



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ADR

### Introduction

This hearing conference was convened by way of conference call in response to an Application for Dispute Resolution filed by the landlord on June 22, 2021, seeking an additional rent increase (the “ADR”) pursuant to section 36(3) of the Manufactured Home Park Tenancy Act (the “Act”) and section 33(1)(b) of the Manufactured Home Park Tenancy Regulation (the “Regulations”) (the “Application”).

On November 8, 2021, a pre-hearing conference was scheduled an interim decision was made which should be read in conjunction with this Decision.

The landlord’s counsel confirm they received the evidence of the tenants. The tenant confirmed they received a letter from the landlord dated January 24, 2022, which was past the time limit for the landlord to submit rebuttal evidence.

I have reviewed the letter dated January 24, 2022, and the letter simply refers to page 151 of the landlord’s original evidence. I do not find this prejudicial to the tenants. Therefore, I will allow all documentary evidence submitted by both parties.

### Issue to be Decided

- Is the landlord entitled to an additional rent increase by proving significant repairs or renovations have been completed to the manufactured home park in which the manufactured home sites is located, that are reasonable and necessary and will not occur within a time period that is reasonable for the repairs or renovations?.

### Background and Evidence

The manufactured home park is made up of 108 sites. The park was established in 1995/1996. The landlord has had some tenant of the sites agreed to the additional rent only the ones named in the application have not agreed.

The landlord is applying to receive an additional rent increase of .89% based on the following formula

Cost of project	\$82,943.66
Number of sites	108
Useful life (years)	15
Month	180
Annual Recovery	\$5,529.58
Monthly Recovery	\$460.80
Monthly Revenue	\$51,836.34
Percental of increase per resident	.89%

$\$82,943.66/180=460.80/108=\$4.27$  \$4.27 of the average rent of \$479.96=.89%

I note the landlord has made a calculation error as they have calculated the amount of \$4.47, when it should have been \$4.27; however, the rent increase percentage is the same.

Counsel for the landlord submits that due to the city adopting a new bylaw on March 19, 2018, that the landlord was required to install a backflow prevention connection on the waterline to the manufactured home park. Filed in evidence is a copy of the adopted bylaw.

Counsel submits that the total cost for the works was the amount of \$82,943.66. Counsel submits that this was an unforeseen expense, and it was a mandatory requirement of the bylaw and not due to any failure of the landlord to maintain the waterline.

Counsel submits the first time the landlord received a letter from the city was a letter dated July 29, 2019, and they took reasonable steps to comply. Counsel submits the landlord had to higher an engineering firm to design the services for the backflow prevention on the existing water system of the manufacture home park. Filed in

evidence is letter date December 16, 2019, and a design plan from the engineering company.

Counsel submits the plans were submitted for approval to the city and it took four months to receive a permit. Filed in evidence is a copy of the permit which show that they application date was May 26, 2020, and issue date of the permit was September 23, 2020.

Counsel submits that the work went out to tender and the landlord had received three bids, and they accepted the lowest bid. Filed in evidence a letter dated May 21, 2020, show the proposal of the bid accepted.

Counsel submits the work was completed and the water services passed its final inspection on November 23, 2020.

Counsel submits the useful life span of the of the backflow preventer is between 15 and 20 years as this was information that was supplied to the landlord by the supplier. Counsel indicated they have used the lifespan of 15 years as they referred to the Residential Tenancy Branch Policy Guideline 40 – Useful Life of Building Elements (the “PG”), and tried to make a comparison, such as a swimming pool and other water related items.

Counsel submits that the site the tenants have given for a useful life span is not from the Canadian Government it appears to be from the state of California, USA. Counsel states that the best source we have to the useful life span from the supplier.

The Tenants’ representative argued that it is good practise for the landlord to obtain three bids for the work. The representative stated that the landlord has provided no proof that they obtained these. The representative submit that this was an exceptional high cost and unfairly a burden placed on the tenants.

The Tenants’ representative argued that they do not understand how the landlord only received the final notice issued on July 29, 2019, as it appears two prior letters were sent. Filed in evidence is a copy of the description of letters sent from the city, which is noted as document No. 6. I note the following is written in the details,

“This a copy of the account records and date of notice that were generated by the software the city uses to track our cross-connection programs. I can not say

for sure who or even guaranteed they were delivers as the software only tracks that they were generated". **[My Emphasis Added]**

The tenants' representative argued that the landlord has picked the lowest useful life span of 15; however, they have gone to the government website, and it indicates a backflow preventer has a lifespan of 35 to 40 years. The representative provided me with a Google address for consideration. Filed in evidence is a copy is a table of typical equipment life expectancy, from the Google website, which is not from a Canada website. I note the publication of the table is also dated September 2003, which makes the table 19 years old.

The tenants' representative argued that this new capital equipment and is not a repair or renovation to the waterline and the landlord should have filed their application pursuant to section 33(1)(c) of the Regulations.

