



Minutes - Final

Rent Stabilization Appeal Hearings

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Thursday, January 18, 2024

1:30 PM

Room 330 City Hall & Court House

1:30 p.m. Hearings

Rent Stabilization Appeals

- 1 **RLH RSA 24-1** Appeal of Elijah Cresap to a Rent Stabilization Determination at 1485 SAINT PAUL AVENUE, Unit 3.

Sponsors: Jost

Deny the appeal. Rent is allowed to be increased up to 8%.

*Elijah Cresap, tenant, appeared
Angie French, Vice President of Mid Continent Management, appeared
Michael Haatvedt, portfolio manager Mid Continent Management, appeared*

[Moermond gives background of appeals process]

Staff report by Rent Stabilization Staff Lynne Ferkinhoff: On November 1, 2023, the Department of Safety & Inspections received a self-certification application for an exception to the 3% rent increase cap per ordinance 193A. The application is for all units located at multiple buildings, including 1485 St. Paul Avenue.

The intake form is part of the record and Angie French is listed as the applicant. Ms. French submitted the application on behalf of Mid Continent Management Corporation. Davern Park Realty Company, a Minnesota general partnership, is listed as the owner of the property.

The application proposes an increase of 8%, with consistent increases being applied to all units in the building starting December 1, 2023. The reason for the increase listed in the application is, "An unavoidable increase in operating expenses." In addition, the application notes that while unavoidable / uncontrollable operating expenses is a primary factor in operating expense increases, property insurance has experienced double-digit increases, and payroll and benefits costs are also skyrocketing and increasing rapidly.

For self-certification, applicants are required to provide three pieces of information from the worksheet used to calculate Maintenance of Net Operating Income (MNOI):

- Current Year Gross Scheduled Rental Income (GSRI): \$2,375,356
- Fair Net Operating Income: \$1,025,236.52
- Missed Fair Revenue: \$346,049.25

An Allowable Rent Increase of 15% is listed in the application. Please note that the actual Allowable Rent Increase in the self-certification process may not exceed 8% and may be less than 8%, depending on the financial information that was submitted.

Per the self-certification process, the application was approved. On November 21, 2023, an approval letter was emailed to Ms. French and notices were mailed to tenants.

The last Fire Certificate of Occupancy inspection took place on February 10, 2023. The property was given a Class A rating. There are no known code violations for this property.

Moermond: what we have here is an application made using the computer system, which you can use if you want an increase 3-8%. That doesn't get more staff review than a cursory staff examination. Anything greater than 8% requires staff determination, a more thorough examination. When an appeal application is made we go back and ask for the MNOI and the paperwork supporting the rent increase. Having that, you analyzed it as if it was a staff determination and did that thorough examination and your finding was that had there been an application for greater than 8% they would have qualified for 14.5% give or take. But that wasn't the application made, this was a max at 8.

Ferkinhoff: correct.

Moermond: Mr. Cresap, you provided an email with an attachment back and forth with Sonia Romero—

Cresap: I don't understand this process in the slightest so if I overstep my bounds—

Moermond: understood, we're fine. This was the attachment and what it said was the scheduled rent increase on November 1, 2023 was 2.26%.

Cresap: that was provided by the office.

Moermond: that was an email from December 19th with Sonia. Sometimes in different units have different increases, so where you fit into that calculus is where I was trying to figure out. Tell me why you're appealing?

Cresap: the crux of this is I have been burned in the past by assuming the better nature of management companies and corporations. I'm sure these are good hearted people, but I have been burned. So, if there are tools to remove trust from the equation and make it more regimented, I have to take it. The majority of the people in the building don't speak English. A majority of the people I interact with don't read English. They don't understand their civic duty with regards to their rights. My pay is not tied to inflation. Right now, it has been capped the last 18 months. As someone in the service industry and blue-collar industry, you have to quit your job to get more pay. It sucks, but that's how it is. Line up a new job and leverage that to get more pay. There's a pay freeze at my company. Unless I want to up-end my entire life to receive more pay to accommodate the rent increase—and I'm sure this is the way for most of the people I live with—I assure you they may not be able to afford these prices either. I'm not comfortable here, I don't want to be here, but from the way I see it, I'm probably the only one that can be here.

