



CITY OF SAINT PAUL
OFFICE OF THE CITY COUNCIL

310 CITY HALL
15 WEST KELLOGG BOULEVARD
SAINT PAUL, MN 55102-1615
Marcia Moermond, Legislative Hearing Officer
EMAIL: rentappeals@ci.stpaul.mn.us
PHONE: (651) 266-8568 FAX: (651) 266-8574

December 14, 2023

Joseph Hughes & Abiyouse Rose
Union Park Management
1564 Selby Avenue, Suite 9
Saint Paul, MN 55104

VIA EMAIL: Jhughes@unionparkmgmt.com
arose@unionparkmgmt.com

Re: Findings & Recommendation for Rent Stabilization Appeal for **1822 Grand Ave, Units 1-4**

Dear Mr. Hughes and Mr. Rose:

You filed an appeal on August 14, 2023, of the July 11, 2023 Department of Safety & Inspection (DSI) Staff Determination on your June 21, 2013 application to increase rent in excess of 8% for your property at 1822 Grand Avenue, Units 1-4. Staff reviewed the information you provided and concluded it was insufficient to apply the analysis tools in the Maintenance of Net Operating Income (MNOI) Worksheet. Without this analysis, staff determined a rent increase above the 3% cap was not justified. A Legislative Hearing on your appeal was conducted September 14, 2023. Both you and DSI staff were heard on this matter. Tenants were notified and did not testify or submit materials for consideration. Following the hearing, you provided additional information to better inform the review of your application and appeal, especially vis-à-vis a residential versus mixed-use building and proposed capital improvements. Your willingness to provide these materials is appreciated. I regret I have been unable to provide you with this letter with my findings and recommendations until this time.

FINDINGS:

- 1) 1822 Grand Avenue is a mixed-use building with 4 apartments on the upper level and 3 commercial spaces on the ground level leased to a Subway restaurant, Allen L Salon and a vacant office space formerly occupied by a State Farm Insurance office. Per Ramsey County, the property was acquired by Snelling Investments, LLC July 5, 2023 for \$1,000,000. The seller was HJA Properties #1820, LLC, commonly referred to at this location as Abbott Paints.
- 2) The sellers reported to the buyers and others that they held the building for a number of years while considering potential demolition and rebuilding on the site. During this time, it is reported a few capital improvements occurred and property maintenance was sufficient to maintain safe occupancy, as evidenced by the Fire Certificate of Occupancy.

- 3) At the time of acquisition, the rents for the apartments ranged from \$400 - \$500, with the average rent being \$454 per month. Residential tenant leases were provided from 2000, 2010, 2013 and 2020 which show no or only negligible rent increases, and the average rent charged for these units since the leases took effect.
- 4) The building's residential rental income is \$21,800 or 23.6% of the estimated total rents when fully occupied. These rents are universally considered to be deeply affordable rents at significantly less than 30% area median income (AMI). However, no tax credit or other program is used to offset this level of affordability.
- 5) The application to DSI for an exception to the City's rent cap of 3% lacked key information, largely due to the transfer of the property and difference in bookkeeping practices and priorities of the 2 owners. The standard measure of comparison in determining qualification for an exception to the cap is a comparison in net operating income from 2019 to the most recent complete calendar year. DSI used the Maintenance of Net Operating Income (MNOI) worksheet for calculations to make determinations on applications. The Legislative Hearing Officer, in the appeals process may rely on this method, or another reasonable methodology to ensure compliance with the ordinance.
- 6) The reasons articulated in the application for an exception to the 3% rent control cap included: a decrease in rental income; capital improvement projects and a pattern of rent increases/decreases.
- 7) There have been significant difficulties in getting estimates of the proportion of expenses separated in this mixed-use building. Unlike other mixed-use building considered in the appeals process, bookkeeping practices and the short duration of ownership do not provide insights. A reasonable estimate of income generated from this building, once fully occupied and with no change in residential rents is 23.6% and commercial rents is 65.4%.
- 8) A request was made in the Legislative Hearing process that a proposal be submitted for an increase in rent, which provided a specific proposal for capital improvements. ***You were clear in your statements and written materials you were seeking the maximum allowable increase. The detail provided in the table explains those capital improvements which would be forgone, were you not granted your request.*** It should be noted that Saint Paul Legislative Code (SPLC) Chapter 193A.06 Reasonable Return on Investment does not require justification of capital improvements, nor does it require that the expenses be incurred prior to applying for an exception under this section. It does, however, require these expenses be amortized, with the evident purpose of ensuring the capital expense being used to justify a rent increase in one lease cycle, is not re-used as justification in future rent control cap exceptions – as those expenses have already been applied for the present increase.
- 9) In reviewing the table on the following page, the Legislative Hearing Officer consulted with DSI Rent Stabilization staff to parse the expenses related to the criteria specified in Saint Paul Legislative Code (SPLC) Chapter 193A.06 Reasonable Return on Investment. Three categories of expenditures were listed, and not all the expenses listed were considered to be capital improvements, but rather better classified as maintenance or added housing services. Examples of maintenance expenditures include (basic) common flooring, common painting, unit painting, unit floor, basic roof maintenance and tuckpointing, striping the parking lot and filling its potholes. Other expenses would most logically listed as improvements in housing services, such as adding laundry and improving/adding to the complement of appliances in the units. Finally, other expenditures were best characterized as capital improvements, including roof replacement and significant brick repair, significant plumbing and electrical upgrades and upgrades in flooring. These distinctions are necessary because maintenance

expenditures do not qualify as a basis for an exception to the rent cap. Additionally, the code is not clear whether increases in housing services require amortization.

