# DECISION

## Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution under the *Residential Tenancy Act* (the Act) for:

- An order for a capital expenditure rent increase under section 23.1 of the Residential Tenancy Act Regulation, B.C. Reg. 477/2003 (the Regulation).

M.D.., C.H., and K.M. attended the hearing for the Landlord.

Tenant P.H.E., Tenant Z.C. attended the hearing for the Tenant.

## Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

The Landlord testified that in all cases where email was a permitted method of service, they served Tenants through email. They did this on February 05, 2025. The Landlord submitted service records for this service.

Based on the Landlord's evidence I find that email was a valid method of service for this tenancy under section 43 of the *Residential Tenancy Act Regulation,* B.C. Reg. 477/2003 (the Regulation). I also find that the Landlord sent the Tenants the email on February 5, 20224, based on their testimony.

Under section 44 of the Regulation, documents served by a pre-agreed email are considered received 3 days after they are sent.

Therefore, I find the Tenants are deemed to have received the Proceeding Package on February 8, 2025.

The Landlord testified the Tenants R.S., K.S., D.A, V.V., J.F., J.C., J.M., J.V.R. D.H., C.R., and S.P. had the Proceeding Package posted on their doors on February 5, 2025. The Landlord also provided affidavits from those serving the Proceeding Packages and photos of the packages on the doors.

The Director's standing order dated February 17, 2023, allows service by posting documents to the door is for an application for additional capital expenditure increase. Based on the Landlord's evidence I find the Landlord served the listed Tenants on February 5, 2025.

Under section 90 of the Act documents posted on a door are considered received 3 days after they are sent.

Therefore, I find these Tenants were served on February 8, 2025.

## Service of Evidence

The Landlord testified that they provided a letter in their Proceeding Packages with a link to a file sharing website with their evidence and offered to send paper copies upon request through registered mail. The Landlord provided a copy of the letter they sent all of the Tenants.

I note the Landlord did not include an RTB-43 as required by Rule 3.10.4 of the *Residential Tenancy Branch Rules of Procedure* (the Rules). Tenant Z.C. testified that they could contact the Landlord to receive a copy of their evidence by registered mail, and no complaint has been made by any of the Tenants that they could not access the file sharing website.

I find contacting each of the tenants when there are over 100 of them to ensure they could view digital evidence would go against the value of efficiency noted in Rule 1 of the Rules. Section 71 (2)(c) of the Act allows arbitrators to find document are sufficiently served. I find the Landlord's evidence sufficiently served under section 71 (2) of the Act.

Tenant Z.C. confirmed receipt of all the Landlord’s evidence through registered mail. Therefore, I find that it was served per section 88 of the Act.

The Landlord confirmed receipt of Z.C.'s evidence through email and that they had enough time to review it.

Due to this confirmation, I find the Z.C.'s evidence sufficiently served under section 71 (2) of the Act.

### Preliminary Matters

*Did the Landlord Neglect to Submit Documentation Related to Ineligibility Criteria*

Z.C. raised that the Landlord did not include documents related to insurance with their application. They claimed this may be relevant to whether there was another source of funding for the replacement of the parkade’s gate.

Rule 11.4 states that an applicant must submit any documents in their possession at the time they made their application that relate to the maintenance of major systems or alternative sources of funding.

However, I also note that no clear consequences for not following Rule 11.4 are outlined in the Rules. Furthermore, Residential Tenancy Policy Guideline 37C also does not mention any consequences in relation to this Rule and states:

> "If a landlord or other person fails to provide the requested documents, tenants can, as soon as possible before the hearing, apply for the production of these documents pursuant to Rules 5.3 and 5.4."

I note Z.C. requested other documents from the Landlord and the Landlord provided them. While the Rule is written broadly, I find it would be unfair to interpret it as requiring the Landlord to provide information on every possible form of funding regardless of whether they were entitled to it, or knew the Tenant believed they were entitled to it. Based on the Residential Tenancy Policy Guideline and the lack of consequences stated the Rules, I find a tenant is required to put a landlord on notice of an issue for Rule 11.4 to have legal consequences. As the Tenants did not raise the issue of the Landlord's insurance prior to the hearing, I find that no consequences follow from the Landlord not providing information related to it.

## Issues to be Decided

Is the Landlord entitled to an order allowing them a Capital Expenditure Rent Increase?

