PRELIMINARY ADMINISTRATIVE DECISION

FAIR RETURN RENT INCREASE PETITION
HILLWOOD MANOR APARTMENT COMPLEX

(7101, 7103, 7105 New Hampshire Ave.; 1100, 1102, 1106, 1108, 1110 Linden Ave., 1200, 1201, 1202, 1204, 1210, 1212, 1214, 1216, 1218, 1206, 1208, 1220, 1222 Myrtle Ave.; 1101, 1103, 1105, 1107, 1109, 1111, 1113 Hillwood Ct.)

(Case # 2011- 15-L)

(Takoma Park, Maryland)

TIME PERIODS FOR RESPONSES TO PRELIMINARY DECISION

The landlord and the tenants shall have 30 calendar days from the date of service of the Official Preliminary Decision on the tenants by the landlord to file written objections. If no objections are filed within this period this Decision shall become the final decision of the Commission.

Objections should be mailed or submitted in person to: Commission on Landlord-Tenant Affairs, c/o Jean Kerr, 7500 Maple Avenue, Takoma Park, MD 20912 or submitted by email to: JeanK@takomagov.org

Kenneth K. Baar, Ph.D.
Rent Analyst on behalf of the Commission
June 28, 2012 / Revised July 18, 2012

(This decision was revised twice - first on June 28 on the basis of new information about operating costs and subsequently on July 18, 2012, pursuant to a revised statement of rental income submitted by the owner on July 9, 2012.)

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Summary

Apartment owners have a constitutional right to a fair return under rent regulation. Under the Takoma Park rent stabilization ordinance fair return is defined as base period net operating income adjusted by 70% of the percentage increase in the Consumer Price Index (CPI) from the base year to 2007 and 100% of the percentage increase in the CPI since 2007. Owners have several options in the selection of a base year and may impute base year operating expenses instead of using actual base year expense data.

In this case, the apartment owner used 1990 as a base year and in accordance with regulations imputed base year operating expenses of 60% of rental income.

From 1990 to 2010, the average monthly rent in the complex increased from $557.60 to $836.04. In 2010, the operating expenses that are included as allowable under a fair return analysis were $308,743 over the level imputed for 1990, an increase of $276.65 / apartment unit / month compared with rent increases of $278.44 / apartment unit/month during this period.

While the rent increases were adequate to cover operating cost increases, they did not permit the amount of growth in net operating income required to provide a fair return. From 1990 to 2010, net operating income for the complex increased by $8,236 (from $248,911.40 to $257,146.80), the equivalent of $7.38 / apartment unit / month. In percentage terms the net operating income increased by 3.3%.

Under the fair return standard, the apartment owner is entitled to a net operating income which is 57% above the base year level. An additional increase in annual rental income of $133,644.10, an adjustment equal to 14.3% of the legal rent as of December 2010, is required to meet this standard. (See table below.)

The increase calculation is to be based on 14.3% of the allowable rent as of December 2010, rather than the current rent ceilings which include increase allowances for 2011 and 2012. The increases are in addition to the annual increases allowed since 2010 (The rents of most units were increased by 4.17% pursuant to the 2011 and 2012 annual increases allowed since December 2010.) Calculations of those amounts are set forth in Appendix C.

Since this decision is a Preliminary Decision, the issues it considers may be addressed in a hearing before a final decision is reached, if a hearing is requested by either party. New evidence may be submitted prior to and during that hearing and adjustments may be made on the basis of testimony and new evidence.

This Preliminary Decision, which is pursuant to the Rent Stabilization ordinance, does not take into account issues related to the adequacy of the maintenance or services in the complex. Remedies and rent adjustments related to these issues are available under other portions of Title 6 of the Takoma Park Municipal Code.

Calculation of Fair Return Rent Adjustment

Base Year NOI	
Rental Income	*622,278.50*
Operating Expenses (60% of rental income)	*373,367.10*
NOI	*248,911.40*
Fair NOI Adjustment	
Indexing - Pct. Adjustment of Base Year NOI	*57.0%*
Fair NOI - (Base Year NOI Adjusted by Pct Indexing Adjustment) (248,911.40 x 1.57)	*390,790.90*
Current NOI	*257,146.80*
Rent Adjustment (=Fair NOI - Current NOI)	*133,644.10*
Annual Rental Income (excl. air-condition elec. cost passthru)	*933,016.90*
Percentage Rent Adjustment (133,644.10 / 953,764)	*14.3%*
Average Increase / Unit / Month	*$121.05*

The Analyst

The analyst has a Ph.D in urban planning and is an attorney.

His articles on fair return issues have been cited in numerous California, Massachusetts, and New Jersey appellate court opinions. Over the past 30 years, he has served as a consultant to thirty California jurisdictions on issues related to rent stabilization and has prepared fair return reports for twenty cities.

The analyst has published extensively on housing and real estate issues. Also, he has served as a consultant to the World Bank and U.S. AID on policy issues in East European nations undergoing economic transition and on two occasions has been a visiting Fulbright professor in East Europe.

Appellate Court Opinions Relying on the Testimony of Kenneth K. Baar

Rainbow Disposal Co., Inc. v. Mobilehome Park Rental Review Board, 64 Cal. App.4th 1159 (1998) California Court of Appeal

MHC Operating Limited Partnership v. City of San Jose, 106 Cal. App.4th. 204 (2003) California Court of Appeal

Hillsboro Properties v. Public Utilities Commission, 208 Cal. App. 4th 246 (2003)

Berger Foundation v. Escondido, 127 Cal. App.4th 1 (2005) California Court of Appeal

Los Altos El Granada Investors v. City of Capitola, 139 Cal.App.4th 629 as modified by 140 Cal.App.4th 135c (2006) California Court of Appeal

Besaro Mobile Home Park v. City of Fremont, ___ Cal. App. 4th. ___ (March 2012, No. A130753) California Court of Appeal

Appellate Court Opinions Citing Law Review Articles of Kenneth Baar on Rent Regulations

Westchester West No.2 Limited Partnership v. Montgomery County, 246 Md. 448, 348 A.2d. 856 (1975) Maryland Court of Appeals

Helmsley v. Borough of Fort Lee, 78 N.J. 200; 394 A.2d. 65 (1978) New Jersey Supreme Court, appeal dismissed, 440 U.S. 978, 99 S.Ct. 1782, 60 L.Ed. 2d. 237 (1979)

Fisher v. City of Berkeley, 37 Cal.3d. 644 (1984) California Supreme Court; affirmed, 475 U.S. 260, 106 S.Ct. 1045, 89 L.Ed.2d. 206 (1986)

