Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Municipal Affairs

DECISION

Dispute Code: ARI-C

Introduction

This decision is in respect of the Landlord's application made under the *Residential Tenancy Act* (the "Act") and the *Residential Tenancy Regulation* (the "Regulation") for an additional rent increase for eligible capital expenditures pursuant to section 43(3) of the Act and section 23.1 of the Regulation.

Hearing Attendance and Participation

A representative for the Landlord (hereafter the "Landlord" for brevity), along with about two dozen Tenants, attended the hearing. One Tenant was represented by an advocate. It should be noted that given the number of attendees and the limited hearing time, I only recorded the names of those Tenants who chose to speak during the hearing. It is also noted that the number of attendees fluctuated throughout the 2.5-hour hearing, as some joined and others left; a few appeared to have connection issues.

Preliminary Issue: Service of Evidence

While there were some minor issues with respect to how some of the Tenants' evidence was served upon the Landlord (for example, being placed on the doormat of the Landlord's office), I find that the Landlord was sufficiently served for the purposes of the Act and that they both received and had an opportunity to review the Tenants' materials.

One document, a copy of a cheque for work done on a compressor, had not been served upon the Tenants. While the Landlord did submit a copy of this document to the file, they inadvertently failed to provide a copy to the Tenants, who therefore did not have an opportunity to review the invoice and the cheque.

Issue

Is the Landlord entitled to impose an additional rent increase for capital expenditures?

Background and Evidence

While I have considered the documentary evidence and the testimony of the parties, not all details of their submissions and arguments are reproduced here. The relevant and important aspects of the parties' claims, and my findings are set out below.

The property in question is a 26-storey concrete apartment building near Stanley Park, Vancouver. The building was built in 1967 and there are a total of 150 units in the building. 147 units are included in this application, with the three excluded units comprising the Landlord's office and two units for building managers.

There are 147 tenancies with 249 Tenants named in this application (the application lists 250 tenants, though one name appears to be a duplicate).

The Landlord testified that they have not applied for an additional rent increase for eligible capital expenditures against any of the Tenants or tenancies prior to this application.

The Landlord testified that they were seeking to impose an additional rent increase for eligible capital expenditures incurred for work done to the residential property's boilers, elevators, concrete and balcony repairs, and the front entryway runner. I will refer to these four undertakings as the "work."

First, the boiler replacement involved a complete retrofit of the original Cleaver Brooks boiler system. The 57-year-old boiler was increasingly unreliable, causing frequent loss of heat and hot water. Expert advice recommended replacement due to age, inefficiency, and high natural gas consumption. The new system offers cleaner, more efficient heating. The Landlord testified that the boiler had been properly maintained throughout its long life.

Second, the elevator repairs and upgrades involved the repair of elevator car #1 and upgrades to door operators and spirators. The reason for this was because the elevator was occasionally out of service due to a snapped selector tape. Upgrades were made to improve control, reliability, and safety for residents. The Landlord added that the elevators have been properly maintained, otherwise "they wouldn't've worked this long."

Third, the exterior building repairs involved work around windows and balconies. The work was done to prevent water ingress, which could lead to structural damage and deterioration of the building's exterior.

The Landlord explained that being a tall building in this West Coast environment, it has become a “very weathered building.” The painting was done to seal the repairs and was not considered solely cosmetic.

Last, for the front entry runner installation, this expense was for the installation of a new runner at the building’s front entry. The reason for this was to enhance safety by preventing slips on the wet deck surface.

The expenditures for the work included on this application are as follows:

1. Boiler upgrade	$ 538,029.51
2. Elevator door operators upgrade	$ 88,137.00
3. Concrete/Balcony repairs	$ 98,529.63
4. Front entry runner	$ 4,586.98

The Landlord submitted copies of invoices supporting these amounts, except for the invoice and cheque related to replacing an air compressor that supplies the building’s pneumatic thermostats, in the amount of $7,361.72. This replacement was part of the boiler upgrade. As noted, a copy of this was submitted to the file with the Residential Tenancy Branch, but a copy was not provided to the Tenants.

The Tenants did not dispute the cost of the work, though some raised questions about whether the Landlord might have found cheaper options or alternatives. The Tenant’s advocate raised the issue of the absence of the air compressor invoice, submitting that the Tenants had not had the opportunity to review this.

