RENT BOARD

July 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
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US: +13126266799,,82339838139#,,,,*767680# or +16469313860,,82339838139#,,,,*767680#
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Dial(for higher quality, dial a number based on your current location):
US: +1 312 626 6799 or +1 646 931 3860 or +1 929 205 6099 or +1 301 715 8592 or +1 346 248 7799 or +1 669 444 9171 or +1 669 900 6833 or +1 253 215 8782
Webinar ID: 823 3983 8139
Passcode: 767680
International numbers available: https://portlandmaine-gov.zoom.us/u/kbYtvwgkR

ROLL CALL:

APPROVAL OF MINUTES

June 22, 2022 Minutes

COMMUNICATIONS:

Please note: Written public comment must be received via email (rentboard@portlandmaine.gov) by 12pm the day before the scheduled meeting. Please make sure that the subject line reads "Written Public Comment".

Written Public Comment

UNFINISHED BUSINESS:

Annual Report Update and Drafts Review

Rent Increase Application - Public Comment
Landlord: East Danforth LLC
Landlord's Representative: David Bergeron with Port Prop Mgmt
Property Address: 71 Danforth St, all 7 units
CBL: 040-A-019-001
Type of Increase: Capital Improvement Costs

Rent Increase Application - Public Comment
Landlord: Eastern Residential LLC
Landlord's Representative: David Bergeron w/ Port Prop. Mgmt
Property Address: 304 Eastern Prom, Units 16-1 to 16-B
CBL: 015-B-001-002
Type of Increase: Capital Improvement Costs

Rent Increase Application - Public Comment
Landlord: Shepley LLC
Landlord's Representative: David Bergeron w/ Port Prop. Mgmt
Property Address: 18 Casco St, all 62 units
CBL: 037-C-006-001
Type of Increase: Capital Improvement Costs

Rent Increase Application - Public Comment
Landlord: Ambassador LLC
Landlord's Representative: David Bergeron w/ Port Prop. Mgmt
Property Address: 37 Casco St, all 92 units
CBL: 037-D-007-001
Type of Increase: Capital Improvement Costs

NEW BUSINESS

ADJOURN

Minutes

Remote Rent Board Meeting - Held Via Zoom
Wednesday, June 22, 2022

Start time: 5:07pm

II. Roll Call - 00:00:42

Elliott Simpson, Tenant, District 3 - Chair
Barbara Vestal, Landlord, At-Large - Vice Chair
Amir Familmohammadi, Tenant, District 1
Vacant, District 2
Ian McCracken, Landlord, District 4
Vacant, District 5
Elias Kann, Tenant, At-Large

Staff present:

Kari Twaite, Corporation Counsel
Katlyn Sawyer, Licensing & Registration Coordinator

Before the Board discussed the next agenda item, the Chair made the public aware that two Board members had submitted resignation. Those two members were Austin Sims and Josef Kijewski.

III. Minutes - 00:01:07

The Vice Chair had one amendment to the minutes, located on page 3, under agenda item C for Fair Rate of Return Further Discussion; to change the wording in paragraph two from "While the information is now maintained…" to "While the information is not maintained…"

> The Vice Chair makes a motion to accept the minutes with the correction of the above mentioned typo. Seconded by the Chair. Vote: 5-0 (two vacancies within the Board).

IV. Communications - 00:03:52

A. Please note: Written public comment must be received via email (rentboard@portlandmaine.gov) by 12pm the day before the scheduled meeting. Please make sure that the subject line reads "Written Public Comment".

There were no submissions for this agenda item.

V. Unfinished Business - 00:04:05

A. Discussion of Updated Forms

00:12:26 - Elias Kann made a motion to accept the changes as they have been presented. Seconded by Amir Familmohammadi. Vote: 5-0 (two vacancies on the Board).

The Vice Chair did state that she did not have possession of the original word document for the Tenant Complaint form to make redlines on, however, she provided a separate page with where the redline edits would be.

B. Update on Annual Report to the City Council - 00:13:44

The Board had agreed that their deadline for Rent Board updates on the Annual Report would be July 10th.

VI. New Business - 00:20:46

A. Rent Increase Application - Public Comment
Landlord: Bryant & Hesseltine LLC - Willa Vennema
Property Address: 5 Bryant Street (Single Family Home)
CBL: 129-C-002-001
Type of Increase: Fair Rate of Return

There were no witnesses or tenants who spoke as objectors.

No public comment was received on this application.

01:02:30 - The Vice Chair makes a motion to approve the requested $300 per month Fair Rate of Return request, subject to the 10% per year increase. Seconded by Amir Familmohammadi.

01:16:36 - The Board returns to the original motion listed above. Vote: 3-2 (Ian McCracken and Elliott Simpson voted against the motion. There were also two vacancies on the Board). The motion did not pass.

01:33:18 - The Vice Chair makes a motion based on a finding of a disproportionately low rent and an expectation between the parties that the rent would increase $100 per month per year, approximately. That the Board approves the requested increase to set the base rent as of this date at $1,400 per month invoking Sec 6-263(a) to grant a rent increase greater than those otherwise allowed by the rent stabilization ordinance. But that the applicant would not be able to take the CPI or tax increase for a rent increase that occurs in 2022.

Seconded by Ian McCracken. Vote: 4-1 (Amir Familmohammadi voted against the motion, and there are two vacancies on the Board).

Ian McCracken is drafting the decision forms for this meeting. The Board will return to this form at the end of the meeting.

B. Rent Increase Application - Public Comment - 01:38:51
Landlord: Sesame Street Rentals - Katherine Freund
Property Address: 28 Crosby Street, Units 28 & 28A
CBL: 135-D-024-001
Type of Increase: Capital Improvement Costs

There were no witnesses.

A tenant, Chris Jones, did speak in regards to this application.

No public comment was received.

01:56:02 - Elias Kann makes a motion to accept the application as presented with the capital improvements amortized over 27.5 years subject to the 10% cap. The furnace expense of $8,682.88 for unit 28A came out to a rent increase of $26.31.

No second was received, the Board continues deliberations.

02:04:57 - Elias revises his original motion to accept the application as proposed with the capital improvements amortized over a period of 20 years. The furnace attributed only to unit 28a and the chimney liner being split between the two units equally. The rent increase would come out to $42.10 for unit 28a and $5.92 for unit 28.

Seconded by the Chair. Vote: 5-0 (Two vacancies on the Board).

02:08:25 - Ian drafted the decision forms for this meeting. Some edits were made to the form.

The Chair makes a motion to accept the decision form as written. Seconded by Amir. Vote: 5-0 (Two vacancies on the Board).

C. Rent Increase Application - Public Comment - 02:14:42
Landlord: Hilary Shorey
Property Address: 96 Florida Ave (Single Family Home)
CBL: 403-A-007-001
Type of Increase: Fair Rate of Return

There were no witnesses and no tenants spoke as objectors.

No public comment was received.

02:44:04 - The Board asks the applicant if she is okay with this application being reviewed as a Capital Improvement versus a Fair Rate of Return. She agreed to the change.

