

INTRODUCTION

- [1] On May 17, 2024, the Landlord filed three *Landlord Applications to Request Additional Rent Increases* (the “Applications”) with the Residential Tenancy Office (the “Rental Office”) to request additional rent increases above the annual allowable guideline established by the Director of Residential Tenancy.
- [2] The Applications seek total rent increases of 6.0%. The Applications contain the current rents, the proposed rents, and an effective date of September 1, 2024.
- [3] On August 15, 2024, a teleconference hearing was held before the Residential Tenancy Officer (the “Officer”). Two Landlord representatives (the “Representatives”) participated in the hearing. After the hearing the Landlord was permitted to submit a copy of a 2021 appraisal. The additional evidence was sent to the Tenants but no further submissions were received from the Tenants.

ISSUE

- i. Does the evidence support 6.0% rent increases for the Rental Units?

SUMMARY OF THE EVIDENCE**Landlord’s Evidence and Submissions**

- [4] The Landlord’s evidence is summarized as follows.
- [5] The Rental Units are a three-unit building which was purchased in 2013.
- [6] The Landlord submitted into evidence documents supporting the proposed rent increases, including copies of invoices, ledgers, and expense documents.
- [7] The Representatives stated that their expenses have increased, specifically insurance, property taxes, and mortgage. The Landlord just renewed the mortgage at a higher interest rate and the higher rate is not reflected in the Form 10. The rents are low compared to other similar properties in larger communities.
- [8] The Landlord has invested \$12,192.00 of capital expenditures back into the Rental Units.
- [9] The Representatives submitted that the value of investment in the property should be calculated using the purchase price plus capital expenses. The Representatives disagreed that the value of investment should be calculated by using the Landlord’s current equity in the property.

Tenant’s Evidence and Submissions

- [10] No evidence or submissions were received from the Tenants.

ANALYSIS**Does the evidence support 6.0% rent increases for the Rental Units?****Adjustments to the Statement**

- [11] The Officer's adjustments to the Statement are provided below and are reflected in Appendix "A" of this Order.

[1st Mortgage Interest]

- [12] The Landlord renewed the mortgage for the Rental Units in May 2024 and this renewal was not reflected in the Form 10. The Landlord submitted documentary evidence showing the higher interest expenses for the next two years. The Officer adjusts the proposed 1st mortgage interest expenses on Line 4.

[Value of the Investment in the Property]

- [13] In Order LR24-27 the Island Regulatory and Appeals Commission (the "Commission") made comment regarding calculating the value of investment in a rental property when a recent appraisal is available:

"41. The Landlords inherited the properties from an Estate. The Landlords provided evidence from a Realtor who assessed the property as having a fair market value of \$272,000. The Realtor's assessment was based on recent MLS statistics, accounting for current deficiencies of the property. The Assessment was done for the purposes of setting the value of the deemed disposition from the Estate of the Landlord Cheryl Taylor's brother (the "Estate"), which conveyed the property to the Landlords. The value was accepted by Canada Revenue Agency as the value and capital gains taxes were assessed to the Estate accordingly under the Income Tax Act (Canada). This means that going forward, for CRA purposes, the Taylors' adjusted cost base is \$272,000. As this value was accepted by Canada Revenue Agency for income tax purposes, the Commission accepts this assessment of the fair market value of the Rental Property.

42. With respect to the value of the Landlords' capital investment, the Commission adds to the fair market value (\$272,000) the total amount of capital expenditures made on the property in 2023 (\$17,593.82) to more accurately reflect the value of the Landlords' investment."

- [14] The Landlord provided a 2021 appraisal for the Rental Units in the amount of \$800,000.00. Based on current market conditions, the Officer notes that in 2024 the property would still be valued at \$800,000.00 or more. Therefore, the Officer will accept this appraisal to assist in calculating the value of investment in the property.
- [15] As of May 31, 2024, the Landlord had an outstanding mortgage of \$295,266.02. The Officer notes that a mortgage deduction normalizes the treatment of landlords with varying amounts of loaned funds for residential properties. The Officer finds that the Landlord's value of investment in the property to be **\$504,733.98** calculated as (\$800,000.00 - \$295,266.02).

Factors

- [16] In order to determine the proposed rent increases, the Officer must consider the following factors in subsection 50(3) of the *Act*:
1. The rent history for the affected Rental Units in the three years preceding the date of the Applications.
 2. A change in operating expenses and capital expenditures in the three years preceding the date of the Applications that the Director considers relevant and reasonable.
 3. The expectation of the Landlord to have a reasonable return on the Landlord's capital investment.
 4. The expectation of the Tenants that rent increases will remain within the annual guidelines.
- [17] Subsection 50(4) provides the Officer with discretion to consider any other relevant factor and any factor prescribed in the *Regulations*. The only other factor stated in the *Regulations* is that the purchase of a residential property should not require an increase of rent within the first year in order to achieve a reasonable return on the landlord's capital investment. This factor is not relevant in this case because the Landlord has owned the Rental Units since they were constructed in 2013.

