



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 608759 B.C. LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ARI

Introduction

This hearing dealt with the landlord's Application for Additional Rent Increase seeking an increase in rent for specific sites.

The hearing was conducted via teleconference and was attended by the landlord's agents and 9 tenants representing 7 tenancies; and 1 agent representing an 8th tenancy. Two tenants were not represented at the hearing.

Issue(s) to be Decided

The issue to be decided is whether the landlord is entitled an additional rent increase for the subject sites, pursuant to Sections 35 and 36 of the *Act*.

Background and Evidence

The landlord submits that they purchased the land from the original land owner about 1 year ago. Previous to this purchase the manufactured home park landlord was a holding company who had leased the property from the landowner. The landlord submits that some of the principles in the holding company are currently tenants.

The landlord also submits that they did not obtain much in the way of records from the previous park landlord and had no documentation specifically regarding rent increases. The landlord provided little or no description of the park itself (i.e. the number of sites; the amenities and/or services provided). The landlord did testify that shopping and services were generally close by to the subject park.

The landlord submits that when they originally took over the management of the park the rent included a generous cable television package and the landlord ended that service. As a result of a Dispute Resolution decision the landlord reduced all rents in the park to \$379.08 in recognition of the termination of the cable service.

I note that during the hearing it was confirmed that one tenant continued to pay rent in the amount of \$454.08. I ordered the landlord to provide me, after the conclusion of the hearing, with a letter explaining what would be happening with that tenant's rent no later

than Monday, April 7, 2014. I have received this letter which indicates the landlord has reduced the tenant's rent effective May 1, 2014 in response to this issue.

The landlord submits the current rents for all sites under this Application are \$379.08 and seeks an additional rent increase in the amount \$135.92 or 35% for single wide sites and \$170.92 or 45% for double wide sites.

The landlord submitted into evidence a handwritten listing of 6 other parks including addresses; pad rental (or range); indication of any restrictions; and that all include water and garbage. Support documents include a printed real estate listing for one manufactured home from each of these parks all dated January 30, 2014.

The following tables include the information provided by the landlords in their evidence and testimony and are listed as Parks 1 to 6 in the same order as they were presented in the landlord's documentary evidence and testimony.

Park 1		20 Sites
Geographic location	About 1 mile away	
Infrastructure (ie. Roads surfaces; curbs; lighting)	Paved roads	
Sites (ie. Pad surfaces; landscaping)	No information provided	
Site size	No information provided	
Amenities	Water and garbage included; no clubhouse; slightly farther away from local services and shopping.	
Rents	\$523.00 - restricted to 55 years and older	

Park 2		70 Sites
Geographic location	About 1 mile away (next to Park 1)	
Infrastructure (ie. Roads surfaces; curbs; lighting)	Paved roads	
Sites (ie. Pad surfaces; landscaping)	No information provided	
Site size	Small plots – restricted to 2 people per unit	
Amenities	Water and garbage included; clubhouse; slightly farther away from local services and shopping.	
Rents	Range \$625.00 – \$650.00 – no restrictions	

Park 3		200 Sites
Geographic location	About 1 mile away	
Infrastructure (ie. Roads surfaces; curbs;	Paved roads	

lighting)	
Sites (ie. Pad surfaces; landscaping)	No information provided
Site size	Single and double wide sites
Amenities	Water, recycling and garbage included; unsure about a clubhouse; farther away from local services and shopping.
Rents	Range \$525.00 - \$560.00 – restricted to 55 years and older.

Park 4	Large (number of sites not provided)
Geographic location	About 2½ miles away
Infrastructure (ie. Roads surfaces; curbs; lighting)	Paved roads
Sites (ie. Pad surfaces; landscaping)	“squished”
Site size	Small sites
Amenities	Garbage included; no clubhouse; farther away from local services and shopping.
Rents	Range \$535.00 – no restrictions

Park 5	(number of sites not provided)
Geographic location	About ½ mile away
Infrastructure (ie. Roads surfaces; curbs; lighting)	Some paved roads and some not paved
Sites (ie. Pad surfaces; landscaping)	No information provided
Site size	No information provided
Amenities	Recycling and composting included; RV storage; no clubhouse; farther away from local services and shopping.
Rents	Range \$500.00 to \$535.00 – restricted to 55 years and older.

Park 6	(number of sites not provided)
Geographic location	About 1½ miles away
Infrastructure (ie. Roads surfaces; curbs; lighting)	Some paved roads and some not paved
Sites (ie. Pad surfaces; landscaping)	No information provided
Site size	No information provided
Amenities	Small amenity areas; no clubhouse; farther away from local services and shopping.

Rents	Range \$500.00 – restricted to 55 years and older.
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The tenants have provided into evidence photographic records of the condition of fencing on the subject park as unsecured and falling down. In addition some photographs show the condition of some manufactured homes as unskirted and some with the homes removed with debris and structures left in the site.

Some photographs show the building of a liquor store on adjacent land that backs right up to the subject park and includes security cameras. The parties confirmed in the hearing the landlord also built the adjacent liquor store. The landlord confirms that they also have an application for redevelopment of the site with the local municipal authorities.

The tenants have also provided photographs of some of the other parks that the landlord has presented showing well-maintained properties include both the grounds and individual sites.

Analysis

Section 36 of the *Act* states a landlord may impose a rent increase only up to the amount: calculated in accordance with the regulations; ordered by the director on an application under subsection; or agreed to by the tenant in writing. In the circumstances prescribed in the regulations, a landlord may request the director's approval of a rent increase in an amount that is greater than the amount calculated under the regulations by making an application for dispute resolution.

Section 33(1) of the Manufactured Home Park Tenancy Regulation states a landlord may apply under section 36 of the *Act* if after the rent increase allowed under section 32 of the Regulation, the rent for the manufactured home site is significantly lower than the rent payable for other manufactured home sites that are similar to, and in the same geographic area as, the manufactured home site.

As the burden rests with the landlord to substantiate the grounds by which they seek a rent increase over and above the annual allowable rates, the landlord must provide sufficient evidence first to establish that there are comparable parks; that they are all in the same geographic area; and then that their rents are significantly higher than the rates in the subject park.

In addition, Residential Tenancy Policy Guideline # 37 sets out that the landlord must provide specific and detailed information, such as rents for all the comparable units in the residential property or similar residential properties in the immediate geographical area with similar amenities.

Based solely on the landlord's evidence I find that the landlord has failed to provide sufficient evidence to establish that there are comparable parks in the same geographic

area. Specifically, by failing to provide any evidence at all showing the condition of the subject park such as photographic evidence and a map of the park I find the landlord has failed to provide anything for me base a comparison to the other parks on.

In addition, I find that the submission of 1 real estate listing from each of the parks that the landlord says are comparable to the subject park is not sufficient evidence to establish either the condition or amenities provided by the comparison parks or whether or not the pad rental listed in the real estate represents any other pad rentals in the park.

On the other hand, I find that the evidence provided by the tenants raises more questions as to the comparability of the subject park to any of the other parks listed for comparison.

For these reasons, I find the landlord has failed to establish that the subject park is comparable to any of the other parks identified in the same general geographic area.

Conclusion

Based on the above, I dismiss the landlord's Application for an additional rent increase.

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

Dated: April 07, 2014

Residential Tenancy Branch