Oceanside Mobile Home Park Owners Association v. City of Oceanside, *157 Cal.App.3d. 887 (1984) California Court of Appeal*

Mayes v. Jackson Township, *103 N.J. 362; 511 A.2d. 589 (1986) New Jersey Supreme Court;* _cert. denied_, *479 U.S. 1090, 107 S.Ct. 1300, 94 L.Ed. 2d. 155 (1987).*

Yee v. Mobilehome Park Rental Review Board, *17 Cal. App. 4th 1097 (1993) California Court of Appeal*

Palomar Mobilehome Park v. City of San Marcos, *16 Cal.App.4th 481 (1993) California Court of Appeal*

Guimont v. Clarke, *121 Wash. 2d. 586; 854 P.2d.1 (1993) Washington Supreme Court;* _cert. denied_, *510 U.S. 1176, 114 S.Ct. 1216, 127 L.Ed.2d. 563 (1994)*

Kavanau v. Santa Monica Rent Control Board, *16 Cal.4th. 761 (1997) California Supreme Court);* _cert. denied_, *522 U.S. 1077, 118 S.Ct. 856, 139 L.Ed. 2d. 755 (1998)*

Rainbow Disposal Co., Inc. v. Mobilehome Park Rental Review Board, *64 Cal.App.4th 1159 (1998) California Court of Appeal*

Quinn v. Rent Control Board of Peabody, *45 Mass. App.Ct. 357, 698 N.E.2d.911 (1998, Massachusetts Court of Appeal)*

Galland v. City of Clovis, *24 Cal.4th 1003 (2001) California Supreme Court;* _cert. denied_, *534 U.S. 826, 122 S.Ct. 65 (2001)*

MHC Operating Limited Partnership v. City of San Jose, *106 Cal. App.4th 204 (2003) California Court of Appeal*

Berger Foundation v. Escondido, *127 Cal.App.4th 1 (2005) California Court of Appeal*

T.G. Oceanside L.P. v. City of Oceanside, *156 Cal. App.4th. 1355 (2007) California Court of Appeal*

I. Introduction

This section provides a background discussion of the fair return provisions in the Takoma Park rent stabilization ordinance and constitutional doctrines regarding fair return.

Section II of the report sets forth a fair return analysis in this case. Section III contains a projection of the rent increase required to provide a fair return.

A. The Ordinance

The Takoma Park rent stabilization ordinance permitted annual rent increases equal to 70% of the percentage increases in the Consumer Price Index (CPI) from 1992 to 2007, and has permitted annual rent increases equal to 100% of the percentage increase in the CPI since 2007.

In addition, apartment owners may petition for additional rent increases pursuant to a fair return standard. The right to a fair return under regulation is a constitutional right. In the Takoma Park ordinance, fair return is defined as the base period net operating income adjusted by 70% of the percentage increase in the CPI from the base year to 2007 and 100% of the percentage increase in the CPI since 2007. (This type of standard is known as a "maintenance of net operating income" [MNOI] standard.)

Under the ordinance, an owner may select 1979, 1990, or 2000 as the base year in a fair return petition and may elect to impute base year expenses if 1990 is used as the base year.[1]

B. Judicial Guidelines for Fair Return

Since this is only the second fair return application that the Commission on Landlord-Tenant Affairs has received in several years, some discussion of judicial standards regarding fair return under rent stabilization is appropriate.[2]

Most of the judicial precedent regarding fair return under rent stabilization comes from Massachusetts, New Jersey, and California appellate court decisions since 1970 and federal court opinions regarding emergency rent regulations during World War II.

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1 Sec. 6.20.090. B.2.

2 For background discussion of fair return issues see Baar, "Guidelines for Drafting Rent Control Laws: Lessons of a Decade," 35 *Rutgers Law Review*, 723-885 (1983)[section on fair return, pp. 781-817] and Baar, "Fair Return under Mobilehome Park Space Rent Controls: Conceptual and Practical Approaches:, 29 *Real Property Law Reporter* 333 (Sept. 2006, California Continuing Education of the Bar [CEB])

Fair return is a complex concept. In 1993, a California Court of Appeal noted the complexity of the fair return issue:

> **What appears at first blush to be a simple question of substantial evidence turns out to be something considerably more complex when one realizes that the formula for determining a "fair return" is hotly debated in economic circles and has been the subject of sparse, scattered, and sometimes conflicting comment by appellate courts. In particular, only the broad outlines have been discussed in California decisions.**[3]

The courts have repeatedly reiterated that: **"a governmental entity may choose to regulate pursuant to any fairly constructed formula"** and that: "**[r]ent control agencies are not obliged by either the state or federal Constitution to fix rents by application of any particular method or formula. ... The method of regulating prices is immaterial so long as the result achieved is constitutionally acceptable.**"[4]

The Courts have also repeatedly reiterated the principle that there is a "range" of rents that may be considered reasonable. One California Court of Appeal, relying on precedent from the U.S. and New Jersey Supreme Courts, explained:

> **There is a range of rents which can be charged, all of which could be characterized as allowing a "just and reasonable" return. (See Hutton Park Gardens v. Town Council (1975) 68 N.J. 543 [350 A.2d 1, 15] [the terms "just and reasonable" and "confiscatory" are not precise formulations]; Power Comm'n v. Pipeline Co. (1942) 315 U.S. 575, 585 [86 L.Ed. 1037, 1049, 62 S.Ct. 736, 743] [there is a zone of reasonableness which is higher than a confiscatory rate].) Thus, many decisions by rent control boards will focus on the issue of where the requested increases fall within the range of possible rents -- all of which rents would allow the owner a return sufficiently "just and reasonable" as to not be constitutionally confiscatory.**[5]

While the courts have held that no specific formula is required and that a range of rents may be considered reasonable, they have set forth some criteria for fair return. However, those guidelines have been largely theoretical - such as "commensurate with returns ... in other enterprises having comparable risks" or based on a balance of the "interests of the investor" and the "interests of the consumer."

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3 *Palomar Mobilehome Park Assn. v. Mobile Home Rent Review Com.,* 16 Cal.App.4th 481, 484 (California Court of Appeal)

4 *Rainbow Disposal Co. v. Escondido Mobilehome Rent Review Bd.* 64 Cal.App.4th 1159, 1172 (1998, California Court of Appeal)

5 *San Marcos Mobilehome Park Owners' Assn. v. City Of San Marcos,* 192 Cal.App.3d 1492, 1502-1503 (1987, California Court of Appeal)

In 1975, the New Jersey Supreme Court set forth general criteria for a fair return which have been included in subsequent fair return opinions by California appellate courts.