02:58:34 - Elias Kann makes a motion to approve the Landlord's application under Capital Improvements with the improvements amortized over 10 years pending submission of receipts

and a conditional approval of the fence repairs based on evidence that it's been completed and submission of the estimate.

No second was received, the Board continues deliberations.

03:10:45 - Elias Kann revises his original motion to grant a capital improvements increase for all improvements that have already been done, which comes out to $44.77 a month, with a conditional rent increase granted upon submission of both the estimate and proof that the work has been completed for the privacy fence. The second conditional increase will be $11.67 a month, for a total $56.44 a month.

Seconded by Amir. Vote: 3-2 (Ian and Elliott voted against the motion, and there are two vacancies on the Board). This motion did not pass.

03:18:54 - Ian McCracken makes a motion to accept the applicant's request for a rent increase under Fair Rate of Return to reset base rent using capital improvements made as justification using a 5-year depreciation schedule for 2020, 2021, and 2022 repairs pending submission of receipts. The rent increase would come out to $142.12 and is subject to the 10% a year cap, not including CPI and other allowable increases.

No second was received, the Board continues deliberations.

03:23:30 - Ian amends his motion to withdraw the mention of resetting the base rent to say: Increase based on Fair Rate of Return for a rent increase of $142.12, subject to the 10% cap.

Seconded by Elias. Vote: 4-1 (Amir voted against the motion, and there are two vacancies on the Board).

Ian is drafting the decision forms for this meeting. The Board will return to this form at the end of the meeting.

D. Rent Increase Application - Public Comment - 03:26:03
Landlord: Terrace Pond LLC
Landlord's Representative: Sean Duffy with Pizzo's Prop. Mgmt
Property Address: 723 Riverside Street, Unit 110
CBL: 324-A-002-001
Type of Increase: Fair Rate of Return

There are no witnesses or tenants who spoke as objectors, as the unit is currently vacant.

No public comment was received.

03:43:57 - Amir Familmohammadi makes a motion to deny the rental increase for this unit. Seconded by Elias. Vote: 5-0 (There are two vacancies on the Board).

03:45:33 - Ian drafted the decision forms for this meeting. Some edits were made to the form.

> Ian makes a motion to accept the decision form as written, seconded by the Vice Chair. Vote: 5-0 (Two vacancies on the Board).

E. Rent Increase Application - Public Comment - 03:50:50
Landlord: East Danforth LLC
Landlord's Representative: David Bergeron with Port Prop. Mgmt
Property Address: 71 Danforth Street, all 7 units
CBL: 040-A-019-001
Type of Increase: Capital Improvement Costs

There were no witnesses and no tenants spoke as objectors.

No public comment was received.

04:16:47 - Amir requests that the applicant supplies the Board with what the amounts would be following a standard amortization schedule.

> The Vice Chair also addressed a question regarding the last two applications (located on Casco Street) - that the capital improvements, the repayment is spread out over only the unsubsidized units, not all of the units. She would like an explanation to that method as well.

04:18:06 - The Chair confirms with the Board and applicant are okay with tabling all Mr. Bergeron's applications to the next meeting. The previously requested items discussed amongst members of the Board require additional details on.

> Mr. Bergeron agreed to tabling the applications to the next meeting.
>
> 04:21:21 - The Vice Chair makes a motion to move these applications to the next Rent Board meeting. Seconded by Amir. Vote: 5-0 (Two vacancies on the Board).

F. Rent Increase Application - Public Comment
Landlord: Eastern Residential LLC
Landlord's Representative: David Bergeron with Port Prop. Mgmt
Property Address: 304 Eastern Prom, Units 16-1 to 16-B
CBL: 015-B-001-002
Type of Increase: Capital Improvement Costs

This agenda item is tabled for next month's meeting.

G. Rent Increase Application - Public Comment
Landlord: Shepley LLC
Landlord's Representative: David Bergeron with Port Prop. Mgmt
Property Address: 18 Casco Street, all 62 units
CBL: 037-C-006-001
Type of Increase: Capital Improvement Costs

This agenda item is tabled for next month's meeting.

H. Rent Increase Application - Public Comment
Landlord: Ambassador LLC
Landlord's Representative: David Bergeron with Port. Prop. Mgmt
Property Address: 37 Casco Street, all 92 units
CBL: 037-D-007-001
Type of Increase: Capital Improvement Costs

This agenda item is tabled for next month's meeting.

04:22:11 - The Board returns to the remaining decision forms

5 Bryant Street

The Board makes some edits to the form.

The Chair makes a motion to accept the decision form as written. Seconded by the Vice Chair. Vote: 5-0 (Two vacancies on the Board).

96 Florida Ave

The Board makes some edits to the form.

Ian makes a motion to accept the decision form as written. Seconded by Elias. Vote: 5-0 (Two vacancies on the Board).

04:38:38 - Amir makes a motion to adjourn, seconded by Elias. Vote: 5-0 (Two vacancies on the Board).

VII. Adjourn

Meeting end time: 9:45pm

Written Public Comment

Bourcard Nesin <bourcard.nesin@gmail.com> Wed, Jul 20, 2022 at 2:43 PM
To: Rent Board <rentboard@portlandmaine.gov>

Hello,

I live in Portland and our landlord is selling the apartment/condo we are currently renting - despite promising us a lease renewal for months. They have offered us the opportunity to buy the apartment before it goes on the market.

Unfortunately, interest rates and massive housing costs inflation means our monthly expenses (mortgage + Taxes + insurance + condo fee etc.) would be more than $2000 ABOVE the current base rent of the condo we want to purchase (our base rent is currently *way below* market rates)

Here is a hypothetical: If our monthly mortgage expenses on the unit was $3,000 (with taxes, condo fee, maintenance etc. adding up to an additional $2000 per month.), but current base rent is $2,500. Essentially, if we are forced to rent our home, we'd have a net monthly loss of more than $2000 per month. These are fixed costs, and do not include maintenance or repairs. Actual loss would be far more than $2000.

We plan to continue living here after we buy, but should something happen (death, lose our job) we may have to rent the apartment to avoid foreclosure.

Under what provision should we seek to adjust our base rate rent to reflect our costs? If the alternative would be foreclosure or bankruptcy, would the board consider this under the "fair rate of return" from sec. 6-234.5? Should it be considered "financing costs" under capital improvements?

Is the base rent considered "reset" or "floating" or eliminated if the apartment is not rented for five years?

P.S. I grew up in Maine, went to college at the University of Maine, Orono and this would be my first home purchase. It is our primary dwelling and we do not own any other properties. We are stretching ourselves to buy a home we love... the security of being able to rent if something bad happens is really important. We support my wife's family, who are venezuelan refugees living abroad in Spain, and have major medical expenses that fundamentally change our risk appetite. Please hlep

Thanks!

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Bourcard Nesin
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The Portland Rent Board was established with the passage of a referendum in November 2020. The passage of this referendum required the creation of the "Rent Board." The City Council appointed the inaugural members in March 2021.

