

PRELIMINARY ADMINISTRATIVE DECISION

FAIR RETURN RENT INCREASE PETITION

240 Manor Circle

Case # 2013-8L

(Takoma Park, Maryland)

TIME PERIOD FOR RESPONSE TO PRELIMINARY DECISION

The tenants and the landlord 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.

Objection 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 e-mail to Jeank@takomaparkmd.gov.

Kenneth K. Baar, Ph.D.
Rent Analyst on behalf of the Commission
Oct 30, 2013

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Summary

This fair return petition is applicable to a building with eight apartment units.

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.

Under the ordinance owners may select among alternative base years. If 1990 is selected and the owner does not have operating expense information for 1990, operating expenses for that year are projected based on increases in the Consumer Price Index and available data regarding specific cost increases since that year.

In this case, the apartment owner selected the option of using 1990 as the base year. Under the fair return standard in the rent stabilization ordinance, if 2012 is the current year in the application, the apartment owner is entitled to a net operating income which is 61.5% above the 1990 level.

In the projections of current year operating expenses in this analysis, two of the expenses (self-labor for maintenance and grounds maintenance) are averaged with the amounts in the prior two years because they were exceptional relative to the other year's expenditures.

From 1990 to 2012, rents increased by 61%, compared to an increase in the CPI of 83%. Operating expenses increased by 116%. Net operating income increased by 27.5%.

The owner is entitled to an additional rent adjustment of \$89.09/apartment unit/month in order to obtain a net operating income 61.5% above the base year level.

FAIR RETURN CALCULATION

Base Year NOI	
Rental Income	43,614.00
Operating Expenses	18,436.49
Net Operating Income	25,177.51
Current Year NOI	
Rental Income	72,008.00
Operating Expenses	39,896.46
Net Operating Income	32,111.54
Fair Return Calculation	
Pct. Adjustment of Base Year NOI	61.5%
Fair NOI (Base Year NOI Adjusted by 61.5%)	40,664.33
Current NOI	32,111.54
Rent Adjustment (Fair NOI-Current NOI)	8,552.79
Rent Increase/Apt./Month	\$89.09

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 decisions of the California and New Jersey Supreme Courts and numerous California Court of Appeal decisions. Over the past 30 years, he has served as a consultant to about thirty California jurisdictions on issues related to rent stabilization and has prepared fair return reports for approximately twenty cities in rent control fair return cases.

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) California Court of Appeal

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, 204 Cal. App. 4th 345 (2012) California Court of Appeal

Colony Cove Properties v. City of Carson, No. B227092, (Oct. 21, 2013, appeal period still pending) California Court of Appeal

**Appellate Court Opinions Citing Law Review Articles of Kenneth Baar
About 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 [City of Escondido], 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

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 [City of Escondido], 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. The Ordinance and the Right to a Fair Return

The Takoma Park rent stabilization ordinance permitted annual rent increases equal to 70% of the percentage increases in the Consumer Price Index (CPI) from 1990 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, apart from being a right provided by the ordinance. 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 owners may select among alternative base years. In the case that 1990 is selected and the owner does not have operating expense information for 1990, operating expenses for that year are projected. The projections are based on the change in the CPI between the base year and the current year and information about increases in the rates for specific governmental fees and available data regarding regulated rates for specific services. The applicable section of the ordinance states:

Imputed Base Year Net Operating Income. If the base year is 1990, at the landlord's option, the 1990 net operating income shall be imputed based on estimated base year operating expenses. In estimating the base year operating expenses, it shall be presumed that each operating expense increased by the same percentage as the CPI since the base year. However, if data, rate information, or other sources of cost information indicate that particular operating expenses increased at a different rate than the percentage increase in the CPI, the estimate of the percentage increase in that expense shall be based on the best available data on increases in that type of expense. Information on the rate of increases and/or other relevant data on trends in increases in particular types of expenses between the base year and the current year may be introduced by the landlord, affected tenants, the Department, and the Rents Analyst. (Sec. 6.20.080.B.6)

Since fair return is a legal concept based on a constitutional right independent of any right set forth in a local or state law, a discussion of judicial standards regarding fair return under rent stabilization is included as a Appendix B of this report.¹

¹ 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) 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])

II. Analysis of Rent Increase Application

The property contains eight rental units.

A. Base Year and Current Year

In this case the owner has selected 1990 as the base year.

The “current year” for the purposes of the fair return analysis is 2012, because the application was submitted on July 26, 2013.

B. Base Year and Current Year Rental Income

The annual rental income for the eight units in 2012 was \$70,248, or \$731.75/unit/month.

