

INTRODUCTION

- [1] The Landlord applied for approval of 5.3% rent increases for the Units, which are additional 3% increases above the 2025 annual allowable guideline of 2.3%.

DISPOSITION

- [2] I find that 5.3% rent increases are supported.

BACKGROUND

- [3] The Units are 14-units (3 one-bedroom and 11 two-bedroom) in a 41-unit apartment building (the "Residential Property") purchased by the Landlord in 2018.
- [4] On October 31, 2024 the Landlord's representatives (the "Representatives") filed fourteen *Form 9 Landlord Applications to Request Additional Rent Increases* (the "Applications") with the Residential Tenancy Office (the "Rental Office"). The Representatives hand-delivered the Applications to the Tenants. Included with the Applications were fourteen *Form 8 Tenant Notices of Annual Allowable Rent Increases* (the "Notices"). The Representatives hand-delivered the Notices to the Tenants.
- [5] The Applications show the current rents, the proposed rents, the date of the last rent increases and the proposed effective date for the rent increases.
- [6] On November 25, 2024 the Rental Office emailed the Representatives notice of a teleconference hearing, scheduled for January 2, 2025. The Representatives were required to deliver a copy of the notice of hearing to the Tenants.
- [7] On December 19, 2024 the Rental Office emailed the Representatives a 54-page PDF document (the "Evidence Package" or "EP"). Included in the Evidence Package was fourteen *Form 10 Statements of Income and Expenses* (the "Statements"). The Representatives were required to deliver a copy of the Evidence Package to the Tenants.
- [8] On January 2, 2025 the Representatives called into the teleconference hearing for determination of the Applications. None of the Tenants called into the teleconference hearing. The Representatives stated that they had not served the notice of hearing or the Evidence Package to the Tenants. I adjourned the hearing until the Tenants were given the notice of hearing and the Evidence Package.
- [9] On January 6, 2025 the Rental Office emailed the Representatives an updated notice of hearing (the "Notice of Hearing"), scheduled for January 23, 2025, along with another copy of the Evidence Package. The Representatives were required to deliver the Notice of Hearing and the Evidence Package to the Tenants.
- [10] On January 23, 2025 the Representatives and five of the Tenants called into the teleconference hearing for determination of the Applications. The Tenants confirmed receipt of the Notice of Hearing and the Evidence Package. The Representatives stated that all of the Tenants were hand-delivered the Notice of Hearing and the Evidence Package on January 7, 2025.
- [11] During the hearing, I requested additional documents from the Representatives. These documents included an updated mortgage statement and the combined income and expenses for the Units. I required the Representatives to provide the additional documents to the five tenants at the hearing.
- [12] On January 24, 2025 the Representatives submitted the mortgage statement for the Units and two *Form 10 Statements of Income and Expenses* (the "Combined Statements").

ISSUE

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

ANALYSIS**Adjustments to the Combined Statements**

- [13] The adjustments to the Combined Statements are provided below and are reflected in Appendix "A" and "B" of this decision.
- [14] Appendix "A" includes three one-bedrooms (105, 202 and 502).
- [15] Appendix "B" includes eleven two-bedrooms (B2, B3, 101, 103, 205, 303, 404, 405, 501, 504, and 505).
- [16] The income includes rental income and laundry income in the amount of \$591.24. I have split the laundry income between Appendix "A" and "B".

Value of Investment

- [17] The Representatives submitted a March 27, 2024 appraisal for the Residential Property totaling \$7,900,000.00 (EP33).
- [18] The Representatives submitted the calculations to determine the expenses and the value of the Units based on an IQ Commercial rate (EP34 and 49).
- [19] The Representatives stated that there are a total of 41-units in the Residential Property. The breakdown is as follows:
- 11 one-bedrooms and 30 two-bedrooms.
 - Let 1 two-bedroom = 1.2 multiply one-bedroom
 - 30 two-bedrooms multiply 1.2 = 36 one-bedrooms plus the 11 one-bedrooms = 47 one-bedrooms.
- [20] The Representatives submitted the value of the Units as follows:
- One-bedroom = Value divide 47 multiply 3 (one-bedroom units); and
Two-bedroom = Value divide 47 multiply 1.2 multiply 11 (two-bedroom units).
- [21] I note that the value in the Combined Statements is based on the appraisal alone without deducting the outstanding mortgage.
- [22] 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."*
- [23] 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.
- [24] Deducting the mortgage is necessary in order to normalize the treatment of landlords with varying amounts of loaned funds for residential properties.

[25] I have reviewed the evidence and I find that averaging the Units' tax assessed value for 2024 and the 2024 appraisal submitted into evidence provides the most accurate value of the Units. I will deduct the outstanding mortgage and then use the equation provided above for Appendix "A" and "B". My calculations are as follows:

$\$7,900,000.00$ [Appraisal] + $\$3,523,900.00$ [Tax assessed] divide 2 = $\$5,711,950.00$.

$\$5,711,950.00$ [average] minus $\$6,057,580.43$ [mortgage] = $(\$345,630.43)$

Appendix "A" value of investment:

$(\$345,630.43)$ divide 47 = $(\$7,353.83)$ multiply 3 one-bedroom = $(\$22,061.51)$.

Appendix "B" value of investment:

$(\$345,630.43)$ divide 47 = $(\$7,353.83)$ multiply 1.2 multiply 11 two-bedroom = $(\$97,070.55)$.

Factors

[26] In order to determine the Applications, I must consider the following factors in subsection 50(3) of the *Residential Tenancy Act* (or the "Act"):

1. The rent history for the affected Units 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 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; and
4. The expectation of the Tenants that rent increases will remain within the annual guideline.

