



Meeting Minutes - Action Only

Rent Stabilization Appeal Hearings

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651-266-8568

Thursday, April 13, 2023

10:00 AM

Room 330 City Hall & Court House

10:00 a.m. Hearings

Rent Stabilization Appeals

- 1 **RLH RSA 23-1** Appeal of Jamele Watkins to a Rent Stabilization Determination at 400 SELBY AVENUE, Apt. 312.

Sponsors: Balenger

Appellants: Corey Cole, Erika Mumm, Dr. Jamele Watkins

Property Manager: Michelle Evenson, Reacor

Staff: Lynne Ferkinhoff & Demetrius Sass, Department of Safety and Inspections (DSI)

Moermond: This is a hearing to consider an appeal of a city determination on a request for an exemption of the City's cap on rent increases. The goal of the hearing process is to come up with a recommendation for the City Council to consider on the appeals. This is a recommendation to the City Council, if for any reason someone objects to the recommendation I've made, the matter would be discussed by the Council and you can share your perspectives. If we hear from an of you who want to testify at Council, we want to make sure that the other parties are aware of that. We are trying to keep the communication open so all people can have their perspectives heard. What I first want to do in appeals cases is to hear from staff and get the background on what they looked at and why they came to the determination they did. I will ask them to also address some of the questions I have read in the appeals. This particular set of appeals came in since the rules change came into effect January 1, so this is new to us, too.

Lynne Ferkinhoff: On January 30, 2023, the department received a self-certified application for an exception to the 3% rent increase cap per ordinance 193A. The application comprises the entire building of 91 units, including those of the appellants: Apartment 303 (Levi Indvik), Apartment 312 (Jamele Watkins), Apartment 327 (Christine Hackney), and Apartment 332 (Erica Mumm). The intake form is part of the record and Michelle Evenson (landlord representing Selby Avenue Realty, LLC) and Victoria Koegel (agent representing Reacor, LTD) are listed as the applicants. Ms. Koegel and Ms. Evenson submitted the application on behalf of the owner, Selby Avenue Realty LLC and the responsible party, Ryan Companies. The applicants noted in the application that rent increases will vary based on where the current rent in comparison to the market, but not to exceed 8%. The increase was proposed to take effect on April 1, 2023. The reasons for the increase listed in the application included

an increase in real property taxes and an unavoidable increase in operating expenses. There are no known code violations for this property. For self-certification, applicants are required to provide several pieces of information from the completed worksheet. These are used to calculate Maintenance of Net Operating Income or "MNOI": Gross Scheduled Rental Income (GSRI): \$1,868,620.46; Fair Net Annual Operating Income (NOI): \$1,308,142.44; Fair NOI minus Current Year NOI: \$213,420.52; Allowable Rent Increase Percentage: Not Provided Due to Incorrect Form Being Used.

While the Allowable Rent Increase Percentage was not provided in the application due to the incorrect form being used, it can be calculated from the information given: Missed Fair Income (\$213,421) divided by Current Year GSRI (\$1,868,620) equals the Allowable Rent Increase of 11.42%.

The applicants used an outdated version of the Maintenance of Net Operating Income form (likely the outdated version was what was on the city website given the timing of the application), so staff is not sure if the data provided for the current year is from 2021 or 2022. Additionally, the outdated form is pre-populated with the Percent Annual Increase in Consumer Price Index (CPI) Base Year to Current Year for 2019 - 2021 (6.05%). Since 2022 is the correct current year for this comparison, the Percent Annual Increase in CPI Base Year to Current Year for 2019 - 2022 is 13.95%, which would yield a larger increase than what was approved (16.64% vs 11.42%) assuming the current year data is 2022. Please note, however, that self-certified increases are capped at 8%. To calculate Percent Annual Increase in CPI Base Year to Current Year, the formula would be to take the Current Year Annual Average CPI and subtract the Base Year Average CPI and then divide by the Base Year Annual Average CPI. Per the self-certification process, the application was approved on February 7, 2023, for a maximum of an 8% increase. An approval letter was sent to the Property Representative for this request. The letter advised the Property Representative that rent cannot be increased in the next 45 days, pending a final determination.

As required, the applicants provided a Rent Roll that included mailing information for 91 units in the building. The Rent Roll was used to mail postcards to tenants. The February 1, 2023 postcard advised tenants that: 1) the landlord applied for an exception to the 3% cap on rent increases; 2) the application was being reviewed by City staff; 3) tenants needed to wait until a determination is issued before submitting documentation opposing the increase; 4) tenants have the right to appeal the determination to the City's Legislative Hearing Officer. On February 7, 2023 a second postcard advised tenants that: 1) the landlord applied for an exception to the 3% cap on rent increases; 2) approval was granted for the exception through the self-certification process; 3) the determination was not final, and rent cannot be increased in the next 45 days.

Moermond: To recap, some of the high points here. We have an application made in January and a notification that follows letting tenants know an application has been made for an exception to the rent cap. Then DSI comes up with its decision, which in this case an automatic certification because it is in the 3 to 8% range. Then notification that a determination was made goes out to tenants. When our office got the tenant appeal, we asked the ownership to share the MNOI supporting the application. There was some confusion, my office, in getting out the right documents. Hopefully everybody has the right information. If people haven't had enough time to review it and have additional questions, we can certainly figure out a way to give people a chance to metabolize that information. What I heard from the staff review of the MNOI was that it was filled out using a base year of 2019 but the current year listed here as 2021 and it should have been 2022, perhaps that was because an old

worksheet was used. Because that happened, the allowable rent increase was in the 11% range.

Ferkinhoff: 11.42%

Moermond: and if the numbers were adjusted to look at 2022 data, the number would have been 13.95%?

Sass: 13.95% would have been the CPI value comparing 2019 to 2022, just changing that 6% to 13.95%, by including a small math error I found brings the allowable increase to 17.95%. It is still well above the 8% cap for self-certification.

Moermond: Had it been filled out for an increase in excess of 8% your analysis would have been looking at the information submitted which maybe for the wrong year and you if it were, you would engage in a back-and-forth conversation with the applicant to figure out whether or not on the data was correct. But and based on what we're looking at, it would be 11.4% and using the current CPI information that would bring it to 17.5%. So that is the range that would be allowable if the application would have been gone through.

Ms. Evenson, one thing that struck me, and I don't know if I would have noticed it had property tax information not been brought up and the appeals, was what was going on with the property taxes. And I did see proposed property tax statements as attachments on an appeal. So, I asked the DSI team about looking back at the (final) property tax statements for that time, as opposed to the proposed one. Looking at that, one thing that was noticeable was that the property tax numbers in the MNOI likely reflected the fact that this is a mixed use building, and the MNOI only included the residential proportion of the property taxes. When I talked to Mr. Sass about this, he determined the proportion of the total property tax bill showing up on the MNOI was hovering in the 59 to 61% range.

Evenson: There's actually 7 parcels associated with this building. We use different percentages based on the parcel to calculate what the apartments pays and what the commercial space pay. These percentages have been established for many, many years. Well prior to my time. I just went off over the apartment building's financials used in the past, since they took ownership in 2017. I broke out the percentages by parcel if you need that information.

Moermond: I think that's going to introduce a lot more complexity than what we need to look at here. This the property tax statement so shows the bill of \$516,214. But the amount of property taxes listed in your work sheet is \$318,641. So that is about 59% of that total bill, that you have included here for consideration in your rent increase. And then it looks like in 2021, of the \$604,282 property tax statement, you are listing \$360,687, or 61% of that total.

Evenson: Honestly, I questioned that myself. I downloaded the worksheet from the website the week that I completed, and it did say 2021. So, I did complete it using 2021 numbers.

Moermond: Right. There was so much transition with implementing the new version of the Rent Stabilization ordinance that was a misstep on the City's part. I don't know that we're going to have you need to complete a 2022 version given that the 2021 numbers work to give you the rent increase you're looking for and Mr. Sass reported that if the 2022 CPI was used, your rent increase could have been significantly higher. Do staff

have any questions at this point?

Ferkinhoff: That answered my question of 2021 versus 2022.

Moermond: Ms. Evenson, do you have questions?

Evenson: No, I don't. And I guess I just wanted to express that, you know, and we knew that we qualified technically for more based on the numbers, but in our own wellbeing we didn't feel like it was right to give our residents that high increases, that's why we decided to just go with 8%. So, you know, we are also considering that in our steps here as well.

Moermond: Would you have said between 0 and 8, are the ones that aren't receiving at least 3?

Evenson: Correct, yes. There's a wide range, some that we will not even be 3%. It all the determined by where their current rent is compared to what our market rents are. And we've also done extensive capital improvements, even in 2022. I believe each unit that's appealing has at least received a new furnace, if not a new furnace, new AC and water heater. I believe there's one unit that received all 3. So, we're investing money back into the property to make it a good place to live. And we need to be able to maintain a reasonable, return.

Moermond: Your application indicated you would begin implementing these rent increases in April. Obviously, that is stayed while we have this conversation, then people would be receiving increases throughout the course of the next 12 months, based on their lease cycle and your specific increase for the unit they occupy.

Mr. Sass, Ms. Ferkinhoff, when there are capital improvements made to individual units that result in variation in the rent increases being charged to them, do you ask for a breakdown by unit for the improvements?

Sass: If capital improvements were listed in the application, which there weren't, then building capital improvements are applied to everybody, individual unit capital improvements would be proportioned out to those units.

Moermond: And does that make a difference based on the amount of capital improvements being referenced?

Sass: In the value? I would say yes, it is typical for especially larger up complexes. Something like a faucet might not be a capital improvement to the same extent that a new faucet for a single-family home could fall in that dollar value range for a capital improvement. Bigger complexes tend to have regular maintenance than single-family homes. Sometimes their capital improvements get lumped in with their regular repairs and maintenance. So, unless there was something like a multithousand dollar expense, it is likely that larger buildings don't separate that out.

Evenson: To clarify, the information that I submitted did not include capital expenses. Those expenses go above and beyond the figures that we provided. Right or wrong, I don't know. But I felt like I completed it, I knew I exceeded it.

Moermond: I just wanted to clarify it for the record, because you mentioned some units had a new AC and some did not. If that was a piece of why Unit A vs unit B received an 8% vs a 4%. And you're right, what I am hearing here is that you can go to an 8%

based on the numbers you provided.

The first appeal on my agenda is Ms. Watkin's appeal. Although you are all here and you don't have to speak in agenda order.

Erica Mumm: The Blair is requesting an exception to the Rent Stabilization ordinance. For the years 2020, 2019 and 2021, they show a disproportionate increase in operating costs compared to their reported income. The Blair reported that their operating expenses were approximately \$586,000 in 2019, the base year and approximately \$774,000 in 2021. What we are using is the current year. So, this is an increase in operating costs of 32% in 2 years with such a drastic increase in operating costs. It does raise the concern that the base year had exceptionally low expenses, and that is not representative. In addition, there are entries in the spreadsheet that are suspect. The Blair reported a 34% increase in the cost of insurance from 2019 and 2021, while at the same time claiming that they had \$35,500 uninsured damages from 2021 when they did not report any uninsured damages in 2019. The Blair did not report any spending on office supplies or security in 2019 but they reported spending several thousand dollars in these areas for 2021. They also reported a 58% increase in spending on management services and reported spending almost 3 and a half times the amount of money on accounting in 2021 than they did in 2019. These expense increases have not resulted in the expansion of new tenant services nor the improvement of existing services. This makes it hard to argue that these expenses are fair and reasonable.

Moermond: So, you are looking for direct tenant benefit resulting from those increases in expenses.