## 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.

The Landlord is claiming $369,707.71 for the following expenditures:

| Project | Claimed Ammount | |
|---|---|---|
| Fire panel replacement | $ | 153,387.09 |
| Garage structural repairs | $ | 112,779.45 |
| Amenity Room Fence Replacement | $ | 34,835.88 |
| Upgrades to Exterior Door Security | $ | 8,736.13 |
| Residential parkade gate replacement | $ | 12,013.72 |
| Domestic hot water tank replacement | $ | 41,343.30 |
| Storm Pump Replacement | $ | 6,612.14 |
| Total | $ | 369,707.71 |

Outside of tables I will refer to these expenditures as the "Fire Panel," "Garage Repair," "Fence," "Exterior Door Upgrade," "Gate Replacement," "Tank," and "Pump" Projects. I note the amount the Landlord claimed does not include the costs the commercial tenants contributed to the expenditures. The Landlord testified the residential property's commercial tenants paid 13.38% of all the projects except the Fence and Pump projects. The Landlord stated the commercial tenants' contracts required them to do this.

The Landlord submitted invoices for all of the projects. They also provided cheques for the final payments made for each of these projects. These are the dates on the final payments for each project:

| | |
|---|---|
| Fire panel replacement | June 3, 2024 |
| Garage structural repairs | June 17, 2024 |
| Amenity Room Fence Replacement | August 4, 2023 |
| Upgrades to Exterior Door Security | May 6, 2024 |
| Residential parkade gate replacement | December 15, 2023 |
| Domestic hot water tank replacement | February 6, 2024 |
| Storm Pump Replacement | April 4, 2024 |

The Landlord testified they have not successfully applied for a capital expenditure rent increase in the last 18 months.

The Landlord testified that they believe that none of these expenditures would need to be made again within the next 5 years.

The Landlord testified there were 199 specified dwelling units in the residential property affected by the capital expenditure.

Both parties submitted a previous decision granting a capital expenditure rent increase for the residential property made on July 27, 2023. The arbitrator found on page 7 and 8 of their decision:

> "all the parking levels are part of the rental building and specified dwelling units, in accordance with the definition of the Act and Regulation 21.1, as the tenants have the right to pay for a parking spot on levels 3 and 4 and can also pay for the parking spots on levels 1 and 2. While not all the tenants may choose to rent a parking spot, this is a service offered to all the tenants. The tenants' guests may also choose to pay for a parking spot on levels 1 or 2, as these levels are available to the public. Furthermore, all the parking levels are part of the rental building's structure located on the rental building's parcel. "

The arbitrator also found on page 8 of the decision that the commercial units were specified dwelling units.

*Fire Panel Project*

K.M., one of the Landlord's agents, testified that the Fire Panel Project was due to how the old fire panel had been discontinued by the manufacturer. This made getting parts and technical support more difficult. They also noted that the old fire panel system was signaling false alarms.

In their written submissions the Landlord wrote:

> "a Mircom FX-4000 intelligent fire control system utilizing existing wiring. This included an annunciator, fire alarm programming, and verification. New detectors, pull stations, and sprinkler devices were installed throughout the Building. A new lobby central alarm control panel, including fire phone controls, audio paging controls, fan controls, and LCD event and alarm display was also

> installed. New in-suite speakers were installed in each unit at the Building (one per unit)[…] "

The Landlord provided a letter from Noris Fire Consulting ("Norris) dated January 5, 2022. In it Noris states they are creating plans for a new fire system. They state this is necessary due to the existing panel being discontinued. The panel being discontinued means that new parts and technical support will no longer be available. This made the old panel obsolete in Norris's opinion.

Z.C. testified they found information online that suggests the old panel is still supported. They stated they were not able to find out this information in time to submit evidence to support their testimony.

Z.C. provided the Synergy Report from 2018. This report was used to support the Landlord's previous application for an additional rent increase. The report states the following:

> "According to the service provider (Vancouver Fire), they can likely maintain the fire alarm panel for another 10 years. Replacement may be needed near or beyond the end of the report term, but this is not predictable (approximate replacement budget $60k)."

The Landlord provided a $5,108.76 invoice for custom trimming from Community Fire Prevention dated September 19, 2023.