The parties agreed that the Landlord has not imposed an additional rent increase pursuant to section 23.1 of the Regulation within the last eighteen months.

Analysis

1. Statutory Framework

Sections 21.1 and 23.1 of the Regulation set out the framework for determining if a landlord is entitled to impose an additional rent increase for eligible capital expenditures.

Section 21.1 of the Regulation sets out the definitions used in this type of application; I will turn to the relevant definitions below.

Section 23.1 of the Regulation states the following:

(1) Subject to subsection (2), a landlord may apply under section 43 (3) *[additional rent increase]* of the Act for an additional rent increase in respect of a rental unit that is a specified dwelling unit for eligible capital expenditures incurred in the 18-month period preceding the date on which the landlord makes the application.

(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.

(3) If the landlord applies for an additional rent increase under this section, the landlord must make a single application to increase the rent for all rental units on which the landlord intends to impose the additional rent increase if approved.

(4) Subject to subsection (5), the director must grant an application under this section for that portion of the capital expenditures in respect of which the landlord establishes all of 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.

The Tenants may defeat an application for an additional rent increase for capital expenditure if they can prove on a balance of probabilities that the capital expenditures were incurred

(1) for repairs or replacement required because of inadequate repair or maintenance on the part of the landlord, or
(2) for which the landlord has been paid, or is entitled to be paid, from another source (see subsection 23.1(5) of the Regulation).

If a landlord discharges their evidentiary burden and the tenants fail to establish that an additional rent increase should not be imposed (for the reasons set out above), the landlord may then impose an additional rent increase pursuant to sections 23.2 and 23.3 of the Regulation.

2. Prior Application for Additional Rent Increase

The Landlord made this application on July 30, 2025. The Landlord submits, and the Tenants do not dispute, that the Landlord has made the same or a similar application for an additional rent increase for eligible capital expenditures in the 18-month period before the date this current application was made.

3. Number of Specified Dwelling Units

A landlord may make this application for an additional rent increase in respect of a rental unit that is a *specified dwelling unit.* Section 21.1(1) contains the following definitions:

"dwelling unit" means the following:

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

[…]

"specified dwelling unit" means

(a) a dwelling unit that is a building, or is located in a building, in which an installation was made, or repairs or a replacement was carried out, for which eligible capital expenditures were incurred, or
(b) a dwelling unit that is affected by an installation made, or repairs or a replacement carried out, in or on a residential property in which the dwelling unit is located, for which eligible capital expenditures were incurred.

This application includes 147 rental units as specified dwelling units, while there are a total of 150 units within the building.

Residential Tenancy Policy Guideline 37C. Additional Rent Increase for Capital Expenditures, ver. June 2023, p. 17 (the "Policy Guideline"), states that

> A "dwelling unit" includes living accommodation that is not rented and not intended to be rented and a rental unit (defined in the RTA as living accommodation rented or intended to be rented to a tenant). Rental units, units occupied by a landlord, or other units not occupied under a tenancy agreement (for example, a short-term vacation rental) are all dwelling units.

It is my finding that the two units in the building occupied by the building managers meet the definition of a dwelling unit. While they are not rented or intended to be rented, they are living accommodation for the building managers. The two dwelling units are in the building where the work was carried out and are thus to be included in the number of specified dwelling units, bringing the total of specified dwelling units to 149.

The remaining unit appears to be the Landlord's office, and there is no evidence before me to find that the Landlord occupies the space as accommodations. Therefore, I find that the Landlord has properly excluded that unit from the total number of specified dwelling units.

4. Amount of Capital Expenditures

The total amount of the capital expenditures for the work is $729,283.12.

At this point, I note that the Policy Guideline, at page 9, requires that a landlord "must also establish the amount of the capital expenditure. This can be done by providing invoices and proof of payment for the costs of the installation, repair, or replacement of the major system or major component."

In this application, because the invoice and cheque related to the air compressor replacement was not served upon the Tenants, I am unable to accept or consider this evidence. Therefore, it is my finding that, from an evidentiary standpoint, the Landlord has not established the cost of the air compressor replacement.

The $7,361.72 amount will therefore be subtracted from the total amount of capital expenditures, for a revised balance of $721,921.40.