From 1990 to the current year -2012 - rents have increased from an average of \$454.31 to the current average of \$731.75, an increase of 61%, compared with an increase of 83% in the CPI during this period.² Currently, the tenants pay an additional \$35 per month from May through September for the air conditioning, which is not included in the foregoing data on average rents.

All utilities including electricity, gas, water, sewer, and trash are included services covered by the rent, rather than being additional charges.

C. Operating Expenses

1. Overview

Applicants are required to submit operating expense information for the “current” year, the two prior years, and the “base” year.

The owner provided operating expense summaries by category for 2010, 2011 and 2012 supplied documentation, which was reviewed by City staff for the purpose of assuring that the claimed expenses for each category were documented.

² This calculation is based on the increase in the all items index for Washington-Baltimore, index from March 1990 to March 1997 - 133.8 to 161.9 (Series ID, MUURA315SAO) and the increase in the new index for Washington-Baltimore (Series Id: CUURA311SA0) from March 1997 to March 2012 - 100.8 to 150.7. The overall increase is calculated by compounding the increase that took place from March 1990 to March 1997 by the increase from March 1997 to March 2012. (Appendix A, contains the CPI tables.)

In the application, operating expenses for the base year were projected as 60% of gross rental income, pursuant to the instructions in the application form. However, these instructions conformed with ordinance provisions regarding projections of 1990 net operating income, prior to the August 2013 amendment of the ordinance. The projections in this analysis, which conform with the amendment to the ordinance, are more favorable to the applicant.³

2. Calculations of Base Year Operating Expenses and Comparisons with Current Year Operating Expenses

This section sets forth projections of base year operating expenses based on the standards in Section Sec. 6.20.080.B.6, rather than amounts based on the presumptions in regard to a base year operating expense to income ratio which were set forth in the ordinance prior to the August 2013 amendment.

Actual base year expense levels for property taxes are known and precise projections of some public fees may be made based on the fee schedules in effect in 1990. Projections of management, maintenance, insurance, and utility expenses are based on the change in the CPI between the base year and current year.

a. management, maintenance, insurance, self-labor

In order to project base year amounts for these costs it is assumed that these costs increased by the CPI increase (83%) between the base year and the current year.

b. Property Taxes

In the base year, property taxes were \$2,283.57,⁴ compared to a current year level of \$10,099.91. The increase of \$7,816.34 is equal to \$81.42/rental unit/month.

c. Rental Housing License Fees

Rental housing license and inspection fees increased from \$384 in 1990 to \$760 in the current year.

³ Under the prior standard, in the absence of actual base year operating expense data, 1990 base year net operating income was projected to equal 40% of gross income. Alternatively stated, operating expenses were projected to equal 60% of gross income. Under the new standard, the base year operating expense projections are lower; therefore, the base year net operating income is higher. In turn, this higher projection of base year net operating income leads to higher projection of the fair net operating income level for the current year.

⁴ 1990 Property Tax bill (Attached as Appendix D.)

The projection of the fees in 1990, is based on the annual rental housing license and inspection fee rate of \$48/rental unit, in effect at that time.⁵

d. Stormwater Fees

The stormwater fee was not in effect in 1990. The fee in the current year is \$286.12

e. Refuse Collection Fees

Refuse collection fees increased from \$538 in the base year to \$1,001 in the current year.

The rate in the current year for multifamily properties with between 2 and 12 units is \$143 for each unit with the exception that there is no charge for the first unit. (Takoma Park Code, Sec. 10.12.030.A. (Ord. 2010-28))

In the first half of the base year the annual refuse collection rate was \$263 for the first five units on a property with not more than eleven units and \$38 unit for each additional unit. Therefore, the annual rate for an eight unit property was \$377. In the second half of the base year the annual rate was \$100 for each unit, with no charge for the first unit. Therefore, the annual rate for an eight unit property was \$700. The annual cost for an eight unit property in the base year would have been the average of the two annual rates in effect in that year - \$538.⁶

f. Water and Sewer

Water and Sewer services are provided by the Washington Suburban Sanitary Commission. The charges for water and sewer are based on water consumption.

In 1990, the combined rate for water and sewer for each \$1,000 gallons of water consumption per dwelling unit per day ranged from \$2.35 (\$1.10 for water and \$1.25 for sewer) for 20 gallons per day or less to \$3.09 for units with 100 gallons per day consumption. (See Appendix G with 1990 Rate Schedule).

In the current year in three out of the four quarterly billing periods the average daily consumption per unit was between 60 and 69 gallons and in one period it was between 70 and 79 gallons.