[27] Subsection 50(4) of the Act provides that I have the discretion to consider any other factor and any factor prescribed in 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.

[28] I find that this factor is not relevant because the Landlord has owned the Residential Property since 2018.

Reviewing and Weighing the Factors

[29] The Units' rent history over the past three years includes rent increases under the allowable guidelines, with the latest happening January 1, 2024. The Representatives stated that three of the Units (401, 403 and 404) received an additional rent increase approved by the Rental Office.

[30] The Combined Statements disclosed significant increases to the Landlord's operating expenses in 2024. Including: electricity, property taxes, maintenance and interest on the first mortgage. I note that the mortgage renewal happened in 2024, which also amalgamated a second mortgage used in purchasing the Residential Property in 2018. As a result, the Landlord is operating at a significant loss.

[31] The Landlord is not obtaining a return on investment. The Units are operating at a financial loss. With the proposed additional rent increases the Landlord would continue to operate at a loss.

- [32] The Tenants provided written (EP54) and oral submissions regarding the need for maintenance and repairs for the Units. Collectively, the Tenants expressed concern that they could receive additional rent increases in 2026.
- [33] I have reviewed and weighed the factors with the evidence provided by the parties. I find that 5.3% rent increases are supported for the Units. Particularly, I find that the Landlord is operating at a significant financial loss. The increased payments for the interest on the first mortgage have tripled in 2024 and are fixed for the next four years. Even with approval of the additional rent increases, the Landlord will continue to operate the Units at a financial loss.
- [34] In circumstances where the Units are financially unsustainable, the Landlord would have a strong case to request rent increases be phased in over a period of time until the Landlord achieves a reasonable return on investment, and to avoid future additional rent increase applications. Despite the strength of the Landlord's position, it was not requested in the Applications. To approve phased in rent increases would be procedurally unfair to the Tenants.
- [35] I find that the Applications are allowed.
- [36] **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 February 1, 2025, the maximum allowable rents for the Units are as follows:

B2:	\$1,040.67
B3:	\$1,089.96
101:	\$1,137.06
103:	\$1,120.63
105:	\$969.47
202:	\$954.44
205:	\$1,257.56
303:	\$1,103.01
404:	\$997.70
405:	\$1,075.71
501:	\$1,289.32
502:	\$874.16
504:	\$1,305.76 and
505:	\$1,278.37

DATED at Charlottetown, Prince Edward Island, this 29th day of January, 2025.

(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)	\$32,182.38	\$32,915.82	\$33,872.46
Arrears (Line 2)	\$0.00	\$0.00	\$0.00
Net Income (Line 3)	\$32,182.38	\$32,915.82	\$33,872.46
Expenses			
1st Mortgage Interest (Line 4)	\$21,482.82	\$21,482.82	\$21,482.82
2nd Mortgage Interest (Line 5)	\$0.00	\$0.00	\$0.00
Fuel (Line 6)	\$3,780.27	\$3,780.27	\$3,780.27
Water & Sewer (Line 7)	\$1,179.75	\$1,179.75	\$1,179.75
Electricity (Line 8)	\$1,942.11	\$1,942.11	\$1,942.11
Insurance (Line 9)	\$438.60	\$438.60	\$438.60
Property Tax (Provincial) (Line 10)	\$2,043.33	\$2,043.33	\$2,043.33
Property Tax (Municipal) (Line 11)	\$2,046.87	\$2,046.87	\$2,046.87
Management Fee (Line 12)	\$918.00	\$918.00	\$918.00
Maintenance Fee (Line 13)	\$3,182.64	\$3,182.64	\$3,182.64
Capital Expenditures (Line 14)	\$0.00	\$0.00	\$0.00
Other (Line 15)	\$0.00	\$0.00	\$0.00
Total Expenses	<u>\$37,014.39</u>	<u>\$37,014.39</u>	<u>\$37,014.39</u>
Annual Net Profit	(\$4,832.01)	(\$4,098.57)	(\$3,141.93)

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

	Current	Allowable (2.3%)	Requested Increase (5.3%)
Rental Income			
Income (Line 1)	\$144,977.70	\$148,305.30	\$152,644.62
Arrears (Line 2)	\$0.00	\$0.00	\$0.00
Net Income (Line 3)	\$144,977.70	\$148,305.30	\$152,644.62
Expenses			
1st Mortgage Interest (Line 4)	\$94,524.43	\$94,524.43	\$94,524.43
2nd Mortgage Interest (Line 5)	\$0.00	\$0.00	\$0.00
Fuel (Line 6)	\$16,633.21	\$16,633.21	\$16,633.21
Water & Sewer (Line 7)	\$5,190.79	\$5,190.79	\$5,190.79
Electricity (Line 8)	\$8,545.24	\$8,545.24	\$8,545.24
Insurance (Line 9)	\$1,929.84	\$1,929.84	\$1,929.84
Property Tax (Provincial) (Line 10)	\$8,990.74	\$8,990.74	\$8,990.74
Property Tax (Municipal) (Line 11)	\$9,006.14	\$9,006.14	\$9,006.14
Management Fee (Line 12)	\$4,037.00	\$4,037.00	\$4,037.00
Maintenance Fee (Line 13)	\$14,003.55	\$14,003.55	\$14,003.55
Capital Expenditures (Line 14)	\$0.00	\$0.00	\$0.00
Other (Line 15)	\$0.00	\$0.00	\$0.00
Total Expenses	<u>\$162,860.94</u>	<u>\$162,860.94</u>	<u>\$162,860.94</u>
Annual Net Profit	(\$17,883.24)	(\$14,555.64)	(\$10,216.32)

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.