The board held its first meeting in April 2021 and began to draft forms for public use and the Rules of Procedure that would govern the board going forward. The board adopted the final Rules of Procedures in July 2021. These rules established the general operational processes of the board which include meeting frequency, order of business, deliberations, voting, and decisions. Additionally, the rules provide the for the conduct of public hearings, including the provision of the ordinance whereby the board holds a hearing arising from disputes between tenants and landlords.

The board approved forms for landlord and tenant applications in June 2021. These forms are the way that landlords, and tenants seek a hearing with the rent board for one of the reasons provided in the ordinance. There are a set of forms that enable landlords to request rent increases that are in excess of, or not part of the automatically allowable increases. There is also a form for tenant complaints and appeals of rent increases. The applicant completes the forms and submits them to the Housing Safety Office. If the necessary information has been provided a hearing is added to the agenda for the next scheduled meeting.

The forms currently approved by the Rent Board for public use are:

- Landlord Application for Rent Increase
- Increased Housing Service Cost Allowance Form
- Capital Improvement Cost Allowance Form
- Landlord Application Other Relief
- Tenant Complaint Form and Rent Increase Appeal Application

The board started accepting forms from landlords and tenants in July 2021. The board held its first hearing to discuss these applications at the July 2021 meeting.

Associate Corporation Counsel Torregrossa advised the Rent Board that the ordinance only empowers it to hear tenant complaints if the landlord concurs (except in the case of allegations of a breach of the warranty of habitability, none of which been filed to date). Accordingly, virtually all tenant complaints made under the Rent Control ordinance have been handled by the Housing Safety Office staff as administrative matters, without any Rent Board involvement. Only one tenant complaint, filed by multiple residents of the Trelawny Building, was heard by the Rent Board after the landlord stipulated that it agreed to have the matter heard by the Rent Board. (The landlord's appeal of the Rent Board decision is currently pending in Superior Court.).

The Rent Board has heard multiple requests by landlords for rent increases in excess of those which are automatically allowed by the ordinance. The automatically allowed increases, which do not need to come to the Rent Board, are tax rate rent adjustment, adjustment for the annual increase in the consumer price index as established by the Housing Safety Office (4.3% in 2021), new tenant 5% increase, and banked rent (allowable increases landlord did not previously apply by choice or because its application would have exceeded the 10% per year cap on rent increases).

DRAFT

Between July 1, 2021 and June 30, 2022, the Rent Board heard __ landlord applications for rent increases above those which were automatically allowed. The ordinance authorizes several types of increases which may be granted, but only after hearing and approval by the Rent Board. These applications, which are very fact-specific, have constituted almost all of the work of the Rent Board between July 1, 2021 and June 30, 2022. Landlord requests for rent increases have been heard by the Board on the grounds of: renovation, increased housing service costs, capital improvements costs, request for rent adjustment because the June 2020 base rent was disproportionately low so was not a reflection of fair market rent when the ordinance went into effect, and other requests to increase rent because the ordinance as applied is not allowing landlord a fair rate of return. Some applications are filed on multiple grounds.

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The Rent Board consists of seven seats, with one for each Council Ward, and two At-Large seats. The ordinance advises the City Council to appoint a Board with a balance of tenants and landlords, however, the composition of these members is not mandated by the ordinance.

Rent Board as of July 1, 2022				
District Seat	**Member Name**	**Tenant/Landlord**	**Appointed**	**Term**
District 1	Amir Familmohammadi	Tenant	3/21/2021	4/1/2022 – 3/31/2025
District 2	*Vacant*		*Vacant*	*Vacant*
District 3	Elliott Simpson (Chair)	Tenant	3/15/2021	4/1/2021 – 3/31/2024
District 4	Ian McCracken	Landlord	3/15/2021	4/1/2021 – 3/31/2023
District 5	*Vacant*		*Vacant*	*Vacant*
At-Large	Elias Kann	Tenant	3/15/2021	4/1/2021 – 3/31/2023
At-Large	Barbara Vestal (Vice Chair)	Landlord	3/15/2021	4/1/2021 – 3/31/2024

Table of Past and Present Rent Board Membership			
District 1			
Member Name	**Appointed**	**Term**	**Term End Reason**
Christopher Moore	3/15/2021	4/1/2021 – 3/31/2022	Term Completed
Amir Familmohammadi	3/21/2022	4/1/2022 – 3/31/2025	
District 2 *(Currently Vacant)*			
Member Name	**Appointed**	**Term**	**Term End Reason**
Michelle Dunham	3/15/2021	4/1/2021 – X/XX/XXX	Resigned
Josef Kijewski		12/6/2021 – 6/13/2022	Resigned
District 3			
Member Name	**Appointed**	**Term**	**Term End Reason**
Elliott Simpson	3/15/2021	4/1/2021 – 3/31/2024	
District 4			
Member Name	**Appointed**	**Term**	**Term End Reason**
Ian McCracken	3/15/2021	4/1/2021 – 3/31/2023	
District 5 *(Currently Vacant)*			
Member Name	**Appointed**	**Term**	**Term End Reason**
Austin Sims	3/15/2021	4/1/2021 – 6/1/2022	Resigned
At-Large			
Member Name	**Appointed**	**Term**	**Term End Reason**
Elias Kann	3/15/2021	4/1/2021 – 3/31/2023	
At-Large			
Member Name	**Appointed**	**Term**	**Term End Reason**
Barbara Vestal	3/15/2021	4/1/2021 – 3/31/2024	

Litigation Pertaining to Rent Control Ordinance, November 3, 2020 through June 30, 2022

Between passage of the Rent Stabilization Ordinance on November 3, 2020 and June 30, 2022, there have been four Complaints filed in State Court involving application or interpretation of the Ordinance. They are summarized below.

1. <u>SOUTHERN MAINE LANDLORD ASSOCIATION, et al. vs. THE CITY OF PORTLAND, MAINE</u>: Southern Maine Landlord Association, et al. filed suit against the City of Portland in Maine Superior Court, Civil Action, Docket No. CV-21-40. People First Portland, LLC and Foreside Tenants Union were allowed to joined as intervenors. Plaintiffs argued that the Rent Control Ordinance is unlawful on its face and asserted that the entire Ordinance must be struck down. Their primary arguments for striking the Ordinance were (1) that it violates due process (unlawful delegation, vagueness, and inadequate procedural protections); (2) that it is preempted by state and federal law; (3) that it is an unlawful exercise of the municipal citizen referendum; and (4) that it has unlawful retroactive effect.

Plaintiffs filed a Motion for Summary Judgment, asserting that its Complaint should be granted on the record (a Joint Stipulated Statement of Material Facts) because each element of its claim is established without dispute as to material fact within the summary judgment record. The Court (J. Mary Gay Kennedy, July 2, 2021) found Plaintiffs had failed to carry this "heavy burden" and denied Plaintiff's Motion, finding that:

- the Ordinance could not be held to be violative of due process on its face,
- that it could not agree that the entire Ordinance should be struck down on federal or state preemption grounds (even though it was not ruling on whether individual provisions within the ordinance might be preempted by state law),
- that Plaintiffs had failed to show that there was no genuine issue of material fact that would support a finding that the Ordinance was an improper use of municipal citizen referendum power, and
- even though Plaintiff alleged an unlawful retroactive effect, it failed to address that argument in the Motion for Summary Judgment so it would be "inappropriate for the court to enter judgment on such grounds."

