

**INTRODUCTION**

[1] The Landlords request approval for 5.3% rent increases for the two Units.

**DISPOSITION**

[2] I find that the evidence does not support the Landlords' request for 5.3% rent increases for the two Units.

**BACKGROUND**

[3] The Units are two sides of a duplex (the "Residential Property"), which was purchased by the Landlords in 2020 for \$450,000.00.

[4] On September 17, 2024, the Landlords served each of the Tenants with a *Form 9 Landlord Application to Request Additional Rent Increase* (the "Applications") as well as a *Form 8 Tenant Notice of Annual Allowable Rent Increase*.

[5] On September 17, 2024, the Landlords filed the Applications with the Residential Tenancy Office (the "Rental Office").

[6] The Applications show the current rents, the proposed rents, the date of the last rent increases, and the proposed effective dates for the rent increases as follows:

Unit	Current Rent	Proposed Rent (5.3%)	Date of Last Rent Increase	Proposed Effective Date
40	\$1,890.00	\$1,990.00	December 27, 2023	December 27, 2024
42	\$1,890.00	\$1,990.00	January 1, 2024	January 1, 2025

[7] On September 24, 2024, the Rental Office mailed and emailed the parties notice of a teleconference hearing scheduled for October 31, 2024.

[8] On September 25, 2024, the Landlords re-served an Application to one of the Tenants, as the Landlords had originally sent it to an incorrect email address.

[9] On October 22, 2024, the Rental Office emailed an evidence package to the parties.

[10] On October 31, 2024, a teleconference hearing was held. A Landlord and two Tenants participated in the hearing. The parties confirmed they had received the evidence package and that all submitted documents were included.

**ISSUE**

A. Does the evidence support 5.3% rent increases for the Units?

**ANALYSIS****Adjustments to the Statement**

[11] The adjustments to the Statement are provided below and are reflected in Appendix "A".

**[Line 15 – Other]**

The Landlords did not add in the \$426.00 waste watch fee into their expenses. Line 15 is adjusted.

**[Value of the Investment in the Property]**

- [12] The Landlords' return on investment is based on the value of the Residential Property. In Order LR23-80 the Island Regulatory and Appeals Commission (the "Commission") referred to a landlord's "equity" in a property when calculating return on investment.
- [13] I have deducted the mortgage from the purchase price to calculate the value. This mortgage deduction is necessary to normalize the treatment of landlords with varying amounts of loaned funds for residential properties.
- [14] As of December 31, 2023, the documentary evidence establishes that the Landlords had an outstanding mortgage of \$238,446.16. I find that the Landlords' value of investment in the property to be **\$211,553.84** (\$450,000.00 - \$238,446.16).

**Reviewing the Factors**

- [15] In order to determine if the Applications are allowed, I must consider and weigh the following factors in subsection 50(3) of the *Residential Tenancy Act* (the "Act"):
- a. The rent history for the affected Units in the three years preceding the date of the Applications.
    - i. The Landlords provided the rent for the past three years. Rent for Unit 40 was last increased on December 27, 2023. However, I note that the allowable rent increase for 2023 was 0% and there is no evidence there was a Rental Office Order allowing the Landlord to increase the rent above the allowable amount for 2023.
    - ii. Rent for Unit 42 was last increased on January 1, 2024.
  - b. 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.
    - i. The Landlords submitted documents into evidence to assist in disclosing a change in the operating expenses over the past three years. In the disclosed three years, the operating expenses for the Units have changed. Some of the expenses have increased, such as the interest on the mortgage, insurance, and property taxes. No capital expenditures incurred for the Units.
  - c. The expectation of the Landlords to have a reasonable return on the Landlords' capital investment.
    - i. After making the adjustments to the Statement's income and expenses as shown in Appendix "A", the Landlords are currently making a return on investment of 8.2%. With the inclusion of the requested additional increases, the Landlords would be making a return on investment of 9.9%.
  - d. The expectation of the Tenants that rent increases will remain within the annual guidelines.
    - i. The Tenants who participated in the hearing were not opposed to the requested rent increases.