> **...the return should be one which is generally commensurate with returns on investments in other enterprises having comparable risks. Determination of what level of return is 'just and reasonable' involves evaluation not only of the interests of the investor but also of the interests of the consumer and of the general public sought to be advanced by the regulatory legislation.**[6]

In 1997, the California Supreme Court reiterated longstanding principles for fair return that have been set forth in utility cases and rent control fair return cases, stating that fair return: 1. "**involves a balancing of the investor and consumer interests,**" 2.should be a "**return ... commensurate with returns on investments in other enterprises having corresponding risks.**", and **3. "should be sufficient ... to attract capital.**"[7]

In 2001, the California Supreme Court held that the concept of "fair rate of return" is a legal term which refers to a "**constitutional minimum**", although the terminology is borrowed from finance and economics. The return must "allow a [property owner] to continue to operate successfully."

> **Although the term "fair rate of return" borrows from the terminology of economics and finance, it is as used in this context a legal, constitutional term. It refers to a constitutional minimum within a broad zone of reasonableness. As explained above, within this broad zone, the rate regulator is balancing the interests of investors, i.e. landlords, with the interests of consumers, i.e. mobilehome owners, in order to achieve a rent level that will on the one hand maintain the affordability of the mobilehome park and on the other hand allow the landlord to continue to operate successfully. [cite omitted]. For those price-regulated investments that fall above the constitutional minimum, but are nonetheless disappointing to investor expectations, the solution is not constitutional litigation but, as with nonregulated investments, the liquidation of the investments and the transfer of capital to more lucrative enterprises.**[8]

In *Fisher v. City of Berkeley*, the California Supreme Court identified five types of fair return standards under rent controls: (1) cash flow/return on gross rent; (2) return on equity (investment); (3) return on value; (4) percentage net operating income; and (5) maintenance of net operating income.[9] The Court rejected the apartment owner's contention that a fair return on value was

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6 *Hutton Park Gardens v. Town of West Orange*, 350 A2d. 1, 15 (1975, New Jersey Supreme Court).

7 *Kavanau v. Santa Monica Rent Control Board,* 16 Cal.4th 761, 772 (1997, California Supreme Court)

8 *Galland v. Clovis*, 24 Cal.4th 1004, 1026 (2001)

9 *Fisher v. City of Berkeley*, 37 Cal.3d. 644, 680 (1984, California Supreme Court)

constitutionally required and concluded that this type of standard is "circular" in the context of a rent regulation, since value depends on the rent that is permitted.[10]

An exception to the theoretical nature of the judicial guidelines has been the concept of a "floor" for fair return - the preservation of prior levels of net operating income. In 1975, the New Jersey Supreme Court ruled that: "At some point, steady erosion of NOI becomes confiscatory."[11] Subsequently, a California Court of Appeal ruled in 1983[12] and the State Supreme Court ruled in 1984,[13] that net operating income may not be frozen. While the California courts have held that net operating income may not be frozen, they have rejected the contention that net operating income must be allowed to increase at the full rate of increase in the CPI (the rate of inflation) and have upheld standards which provided for indexing net operating income by 40% or 50% of the percentage increase in the CPI.[14] They have not set forth a minimum rate at which net operating income must be allowed to increase.

Rationale for the Use of an MNOI Standard In a Fair Return Case

There are strong rationale for the use of an MNOI standard. The MNOI standard insures that rent increases are adequate to cover operating cost increases and provide growth in net operating income.

The MNOI type of standard may be contrasted with a "rate of return" standard, which designates a particular rate of return on overall investment or equity or value as fair. The problem with rate of return standards is the reality that rates of return - ratios of income to cash investment, current equity, overall investment, and value - vary among properties depending on such factors as length of ownership and market expectations about appreciation. Therefore, rather than designating a particular ratio as fair, MNOI standards pursue the best available alternative, which is to preserve prior NOI levels, taking into account inflation since the base period. Under most of the MNOI standards, a pre-rent control net operating income is seen as reasonable base because it is based on the market, rather than regulation. The standard avoids the problems of circularity associated with return on investment standards and cannot be manipulated through increased investments.

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10 Id.

11 *Helmsley v. Borough of Fort Lee*, 394 A.2d. 65, 76 (1978, New Jersey Supreme Court)

12 *Cotati Alliance for Better Housing v. City of Cotati*, 148 Cal.App.3d 280,293 (1983, California Court of Appeal)

13 *Fisher v. City of Berkeley*, 37 Cal.3d. 644, 681 (1984, (California Supreme Court)

14 *Berger v. Escondido*, 127 Cal.App.4th 1, 13-15 (2005, California Court of Appeal); *Stardust Mobile Estates v. San Buenaventura*, 147 Cal.App.4th 1170, 1182 (2007)

In *Oceanside Mobilehome Park Owners' Ass'n v. City Oceanside*[15] and *Baker v. City of Santa Monica*[16], California appellate courts upheld maintenance of net operating income fair return standards. In Oceanside the Court found that the fair return standard was reasonable because it allowed an owner to maintain prior levels of profit.[17]

In 1993, the California Court of Appeal commented: "The maintenance-NOI approach has been praised by commentators for both its fairness and ease of administration. ... It was approved by this court in Oceanside Mobilehome Park Owners' Assn. v. City of Oceanside [cite omitted]."[18]

In Rainbow Disposal v. Mobilehome Park Rental Review Board) the Court concluded that the MNOI formula is a "fairly constructed formula" which provides a ""just and reasonable" return on ... investment," even if another formula may provide a higher return.[19]

II. Hillwood Manor Rent Increase Application

A. Rental Income

The Hillwood Manor apartment complex has a total of 93 apartment units spread among multiple buildings.

In this case, the owner elected to use 1990 as the base year and, in lieu of providing actual 1900 income and expense data, elected to use the option of imputing base year net operating income as 40% of base year income. (See Ordinance Sec. 6.20.90.B.6) (When this election is made operating expenses equal 60% of income.)

The application indicates that the base period rental income was $632,571.72; however, this analysis uses the staff estimate of rental income in December 1990 of $622,571. The staff estimate is based on 1991 rental income in its data base, with adjustments to exclude rent increases in the first half of 1991.

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15 157 Cal.App.3d.887; 204 Cal.Rptr.239 (1984).

16. *Baker v. City of Santa Monica*, 181 Cal.App.3d. 972 (1986, California Court of Appeal).

17 157 Cal.App.3d.887, 902-905; 204 Cal.Rptr.239, 249-251 (1984).

