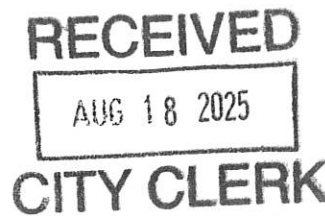


August 14, 2025

Ms. Marcia Moermond
Legislative Hearing Officer
St. Paul City Hall & Court House
15 West Kellogg Blvd.
St. Paul, MN 55102



Via Email
rentappeals@ci.stpaul.mn.us

Re: Owner Supplemental Submission in Support of a Rent Stabilization Determination at 934 Ashland Avenue, 938 Ashland Avenue, and 942 Ashland Avenue

Dear Ms. Moermond:

We represent Judith Day, the owner of the above properties and the applicant for a rental increase at the above properties under the City's rent stabilization program. This letter is intended to summarize the testimony and key findings in support of the owner's applications. It is submitted at this time given that the firm was only recently engaged by the applicant and we could not access supporting documentation on the City's website due to a significant data hack. Please accept these findings in this letter with that understanding.

Introduction

Scott Day, power of attorney for Judith Day, made application for a rent increase exception to the City's 3% cap on or around April 9, 2025. Working with City staff, Mr. Day provided the necessary financial and related data to support the application. In each case the City staff determined that a rent increase exception was warranted based upon the submittals by the applicant.

It is important to note that the owner of the properties, Judith Day, is suffering from dementia, and no longer manages the property. In fact, Scott Day appeared on behalf of his mother, Judith Day, along with Michelle Palenschat, the owner's building assistant. The main reason for the exception is expenses on the buildings have almost doubled while rent increases over the subject period of the determination have only increased by approximately 1%.

From review of the application, the staff notes, meeting minutes, and the determination of the Department of Safety and Inspections (DSI), it is clear that the applicant has satisfied the requirements of Chapter 193A of the City's Residential Rent Stabilization Code. Notwithstanding the lengthy testimony of tenants, appellants have failed to refute that key finding.

Summary of Testimony in Support of the Application

Lynne Ferkinhoff, from the DSI testified that the City's rent stabilization team worked with Mr. Day to fully complete the applications necessary for the subject rent increase. The minutes of the July 17, 2025, hearing state, "Staff understands that Ms. Day is struggling with dementia and that Mr. Day has Power of Attorney, granting him the authority to make decisions for Ms.

Day.” The basis for the application is included in the minutes and includes: 1) an increase in real property taxes; 2) an unavoidable increase in operating expenses; 3) a capital improvement project; and 4) an increase in tenants occupying certain rental units.

Scott Day testified that he recently began managing the buildings on behalf his mother, Judith Day. Judith Day purchased the buildings in 1998 and has been a responsible owner, maintaining open communication with tenants and addressing issues promptly. Mr. Day expressed concern over an increase in tenant complaints since the appeal was filed, some of which he believes are orchestrated and unfounded, while others are valid and being addressed promptly. In addition, Mr. Day stressed the importance of tenant communication, noting that some complaints were not reported directly to building management, complicating quick resolution.

Mr. Day discussed financial challenges, including increased expenses since 2019, and the necessity of seeking a fair return on the properties. He expressed a commitment to resolving tenant issues and maintaining a respectful relationship, despite the challenges faced by the owner.

Michelle Palenschat, the management assistant for the owner said she has worked closely with Judith Day over many years. She emphasized the regular inspections by fire inspectors and City officials, and the importance of tenant communication regarding maintenance issues. She clarified that Judith Day has been proactive in addressing necessary upgrades, such as knob-and-tube wiring and that the owner has hired licensed contractors to complete work necessary for compliance.

In response to allegations made about maintenance of boilers, Ms. Palenschat detailed her role in maintaining the boilers, ensuring they are serviced regularly, and disputed claims about their maintenance. She highlighted the age and character of the buildings, noting that tenants are informed of these factors before signing leases, and repairs are made when necessary.