Review and Weighing the Factors

- [18] The Landlord's rental income ledger shows that the last rent increases for the Rental Units occurred in 2022. The Landlord's operating costs and capital expenditures have increased since that time. None of the Tenants provided evidence or submissions opposing the increases. These factors generally support rent increases above the 3.0% guideline for 2024.
- [19] In Order LR24-27, the Commission stated as follows regarding reasonable return on investment:
- "In previous Orders, the Commission has considered reasonable return on investment rates and has found them to be, in recent years, in the range of 4% to 7%. The Commission has used 7% as an appropriate ROI where the Landlord is relying on a recent actual purchase price or on the tax assessed value. A lower rate of 4% has been used when the Landlord is using a blend of the tax assessed value and an appraisal done for the Landlord's benefit..."*
- [20] The Landlord's return on investment also supports an above guideline rent increase. The Landlord's calculated return on investment with the current rents and expenses is 2.5%. This return would drop to 2.2% with the Landlord's expenses and a rent increase of 6.0%, which is below the 4.0% - 7.0% rates noted by the Commission.

CONCLUSION

- [21] The Landlord's Applications for above guideline rent increases are allowed. The rents for the Rental Units are increased by the 6.0% guideline as provided below.
- [22] **This decision contains sensitive information and the parties are required to preserve its confidentiality pursuant to subsection 75(3) of the *Act*.**

IT IS THEREFORE ORDERED THAT

A. Effective October 1, 2024, the maximum allowable rent for the Rental Units are as follows:

Unit	6.0 % increase
9R	\$1,347.89
9S	\$1,347.89
9T	\$1,537.00

DATED at Charlottetown, Prince Edward Island, this 12th day of September, 2024.

(sgd.) Mitchell King
Mitchell King
Residential Tenancy Officer

APPENDIX "A"
Revised Statement of Income & Expenses (Form 10)

	<u>2023/2024</u>	<u>Proposed</u>	<u>Approved</u>
<u>Income</u>			
Rental Income at 100% (Line 1)	\$47,918.00	\$50,793.00	\$50,793.00
Vacancy Arrears/Losses (Line 2)	\$0.00	\$0.00	\$0.00
<u>Net Income before expenses</u> (Line 3)	\$47,918.00	\$50,793.00	\$50,793.00
<u>Expenses</u>			
1st Mortgage Interest (Line 4)	\$14,111.00	\$18,659.00	\$18,659.00
2nd Mortgage Interest (Line 5)	\$0.00	\$0.00	\$0.00
Fuel (Line 6)	\$0.00	\$0.00	\$0.00
Water & Sewer (Line 7)	\$1,848.00	\$1,848.00	\$1,848.00
Electricity (Line 8)	\$72.00	\$72.00	\$72.00
Insurance (Line 9)	\$2,799.00	\$2,799.00	\$2,799.00
Property Tax (Provincial) (Line 10)	\$3,785.00	\$3,785.00	\$3,785.00
Property Tax (Municipal) (Line 11)	\$2,289.00	\$2,289.00	\$2,289.00
Management Fee (Line 12)	\$2,396.00	\$2,548.00	\$2,548.00
Maintenance Fee (Line 13)	\$4,844.00	\$4,844.00	\$4,844.00
Capital Expenditures (Line 14)	\$1,947.00	\$1,947.00	\$1,947.00
Other (Line 15)	\$1,026.00	\$1,026.00	\$1,026.00
Total Operating Expenses (Line 16)	\$35,117.00	\$39,817.00	\$39,817.00
Net Profit or (Loss) (Line 17)	\$12,801.00	\$10,976.00	\$10,976.00
Value of Investment in Property	\$504,733.68	\$504,733.98	\$504,733.98
Operating Income (Line 17)	\$12,801.00	\$10,976.00	\$10,976.00
Return on Investment (ROI)	2.5%	2.2%	2.2%

NOTICE

Right to Appeal

This Order can be appealed to the Island Regulatory and Appeals Commission by serving a Notice of Appeal with the Commission and every party to this Order within **20 days of this Order**. If a document is sent electronically after 5:00 p.m., it is considered received the next day that is not a holiday. If a document is sent by mail, it is considered served on the third day after mailing.

Filing with the Court

If no appeal has been made within the noted timelines, this Order can be filed with the Supreme Court of Prince Edward Island and enforced as if it were an order of the Court.