18 *Palomar Mobilehome Park Assn. v. Mobile Home Rent Review Com.*, 16 Cal.App.4th 481, 486 (1993, California Court of Appeal))

19 *Rainbow Disposal Co. v. Escondido Mobilehome Rent Review Bd,*. 64 Cal.App.4th 1159, 1172 (1998, California Court of Appeal)

In the original application, the landlord projected an annual current rent of $978,432. In July 2012, after the Preliminary Decision was issued, the Owner submitted a new rent roll for 2010, which consisted of lower amount of either the average rents in 2010 or the allowable rents computed by the City staff. In the case of two units, the allowable rent levels set forth in a rollback order of the Commission on Landlord Tenant Affairs (COLTA) were used, rather than the actual rents. On this basis the 2010 annual rent was calculated to be $933,016.

Calculation of actual and allowable rental income has been complicated by disputes about allowable rents, COLTA rent reduction orders in overcharge cases, and alleged discrepancies between actual rent charges and the rents reported by the Owner in annual reports to the Housing Office.

From December 1990 to December 2010 rents increased by 50%, from an average of $557.60 to an average of $836.04, compared to a 77% increase in the CPI during this period.

Heat, gas, water, electricity, and trash collection services are covered by the rent rather than separately charged to the tenants. Electricity costs for air-conditioning are passed through to the tenants.

B. Operating Expenses

1. Overview

Applicants are required to submit operating expense information for the "current" year and the two prior years. In this application 2010 is used as the Current Year.

Under the ordinance, a fair return analysis takes into account "reasonable" operating expenses in a manner that projects the ongoing reasonable operating expenses of a property.

> When an expense amount for a particular year is not a reasonable projection of ongoing or future expenditures for that item, said expense shall be averaged with other expense levels for other years or amortized or adjusted by the CPI or may otherwise be adjusted, in order to establish an expense amount for that item which most reasonably serves the objectives of obtaining a reasonable comparison of base year and current year expenses. (Section 6.20,090.B.8.c)

The reported operating expense levels for 2010 were substantially higher than the expense levels for the two prior years. The reported operating expenses in 2010 totaled $834,866.58, compared with $639,297 in 2008 and $698,255 in 2009. The operating cost increase from 2008 to 2010 is $195,569 (30.6% or $175.24/ unit / month.)

$152,283 of the $195,569 increase from 2008 to 2010 was attributable to an increase in legal expenses. $23,215 of the increase was attributable to an increase in painting expenses.

Utility expenses - gas, electricity, and water and sewer - decreased from 2008 to 2010. The aggregate cost for these items decreased by $23,352. (See p. 13, Table 1 of this report, categories G5, G6, and G7).

2. Modifications to Cost Calculations for the Purposes of a Fair Net Operating Income Analysis

In this analysis several significant modifications are made to the operating expenses reported by the landlord.

a. Legal Expenses

Allowed expenses in a fair return calculation must be "reasonable". "Operating expenses means all reasonable operating and maintenance expenses." (Section 6.20.090.B.8). Also, they must reflect recurring legal expense levels, since the rent increase calculation is a permanent (annually recurring) adjustment to the allowable rent ceiling. (See Section 6.20,090.B.8.c set forth on p.6 of this report.)

The level of legal expenses in 2010 of $177,540, was extraordinary compared to the preceding years. It appears that the bulk of the exceptional cost level in 2010 was associated with the bankruptcy proceedings and legal challenges to the constitutionality of the ordinance.

In 2008 and 2009 respectively, the legal expenses were $23,357 and $63,372. Also, in 2011, the legal expenses were far above the levels in 2008 and 2009. In 2011, the legal expenses billed by one firm totaled $138,840.66. However, the 2011 legal expenses consisted mainly of expenses that should not be considered or should be amortized in a fair return analysis.

The attorney for the Owner provided the following breakdown of the $138,840.46 in legal expenses billed by his office in 2011.

Legal Expenses in 2011 - Portion Billed by Gill, Sippel & Gallagher[20]

Expense Category	*Amount*
Preparing & Filing Fair Return Petition	**$74,092.77**
Appeal of COLTA Punitive Damages Decision to Circuit Court - reversal obtained	**7,002.50**
Bankruptcy Proceedings	**50,273.19**
COLTA proceedings - rent overcharges	**7,472.50**

20 Letter from William Day, Gill, Sippel, & Gallagher to City, June 7, 2012.

Fair Return Petition Expenses

There are no standardly available guidelines for measuring reasonable expenditures for a fair return petition. However, the reported expense level seems extraordinary compared to the expenditures in fair return cases under rent regulations in California. The typical legal cost for filing petitions under similar fair return standards under California local rent stabilization ordinances has been in the range of $30,000.[21] Typically these costs, which are usually for properties with more than one hundred units, have included the submission of attorney memo briefs and attendance in at least one public hearing. In contrast, the petition submission in this case was limited to providing income and expense documentation for several years and providing responses to City inquiries regarding the income and expense information provided.

Several rounds of inquiries of the Owner were required. However, it appears that these difficulties were associated with the level of organization of the records, rather than the burdens associated with the petition process. These appear to be matters that ordinarily could have been largely handled by an Owner's administrative staff.

In any case, it would be appropriate to amortize legal expenses associated with the petition process since typically they are not annually recurring costs. Subject to the qualification that there is no single answer as to the annual amount that should be allowed for this expenditure, this analysis allows for an allowance of $30,000 for legal expenses associated with the petition, with an annual amortized allowance of $5,940.36, based on an amortization period of five years at 5.25%.

Legal Costs of Bankruptcy Proceedings

Expenses related to the landlord's bankruptcy proceeding totaled $50,273.19 in 2011. Since the landlord has had a right under the fair return provisions in the ordinance to cover operating cost increases and has had a right to petition for preemption and rent setting according to HUD's preemption standards it would not be reasonable to passthrough the bankruptcy costs to the tenants.

While the rent stabilization ordinance limited annual rent increases, the net operating income of the property was $313,656.96 in 2008 and $269,964.63 in 2009, according to the Owner's calculations. In 2010, the net operating income was only $115,548.90 according to the Owner's calculations. However, as indicated, operating expense levels were exceptionally high in 2010.

Under these circumstances, it would not be reasonable to allow the bankruptcy costs as an operating costs since the bankruptcy was the outcome of a net operating income level inadequate to meet the debt service obligations, rather than a rental income inadequate to cover operating expenses. The fair return standard provides for growth in net operating income tied to the percentage increase in the CPI. This growth in NOI provides for additional income available for debt service. Therefore,

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21 Copies of analyses of legal expenses for fair return petitions in California rent stabilization cases will be available from staff.

if the net operating income is increased in accordance with the fair return standard, the inadequacy of the net operating income should not be a basis for a rent adjustment.