*Garage Repair Project*

In their written submissions the Landlord stated the following regarding the Garage Repair Project's purpose:

> "This work [the Garage Repair Project] was done to renew the moisture protection for the garage concrete slabs and address normal wear and tear[…] There was evidence of noted wearing in the traffic membrane at the base of the ramp and high traffic turning areas on the upper levels of the parkade, as well as evidence of leakage at the trench drain, below area drains, and on the underside of the ramp as well as some localized concrete deterioration and leakage."

Both parties agree that some of the work focused on the upper levels of the parkade. The upper levels are available for use by the public and serve the commercial tenants' customers.

*Fence Project*

In their written submissions the Landlord stated the following regarding the Fence Project:

> "The fencing along the amenity room outdoor patio was replaced."

C.H., one of the Landlord's agents, testified that the amenity room was only available to the building's residential tenants.

The Landlord provided before and after photos to show the scope of the work.

*Exterior Door Upgrade Project*

In their written submissions the Landlord stated the following regarding the Exterior Door Upgrade Project:

> "The PI elevator lobby door, P2A elevator lobby door, P2B elevator lobby door, P3A elevator lobby door, P3B elevator lobby door, P4A elevator lobby door, and P4B elevator lobby door were upgraded to remove the existing L-bracket, which was replaced with a full-length interlocking astragal. An astragal is a strip of material (in this case metal) that is used to fill in gaps in a door opening to prevent the door from being opened with a credit card or other tool. The Stairwell "P" door and P4B elevator lobby door were upgraded with the installation of a commercial passage knob. The commercial locking lever P4B elevator lobby door was also replaced due to vandalism."

C.H. testified that astragal was applied to different doors than the doors that the Landlord had applied it to in their previous application. They also stated the project involved adding an additional mosquito buzzer to the bottom of the emergency stairwell in the parkade to deter people from sleeping in the stairway. This parkade stairway is open to the general public due to fire safety codes.

*Gate Project*

In their written submissions the Landlord stated the following regarding the Gate Project:

> "The residential parkade gate at P3 and associated mechanism was replaced. […]
>
> The residential parkade gate required replacement because it was not operating as it should. The original gate was old and heavy, and consisted of two large panels.[…] The new residential parkade gate is made of a lighter material and has three panels, which cause less wear and tear over time and are not too heavy for the open/close mechanism."

The Landlord also submitted pictures of the gate.

The Landlord submitted invoices from The Garage Door Depot. In the June 16, 2023, invoice the technician recommends the lighter model gate, which the Landlord testified was what they went with, as a replacement. In the August 11, 2023, invoice for repairs to the gate the technician notes they suspect the gate was hit.

K.M. testified that insurance would not cover the Gate Project as it was for less than their policy's $100,000.00 deductible.

*Tank Project*

In their written submissions the Landlord stated the following regarding the Tank Project:

> "Two of the existing domestic hot water tanks located on the roof top mechanical room (AO Smith commercial hot water tanks) were removed, disposed of, and replaced with new AO Smith commercial hot water tanks.[…]
>
> The domestic hot water tanks in the Building were routinely inspected[…] The domestic hot water tanks were leaking and required replacement.[…[
>
> The Landlord does not know exactly when these two domestic hot water tanks were last replaced as it predates the Landlord's ownership and operation of the Building. However, the Landlord understands that these two domestic hot water tanks were last replaced between 2015 and 2016, prior to its ownership and operation of the Building."

K.M. testified that due to the nature of these types of tanks it was cheaper to replace this tank than repair it.

The Landlord provided preventative maintenance agreements with Ainsworth from June 1, 2019, onward.

The Landlord provided a quote from Ainsworth dated February 09, 2023. In this invoice Ainsworth recommends replacing the Tank.

*Pump*

In their written submissions the Landlord stated the following regarding the Pump Project:

> "The storm pump was seized and required replacement despite regular maintenance as part of a preventative maintenance agreement."

C.H. testified that the storm pump was necessary to prevent water from flooding the underground parkade during heavy rain.

## Analysis

For the Landlord's application for a capital expenditure rent increase to be successful they must prove all of the following on a balance of probabilities:

1. That they have not made a successful application for an additional rent increase for capital expenditure in relation to the same rental units for at least 18 months;

2. That the capital expenditure was made for one of the reasons explained in section 23.1 (4) (1) of the Regulation;
3. That the capital expenditure was made within 18 months of making their application; and
4. That a capital expenditure for the same purpose is not expected to occur again for at least five years.

