



October 19, 2023

TO: Marcia Moermond
Legislative Hearing Officer

FROM: Lynne Ferkinhoff
Management Analyst, Rent Stabilization Program
Department of Safety & Inspections

Demetrius Sass
Administrator, Rent Stabilization Program
Department of Safety & Inspections

SUBJECT: Supplemental Appeal Memo – DSI Staff Response to Appeal Testimony on August 10, 2023
200 Winthrop Street South, Unit 313

Dear Legislative Hearing Officer Moermond:

The Rent Stabilization team submits this supplemental memo to address concerns raised in testimony by Sumeya Mohamed, appellant, and James Poradek, Ms. Mohamed's Legal Counsel, during the appeal hearing on August 10, 2023.

APPELLANT AND LEGAL COUNSEL TESTIMONY

Note: All quoted testimony in this document was copied verbatim from a draft transcript created after the appeal hearing.

Poradek (Transcript - Page 7): Here's the end point, it's unclear if lead based paint removal and asbestos removal actually took place during the renovation.

DSI STAFF RESPONSE

Staff respectfully requests clarification on this statement.

APPELLANT AND LEGAL COUNSEL TESTIMONY

Note: All quoted testimony in this document was copied verbatim from a draft transcript created after the appeal hearing.

Poradek (Transcript - Page 9): That may be happening some places but my concern is when Marquette took this over in May of 2021, there was no pastor utility cost to the tenant. After they took it over they started to implemented with new leases. We think immediately that Ms. Mohamed was one of those persons.

DSI STAFF RESPONSE

The Rent Stabilization Ordinance is silent on any utility cost and / or fee changes that took place prior to 05/01/2022, when the Ordinance took effect. The Ordinance and / or rules do not include a “look back” provision to a time before the law and rules existed.

APPELLANT AND LEGAL COUNSEL TESTIMONY

Note: All quoted testimony in this document was copied verbatim from a draft transcript created after the appeal hearing.

Poradek (Transcript - Page 10): We documented everything, we weren’t 100% sure, but we see a number of other tenants submitted complaints either informally at these meetings or formally through the portal. We know that we’ve been able to talk to a couple [tenants] and we’ve looked for documentation but no response from DSI, notwithstanding the fact that it went directly to the issues of the justifiability of the rent increase. DSI probably talked to Marquette at least 50 times in that period. We have a timeline we can provide at a very high level. As far as we know, they never talked to a single tenant about their actual complaints or did any follow-up.

Poradek (Transcript - Page 11 and Page 12): Absolutely no response that we know of to any of the tenant complaints that have come in already.

Mohamed (Transcript - Page 14): I felt very betrayed because DSI has been to several tenant meetings. Lynn, yourself has been to several tenant meetings with us. Where we’ve talked about tenant issues, building complaints about habitability. The rodents itself is something we complained about at several meetings. Where we talked about mice, roaches, and a bunch of different rodents in our building. We also talked about renovations, as well as fire stuff. We felt like you guys were going to take care of it, we felt like DSI was there to help us but we never got any response back from DSI after all those communications at those meetings, and now to see that DSI is communicating with our landlord helping them throughout this whole application processed, yet ignoring us. It felt like DSI was not here for tenants. It felt like they’re there to protect landlords rather than they are to work with tenants.

DSI STAFF RESPONSE

DSI staff met with:

- Marquette employees once – during a pre-scheduled Microsoft Teams (virtual) meeting on March 2, 2023 – for 1.5 hours. All related communications were provided to Jack Cann, a member of the appellant's legal team, in response to a Data Practices Act request.
- The Haven of Battle Creek residents on two occasions at locations and times chosen by the residents:
 - 12/20/22 (Tuesday) @ 4:00 pm; Chili Time Coffee / Nearby Mosque
 - 02/04/23 (Saturday) @ 1:45 pm; Darul Uloom Center

Both meetings took place on overtime, which required DSI management pre-approval that was granted.

During both meetings, staff handed out contact cards for the Rent Stabilization team. The cards include the website URL, email address and phone number for the Rent Stabilization program.

