

INTRODUCTION

- [1] The Landlord seeks 5.3% rent increases for the Units effective April 1, 2025, being an additional 3.0% above the 2025 annual allowable guideline of 2.3%. The Landlord also seeks additional phased in rent increases.

DISPOSITION

- [2] I find that the evidence supports 5.3% rent increases plus part of the additional phased in increases sought by the Landlord.

BACKGROUND

- [3] The Landlord has owned the Units since December 29, 2023.
- [4] On December 16, 2024 the Landlord filed with the Residential Tenancy Office (the "Rental Office") six *Form 9 Landlord Applications to Request Additional Rent Increases* (the "Applications") and six *Form 8 Notices of Annual Allowable Rent Increases*.
- [5] On January 7, 2025 the Rental Office emailed the parties notice of a teleconference hearing, scheduled for February 13, 2025.
- [6] The Landlord provided the Rental Office with a *Form 10 Landlord Statement of Income and Expenses* (the "Statement") completed on January 9, 2025.
- [7] On February 7, 2025 the Rental Office emailed the parties an evidence.
- [8] On February 11, 2025 the Rental Office emailed the parties a supplementary evidence package.
- [9] On February 13, 2025 the Representative participated in a teleconference hearing. The Representative provided additional evidence after the hearing.

ISSUE

- A. Does the evidence support 5.3% rent increases for the Units in 2025 plus additional phased in rent increases?

ANALYSIS

- [10] The Landlord provided documentary evidence and testimony regarding the income, expenses and value of the Units. The Statement is adjusted in Appendix "A" of this decision.
- [11] The vacancy/arrears in Appendix "A" is based upon 2 months' losses out of 72 months' rent (6 units multiplied by 12 months per year). The rents for the Units includes electricity, except for rental units 2 and 4. The Landlord provided an updated annual electricity cost of \$5,055.91.

Mortgage Principal Payments

- [12] The Landlord provided detailed arguments regarding mortgage principal payment deductions from rental income.
- [13] Mortgage principal payments were originally a permitted deduction under the *Rental of Residential Property Regulations* (the "Former Regulations") made under the *Rental of Residential Property Act* (the "Former Act").

- [14] Subsection 18(f) of the Former Regulations originally stated:

*“operating costs” excludes depreciation costs, but includes the basic expenses necessary for the operation of the building such as fuel, water, electricity, insurance, taxes, maintenance, management fees, staff wages or value of rental unit made available in lieu thereof, and financing costs of **principal** and interest on mortgages registered against the property. (EC10/89)*

[Emphasis added]

- [15] The Former Regulations were amended by Executive Council Order EC159/23 to remove principal payments as a deductible expense:

1. Clause 18(f) of the Rental of Residential Property Act Regulations (EC10/89) is amended by the deletion of the words “principal and”.

2. Form 15 of the regulations is amended under the heading “EXPENSES” (a) in item 6, by the deletion of the words “principal &”, and (b) in item 7, by the deletion of the words “principal &”.

3. These regulations come into force on March 4, 2023.

- [16] In Order LR23-74 (paragraph 25) the Island Regulatory and Appeals Commission (the “Commission”) observed this amendment while determining a case under the Former Act, stating as follows

“...This was reinforced with the amendment to the Rental of Residential Property Act Regulations in February 2023 (EC 159/23) that removed the ability of a Landlord to deduct the principal portion of the mortgage payments, thereby allowing only interest costs as an allowable expense...”

- [17] When the *Residential Tenancy Regulations* under the *Residential Tenancy Act* came into force on April 8, 2023, subsection 5(b) defined operating costs as follows:

“operating costs” excludes depreciation costs, but includes the basic expenditures necessary for the operation of the building such as fuel, water, electricity, insurance, taxes, maintenance, management fees, staff wages or the value of a rental unit made available in lieu of wages, and financing costs of interest on mortgages registered against the property. (EC269/23)

- [18] This current definition of “operating costs” also does not include principal as a deductible expense. Based upon the legislative history of “operating costs,” I find that mortgage principal payments are not a deductible expense for determining above guideline rent increases under the *Act*.

- [19] As a result, the Landlord’s mortgage principal payment (\$3,218.33) must be removed. The Line 15 (Other) expense is reduced to \$5,282.27.