*Application*

Based on the Landlord's uncontradicted testimony, I find that the Landlord did not successfully apply for a capital expenditure rent increase within 18 months of this application.

*Purpose*

According to section 23.1 (4) (1) of the Regulation the following are the legally permissible purposes to apply for a capital expenditure rent increase:

> "(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;"

Under section 21.1(1) a major system is a system integral to the residential property or is integral to providing services to occupants of the residential property. A major component is a component integral to the residential property or a major system.

Residential Tenancy Policy Guideline 37C also suggests that cosmetic upgrades connected to an eligible capital expenditure can be included in it.

<u>Fire Panel Project</u>

First, I find that a fire safety system is a major component of the residential property. I base this on how it is necessary to protect the residential property and its residents. I find the various tabs, sprinklers, and alarms included in the Fire Panel Project to all be major components of the fire safety system.

The Landlord argued that the fire systems involved in the Fire Panel Project were malfunctioning and that it was difficult to get parts to repair it. Z.C. argued that according to the Synergy Report published in 2018, the fire panel was estimated to last until 2028.

Z.C. also claimed that the current fire panel was also still supported based on information they found on the internet.

Norris's opinion about the fire panel's viability is more recent (2022) than the Synergy Report's (2018). I find this makes Norris's assessment of the fire panel more credible. I also note the 2018 report itself notes that the replacement may be needed before or after 2028. Given Z.C. did not support their claim that the fire panel was still supported with documentation, I find their statement is less credible than Norris's, a company specializing in fire safety. Finally, I find K.M. is well positioned as a manager to know whether there were problems with false alarms from the old system.

Therefore, I find on a balance of probabilities that the major components involved in the Fire Panel Project were malfunctioning or inoperative, as they were no longer viable systems. It therefore falls under the purpose in section 23.1 (4) (1) (ii) of the regulation,

Z.C. noted the $5,108.76 for the custom trim installation and supplies, questioning whether custom trimming was necessary. K.M. noted that trim is necessary to conceal the gap between the fire system and drywall. I also note this part of the project was part of a design from a fire safety expert.

I find on a balance of probabilities that the trim was a necessary part of the project. I base this largely on how it was part of a system designed by an expert.

Garage Repairs Project

Based on the Landlord's uncontradicted testimony I find the garage repairs the Landlord conducted were necessary to prevent safety issues from impacting the occupants of the residential property. Therefore, I find the repair was done to fix the garage's malfunctioning water membrane and failing waterproofing.

Z.C. argued as the first 2 levels of the garage were open to the public and used by the commercial tenants that these levels should not be considered part of the residential property.

As the previous arbitrator noted, the upper levels are also used by the residential tenants for guest parking. Furthermore, the arbitrator in the previous hearing found that residential tenants could have parking spots in the upper levels, and no evidence to the contrary has been put before me. Therefore, I find the entire parking garage is a major system.

As a result, I find the garage repairs fall under the purpose in section 23.1 (4) (iii) (B).

Fence Project

The Landlord argued that the fencing for the amenity room was necessary for the security and safety of the residential property. Z.C noted that most of the fencing was not part of the common area but separated the patios of certain rental units from the roof and each other. In response the Landlord argued the system of fences was part of a security system.

I find 80% of the fencing separates the rental units from each other and the roof based on the photos the Landlord provided. I also find based on the photos that this fencing was not done for most rental units, but only a small minority of them.

Section 23.1 (4) (1) (iii) (B) of the Regulation allows capital expenditures for the security of the residential property, not individual rental units. The definition of major systems also specifies that the system must be necessary for the residential property or providing services to occupants. I note the plural form of "occupant" is used. Based on this I interpret the regulation to exclude non-systemic capital expenditures to specific rental units that do not impact others.

Therefore, while I find the replacing of the fencing for the common area is an eligible capital expenditure for security, I find the 80% of this expenditure that only impacts a select few rental units is ineligible. As a result, I find the Landlord can only claim $6,967.18 (20%) of the $34,835.88 spent on the fencing.

Exterior Door Upgrade Project

First, based on C.H.'s uncontradicted testimony, I find the astragal was applied to different doors than the doors upgraded with astragal in the Landlord's previous application.

