



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Municipal Affairs

A matter regarding 8740 CARTIER STREET HOLDINGS LTD., VANCOUVER NO.
1 APARTMENTS PARTNERSHIP
And [tenant name suppressed to protect privacy]

DECISION

Dispute Code ARI-C

Introduction

8740 Cartier Street Holdings Ltd., Vancouver No. 1 Apartments Partnership applied for an additional rent increase for capital expenditures, under section 43 of the Residential Tenancy Act (the Act) and 23.1 of the Residential Tenancy Regulation (the Regulation).

8740 Cartier Street Holdings Ltd., Vancouver No. 1 Apartments Partnership, represented by agents MF (the Landlord) and ND and by legal counsel MD attended the hearing. All were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

I left the teleconference connection open until 1:11 P.M. to enable the tenants to call into this teleconference hearing scheduled for 1:00 P.M. The tenants did not attend the hearing.

Service

The Landlord affirmed that he served the notices of dispute resolution proceeding and the evidence (the materials) on December 19, 2024 by attaching individual packages to the rental unit's front doors of all the named respondents. The Landlord submitted a proof of service certificate indicating service of the materials in accordance with his testimony.

The Landlord did not receive response evidence.

The Tenants did not provide response evidence to the Residential Tenancy Branch.

Based on the convincing testimony of the parties and the proof of service certificate, I find the Landlord served the materials in accordance with section 89(1) of the Act. Thus, I accept service of the materials and the evidence.

Application for Additional Rent Increase

The Landlord is seeking an additional rent increase for 4 expenditures in the total amount of \$304,123.71. The expenditures are:

1. Boiler and heating system replacement, including an automation system for the boiler ('Boiler' - \$126,358.67)
2. Security improvements including new cameras, intercom and fob system ('Security' - \$18,690.75)
3. Hallways and laundry room improvements including new carpet, signage, painting, lighting and indoor hardware ('Hallways' - \$147,537.57)
4. Toilet replacement ('Toilet' - \$11,536.72)

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed.

Regulation 23.1 sets out the framework for determining if a landlord is entitled to impose an additional rent increase for expenditures.

Regulation 23.1(1) and (3) require the landlord to submit a single application for an additional rent increase for eligible expenditures "incurred in the 18-month period preceding the date on which the landlord makes the application".

Per Regulation 23.1(2), if the landlord "made a previous application for an additional rent increase under subsection (1) and the application was granted, whether in whole or in part, the landlord must not make a subsequent application in respect of the same rental unit for an additional rent increase for eligible capital expenditures until at least 18 months after the month in which the last application was made."

Regulation 23.1(4) states the director must grant an application under this section for that portion of the capital expenditures in respect of which the landlord establishes all the following:

- (a) the capital expenditures were incurred for one of the following:

- (i) the installation, repair or replacement of a major system or major component in order to maintain the residential property, of which the major system is a part or the major component is a component, in a state of repair that complies with the health, safety and housing standards required by law in accordance with section 32 (1) (a) [landlord and tenant obligations to repair and maintain] of the Act;
- (ii) the installation, repair or replacement of a major system or major component that has failed or is malfunctioning or inoperative or that is close to the end of its useful life;
- (iii) the installation, repair or replacement of a major system or major component that achieves one or more of the following:
 - (A) a reduction in energy use or greenhouse gas emissions;
 - (B) an improvement in the security of the residential property;
- (b) the capital expenditures were incurred in the 18-month period preceding the date on which the landlord makes the application;
- (c) the capital expenditures are not expected to be incurred again for at least 5 years.

Per Regulation 23.1(5), tenants may defeat an application for an additional rent increase for expenditure if the tenant can prove, on a balance of probabilities, that the expenditures were incurred:

- (a) for repairs or replacement required because of inadequate repair or maintenance on the part of the landlord, or
- (b) for which the landlord has been paid, or is entitled to be paid, from another source.

If a landlord discharges their evidentiary burden and the tenant fails to establish that an additional rent increase should not be imposed for the reasons set out in Regulation 23.1(5), a landlord may impose an additional rent increase pursuant to section 23.2 and 23.3 of the Regulation.

Regulation 21.1 defines major component and major system:

- "major component", in relation to a residential property, means
 - (a) a component of the residential property that is integral to the residential property, or
 - (b) a significant component of a major system;
- "major system", in relation to a residential property, means an electrical system, mechanical system, structural system or similar system that is integral
 - (a) to the residential property, or
 - (b) to providing services to the tenants and occupants of the residential property;

I will address each of the legal requirements.

While I have turned my mind to the evidence and the testimony of the attending parties, not all details of the submissions and arguments are reproduced here. The relevant and important aspects of the Landlord's claim and my findings are set out below.