Planned Capital Expenditures

- [20] The Landlord provided evidence regarding future capital expenditures for the Units including a new roof, oil tank and other work.

- [21] I am not able to consider future capital expenditures. I note that in Commission Order LR24-27 the following was stated (page 7):

"The Commission agrees with the Director that the definition does not contemplate upcoming or potential, quoted expenditures and, therefore, the Commission has disallowed the capital expenditures claimed for repairs that have not yet been carried out, including replacing the roof."

Value of the Property

- [22] The Landlord argued that there should be no mortgage deduction when calculating the value of the Units and the Landlord's return on investment.

- [23] In Rental Office Order LD24-282 the following explanation was provided for deducting the mortgage when calculating return on investment:

[22] Pursuant to clause 107(1)(d), the Lieutenant Governor in Council may make regulations defining a word or expression that is used but not defined in the Act. The following terms regarding rent increases have been defined in the Residential Tenancy Regulations (the "Regulations"): maintenance, management fee, rental income, capital expenditures and operating costs

[23] The term "capital investment" is undefined.

[24] The Landlord opposes a mortgage deduction for calculating the capital investment value for the Units. However, it appears to the Officer that a mortgage deduction is necessary in order to normalize the treatment of landlords with varying amounts of loaned funds for residential properties.

[25] For example, consider a landlord that purchases a residential property using partly its own funds and loaned funds. If there is no mortgage deduction when calculating the value of the landlord's capital investment, then the landlord's return on investment could be calculated based upon the entire original purchase price and capital expenditures. This landlord could also include the mortgage interest as a deduction in the landlord's expenses.

[26] Had the landlord used only its own funds to purchase the property, without any loan, then the landlord would have the same capital investment value, but no mortgage interest deduction.

[27] When the landlord did not borrow any funds it put more of its own funds at risk. However, it would have less support for an above guideline rent increase compared to if it had borrowed funds. By including the mortgage deduction in the value of the landlord's capital investment, the treatment of landlords with varying amounts of loaned funds is normalized.

- [24] I note that in Order LR25-12 the Commission also deducted the mortgage principal balance when the Commission calculated the value of a residential property and return on investment. I will also deduct the mortgage principal balance in this decision.

- [25] As of December 31, 2024 the mortgage principal balance was \$217,080.03. I find that the value of the property is \$94,519.97 (Purchase price plus capital expenditures of \$311,600.00 minus mortgage \$217,080.03).

Factors**Does the evidence support 5.3% plus phased in rent increases for the Units?**

- [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”), which are as follows:
1. The rent history for the affected 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 their 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 relevant 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] In this case the Landlord has recently purchased the Units. However, based upon the financial information provided by the Landlord regarding the former landlord’s income and expenses, I am not satisfied that the recent purchase is the cause of the above guideline increases sought.
- [29] The Landlord has requested that I exercise the discretion in clause 50(4)(a) to consider any other factor the Director considers relevant. However, I have already considered and determined the Landlord’s arguments above regarding principal payment deductions, planned capital expenditures and mortgage deduction for calculating value.
- [30] The Landlord also provided arguments regarding the viability of the Units as residential rental units and the prospect of the Units being removed from the rental market through conversion to condos. However, the viability of the Units is already addressed by factors 2. and 3., above, regarding changes in operating expenses, capital expenditures and return on investment.

Review and Weighing the Four Factors

- [31] The Landlord recently received above guideline rent increases for the Units. Some of the Landlord’s operating costs have increased and the Landlord has completed some capital expenditures. I note that the total Landlord’s expenses in Appendix “A” of this decision are higher than the anticipated total expenses in Order LD24-094.
- [32] When determining the Landlord’s return on capital investment, 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.”*
- [33] The Landlord is not obtaining a reasonable return on investment based upon the current rents. The Landlord would be obtaining a 22.9% return based upon the proposed rents, which is above the 7.0% reasonable return on investment when the value of the property is based upon the purchase price plus capital expenditures minus the mortgage.