I was afforded the opportunity to be laid off right now, so I have the time. They mentioned operating costs with increased insurance and that happened because a building burned down. With no authority, the fire suppression in these buildings from the 1960's is inadequate. They had the opportunity to retrofit or remove the clapboard paneling that increases the spread of fire. I don't understand why a cost-cutting measure that was taken, not updating the building, because it was calculated as a necessary cost cutting measure and that came back and bit them in the butt. Somehow that risk they chose to take is now being pushed onto the tenants, not the people who took the risk in the first place. I may be in the wrong, I don't know what is and isn't ok to say.

Moermond: just don't swear. You were talking about a fire in another building and its impact on fire insurance, and you didn't seem to think it should increase the rent on your unit.

Cresap: the tenants aren't the ones who opted into the increased insurance premiums by not updating the fire suppression. We're tenants, we don't have that choice. They chose to take that risk and their fire insurance premiums did go up because the risk backfired. It looks like they're trying to offload the cost of that risk onto the tenants as opposed to accepting the liability of that cost cutting measure. That may be improper, I'm just trying my best.

There are a couple of maintenance concerns but honestly it seems petty. There's severe water hammering in the buildings and I've been complaining since I've moved in. Nothing has been done. I know it is expensive to address, so I don't blame them. It isn't an easy problem to fix, especially in a building from the 60's, so I'm trying to be fair. Eventually the pipe will burst and the building will flood. But that's more a 10-year problem than a right now problem. If I've made a fool out of myself, I apologize.

Moermond: no, no. You're absolutely fine. You have a notification from the City dated November 21, 2023. The City gets the application on November 1 saying ownership would like to increase the rent up to 8%. Staff gets that and your response right away is we need all of the addresses for the people who rent. Not names, just unit numbers.

Ferkinhoff: yes, so we can work with our print vendor to send a postcard to each unit alerting them that this application was submitted that could eventually impact the tenant if approved.

Moermond: and that starts the 45-day time clock to file the appeal. I say that because I have in the paperwork, which I touched on earlier, a document dated November 1 saying you're scheduled rent is to increase by 2.2% on November 1 2023. I was trying to square this document—

French: that isn't something our system would have generated.

Moermond: nor ours. This isn't a City document and the statements made in, for all that it says, "Office of the City Clerk", are inaccurate as well.

Haatvedt: this is not from us. It has the Department of Safety & Inspections, must have come from there.

Moermond: the main number I want to focus on is 2.26%. I have a current lease that says \$880 a month.

French: which is correct.

Moermond: I don't have other paper that is an actual proposed amount for an increase, outside this stray piece of paper. Is it above 3%?

French: we didn't send one because he's not up for renewal.

Haatvedt: no renewal until May.

French: he received a 2.92%--

Moermond: but now is the time he would need to file an appeal because whatever rent increase you're granted in this process would apply to a lease that comes into play in May.

French: because of the 45-day clock that started ticking with the application?

Moermond: exactly.

French: we have not sent him a notification of an increase.

Moermond: is there going to be a proposed increase above 3% for Mr. Cresap's unit?

French: potentially. We wouldn't know until about March based on his renewal. That would normally happen the end of May, so with the two-month notice. The last increase he received was May 2023. That was 2.92%. His rent is \$880 and is one of the lowest of our efficiency/studio apartments.

Cresap: it is about 300 square feet.

French: I also sent the fair-market rent values in this market, Ramsey County and Saint Paul; it is over \$1,000 on a studio. We aren't looking to get \$1,000. We take pride in providing market-rate work force housing. That's our goal. We've owned and managed the building for decades. We want to provide housing, not price people out. We have not sent him a rent increase.

Moermond: and wouldn't have at this juncture?

French: yes. Normally we do that 75 days before the lease either ends, or in his case because he is month-to-month, but again the last increase was about a year ago. The soonest he'd be up for an increase would be June.

Cresap: you guys offer yearly leases?

French: we do.

Cresap: I'll talk to the office later then.

[Cresap is given copies of his current lease, and then the previous year's lease from first moving in during 2022]

Cresap: it was pretty standard from what I remember.

Haatvedt: correct. This is the same thing we submitted to the City.

Moermond: and this includes everything except electric, which is charged individually. 8% would bring us to \$950. The high end would be taking your current rate and going from \$880 to \$950. \$70 more a month.

Cresap: that's 3 hours of extra work.

Moermond: and 3% brings it to \$906. Anything else to add?