Number of specified dwelling units and benefited units

The Landlord stated the expenditures benefit all 35 rental units located in the building built around 1972.

Based on the Landlord's undisputed testimony, I find the rental building has 35 rental units and that they all benefit from the expenditures, in accordance with section 21.1(1) of the Regulation.

Prior application for an additional rent increase and application for all the tenants

The Landlord testified he did not submit a prior application for an additional rent increase and that the Landlord named as respondents in this application all the tenants that he intends to impose the additional rent increase.

Based on the Landlord's undisputed and convincing testimony, I find that the Landlord has not submitted a prior application for an additional rent increase in the 18 months preceding the date on which the landlord submitted this application, per Regulation 23.1(2).

Based on the Landlord's convincing testimony, I find the Landlord submitted this application against all the rental units on which the Landlord intends to impose the rent increase, per Regulation 23.1(3).

Expenditure incurred in the 18-month prior to the application

The Landlord submitted this application on December 12, 2024.

Regulation 23.1(1) states the Landlord may seek an additional rent increase for expenditures incurred in the 18-month period preceding the date on which the landlord applied.

Thus, the 18-month period is between June 11, 2023 and December 11, 2024.

The Landlord said that all the expenditures were completed within the 18-month period and submitted the invoices for the amounts claimed:

1. Boiler: 6 invoices. The last invoice due date is February 22, 2023, in the amount of \$8,725.50. The Landlord affirmed the last invoice was paid on June 20 and submitted a proof of payment indicating the payment on that date and that the cheque was cashed on July 31.
2. Security: 2 invoices. The last invoice due date is January 3, 2024. The Landlord stated the last invoice was paid on February 14 and submitted a proof of payment indicating the payment on that date and that the cheque was cashed on March 31.
3. Hallways: 13 invoices. The last invoice due date is September 5, 2023. The Landlord testified the invoices were paid on November 21 and submitted a proof of payment indicating the payment on that date and that the cheque was cashed on December 11.
4. Toilet: 2 invoices. The last invoice due date is October 24, 2023. The Landlord said the last invoice was paid on December 6 and submitted a proof of payment indicating the payment on that date and that the cheque was cashed on December 8.

Policy Guideline 37-A states: “capital expenditure can take more than 18 months to complete. As a result, costs associated with the project may be paid outside the 18-month period before the application date. For clarity, the capital expenditure will still be eligible for an additional rent increase in these situations as long as the final payment for the project was incurred in the 18-month period” and the date of the payment is the date of the cheque for the final payment.

Based on the Landlord’s convincing and undisputed testimony, the invoices and the proofs of payment, I find the Landlord incurred the expenditures in the 18-month period, per Regulations 23.1(1) and 23.1(4)(b).

Expenditure not expected to occur again for at least 5 years

The Landlord affirmed the expenditures are not expected to occur again for at least 5 years, as the life expectancies of the expenditures are:

1. Boiler: 15 to 20 years. The Landlord submitted a letter dated November 30, 2024 from the contractor responsible for installing the new boiler. It states: "I anticipate the new boiler system will not need to be replaced for at least 20 years."
2. Security: more than 5 years
3. Hallways: at least 10 years
4. Toilet: at least 20 years. The Landlord submitted a letter dated December 2, 2024 the contractor responsible for installing the new toilets. It states: "It is anticipated that the toilets supplied will have an estimated useful life of approximately 20 years."

Based on the Landlord's convincing and undisputed testimony and the letters, I find that the life expectancy of the expenditures is at least 5 years, and the expenditures are not expected to occur again for this period of time. Thus, I find that the capital expenditures incurred are eligible expenditures, per Regulation 23.1(4)(c).

Expenditures because of inadequate repair or maintenance

The Landlord testified the expenditures were not necessary because of inadequate repair or maintenance, as all the expenditures were properly maintained.

Based on the Landlord's convincing and undisputed testimony, I find the Landlord proved that the expenditures were not necessary because of inadequate repair or maintenance on the part of the landlord, per Regulation 23.1(5)(a).

Payment from another source

The Landlord stated that he is not entitled to be paid from another source for the expenditures claimed.

Based on the Landlord's convincing and undisputed testimony, I find the Landlord is not entitled to be paid from another source for the expenditure, per Regulation 23.1(5)(b).

Boiler

The Landlord said the previous boiler was from 1985 and he replaced it with a modern boiler, as the previous one was beyond its useful life. The new Boiler and the automation system save energy use and reduce gas emissions.

The Landlord submitted a building inspection report dated January 21, 2021 signed by an engineer (the Report). It states:

The building is heated by hydronic baseboard heaters. Heating hot water is generated by two Super Hot 600 MBH input boilers (photo AC09) inside the basement boiler room. Heating hot water is distributed to the building via a circulator pump. The boiler system was installed in 1986 and is due to be replaced in the next 5 years.