Z.C. questioned the efficacy of the mosquito buzzer installed in the emergency stairwell. The Landlord argued there were problems with non-occupants sleeping in the emergency stairwell which these buzzers addressed.

I note Residential Tenancy Policy Guideline 37c states:

> "If an installation, repair, or replacement of a major system or major component better protects people and property at the residential property, the security of the residential property has been improved. A landlord is not required to establish that additional or better security was necessary for the director to grant an additional rent increase."

I find that keeping non-occupants from loitering is likely to have an impact on the security of the residential property. As the Landlord is not required to prove that the additional security is necessary, I find that the Landlord has met their burden.

I find that ensuring the residential property's locks are more secure also serves to improve the security of the residential property.

Therefore, I find the Exterior Door Upgrade project falls under the purpose in 23.1 (4) (1) (iii) (B) of the regulation.

Gate Project

I find that the parkade gate is a major component of a major system (the parking garage).

The Landlord submitted pictures, and made written submissions regarding the parkade gate malfunctioning. Based on this evidence I find that the parkade gate was malfunctioning.

Therefore, I find the Gate project falls under the purpose described under section 23.1 (4)(ii)

Tank Project

The Landlord claimed the hot water tank used purely by the rental units needed to be replaced and it made more financial sense to replace it rather than repair it. The Tenant pointed out that by the Landlord's own estimation the tanks were last replaced in 2015 or 2016. According to the new version of Residential Tenancy Policy Guideline 40 the hot water tank should have a useful life of 15 years, meaning it should have lasted until at least 2030.

As the Landlord noted the useful life estimates provided in Residential Tenancy Policy Guideline 40 are estimates and they cannot be taken as applying to every actual item regardless of external factors.

I find that the Landlord has proven that the hot water tank was malfunctioning and needed to be replaced. I base this on the February 09, 2023, quote from Ainsworth. In it Ainsworth gives their professional opinion that the hot water tank was leaking and needed to be replaced.

Therefore, I find the Tank Project falls under the purpose described under section 23.1 (4) (ii).

Pump Project

The Landlord claimed the residential property's storm pump was seized and it needed to be replaced.

I find that ensuring the parkade is not flooded makes a storm pump a major component of the parkade. I find based on the August 29, 2023, quote from Ainsworth that it was malfunctioning and needed to be replaced.

Therefore, I find the Pump Project falls under the purpose described under section 23.1 (4)(ii).

*Made within 18 months of the Application*

Residential Tenancy Policy Guideline 37C suggests what determines if the capital expenditure was made within 18 months of the application, is when the final payment for the capital expenditure was made.

As the application was made on January 21, 2025, I find the payments would have had to be made by July 21, 2023.

Based on the Landlord's uncontradicted evidence I find the final payments for each project were made on the following dates:

| | |
|---|---|
| Fire panel replacement | June 3, 2024 |
| Garage structural repairs | June 17, 2024 |
| Amenity Room Fence Replacement | August 4, 2023 |
| Upgrades to Exterior Door Security | May 6, 2024 |
| Residential parkade gate replacement | December 15, 2023 |
| Domestic hot water tank replacement | February 6, 2024 |
| Storm Pump Replacement | April 4, 2024 |

*Not required for another 5 Years*

Based on the Landlord's uncontradicted evidence I find that the expenditures for the Fire Panel, Garage Repairs, Fence, Exterior Door Upgrades, Tank, and Pump projects will not be required for another 5 years.

The Landlord argued that the estimated life of garage doors according to the previous version of Residential Tenancy Policy Guideline 42 is 10 years. I note that according to the updated version it is 40 years. They noted that given the new gate was made of lighter material it will likely last longer than the previous one as the mechanical parts will be under less strain. I also note that The Garage Door Depot's technician recommended the lighter gate in their June 16, 2023, invoice.

Z.C. argued that given the invoices note the gate was often bumped and that the new gate was made out of lighter material the new gate may last for less time than the previous one.

I find on a balance of probabilities that the new gate will last at least 5 years. I based this on the useful life stated in Residential Tenancy Policy Guideline 42, and the technician recommending the lighter model.