This due process finding was made on the face of the Ordinance, and not with reference to any actual Rent Board decisions. The Court determined that the Ordinance language could, in theory, be interpreted and applied by the Rent Board in a way that did not constitute an unlawful delegation. The Court found that the "fair rate of return" standard could reasonably be interpreted to "import a reasonable person standard" into it (p. 11), thus the Ordinance should not be invalidated as written because Plaintiffs failed to show that the Ordinance "cannot be reasonably interpreted in a manner that comports with the constitution." (p. 14) Further, the Court found that as of the time the record was created, that "Plaintiffs cannot show the Ordinance is incapable of being applied in a constitutionally unbiased manner under the facts presented and summary judgment would therefore [be] inappropriate on such grounds." (p. 19) The procedural posture of the case was such that the Court was only looking at the language of the Ordinance and how it could, theoretically, be applied. Any uncertainty was construed in favor of Defendant.

The decision did not reach any questions concerning the constitutionality of the Ordinance as actually applied by the Rent Board in individual cases. The parties filed a Stipulation of Dismissal dated

November 3, 2021, with the agreement that this case cannot be refiled, but with the provision "the dismissal of this action shall not prohibit or bar any party to this action – jointly or individually – from bringing any as-applied challenge to the Ordinance or any decision made thereunder at any point in the future."

2. **ROGOVIN vs. DITMARS:** This Forcible Entry and Detainer (FED, a/k/a eviction) action was brought by Landlord/Owner Rogovin against Tenant Ditmars in Portland District Court, Docket No. SA-21-176. Landlord/Owner had served Tenant with a 45-day Notice to Quit, terminating her tenancy at will in 45 days, without tendering any additional payment to her as she alleged was required by Portland's Rent Control Ordinance. [The ordinance requires a payment an "inconvenience fee" of $1,000 if the notice terminating an at-will tenancy is given less than 59 days before termination, and a payment of $500 if the notice is given more than 60 but less than 90 days before termination.] Tenant also asserted the eviction was impermissible because it was retaliatory.

Landlord/Owner asserted that Tenant's apartment was not subject to the Ordinance on the grounds that it was a 2-unit dwelling, one of which was occupied by the "Landlord" as defined in the Ordinance, thus exempting the apartment from the Ordinance. The Court (J. E. Mary Kelly, July 22, 2021) found that the Owner's daughter lived in the second apartment, that she qualified as a "Landlord" as the term is defined in the Ordinance by virtue of being a building manager pursuant to a written property management agreement entered into between Mr. Rogovin and his daughter. The Court found that Tenant's unit was thus exempt from the Rent Control Ordinance as this was a rental unit within a building containing only 2, 3 or 4 dwelling units, "one of which the Landlord currently occupies as his or her principal residence." Since the apartment was not subject to the Rent Control Ordinance, the Landlord/Owner was not required to pay Tenant and "inconvenience fee" for terminating the tenancy at will on less than 90 days notice.

The Court also observed that even if the Court were to find that Landlord had an obligation to comply with the Rent Control Ordinance and did not, "it is not clear that such a failure to comply constitutes a defense to a FED action." It suggested that the failure to pay an "inconvenience fee" might be a civil infraction enforceable via an administrative proceeding rather than a tenant-defense that would preclude an eviction judgment. However, it did not reach that issue in this decision. It did find that that the evidence did not support a finding that this was a retaliatory eviction. A Writ of Possession issued against Defendant giving the Landlord the right to regain possession of the apartment in seven (7) days.

3. **TRELAWNY 657, LLC vs. RENT CONTROL BOARD, CITY OF PORTLAND, MAINE**: Plaintiff, Trelawny, LLC, of which Geoffrey I. Rice is the member and manager ("Trelawny") filed a Notice of Appeal in Superior Court dated March 24, 2022 pertaining to a Rent Board Order dated February 23, 2022. Among the issues addressed by the order whether the Downtown Improvement District assessment is a "tax" that may be allocated to tenants under the "tax rate rent adjustment", how different portions of the building should be considered for purposes of allocating the tax increase, and whether landlord notices to tenants complied with the Ordinance. The bases for the appeal are allegations of abuse of process, abuse of discretion, and that the Ordinance as applied is unconstitutionally vague.

On May 4, 2022, Plaintiff filed a motion to stay the proceedings. As of June 30, 2022 the matter was still pending.

4. **CITY OF PORTLAND vs. SCHOEN:** Plaintiff City of Portland filed suit in Portland District Court, Docket No. CD-VI 21-181, after the City Permitting and Inspections Department issued a summons on

November 15, 2021 for failure to register two rental units. Defendant owns and occupies a single-family home and rents out two bedrooms in his home. The rental units do not have their own dedicated entrances and their "food and sanitary facilities are those of the single-family home." Defendant has registered those rooms as rental properties, but did not include additional information in the registration paperwork that the City asserted was required by the Rent Control Ordinance. Defendant contended that his rooms were exempt from the Ordinance, refused to provide the additional detailed information, and was summonsed for failing to register the rental rooms.

The District Court (J. E. Mary Kelly, April 6, 2022) found that the rooms that Defendant provides for rental do not meet the definition of Dwelling Unit in the Rent Control Ordinance, and thus are not subject to the Rent Control Ordinance. The Court noted that even if it found that the rented bedrooms did constitute "Dwelling Units" for purposes of Rent Control, they would be within the exception for "a building containing only 2, 3 or 4 dwelling units, one of which the Landlord currently occupies as his or her principal residence." The Court therefore found that they are required to be registered as rental units but are exempt from the Rent Control Ordinance. Because the City rejected the Defendant's attempt to properly register his rental bedrooms, the summons was dismissed.