The Landlord submitted graphics indicating the building's gas consumption was reduced when the new Boiler was installed.

RTB Policy Guideline 37C states:

The Regulation defines a “major system” as an electrical system, mechanical system, structural system, or similar system that is integral to the residential property or to providing services to tenants and occupants. A “major component” is a component of the residential property that is integral to the property or a significant component of a major system.

Major systems and major components are essential to support or enclose a building, protect its physical integrity, or support a critical function of the residential property.

Examples of major systems or major components include, but are not limited to, the foundation; load-bearing elements (e.g., walls, beams, and columns); the roof; siding; entry doors; windows; **primary flooring in common areas**; subflooring throughout the building or residential property; pavement in parking facilities; electrical wiring; **heating systems; plumbing and sanitary systems; security systems, including cameras or gates to prevent unauthorized entry;** and elevators.

A major system or major component may need to be repaired, replaced, or installed so the landlord can meet their obligation to maintain the residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law. Laws include municipal bylaws and provincial and federal laws. For example, a water-based fire protection system may need to be installed to comply with a new bylaw.

Installations, repairs, or replacements of major systems or major components will qualify for an additional rent increase if the system or component has failed, is malfunctioning, or is inoperative. For example, this would capture repairs to a roof

damaged in a storm and is now leaking or replacing an elevator that no longer operates properly.

Installations, repairs or replacements of major systems or major components will qualify for an additional rent increase if the system or component is close to the end of or has exceeded its useful life. A landlord will need to provide sufficient evidence to establish the useful life of the major system or major component that was repaired or replaced. This evidence may be in the form of work orders, invoices, estimates from professional contractors, manuals or other manufacturer materials, or other documentary evidence.

Repairs should be substantive rather than minor. For example, replacing a picket in a railing is a minor repair, but replacing the whole railing is a major repair. Cosmetic changes are not considered a capital expenditure. However, a cosmetic upgrade will qualify if it was part of an installation, repair, or replacement of a major system or

component. For example, a landlord may replace carpet at the end of its useful life with porcelain tiles even if it costs more than a new carpet.

The following is a non-exhaustive list of expenditures that would not be considered an installation, repair, or replacement of a major system or major component that has failed, malfunctioned, is inoperative or is close to the end of its useful life:

- repairing a leaky faucet or pipe under a sink,
- routine wall painting, and
- patching dents or holes in drywall.

(emphasis added)

Based on the Landlord's convincing testimony, the invoices, the Report and the graphics, I find the Landlord proved he changed the Boiler because the previous boiler was from 1986.

I am considering in this application policy guideline 40 published in 2012, as the updated version was published in February 2025, after the Landlord submitted this application.

Policy Guideline 40 indicates the useful life of boilers is at the most 25 years.

Policy Guideline 37C indicates heating systems are major systems. I find the boiler is part of the heating system, as it heats the water used in the building.

Based on the Landlord's undisputed and convincing testimony and the report, I find the boiler was beyond its useful life when the Landlord replaced it.

Considering the above, I find that the expenditure of 126,358.67 to replace the Boiler and install the automation system for the new Boiler is in accordance with Regulation 23.1(4)(a)(ii).

Security

The Landlord affirmed the building did not have security cameras prior to this expenditure and the building's intercom was from the 1970s. The Report states:

The building is installed with an intercom and fob system for access controls (photos AC14, AC15) The existing system is approximately 25 years old. No camera system is currently provided at the building.

Estimated life expectancy of intercom system is approximately 15 to 20 years.

Therefore, it is recommended to replace the equipment with a new system when it is found to be faulty.

The Landlord submitted a letter from its chief information officer dated November 29, 2024 (the Letter). It states: The system [intercom] was well beyond its useful life, did not meet the needs of residents, and did not offer any security benefits.”

Based on the Landlord’s convincing testimony, the invoices, the Report and the Letter, I find the Landlord proved he changed the intercom system because the previous one was from the 1970s, installed security cameras and a new fob system in the building because the prior intercom was outdated and beyond its useful life and there was no camera system in the building.

Policy Guideline 37C states the security system is a major system. I find that security cameras, fobs and intercom are part of the building’s security system. I find this equipment increase the building’s security, as it is less likely that someone will be able to break-in a building equipped with cameras and fobs. I also find that a functional and modern intercom helps to restrict the access of unauthorized people to the building.

Considering the above, I find that the expenditure of \$18,690.75 to install the Security equipment is in accordance with Regulation 23.1(4)(a)(iii)(B), as the Security equipment improves the rental building’s security.

Hallways

The Landlord stated he replaced the carpet and the subfloor in the hallways, painted the walls, changed the signage, lights and indoor hardware, as all these items were from the 1990s and with heavy wear and tear. The Report indicates the prior hallway items were from 1995. The Landlord submitted photos of the hallway prior to the expenditure and after and affirmed the new lights save electricity in comparison with the prior lights.

