

DECISION

Introduction

This hearing dealt with the Landlords' January 10, 2023, Application for Dispute Resolution under the *Manufactured Home Park Tenancy Act, SBC 2002, c. 77*, for:

- Additional rent increase pursuant to section 36(3) of the *Manufactured Home Park Tenancy Act*, and section 33(1)(B) of the *Manufactured Home Park Tenancy Regulations*.

Landlord G.D. and R.G. attended the hearing for the Landlord with the support of Agent, A.K.

The hearing was also attended by Tenants: M.H., K.A., M.M., M.B., R.F., and K.G.

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

The Tenants confirmed receipt of the Landlords' application and evidence by Registered Mail that was sent on January 31, 2024, with proof of mailing to all of the named respondents provided as evidence. I reviewed this tracking information to confirm receipt by the majority of Tenants. I deem the Tenants who did not collect their packages, served with the Notice of this Application on February 5, 2024, as required by 83(a) of the Act.

Service of Evidence

The Landlord's Agent A.K. stated that all evidence was included in the packages that were mailed on January 31, 2024. This was confirmed by the Tenants. I therefore find that the Tenants were served with the Landlord's evidence related to this claim as required by the Act and Rules of Procedure.

Preliminary Matters

I amended the list of Respondents to remove four sets of Tenants as requested by the Landlord's Agent A.K. because A.K. advised that these parties secured mutual agreements for rental increases outside of the hearing process. I made this amendment under RTB Rule of Procedure 7.7.

Issues to be Decided

- Are the Landlords entitled to impose an additional rent increase for reasonable and necessary increases to eligible financial, operational, or landlord rent expenses at the Park?

Background and Evidence

I have reviewed all evidence, including the testimony of the parties, but will refer only to what I find relevant for my decision.

G.B. spoke on behalf of the Landlord to review their submission and request to recover \$122,596.63 from the Tenants of the 25 pad sites over a period of 6 years. The work was completed between October 2022 and June 2023 and evidence of invoices and cancelled checks were provided and clearly identified as evidence.

G.B. stated that the Park was opened in the early 1970s and that all 25 pad sites are connected to the same septic system that includes a treatment plant and disposal field. The Landlords provided evidence of a prior septic field upgrade in 1997 as well as a summary of improvement work to the field in 2014 to add capacity to the disposal field.

The Landlords for the Park retained engineers after considerable ponding was documented in the disposal field in 2022. These engineers recommended, based on evidence of regular inspections, that replacement of the disposal field was the only option because “the infiltrator chambers housing the disposal laterals were plugged with solids due to a combination of soils migrating through the vents and septic sludge building up over the years.”

Project work was summarized by the primary contractor as including the following:

QUANTITY	DESCRIPTION	AMOUNT
	RE: SEPTIC DISPOSAL FOR 3670 SMOKE	
	RIVER RD. TO INCLUDE:	
	• REMOVAL OF TOP 12" DOWN TO EXISTING	
	INFILTRATORS AND MOVE TO FAR END OF	
	EXISTING DISPOSAL AREA	
	• BUILD 6 NEW DISPOSAL BEDS APPROXIMATELY	
	50'X16'	
	• TRENCHES APPROXIMATELY 24X24" ENDING	
	UP WITH 24" BELOW DISPOSAL PIPES.	
	• NEW HYDRO TECH VALVE, 6 ZONE.	
	• 1 1/2" DISPOSAL PIPE WITH 2" FEED LINE.	
	• GEO TECH CLOTH OVER TRENCHES.	
	• APPROXIMATELY 9" OF TOPSOIL OVER ENTIRE	
	DISPOSAL AREA, AND SEEDED WITH GRASS	
	SEED.	
	• ALL MATERIALS & LABOUR TO COMPLETE	94,250.00
	THE SEPTIC REPAIR.	

The Landlord provided certification from the local health authority to confirm adequate and appropriate completion of the project and testified that significant replacement or repair of the disposal field is not expected for many years. The Landlord G.B. stated that the Landlord acted promptly once advised to do so by their engineers so that potential environmental contamination could be avoided.

The Landlord's Agent A.K. referred to evidence submitted and explained how the Landlord attempted in October 2023 to secure mutual agreements for proportional pad rent increase with all Tenants prior to making this application on January 10, 2024, for an approval for an additional rent increase to cover costs associated with a reasonable and necessary repair that is not expected to reoccur within a reasonable time period.