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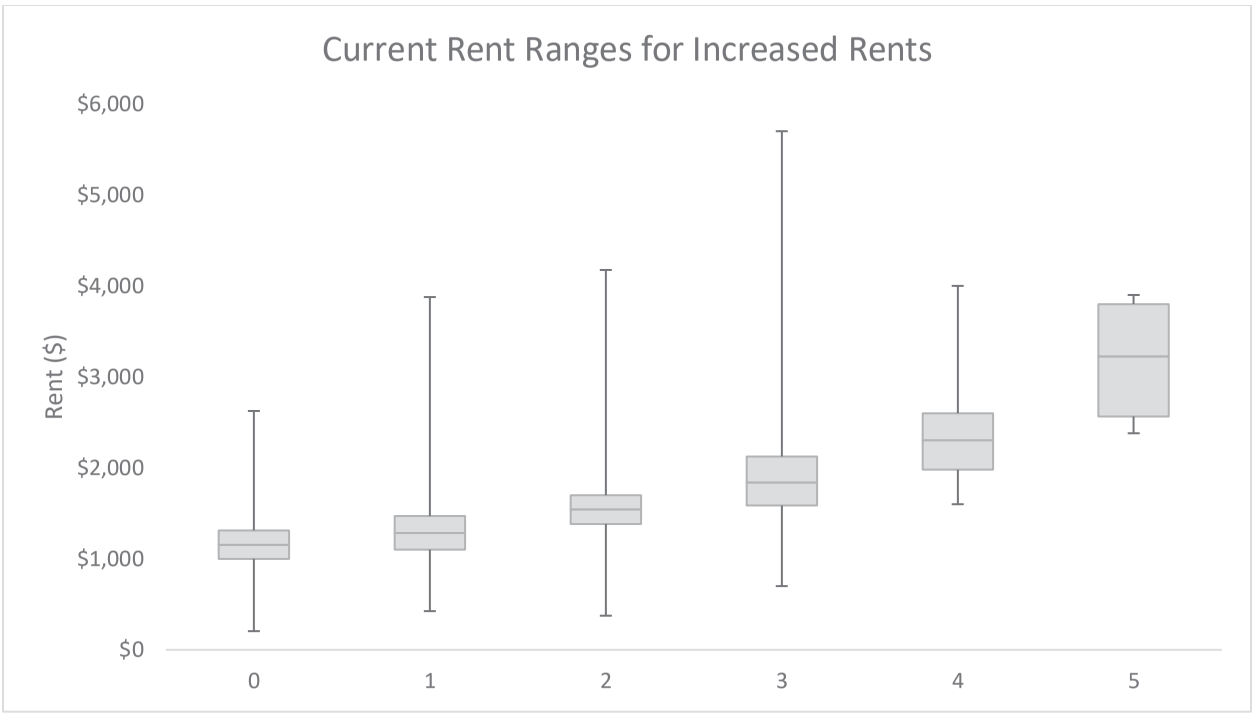
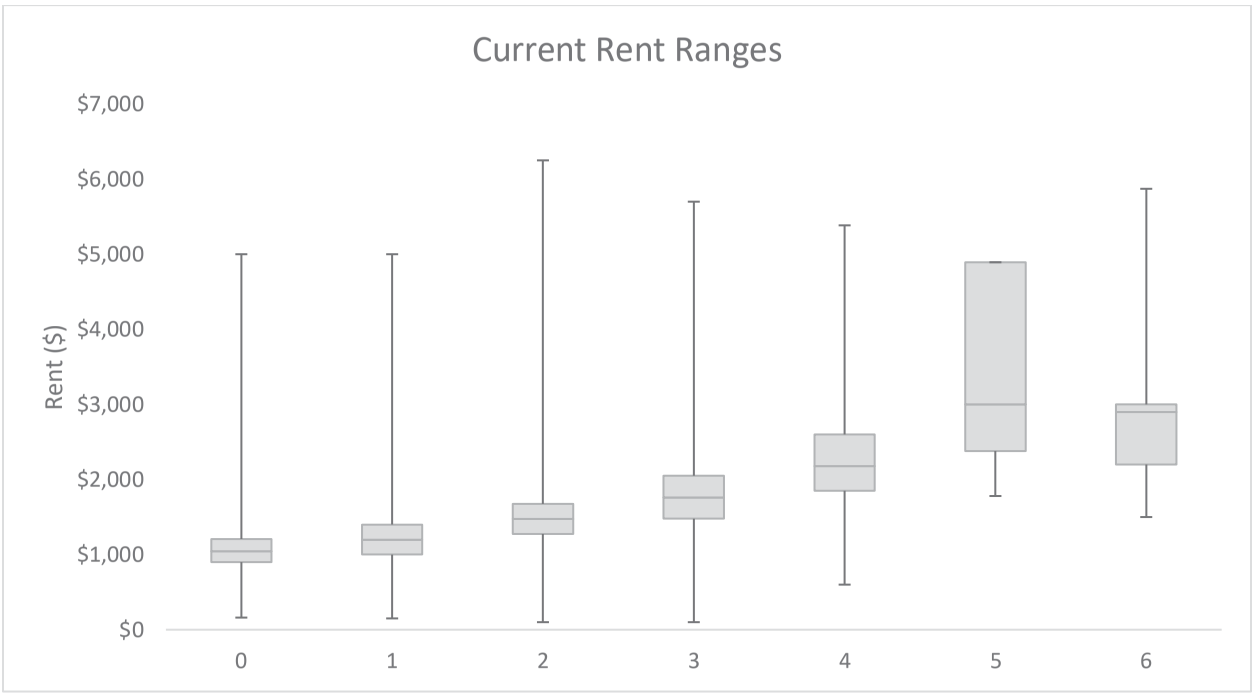
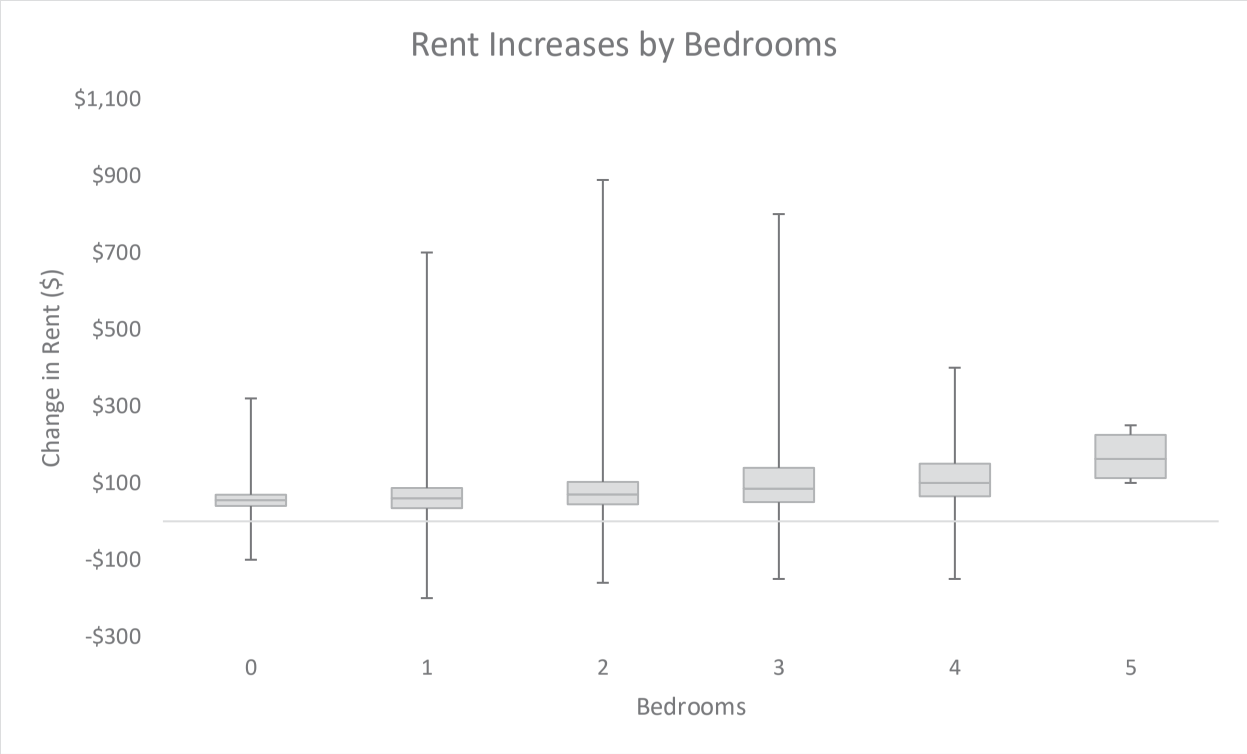
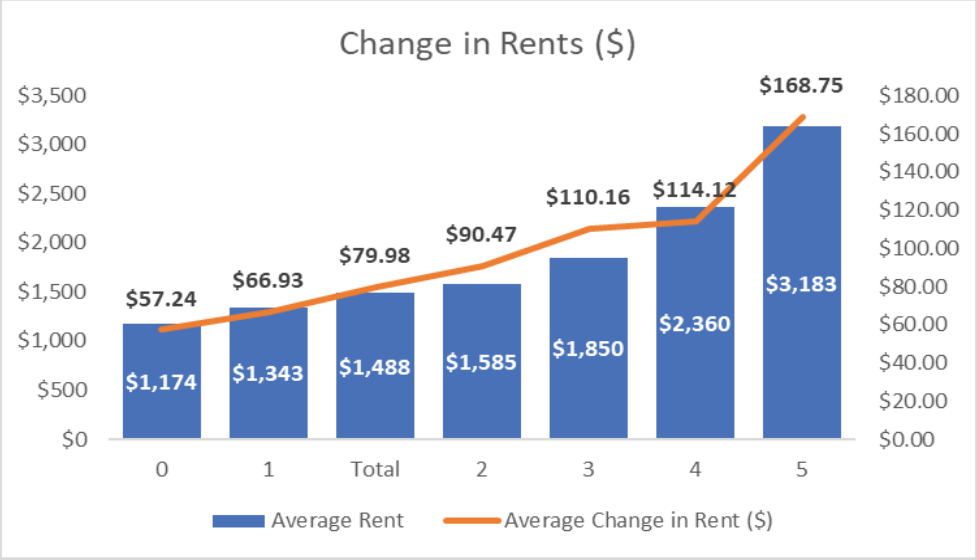
Outlier Data