The tenants' representative argued that the landlord was aware of the requirements to install a backflow preventer in mid 2018 but did not get the contract for installation until mid-2020 and the construction cost increased by 7.1% and this increase should be reduced from the amount.

Counsel for the landlord argued that section 33(1)(c) of the Regulations would not apply as this is not a financial loss from an extraordinary increase in operating expenses of the manufactured home park. Counsel submits this was a onetime cost to modify the existing water line to prevent a backflow into the main waterline.

Counsel for the landlord argued that the landlord received three bids, and this was told to the tenants in a letter dated October 21, 2020, and that they would be applying for an additional rent increase.

Counsel for the landlord argued that there is no evidence that there was an increase in costs and the landlord took reasonable steps once they were aware of the requirements.

Counsel for the landlord submits that the repairs or renovation to the waterline were reasonable and necessary as it was mandated by the adopted city's bylaw and will not recur within a time period that is reasonable. Counsel submits the landlord has met the requirements under section 33(1)(b) of the Regulations and the additional rent increase should be granted.

## Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

### **Landlord and tenant obligations to repair and maintain**

**26** (1) A landlord must

- (a) provide and maintain the manufactured home park in a reasonable state of repair, and
- (b) comply with housing, health and safety standards required by law.

[Reproduced as written]

### **Additional rent increase**

**33** (1) A landlord may apply under section 36 (3) of the Act [*additional rent increase*] if one or more of the following apply:

- (a) Repealed. [B.C. Reg. 225/2017, App. 1.]
- (b) the landlord has completed significant repairs or renovations to the manufactured home park in which the manufactured home site is located that
  - (i) are reasonable and necessary, and
  - (ii) will not recur within a time period that is reasonable for the repair or renovation;
- (c) the landlord has incurred a financial loss from an extraordinary increase in the operating expenses of the manufactured home park;

[Reproduced as written]

In this case the city had adopted a new bylaw in March of 2018, which required the landlord to comply with the health and safety standard required by law as the backflow preventor was mandatory to be installed on the existing waterline to ensure the integrity of the city's main waterline. This was not due to the landlord's failure to maintain or make repairs in the past.

While the tenants argued that the landlord has filed under the wrong section of the Act; I disagree as I find this was not an operating expense. I find this was work necessary to bring the existing waterline compliance with the city bylaw. Whether it was a repair or renovation, I find it was clearly a requirement on improving the safety of the waterline.

The Residential Tenancy Branch Policy Guideline (the “PG”) 37 states,

**“A repair or renovation** may be reasonable and necessary if the repair or renovation is required to protect or restore the physical integrity of the manufactured home park; **comply with municipal or provincial health, safety or housing standards; maintain water**, sewage, electrical, lighting, roadway or other facilities; or promote the efficient use of energy or water”.

In this case, I must accept that the first time the landlord was aware of the city bylaw requirement was when they received the final notice of compliance on July 29, 2019, as the tenants own evidence show the city cannot guarantee that the priors notice were ever delivered. Also, whether or not there was a delay is not necessary for me to consider as the Regulations only require me to consider where the repairs or renovation were reasonable and necessary and will not recur within a time period that is reasonable for the repair or renovation.

Further, I do not need to consider whether the landlord obtained three quotes for the work to be performed, although this appears to have been done as the letter of October 21, 2020, supports this, as the landlord has the right to employ any company that they determine to be appropriate.

In this case, I find it was reasonable and necessary for the landlord to install the backflow preventor as this was a mandatory requirement of the city bylaw. The project cost to comply with city bylaw was the amount of \$82,943.66, I find this is supported by the evidence before me.

The landlord submits that the useful life span is between 15 and 20 years as this was information they received from their supplier; however, this was in an email between the landlords and not from the supplier. The tenants submit the useful lifespan should be between 35 and 40 years; however, the table the tenants provided was created in 2003 and not from a Canadian source.

While counsel has indicated that the PG 40 would support 15 years based on other comparable; however, I find it is reasonable to conclude that 20 years would be the

useful life span, as this is the years used for water treatment and water systems in the PG 40.

Based on the above, I am satisfied by the landlord application that an additional rent increase is appropriate; however, I have adjusted the amount to reflect the useful span to 20 years.

Cost of project	\$82,943.66
Number of sites	108
Useful life (years)	20
Month	240
Annual Recovery	\$4,147.18
Monthly Recovery	\$345.59
Monthly Revenue	\$51,836.34
Average month rent	\$479.966 (\$479.97)
Percental of increase per resident	.67%

$\$82,943.66/240 = \$345.59/108 = \$3.1999$  (\$3.20) \$3.20 of the average rent of \$479.97 = .6667% (.67%)

Therefore, I find the landlord is entitled to a rent increase of 2.17% in 2022 (.67% + 1.5% = 2.17%), plus the proportional amount for the change in local government levies and regulated utility fees. The landlord must issue a Notice of Rent Increase and give the tenants at least three month's notice. The landlord must also provide a copy of this Decision with the Notice of 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: March 23, 2022

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Residential Tenancy Branch