Mumm: Yes, given that 32% increase in reported operating costs from 2019 to 2021 and the fact that their expenses category reported in 2021 that were not reported in any other year, it seems more than prudent to request a breakdown of The Blair's operating expenses and other recent years, not just 2019, and 2021. Further, it also seems prudent to request documentation of this breakdown for each reference here, as it is to provide evidence of their unusually high increase in operating expenses before granting their request for an exception to the rent stabilization ordinance. Finally, while property taxes did increase from 2019 to 2021, they are estimated to decrease in 2023. The Blair estimated 2023 taxes were not a part of the information required to turn in their application. It is nonetheless relevant. Taxes is the foundational pillar of their rent stabilization ordinance exemption. This also provides a contrast between the situation of landlords and tenants. In this case, the landlords' taxes are expected to decrease in the coming year. However, the rent to tenants isn't set, always slated to increase. This is the very situation that the people of Saint Paul voted to prevent, and yet their desires have been easily sidestepped.

Cole: Beyond the facts of this case, it must also be said that the current implementation of the rent stabilization ordinance is disappointing from a tenant standpoint. While it is true, obviously, that tenants have the right to appeal their landlord's exemption request in any determinations made thereof, the process is laden with barriers, information asymmetry and vulnerability to retaliation. I personally haven't gone through this process. I had to pay a fee, take the morning off of work and schedule a City hearing just to see the basis of which my landlord has requested to raise my rent beyond the 3% limit and just to see how high they intended to raise it. It is easy to say that this policy is not written with tenants in mind and arguably it isn't even written with Saint Paul residents in mind. The ordinance privileges the interests of corporate landlord, some of whom are based far outside of city limits over the human

rights of my neighbors and I, some of whom have been living in and contributing to work in Saint Paul for decades, long before the company that now seeks to raise our rents, came into possession of the building there. Even now, as my neighbors and I exercise our legal right to do an appeal to this decision, not because of, but despite the City's process, we are very worried. We're worried that the determination that was made, very quickly, behind closed doors without any transparency to us, will be upheld just on the basis how it was made. We're worried that the extraordinary promptness, in lack of verification involved in the exemption, the process will be used, paradoxically as a basis to deny our appeal to that very determination. And we are worried that many of the citizens of Saint Paul will soon be priced out of the place that they once called home. I love living in Saint Paul and I would stay here for decades and decades if I could. But I can't afford to live here, if the rent each year is going to rise several times the rate of my wages, despite the nominal presence of rent stabilization in the city.

Watkins: Saint Paul Rent Stabilization began as a grassroots effort and was approved by Saint Paul voters. I was really confused when I received a postcard in the mail saying that the rent can be raised anywhere between 3% and 8%. I was horrified to learn about the self-certification process. It was very easy on the website and this lack of transparency. As a university employee, raises are out of my control. I don't even know if I'll get a raise this year, and if I do it won't be 8%. I'm lucky it will be 3%. In fact, I don't know anyone who receives annual raises that high. Simply the expectations that tenants receive 8% raises year after year is not sustainable. And Saint Paul needs to think about that going forward. The City Council amendments makes me wonder if the members are acting on the interest of the citizens of Saint Paul or those of corporations? I feel powerless and scared and be priced out of where I live as someone with a very secure job. How are we supposed to have faith in our local government with amendments like these, amendments that go against what the residents of Saint Paul voted for.

Moermond: I have noted, you are Dr. Watkins, not Ms Watkins. It wasn't on the application. I will correct that. Okay, so we start out with an analysis of the accounting, and the underlying argument is that the accounting would provide increases in rent should translate tenant services and things experience directly by tenants. And if not, then it's not a justifiable expense. I just want to kind of dive a little bit more deeply into the logic of that.

Mumm: I think that the main concern is that they are reporting extremely high increases of 30% to 50% in some of these categories. And well, you know, there hasn't been an improvement in tent experience. I think more of our concern is it's kind of a lack of oversight in, you know, these are self-reported numbers. There are many categories where they didn't report any on office supplies, any spending on security, any spending on insured damage. In 2019, they reported tens of thousands of dollars in those categories combined in 2021. And so that combined with the categories that show the us in a 30% to 50% increases. I guess I question if 2019 and 2021 are an accurate representation of their increase in expenses.

Cole: We are aware that the ordinance, as amended, makes no distinction between reasonable and unreasonable expenses. It does not necessarily remove us from the woods, described by Ms. Mumm that 2019 may have been miraculously low expense year where we didn't need office supplies or security. But on top of that, you know, it just needs to be remarked that we have no control over the administrative costs incurred by our landlord, and we should not have to shoulder the burden, especially administrative costs. We have no idea if there are reasonable, what they even break down to. That didn't lead to efficiencies in other areas of expenses. The more spending

and management did not lead to less spending in accounting, and it did not lead to less spending on insurance. There's no efficiency gained. there's no quality-of-life gained for the tenants. That should be reflected in the determination process. Going forward, it may not be reflected in the determination for this case. It needs to be remarked that not all expenses are necessarily reasonable.

Moermond: If you can just give me a moment. I'm going to pause the record. I just want for my benefit if I can put my fingers quickly on the ballot initiative language. And if I can't, I will definitely include on the follow-up information. The question seems to hinge on the change, or the changes, in the language that might change the meaning that was intended. Which it's hard to say with two sentences, but from that to the originally adopted ordinance based on that. Then there was an amendment that added definitions into it. Some, I would say, very modest additions to make it comprehensible. There was a pretty extensive set of amendments that were adopted in September of last year. Throughout that amendment process, I'm hearing that you believe that it got further and further away from what you understood the intent of the ballot initiative was. I want to fact check that the 7 reasons for justification of rent increase have remained unchanged. Staff, has your way of evaluating them changed from the information that you received? Have you gotten more specific about some things that you weren't a specific about before the September 1st amendments? I'm thinking one way to answer this would be the DSI administrative rules that were in place for reviewing applications received up to December 31st of last year and the DSI administrative rules for applications received from January 1st moving forward. Did those rules change, in a substantive way, for how you interpret those 7 reasons that would be the justification for reasonable increase in rent?

Sass: I would say no. The rules went through the public comment period. I would say the way that the applications are reviewed, hasn't changed substantially, they haven't really changed much since the amendments. Aside from the addition of the new processes which exist because of the amendments. There are also administrative changes on how we would review things like an increase in property taxes, just a numerical value.

Moermond: The changes that have introduced new administrative procedures are more around the things like just cause vacancy?

Sass: Correct.

Moermond: Okay. And that that is you just building out something new to be able to interpret those situations when they come forward from property managers, landlords' owners.

Sass: The amendments added several new processes that DSI needs to manage and facilitate. But the actual MNOI process is mostly similar to how it was previously.

Ferkinhoff: The evaluation of the numbers, how we would look at them, that hasn't changed. But in the sense of the self-certified application, what may be different is more administrative. For example, prior to January 1st, we didn't have to send notifications to tenants to let them know that a landlord had requested a rent increase that was above the cap, now we do. That's an additional procedure, which is more procedural, more administrative, than anything which would impact the actual numbers that we would get an application.

Moermond: I do appreciate that; it is not a small lift. I would say medium lift to file an

appeal and come and talk about it. I know out of the 91 units we have 4 units represented. There is a \$25 appeal fee that has not change since the 1990's. Please not, if you were in any way represented by SMIRLS or another such entity, I waive that fee. Just so you have that for your background. With respect to taking time off of work, to have this kind of conversation we haven't figured out another way to do it better, to tell you the truth. There's emailing information back and forth, which is helpful, but it doesn't give us the same kind of benefit is a face-to-face conversation when we can loop back in the owner and staff and have this kind of be all of us in the same space. Thank you for investing in that. I think that hearing your voices is really important and creating a record that articulates your reasoning connected to your specific circumstances for this appeal. This is how the Council looks at changes in the future, so I appreciate that. I also appreciate that you did take time out of your day. There were hardly any comments received on the rules when DSI asked for public comment on the changes that went into place on January 1st.

Ferkinhoff: That that's correct. I want to say that there were a dozen entities, and or individuals who submitted public comments.

Moermond: in comparison to the rules that you put out there in April of 2021 for the original implementation of the ordinance?

Ferkinhoff: Neither Demetrius nor I was employed at that time by the City. But it's in the hundreds.

Moermond: Director Wiese was here and did testify that there were hundreds of comments. There was really a drop-off in the public participation component and hearing about what that might look like. It could be just because there is a greater level of specificity and questions were being answered. You know, agree or disagree, I don't know. Again, hearing your voices in the context of not having as much public comment at that point, I want to just thank you for doing that. I'm going to look at this a little bit more deeply. I am bound by the ordinance language which, you all are aware of and that that would be my job. Do any of you have any questions? What I'm thinking for myself is that I'm going to review this information, maybe ask some follow-up questions. Any additional information that I received from you all, from the property managers, I would make sure to share back and forth so that we all again continue to operate on the same information and background.

Moermond: I will reread the ordinance on this point, but I'm not clear that tenants have the ability to request "an audit" of an application. Do property owners have an obligation to produce that information because tenants are asking for it? Does the City handle that and figure out if there's additional questions that they would ask, based on tenant commentary? How does the city evaluate when to do that? Can tenants say they don't think 2019 was a good year for comparative purposes, I think you should provide us with 2020 data? When I have seen base year questions brought up, it has been in the context of exceptionally low rents having been collected in the base year or a lack of knowledge of what the rents were because there's been a transfer and property ownership and the books that were used in 2019 simply are not available to someone who acquired in 2020. So those are the 2 circumstances. I can think that's clear.

Cole: Yeah, do think that is concerning that tenants can't raise that, while the landlords are able to. I want to reiterate that the point that these are all self-reported expenses and at 32% increase in operating expenses in 2 years is extremely high. I just want to reiterate the concern that there is no oversight on these numbers that they are reporting. Again, there is some categories that we didn't report in 2019, that they're

spending a lot of money and in 2021. And I think that then using those numbers as a basis for increasing our rents when there hasn't been any oversight in that process.

Moermond: What I need to do is look at the math on that. You're in the 30% range for some of the items listed as expenses in the MNOI. I think I need to look at whether or not what's been produced without audit gets us to 8%, which was the maximum request made and whether or not an audit is justified to go even more deeply based on the comments that you are raising. In the past when I have done these, it usually takes me 2 or 3 weeks to come up with a letter to go out with my recommendation to the City Council. And as I indicated right out of the gates, this is a recommendation that I'm making. At the very worst, what we've done here today is to create a record. We've gotten the documents and comments on the record, the staff report and landlords' information. It's all at least pulled together in one place so that the decision-makers have that information coming as their starting point. Again, I appreciate you coming in and engaging and this. I'm going to, if you do have more questions.

Mumm: I have a question. During this period where you are looking deeper, making the recommendation, can our rents be raised during that period?

Moermond: No. Any potential rent increase is stayed until a decision is made by the City Council, which is the final determination. Then state law requirements with respect to notification and so on to apply. A final determination on the application happens 45 days to pass from the DSI determination being made, unless there is an appeal within those 45 days. Yes, Doctor Watkins

Watkins: I want to emphasize that we're spending this time we've met together. We're thinking of all these things because we really do enjoy living where we live, like we love living where we where we live. We all make a certain amount of money. And again, the raises are some things. We're doing this because we are really invested and the place that we live, and we want to stay where we live. And we're just trying to see how we can do that. You know, with what we have in our bank account, you know, so that's what the bottom line is.

Moermond: Yes, and I will say the financial and emotional investment that is being made by you and the residents there is what makes that area so vibrant.

Cole: I want the record to reflect that the raises above 8% and raises between 3% and 8% - that dichotomy is largely artificial from our tenant perspective. It's a 6% to 8% raise and a 17.5% raise. Well, although those are vastly different numbers, they both spell displacements for us. And so, I just want that to be on everyone's mind when they're deciding this case that it is not a magnanimity to spare us from the 17.5% in rent increase. If we are just going to get hit with a 6% or 8% increase. That is structural differentiation. That is codified into law. But structurally meaningless for us as living Saint Paul residents.