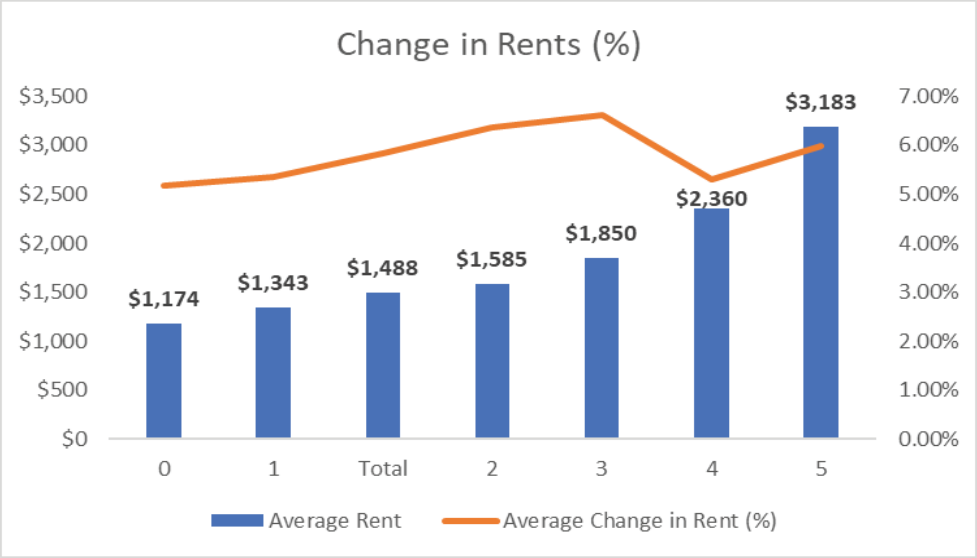
Bedrooms	Total Units	Average Rent	Average Change in Rent	Maximum	Minimum	Median
0	30	$1,134	29%	$2,800	$5	$1,100
1	523	$1,518	33%	$12,500	$1	$1,500
2	365	$1,960	25%	$18,000	$2	$1,700
3	159	$1,755	938%	$6,500	$11	$1,761
4	28	$59,598	6257%	$1,600,160	$500	$2,625
5	8	$1,389	-1%	$2,800	$761	$937
6	-	-	-	-	-	-
N/A	10	-	-	-	-	-
Total	1123	$3,146	376%	$1,600,160	$1	$1,600


Current Rent Ranges for Increased Rents
$6,000
$5,000
$4,000
$3,000
$2,000
$1,000
$0
Rent ($)
0
1
2
3
4
5


Current Rent Ranges
$7,000
$6,000
$5,000
$4,000
$3,000
$2,000
$1,000
$0
Rent ($)
0
1
2
3
4
5
6


Rent Increases by Bedrooms
$1,100
$900
$700
$500
$300
$100
-$100
-$300
Change in Rent ($)
0
1
2
3
4
5
Bedrooms


Change in Rents ($)
$3,500
$3,000
$2,500
$2,000
$1,500
$1,000
$500
$0
$180.00
$160.00
$140.00
$120.00
$100.00
$80.00
$60.00
$40.00
$20.00
$0.00
$57.24
$66.93
$79.98
$90.47
$110.16
$114.12
$168.75
$1,174
$1,343
$1,488
$1,585
$1,850
$2,360
$3,183
0
1
Total
2
3
4
5
Average Rent
Average Change in Rent ($)


Change in Rents (%)
$3,500
$3,000
$2,500
$2,000
$1,500
$1,000
$500
$0
7.00%
6.00%
5.00%
4.00%
3.00%
2.00%
1.00%
0.00%
$1,174
$1,343
$1,488
$1,585
$1,850
$2,360
$3,183
0
1
Total
2
3
4
5
Average Rent
Average Change in Rent (%)

CITY OF PORTLAND
LANDLORD APPLICATION FOR RENT INCREASE SUMMARY

Date of Hearing:
Wednesday, June 22, 2022 - Tabled to July 27, 2022

Landlord Name and Address:
East Danforth 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:
71 Danforth Street, all 7 units
CBL: 040-A-019-001

Tenants/Interested Parties:
Yes, all units

Type of Request:
Capital improvement costs, including financing costs (6-234(b)(5)(a))

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

Summary of request:
According to the worksheet for this type of rent increase, all seven units had the stairs replaced in early 2022 totalling $5,450.00 with receipts provided.

The Landlord also provided a two-page proposal analysis for this specific rent increase request.