For both meetings, staff met with The Haven of Battle Creek residents collectively and individually, and completed follow-up after both meetings. Notably, an email response was sent to Ms. Mohamed (the appellant) on February 6, 2023 to provide answers to her questions after the meeting on February 4, 2023. Details of Ms. Mohamed's request and the response is provided below.

Tenant communications and follow-ups are listed below:

- In an email to Angie Wiese dated December 21, 2022 – the morning after meeting with The Haven of Battle Creek residents at Chili Time Coffee and a nearby mosque – staff writes that, "I checked the Rent Stabilization SharePoint. There haven't been any complaints submitted for 200 Winthrop Street South."

So while staff heard general complaints (e.g., mold, etc.) during a meeting with The Haven of Battle Creek residents on December 20, 2022, a review of the Rent Stabilization SharePoint for complaint tracking showed that no resident had submitted a formal complaint for this address.

In that same email, staff documents talking to two residents during the meeting: “I separately talked to two individuals during our meeting last night – they shared similar stories. They received a letter stating that:

- Residents that have leases ending may receive a 90-day notice to vacate when the lease ends.
- Other residents that have leases ending but don't receive a notice to vacate will be moved to month-to-month leases with a 60-day notice period.
- Month-to-month leases will be offered at the current rental rate / full rental amount.

The individuals also noted that the apartment is no longer accepting Section 8 housing assistance.

Here is the information I captured for the individuals I spoke with:

[Name Redacted]

[Phone Number Redacted]

[Email Address Redacted]

[Name Redacted] shared information on behalf of his dad (the tenant) who has multiple medical issues, receives dialysis treatments three times a week and must use an elevator. [Name Redacted] anticipates that his dad will receive a 90-day notice to vacate on January 1, 2023 because his dad's lease expires on 03/31/23. I understood that his dad's Section 8 eligibility will also expire on 03/31/23.

[Name Redacted]

[Phone Number Redacted]

[Email Address Redacted]”

The email was provided to Mr. Cann, Legal Counsel to the appellant, through a Data Practices Act request.

- Staff researched and sent an email to the appellant (Ms. Mohamed), who wanted to know where to get inspection reports and wanted information about the required audible level for fire alarm systems. The email was provided to Mr. Cann, Legal Counsel to the appellant, through a Data Practices Act request. DSI staff redacted Ms. Mohamed's name and other identifying information to protect her privacy. Therefore, Ms. Mohamed's representation would not have known that Ms. Mohamed was one of the meeting attendees who approached staff after the meeting with questions that were answered in writing the next business day, unless Ms. Mohamed shared that information with her Legal Counsel.
- Staff researched and sent an email to a meeting attendee after the meeting on February 4, 2023. The meeting attendee wanted to know when the Neighborhood Safety Community Council would become active. The email was provided to Mr. Cann, Legal Counsel to the appellant, through a Data Practices Act request.

- During the appeal hearing on August 10, 2023, staff looked up the most recent complaint from August 2, 2023 and noted that it was marked as “closed.” According to the record, a city inspector visited The Haven of Battle Creek around noon on August 3, 2023 following a complaint on August 2, 2023 about rodents, flooding, broken glass and garbage on the property. At the hearing, the staff member read the Fire Inspection response: “I took a look at all 3 floors spoke with the manager and maintenance. No one was aware of flooding in the garage, flooding or standing water on the property. I knocked on four doors and no said they had mice or roaches. The grounds people were cleaning around the building.”

APPELLANT AND LEGAL COUNSEL TESTIMONY

Note: All quoted testimony in this document was copied verbatim from a draft transcript created after the appeal hearing.

Poradek (Transcript - Pages 11 and 12): Do you think the tenants got a heads up about this rent increase that they were going to say, “Oh yeah, it’s likely to happen in the future?”. They found out when a bunch of postcards were mass mail to them after the decision was made, not 7 weeks ahead. We’re going to talk about those postcards and I’m sure you’re wondering why are people not appealing and what’s going on? There’s plenty of sociological reasons for that. The biggest one is they sent out a postcard with a bunch of text on it and was buried in really small print saying oh, by the way here’s your rent increase.