Moermond: I am going to push back a little bit and definitions that we are using here. The ordinance talks about up to 3% being allowable without having to seek an exception. And then the difference between the 3% and up is one up procedure at the City, where 3% to 8% is mechanistically decided and then 8% plus is decided using a more thorough staff analysis. We now have the more thorough staff analysis on this 3% to 8% requested increase and are going through the numbers. I hear your arguments about the issues of transparency between the 3% and 8% and how that gets turned around. And I know that the City administration talks about just the

amount of staff that would take, a fleet of people that it would take to be able to do this. I think that the deal is that we wouldn't be here if it weren't an excess of 3%. That is a number that was selected when 3% was the average rent increase. But your point about the transparency is super. You know, I hear you. I have to go back and ask for these worksheets to be produced. They don't exist in city records. I can't pluck it off the shelf and neither can you. Now we can use that and do the analysis and produce that.

Watkins: I think to the comment was about it doesn't matter if it's 8% or it could have been 11% or 13%. We cannot live there like we are being displaced. So that's just something to for. I think, if I may, I don't want to speak for you, but I think that is a large part of what you just said was that it doesn't matter if it's 11% or 13% or 8% we are out, you know....

Moermond: Thank you. I really do appreciate what you said today. It's been very thought provoking and helpful. Okay, Ms. Evenson, if you do have comments, I want to welcome them right now. Is there anything that you wanted to say before we wrap up? We talked earlier any additional information at this point.

Evenson: No, I don't have any.

Moermond: Thank you, everyone for your time today.

Deny the appeal.

2 RLH RSA 23-2 Appeal of Christine Hackney to a Rent Stabilization Determination at 400 SELBY AVENUE, Apt 327.

Sponsors: Balenger

Appellants: Corey Cole, Erika Mumm, Dr. Jamele Watkins

Property Manager: Michelle Evenson, Reacor

Staff: Lynne Ferkinhoff & Demetrius Sass, Department of Safety and Inspections (DSI)

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Victoria Koegel (agent representing Reacor, LTD) are listed as the applicants. Ms. Koegel and Ms. Evenson submitted the application on behalf of the owner, Selby Avenue Realty LLC and the responsible party, Ryan Companies. The applicants noted in the application that rent increases will vary based on where the current rent in comparison to the market, but not to exceed 8%. The increase was proposed to take effect on April 1, 2023. The reasons for the increase listed in the application included an increase in real property taxes and an unavoidable increase in operating expenses. There are no known code violations for this property. For self-certification, applicants are required to provide several pieces of information from the completed worksheet. These are used to calculate Maintenance of Net Operating Income or "MNOI": Gross Scheduled Rental Income (GSRI): \$1,868,620.46; Fair Net Annual Operating Income (NOI): \$1,308,142.44; Fair NOI minus Current Year NOI: \$213,420.52; Allowable Rent Increase Percentage: Not Provided Due to Incorrect Form Being Used.

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The applicants used an outdated version of the Maintenance of Net Operating Income form (likely the outdated version was what was on the city website given the timing of the application), so staff is not sure if the data provided for the current year is from 2021 or 2022. Additionally, the outdated form is pre-populated with the Percent Annual Increase in Consumer Price Index (CPI) Base Year to Current Year for 2019 - 2021 (6.05%). Since 2022 is the correct current year for this comparison, the Percent Annual Increase in CPI Base Year to Current Year for 2019 - 2022 is 13.95%, which would yield a larger increase than what was approved (16.64% vs 11.42%) assuming the current year data is 2022. Please note, however, that self-certified increases are capped at 8%. To calculate Percent Annual Increase in CPI Base Year to Current Year, the formula would be to take the Current Year Annual Average CPI and subtract the Base Year Average CPI and then divide by the Base Year Annual Average CPI. Per the self-certification process, the application was approved on February 7, 2023, for a maximum of an 8% increase. An approval letter was sent to the Property Representative for this request. The letter advised the Property Representative that rent cannot be increased in the next 45 days, pending a final determination.

As required, the applicants provided a Rent Roll that included mailing information for 91 units in the building. The Rent Roll was used to mail postcards to tenants. The February 1, 2023 postcard advised tenants that: 1) the landlord applied for an exception to the 3% cap on rent increases; 2) the application was being reviewed by City staff; 3) tenants needed to wait until a determination is issued before submitting documentation opposing the increase; 4) tenants have the right to appeal the determination to the City's Legislative Hearing Officer. On February 7, 2023 a second postcard advised tenants that: 1) the landlord applied for an exception to the 3% cap on rent increases; 2) approval was granted for the exception through the self-certification process; 3) the determination was not final, and rent cannot be increased in the next 45 days.

Moermond: To recap, some of the high points here. We have an application made in January and a notification that follows letting tenants know an application has been made for an exception to the rent cap. Then DSI comes up with its decision, which in this case an automatic certification because it is in the 3 to 8% range. Then notification that a determination was made goes out to tenants. When our office got the tenant appeal, we asked the ownership to share the MNOI supporting the

application. There was some confusion, my office, in getting out the right documents. Hopefully everybody has the right information. If people haven't had enough time to review it and have additional questions, we can certainly figure out a way to give people a chance to metabolize that information. What I heard from the staff review of the MNOI was that it was filled out using a base year of 2019 but the current year listed here as 2021 and it should have been 2022, perhaps that was because an old worksheet was used. Because that happened, the allowable rent increase was in the 11% range.

Ferkinhoff: 11.42%

Moermond: and if the numbers were adjusted to look at 2022 data, the number would have been 13.95%?

Sass: 13.95% would have been the CPI value comparing 2019 to 2022, just changing that 6% to 13.95%, by including a small math error I found brings the allowable increase to 17.95%. It is still well above the 8% cap for self-certification.

Moermond: Had it been filled out for an increase in excess of 8% your analysis would have been looking at the information submitted which maybe for the wrong year and you if it were, you would engage in a back-and-forth conversation with the applicant to figure out whether or not on the data was correct. But and based on what we're looking at, it would be 11.4% and using the current CPI information that would bring it to 17.5%. So that is the range that would be allowable if the application would have been gone through.

Ms. Evenson, one thing that struck me, and I don't know if I would have noticed it had property tax information not been brought up and the appeals, was what was going on with the property taxes. And I did see proposed property tax statements as attachments on an appeal. So, I asked the DSI team about looking back at the (final) property tax statements for that time, as opposed to the proposed one. Looking at that, one thing that was noticeable was that the property tax numbers in the MNOI likely reflected the fact that this is a mixed use building, and the MNOI only included the residential proportion of the property taxes. When I talked to Mr. Sass about this, he determined the proportion of the total property tax bill showing up on the MNOI was hovering in the 59 to 61% range.

Evenson: There's actually 7 parcels associated with this building. We use different percentages based on the parcel to calculate what the apartments pays and what the commercial space pay. These percentages have been established for many, many years. Well prior to my time. I just went off over the apartment building's financials used in the past, since they took ownership in 2017. I broke out the percentages by parcel if you need that information.

Moermond: I think that's going to introduce a lot more complexity than what we need to look at here. This the property tax statement so shows the bill of \$516,214. But the amount of property taxes listed in your work sheet is \$318,641. So that is about 59% of that total bill, that you have included here for consideration in your rent increase. And then it looks like in 2021, of the \$604,282 property tax statement, you are listing \$360,687, or 61% of that total.

Evenson: Honestly, I questioned that myself. I downloaded the worksheet from the website the week that I completed, and it did say 2021. So, I did complete it using 2021 numbers.

Moermond: Right. There was so much transition with implementing the new version of the Rent Stabilization ordinance that was a misstep on the City's part. I don't know that we're going to have you need to complete a 2022 version given that the 2021 numbers work to give you the rent increase you're looking for and Mr. Sass reported that if the 2022 CPI was used, your rent increase could have been significantly higher. Do staff have any questions at this point?

Ferkinhoff: That answered my question of 2021 versus 2022.

Moermond: Ms. Evenson, do you have questions?

Evenson: No, I don't. And I guess I just wanted to express that, you know, and we knew that we qualified technically for more based on the numbers, but in our own wellbeing we didn't feel like it was right to give our residents that high increases, that's why we decided to just go with 8%. So, you know, we are also considering that in our steps here as well.

Moermond: Would you have said between 0 and 8, are the ones that aren't receiving at least 3?

Evenson: Correct, yes. There's a wide range, some that we will not even be 3%. It all the determined by where their current rent is compared to what our market rents are. And we've also done extensive capital improvements, even in 2022. I believe each unit that's appealing has at least received a new furnace, if not a new furnace, new AC and water heater. I believe there's one unit that received all 3. So, we're investing money back into the property to make it a good place to live. And we need to be able to maintain a reasonable, return.

Moermond: Your application indicated you would begin implementing these rent increases in April. Obviously, that is stayed while we have this conversation, then people would be receiving increases throughout the course of the next 12 months, based on their lease cycle and your specific increase for the unit they occupy.

Mr. Sass, Ms. Ferkinhoff, when there are capital improvements made to individual units that result in variation in the rent increases being charged to them, do you ask for a breakdown by unit for the improvements?

Sass: If capital improvements were listed in the application, which there weren't, then building capital improvements are applied to everybody, individual unit capital improvements would be proportioned out to those units.

Moermond: And does that make a difference based on the amount of capital improvements being referenced?

Sass: In the value? I would say yes, it is typical for especially larger up complexes. Something like a faucet might not be a capital improvement to the same extent that a new faucet for a single-family home could fall in that dollar value range for a capital improvement. Bigger complexes tend to have regular maintenance than single-family homes. Sometimes their capital improvements get lumped in with their regular repairs and maintenance. So, unless there was something like a multithousand dollar expense, it is likely that larger buildings don't separate that out.

Evenson: To clarify, the information that I submitted did not include capital expenses.

Those expenses go above and beyond the figures that we provided. Right or wrong, I don't know. But I felt like I completed it, I knew I exceeded it.

Moermond: I just wanted to clarify it for the record, because you mentioned some units had a new AC and some did not. If that was a piece of why Unit A vs unit B received an 8% vs a 4%. And you're right, what I am hearing here is that you can go to an 8% based on the numbers you provided.

The first appeal on my agenda is Ms. Watkin's appeal. Although you are all here and you don't have to speak in agenda order.

Erica Mumm: The Blair is requesting an exception to the Rent Stabilization ordinance. For the years 2020, 2019 and 2021, they show a disproportionate increase in operating costs compared to their reported income. The Blair reported that their operating expenses were approximately \$586,000 in 2019, the base year and approximately \$774,000 in 2021. What we are using is the current year. So, this is an increase in operating costs of 32% in 2 years with such a drastic increase in operating costs. It does raise the concern that the base year had exceptionally low expenses, and that is not representative. In addition, there are entries in the spreadsheet that are suspect. The Blair reported a 34% increase in the cost of insurance from 2019 and 2021, while at the same time claiming that they had \$35,500 uninsured damages from 2021 when they did not report any uninsured damages in 2019. The Blair did not report any spending on office supplies or security in 2019 but they reported spending several thousand dollars in these areas for 2021. They also reported a 58% increase in spending on management services and reported spending almost 3 and a half times the amount of money on accounting in 2021 than they did in 2019. These expense increases have not resulted in the expansion of new tenant services nor the improvement of existing services. This makes it hard to argue that these expenses are fair and reasonable.

Moermond: So, you are looking for direct tenant benefit resulting from those increases in expenses.

Mumm: Yes, given that 32% increase in reported operating costs from 2019 to 2021 and the fact that their expenses category reported in 2021 that were not reported in any other year, it seems more than prudent to request a breakdown of The Blair's operating expenses and other recent years, not just 2019, and 2021. Further, it also seems prudent to request documentation of this breakdown for each reference here, as it is to provide evidence of their unusually high increase in operating expenses before granting their request for an exception to the rent stabilization ordinance. Finally, while property taxes did increase from 2019 to 2021, they are estimated to decrease in 2023. The Blair estimated 2023 taxes were not a part of the information required to turn in their application. It is nonetheless relevant. Taxes is the foundational pillar of their rent stabilization ordinance exemption. This also provides a contrast between the situation of landlords and tenants. In this case, the landlords' taxes are expected to decrease in the coming year. However, the rent to tenants isn't set, always slated to increase. This is the very situation that the people of Saint Paul voted to prevent, and yet their desires have been easily sidestepped.