Appeal of COLTA Punitive Damages Decision to Circuit Court - reversal obtained

A portion of the landlord's legal expenses over the past three years, a total of $16,777.48, is related to a successful defense against a city award of punitive damages for illegal entry.[22] In 2011, the legal expenses associated with these proceedings were $7,002.50. The regulations specifically provide that legal expenses shall be taken into account in enforcement actions brought by the City in which the landlord prevails.

> 4. Standards Used in Determining a Fair Return Rent Increase
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> D. Determination of Operating Expenses
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> ....
>
> ii. Ineligible operating and maintenance expenses which may not be included as expenses in either the Base Year or the Current Year:...
>
> m. Attorney's fees charged for services connected with the counseling or litigation related to actions brought by the City due to the landlord's failure to comply with applicable housing regulations of the Takoma Park Code Chapter 6 Housing, as amended. This provision shall apply <u>unless the landlord has prevailed in such an action brought by the City</u>. (Regulations section

In this analysis one-third of the legal expenses associated with this proceeding are attributed to 2010. Since this amount is incorporated into the ongoing operating expenses for the purposes of the MNOI analysis, the full amount is recovered within a period of three years.

Other Legal Expenses

$6,100 in legal expenses were related to the preparation of tax returns and $1,232 was related to rent collection actions (billed by the Ammons law firm).

Overall Allowance for Legal Expenses

In this analysis, the allowed legal expenses are set at the 2008 level, plus one-third of the costs which are associated with obtaining a reversal of the punitive damages award, plus the amortized cost of the rent increase application. The total of these amounts is $35,784.10 (petition costs

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22 The following invoices relate to the code enforcement action by the City in which the landlord prevailed. June 2, 2009 - $4,292.48; September 4, 2009 - $4,135.19; October 2, 2009 - $7,390.81; May 3, 2010 - $959.

amortized: $5,591.49) + (one third cost appeal punitive damages award: $6,834.95) + (2008 legal expenses: $23,357)

At this point it does not appear that the owner has presented clear evidence of the level of annually recurring legal costs.

b. Maintenance and Repair Costs

i. Painting Expenses

The painting expenses of $48,350 in 2010 are nearly two and a half times the norm for garden apartment buildings in the Washington D.C. area. The Institute of Real Estate Management (IREM) publishes annual reports setting forth income and expense data for professionally managed buildings in the U.S., with data sets by municipal area and type of building.[23] In the IREM sample of 82 garden apartment buildings in the Washington, D.C. area, the average annual painting expenditure per apartment unit was $220,[24] compared to Hillwood's expenditure of $519.89 per apartment unit in 2010. Also, the 2010 painting expenditure for Hillwood was double the total for 2008. (See p. 13, Table 1 of this report, category G11)

In regards to painting expenses the Owner noted: "Hillwood had a large number of turnovers in 2010. ... In addition, the Hillwood units are larger than the average one or two bedroom garden apartments in the area. In addition, the cabinets require painting on turnover increasing the costs. ... the management of the Colebrook apartment complex ... was paying $450 per unit and the units did not require that the cabinets be painted."[25]

The average annual painting expenditure for 2008 through 2010 was $35,350. For the purposes of this analysis this average is used. This amount, in lieu of using the actual amount for 2010, takes into account that the turnover rate in 2010 was higher than average and that the allowance of $35,350 is equal to $374/apt./year, which is still well above the industry annual average of $220 for Washington DC area garden apartments in the IREM sample.

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23 Institute of Real Estate Management (National Ass'n of Realtors), 2011 Income/Expense Analysis: Conventional Apartments (Chicago) [report based on 2010 data]

24 Id. at p. 116.

25 See letter from Thomas Sippel, Gill, Sippel & Gallagher, to City, May 11, 2012, p. 2.

In response to a City Survey a substantial portion of the responding tenants reported move-in dates which differed from those reported in the rent increase petition.

Overall Maintenance and Repair Expenses

Maintenance and repair expenses of $1,023 per apartment unit were approximately four times the average of $239 for Washington D.C. area garden apartment buildings reported in the IREM sample. Overall national data by age of building indicates that the average for buildings constructed before 1980 ranges up to 50% higher. However, the data based on age of building is not broken down by region; therefore, some of the differences may be attributable to regional factors as well as age.

In addition, the 2010 maintenance and repair expenses were 41% above the total for 2009. Approximately $59,000 out of $95,163.77 was for plumbing and heating related work, compared to $42,859 in 2008 and $34,791 in 2009.

Heating System Maintenance Expenses and Heating Fuel Expenses

A substantial portion of the plumbing and heating work is related to maintenance and replacements in the steam heating system. In addition, the Owner reported that in 2011, $74,000 was spent on the replacement of the two boilers.[26]

In light of the substantial expenses in 2010 for the system and the owner's report of the expenditure for the new boilers in 2011, the City employed a contractor with expertise about boiler systems to inspect the system and provide estimates of the costs for necessary upgrading and maintenance of the system.

At least two-thirds (at least $64,000 out of $92,475) of the annual gas expenditures is attributable to the steam heating system.[27] The contractor estimated that heating gas bills would be cut by more than one-third if temperature control valves (thermostats) were installed on each radiator.[28] This would amount to a saving of $21,000 to $32,000 year. The contractor indicated that life expectancy of the valves would be in the range of 10 years and the cost of each valve would be $325. The apartment owner has indicated that there are approximately 497 radiators in the building.

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26 See letter from Thomas Sippel, Gill, Sippel & Gallagher, to City, May 11, 2012, p. 1

27 This conclusion is based on a review of the gas company invoices for the account that served the boiler system. (Account # 2416050520, invoices under category G5 in the owner's submissions of 2010 operating expenses. The invoices for January through November total $54,235.94. This total excludes the December which this author could not locate. The bills for the other winter months exceeded $10,000 on the average.)

28 The inspection report is included as Appendix B of this report. In addition, the contractor provided oral comments to this author and City staff.

At a cost of $325. radiator the overall cost would be $161,525. If this cost was amortized over a ten year period with 7% interest, than annual payments would be $22,505.31.