⁵ Ordinance 1990-30.

⁶ $(\$377 + 700)/2$.

In 1990, the combined rate for between 60 and 69 gallons per day was \$2.75 per 1,000 gallons (\$1.23 for water and \$1.52 for sewer).

In the current year (2012), the combined rate for the first three billing periods was for 60 to 69 gallons of consumption per day was \$6.97 (\$3.16 for water and \$3.81 for sewer). In the fourth billing period the combined rate was \$7.49 (\$3.24 for water and \$3.25 for sewer). (In 2013 the rate combined rate was increased to \$8.03. (\$3.29 for water and \$4.74 for sewer.)

For the current year, the rates were 163% above the rates in effect in the base year.⁷ On this basis it is estimated that the water and sewer expenses in the base year were \$562, an amount equal to 38% of the current year total (1 - 2.63) of \$1,479.

g. Electricity and Gas

CPI data on gas and electricity costs from 1990 to the present and data from Washington gas supply rates from 1997 to the present indicates that costs and rates fluctuated drastically upwards and downwards during this period. Therefore, current costs for these services may be significantly above or below future costs.

In order to place these costs in perspective it is noted that in the current year, these costs constituted 17.5% of the overall operating expenses for the property and 9.7% of overall rent income.

For the purposes of this analysis it is assumed that these expenses increased by the percentage increase in the CPI indexes for electricity and piped gas between March 1990 and March 2012. (Indexes included in Appendix H.) During this period the gas price index increased 39.8% and the electricity price index increased by 92%.⁸

⁷ The rate increase went into effect on July 1, 2012. However, it was only reflected in one of the quarterly bills for that year because the bill for the last quarter is not issued until the following year. The measure of the rate increase is based on a weighted of the rates applicable to the first three quarterly invoices and the rate applicable to the fourth invoice.

⁸ In 1997 an index with a 1982 base period was replaced by an index with a 1997 base period. Therefore, the increase is calculated by computing the increase in the old index from March 1990 to December 1997 and then compounding that amount by the percentage increase in the new index from December 1997 to March 2012.

From March 1990 to December 1997 the electricity index increased by 14.2% and from December 1997 to March 2012 the index increased by 68.5%. The compounded increase is 92.4%

From March 1990 to December 1997 the gas index increased by 14.2% and from December 1997 to March 2012 the index increased by 22.4%. The compounded increase is 39.8%

3. Current Year Capital Improvement Costs

a. definition

Under Takoma Park's regulations "capital improvements" are defined the same as way as in the Internal Revenue Code (IRC) and the standards under the IRC govern:

additions to or the partial replacement of property that add to the value of the rental facility, appreciably lengthen its life or adapt it to a different use, and are required to be depreciated by the Internal Revenue Code. (Administrative Regulations, Sec. 4.D.i.1)

This very general definition in the IRC regulations is supplemented in the IRC regulations by detailed regulations and numerous examples in the regulations of what constitutes a capital improvement, as distinguished from repairs that can be expensed in one year. Under the regulations the cost of replacing or overhauling discrete components of a structure must be amortized.⁹

A substantial portion of the costs reported by the applicant for the current year are attributable to capital improvements which should be amortized for the purposes of a fair return analysis. These include expenses for replacing the roof, doors, and windows and installing a new water heater.

b. amortization of costs

Under the ordinance, allowable operating expenses include the "[a]mortized cost of capital improvements" (Section 6.20.090.B.8.a.v). When a fair return determination is made, capital improvements must be amortized, as opposed to being expensed within a single year. Otherwise the capital improvement costs would be recovered on an annual basis, even though such expenditures are not annually recurring costs.

Interest Allowance

In regards to the allowable interest allowance for capital improvements, the ordinance provides that the interest rate allowance for amortized capital improvements is equal to the federal reserve prime loan rate plus 2%.

Amortized cost of capital improvements;

An interest allowance shall be allowed on the cost of amortized capital expenses; the allowance shall be equal to the interest the landlord would have incurred had the landlord financed the capital improvement with a loan for the amortization period of the improvement, making uniform monthly payments, at an interest rate

⁹ See IRS Regulations Section 1.263(a)-3T(e)(2)(ii)(B) (4/1/2012 edition) (text in appendix in Appendix C of this report)

equal to the Federal Reserve Board bank prime loan rate as of the date of the initial submission of the petition plus 2% per annum. (Section 6.20.090.B.8.a.v)

Currently, the prime rate is 3.25%,¹⁰ which in turn results in the use of 5.25% interest rate in amortizing capital improvements under the fair return standard in the ordinance.