Cole: Beyond the facts of this case, it must also be said that the current implementation of the rent stabilization ordinance is disappointing from a tenant standpoint. While it is true, obviously, that tenants have the right to appeal their landlord's exemption request in any determinations made thereof, the process is laden with barriers, information asymmetry and vulnerability to retaliation. I personally haven't

gone through this process. I had to pay a fee, take the morning off of work and schedule a City hearing just to see the basis of which my landlord has requested to raise my rent beyond the 3% limit and just to see how high they intended to raise it. It is easy to say that this policy is not written with tenants in mind and arguably it isn't even written with Saint Paul residents in mind. The ordinance privileges the interests of corporate landlord, some of whom are based far outside of city limits over the human rights of my neighbors and I, some of whom have been living in and contributing to work in Saint Paul for decades, long before the company that now seeks to raise our rents, came into possession of the building there. Even now, as my neighbors and I exercise our legal right to do an appeal to this decision, not because of, but despite the City's process, we are very worried. We're worried that the determination that was made, very quickly, behind closed doors without any transparency to us, will be upheld just on the basis how it was made. We're worried that the extraordinary promptness, in lack of verification involved in the exemption, the process will be used, paradoxically as a basis to deny our appeal to that very determination. And we are worried that many of the citizens of Saint Paul will soon be priced out of the place that they once called home. I love living in Saint Paul and I would stay here for decades and decades if I could. But I can't afford to live here, if the rent each year is going to rise several times the rate of my wages, despite the nominal presence of rent stabilization in the city.

Watkins: Saint Paul Rent Stabilization began as a grassroots effort and was approved by Saint Paul voters. I was really confused when I received a postcard in the mail saying that the rent can be raised anywhere between 3% and 8%. I was horrified to learn about the self-certification process. It was very easy on the website and this lack of transparency. As a university employee, raises are out of my control. I don't even know if I'll get a raise this year, and if I do it won't be 8%. I'm lucky it will be 3%. In fact, I don't know anyone who receives annual raises that high. Simply the expectations that tenants receive 8% raises year after year is not sustainable. And Saint Paul needs to think about that going forward. The City Council amendments makes me wonder if the members are acting on the interest of the citizens of Saint Paul or those of corporations? I feel powerless and scared and be priced out of where I live as someone with a very secure job. How are we supposed to have faith in our local government with amendments like these, amendments that go against what the residents of Saint Paul voted for.

Moermond: I have noted, you are Dr. Watkins, not Ms Watkins. It wasn't on the application. I will correct that. Okay, so we start out with an analysis of the accounting, and the underlying argument is that the accounting would provide increases in rent should translate tenant services and things experience directly by tenants. And if not, then it's not a justifiable expense. I just want to kind of dive a little bit more deeply into the logic of that.

Mumm: I think that the main concern is that they are reporting extremely high increases of 30% to 50% in some of these categories. And well, you know, there hasn't been an improvement in tent experience. I think more of our concern is it's kind of a lack of oversight in, you know, these are self-reported numbers. There are many categories where they didn't report any on office supplies, any spending on security, any spending on insured damage. In 2019, they reported tens of thousands of dollars in those categories combined in 2021. And so that combined with the categories that show the us in a 30% to 50% increases. I guess I question if 2019 and 2021 are an accurate representation of their increase in expenses.

Cole: We are aware that the ordinance, as amended, makes no distinction between reasonable and unreasonable expenses. It does not necessarily remove us from the

woods, described by Ms. Mumm that 2019 may have been miraculously low expense year where we didn't need office supplies or security. But on top of that, you know, it just needs to be remarked that we have no control over the administrative costs incurred by our landlord, and we should not have to shoulder the burden, especially administrative costs. We have no idea if there are reasonable, what they even break down to. That didn't lead to efficiencies in other areas of expenses. The more spending and management did not lead to less spending in accounting, and it did not lead to less spending on insurance. There's no efficiency gained. there's no quality-of-life gained for the tenants. That should be reflected in the determination process. Going forward, it may not be reflected in the determination for this case. It needs to be remarked that not all expenses are necessarily reasonable.

Moermond: If you can just give me a moment. I'm going to pause the record. I just want for my benefit if I can put my fingers quickly on the ballot initiative language. And if I can't, I will definitely include on the follow-up information. The question seems to hinge on the change, or the changes, in the language that might change the meaning that was intended. Which it's hard to say with two sentences, but from that to the originally adopted ordinance based on that. Then there was an amendment that added definitions into it. Some, I would say, very modest additions to make it comprehensible. There was a pretty extensive set of amendments that were adopted in September of last year. Throughout that amendment process, I'm hearing that you believe that it got further and further away from what you understood the intent of the ballot initiative was. I want to fact check that the 7 reasons for justification of rent increase have remained unchanged. Staff, has your way of evaluating them changed from the information that you received? Have you gotten more specific about some things that you weren't a specific about before the September 1st amendments? I'm thinking one way to answer this would be the DSI administrative rules that were in place for reviewing applications received up to December 31st of last year and the DSI administrative rules for applications received from January 1st moving forward. Did those rules change, in a substantive way, for how you interpret those 7 reasons that would be the justification for reasonable increase in rent?

Sass: I would say no. The rules went through the public comment period. I would say the way that the applications are reviewed, hasn't changed substantially, they haven't really changed much since the amendments. Aside from the addition of the new processes which exist because of the amendments. There are also administrative changes on how we would review things like an increase in property taxes, just a numerical value.

Moermond: The changes that have introduced new administrative procedures are more around the things like just cause vacancy?

Sass: Correct.

Moermond: Okay. And that that is you just building out something new to be able to interpret those situations when they come forward from property managers, landlords' owners.

Sass: The amendments added several new processes that DSI needs to manage and facilitate. But the actual MNOI process is mostly similar to how it was previously.

Ferkinhoff: The evaluation of the numbers, how we would look at them, that hasn't changed. But in the sense of the self-certified application, what may be different is more administrative. For example, prior to January 1st, we didn't have to send

notifications to tenants to let them know that a landlord had requested a rent increase that was above the cap, now we do. That's an additional procedure, which is more procedural, more administrative, than anything which would impact the actual numbers that we would get an application.

Moermond: I do appreciate that; it is not a small lift. I would say medium lift to file an appeal and come and talk about it. I know out of the 91 units we have 4 units represented. There is a \$25 appeal fee that has not change since the 1990's. Please not, if you were in any way represented by SMIRLS or another such entity, I waive that fee. Just so you have that for your background. With respect to taking time off of work, to have this kind of conversation we haven't figured out another way to do it better, to tell you the truth. There's emailing information back and forth, which is helpful, but it doesn't give us the same kind of benefit is a face-to-face conversation when we can loop back in the owner and staff and have this kind of be all of us in the same space. Thank you for investing in that. I think that hearing your voices is really important and creating a record that articulates your reasoning connected to your specific circumstances for this appeal. This is how the Council looks at changes in the future, so I appreciate that. I also appreciate that you did take time out of your day. There were hardly any comments received on the rules when DSI asked for public comment on the changes that went into place on January 1st.

Ferkinhoff: That that's correct. I want to say that there were a dozen entities, and or individuals who submitted public comments.

Moermond: in comparison to the rules that you put out there in April of 2021 for the original implementation of the ordinance?

Ferkinhoff: Neither Demetrius nor I was employed at that time by the City. But it's in the hundreds.

Moermond: Director Wiese was here and did testify that there were hundreds of comments. There was really a drop-off in the public participation component and hearing about what that might look like. It could be just because there is a greater level of specificity and questions were being answered. You know, agree or disagree, I don't know. Again, hearing your voices in the context of not having as much public comment at that point, I want to just thank you for doing that. I'm going to look at this a little bit more deeply. I am bound by the ordinance language which, you all are aware of and that that would be my job. Do any of you have any questions? What I'm thinking for myself is that I'm going to review this information, maybe ask some follow-up questions. Any additional information that I received from you all, from the property managers, I would make sure to share back and forth so that we all again continue to operate on the same information and background.

Moermond: I will reread the ordinance on this point, but I'm not clear that tenants have the ability to request "an audit" of an application. Do property owners have an obligation to produce that information because tenants are asking for it? Does the City handle that and figure out if there's additional questions that they would ask, based on tenant commentary? How does the city evaluate when to do that? Can tenants say they don't think 2019 was a good year for comparative purposes, I think you should provide us with 2020 data? When I have seen base year questions brought up, it has been in the context of exceptionally low rents having been collected in the base year or a lack of knowledge of what the rents were because there's been a transfer and property ownership and the books that were used in 2019 simply are not available to someone who acquired in 2020. So those are the 2 circumstances. I can think that's clear.

Cole: Yeah, do think that is concerning that tenants can't raise that, while the landlords are able to. I want to reiterate that the point that these are all self-reported expenses and at 32% increase in operating expenses in 2 years is extremely high. I just want to reiterate the concern that there is no oversight on these numbers that they are reporting. Again, there is some categories that we didn't report in 2019, that they're spending a lot of money and in 2021. And I think that then using those numbers as a basis for increasing our rents when there hasn't been any oversight in that process.

Moermond: What I need to do is look at the math on that. You're in the 30% range for some of the items listed as expenses in the MNOI. I think I need to look at whether or not what's been produced without audit gets us to 8%, which was the maximum request made and whether or not an audit is justified to go even more deeply based on the comments that you are raising. In the past when I have done these, it usually takes me 2 or 3 weeks to come up with a letter to go out with my recommendation to the City Council. And as I indicated right out of the gates, this is a recommendation that I'm making. At the very worst, what we've done here today is to create a record. We've gotten the documents and comments on the record, the staff report and landlords' information. It's all at least pulled together in one place so that the decision-makers have that information coming as their starting point. Again, I appreciate you coming in and engaging and this. I'm going to, if you do have more questions.

Mumm: I have a question. During this period where you are looking deeper, making the recommendation, can our rents be raised during that period?

Moermond: No. Any potential rent increase is stayed until a decision is made by the City Council, which is the final determination. Then state law requirements with respect to notification and so on to apply. A final determination on the application happens 45 days to pass from the DSI determination being made, unless there is an appeal within those 45 days. Yes, Doctor Watkins

Watkins: I want to emphasize that we're spending this time we've met together. We're thinking of all these things because we really do enjoy living where we live, like we love living where we where we live. We all make a certain amount of money. And again, the raises are some things. We're doing this because we are really invested and the place that we live, and we want to stay where we live. And we're just trying to see how we can do that. You know, with what we have in our bank account, you know, so that's what the bottom line is.

Moermond: Yes, and I will say the financial and emotional investment that is being made by you and the residents there is what makes that area so vibrant.

Cole: I want the record to reflect that the raises above 8% and raises between 3% and 8% - that dichotomy is largely artificial from our tenant perspective. It's a 6% to 8% raise and a 17.5% raise. Well, although those are vastly different numbers, they both spell displacements for us. And so, I just want that to be on everyone's mind when they're deciding this case that it is not a magnanimity to spare us from the 17.5% in rent increase. If we are just going to get hit with a 6% or 8% increase. That is structural differentiation. That is codified into law. But structurally meaningless for us as living Saint Paul residents.