- [34] I find that the factors when weighed together support rent increases for the Units that bring the Landlord to a 7.0% return on investment. The Landlord has established an above guideline rent increase of 5.3% effective April 1, 2025 plus phased-in additional 3.0% above guideline rent increases until the rents for the Units reach the amounts ordered below.
- [35] The Applications are allowed in part.
- [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 April 1, 2025, the maximum allowable monthly rents for the Units are increased by 5.3% as follows:
 - Unit 1 - \$591.78
 - Unit 2 - \$515.97
 - Unit 3 - \$591.78
 - Unit 4 - \$501.22
 - Unit 5 - \$591.78
 - Unit 6 - \$591.78
2. Effective April 1, 2026 and every following April 1st the Units' rents will increase by the annual guideline percentage for the year plus an additional 3.0% until the monthly rents reach the following amounts:
 - Unit 1 - \$661.36
 - Unit 2 - \$576.63
 - Unit 3 - \$661.36
 - Unit 4 - \$560.15
 - Unit 5 - \$661.36
 - Unit 6 - \$661.36
3. The Landlord will provide each new tenant of the Units with a copy of this Order until the last above guideline rent increase under this Order occurs for the new tenant's unit.

DATED at Charlottetown, Prince Edward Island, this 31st day of March, 2025.

(sgd.) Andrew Cudmore

Andrew Cudmore
Residential Tenancy Officer

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

	Current	5.3% Increase	Requested Increase	Allowed Increase
Rental Income				
Income (Line 1)	\$38,568.00	\$40,611.72	\$60,852.00	\$45,386.64
Vacancy/Arrears (Line 2)	(\$1,071.42)	(\$1,128.19)	(\$1,690.47)	(\$1,260.84)
Net Income (Line 3)	\$37,496.58	\$39,483.53	\$59,161.53	\$44,125.80
Expenses				
1st Mortgage Interest (Line 4)	\$16,239.45	\$16,239.45	\$16,239.45	\$16,239.45
2nd Mortgage Interest (Line 5)	\$0.00	\$0.00	\$0.00	\$0.00
Fuel (Line 6)	\$2,475.80	\$2,475.80	\$2,475.80	\$2,475.80
Water & Sewer (Line 7)	\$0.00	\$0.00	\$0.00	\$0.00
Electricity (Line 8)	\$5,055.91	\$5,055.91	\$5,055.91	\$5,055.91
Insurance (Line 9)	\$2,220.00	\$2,220.00	\$2,220.00	\$2,220.00
Property Tax (Provincial) + IWMC (Line 10)	\$2,073.04	\$2,073.04	\$2,073.04	\$2,073.04
Property Tax (Municipal) (Line 11)	\$407.66	\$407.66	\$407.66	\$407.66
Management Fee (Line 12)	\$0.00	\$0.00	\$0.00	\$0.00
Maintenance Fee (Line 13)	\$3,096.29	\$3,096.29	\$3,096.29	\$3,096.29
Capital Expenditures (Line 14)	\$660.00	\$660.00	\$660.00	\$660.00
Other (Line 15)	\$5,282.27	\$5,282.27	\$5,282.27	\$5,282.27
Total Expenses	\$37,510.42	\$37,510.42	\$37,510.42	\$37,510.42
Annual Net Profit	(\$13.84)	\$1,973.11	\$21,651.11	\$6,615.38
Return on Investment				
Value of Investment	\$94,519.97	\$94,519.97	\$94,519.97	\$94,519.97
Net Profit	(\$13.84)	\$1,973.11	\$21,651.11	\$6,615.38
Return on Capital Investment	0.0%	2.1%	22.9%	7.0%

APPENDIX "B"

Unit	Current	Rents		Allowed Increase
		5.3% Increase	Requested Increase	
1	\$562.00	\$591.78	\$871.50	\$661.36
2	\$490.00	\$515.97	\$799.50	\$576.63
3	\$562.00	\$591.78	\$871.50	\$661.36
4	\$476.00	\$501.22	\$785.50	\$560.15
5	\$562.00	\$591.78	\$871.50	\$661.36
6	\$562.00	\$591.78	\$871.50	\$661.36
Monthly Rent	\$3,214.00	\$3,384.31	\$5,071.00	\$3,782.22
Annual Rent	\$38,568.00	\$40,611.72	\$60,852.00	\$45,386.64

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.