[16] Subsection 50(4) provides that I have the discretion to consider any other relevant factor and any factor prescribed in the *Residential Tenancy Regulations* (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 Landlords have owned the Units since 2020.

**Weighing the Factors**

[17] I find the totality of the factors do not weigh in the Landlords’ favour for approval of an additional rent increase for the Units. In coming to this conclusion, I note in particular:

- i. The Commission in Order LR24-27 commented as it relates to what a reasonable return on investment for a residential rental property is:

*“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...”*

- b. I find that the Landlords are currently making a reasonable return on their investment at 8.2%. With the requested additional rent increase, the Landlords’ return on investment would increase to 9.9%. This factor strongly weighs against the rent increases.

[18] I find that after considering and weighing all the factors and evidence, the factors weigh against the Landlords’ request. I conclude that the Landlords are not entitled to an additional rent increase. The Applications are denied.

[19] As noted above, the allowable rent increase for 2023 was 0% and the earliest date the Landlord could have increased the rent after December 27, 2023, was January 1, 2024. Therefore, I find that the rent for Unit 40 cannot be increased until after 12 months from January 1, 2024, would be January 1, 2025.

[20] The Landlords may increase the rent for the Units by the annual allowable set for 2025, in the amount of 2.3%, effective January 1, 2025.

[21] **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**

- 1. The maximum allowable rents for the Units are as follows:

Units	Rent	Effective Date
40 and 42	\$1,933.47	January 1, 2025

**DATED** at Charlottetown, Prince Edward Island, this 15th day of November, 2024.

\_\_\_\_\_  
 (sgd.) Mitchell King  
 Mitchell King  
 Residential Tenancy Officer

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

	<u>2023</u>	<u>Proposal</u>	<u>Allowed</u>
<b><u>Income</u></b>			
Rental Income at 100% (Line 1)	\$44,064.00	\$47,760.00	\$46,403.28
Vacancy Arrears/Losses (Line 2)	\$0.00	\$0.00	\$0.00
<b><u>Net Income before expenses (Line 3)</u></b>	<b>\$44,064.00</b>	<b>\$47,760.00</b>	<b>\$46,403.28</b>
<b><u>Expenses</u></b>			
1st Mortgage Interest (Line 4)	\$13,650.32	\$13,650.32	\$13,650.32
2nd Mortgage Interest (Line 5)	\$0.00	\$0.00	\$0.00
Fuel (Line 6)	\$0.00	\$0.00	\$0.00
Water & Sewer (Line 7)	\$0.00	\$0.00	\$0.00
Electricity (Line 8)	\$0.00	\$0.00	\$0.00
Insurance (Line 9)	\$2,207.00	\$2,207.00	\$2,207.00
Property Tax (Provincial) (Line 10)	\$5,153.00	\$5,153.00	\$5,153.00
Property Tax (Municipal) (Line 11)	\$3,452.51	\$3,452.51	\$3,452.51
Management Fee (Line 12)	\$0.00	\$0.00	\$0.00
Maintenance Fee (Line 13)	\$372.60	\$372.60	\$372.60
Capital Expenditures (Line 14)	\$0.00	\$0.00	\$0.00
Other (Line 15)	\$1,926.00	\$1,926.00	\$1,926.00
<b><u>Total Operating Expenses (Line 16)</u></b>	<b>\$26,761.43</b>	<b>\$26,761.43</b>	<b>\$26,761.43</b>
<b>Net Profit or (Loss) (Line 17)</b>	<b>\$17,302.57</b>	<b>\$20,998.57</b>	<b>\$19,641.85</b>
<b>Value of Investment in Property</b>	<b>\$211,553.84</b>	<b>\$211,553.84</b>	<b>\$211,553.84</b>
<b>Operating Income (Line 17)</b>	<b>\$17,302.57</b>	<b>\$20,998.57</b>	<b>\$19,641.85</b>
<b>Return on Investment (ROI)</b>	<b>8.2%</b>	<b>9.9%</b>	<b>9.3%</b>

**NOTICE**

**Right to Appeal**

This Order can be appealed to the Island Regulatory and Appeals Commission (the "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.