Moermond: I am going to push back a little bit and definitions that we are using here. The ordinance talks about up to 3% being allowable without having to seek an

exception. And then the difference between the 3% and up is one up procedure at the City, where 3% to 8% is mechanistically decided and then 8% plus is decided using a more thorough staff analysis. We now have the more thorough staff analysis on this 3% to 8% requested increase and are going through the numbers. I hear your arguments about the issues of transparency between the 3% and 8% and how that gets turned around. And I know that the City administration talks about just the amount of staff that would take, a fleet of people that it would take to be able to do this. I think that the deal is that we wouldn't be here if it weren't an excess of 3%. That is a number that was selected when 3% was the average rent increase. But your point about the transparency is super. You know, I hear you. I have to go back and ask for these worksheets to be produced. They don't exist in city records. I can't pluck it off the shelf and neither can you. Now we can use that and do the analysis and produce that.

Watkins: I think to the comment was about it doesn't matter if it's 8% or it could have been 11% or 13%. We cannot live there like we are being displaced. So that's just something to for. I think, if I may, I don't want to speak for you, but I think that is a large part of what you just said was that it doesn't matter if it's 11% or 13% or 8% we are out, you know....

Moermond: Thank you. I really do appreciate what you said today. It's been very thought provoking and helpful. Okay, Ms. Evenson, if you do have comments, I want to welcome them right now. Is there anything that you wanted to say before we wrap up? We talked earlier any additional information at this point.

Evenson: No, I don't have any.

Moermond: Thank you, everyone for your time today.

Deny the appeal.

3 RLH RSA 23-3 Appeal of Levi Indvik to a Rent Stabilization Determination at 400 SELBY AVENUE, Apt. 303.

Sponsors: Balenger

Appellants: Corey Cole, Erika Mumm, Dr. Jamele Watkins

Property Manager: Michelle Evenson, Reacor

Staff: Lynne Ferkinhoff & Demetrius Sass, Department of Safety and Inspections (DSI)

Moermond: This is a hearing to consider an appeal of a city determination on a request for an exemption of the City's cap on rent increases. The goal of the hearing process is to come up with a recommendation for the City Council to consider on the appeals. This is a recommendation to the City Council, if for any reason someone objects to the recommendation I've made, the matter would be discussed by the Council and you can share your perspectives. If we hear from an of you who want to testify at Council, we want to make sure that the other parties are aware of that. We are trying to keep the communication open so all people can have their perspectives heard. What I first want to do in appeals cases is to hear from staff and get the background on what they looked at and why they came to the determination they did. I will ask them to also address some of the questions I have read in the appeals. This particular set of appeals came in since the rules change came into effect January 1, so this is new to us, too.

Lynne Ferkinhoff: On January 30, 2023, the department received a self-certified application for an exception to the 3% rent increase cap per ordinance 193A. The application comprises the entire building of 91 units, including those of the appellants: Apartment 303 (Levi Indvik), Apartment 312 (Jamele Watkins), Apartment 327 (Christine Hackney), and Apartment 332 (Erica Mumm). The intake form is part of the record and Michelle Evenson (landlord representing Selby Avenue Realty, LLC) and Victoria Koegel (agent representing Reacor, LTD) are listed as the applicants. Ms. Koegel and Ms. Evenson submitted the application on behalf of the owner, Selby Avenue Realty LLC and the responsible party, Ryan Companies. The applicants noted in the application that rent increases will vary based on where the current rent in comparison to the market, but not to exceed 8%. The increase was proposed to take effect on April 1, 2023. The reasons for the increase listed in the application included an increase in real property taxes and an unavoidable increase in operating expenses. There are no known code violations for this property. For self-certification, applicants are required to provide several pieces of information from the completed worksheet. These are used to calculate Maintenance of Net Operating Income or "MNOI": Gross Scheduled Rental Income (GSRI): \$1,868,620.46; Fair Net Annual Operating Income (NOI): \$1,308,142.44; Fair NOI minus Current Year NOI: \$213,420.52; Allowable Rent Increase Percentage: Not Provided Due to Incorrect Form Being Used.

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Moermond: To recap, some of the high points here. We have an application made in January and a notification that follows letting tenants know an application has been made for an exception to the rent cap. Then DSI comes up with its decision, which in this case an automatic certification because it is in the 3 to 8% range. Then notification that a determination was made goes out to tenants. When our office got the tenant appeal, we asked the ownership to share the MNOI supporting the application. There was some confusion, my office, in getting out the right documents. Hopefully everybody has the right information. If people haven't had enough time to review it and have additional questions, we can certainly figure out a way to give people a chance to metabolize that information. What I heard from the staff review of the MNOI was that it was filled out using a base year of 2019 but the current year listed here as 2021 and it should have been 2022, perhaps that was because an old worksheet was used. Because that happened, the allowable rent increase was in the 11% range.

Ferkinhoff: 11.42%

Moermond: and if the numbers were adjusted to look at 2022 data, the number would have been 13.95%?

Sass: 13.95% would have been the CPI value comparing 2019 to 2022, just changing that 6% to 13.95%, by including a small math error I found brings the allowable increase to 17.95%. It is still well above the 8% cap for self-certification.

Moermond: Had it been filled out for an increase in excess of 8% your analysis would have been looking at the information submitted which maybe for the wrong year and you if it were, you would engage in a back-and-forth conversation with the applicant to figure out whether or not on the data was correct. But and based on what we're looking at, it would be 11.4% and using the current CPI information that would bring it to 17.5%. So that is the range that would be allowable if the application would have been gone through.

Ms. Evenson, one thing that struck me, and I don't know if I would have noticed it had property tax information not been brought up and the appeals, was what was going on with the property taxes. And I did see proposed property tax statements as attachments on an appeal. So, I asked the DSI team about looking back at the (final) property tax statements for that time, as opposed to the proposed one. Looking at that, one thing that was noticeable was that the property tax numbers in the MNOI likely reflected the fact that this is a mixed use building, and the MNOI only included the residential proportion of the property taxes. When I talked to Mr. Sass about this, he determined the proportion of the total property tax bill showing up on the MNOI was hovering in the 59 to 61% range.

Evenson: There's actually 7 parcels associated with this building. We use different percentages based on the parcel to calculate what the apartments pays and what the commercial space pay. These percentages have been established for many, many years. Well prior to my time. I just went off over the apartment building's financials used in the past, since they took ownership in 2017. I broke out the percentages by parcel if you need that information.

Moermond: I think that's going to introduce a lot more complexity than what we need to look at here. This the property tax statement so shows the bill of \$516,214. But the amount of property taxes listed in your work sheet is \$318,641. So that is about 59% of that total bill, that you have included here for consideration in your rent increase.

And then it looks like in 2021, of the \$604,282 property tax statement, you are listing \$360,687, or 61% of that total.

Evenson: Honestly, I questioned that myself. I downloaded the worksheet from the website the week that I completed, and it did say 2021. So, I did complete it using 2021 numbers.

Moermond: Right. There was so much transition with implementing the new version of the Rent Stabilization ordinance that was a misstep on the City's part. I don't know that we're going to have you need to complete a 2022 version given that the 2021 numbers work to give you the rent increase you're looking for and Mr. Sass reported that if the 2022 CPI was used, your rent increase could have been significantly higher. Do staff have any questions at this point?

Ferkinhoff: That answered my question of 2021 versus 2022.

Moermond: Ms. Evenson, do you have questions?

Evenson: No, I don't. And I guess I just wanted to express that, you know, and we knew that we qualified technically for more based on the numbers, but in our own wellbeing we didn't feel like it was right to give our residents that high increases, that's why we decided to just go with 8%. So, you know, we are also considering that in our steps here as well.

Moermond: Would you have said between 0 and 8, are the ones that aren't receiving at least 3?

Evenson: Correct, yes. There's a wide range, some that we will not even be 3%. It all the determined by where their current rent is compared to what our market rents are. And we've also done extensive capital improvements, even in 2022. I believe each unit that's appealing has at least received a new furnace, if not a new furnace, new AC and water heater. I believe there's one unit that received all 3. So, we're investing money back into the property to make it a good place to live. And we need to be able to maintain a reasonable, return.

Moermond: Your application indicated you would begin implementing these rent increases in April. Obviously, that is stayed while we have this conversation, then people would be receiving increases throughout the course of the next 12 months, based on their lease cycle and your specific increase for the unit they occupy.

Mr. Sass, Ms. Ferkinhoff, when there are capital improvements made to individual units that result in variation in the rent increases being charged to them, do you ask for a breakdown by unit for the improvements?

Sass: If capital improvements were listed in the application, which there weren't, then building capital improvements are applied to everybody, individual unit capital improvements would be proportioned out to those units.

Moermond: And does that make a difference based on the amount of capital improvements being referenced?

Sass: In the value? I would say yes, it is typical for especially larger up complexes. Something like a faucet might not be a capital improvement to the same extent that a new faucet for a single-family home could fall in that dollar value range for a capital

improvement. Bigger complexes tend to have regular maintenance than single-family homes. Sometimes their capital improvements get lumped in with their regular repairs and maintenance. So, unless there was something like a multithousand dollar expense, it is likely that larger buildings don't separate that out.

Evenson: To clarify, the information that I submitted did not include capital expenses. Those expenses go above and beyond the figures that we provided. Right or wrong, I don't know. But I felt like I completed it, I knew I exceeded it.

Moermond: I just wanted to clarify it for the record, because you mentioned some units had a new AC and some did not. If that was a piece of why Unit A vs unit B received an 8% vs a 4%. And you're right, what I am hearing here is that you can go to an 8% based on the numbers you provided.

The first appeal on my agenda is Ms. Watkin's appeal. Although you are all here and you don't have to speak in agenda order.

Erica Mumm: The Blair is requesting an exception to the Rent Stabilization ordinance. For the years 2020, 2019 and 2021, they show a disproportionate increase in operating costs compared to their reported income. The Blair reported that their operating expenses were approximately \$586,000 in 2019, the base year and approximately \$774,000 in 2021. What we are using is the current year. So, this is an increase in operating costs of 32% in 2 years with such a drastic increase in operating costs. It does raise the concern that the base year had exceptionally low expenses, and that is not representative. In addition, there are entries in the spreadsheet that are suspect. The Blair reported a 34% increase in the cost of insurance from 2019 and 2021, while at the same time claiming that they had \$35,500 uninsured damages from 2021 when they did not report any uninsured damages in 2019. The Blair did not report any spending on office supplies or security in 2019 but they reported spending several thousand dollars in these areas for 2021. They also reported a 58% increase in spending on management services and reported spending almost 3 and a half times the amount of money on accounting in 2021 than they did in 2019. These expense increases have not resulted in the expansion of new tenant services nor the improvement of existing services. This makes it hard to argue that these expenses are fair and reasonable.

Moermond: So, you are looking for direct tenant benefit resulting from those increases in expenses.

Mumm: Yes, given that 32% increase in reported operating costs from 2019 to 2021 and the fact that their expenses category reported in 2021 that were not reported in any other year, it seems more than prudent to request a breakdown of The Blair's operating expenses and other recent years, not just 2019, and 2021. Further, it also seems prudent to request documentation of this breakdown for each reference here, as it is to provide evidence of their unusually high increase in operating expenses before granting their request for an exception to the rent stabilization ordinance. Finally, while property taxes did increase from 2019 to 2021, they are estimated to decrease in 2023. The Blair estimated 2023 taxes were not a part of the information required to turn in their application. It is nonetheless relevant. Taxes is the foundational pillar of their rent stabilization ordinance exemption. This also provides a contrast between the situation of landlords and tenants. In this case, the landlords' taxes are expected to decrease in the coming year. However, the rent to tenants isn't set, always slated to increase. This is the very situation that the people of Saint Paul voted to prevent, and yet their desires have been easily sidestepped.

