (net operating income). MNOI would be the framework, which will be refined as the Board goes along. Seconded by Josef Kojewski.

The Chair would like to make one small amendment to the motion, asking that the two volunteers be Elliott and Amir with the reason being that they represent very well differences of opinion on the Board and that there is a lot of merit in the two of them addressing the data togethers. Seconded by Elias Kann. Vote for the amendment: 7-0

Vote to accept Barbara's amended motion. Vote: 7-0

The Chair mentioned that any materials that result from this discovery should be submitted to HSO by the 18th of May, if at all possible. If not, please reach out to HSO and advise them that you need a little more time.

VI. New Business - 03:38:19

A. Nomination and Appointment for the Chair and Vice Chair positions

Barbara Vestal stated that she would be willing to continue as Vice Chair, but is not seeking to be Chair.

Elliott Simpson nominated himself for the Chair position, seconded by Elias Kann. With no other nominees for Chair, the Board voted: 7-0. Elliott Simpson will be the new Rent Board Chair.

Since there are no other nominees for Vice Chair, the Board voted: 7-0. Barbara Vestal will remain as Vice Chair.

B. Rent Increase Application - Public Comment - 03:43:11
Landlord: Carol L Kelly
Property Address: 9 Briggs St, Unit 1
CBL: 057-J-019-001
Type of Increase: Fair Rate of Return

There are no tenants as objectors since the unit is vacant.

No public comment was received.

03:58:47 - Elias Kann makes a motion to accept the application as written and reset the base rent due to extenuating circumstances on a non-arm's length transaction.

-Elliott Simpson asked for reference in the ordinance to where this is mentioned. Barbara referred Elliott to Sec 6-263(a).

-Seconded by Ian McCracken. Vote: 7-0

C. Rent Increase Application - Public Comment - 04:01:31
Landlord: Louis A Christen
Property Address: 164 Pearl St, Condo C

CBL: 026-L-004-00C
Type of Increase: Capital Improvement Costs, Increased Housing Service Costs, and Fair Rate of Return

No tenants spoke as objectors.

No public comment was received.

04:17:29 - The Chair makes a motion to accept the capital improvement costs amortized seven years, but limited to the ten percent. The increased housing service costs would be added in, which will be discussed shortly after. Seconded by Elias Kann.

The Chair is going to pull his motion entirely, seconded by Elliott Simpson.

The Board returned to the Landlord to seek further clarification on numbers presented.

04:31:27 - The Vice Chair makes a motion that the Board approves an increase of $95.58 per month, which was calculated based on $11,469.60, amortized over ten years and then divided by twelve as capital improvement costs. In addition to other allowable statutory increases subject to leases, notices, and the ten percent cap on increases per year. Seconded by Amir Familmohammadi. Vote: 7-0

04:36:06 - The Board returns to the decision forms for each rent increase application passed during tonight's meeting, in order.

90 Westminster Ave

A minor adjustment on wording was made to the form. Vote: 7-0

123 Sherman Street

No adjustments were made to the form. Vote: 7-0

9 Briggs Street

Some adjustments were made to the form. Vote: 7-0

164 Pearl Street, Condo C

Some adjustments were made to the form. Vote: 7-0

The Vice Chair made a motion to adjourn, seconded by Elias Kann. Vote: 7-0

VII. Adjourn -

Meeting end time:9:53pm