Amortization Period for Capital Improvements

The Administrative Regulations provide the Commission with discretion in determining the periods in which improvements are amortized (depreciated), with the direction that it may consider internal revenue code guidelines.

The length of the amortization period shall be determined at the discretion of the Commission. In determining the length of the amortization period, the Commission may consider generally accepted accounting practices, the Internal Revenue Code, and regulations, guidance, and opinions of the Internal Revenue Service. (Administrative Regulations Section 4.D.i.3)

Under the IRS guidelines, a five year life is used for appliances.

The life for structural improvements under the IRS guidelines is the same as the overall life for residential rental property of 27.5 years.¹¹ This period is longer than the life typically set forth in rent regulations which contain amortization schedules. It also exceeds the actual life of a new water heater. For the purposes of this analysis, a ten year amortization period is used for this expense. Twenty year amortization periods are used for the roof, windows, and doors replacements.

The use of alternate amortization periods for the roof, doors, and windows, of either 15 years or 27.5 years, would not have resulted in substantial changes in the monthly rent required to cover the cost. If 15 years were used the monthly costs/apartment would have been \$6.70 higher and if 27.5 years had been used the monthly costs would have been \$6.06 lower.

¹⁰ "Bank Prime Loan," fn. 9 "Prime is one of several base rates used by banks to price short-term business loans." (www.federalreserve.gov/releases/h15/data.htm) (Statistical Release, Sept. 30, 2013)

¹¹ See IRS Publication 946 (2011), "How to Depreciate Property", pp. 40-41.

The following table sets forth the calculations of capital improvement costs used in this analysis.

(Table 3)
Calculation of Capital Improvement Costs in Fair Return Analysis

Category	Cost	Amortization Period Months	Monthly Amortized Cost	Annual Amortized Cost	Monthly Amortized Cost Per/Apt.
water heater	\$4,000	120	43.41	520.93	5.43
roof	\$21,500	240	147.90	1774.75	18.49
windows & doors	\$20,000	240	137.58	1650.93	17.20

4. Projection of Base Year Capital Improvement Costs

Consistent with the concept that costs increased by the percentage increase in the CPI since the base year, capital improvement costs in the base year are projected to be \$2,508. Using this projection, 2012 capital improvement expenditures are 83% above the base year amount, consistent with the percentage increase in the CPI during this period.

5. Adjustment of Exceptional Expense Levels

The ordinance provides for the adjustment of expense levels which are atypical and do not represent a reasonable projection of ongoing expense levels.

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 expenses for grounds maintenance expenses and maintenance self-labor in 2012 were exceptionally high relative to the prior three years - more than double the amounts in 2010 and 2011

In this analysis, the average of the expense levels for 2010 through 2012 are used to project grounds maintenance and maintenance self labor expenses in the current year.

(Table 4)
Grounds Maintenance and Self-Labor Expenses

Category	Management & Repairs Self-Labor (category G12 in application)	Grounds Maintenance (category G9 in application)
2010	252.08	870.00
2011	504.00	606.90
2012	1134.00	3265.90
Average 2010-2012 <i>amount used in fair return analysis</i>	630.00	1580.93

6. 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 2012 is \$39,896.46 compared to the total of \$18,436.49 projected for the base year, an increase of 116% compared to the increase in the CPI of 83%. The percentage increase in operating expenses substantially exceeded the percentage increase in the CPI primarily as a result of the large increase in property taxes, which increased by 342% and accounted for \$7,816.34 of the \$21,459.96 increase in operating expenses.

The table below sets forth income and operating expenses reported in the application and the amounts used for this fair return analysis. In the instances in which the actual reported amounts are adjusted for the purposes of this analysis, the data is set forth in cells with a bold outline.

Income, Operating Expenses, and Net Operating Income
(adjustments of applicant's projections in shaded cells)