Cole: Beyond the facts of this case, it must also be said that the current implementation of the rent stabilization ordinance is disappointing from a tenant standpoint. While it is true, obviously, that tenants have the right to appeal their landlord's exemption request in any determinations made thereof, the process is laden with barriers, information asymmetry and vulnerability to retaliation. I personally haven't gone through this process. I had to pay a fee, take the morning off of work and schedule a City hearing just to see the basis of which my landlord has requested to raise my rent beyond the 3% limit and just to see how high they intended to raise it. It is easy to say that this policy is not written with tenants in mind and arguably it isn't even written with Saint Paul residents in mind. The ordinance privileges the interests of corporate landlord, some of whom are based far outside of city limits over the human rights of my neighbors and I, some of whom have been living in and contributing to work in Saint Paul for decades, long before the company that now seeks to raise our rents, came into possession of the building there. Even now, as my neighbors and I exercise our legal right to do an appeal to this decision, not because of, but despite the City's process, we are very worried. We're worried that the determination that was made, very quickly, behind closed doors without any transparency to us, will be upheld just on the basis how it was made. We're worried that the extraordinary promptness, in lack of verification involved in the exemption, the process will be used, paradoxically as a basis to deny our appeal to that very determination. And we are worried that many of the citizens of Saint Paul will soon be priced out of the place that they once called home. I love living in Saint Paul and I would stay here for decades and decades if I could. But I can't afford to live here, if the rent each year is going to rise several times the rate of my wages, despite the nominal presence of rent stabilization in the city.

Watkins: Saint Paul Rent Stabilization began as a grassroots effort and was approved by Saint Paul voters. I was really confused when I received a postcard in the mail saying that the rent can be raised anywhere between 3% and 8%. I was horrified to learn about the self-certification process. It was very easy on the website and this lack of transparency. As a university employee, raises are out of my control. I don't even know if I'll get a raise this year, and if I do it won't be 8%. I'm lucky it will be 3%. In fact, I don't know anyone who receives annual raises that high. Simply the expectations that tenants receive 8% raises year after year is not sustainable. And Saint Paul needs to think about that going forward. The City Council amendments makes me wonder if the members are acting on the interest of the citizens of Saint Paul or those of corporations? I feel powerless and scared and be priced out of where I live as someone with a very secure job. How are we supposed to have faith in our local government with amendments like these, amendments that go against what the residents of Saint Paul voted for.

Moermond: I have noted, you are Dr. Watkins, not Ms Watkins. It wasn't on the application. I will correct that. Okay, so we start out with an analysis of the accounting, and the underlying argument is that the accounting would provide increases in rent should translate tenant services and things experience directly by tenants. And if not, then it's not a justifiable expense. I just want to kind of dive a little bit more deeply into the logic of that.

Mumm: I think that the main concern is that they are reporting extremely high increases of 30% to 50% in some of these categories. And well, you know, there hasn't been an improvement in tent experience. I think more of our concern is it's kind of a lack of oversight in, you know, these are self-reported numbers. There are many categories where they didn't report any on office supplies, any spending on security, any spending on insured damage. In 2019, they reported tens of thousands of dollars

in those categories combined in 2021. And so that combined with the categories that show the us in a 30% to 50% increases. I guess I question if 2019 and 2021 are an accurate representation of their increase in expenses.

Cole: We are aware that the ordinance, as amended, makes no distinction between reasonable and unreasonable expenses. It does not necessarily remove us from the woods, described by Ms. Mumm that 2019 may have been miraculously low expense year where we didn't need office supplies or security. But on top of that, you know, it just needs to be remarked that we have no control over the administrative costs incurred by our landlord, and we should not have to shoulder the burden, especially administrative costs. We have no idea if there are reasonable, what they even break down to. That didn't lead to efficiencies in other areas of expenses. The more spending and management did not lead to less spending in accounting, and it did not lead to less spending on insurance. There's no efficiency gained. there's no quality-of-life gained for the tenants. That should be reflected in the determination process. Going forward, it may not be reflected in the determination for this case. It needs to be remarked that not all expenses are necessarily reasonable.

Moermond: If you can just give me a moment. I'm going to pause the record. I just want for my benefit if I can put my fingers quickly on the ballot initiative language. And if I can't, I will definitely include on the follow-up information. The question seems to hinge on the change, or the changes, in the language that might change the meaning that was intended. Which it's hard to say with two sentences, but from that to the originally adopted ordinance based on that. Then there was an amendment that added definitions into it. Some, I would say, very modest additions to make it comprehensible. There was a pretty extensive set of amendments that were adopted in September of last year. Throughout that amendment process, I'm hearing that you believe that it got further and further away from what you understood the intent of the ballot initiative was. I want to fact check that the 7 reasons for justification of rent increase have remained unchanged. Staff, has your way of evaluating them changed from the information that you received? Have you gotten more specific about some things that you weren't a specific about before the September 1st amendments? I'm thinking one way to answer this would be the DSI administrative rules that were in place for reviewing applications received up to December 31st of last year and the DSI administrative rules for applications received from January 1st moving forward. Did those rules change, in a substantive way, for how you interpret those 7 reasons that would be the justification for reasonable increase in rent?

Sass: I would say no. The rules went through the public comment period. I would say the way that the applications are reviewed, hasn't changed substantially, they haven't really changed much since the amendments. Aside from the addition of the new processes which exist because of the amendments. There are also administrative changes on how we would review things like an increase in property taxes, just a numerical value.

Moermond: The changes that have introduced new administrative procedures are more around the things like just cause vacancy?

Sass: Correct.

Moermond: Okay. And that that is you just building out something new to be able to interpret those situations when they come forward from property managers, landlords' owners.

Sass: *The amendments added several new processes that DSI needs to manage and facilitate. But the actual MNOI process is mostly similar to how it was previously.*

Ferkinhoff: *The evaluation of the numbers, how we would look at them, that hasn't changed. But in the sense of the self-certified application, what may be different is more administrative. For example, prior to January 1st, we didn't have to send notifications to tenants to let them know that a landlord had requested a rent increase that was above the cap, now we do. That's an additional procedure, which is more procedural, more administrative, than anything which would impact the actual numbers that we would get an application.*

Moermond: *I do appreciate that; it is not a small lift. I would say medium lift to file an appeal and come and talk about it. I know out of the 91 units we have 4 units represented. There is a \$25 appeal fee that has not change since the 1990's. Please not, if you were in any way represented by SMIRLS or another such entity, I waive that fee. Just so you have that for your background. With respect to taking time off of work, to have this kind of conversation we haven't figured out another way to do it better, to tell you the truth. There's emailing information back and forth, which is helpful, but it doesn't give us the same kind of benefit is a face-to-face conversation when we can loop back in the owner and staff and have this kind of be all of us in the same space. Thank you for investing in that. I think that hearing your voices is really important and creating a record that articulates your reasoning connected to your specific circumstances for this appeal. This is how the Council looks at changes in the future, so I appreciate that. I also appreciate that you did take time out of your day. There were hardly any comments received on the rules when DSI asked for public comment on the changes that went into place on January 1st.*

Ferkinhoff: *That that's correct. I want to say that there were a dozen entities, and or individuals who submitted public comments.*

Moermond: *in comparison to the rules that you put out there in April of 2021 for the original implementation of the ordinance?*

Ferkinhoff: *Neither Demetrius nor I was employed at that time by the City. But it's in the hundreds.*

Moermond: *Director Wiese was here and did testify that there were hundreds of comments. There was really a drop-off in the public participation component and hearing about what that might look like. It could be just because there is a greater level of specificity and questions were being answered. You know, agree or disagree, I don't know. Again, hearing your voices in the context of not having as much public comment at that point, I want to just thank you for doing that. I'm going to look at this a little bit more deeply. I am bound by the ordinance language which, you all are aware of and that that would be my job. Do any of you have any questions? What I'm thinking for myself is that I'm going to review this information, maybe ask some follow-up questions. Any additional information that I received from you all, from the property managers, I would make sure to share back and forth so that we all again continue to operate on the same information and background.*

Moermond: *I will reread the ordinance on this point, but I'm not clear that tenants have the ability to request "an audit" of an application. Do property owners have an obligation to produce that information because tenants are asking for it? Does the City handle that and figure out if there's additional questions that they would ask, based on tenant commentary? How does the city evaluate when to do that? Can tenants say they don't*

think 2019 was a good year for comparative purposes, I think you should provide us with 2020 data? When I have seen base year questions brought up, it has been in the context of exceptionally low rents having been collected in the base year or a lack of knowledge of what the rents were because there's been a transfer and property ownership and the books that were used in 2019 simply are not available to someone who acquired in 2020. So those are the 2 circumstances. I can think that's clear.

Cole: Yeah, do think that is concerning that tenants can't raise that, while the landlords are able to. I want to reiterate that the point that these are all self-reported expenses and at 32% increase in operating expenses in 2 years is extremely high. I just want to reiterate the concern that there is no oversight on these numbers that they are reporting. Again, there is some categories that we didn't report in 2019, that they're spending a lot of money and in 2021. And I think that then using those numbers as a basis for increasing our rents when there hasn't been any oversight in that process.

Moermond: What I need to do is look at the math on that. You're in the 30% range for some of the items listed as expenses in the MNOI. I think I need to look at whether or not what's been produced without audit gets us to 8%, which was the maximum request made and whether or not an audit is justified to go even more deeply based on the comments that you are raising. In the past when I have done these, it usually takes me 2 or 3 weeks to come up with a letter to go out with my recommendation to the City Council. And as I indicated right out of the gates, this is a recommendation that I'm making. At the very worst, what we've done here today is to create a record. We've gotten the documents and comments on the record, the staff report and landlords' information. It's all at least pulled together in one place so that the decision-makers have that information coming as their starting point. Again, I appreciate you coming in and engaging and this. I'm going to, if you do have more questions.

Mumm: I have a question. During this period where you are looking deeper, making the recommendation, can our rents be raised during that period?

Moermond: No. Any potential rent increase is stayed until a decision is made by the City Council, which is the final determination. Then state law requirements with respect to notification and so on to apply. A final determination on the application happens 45 days to pass from the DSI determination being made, unless there is an appeal within those 45 days. Yes, Doctor Watkins

Watkins: I want to emphasize that we're spending this time we've met together. We're thinking of all these things because we really do enjoy living where we live, like we love living where we where we live. We all make a certain amount of money. And again, the raises are some things. We're doing this because we are really invested and the place that we live, and we want to stay where we live. And we're just trying to see how we can do that. You know, with what we have in our bank account, you know, so that's what the bottom line is.

Moermond: Yes, and I will say the financial and emotional investment that is being made by you and the residents there is what makes that area so vibrant.

Cole: I want the record to reflect that the raises above 8% and raises between 3% and 8% - that dichotomy is largely artificial from our tenant perspective. It's a 6% to 8% raise and a 17.5% raise. Well, although those are vastly different numbers, they both spell displacements for us. And so, I just want that to be on everyone's mind when they're deciding this case that it is not a magnanimity to spare us from the 17.5% in

rent increase. If we are just going to get hit with a 6% or 8% increase. That is structural differentiation. That is codified into law. But structurally meaningless for us as living Saint Paul residents.

Moermond: I am going to push back a little bit and definitions that we are using here. The ordinance talks about up to 3% being allowable without having to seek an exception. And then the difference between the 3% and up is one up procedure at the City, where 3% to 8% is mechanistically decided and then 8% plus is decided using a more thorough staff analysis. We now have the more thorough staff analysis on this 3% to 8% requested increase and are going through the numbers. I hear your arguments about the issues of transparency between the 3% and 8% and how that gets turned around. And I know that the City administration talks about just the amount of staff that would take, a fleet of people that it would take to be able to do this. I think that the deal is that we wouldn't be here if it weren't an excess of 3%. That is a number that was selected when 3% was the average rent increase. But your point about the transparency is super. You know, I hear you. I have to go back and ask for these worksheets to be produced. They don't exist in city records. I can't pluck it off the shelf and neither can you. Now we can use that and do the analysis and produce that.

Watkins: I think to the comment was about it doesn't matter if it's 8% or it could have been 11% or 13%. We cannot live there like we are being displaced. So that's just something to for. I think, if I may, I don't want to speak for you, but I think that is a large part of what you just said was that it doesn't matter if it's 11% or 13% or 8% we are out, you know....