5. Is the Work an "Eligible" Capital Expenditure?

As stated above, for the work to be considered an eligible capital expenditure, the landlord must prove each of the following:

- the work was to repair, replace, or install a major system or a component of a major system
- the work was undertaken for one of the following reasons:
    - to comply with health, safety, and housing standards;
    - because the system or component was
        - close to the end of its useful life; or
        - because it had failed, was malfunctioning, or was inoperative
    - to achieve a reduction in energy use or greenhouse gas emissions; or
    - to improve the security of the residential property;
- the capital expenditure was incurred less than 18 months prior to the making of the application;
- the capital expenditure is not expected to be incurred again within five years.

I will address each of these in turn.

a. Type of Capital Expenditures

The work related to the boiler replacement was, as described by the Landlord, to replace and install new boilers. I have no hesitation in finding, as a matter of fact and law, that the boilers are a major system. (See examples, including “heating systems,” on page 4 of the Policy Guideline.)

The work related to the elevator repairs and upgrades is, as described by the Landlord, repairs to elevators, which I find constitutes a major system (See examples, including “elevators,” on page 4 of the Policy Guideline.)

The work related to concrete/balconies was for repairs made on load-bearing elements of the building. Load-bearing elements (e.g., walls, beams, and columns) are considered a major component as set out within the Policy Guideline. Similarly, the restoration work done around windows and balconies is, I find, to be captured as a major component under this section of the Regulation. Further, because the painting was part of the concrete/balcony repair, it is my finding that it qualifies as part of a repair to a major component (see page 5, para. 4, Policy Guideline).

Last, I do acknowledge one Tenant’s concerns that the Landlord undertook “patch jobs” of a rather small nature. On this point, the work itself does not have to be “large” in nature, rather, the work simply must involve or be connected to a major component or system.

The work related to the front entry runner is not, I must conclude, what may be considered work related to repairing, replacing, or installing a major system or component of a major system. A front runner does not, with respect to the Landlord, fall within any of the examples provided in Policy Guideline; it does not fall within and is not equivalent to “primary flooring in common areas” or “subflooring throughout the building or residential property.” It is, rather, something different than these.

While the Landlord is certainly to be commended on installing these much-needed runners for Tenants’ safety, they simply do not meet the definition of a major component as I view it, under the Act, the Regulation, or the Policy Guideline.

For these reasons, the capital expenditures ($4,586.98) for the front entry runner are not eligible and will not be included in the application. No further discussion or analysis of the capital expenditure for the front entry runner will therefore be discussed herein.

b. Reason for Capital Expenditures

The boiler replacement work was undertaken because the boiler system was not only close to the end of its useful life, but in fact had long exceeded its useful life. The boiler system was 58 years old—as old as the building itself. As the years passed, the Landlord needed to expend more time and energy to keep it functioning. It was, in other words, not only beyond the end of its useful life, but the evidence also proves that the boiler system had effectively failed, malfunctioning, and inoperative.

The elevator repairs and upgrades were undertaken to comply with safety standards, and because the elevator system was as old as the building. As like with the boiler, the elevators were beyond the end of their useful life. The Landlord maintained them as best as they could, but ultimately various components needed to be repaired and replaced. The system was beginning to fail, malfunction, and otherwise be inoperative. In addition, the evidence supports the Landlord's statement that the upgrades and repairs improve the security of the residential property and its many Tenants.

As for the exterior building repairs, these were undertaken, I find, to comply with safety standards which, to state the obvious, require buildings not to deteriorate in such a manner that places the occupants at risk.

c. Timing of Capital Expenditures

I accept the Landlord's evidence that all but one of the payments made on the capital expenditures were, or appears to have been, incurred within an 18-month period preceding the date on which this application was filed. The one exception to this is an invoice in the amount of $153,444.22 ("Invoice i13513" with a transaction date of December 14, 2023) as the first payment toward the boiler installation. The Landlord issued a cheque on December 15, 2023, for the above amount.

The Landlord expressed some minor uncertainty as to whether the timing of this first payment fell within the statutory time limitation of 18 months. The Tenants expressed greater uncertainty with this timing, and in fact dispute that the first payment falls within the 18-month period.

Turning once again to the Policy Guideline, I cite the section titled "18-Month Requirement" on page 7:

> The capital expenditure must have been incurred in the 18-month period preceding the date the landlord submits their application to be eligible for an additional rent increase. A “capital expenditure” refers to the entire project of installing, repairing, or replacing a major system or major component as required or permitted (see section C.1). As such, the date on which a capital expenditure is considered to be incurred is the date the final payment related to the capital expenditure was made.
>
> A 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.

