

INTRODUCTION

- [1] The Landlord applied for approval of two 5.3% rent increases, being an additional 3% increase above the 2025 annual allowable guideline.
- [2] At the hearing, the Landlord requested further additional rent increases be phased in to achieve a reasonable return on investment.

DISPOSITION

- [3] I find that the evidence supports a 5.3% rent increase.
- [4] I find that it would be procedurally unfair to approve phased in rent increases as that was not requested in the Applications.

BACKGROUND

- [5] On September 27, 2024 the Landlord filed a *Form 9 Landlord Applications to Request Additional Rent Increase* (the "Applications") with the Residential Tenancy Office (the "Rental Office").
- [6] The Applications shows the current rents, proposed rents, the date of the last rent increases and the proposed effective date for the rent increases as follows:

Details	Unit 18 Amount	Unit 20 Amount
Current Rents	\$1,405.00	\$1,405.00
Proposed Rents (5.3%)	\$1,479.00	\$1,479.00
Date of Last Increases – January 1, 2024	3.0% increase	3.0% increase
Effective Date of Proposed Increases	January 1, 2025	January 1, 2025

- [7] On September 27, 2024 the Landlord hand-delivered the Application and the *Form 8 Tenant Notices of Annual Allowable Rent Increase* (the "Notices") to the Tenants.
- [8] On October 29, 2024 the Rental Office mailed the parties notice of a teleconference hearing, scheduled for November 21, 2024.
- [9] On November 13, 2024 the Rental Office emailed the parties an evidence package. Included in the evidence package was a *Form 10 Landlord Statement of Income and Expenses* (the "Statement").
- [10] On November 21, 2024 the Landlord participated in the teleconference hearing. The Tenants did not participate in the hearing and the hearing proceeded in the Tenants' absence.

ISSUE

- i. Does the evidence support 5.3% rent increase for the Units?
- ii. Should further additional rent increases be phased in to achieve a reasonable return on investment?

ANALYSIS**Adjustments to the Statement**

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

Interest Payments on First Mortgage

- [12] The Statement listed the annual expense for interest payments on the first mortgage for Year 1 (2024) at \$7,356.25.
- [13] The Landlord stated that the purchase price for the Units in 2019 was \$415,000.00. The Landlord stated that in 2021, he refinanced the Units and received \$386,400.00, which was 80% of the Units' appraised value. The Landlord stated that the 2021 refinance funds were used to pay off unsecured debt. The refinanced funds were not used towards the Unit. I find that the interest deduction is not permitted because the refinanced funds were not used for the upkeep, operation or improvement of the Unit. Therefore, I reduce this line item to \$0.00.

Value of Investment in the Property

- [14] The Statement listed the value of the investment in the property as \$483,000.00. The Landlord stated that this is the value put on the Units by the bank in 2021 refinancing appraisal plus the capital expenditures. The Landlord stated that he did not include the outstanding mortgage for the Units on the Statement because it does not request that information. The Landlord stated that the outstanding mortgage for the Units is \$340,106.68.
- [15] When determining the Landlord's return on capital investment, the Island Regulatory and Appeals Commission (the "Commission") in Order LR24-27 stated:
- "In previous orders of the Commission respecting additional rent increases under the former Rental of Residential Property Act, we used a guideline for a reasonable return on investment of between 4% and 7%, depending on the circumstances."*
- [16] The circumstances were generally that the Commission would consider a recent purchase price, the tax assessed value or an averaging of the tax assessed with a third-party appraisal.
- [17] The Landlord did not include a copy of the bank appraisal into evidence.
- [18] The purchase price was \$415,000.00. However, the 2024 tax assessed value is \$451,700.00. In this case, I find that relying solely on the 2024 tax assessed value and not deducting the outstanding refinanced funds to be the most appropriate method of calculating the value of the Unit. Therefore, the value of the investment in the Unit is \$451,700.00.
- [19] The Landlord's return on investment is shown in Appendix "A".

Factors**i. Does the evidence support 5.3% rent increases for the Units?**

- [20] In order to determine the Application, I must consider the following factors in subsection 50(3) of the *Residential Tenancy Act* (or the "Act"), which are as follows:
1. The rent history for the affected Unit in the three years preceding the date of the Application;
 2. A change in operating expenses and capital expenditures in the three years preceding the date of the Application that the Director considers relevant and reasonable;
 3. The expectation of the Landlord to have a reasonable return on their capital investment; and
 4. The expectation of the Tenant that rent increases will remain within the annual guideline.