Moermond: Thank you. I really do appreciate what you said today. It's been very thought provoking and helpful. Okay, Ms. Evenson, if you do have comments, I want to welcome them right now. Is there anything that you wanted to say before we wrap up? We talked earlier any additional information at this point.

Evenson: No, I don't have any.

Moermond: Thank you, everyone for your time today.

Deny the appeal.

4 RLH RSA 23-4 Appeal of Erica Mumm to a Rent Stabilization Determination at 400 SELBY AVENUE, Apt. 332.

Sponsors: Balenger

Appellants: Corey Cole, Erika Mumm, Dr. Jamele Watkins

Property Manager: Michelle Evenson, Reacor

Staff: Lynne Ferkinhoff & Demetrius Sass, Department of Safety and Inspections (DSI)

Moermond: This is a hearing to consider an appeal of a city determination on a request for an exemption of the City's cap on rent increases. The goal of the hearing process is to come up with a recommendation for the City Council to consider on the appeals. This is a recommendation to the City Council, if for any reason someone objects to the recommendation I've made, the matter would be discussed by the Council and you can share your perspectives. If we hear from an of you who want to testify at Council, we want to make sure that the other parties are aware of that. We are trying to keep the communication open so all people can have their perspectives

heard. What I first want to do in appeals cases is to hear from staff and get the background on what they looked at and why they came to the determination they did. I will ask them to also address some of the questions I have read in the appeals. This particular set of appeals came in since the rules change came into effect January 1, so this is new to us, too.

Lynne Ferkinhoff: On January 30, 2023, the department received a self-certified application for an exception to the 3% rent increase cap per ordinance 193A. The application comprises the entire building of 91 units, including those of the appellants: Apartment 303 (Levi Indvik), Apartment 312 (Jamele Watkins), Apartment 327 (Christine Hackney), and Apartment 332 (Erica Mumm). The intake form is part of the record and Michelle Evenson (landlord representing Selby Avenue Realty, LLC) and Victoria Koegel (agent representing Reacor, LTD) are listed as the applicants. Ms. Koegel and Ms. Evenson submitted the application on behalf of the owner, Selby Avenue Realty LLC and the responsible party, Ryan Companies. The applicants noted in the application that rent increases will vary based on where the current rent in comparison to the market, but not to exceed 8%. The increase was proposed to take effect on April 1, 2023. The reasons for the increase listed in the application included an increase in real property taxes and an unavoidable increase in operating expenses. There are no known code violations for this property. For self-certification, applicants are required to provide several pieces of information from the completed worksheet. These are used to calculate Maintenance of Net Operating Income or "MNOI": Gross Scheduled Rental Income (GSRI): \$1,868,620.46; Fair Net Annual Operating Income (NOI): \$1,308,142.44; Fair NOI minus Current Year NOI: \$213,420.52; Allowable Rent Increase Percentage: Not Provided Due to Incorrect Form Being Used.

While the Allowable Rent Increase Percentage was not provided in the application due to the incorrect form being used, it can be calculated from the information given: Missed Fair Income (\$213,421) divided by Current Year GSRI (\$1,868,620) equals the Allowable Rent Increase of 11.42%.

The applicants used an outdated version of the Maintenance of Net Operating Income form (likely the outdated version was what was on the city website given the timing of the application), so staff is not sure if the data provided for the current year is from 2021 or 2022. Additionally, the outdated form is pre-populated with the Percent Annual Increase in Consumer Price Index (CPI) Base Year to Current Year for 2019 - 2021 (6.05%). Since 2022 is the correct current year for this comparison, the Percent Annual Increase in CPI Base Year to Current Year for 2019 - 2022 is 13.95%, which would yield a larger increase than what was approved (16.64% vs 11.42%) assuming the current year data is 2022. Please note, however, that self-certified increases are capped at 8%. To calculate Percent Annual Increase in CPI Base Year to Current Year, the formula would be to take the Current Year Annual Average CPI and subtract the Base Year Average CPI and then divide by the Base Year Annual Average CPI. Per the self-certification process, the application was approved on February 7, 2023, for a maximum of an 8% increase. An approval letter was sent to the Property Representative for this request. The letter advised the Property Representative that rent cannot be increased in the next 45 days, pending a final determination.

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Sass: 13.95% would have been the CPI value comparing 2019 to 2022, just changing that 6% to 13.95%, by including a small math error I found brings the allowable increase to 17.95%. It is still well above the 8% cap for self-certification.

Moermond: Had it been filled out for an increase in excess of 8% your analysis would have been looking at the information submitted which maybe for the wrong year and you if it were, you would engage in a back-and-forth conversation with the applicant to figure out whether or not on the data was correct. But and based on what we're looking at, it would be 11.4% and using the current CPI information that would bring it to 17.5%. So that is the range that would be allowable if the application would have been gone through.

Ms. Evenson, one thing that struck me, and I don't know if I would have noticed it had property tax information not been brought up and the appeals, was what was going on with the property taxes. And I did see proposed property tax statements as attachments on an appeal. So, I asked the DSI team about looking back at the (final) property tax statements for that time, as opposed to the proposed one. Looking at that, one thing that was noticeable was that the property tax numbers in the MNOI likely reflected the fact that this is a mixed use building, and the MNOI only included the residential proportion of the property taxes. When I talked to Mr. Sass about this, he determined the proportion of the total property tax bill showing up on the MNOI was hovering in the 59 to 61% range.

Evenson: There's actually 7 parcels associated with this building. We use different percentages based on the parcel to calculate what the apartments pays and what the commercial space pay. These percentages have been established for many, many years. Well prior to my time. I just went off over the apartment building's financials used in the past, since they took ownership in 2017. I broke out the percentages by

parcel if you need that information.

Moermond: I think that's going to introduce a lot more complexity than what we need to look at here. This the property tax statement so shows the bill of \$516,214. But the amount of property taxes listed in your work sheet is \$318,641. So that is about 59% of that total bill, that you have included here for consideration in your rent increase. And then it looks like in 2021, of the \$604,282 property tax statement, you are listing \$360,687, or 61% of that total.

Evenson: Honestly, I questioned that myself. I downloaded the worksheet from the website the week that I completed, and it did say 2021. So, I did complete it using 2021 numbers.

Moermond: Right. There was so much transition with implementing the new version of the Rent Stabilization ordinance that was a misstep on the City's part. I don't know that we're going to have you need to complete a 2022 version given that the 2021 numbers work to give you the rent increase you're looking for and Mr. Sass reported that if the 2022 CPI was used, your rent increase could have been significantly higher. Do staff have any questions at this point?

Ferkinhoff: That answered my question of 2021 versus 2022.

Moermond: Ms. Evenson, do you have questions?

Evenson: No, I don't. And I guess I just wanted to express that, you know, and we knew that we qualified technically for more based on the numbers, but in our own wellbeing we didn't feel like it was right to give our residents that high increases, that's why we decided to just go with 8%. So, you know, we are also considering that in our steps here as well.

Moermond: Would you have said between 0 and 8, are the ones that aren't receiving at least 3?

Evenson: Correct, yes. There's a wide range, some that we will not even be 3%. It all the determined by where their current rent is compared to what our market rents are. And we've also done extensive capital improvements, even in 2022. I believe each unit that's appealing has at least received a new furnace, if not a new furnace, new AC and water heater. I believe there's one unit that received all 3. So, we're investing money back into the property to make it a good place to live. And we need to be able to maintain a reasonable, return.

Moermond: Your application indicated you would begin implementing these rent increases in April. Obviously, that is stayed while we have this conversation, then people would be receiving increases throughout the course of the next 12 months, based on their lease cycle and your specific increase for the unit they occupy.

Mr. Sass, Ms. Ferkinhoff, when there are capital improvements made to individual units that result in variation in the rent increases being charged to them, do you ask for a breakdown by unit for the improvements?

Sass: If capital improvements were listed in the application, which there weren't, then building capital improvements are applied to everybody, individual unit capital improvements would be proportioned out to those units.

Moermond: And does that make a difference based on the amount of capital improvements being referenced?

Sass: In the value? I would say yes, it is typical for especially larger up complexes. Something like a faucet might not be a capital improvement to the same extent that a new faucet for a single-family home could fall in that dollar value range for a capital improvement. Bigger complexes tend to have regular maintenance than single-family homes. Sometimes their capital improvements get lumped in with their regular repairs and maintenance. So, unless there was something like a multithousand dollar expense, it is likely that larger buildings don't separate that out.

Evenson: To clarify, the information that I submitted did not include capital expenses. Those expenses go above and beyond the figures that we provided. Right or wrong, I don't know. But I felt like I completed it, I knew I exceeded it.

Moermond: I just wanted to clarify it for the record, because you mentioned some units had a new AC and some did not. If that was a piece of why Unit A vs unit B received an 8% vs a 4%. And you're right, what I am hearing here is that you can go to an 8% based on the numbers you provided.

The first appeal on my agenda is Ms. Watkin's appeal. Although you are all here and you don't have to speak in agenda order.

Erica Mumm: The Blair is requesting an exception to the Rent Stabilization ordinance. For the years 2020, 2019 and 2021, they show a disproportionate increase in operating costs compared to their reported income. The Blair reported that their operating expenses were approximately \$586,000 in 2019, the base year and approximately \$774,000 in 2021. What we are using is the current year. So, this is an increase in operating costs of 32% in 2 years with such a drastic increase in operating costs. It does raise the concern that the base year had exceptionally low expenses, and that is not representative. In addition, there are entries in the spreadsheet that are suspect. The Blair reported a 34% increase in the cost of insurance from 2019 and 2021, while at the same time claiming that they had \$35,500 uninsured damages from 2021 when they did not report any uninsured damages in 2019. The Blair did not report any spending on office supplies or security in 2019 but they reported spending several thousand dollars in these areas for 2021. They also reported a 58% increase in spending on management services and reported spending almost 3 and a half times the amount of money on accounting in 2021 than they did in 2019. These expense increases have not resulted in the expansion of new tenant services nor the improvement of existing services. This makes it hard to argue that these expenses are fair and reasonable.

Moermond: So, you are looking for direct tenant benefit resulting from those increases in expenses.

Mumm: Yes, given that 32% increase in reported operating costs from 2019 to 2021 and the fact that their expenses category reported in 2021 that were not reported in any other year, it seems more than prudent to request a breakdown of The Blair's operating expenses and other recent years, not just 2019, and 2021. Further, it also seems prudent to request documentation of this breakdown for each reference here, as it is to provide evidence of their unusually high increase in operating expenses before granting their request for an exception to the rent stabilization ordinance. Finally, while property taxes did increase from 2019 to 2021, they are estimated to decrease in 2023. The Blair estimated 2023 taxes were not a part of the information required to turn in their

application. It is nonetheless relevant. Taxes is the foundational pillar of their rent stabilization ordinance exemption. This also provides a contrast between the situation of landlords and tenants. In this case, the landlords' taxes are expected to decrease in the coming year. However, the rent to tenants isn't set, always slated to increase. This is the very situation that the people of Saint Paul voted to prevent, and yet their desires have been easily sidestepped.

Cole: Beyond the facts of this case, it must also be said that the current implementation of the rent stabilization ordinance is disappointing from a tenant standpoint. While it is true, obviously, that tenants have the right to appeal their landlord's exemption request in any determinations made thereof, the process is laden with barriers, information asymmetry and vulnerability to retaliation. I personally haven't gone through this process. I had to pay a fee, take the morning off of work and schedule a City hearing just to see the basis of which my landlord has requested to raise my rent beyond the 3% limit and just to see how high they intended to raise it. It is easy to say that this policy is not written with tenants in mind and arguably it isn't even written with Saint Paul residents in mind. The ordinance privileges the interests of corporate landlord, some of whom are based far outside of city limits over the human rights of my neighbors and I, some of whom have been living in and contributing to work in Saint Paul for decades, long before the company that now seeks to raise our rents, came into possession of the building there. Even now, as my neighbors and I exercise our legal right to do an appeal to this decision, not because of, but despite the City's process, we are very worried. We're worried that the determination that was made, very quickly, behind closed doors without any transparency to us, will be upheld just on the basis how it was made. We're worried that the extraordinary promptness, in lack of verification involved in the exemption, the process will be used, paradoxically as a basis to deny our appeal to that very determination. And we are worried that many of the citizens of Saint Paul will soon be priced out of the place that they once called home. I love living in Saint Paul and I would stay here for decades and decades if I could. But I can't afford to live here, if the rent each year is going to rise several times the rate of my wages, despite the nominal presence of rent stabilization in the city.