Also, the contractor found that the pipes in the system are in poor condition. He stated this upgrading could take place on a piecemeal basis over the coming years. According to the estimates, the overall cost of replacing all of the pipes would be in the range of $300,000 to $400,000.

c. Calculation of Overall Operating Expenses and Net Operating Income

The following table contains the income and expense data provided by the applicant and the adjustments made to that data for the purposes of a fair return analysis. In this analysis, the projected operating expense total for 2010 is $682,110 compared to the $834,866 total projected by the applicant.

Table 1

Income, Operating Expenses, and Net Operating Income

(adjustments of applicant's projections in shaded cells)

		1990	2008	2009	2010	2010 adjusted
						(adjusted amounts in shaded cells)
	units	93				
	INCOME	622278.50	949992.00	965700.00	978432.00	933016.90
	Rent Per Unit/Month	557.60				836.04
	Annual Rent					
	Air Conditioning		2962.50	2520.00	6240.00	6240.00
	TOTAL INCOME	622278.50	952954.50	968220.00	939256.90	939256.90
	OPERATING EXPENSES					
G2	Management Fees		89905.18	91884.97	95340.45	95340.45
G3	Prof. Mgmt Firm					
G4	Self-Labor					
	Subtotal Administrative					
G5	Natural Gas		108652.73	108239.85	92475.99	92475.99
G6	Heating Fuel					
G7	Electricity		51603.25	59223.59	49158.67	49158.67
G8	Water & Sewer		36318.40	39296.07	31587.07	31587.07
G9	Grounds Maintenance		16859.80	16640.00	24267.00	24267.00
G10	Bldg Maint & Repairs		74692.39	67475.91	95163.77	95163.77
G11	Painting & Decorating		25135.00	35350.00	48350.00	35350.00
G12	Self-Labor					
G13	Misc. Supplies	Imputed	13904.19	17269.36	8683.27	8683.27
		60% of				
G14	Real Estate Taxes	Rental	67724.55	77472.97	84673.64	84673.64
G15	Insurance	Income	27306.97	21405.26	21676.01	21676.01
G16	Misc. Taxes & Insurance			924.35		
G17	Legal Services		23357.66	63372.59	175540.58	35784.10
G18	Accounting Services					
G19	Misc. Admin. Services		26837.28	26966.62	35273.59	35273.59
G20	Rental Hsg License Fees		8544.00	9024.00	9204.48	9204.48
G21	Stormwater Fees		2231.82	2231.82	2231.82	2231.82
G22	Misc. Fees & Assessments		300.00	1407.50	610.00	610.00
G23	Cleaning Services		31419.50	30105.50	33549.00	33549.00
G24	Extermination Services		2290.71	2778.51	3632.76	3632.76
G25	Trash Collection & Recycle		13759.30	15776.00	16802.40	16802.40
G26	Misc. Contract Services		18454.81	11410.50	6646.08	6646.08
G27	TOTAL OPERATING EXP.	373367.10	639297.54	698255.37	834866.58	682110.10
	NET OPERATING INCOME	248911.40	313656.96	269964.63	104390.32	257146.80

III. Calculation of Rent Adjustment Pursuant to Fair Return Standard

A. Increase in Net Operating Income 1990 - 2010

The allowable operating expenses for 2010 for the purpose of this analysis ($682,110) were 82.7% over the imputed level of operating expenses in 1990 ($373,367). The increase in the CPI from 1990 to 2010 was 77%.

In dollar terms, the operating expenses for 2010 were $308,743 over the level imputed for 1990, an increase of $276.65 / apartment unit / month compared with rent increases of $278.44 / apartment unit/month during this period.

While the rent increases were adequate to cover operating cost increases they did not permit the amount of growth in net operating income required to provide a fair return. From 1990 to 2010, the net operating income that is calculated for the purposes of this analysis increased by $8,235 or $7.38/ apartment unit / month (from $248,911.40 to $257,146.80) In percentage terms the increase was 3.3%.

B. Increase in Net Operating Income Based on Fair Return Standard

As indicated, the ordinance provides for indexing net operating income by 70% of the percentage increase in the CPI from 1990 to 2007 and 100% of the percentage increase in the CPI since 2007.

> **Sec. 6.20.090 Rent increases pursuant to a fair return petition.**
>
> **B. Standards for Rent Increases Pursuant to a Fair Return Petition.**
>
> **1. Fair Return. Fair return is defined as base year net operating income adjusted by 70% of the percentage increase in the Consumer Price Index (CPI) from the base year until 2007, and 100% of the percentage increase in the CPI since 2007.**

The increase in the CPI from 1990 to 2010 was 77%,[29] which provides the basis for a 57% adjustment in the base period NOI.[30] From 1990 to 2007, the CPI increased by 60%. The applicable

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29 Administrative Regulations Sec. 2.B. The annual CPI shall be the Consumer Price Index - All Urban Consumers all items, Washington-Baltimore (Series ID: CUURA311SAO) published as of March of each year, except that if the landlord's Current Year is a fiscal year, then the annual CPI for the Current Year shall be the CPI published in December of the Current Year. (Exhibit A).

30 The calculation of the indexing adjustment has some complexity because the CPI index for the area, which had been in effect since 1970, was replaced by a new index with a new base date in 1996. Furthermore, the indexing ratio under the ordinance changed from 70% of the percentage increase in the CPI through 2007 to 100% of the percentage increase since 2007.

NOI adjustment for that period is 70% of the 60% increase in the CPI or 42%.. From 2007 to 2010, the CPI increased by 10.6%, providing for a 10.6% adjustment in the fair NOI for 2007. The overall NOI adjustment in order to provide a fair NOI is 57% above the 1990 NOI level.[31] (The 42% increase over the base level is compounded by the 10.6% increase [1.42 x 1.106].)

C. Calculation of Rent Increase Pursuant to Fair Return Standard

As the table below indicates, an increase in annual rental income of $133,644.10 is required to provide a fair return. The allowable increase per unit is equal to 14.3% of the 2010 rent, which could be added to the current (2012) rent.

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31 The owner objected that the CPI increases from 1990 to 2007 were not compounded on an annual basis in calculating the overall percentage increase in the CPI. See letter from Thomas Sippel, Gill, Sippel & Gallagher, to City, May 11, 2012, p. 1. However, the increases prior to 2007 were measured by the overall percentage change in the CPI between 1990 and 2007 (using the "beginning" and "endpoint" CPI levels for this period). This approach takes in to account the compounding factor. (In contrast adding the individual annual increases between 1990 and 2007 would not take into account the compounding factor.).

