

261 5th Street East (Rayette Lofts)

As a follow-up to the appeal hearing that took place on September 8, 2022, staff researched:

- The specific unit numbers associated with Rayette Lofts rent increase exception requests.
- How parking works, given the Rent Stabilization Rules.
- Specifics of the Base Year Rent Adjustment.

Specific Unit Numbers Associated with Rent Increase Exception Requests

Staff sent an email to Rayette Lofts on September 9, 2022 to request a list of units that are associated with Rayette's self-certification and staff determination rent increase exception requests. Staff received this information in Microsoft Excel spreadsheets that were emailed on September 14, 2022:

- Units Included in Staff Determination Request:
Please see "XIX. Proposed Adjustment Worksheet - pg 18 - Staff Determination"
- Units Included in Self-Certification Request:
Please see "RentRoll09_14_2022"

How Parking Works, Given the Rent Stabilization Rules

Under the Rent Stabilization Rules, "rent" is defined as "all monetary consideration charged or received by a Landlord concerning the use and occupancy of a Rental Unit." A "Rental Unit" is "any dwelling unit . . . that is rented or otherwise made available for rent for residential use or occupancy, **together with all Housing Services connected with the use or occupancy of such property.**" "Housing Services" comprises several things, including "vehicle parking spaces." Staff's interpretation of these definitions is that any money received by the Landlord, regardless of its classification as "rent," "fee" or "charge" could fall within the current definition of "rent."

- In the circumstance where parking was in the old lease agreement, but not in the new agreement, this would be a decrease in housing services to the tenant. It's the staff's view that the Landlord should not be allowed to add in a "parking fee" on top of regular rent, unless the sum total of the two fees is less than 3% (or the Landlord obtains an exception). The tenant could also file a complaint that they suffered a decrease in housing services without an appropriate downward rent adjustment as described in Rent Stabilization Rule D(2).
- In the circumstance where parking was not included in the old lease agreement, but is included in the new agreement, the new total rent amount should still be under 3%, unless the Landlord goes through a petition process for an exception [that they increased the housing services beyond that which was previously provided to the unit under Rent Stabilization Rule D(1)].
- There is no issue if parking:
 - Was included in the old lease agreement and remains included in the new agreement. This would be considered "rent."

- Was not included in the old lease agreement and is still not included in the new agreement. This would not be considered “rent.”

Specifics of the Base Year Rent Adjustment

Landlords are allowed to claim a Base Year Rent Adjustment if the Base Year Rent and / or earlier rent amounts were disproportionately low. A Base Year Rent Adjustment will be considered if the evidence supporting the request is sufficiently compelling. Staff allowed Rayette Lofts to claim a Base Year Rent Adjustment because the apartment building was purchased in 2020, so Rayette didn't have rent information for 2019. Therefore, staff approved Rayette's use of a rolling year to include:

- Base Year Rent: 04/20 – 03/21
- Current Year Rent: 03/21 – 02/22

Staff Determination Application

The appeal and the staff determination application for 261 5th Street East were in process at the same time. The appeal was submitted on August 8, 2022 and the staff determination application was submitted on July 26, 2022. Upon reviewing the staff determination application, staff identified missing and inconsistent information. Staff set up an appointment to meet with Chelsea Dorval in person on August 11, 2022 to discuss the submitted documents. Ms. Dorval was not available, so staff met with Jessie Nordine, the Regional Property Manager, instead. At this meeting, staff reviewed discrepancies in the Landlord Worksheet. Ms. Nordine was not involved in preparing the worksheet, but was able to provide documentation that was used by others during its preparation. After a supplemental meeting with Julie Lasota and Ms. Nordine on September 14, 2022 to discuss the current state of the application and requested materials for the appeal, staff continued to review the application. On September 27, 2022 staff made the determination that 261 5th Street East was approved for a 9.59% increase based on the available documentation. An approval letter was sent via email to the applicant, Ms. Dorval, and by U. S. mail to the Rayette Lofts office at 261 5th Street East.