Mohamed (Transcript - Page 19): The postcard was very hard to understand. It didn’t explain the appeals process. On top of that where it said the rent increase was approved was very small. All that we saw was approved was in bold , so you don’t really know what’s being approved. The only reason I was able to understand it because I knew this was going to be a process to expect after we got the first post cards. It just felt very disappointing because our building is predominantly immigrants where English is not really a primary language they speak and the different languages were written so tiny. It was impossible to read, especially if you had a horrible vision. It felt like they were telling me I want a vacation rather than my rent was going to be increased.

Poradek (Transcript - Page 19): Did you talk to any other people about the post cards, can you describe it?

Mohamed (Transcript - Page 19): Yes, other people in my building thought that it was junk mail, so they didn’t even know what I was talking about until I showed them a picture of my post card. Others said that they hadn’t even gotten it. I spoke to about 10 people.

Poradek (Transcript - Page 19): Overall confusion, lack of knowledge.

Mohamed (Transcript - Page 19): Yes, and it was really hard to understand the appeals process from the postcard.

DSI STAFF RESPONSE

Two notifications were mailed to The Haven of Battle Creek tenants, each comprising 215 postcards. The first postcard mailing dated February 1, 2023 informed tenants that their landlord recently applied for an exception to the 3% cap on rent increases. The second postcard mailing dated May 24, 2023 informed tenants that their landlord's application for an exception to the 3% cap on rent increases was approved. The second postcard mailing also advised tenants that:

- The determination was not final and rent could not be increased in the next 45 days.
- They have the right to appeal the determination.
- Appeals must be provided in writing and delivered to the City Clerk no later than 45 calendar days from the date of the written notification.
- Applications for appeals may be obtained at the Office of the City Clerk, 310 City Hall, City / County Courthouse, 15 W Kellogg Blvd, Saint Paul MN 55102, Phone 651-266-8568
- If there is no appeal, the determination will be considered final, and the landlord may proceed with the rent increase noted in the postcard.
- Any rent increase subject to appeal may not be imposed until there is a final determination on the appeal.

The postcards for both mailings:

- Include full translations for Hmong, Karen, Somali and Spanish.
- Note that, “. . . translations of the notice is available upon request from the City. If you have any questions, please reach out to the Rent Stabilization Workgroup using the email address below.”
- Include contact information (email address and phone number) for the Rent Stabilization team.

The notifications fully comply with all provisions under Sec. 193A.07(c) of the Ordinance. And although the Ordinance does not address font size, staff would like to make the Legislative Hearing Officer aware that the rent increase was printed in the middle on the left side of the postcard in the largest font size used on the postcard. The font size in the middle of each postcard version is noticeably larger than the font size of other text on the postcard.

Tenant notifications are not “mass mailings.” They are targeted mailings delivered by the United States Postal Service at First Class postage rates. Forever stamps are manually affixed to the cards as opposed to a pre-printed postage indicia commonly used in mass / bulk mailings.

APPELLANT AND LEGAL COUNSEL TESTIMONY

Note: All quoted testimony in this document was copied verbatim from a draft transcript created after the appeal hearing.

Mohamed (Transcript - Page 20): I just wanted to reiterate, though, how it was very frustrating not to get any form of communication from DSI and to find out that they're communicating with landlords. That was just a slap in the face.

DSI STAFF RESPONSE

As previously noted, DSI staff communicated with residents at The Haven of Battle Creek by:

- Participating in two meetings at the time and locations chosen by the residents.
- Handing out Rent Stabilization contact cards at both meetings with website, phone and email.
- Talking to residents during and after the meetings.
- Completing research on resident questions and sending email responses after the meetings.
- Inspecting the property after receiving a complaint and talking to residents about the issues.
- Completing a postcard mailing to inform residents about the application.
- Completing a postcard mailing to inform residents about the application approval and appeal process.

Additionally, the Rent Stabilization team maintains a robust website that includes the phone number and email address to contact staff, and a link to arrange a meeting with a staff member.