Applying the law, including the interpretation thereto as set out in the Policy Guideline, it is my finding that the first payment of $153,444.22 for the new boilers is a cost associated with the project that was permitted to be paid outside the 18-month period before the application date. The final payment for this capital expenditure was incurred within the 18-month period, thus rendering the first payment valid for this application.

d. Useful Life of the Capital Expenditures

Useful life is the approximate period that an item or asset can reasonably be expected to last before it must be replaced or undergo major maintenance (*Residential Tenancy Policy Guideline 40. Useful Life,* ver. February 2025, at p. 1). Under this policy guideline, a boiler has a useful life of 25 years. Concrete balconies have a useful life expectancy of 25 years. Windows have useful life expectancies ranging between 20 and 35 years. While this policy guideline does not include or reference a useful life for elevators, I accept the Landlord’s testimony that the elevator repairs and replacement—that is, the components being repaired and replaced—will not be expected to again be repaired or replaced within the next five years. What is more, the fact that the elevators are as old as the building itself supports the Landlord’s position on the longevity of the elevators.

Based on the evidence before me, then, it is my finding that the useful life for the Landlord’s boilers, the elevators, and the concrete exterior/balconies all exceed five years. There is nothing in evidence of either the Landlord or the Tenants which would suggest that the useful life of the components or systems might deviate from the standard useful life expectancy of building elements set out.

For this reason, then, I find that the life expectancy of the components replaced, and repairs will all exceed five years and that a capital expenditure to replace or repair them cannot reasonably be expected to reoccur within five years, which is a requirement under subsection 23.1(4)(c) of the Act.

And so, for the above-stated reasons, I find that the capital expenditures incurred to undertake the work—excluding the front entry runner—are eligible capital expenditures as defined by the Regulation.

6. Tenants' Submissions and Rebuttals

As stated above, subsection 23.1(5) of the Regulation limits the grounds a tenant may raise to oppose an additional rent increase for capital expenditure. In addition to presenting evidence to contradict the elements the landlord must prove (set out above), of course, a tenant may defeat an application for an additional rent increase if they can prove that:

(a) the capital expenditures were incurred because the repairs or replacement were required due to inadequate repair or maintenance on the part of the landlord, or

(b) the landlord has been paid, or is entitled to be paid, from another source.

One Tenant raised the issue, in the form of a question, as to whether the cost savings of the new boiler system were, or are, factored into the capital expenditure. In brief, a landlord may claim the amount of a capital expenditure that they paid, the amount of which is proven through receipts or invoices. A landlord is not required under the Act or the Regulation to decrease the amount of a capital expenditure claimed by future or yet unrealized ongoing cost savings.

Another Tenant requested that the Landlord produce tax records which might lead to a finding or suggestion that there were, or are, alternative funding sources available to the Landlord. A landlord is not required to produce such records, and the Tenants did not make an application for a summons under the *Rules of Procedure* in this application requiring the Landlord to produce tax records.

In the absence of any such records, and having accepted the Landlord's testimony that they were entitled to be paid for any of the capital expenditures from another source, I decline to accept this as a reason to deny the Landlord's application.

Related to this request for records, another Tenant suggested that the eventual failure of the boilers might be related to a lack of maintenance. The Tenant respectfully requested that perhaps the Landlord ought to provide ten years' worth of safety or maintenance records. Again, no application for a summons was made in respect of compelling the Landlord's production of such documents. I have no reason to doubt the Landlord's testimony and argument that the boilers lasted as long as they did *because* proper maintenance had been done for more than half a century.

In summary, and with the utmost respect to the Tenants, I find no merit in the argument that the Landlord's capital expenditures—for the boiler, elevators, or concrete exterior repairs—were incurred due to inadequate maintenance. Nor have the Tenants proven that the Landlord has been paid or is entitled to be paid from another source.

Additional rebuttals that I will now address are as follows.

The Tenants submit that the Landlord's documentation (that is, documentary evidence) is unclear. Several invoices are included with no explanation of whether they are part of the expenses claimed, for example. I respectfully disagree; having reviewed the various invoices and other documents, I find, on a balance of probabilities, that they are clear and that they support the Landlord's capital expenditures. As for invoices, such as asbestos abatement, that appear at a "much higher cost," a landlord is not required to demonstrate why something is more or less expensive. Nor, for that matter, is a landlord required to minimize expenses where it is neither feasible nor realistic.