*Inadequate Repair*

A tenant may challenge a capital expenditure on the ground that it would not have been necessary had the Landlord done adequate routine maintenance under section 23.1 (5) of the Regulation. However, the tenant must prove this on a balance of probability.

Z.C. argued that given the hot water tank failed before its expected useful life period that it may have been due to the Landlord's failure to perform adequate maintenance.

The Landlord argued the hot water tanks were routinely inspected as part of their preventative maintenance agreement with Ainsworth.

I find Z.C. has failed to establish how the Landlord performing adequate maintenance could have made the capital expenditure unnecessary. The Landlord provided a maintenance agreement, and it was through routine inspections that the need for a replacement tank was discovered. Given this I found that Z.C. did not prove the Landlord's maintenance efforts were inadequate.

*Other sources of funding*

A tenant may challenge a capital expenditure on the ground that there is another source of funding available under section 23.1 (5) of the Regulation. However, the tenant must prove this on a balance of probability.

Z.C. argued that the Landlord might have made an insurance claim to recover the cost of the gate repair. They also note The Garage Door Depot's technician's suspicion the gate may have been bumped in their August 11, 2023, invoice.

K.M. testified the Landlord's insurance deductible was $100,000.00. They also note that the gate being bumped was the technician's suspicion and they have no proof it is true.

I find the Tenant did not prove the Landlord could've made an insurance claim to cover the capital expenditure.

*Granted Rent Increase*
Therefore, I find there is a $341,839.01 eligible capital expenditure.

| Project | Claimed Ammount | |
|---|---|---|
| Fire panel replacement | $ | 153,387.09 |
| Garage structural repairs | $ | 112,779.45 |
| Amenity Room Fence Replacement | $ | 6,967.18 |
| Upgrades to Exterior Door Security | $ | 8,736.13 |
| Residential parkade gate replacement | $ | 12,013.72 |
| Domestic hot water tank replacement | $ | 41,343.30 |
| Storm Pump Replacement | $ | 6,612.14 |
| Total | $ | 341,839.01 |

The additional rent increase is the lesser of 3% of the current rent combined with the yearly permitted rent increase, or the [(total eligible capital expenditure÷ the number of specified dwelling units) ÷120] under section 23.2 of the Regulation.

A dwelling unit, as defined by section 21.1(1) of the Regulation, is:

> "(a)living accommodation that is not rented and not intended to be rented;
>
> (b)a rental unit;"

The arbitrator from the first hearing stated there were 203 specified dwelling units. To come to this conclusion, they added in the commercial tenants. In coming to this finding, they did not consider arguments from both parties as they did on other issues, nor did they analyze the difference between commercial and residential tenants.

I note there is a principle that findings from another decision are in general not to be questioned in future decisions to prevent re-arguing the same issue (res judicata). Section 64 (2) of the Act notes arbitrators are not bound by previous decisions, however decisions arrived at by an arbitrator are also meant to be final and binding under section 77. I note that section 77 does explicitly mention that exceptions may exist under the same part of the Act, and I note section 64 (2) is also part of Part 5 Division 1. With that in mind given the issue of what is a specified dwelling unit was not determined in the

previous decision, nor does it appear to have been at issue, I find it is a valid exercise of my authority to determine this undetermined issue.

First, I note that a rental unit is defined under the Act as:

> "[a] living accommodation rented or intended to be rented to a tenant;"

I find then that a dwelling unit is a living accommodation whether or not it is rented or intended to be rented to a tenant. Given the word "living" and how the word is used in the context of the Act, which is concerned with residential living rather than commercial tenancies, I find then that living is intended to imply that the unit is at least in part a residential unit. Therefore, I find that purely commercial units cannot be considered dwelling units. I note no evidence has been put before me or is mentioned in the previous decision that the commercial units have any residential use. I find the 4 commercial units are purely commercial meaning that they must be excluded from the number of specified dwelling units.

I find there are 199 specified dwelling units.

Therefore, I order the Landlord may raise the rent 3% of the current rent after the current yearly rent increase is added, or $14.31 [($341,839.01 ÷ 199) ÷120], whichever is lower.

## Conclusion

The Landlord has been successful. I grant the application for an additional rent increase for a capital expenditure in the amount of $341,839.01. The Landlord must impose this increase in accordance with the Act and the Regulation.

I order the Landlord to 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: May 14, 2025

Residential Tenancy Branch