- [21] Subsection 50(4) Act provides that I have the discretion to consider any other relevant factor and any factor prescribed in the *Residential Tenancy Regulations* (or the “Regulations”). The only other factor stated in the Regulations is that the purchase of the 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.
- [22] I find this factor is not relevant in this case because the Landlord has owned the Unit since 2019.

Review and Weighing the Factors

- [23] The documentary evidence shows the rent history for the last three years of the Unit. The last rent increase occurred on January 1, 2024 and it was the annual allowable 3% set for 2024.
- [24] The evidence establishes that the Landlord’s operating costs have increased over the past three years.
- [25] The Landlord is currently obtaining a 5.1% return on capital investment. After the adjustments to the Statement, including the proposed additional rent increases and the 2025 annual allowable guideline, the Landlord’s return on investment would increase to 5.5%.
- [26] In Order LR24-27, the Commission commented on a reasonable return on investment as follows:
- “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...”*
- [27] The additional rent increases would provide the Landlord with a 5.5% return on investment, which is below the 7% reasonable return on investment.
- [28] The Tenants did not submit any evidence as it relates to their expectation that the rent increases would remain within the annual guidelines.
- [29] I find that the factors when weighed together support 5.3% rent increases. Therefore, I find that the Application for above annual guideline rent increases of 5.3% is allowed.

ii. **Should further additional rent increases be phased in to achieve a reasonable return on investment?**

- [30] I find that it would be procedurally unfair to approve phased in rent increases as that was not requested in the Applications.
- [31] At the hearing, the Landlord stated that next year he intends to apply to the Rental Office for rent increases be phased in. The Landlord requested that phased in rent increases be considered in the Application to achieve a reasonable return on investment.
- [32] The Applications and Notices do not request phased in rent increases and the Tenants did not participate in the hearing. To approve further rent increases would not be procedurally fair to the Tenants.
- [33] Further, I find that the Landlord is currently obtaining a 5.1% return on investment. With the additional rent increase, that return will increase to 5.5%.
- [34] Therefore, I find that additional rent increases being phased in is denied.

[35] **This decision contains sensitive information and the parties are required to preserve its confidentiality under subsection 75(3) of the Act.**

IT IS THEREFORE ORDERED THAT

1. Effective January 1, 2025, the maximum allowable rent for the Unit 18 and 20 is increased to \$1,479.00.

DATED at Charlottetown, Prince Edward Island, this 16th day of December, 2024.

(sgd.) Cody Burke

Cody Burke
Residential Tenancy Officer

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

	Current	Allowable (2.3%)	Requested Increase (5.3%)
Rental Income			
Income (Line 1)	\$33,720.00	\$34,488.00	\$35,496.00
Arrears (Line 2)	\$0.00	\$0.00	\$0.00
Net Income (Line 3)	\$33,720.00	\$34,488.00	\$35,496.00
Expenses			
1st Mortgage Interest (Line 4)	\$0.00	\$0.00	\$0.00
2nd Mortgage Interest (Line 5)	\$0.00	\$0.00	\$0.00
Fuel (Line 6)	\$0.00	\$0.00	\$0.00
Water & Sewer (Line 7)	\$1,058.40	\$1,058.40	\$1,058.40
Electricity (Line 8)	\$0.00	\$0.00	\$0.00
Insurance (Line 9)	\$2,038.75	\$2,038.75	\$2,038.75
Property Tax (Provincial) (Line 10)	\$4,153.34	\$4,153.34	\$4,153.34
Property Tax (Municipal) (Line 11)	\$2,077.82	\$2,077.82	\$2,077.82
Island Waste Fee (Line 12)	\$426.00	\$426.00	\$426.00
Maintenance Fee (Line 13)	\$69.00	\$69.00	\$69.00
Capital Expenditures (Line 14)	\$0.00	\$0.00	\$0.00
Other (Line 15)	\$724.50	\$724.50	\$724.50
Total Expenses	<u>\$10,547.81</u>	<u>\$10,547.81</u>	<u>\$10,547.81</u>
Annual Net Profit	\$23,172.19	\$23,940.19	\$24,948.19
Value of Investment	\$451,700.00	\$451,700.00	\$451,700.00
Net Profit	\$23,172.19	\$23,940.19	\$24,948.19
Return on Capital Investment	5.1%	5.3%	5.5%

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.