(Table 2)

Calculation of Fair Return Rent Adjustment

Base Year NOI	
Rental Income	622,278.50
Operating Expenses	373,367.10
NOI	248,911.40
Fair NOI Adjustment	
Indexing - Pct. Adjustment of Base Year NOI	57.0%
Fair NOI - (Base Year NOI Adjusted by Pct Indexing Adjustment) (248,911.40 x 1.57)	390,790.90
Current NOI	257,146.80
Rent Adjustment (=Fair NOI - Current NOI)	133,644.10
Current (Dec. 2010) Rental Income	933,016.90
Percentage Rent Adjustment (112,897 / 953,764)	14.3%
Average Increase in Monthly Rent	$121.05

The increase calculation is to be based on 14.3% of the rent levels in 2010 rather than the current rents which include increase allowances for 2011 and 2012. The increase is in addition to the annual increases in 2011 and 2012. Calculations of those amounts are included in Appendix C.

This Preliminary Decision, which is pursuant to the Rent Stabilization ordinance, does not take into account issues related to the adequacy of the maintenance or services in the complex. Remedies and rent adjustments related to these issues are available under other portions of Title 6 of the Takoma Park Municipal Code.

Resolution of Disputed Issues and Consideration of Adjustments to Calculations used in this Fair Return Analysis

Since this decision is a Preliminary Decision, the issues that it considers may be addressed in a hearing before a final decision is reached, if a hearing is requested by either party. New evidence may be submitted prior to and during that hearing and adjustments may be made on the basis of testimony and new evidence.

CITY OF TAKOMA PARK
COMMISSION ON LANDLORD-TENANT AFFAIRS
By: Kenneth K. Baar
Kenneth K. Baar, Ph.D.
Rent Analyst on behalf of the Commission
July 18, 2012

Appendix A

Consumer Price Index Tables

CPI-All Urban Consumers (Old Series)

Series Catalog:

Series ID : MUURA315SA0

Not Seasonally Adjusted
Area : Washington, DC-MD-VA
Item : All items
Base Period : 1982-84=100

Data:

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Ann
1970		39.1			39.7			40.1			40.4		39.8
1971		41			41.4			41.8			42.1		41.6
1972		42.2			42.5			43.3			43.9		43
1973		44.3			45.2			46.2			47.2		45.7
1974		48.8			50			51.7			52.9		50.8
1975		53.5			54.2			55.3			56		54.7
1976		56.6			57.6			58.6			59		58
1977		60.3			61.5			62.6			63.5		62
1978	64.3		64.7		65.8		67		68		69.1		66.7
1979	70.7		72		73.2		74.7		75.5		76.3		74
1980	78.5		80.9		81.7		83.7		84.4		85.9		82.9
1981	87.1		88.8		89.7		90.5		92.1		93.3		90.5
1982	94.2		94.4		94.3		95.3		97		97		95.5
1983	98		98		99.2		100.6		100.7		101.2		99.8
1984	102.9		103.3		103.5		104.4		106		106.7		104.6
1985	106.6		108.1		108.3		109.5		109.6		110.7		109
1986	112.2		111.5		111.6		111.5		112.6		113.1		112.2
1987	113.7		114.5		115.3		116.2		117.8		118.5		116.2
1988	118.3		119.2		120.1		120.7		122.8		123.2		121
1989	124.3		126.1		127.1		127.8		130.1		130.5		128
1990	132		133.8		134		135.7		138		138.4		135.6
1991	139.1		139.3		140.9		140.9		143.3		142.6		141.2
1992	142.9		143		143.2		144.8		146		146.9		144.7
1993	147.8		148.5		149.2		149.2		149.7		150.9		149.3
1994	150.9		151.5		151.4		151.8		153.7		153		152.2
1995	153.8		155.1		154.7		156.1		156.2		155.2		155.3
1996	156.8		158.4		159		160.1		160.8		161.2		159.6
1997	161.6		161.9		162.1		162.9		163.6		161.8		162.4

Consumer Price Index - All Urban Consumers

Original Data Value

Series Id: CUURA311SA0,CUUSA311SA0
Not Seasonally Adjusted
Area: Washington-Baltimore, DC-MD-VA-WV
Item: All items
Base Period: NOVEMBER 1996=100
Years: 1996 to 2012

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
1996											100.0		
1997	100.4		100.8		100.5		101.1		101.4		100.5		100.8
1998	101.0		101.6		101.5		102.8		102.9		102.4		102.1
1999	102.8		103.2		103.6		104.6		105.4		105.0		104.2
2000	105.4		107.1		106.7		108.4		108.7		108.5		107.6
2001	108.9		109.7		110.1		110.8		111.7		110.9		110.4
2002	110.9		111.9		112.8		113.4		114.0		114.0		113.0
2003	114.6		115.9		115.7		116.8		117.2		116.7		116.2
2004	117.1		118.1		118.9		120.2		120.8		120.9		119.5
2005	121.3		122.7		123.6		125.0		126.7		125.4		124.3
2006	126.3		126.8		128.8		130.7		130.2		129.3		128.8
2007	129.956		131.945		132.982		134.442		134.678		135.151		133.464
2008	136.293		138.090		139.649		142.065		142.036		138.547		139.499
2009	137.598		138.620		139.311		140.810		140.945		140.718		139.814
2010	141.124		141.741		142.025		141.966		142.738		142.915		142.218
2011	144.327		146.044		147.554		147.747		147.658		147.565		146.975
2012	148.163												

Appendix B

Report on Steam Heating System by Contractor on Behalf of City

SUMMER WINTER AUTOMATION

HVAC Services · Digital Controls · Pneumatic Controls · VFD Drives · Refrigeration Services · Building Automation

Summer/Winter Automation Co. Inc – PO Box 695, Edgewater MD 21037
Email info@summer-winter.net – Phone 410 798 9915 – Fax 1 866 839 3136

Date: 5/29/2012

Takoma Park housing:
7500 Maple Ave.
Takoma Park
Attn: Linda Walker

To whom in may concern,

The S/W/A Co. surveyed Hillwood Manor located at 7101 New Hampshire Avenue, in Takoma Park. I found boiler to be in very good shape. But when it came to the process piping (steam pipe`s) very old and they need to be replaced under building and in the ground. Also noticed that the apartments had no control valves on the radiator which is a big concern for the property fuel consumption and the apartments overheating.

Pricing:

Replace pipes:	$40,000 to $60,000
Control Valve for Radiators per unit:	$ 325.00
Boilers maintenance per year	$1,950.00

- As per replacing the steam traps every 12 to 18 months that is not happening they are changing them as needed.
- Boilers are steam type boilers which there is not much can do to modernize the boiler them self. Adding control valve on each radiator will be the only thing to keep fuel cost down and stop the overheating of the apartments.
- Installing the control valve would cut their utility bills by more than 1/3 because right now the boilers run 24/7 until outside air is above set point of heat timers that are installed on both boilers.
- The banging that the residences hear is common on steam boiler when they are heating up when turn off and then turn on. This one of the main reasons that owners get rid of this type of system.