French: I think Mr. Cresap's point with regards to property insurance. Our insurance renews June 30th. The fire happened July 8. So, it has nothing to do with the fire, it has to do with the insurance industry not wanting to deal with multi-family units and losses throughout the Country. The fire has not caused an increase. There was never a discussion or requirement to update the fire suppression systems. As we rebuild that other building, which isn't part of this property, obviously as that is rebuilt it will be brought up to code to current guidelines. There was no decision to take a risk or forgo an improvement.

Moermond: Mr. Cresap, your argument was those improvements should have been made to the building in order to prevent the fire, and the lack of those improvements lead to the increase in the insurance rate and that was increasing your rent.

Cresap: any contractor that stays in business would look at those wall panels and recommend replacing with drywall because they are a fire hazard.

Moermond: where I'm at with the building's construction is that for all buildings in St. Paul, whether built in 1850, 1950 or 2023 they needed to have built to code at time of construction. There are very few items that have to be updated regardless.

Cresap: smoke detectors.

Moermond: right, gas shut off valves. A few things, not many. I hear you saying this is best practice for current construction, which won't get an argument from me. But I can look at a building in 1870 and know there wasn't a handrail requirement for the stairs, just a requirement a wall be on one side. People have typically retrofitted in railings. Retrofitting with current construction materials isn't something the City can enforce.

Cresap: I understand, it isn't about enforcement.

Moermond: I know you do; I want the whole story on the record. That being said, when I looked at the numbers in the expense worksheet what I noticed is that I thought repairs had really jumped. The cost of doing repairs had really jumped. Taxes have jumped. The taxes are consistent with what I've seen on other properties. I have seen a leveling between 2022 and 2023. But the last full year of data was 2022. The Consumer Price Index (CPI) was very high. The CPI alone has been the driving factor for documenting standard rent increases.

French: 13.95%

Moermond: taking nothing else into account besides CPI it is a tremendous increase. What it does with the Rent Stabilization Ordinance is that the 3% the general population voted for on the ballot measure, that 3%—because we have to take into reasonable rate of return for a landlord—that 3% becomes almost meaningless if that is the CPI. 3% was what the world had been experiencing at the point of the ballot measure. It was voted on and then the pandemic happened and everything took off. And I look at people in your circumstance and don't even know what to tell you

because the numbers have gone through the roof, they just have. What also strikes me is the increase in utility costs people are experiencing.

Cresap: my bill, I usually have a computer, energy inefficient appliances—which makes a huge difference in the energy bill—a coil electric stove is 3x the cost than an induction stove. With my two appliances and TV and computer my bill is between 40 and 50\$ the first year. We have wall-mounted AC. Last August my bill went to nearly \$90.

Moermond: when I was speaking towards utilities, gas, electric actually went slightly down, water went way up, sewer up, garbage and recycling almost doubled. Those are all utilities that serve the site. Through your profession you understand the massive undertaking of replacing systems, whether it's the pipe, the sewers which have a limited useful life, all of these things add to the costs of maintaining a building and a city. So, I look at that and think it is reasonable without putting in a swimming pool. I'm actually seeing that operating expenses went up 40%.

Haatvedt: absolutely.

Cresap: what are the operating costs, why did they go up?

Moermond: pages 6,7 and 15 are the ones to focus on. You haven't determined what kind of rent increase for this unit.

French: we haven't done so because of this property. We were anticipating, with the two-month notice required as well, we haven't proceeded to raise rents.

Moermond: have we run the numbers?

French: it would be around 6%. We have 12 studios and he is one of the lowest. Even on the same street. Not \$1,000 but more than \$880. Does it seem reasonable? I would argue it seems reasonable in the market. Does it seem reasonable to get that from a current resident? Maybe not. Maybe we cap it at \$50. Those are the conversations we would be having. Aside from being limited to the 3%, we are housing providers and take pride in that. We don't make money if its vacant. We enjoy having full occupancy, we have to be competitive to do that. We are cognizant of that as we make these decisions.

Cresap: it looks like you do get a deductible from vacancy whether or not you want them.

Moermond: I wouldn't say it's a deductible. You'd take that money off earned income. That's subtracted off so it's a better estimate of what it is.

Cresap: I see, so this is the maximum number it could be. What is item 26?

Ferkinhoff: unfortunately, Mr. Sass is out sick and he's the one who can look at this and helped you with that application. He can look and get back to folks after the hearing with that answer.

Cresap: because that's five years of pay right there as an expense.