Ms. Palenschat expressed her long-standing relationship with Judith Day and her commitment to managing the properties with care and honesty. Both Mr. Day and Ms. Palenschat provided examples of prompt responses to issues, such as a plumbing repair completed the day after a complaint was received. Mr. Day mentioned a formal check-in and check-out inspection process to document unit conditions, ensuring transparency and accountability.

DSI staff noted that there were no complaints of record prior to the owner's application. In addition, staff noted that each of the buildings was considered in compliance based upon their most recent inspections. See attachment. Both at the hearing and subsequently, Mr. Day has indicated that he is correcting what are essentially minor deficiencies. That work will be completed in September.

Response to Alleged Deficiencies

In response to allegations of electrical concerns, the owner hired McQuillan Home Services who upgraded electrical facilities in Units 6 and 7 at a cost of \$60,707. These concerns were only brought to the owner's attention following the notice of determination by DSI.

In response to allegations related to the condition of Unit 12, the owner hired Green Home

Minnesota to abate mold at a cost of \$5,083.17. In the same Unit and others, the owner is addressing minor window repair, which typically means making the windows operable, not repairing broken glass. Obviously, broken glass is a priority since it involves tenant safety.

In response to allegations regarding damaged floor, the owner brought in a contractor to fix a kitchen floor in Unit 6. The owner is not aware of other flooring issues.

In response to allegations related to plumbing, the owner has a plumber who regularly works to address routine plumbing issues and keep facilities in good repair. The owner is not aware of open complaints regarding plumbing.

In response to allegations of inoperable smoke/carbon monoxide detectors, the owner replaced the detectors for Unit 11. The owner places the highest priority on matters affecting the life safety of tenants and keeps a supply of detectors on hand for quick replacement as needed.

Most of the other allegations stated at the hearing are relatively minor, are being addressed as part of ongoing maintenance of the buildings and will be completed in the month of September, if not earlier. My client is happy to provide copies of receipts for the work described above where such work is performed by contractors.

Conclusion

On behalf of the applicant, we completely reject the habitability claims made by the appellants and the defamatory characterizations of the owner. In response to your question during the hearing, the appellants' expert could not state the units are inhabitable. Not only has the owner been responsive to her tenants for more than 25 years, Mr. Day representing his mother, has responded to all reasonable tenant requests since he took over management of the properties.

The request for a rent increase is largely due to the lack of any significant increases within the subject period. Now that family members have taken on that responsibility for Judith Day, they need to stabilize the rent, make capital improvements to the building, and keep up with payment of ever increasing costs for taxes, maintenance, insurance, and utilities.

We appreciate the volumes of testimony, but it really boils down to a tactic often used by housing advocates to slow or deny rent increases that clearly meet the objective financial requirements of the City Code. It is notable that the focus of appellants' counsel has been on creating a trail of minor deficiencies, rather than focusing on the economic findings that are required by the City Code. We look forward to your report along with the public hearing on September 10, 2025. Thank you.

Sincerely,

A handwritten signature in blue ink, appearing to read "Wm C. Griffith".

William C. Griffith, for
Larkin Hoffman

Ms. Marcia Moermond

August 14, 2025

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Direct Dial: 952-896-3290

Direct Fax: 952-842-1729

Email: wgriffith@larkinhoffman.com

Enclosure

cc: Mr. Day (via email)

Exhibit A

**Department of Safety & Inspections
Staff Report
Rent Stabilization Appeal**

934 Ashland Avenue - Units 1 and 5
938 Ashland Avenue - Unit 6
942 Ashland Avenue - Units 8, 9, 10, 11 and 12

On April 9, 2025, Scott Day stopped by the Department of Safety & Inspections customer service counter. He wanted to meet with someone who works on the Rent Stabilization program, but staff was in a meeting, so not available. The customer service staff captured Mr. Day's contact information and sent it to the Rent Stabilization team for follow-up. A member of the Rent Stabilization team sent Mr. Day an email on April 9, 2025. Mr. Day called a member of the Rent Stabilization team later that day to ask about the process to request an exception to the 3% cap on rent increases per ordinance 193A. An in-person meeting was arranged.

