



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: O ARI

Introduction

This application was brought by the landlord on February 13, 2012, seeking approval of an additional rent increase beyond the allowable annual increase under section 43(3) of the *Act* on the grounds that:

1. After the rent increase allowed under section 22 [*annual rent increase*], the rent for the rental unit is significantly lower than the rent payable for other rental units that are similar to, and in the same geographic area as, the rental unit—*Regulation 23(1)(a)*;

Issues to be Decided

On the claim of rent significantly lower than comparable units, as directed by *regulation 23(4)*, this application requires a decision on whether the additional increase is to be granted, refused, phased in over time or conditional taking into account the criteria set out under *regulation 23(3)*, the following of which I find applicable in the present application:

- a) the rent payable for similar rental units in the residential property immediately before the proposed increase is intended to come into effect;
- (b) the rent history for the affected rental unit in the 3 years preceding the date of the application;
- c) a change in a service or facility that the landlord has provided for the residential property in which the rental unit is located in the 12 months preceding the date of the application;
- (d) a change in operating expenses and capital expenditures in the 3 years preceding the date of the application that the director considers relevant and reasonable;
- (f) a relevant submission from an affected tenant;

Background and Evidence

The subject rental complex is made up of seven townhouse units. All are two-storey, two bedroom, 1.5 bath units of approximately 800 square feet each. They are built on a crawl space and were constructed in the 1970's.

While the units are operated by a senior's housing society, they are not age restricted and they are available on the open market.

The landlord pays \$800 property taxes per unit per year and water usage per unit of \$200 per year.

At present, five of the units rent for \$800 per month and two rent for \$705.43 per month. The landlord seeks authorization to give Notice of Rent Increase to \$950 per month as each of the units comes due for the annual notice.

During the hearing, the property manager gave evidence that the society had spent \$112,000 on improvements on the complex including replacement of the roof, windows, fascia and insulation under some picture windows in 2009 and 2010.

While the attending tenants praised both the manager and the maintenance worker, they expressed some concerns associated with the age of building and frost heave due to the cold climate. Some put forward concerns about repairs or improvements, some of which had not previously been brought to the landlord's attention. They were encouraged to do so and advised they could make individual applications for repairs if they were unable to resolve matters through written requests to the management.

Tenants also noted poor sound and weather insulation.

In support of the proposition that the rent for the units is substantially lower than that of comparable units, the manager gave evidence that she had recently advertised one of the subject units that is coming vacant at \$950. She stated that she had 12 enquires in one day. She said many of those advised her that there was no other housing available in the price range.

She was able to rent the unit at \$950 the same day and had to remove the advertisement to avoid a deluge of calls.

The landlord further submitted the following advertisements or listings of comparable units gleaned from the two large property management firms in the community:

Identity	Basics	Extras	Rent
Glenwood	2 beds, 1 bath	2 appl, 3 level, bsmt	\$1,400
Carlington	3 beds, 1.5 baths	4 appl,	\$1,300
Sandlewood	Apt , 2 beds, 1 bath	2 appl + cable	\$900
Green Glen	Apt , 1 bed, 1 bath	2 appl + dishwr, heat, ht wtr, cable	\$900
Hampton	3 beds	No utilities, no bsmt	\$1,100
Peace River	2 beds	No utilities	\$1,050

The tenants gave anecdotal evidence of another complex diagonally across from the subject units in which was recently \$700 per month but more recently rented for \$950 and which have been updated.

Other comparables within two blocks and in better condition offered on behalf of the tenants included:

- Updated units with basements now renting at \$1,050;
- Newer, larger units with washer and dryer at \$1,050 said to be rising to \$1,150;
- Renovated, warm townhouse with hot water and furnace to long term tenant for \$946;
- Updated town houses including appliances at \$975.

There was also evidence given by tenants that in past years, the subject units were subject to neglect, but that there have been improvements more recently. The tenants also noted that while the community tends to boom during the winter months when ground frost accommodates heavy activity in the oil and gas fields, demand for housing subsides somewhat in the warmer weather when transient workers return to their home bases.

The tenants also noted that some of the landlord's comparables are newer and have basements and/or private yards, but I note those rents are substantially higher than that sought by the landlord.

Analysis

Residential Policy Guideline 37 -7 directs that:

“The amount of a rent increase that may be requested under this provision is that which would bring it into line with comparable units, but not necessarily with the highest rent charged for such a unit. Where there are a number of comparable units with a range of rents, a dispute resolution officer can approve an additional increase that brings the subject units into that range.”

On examining the landlord's comparables and those submitted by the tenants, taking into account some variables in renovation, location and configuration, I find that the present rent is substantially below local market norms, and that the additional increase requested to \$950 per month, would be reasonably within the range.

However, given that the dollar and percentage increase is substantial, I find that the increase should be implemented in two stages:

First, I hereby authorize and order that, three months in advance of the anniversary date of each tenant's last increase, the landlord may give notice of a rent increase to \$875 per month.

One year following, the landlord may give notice of a rent increase to \$950 per month.

Conclusion

The landlord's request for an additional rent increase to \$950 is granted but is to be phased in over one year. The landlord may serve each tenant with a three-month

notice of rent increase to \$875 per month to take effect on the anniversary of their last rent increase. Where there has been no notice of rent increase in the past year, the landlord may serve such notice at any time. The landlord is authorized to serve notice of a rent increase to \$950, to take effect one year following.

The landlord's property manager has agreed to distribute copies of this decision to the affected tenants.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: March 20, 2012.

Residential Tenancy Branch