I find the carpet replaced is part of the rental building’s primary flooring in common areas and it is a major component of the rental building, as the carpet is integral to the rental building, per regulation 21.1 and Policy Guideline 37C.

Policy Guideline 40 states the useful life of carpet is 10 years.

Painting the walls because of the floor replacement is an allowed capital expenditure, as it is related to the floor replacement. The same reasoning applies to the signage, lights

and indoor hardware. Policy guideline 37C explains that “Cosmetic changes are not considered a capital expenditure. However, a cosmetic upgrade will qualify if it was part of an installation, repair, or replacement of a major system or component. For example, a landlord may replace carpet at the end of its useful life with porcelain tiles even if it costs more than a new carpet.”

Considering the above, I find that the expenditure of \$147,537.57 for the Hallways upgrades is in accordance with Regulation 23.1(4)(a)(ii), as the Landlord replaced the carpet that was beyond its useful life and the carpet is part of the rental building’s primary flooring, which is a major component. The same reasoning applies to the signage, painting, lights and indoor hardware.

Toilet

The Landlord testified that he replaced the toilets in 27 units, and that the prior toilets used 6 litres of water and the new ones only use 3 litres. The Landlord said the lower water consumption of the new toilets saves energy for the entire building, as the usage of water by the toilets is a form of energy.

Counsel MD argued the legislation does not define energy, and it is reasonable to interpret water as energy, as energy can take a different number of forms, and it is not reasonable to assume that energy is only electricity.

The letter dated December 2, 2024 from the contractor responsible for installing the new toilets states:

WCC was contracted to supply toilets for all units in the Building with 3.0 L ultra high efficiency, low-flow toilets. Included with the toilet replacements were new fixtures

including new Pro Flow 3.0 lpf tanks, new round bowls, new round seats, new wax rings, new floor bolts, and new supply lines.

The existing toilets at the Building prior to the replacement were 5.0 L or 6.0 L toilets which use more water and are less efficient compared to the low-flow replacement toilets.

The Landlord contracted WCC to supply the toilets at the Building to improve water usage and energy efficiency at the Building. Toilets were not replaced due to inadequate maintenance by the Landlord.

Based on the undisputed and convincing testimony, the invoices, and the letter dated December 2, 2024, I find the Landlord replaced the Toilets and the new ones only use half the water used by the old ones.

I find the toilets are part of the plumbing and sanitary systems. Policy Guideline 37C states that plumbing and sanitary systems are major systems.

I find the new toilets reduce energy consumption in the building, as the water used by toilets needs a pump, and pumps consume electricity. As the new toilets use half the water the old ones used, I find the new toilets reduce the energy consumption.

Considering the above, I find that the expenditure of \$11,536.72 for the Toilets upgrades is in accordance with Regulation 23.1(4)(a)(iii)(A), as the new Toilets reduce energy consumption.

Outcome

The Landlord has been successful in this application, as the Landlord proved that all the elements required to impose an additional rent increase for expenditure and the tenants failed to prove the conditions of Regulation 23.1(5).

In summary, the Landlord is entitled to impose an additional rent increase for the following expenditures:

Expenditure	Amount \$
Boiler	126,358.67
Security	18,690.75
Hallways	147,537.57
Toilet	11,536.72
Total	304,123.71

Section 23.2 of the Regulation sets out the formula to be applied when calculating the amount of the additional rent increase as the number of specified dwelling units divided by the amount of the eligible expenditure divided by 120. In this case, I have found that there are 35 specified dwelling units and that the amount of the eligible expenditure is \$304,123.71.

The Landlord has established the basis for an additional rent increase for expenditures of \$72.41 per unit ($\$304,123.71 / 35 \text{ units} / 120$). If this amount represents an increase of more than 3% per year for each unit, the additional rent increase must be imposed in accordance with section 23.3 of the Regulation.

The parties may refer to RTB Policy Guideline 37C, Regulations 23.2 and 23.3, section 42 of the Act (which requires that a landlord provide a tenant three months' notice of a rent increase), and the additional rent increase calculator on the RTB website (<http://www.housing.gov.bc.ca/rtb/WebTools/AdditionalRentIncrease/#NoticeGeneratorPhaseOne/step1>) for further guidance regarding how this rent increase may be imposed.

Conclusion

The Landlord has been successful. I grant the application for an additional rent increase for expenditures of \$72.41 per unit. The Landlord must impose this increase in accordance with the Act and the Regulation.

The Landlord must serve the Tenants with a copy of this decision in accordance with section 88 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 Act.

Dated: March 6, 2025

Residential Tenancy Branch