- 10) In order to evaluate the claim for an exception based on increases/decreases in operating expenses, it is appropriate to apply the consumer price index (CPI) to approximate the change in expenses included in the MNOI. The Housing CPI for 2013-2022 was the most suitable figure to apply: 33.57%.

IMPROVEMENT PLAN ASSOCIATED WITH APPLICATION

	Property to operate safely	To Achieve Rents of \$950	To Achieve Rents of \$1,050	To Achieve Rents of \$1,150	Deferred Maintenance
Common Flooring	None	\$ -	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00
Common Painting		\$ -	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00
Unit Painting		\$ -	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00
Unit Flooring		\$ -	\$ -	\$ 6,000.00	\$ 6,000.00
Electrical		\$ -	\$ 2,000.00	\$ 6,000.00	\$ 6,000.00
Appliances		\$ -	\$ -	\$10,000.00	\$ 10,000.00
Carpentry		\$ -	\$ -	\$ 5,000.00	\$ 5,000.00
Plumbing		\$ 2,000.00	\$ 2,000.00	\$ 5,000.00	\$ 5,000.00
Window Coverings		\$ -	\$ 1,500.00	\$ 1,500.00	\$ 1,500.00
Parking Lot Repairs/Striping		\$ 2,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00
Add Laundry		\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ -
Roof/Brick Repairs		\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00
Totals	\$ -	\$11,000.00	\$ 25,500.00	\$53,500.00	\$ 50,500.00

- 11) Taken together, rent increases are justifiable under the following criteria under SPLC 193A.06:

(a) *The city shall establish a process by which landlords can request exceptions to the limitation on rent increases based on the right to a reasonable return on investment. Rationale for deviations from the limitation on rent increases must take into account the following factors:*

...

(2) *Unavoidable increases or any decreases in maintenance and operating expenses, including fluctuations in the Consumer Price Index (CPI);*

...

(3) *The cost of planned or completed capital improvements to the rental unit (as distinguished from ordinary repair, replacement and maintenance) including, but not limited to, capital improvements necessary to bring the property into compliance or maintain compliance with applicable local code requirements affecting health and safety, and where such capital improvement costs are properly amortized over the life of the improvement;*

...

(5) *Increases or decreases in living space, furniture, furnishings, equipment;*

(6) *Increases or decreases in other housing services provided, or occupancy rules;*

...

(9) *The pattern of recent rent increases or decreases;*

a. *For purposes of determining recent patterns of increases or decreases in rent in other circumstances, the city shall utilize the Consumer Price Index as the basis for determining a pattern of rent increase.*

...

RECOMMENDATION:

I recommend that an exception to the rent control cap of 3% be made in the following manner:

- 1) An increase of 33.57% be allowed as soon as legal notice is provided to tenants. This increase would result in average rent for the 4 units from \$454 to \$607. This rent is still below 30% AMI and is considered deeply affordable. This change increases estimated annual rent collection from \$21,800 to \$28,318, or + \$7,318, which is short of the \$11,000 increase described in the third column of the table. Tenants shall be given the option to continue in their units, under this increased rent for a total of 6 months from the effective date of this increase.
- 2) Rents may increase to \$1,150, provided 6 months' notice is given to continuing tenants. Such notice may run concurrently with notice of the increase described in the previous paragraph. It is important to note that a monthly rent of \$1,150 is still considered affordable at 60% AMI.

As a condition of the exception to the rent increase cap granted a report shall be provided by ownership to the Legislative Hearing Officer by January 1, 2025, of all capital improvements made or contracted in accordance with the plan provided above. This report shall contain specifics on those capital improvements and use the amortization schedule associated with the MNOI worksheet used by DSI.

COUNCIL PUBLIC HEARING:

This matter will go before the City Council at Public Hearing on **Wednesday, December 20, 2023 at 3:30 pm. in room 300 City Hall.** If you contest the recommendation you may appear in person or send written testimony to be added to the record to rentappeals@ci.stpaul.mn.us or by voicemail at 651-266-6805. **Should you wish to address Council directly but not appear in person, you must register by noon Tuesday, December 19, 2023 here:** <https://www.stpaul.gov/departments/city-council/city-council-public-hearing-live-testimony>.

If you have any questions, please contact the Rent Stabilization Appeals Executive Assistant Sonia Romero at 651-266-8568 or email rentappeals@ci.stpaul.mn.us

Sincerely,

/s/

Marcia Moermond

Legislative Hearing Officer

c: Rent Stabilization Staff
Tenants: Jerry Krueger, Katrina Storlie and Lisa Nielsen via email. Tenant Rebecca Bullock via US Mail (unless email address received December 15)