Watkins: Saint Paul Rent Stabilization began as a grassroots effort and was approved by Saint Paul voters. I was really confused when I received a postcard in the mail saying that the rent can be raised anywhere between 3% and 8%. I was horrified to learn about the self-certification process. It was very easy on the website and this lack of transparency. As a university employee, raises are out of my control. I don't even know if I'll get a raise this year, and if I do it won't be 8%. I'm lucky it will be 3%. In fact, I don't know anyone who receives annual raises that high. Simply the expectations that tenants receive 8% raises year after year is not sustainable. And Saint Paul needs to think about that going forward. The City Council amendments makes me wonder if the members are acting on the interest of the citizens of Saint Paul or those of corporations? I feel powerless and scared and be priced out of where I live as someone with a very secure job. How are we supposed to have faith in our local government with amendments like these, amendments that go against what the residents of Saint Paul voted for.

Moermond: I have noted, you are Dr. Watkins, not Ms Watkins. It wasn't on the application. I will correct that. Okay, so we start out with an analysis of the accounting, and the underlying argument is that the accounting would provide increases in rent should translate tenant services and things experience directly by tenants. And if not, then it's not a justifiable expense. I just want to kind of dive a little bit more deeply into the logic of that.

Mumm: I think that the main concern is that they are reporting extremely high increases of 30% to 50% in some of these categories. And well, you know, there hasn't been an improvement in tent experience. I think more of our concern is it's kind of a lack of oversight in, you know, these are self-reported numbers. There are many categories where they didn't report any on office supplies, any spending on security, any spending on insured damage. In 2019, they reported tens of thousands of dollars in those categories combined in 2021. And so that combined with the categories that show the us in a 30% to 50% increases. I guess I question if 2019 and 2021 are an accurate representation of their increase in expenses.

Cole: We are aware that the ordinance, as amended, makes no distinction between reasonable and unreasonable expenses. It does not necessarily remove us from the woods, described by Ms. Mumm that 2019 may have been miraculously low expense year where we didn't need office supplies or security. But on top of that, you know, it just needs to be remarked that we have no control over the administrative costs incurred by our landlord, and we should not have to shoulder the burden, especially administrative costs. We have no idea if there are reasonable, what they even break down to. That didn't lead to efficiencies in other areas of expenses. The more spending and management did not lead to less spending in accounting, and it did not lead to less spending on insurance. There's no efficiency gained. there's no quality-of-life gained for the tenants. That should be reflected in the determination process. Going forward, it may not be reflected in the determination for this case. It needs to be remarked that not all expenses are necessarily reasonable.

Moermond: If you can just give me a moment. I'm going to pause the record. I just want for my benefit if I can put my fingers quickly on the ballot initiative language. And if I can't, I will definitely include on the follow-up information. The question seems to hinge on the change, or the changes, in the language that might change the meaning that was intended. Which it's hard to say with two sentences, but from that to the originally adopted ordinance based on that. Then there was an amendment that added definitions into it. Some, I would say, very modest additions to make it comprehensible. There was a pretty extensive set of amendments that were adopted in September of last year. Throughout that amendment process, I'm hearing that you believe that it got further and further away from what you understood the intent of the ballot initiative was. I want to fact check that the 7 reasons for justification of rent increase have remained unchanged. Staff, has your way of evaluating them changed from the information that you received? Have you gotten more specific about some things that you weren't a specific about before the September 1st amendments? I'm thinking one way to answer this would be the DSI administrative rules that were in place for reviewing applications received up to December 31st of last year and the DSI administrative rules for applications received from January 1st moving forward. Did those rules change, in a substantive way, for how you interpret those 7 reasons that would be the justification for reasonable increase in rent?

Sass: I would say no. The rules went through the public comment period. I would say the way that the applications are reviewed, hasn't changed substantially, they haven't really changed much since the amendments. Aside from the addition of the new processes which exist because of the amendments. There are also administrative changes on how we would review things like an increase in property taxes, just a numerical value.

Moermond: The changes that have introduced new administrative procedures are more around the things like just cause vacancy?

Sass: Correct.

Moermond: Okay. And that that is you just building out something new to be able to interpret those situations when they come forward from property managers, landlords' owners.

Sass: The amendments added several new processes that DSI needs to manage and facilitate. But the actual MNOI process is mostly similar to how it was previously.

Ferkinhoff: The evaluation of the numbers, how we would look at them, that hasn't changed. But in the sense of the self-certified application, what may be different is more administrative. For example, prior to January 1st, we didn't have to send notifications to tenants to let them know that a landlord had requested a rent increase that was above the cap, now we do. That's an additional procedure, which is more procedural, more administrative, than anything which would impact the actual numbers that we would get an application.

Moermond: I do appreciate that; it is not a small lift. I would say medium lift to file an appeal and come and talk about it. I know out of the 91 units we have 4 units represented. There is a \$25 appeal fee that has not change since the 1990's. Please not, if you were in any way represented by SMIRLS or another such entity, I waive that fee. Just so you have that for your background. With respect to taking time off of work, to have this kind of conversation we haven't figured out another way to do it better, to tell you the truth. There's emailing information back and forth, which is helpful, but it doesn't give us the same kind of benefit is a face-to-face conversation when we can loop back in the owner and staff and have this kind of be all of us in the same space. Thank you for investing in that. I think that hearing your voices is really important and creating a record that articulates your reasoning connected to your specific circumstances for this appeal. This is how the Council looks at changes in the future, so I appreciate that. I also appreciate that you did take time out of your day. There were hardly any comments received on the rules when DSI asked for public comment on the changes that went into place on January 1st.

Ferkinhoff: That that's correct. I want to say that there were a dozen entities, and or individuals who submitted public comments.

Moermond: in comparison to the rules that you put out there in April of 2021 for the original implementation of the ordinance?

Ferkinhoff: Neither Demetrius nor I was employed at that time by the City. But it's in the hundreds.

Moermond: Director Wiese was here and did testify that there were hundreds of comments. There was really a drop-off in the public participation component and hearing about what that might look like. It could be just because there is a greater level of specificity and questions were being answered. You know, agree or disagree, I don't know. Again, hearing your voices in the context of not having as much public comment at that point, I want to just thank you for doing that. I'm going to look at this a little bit more deeply. I am bound by the ordinance language which, you all are aware of and that that would be my job. Do any of you have any questions? What I'm thinking for myself is that I'm going to review this information, maybe ask some follow-up questions. Any additional information that I received from you all, from the property managers, I would make sure to share back and forth so that we all again continue to operate on the same information and background.

Moermond: I will reread the ordinance on this point, but I'm not clear that tenants have the ability to request "an audit" of an application. Do property owners have an obligation to produce that information because tenants are asking for it? Does the City handle that and figure out if there's additional questions that they would ask, based on tenant commentary? How does the city evaluate when to do that? Can tenants say they don't think 2019 was a good year for comparative purposes, I think you should provide us with 2020 data? When I have seen base year questions brought up, it has been in the context of exceptionally low rents having been collected in the base year or a lack of knowledge of what the rents were because there's been a transfer and property ownership and the books that were used in 2019 simply are not available to someone who acquired in 2020. So those are the 2 circumstances. I can think that's clear.

Cole: Yeah, do think that is concerning that tenants can't raise that, while the landlords are able to. I want to reiterate that the point that these are all self-reported expenses and at 32% increase in operating expenses in 2 years is extremely high. I just want to reiterate the concern that there is no oversight on these numbers that they are reporting. Again, there is some categories that we didn't report in 2019, that they're spending a lot of money and in 2021. And I think that then using those numbers as a basis for increasing our rents when there hasn't been any oversight in that process.

Moermond: What I need to do is look at the math on that. You're in the 30% range for some of the items listed as expenses in the MNOI. I think I need to look at whether or not what's been produced without audit gets us to 8%, which was the maximum request made and whether or not an audit is justified to go even more deeply based on the comments that you are raising. In the past when I have done these, it usually takes me 2 or 3 weeks to come up with a letter to go out with my recommendation to the City Council. And as I indicated right out of the gates, this is a recommendation that I'm making. At the very worst, what we've done here today is to create a record. We've gotten the documents and comments on the record, the staff report and landlords' information. It's all at least pulled together in one place so that the decision-makers have that information coming as their starting point. Again, I appreciate you coming in and engaging and this. I'm going to, if you do have more questions.

Mumm: I have a question. During this period where you are looking deeper, making the recommendation, can our rents be raised during that period?

Moermond: No. Any potential rent increase is stayed until a decision is made by the City Council, which is the final determination. Then state law requirements with respect to notification and so on to apply. A final determination on the application happens 45 days to pass from the DSI determination being made, unless there is an appeal within those 45 days. Yes, Doctor Watkins

Watkins: I want to emphasize that we're spending this time we've met together. We're thinking of all these things because we really do enjoy living where we live, like we love living where we where we live. We all make a certain amount of money. And again, the raises are some things. We're doing this because we are really invested and the place that we live, and we want to stay where we live. And we're just trying to see how we can do that. You know, with what we have in our bank account, you know, so that's what the bottom line is.

Moermond: Yes, and I will say the financial and emotional investment that is being made by you and the residents there is what makes that area so vibrant.

Cole: I want the record to reflect that the raises above 8% and raises between 3% and 8% - that dichotomy is largely artificial from our tenant perspective. It's a 6% to 8% raise and a 17.5% raise. Well, although those are vastly different numbers, they both spell displacements for us. And so, I just want that to be on everyone's mind when they're deciding this case that it is not a magnanimity to spare us from the 17.5% in rent increase. If we are just going to get hit with a 6% or 8% increase. That is structural differentiation. That is codified into law. But structurally meaningless for us as living Saint Paul residents.

Moermond: I am going to push back a little bit and definitions that we are using here. The ordinance talks about up to 3% being allowable without having to seek an exception. And then the difference between the 3% and up is one up procedure at the City, where 3% to 8% is mechanistically decided and then 8% plus is decided using a more thorough staff analysis. We now have the more thorough staff analysis on this 3% to 8% requested increase and are going through the numbers. I hear your arguments about the issues of transparency between the 3% and 8% and how that gets turned around. And I know that the City administration talks about just the amount of staff that would take, a fleet of people that it would take to be able to do this. I think that the deal is that we wouldn't be here if it weren't an excess of 3%. That is a number that was selected when 3% was the average rent increase. But your point about the transparency is super. You know, I hear you. I have to go back and ask for these worksheets to be produced. They don't exist in city records. I can't pluck it off the shelf and neither can you. Now we can use that and do the analysis and produce that.

Watkins: I think to the comment was about it doesn't matter if it's 8% or it could have been 11% or 13%. We cannot live there like we are being displaced. So that's just something to for. I think, if I may, I don't want to speak for you, but I think that is a large part of what you just said was that it doesn't matter if it's 11% or 13% or 8% we are out, you know....

Moermond: Thank you. I really do appreciate what you said today. It's been very thought provoking and helpful. Okay, Ms. Evenson, if you do have comments, I want to welcome them right now. Is there anything that you wanted to say before we wrap up? We talked earlier any additional information at this point.

Evenson: No, I don't have any.

Moermond: Thank you, everyone for your time today.

Deny the appeal.