Thank you for using the Summer/Winter Automation Co. Inc. If you have any question please feel free to call me.

President
Kevin Winters

Appendix C

Calculation of Allowable Rent Increase Pursuant to Fair Return Standard

HILLWOOD MANOR APARTMENTS

Property Address	Unit #	December 2010 Rents	Calculation Method (see note on p. c-3)	Jan. 2012 Rents	Allowable Rent Increase
7101 New Hampshire Ave	101	$814.65	A	$848.62	$116.49
	102	$663.50	L	$670.00	$94.88
	201	$750.50	L	$775.00	$107.32
	202	$792.32	A	$825.37	$113.30
7103 New	101	$842.92	L	$869.00	$120.54
	102	$732.00	COLTA Case	$856.37	$104.68
	201	$825.00	L	$879.78	$117.98
	202	$814.64	A	$848.62	$116.49
7105 New Hampshire Ave	1	$814.64	A	$848.62	$116.49
	101	$799.76	L	$833.12	$114.37
	102	$854.82	A	$885.00	$122.24
	103	$879.00	L	$889.00	$125.70
	104	$814.64	A	$848.62	$116.49
	201	$771.48	A	$803.66	$110.32
	202	$807.20	A	$840.87	$115.43
	203	$963.47	L	$1,003.65	$137.78
	204	$774.46	A	$806.76	$110.75
1100 Linden Ave	1	$909.00	L	$946.57	$129.99
	2	$796.56	A	$829.78	$113.91
	101	$826.32	A	$860.78	$118.16
	102	$1,007.88	A	$1,049.92	$144.13
	103	$826.32	A	$860.78	$118.16
	104	$759.35	A	$791.02	$108.59
	201	$723.00	L	$752.00	$103.39
	202	$1,022.76	A	$1,065.42	$146.25
	203	office		$885.00	
	204	$855.00	L	$885.00	$122.27
1102 Linden Ave	1	$854.82	A	$885.00	$122.24
	2	$976.00	L	$1,016.00	$139.57
	101	$690.50	L	$698.70	$98.74
	102	$799.76	A	$833.12	$114.37
	103	$901.00	L	$938.00	$128.84
	104	$799.76	A	$833.12	$114.37
	201	$819.11	A	$853.27	$117.13
	202	$837.50	L	$847.00	$119.76
	203	$1,010.35	A	$1,052.48	$144.48
	204	$708.50	L	$738.00	$101.32
1106 Linden Ave	101	$837.50	L	$872.00	$119.76
	102	$799.76	A	$833.12	$114.37
	201	$845.90	A	$881.18	$120.96
	202	$799.76	A	$833.12	$114.37

Property Address	Unit #	December 2010 Rents	Calculation Method (see note on p. c-3)	Jan. 2012 Rents	Allowable Rent Increase
1108 Linden Ave	101	$964.15	A	$1,004.36	$137.87
	102	$744.00	L	$784.00	$106.39
	103	$830.21	A	$864.84	$118.72
	201	$879.32	A	$916.00	$125.74
	202	$830.21	A	$864.84	$118.72
	203	$830.58	A	$865.22	$118.77
1110 Linden Ave	101	$854.08	A	$885.00	$122.13
	102	$784.88	A	$817.61	$112.24
	201	$632.00	COLTA Case	$768.00	$90.38
	202	$845.90	A	$862.38	$120.96
1200 Myrtle Ave	101	$690.50	L	$698.00	$98.74
	102	$822.09	A	$856.37	$117.56
	201	$850.36	A	$885.83	$121.60
	202	$845.90	A	$879.78	$120.96
1202 Myrtle Ave	101	$611.00	L	$631.00	$87.37
	102	$834.00	L	$843.00	$119.26
	103	$886.00	L	$896.14	$126.70
	201	$799.76	A	$833.12	$114.37
	202	$868.00	L	$885.00	$124.12
	203	$963.47	A	$1,003.65	$137.78
1204 Myrtle Ave	101	$1,011.09	A	$1,053.26	$144.59
	102	$1,272.50	EXEMPT	$1,375.00	$181.97
1210 Myrtle Ave	101	$1,019.29	A	$1,061.80	$145.76
	102	$1,130.00	EXEMPT	$1,175.00	$161.59
	103	$632.00	L	$658.00	$90.38
	201	$974.64	A	$1,015.29	$139.37
	202	$833.26	A	$868.01	$119.16
	203	$807.07	A	$840.73	$115.41
1212 Myrtle Ave	101	$881.50	L	$879.00	$126.05
	102	$814.64	A	$848.62	$116.49
	201	$845.90	A	$881.18	$120.96
	202	$794.70	A	$827.84	$113.64
1214 Myrtle Ave	1	$831.01	A	$865.67	$118.83
	2	$707.00	L	$736.00	$101.10
1216 Myrtle Ave	101	$814.64	A	$848.62	$116.49
	102	$857.80	A	$893.58	$122.67
	201	$676.50	L	$704.00	$96.74
	202	$740.00	L	$748.00	$105.82
1218 Myrtle Ave	1	$846.27	A	$879.78	$121.02
	2	$777.44	A	$809.86	$111.17
1220 Myrtle Ave	101	$847.39	A	$879.00	$121.18
	102	$695.00	L	$724.00	$99.39
	201	$850.36	A	$885.00	$121.60
	202	$822.09	A	$856.37	$117.56

Property Address	Unit #	December 2010 Rents	Calculation Method (see note below)	Jan. 2012 Rents	Allowable Rent Increase
1101 Hillwood Court	1101	$784.88	A	$817.61	$112.24
	1103	$807.20	A	$840.87	$115.43
	1105	$837.50	L	$847.00	$119.76
	1107	$660.50	L	$688.00	$94.45
	1109	staff			
	1111	$788.45	A	$821.33	$112.75
	1113	$814.64	A	$848.62	$116.49
1201 Myrtle Ave	1201	$695.00	A	$703.00	$99.39
	1206	$814.64	A	$848.62	$116.49
	1208	$814.64	A	$848.62	$116.49
	1222	$784.88	A	$817.61	$112.24

Key
A=average of 6/30/10 and 6/30/11 allowable rents
L= Lower rent-of amount reported on 2011 report or the average of 6/30/10 and 6/30/11 allowable rents