71 Danforth Street						
Unit #	**Exemption**	**Base Rent**	**Current Rent**	**Proposed Rent**	**Number of Bedrooms**	**Number of Bathrooms**
711	None	$1,273.00	$1,400.00	$1,405.04	1	1
712	None	$1,800.00	$1,949.00	$1,956.02	3	1
713	None	$1,400.00	$1,400.00	$1,405.04	1	1
714	None	$1,050.00	$1,155.00	$1,159.16	1	1
731	None	$1,700.00	$1,870.00	$1,876.73	3	1
732	None	$1,700.00	$1,845.00	$1,851.64	3	1
733	None	$1,100.00	$1,155.00	$1,159.16	1	1

CITY OF PORTLAND
LANDLORD APPLICATION FOR RENT INCREASE SUMMARY

Date of Hearing:
Wednesday, June 22, 2022 - Tabled to July 27, 2022

Landlord Name and Address:
Eastern Residential Inc
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:
304 Eastern Prom, Units 16-1 to 16-B (16 Walnut St)
CBL: 015-B-001-002

Tenants/Interested Parties:
Yes, all units

Type of Request:
Capital improvement costs, including financing costs (6-234(b)(5)(a))

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

Summary of request:
The legal address for the CBL listed is 304 Eastern Prom which covers several properties, including the mailing address of 16 Walnut Street, a 9-unit building.

Per the allowance form and a letter to the Board that was submitted, the roof was replaced in late 2021. The cost of the roof was $18,625 which is backed with a receipt.

A proposal analysis was also submitted in regards to this specific rent increase request.

304 Eastern Prom (aka 16 Walnut Street)						
Unit #	**Exempt from Rent Control?**	**Base Rent**	**Current Rent**	**Proposed Rent**	**Number of Bedrooms**	**Number of Bathrooms**
1		$1,300.00	$1,430.00	$1,445.16	1	1
2		$1,475.00	$1,549.00	$1,565.42	1	1
3		$1,230.00	$1,353.00	$1,367.34	1	1
4		$1,230.00	$1,353.00	$1,367.34	1	1
5		$1,300.00	$1,502.00	$1,517.92	1	1
6		$1,135.00	$1,249.00	$1,262.24	1	1
7		$1,300.00	$1,430.00	$1,445.16	1	1
8		$1,285.00	$1,285.00	$1,298.62	1	1
B		$1,325.00	$1,458.00	$1,473.45	1	1

CITY OF PORTLAND
LANDLORD APPLICATION FOR RENT INCREASE SUMMARY

Date of Hearing:
Wednesday, June 22, 2022 - Tabled to July 27, 2022

Landlord Name and Address:
Shepley 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:
18 Casco Street, all 62 units
CBL: 037-C-006-001

Tenants/Interested Parties:
Yes, all units except Unit B

Type of Request:
Capital improvement costs, including financing costs (6-234(b)(5)(a))

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

Summary of request:
According to the worksheet and a letter addressed to the Board, the elevator was upgraded beginning in 2021, just recently finishing in early 2022. The total cost for the upgrade was $211,005.00, in which receipts have been provided.

A proposal analysis was also provided in regards to this specific rent increase request.

18 Casco Street

Unit #	Exempt from Rent Control?	Base Rent	Current Rent	Proposed Rent	Number of Bedrooms	Number of Bathrooms
1		$1,700.00	$1,799.00	$1,839.66	2	1
2		$900.00	$945.00	$966.36	0	1
3	Yes	$0.00	$317.00	$317.00	0	1
4		$900.00	$1,040.00	$1,063.50	0	1
5		$1,300.00	$1,382.00	$1,413.23	0	1
6		$1,100.00	$1,230.00	$1,257.80	0	1
21		$800.00	$860.00	$879.44	0	1
21A		$1,400.00	$1,540.00	$1,574.80	1	1
22		$1,210.00	$1,288.00	$1,317.11	1	1
22A		$1,500.00	$1,590.00	$1,625.93	1	1
23A		$900.00	$964.00	$985.79	0	1
24		$1,200.00	$1,277.00	$1,305.86	1	1
24A		$1,150.00	$1,260.00	$1,288.48	0	1
25A		$1,172.00	$1,248.00	$1,276.20	0	1
26		$1,100.00	$1,210.00	$1,237.35	0	1
26A		$1,250.00	$1,375.00	$1,406.08	0	1
30		$1,150.00	$1,265.00	$1,293.59	0	1
31A		$1,500.00	$1,590.00	$1,625.93	1	1
32		$825.00	$886.00	$906.02	0	1
32A		$1,290.00	$1,491.00	$1,524.70	1	1
33	Yes	$0.00	$0.00	$0.00	0	1
33A		$1,150.00	$1,208.00	$1,235.30	0	1
34		$1,300.00	$1,300.00	$1,329.38	1	1
34A		$1,025.00	$1,095.00	$1,119.75	0	1
35A		$1,150.00	$1,150.00	$1,175.99	0	1
36		$1,005.00	$1,074.00	$1,098.27	0	1
36A		$950.00	$1,016.00	$1,038.96	0	1
41		$1,100.00	$1,173.00	$1,199.51	0	1
41A		$1,250.00	$936.00	$957.15	1	1
42		$800.00	$860.00	$879.44	0	1
42A		$1,300.00	$1,382.00	$1,413.23	1	1
43		$1,000.00	$0.00	$0.00	0	1
43A		$975.00	$1,043.00	$1,066.57	0	1
44		$1,155.00	$1,230.00	$1,257.80	1	1
44A		$1,150.00	$1,208.00	$1,235.30	0	1
45A		$1,050.00	$1,121.00	$1,146.33	0	1
46		$900.00	$964.00	$985.79	0	1
46A		$1,225.00	$1,286.00	$1,315.06	0	1
51	Yes	$0.00	$1,150.00	$1,175.99	0	1
51A		$1,200.00	$1,230.00	$1,257.80	1	1
52		$825.00	$886.00	$906.02	0	1
52A	Yes	$0.00	$335.00	$335.00	1	1
53		$1,100.00	$0.00	$0.00	0	1
53A		$1,222.00	$1,300.00	$1,329.38	0	1
54		$1,085.00	$1,157.00	$1,183.15	1	1
54A		$1,000.00	$1,000.00	$1,022.60	0	1
55A		$1,125.00	$481.00	$481.00	0	1
56		$1,000.00	$1,050.00	$1,073.73	0	1

56A		$1,225.00	$1,303.00	$1,332.45	0	1
61		$1,150.00	$1,265.00	$1,293.59	0	1
61A	Yes	$0.00	$1,485.00	$1,518.56	1	1
62		$1,175.00	$1,293.00	$1,322.22	1	1
62A		$1,300.00	$1,382.00	$1,413.23	1	1
63A		$1,100.00	$1,230.00	$1,257.80	0	1
64		$1,278.00	$1,359.00	$1,389.71	1	1
64A		$1,025.00	$1,025.00	$1,048.17	0	1
65A		$1,125.00	$1,181.00	$1,207.69	0	1
66		$1,050.00	$1,121.00	$1,146.33	0	1
66A		$1,160.00	$1,236.00	$1,263.93	0	1
A		$1,139.00	$1,214.00	$1,241.44	1	1
B		$1,000.00	0 - VACANT	$0.00	1	1
C		$950.00	$1,016.00	$1,038.96	1	1

CITY OF PORTLAND
LANDLORD APPLICATION FOR RENT INCREASE SUMMARY

Date of Hearing:
Wednesday, June 22, 2022 - Tabled to July 27, 2022

Landlord Name and Address:
Ambassador 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:
37 Casco Street, all 92 units
CBL: 037-D-007-001

Tenants/Interested Parties:
Yes, all units except 103, 202, 211, and 404

Type of Request:
Capital improvement costs, including financing costs (6-234(b)(5)(a))

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

Summary of request:
According to the worksheet and a letter addressed to the Board, the elevator and fire panel system was upgraded beginning in late 2021, just recently finishing in early 2022. The total costs in upgrades was $195,983.00, in which receipts have been provided.