French: it is for all 192 units.

Haatvedt: 16 buildings x 12. 192 Units.

Moermond: the application made was for all of the buildings in the complex. It is all one taxable parcel for Ramsey County. You're in one of the buildings, and in one of the units within one building. The numbers we asked for are for the whole complex. I try to have the paperwork reflect that complexity but didn't say it out loud.

French: that entity is under Davenport Realty. Mast Realty is who experienced the fire, different owners, different tax parcel. It is true we manage it.

[5 min recess]

Moermond: with respect to page 7 lines 25 and 26. If I were to subtract them out of the analysis entirely, we're not treating it as an expense at all, it doesn't change the bottom line in terms of the allowable rent increase. It doesn't change the range between 3 and 8% at all. It is nice information to have but it doesn't change the math.

With that in mind I have a few unpleasant things to say. First is the intention of the ballot initiative I believe was to bring rent increases more in line with what wage increases were. Things got out of whack. Some people benefited, others did not. What I can't say is that someone's income is the same, less, or absent, and any of these person income pieces can be considered while calculating the rent. It is heart wrenching to look at people's circumstances where your wages haven't gone up, but your rent is. If I am in business, unless I am receiving a subsidy for where people are at and what I need to keep the building running, that is the economic reality.

I really appreciate your comments about people who may not speak English as their first language and needing help to participate in the process. Your Department produces notices in five languages?

Ferkinhoff: yes, if you include English.

Moermond: so most, not all, of people should be able to read that.

Cresap: there's a fear of being English as a second language, and the government who mainly speaks English. I know you'll provide interpreters, but they may not.

Moermond: and I sit here twice a week and can't tell you how many hours we spend with interpreters in the room. So those barriers break down as the years pass. A lot of people look at it and calculate that it isn't worth dealing with for 3%. I do I see a lot of non-English speakers participating. I also see a lot of people who may not be literate, whether English or another language. We also have to navigate those waters. The more you bring this up the more you remind us all to keep that door open and keep making progress towards that. It is appreciated and noted. We honestly do our very best. We have places we can improve, and when people bring things to our attention, we appreciate it. You are hearing with the math that I don't have any control as to whether the rent increase is allowable. The math is there.

Cresap: I didn't expect anything to come from this.

Moermond: those things are heard not just by me, but also by the Council, and if policy adjustments need to be made based on feedback received, overarching themes, those are the seeds that change policy in the long run. Not just your experience, but also that of the landlords. If I were to ask, and I'm guessing, 5 years ago they didn't have to do half an inch of paperwork to justify more than 3%. That is a

heavy lift.

Cresap: they don't have to file if they want the easy path.

Moermond: well, that is true.

Cresap: it is obviously worth it.

Moermond: you're right. The question then becomes how do we as a society judge and regulate the apportionment of the income over expenses? As a culture we haven't gone there. Are we heading there? I don't know. Could they choose not to? Of course. I've got numbers between 3 and 8%. I think they're also hearing you're a committed and good tenant, interested in your neighbors, and that weighs in your favor. I have seen landlord delay rent increases and value good tenants. How that plays into the whole thing is between you folks, but it has happened. There are a lot of places in between and sometimes they work.

Cresap: if you could find it in your heart to delay the rent increase for any single unit that happens to have between 2 or 4 children. They are really struggling. I know there's quite a few.

Moermond: rent is one of the expenses that goes out the door with more mouths to feed. I'd want those families to know there are other resources to supplement those things. Generally, one-third of your income is spent on rent. To put it plainly, there are food shelves and special programs to supplement income. Different pieces to make the family more economically resilient.

Cresap: I don't politically agree, but I do understand.

Moermond: I don't see it as political. I see it as what—

Cresap: what hoops can we jump through to not be homeless.

Moermond: absolutely.

Cresap: I'm not a circus monkey. I understand.

Moermond: the plea is great on someone else's behalf. I get it. If that's one-third, but how is the other two-thirds being spent and what can happen to make that more comfortable? Those resources in addition to someone's marginal change in rent. I don't have miracle solution.

[appellant is given House Calls brochure]

Moermond: I'm hearing a commitment to work with folks. I cannot say they are disallowed from increasing rent up to 8%. They are allowed to do that.

Cresap: I understand.

Moermond: we'll send you a letter. Whether you want to testify or not at to the City Council is up to you.

Referred to the City Council due back on 2/14/2024