To summarize, I conclude that the Landlord's application includes a comprehensive set of invoices and supporting documentation. While not every invoice is individually annotated, the total claimed amount corresponds to the itemized expenditures outlined in the application summary. Again, as for the asbestos abatement cost, the invoice reflects the scope and urgency of the work required to meet safety standards and regulatory compliance. The higher cost is attributable to the complexity of the removal process, containment measures, and certified disposal, all of which are standard in such projects.

The Tenants submit that the boiler claim indicates "negligence and unexplained costs." Further, they argue that the Landlord allowed the boiler to operate with 'safeties bypassed and not to code.' The Landlord chose not to use a lower-cost contractor and "included asbestos abatement costs inflated by nearly 500% with no explanation."

In respect of this, the reference to safeties being bypassed and code non-compliance underscores the urgency and necessity of replacing the aging boiler system. Rather than indicating negligence, it demonstrates the Landlord's proactive response to a deteriorating infrastructure that posed safety risks.

The decision to proceed with a qualified contractor—despite higher costs—was based on expertise, reliability, and the ability to meet regulatory standards. The asbestos abatement cost reflects the full scope of work required to safely remove hazardous materials in accordance with WorkSafeBC and environmental regulations. The claim is both justified and necessary to ensure tenant safety and long-term building integrity.

The Tenants submit that the Landlord's elevator and envelope claims are unproven. They argue that some invoices relate only to specific rental units. Elevator work appears tied to noise complaints, which are not required by law, and modernization remains pending, raising the risk that tenants may be charged twice.

Regarding these submissions, invoices referencing specific rental units are part of broader envelope repairs that addressed water ingress and structural vulnerabilities affecting multiple units and common areas. These repairs were undertaken to prevent further deterioration and preserve the building's habitability.

Concerning the elevator, the work was not limited to noise mitigation but included essential upgrades to door operators and control systems, improving safety and reliability. The modernization process is phased, and Tenants will not be charged twice; future work will be subject to separate review and approval. The current claim pertains only to completed and documented work.

While I recognize that the Tenants and the Tenant's advocate raised similar and additional arguments, they were largely confined to the issues raised above.

7. Outcome

The Landlord has, for three of the four capital expenditures, been successful in this application. The Landlord has proven, on a balance of probabilities, all the elements required to be able to impose an additional rent increase for capital expenditure.

As such, I grant the Landlord's application, in part, pursuant to section 23.1 of the Regulation.

Having granted the Landlord's application, the additional rent increase is determined under section 23.2 of the Regulation. Section 23.2(2) of the Regulation states that

> The director [that is, the arbitrator having delegated authority] must
>
> (a) divide the amount of the eligible capital expenditures incurred by the number of specified dwelling units, and
>
> (b) divide the amount calculated under paragraph (a) by 120.

In this application, $717,334.42 is divided by 149 specified dwelling units, which is $4,814.32. The amount of $4,814.32 is then divided by 120, which is $40.12.

Having calculated this amount, the Landlord is required, upon receiving this Decision, to apply sections 23.2(3) and (4) of the Regulation in determining the amount of additional rent increases for eligible capital expenditures. For the benefit of the parties, sections 23.2(3) and (4) are as follows:

> (3) The landlord must multiply the sum of the rent payable in the year in which the additional increase is to be imposed and the annual rent increase permitted to be imposed under section 43 (1) (a) of the Act in that year by 3%.
>
> (4) The landlord may only impose whichever is the lower amount of the 2 amounts calculated under subsection (2) or (3).

The parties may wish to further refer to any applicable policy, section 23.3 of the Regulation, and section 42 of the Act (which requires that a landlord provide a tenant three months' notice of a rent increase).

For additional guidance on how and when this additional rent increase may be imposed, the parties may access the Residential Tenancy Branch's additional rent increase calculator online at the following URL:

https://www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies/rent-rtb/rent-increase-costs-expenses#capital.

Conclusion

For the reasons given above, the Landlord's application is granted in part.

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

This decision is final and binding, except where otherwise permitted under section 79 of the Act, or by way of an application for judicial review made under the *Judicial Review Procedure Act,* RSBC 1996, c. 241.

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: October 14, 2025

Residential Tenancy Branch