A proposal analysis was also provided in regards to this specific rent increase request.

37 Casco Street

Unit #	Exempt from Rent Control?	Base Rent	Current Rent	Proposed Rent	Number of Bedrooms	Number of Bathrooms
101		$875.00	$1,011.00	$1,027.18	0	1
102		$825.00	$906.00	$920.50	0	1
103		$1,100.00	$1,210.00	$1,210.00	0	1
104		$1,000.00	$1,089.00	$1,106.42	0	1
105		$930.00	$1,016.00	$1,032.26	0	1
106		$1,000.00	$1,089.00	$1,106.42	0	1
107		$895.00	$979.00	$994.66	0	1
108		$955.00	$1,003.00	$1,019.05	0	1
109		$1,125.00	$1,150.00	$1,168.40	0	1
110		$1,125.00	$1,150.00	$1,168.40	0	1
111		$1,125.00	$1,150.00	$1,168.40	0	1
112		$900.00	$945.00	$960.12	0	1
113		$1,050.00	$1,103.00	$1,120.65	0	1
114		$1,000.00	$1,089.00	$1,106.42	0	1
201		$955.00	$1,042.00	$1,058.67	0	1
202	Yes	$900.00	$990.00	$990.00	0	1
203		$1,100.00	$0.00	$0.00	0	1
204		$1,125.00	$1,150.00	$1,168.40	0	1
205	Yes	$1,000.00	$1,070.00	$1,087.12	0	1
206		$1,100.00	$1,155.00	$1,173.48	0	1
207		$1,050.00	$1,124.00	$1,141.98	0	1
208		$895.00	$979.00	$994.66	0	1
209		$1,000.00	$1,100.00	$1,117.60	0	1
210		$900.00	$984.00	$999.74	0	1
211	Yes	$1,100.00	$1,193.00	$1,212.09	0	1
212		$1,100.00	$1,193.00	$1,212.09	0	1
213		$1,100.00	$0.00	$0.00	0	1
214		$950.00	$950.00	$965.20	0	1
301		$950.00	$1,037.00	$1,053.59	0	1
302		$900.00	$0.00	$0.00	0	1
303		$980.00	$1,132.00	$1,150.11	0	1
304		$1,100.00	$1,155.00	$1,173.48	0	1
305		$900.00	$1,040.00	$1,056.64	0	1
306		$1,050.00	$1,103.00	$1,120.65	0	1
307		$975.00	$1,126.00	$1,144.02	0	1
308		$875.00	$958.00	$973.33	0	1
309		$1,100.00	$1,193.00	$1,212.09	0	1
310	Yes	$1,100.00	$0.00	$0.00	0	1
311		$900.00	$984.00	$999.74	0	1
312		$1,100.00	$0.00	$0.00	0	1
313		$1,125.00	$1,150.00	$1,168.40	0	1
314		$1,025.00	$1,115.00	$1,132.84	0	1
401		$1,125.00	$1,150.00	$1,168.40	0	1
402	Yes	$1,000.00	$0.00	$0.00	0	1
403		$1,050.00	$1,141.00	$1,159.26	0	1
404		$1,100.00	$1,193.00	$1,193.00	0	1
405		$1,050.00	$1,103.00	$1,120.65	0	1

406		$1,100.00	$1,155.00	$1,173.48	0	1
407		$1,000.00	$1,050.00	$1,066.80	0	1
408		$975.00	$0.00	$0.00	0	1
409		$900.00	$990.00	$1,005.84	0	1
410		$1,100.00	$1,155.00	$1,173.48	0	1
411		$900.00	$984.00	$999.74	0	1
412		$930.00	$1,016.00	$1,032.26	0	1
413		$905.00	$990.00	$1,005.84	0	1
414		$980.00	$980.00	$995.68	0	1
501		$930.00	$1,016.00	$1,032.26	0	1
502		$900.00	$984.00	$999.74	0	1
503		$1,000.00	$1,100.00	$1,117.60	0	1
504		$1,077.00	$0.00	$0.00	0	1
505		$930.00	$1,016.00	$1,032.26	0	1
506		$1,100.00	$1,164.00	$1,182.62	0	1
507		$950.00	$1,037.00	$1,053.59	0	1
508		$1,100.00	$1,155.00	$1,173.48	0	1
509		$1,125.00	$1,150.00	$1,168.40	0	1
510		$960.00	$1,097.00	$1,114.55	0	1
511		$900.00	$984.00	$999.74	0	1
512		$1,125.00	$1,150.00	$1,168.40	0	1
513		$1,100.00	$1,193.00	$1,212.09	0	1
514		$1,300.00	$1,374.00	$1,395.98	0	1
601		$1,150.00	$1,265.00	$1,285.24	0	1
602		$1,000.00	$1,050.00	$1,066.80	0	1
603	Yes	$955.00	$0.00	$0.00	0	1
604		$1,100.00	$1,193.00	$1,212.09	0	1
605		$930.00	$1,016.00	$1,032.26	0	1
606		$1,100.00	$0.00	$0.00	0	1
607		$1,100.00	$1,100.00	$1,117.60	0	1
608		$1,150.00	$1,208.00	$1,227.33	0	1
609		$1,100.00	$1,210.00	$1,229.36	0	1
610		$1,030.00	$1,120.00	$1,137.92	0	1
611		$1,125.00	$1,150.00	$1,168.40	0	1
612		$1,100.00	$1,193.00	$1,212.09	0	1
613		$1,125.00	$1,150.00	$1,168.40	0	1
614		$1,050.00	$1,141.00	$1,159.26	0	1
B		$1,150.00	$0.00	$0.00	0	1
B1		$1,100.00	$1,164.00	$1,182.62	0	1
B2		$1,050.00	$1,155.00	$1,173.48	0	1
B3		$950.00	$998.00	$1,013.97	0	1
B4		$1,000.00	$1,059.00	$1,075.94	0	1
B5		$900.00	$984.00	$999.74	0	1
B6		$950.00	$998.00	$1,013.97	0	1
B7		$1,023.00	$1,046.00	$1,062.74	0	1