The Landlord's Agent A.K. referred to evidence submitted and testified that 16 of the 25 pad sites have signed Mutual Agreements for 6-year cost recovery of their share of the project costs through pad rent increases.

The Landlord G.B. stated in response to questioning from the Arbitrator:

- There have been no Orders from the RTB to reduce rent for failure to complete repairs
- The Landlord does not have access to any other funds, other than additional rent increase, for funding the \$122,596.63 project.

The followings questions and concerns were raised by Tenants and addressed by the Landlord:

- Can we just pay our lump sum portion instead of it being added to pad rent?
- Does this cost recovery added to monthly pad rent get compounded by annual rent increases?
- We pay our pad rent, shouldn't this pay for the project costs?
- Why doesn't the Landlord keep project specific reserves, like Stratas do to fund big projects?

The Landlord's Agent A.K. referred to spreadsheet evidence submitted and explained that the Landlord chose to recover pad specific contributions through monthly pad rent because they wanted it to be as easy as possible to repay for the Tenants. The Agent A.K. also confirmed that Park Owners are not required under the Act to maintain project reserves like with Strata properties.

Three Tenants expressed concern about project costs being high and alleged that the Park owner failed to maintain the septic disposal field, however, no verifiable evidence was submitted by either party to support their claims. Two of these Tenants commented on long term smells associated with the disposal field which the Landlord G.B. denied.

Analysis

When two parties to a dispute provide equally possible accounts of events or circumstances related to a dispute, the party making the claim is responsible for providing evidence over and above their testimony to prove their claim.

Is the Landlord entitled to an Order for an additional rent increase for an extraordinary increase in operating costs?

Rent may only be raised in accordance with the Manufactured Home Park Tenancy Act and Regulations. As shown in RTB [Policy Guideline 37\(D\)](#), a landlord may apply to the director for an additional rent increase if they complete a reasonable and necessary significant repair or renovation to the park in which the manufactured home site is located, and will not reoccur in within a time period that is reasonable for the repair.

According to [RTB Policy Guideline 40](#), the expected serviceable lifespan of a Septic Tank and Tile Bed is 20 years. I find that the Landlords in this application are requesting financial compensation for a replacement of a septic disposal field that is at least 26 years old, because as the Landlord indicated, the original system was built in the 1970s, upgraded in 1997, and then upgraded again in 2014.

I find that the Landlords replaced an aging septic disposal field that exceeded its serviceable life and that this replacement project should not need to be repeated for at least another 20 years.

As shown in section C of RTB Policy Guideline 37(D), the landlord:

- Must propose a rent increase that is equal for all parties

- Can make prior agreements with Tenants for additional rent increase as calculated

I find that the Landlord provided complete and verifiable evidence related to the claimed projected costs of \$122,596.63 for replacing the Park septic disposal field.

I reviewed the history of pad rent revenue submitted from the Landlord for the three calendar years prior to this application:

	Monthly Pad Rent	Annual Pad Rent
2021	\$14,699.46	\$176,393.52
2022	\$15,126.67	\$181,520.04
2023	\$15,558.96	\$186,707.52
2024	\$16,103.52	\$193,242.24

I find that project costs of \$122,596.63 far exceed available Park revenues on an annual basis and that the annual increases in pad rent revenue over the past three years do not account for the reasonable and necessary costs of completing the septic disposal field replacement.

I reviewed the proposed cost recovery spreadsheet provided on page 17 of the Landlord's 33-page evidence document. I find that the Landlords have forecasted a reasonable and proportionate method for recovering project costs from the 25-pad sites that reflects a time bound 3.02% increase in monthly rents until pad specific contributions are collected.

If and where the Landlord is willing to accept a lump sum payment from Tenants for their share of project costs, instead of allowing Tenants to pay over a six-year period as forecasted, the Landlord is entitled to do so.

Conclusion

The Landlord has been successful. I grant the application for an additional rent increase because their eligible financial, operational or landlord rent expenses increased by \$122,596.63.

The Landlord must impose this increase in accordance with the Act and the Regulation and must not exceed the claimed 3.02% increase as identified in this application.

I order the Landlord serve the tenants with a copy of this decision in accordance with section 81 of the Act.

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 21, 2024

Residential Tenancy Branch