Staff met in person with Mr. Day on April 11, 2025. He was accompanied by a second party (Michelle) who helped with the rental business. During the meeting, staff guided Mr. Day in completing the online intake form and reviewed financial information provided by Mr. Day to support his staff determination application for a rent increase exception greater than 8%. The intake form is part of the record and Judith Day (Mr. Day's mother) is listed as the applicant and owner of the buildings. The application includes three properties - 934, 938 and 942 Ashland Avenue. Staff understands that Ms. Day is struggling with dementia and that Mr. Day has Power of Attorney, granting him the authority to make decisions for Ms. Day.

The online intake form notes that consistent increases will apply to the entire building. An increase of 30% is proposed with an effective date of June 30, 2025. The reasons cited in the online intake form for the increase includes:

- An increase in real property taxes.
- An unavoidable increase in operating expenses.
- A capital improvement project.
- An increase in tenants occupying the rental unit.

As a follow-up to the meeting, Mr. Day clarified for staff that tenants pay for electricity and gas (stove). The property owner pays for gas (heat) and water.

A second online intake form was submitted on April 21, 2025. Staff identified the form as a duplicate. It was not processed.

Staff acknowledges that the Maintenance of Net Operating Income (MNOI) worksheet attached to the record during the application process included the CPI value for 2022 instead of 2024. Staff noticed the CPI value during the application process and used a spreadsheet to accurately re-calculate the data. Staff also updated the MNOI worksheet on the Rent Stabilization website.

**Department of Safety & Inspections
Staff Report
Rent Stabilization Appeal**

At the City's request, Mr. Day provided a Rent Roll to the Department of Safety & Inspections. The Rent Roll was used to mail notification letters to tenants, including:

- **04/23/25:** Notice of Application (informing tenants that their landlord requested an exception to the rent increase cap).
- **04/28/25:** Staff Determination Letter (informing tenants that their landlord was granted an exception to the rent increase cap and advising tenants of their appeal rights).
- **05/07/25:** Staff Determination Letter (informing tenants that their landlord was granted an exception to the rent increase cap and advising tenants of their appeal rights). These letters were sent in response to a tenant call that some residents at 940 Ashland Avenue did not receive notices. The 05/07/25 mailing only went to tenants living at 940 Ashland Avenue.

City staff issued a determination letter to Ms. Day on April 28, 2025, granting approval of an exception to the rent increase cap. In the determination letter, staff included an attachment to show the allowed rent increase that could be attributed to:

- Amortized investments in capital improvements (23.64%).
- Changes in Net Operating Income (28.52%).

The increase for amortized investments in capital improvements applied to two units. The increase for changes in Net Operating Income applied to all units. Therefore, the Total Allowable Rent Increase for two units was 52.16%. The allowed increase for all other units was 28.52%.

Staff spoke with several tenants living at the properties that are subject to this appeal.

The last Fire Certificate of Occupancy approvals are summarized below:

- 934 Ashland Avenue was last inspected on June 15, 2023 and was rated as a Class B property. The Fire Certificate of Occupancy renewal is due in 2027.
- 938 / 940 Ashland Avenue was last inspected on November 23, 2021 and was rated as a Class C property. The renewal is due, but there were no active complaints on the property when the rent increase exception was approved.
- 942 Ashland Avenue was last inspected on October 22, 2021 and was rated as a Class A property. The Fire Certificate of Occupancy renewal is due in 2027.

**Department of Safety & Inspections
Staff Report
Rent Stabilization Appeal**

No identifiable Rent Stabilization complaints were submitted for any of the buildings included in this appeal.