	1990	2010	2011	2012	2012
	analyst's computations of expenses	amounts reported in application			with adjustments made in this analysis (shaded cells)
SCHEDULED INCOME					
Rent Per Unit/Month					
Annual Rent	43614	66363.36	68232.00	70248.00	70248.00
Air Conditioning					1400.00
Extra Parking Space			30.00	360.00	360.00
TOTAL INCOME	43614	66363.36	68262.00	70608.00	72008.00
OPERATING EXPENSES					
G2 On Site Manager	0	0.00	0.00	0.00	0.00
G3 Prof. Mgmt Firm	0	0.00	0.00	0.00	0.00
Self-Management					
G4 Self-Labor	2315.02	3981.80	4095.72	4236.48	4236.48
G5 Natural Gas	2356.12	4017.95	4150.59	3298.57	3298.57
G6 Heating Fuel	0.00	0.00	0.00	0.00	0.00
G7 Electricity	1915.62	4332.67	2720.32	3677.99	3677.99
G8 Water & Sewer	562.08	1221.70	1580.01	1479.15	1479.15
G9 Grounds Maintenance	863.90	870.00	606.90	3265.90	1580.93
G10 Bldg Maint & Repairs	2298.13	1926.45	4211.91	4182.60	4182.60
G11 Painting & Decorating	0.00	0.00	0.00	0.00	0.00
G12 Self-Labor	344.26	252.00	504.00	1134.00	630.00
G13 Misc. Supplies	0.00	0.00	0.00	0.00	0.00
Appliances					
G14 Real Estate Taxes	2283.57	10613.67	9840.31	10099.91	10099.91
G15 Insurance	1319.40	2889.06	2248.25	2414.50	2414.50
G16 Misc. Taxes & Insurance	163.93	300.00	300.00	300.00	300.00
G17 Legal Services	0.00	0.00	0.00	0.00	0.00
G18 Accounting Services	584.26	1069.20	1069.20	1069.20	1069.20
G19 Misc. Admin. Services	0.00	0.00	0.00	0.00	0.00
G20 Rental Hsg License Fees	384.00	752.00	760.00	760.00	760.00
G21 Stormwater Fees	0.00	249.72	249.72	286.12	286.12
G22 Misc. Fees & Assessments		120.00	120.00	290.00	290.00
G23 Cleaning Services	0.00	0.00	0.00	0.00	0.00
G24 Extermination Services	0.00	0.00	0.00	0.00	0.00
G25 Trash Collection & Recycle	538.00	815.00	1001.00	1001.00	1001.00
G26 Misc. Contract Services		0.00	0.00	0.00	0.00
Capital Improvements	analyst's calculations				
Water Heater				520.93	520.93
New Roof				2108.08	2108.08
New Windows and Doors				1961.00	1961.00
Imputed Base Year	2508.20				
G27 TOTAL OPERATING EXP.	18436.49	33411.22		42085.42	39896.46
NET OPERATING INCOME	25177.51	32952.14		28522.58	32111.54

III. Fair Return Calculation

Using the operating expense projections in this analysis, the current net operating income is \$32,111.54 compared to a net operating income of \$25,177.51 in the base year. The increase in net operating income over the base year of 27.5% compares with a 61% increase over the base year that is required in order to provide a fair return.

An additional net operating income of \$8,552.79 or \$89.09/unit/month is required to provide a fair return.

(Table 6)

FAIR RETURN CALCULATION

Base Year NOI	
Rental Income	43,614.00
Operating Expenses	18,436.49
Net Operating Income	25,177.51
Current Year NOI	
Rental Income	72,008.00
Operating Expenses	39,896.46
Net Operating Income	32,111.54
Fair Return Calculation	
Pct. Adjustment of Base Year NOI	61.5%
Fair NOI (Base Year NOI Adjusted by 61.5%)	40,664.33
Current NOI	32,111.54
Rent Adjustment (Fair NOI-Current NOI)	8,552.79
Rent Increase/Apt./Month	\$89.09

In this case, the increase allowed pursuant to the fair return standard is less than 15% of the current rent; therefore, the whole amount can be implemented upon the effective date of this decision (subject to applicable notice requirements).

The allowable rent is computed by adding the fair return rent adjustment to the 2012 rents rather than the current rents. The rent adjustment brings the 2012 rents up to a level that provided a fair return based on income and operating expenses in 2012 and, in effect substitutes for 2013 annual rent increase which is for the purpose of covering inflation and increases in costs through 2012.

Appendix A

Consumer Price Index All Urban Consumers

All-items Index

Not Seasonally Adjusted
Area : Washington, DC-MD-VA
Item : All items
Base Period : 1982-84=100
Data: 1975 - 1997

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Ann
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



INDEX IN EFFECT STARTING NOVEMBER 1996

Series Id: CUURA311SA0

Not Seasonally Adjusted

Area: Washington-Baltimore, DC-MD-VA-WV

Item: All Items

Base Period: NOVEMBER 1996 = 100

Years: 1996 to 2013

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		150.074		150.155		149.838		151.732		150.646		150.212
2013	150.845		152.188		151.908		152.657						

Appendix B

Judicial Guidelines for Fair Return

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.¹

Most of the judicial precedent regarding fair return under rent stabilization comes from New Jersey and California appellate court decisions.

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."²

The Courts have also repeatedly reiterated the principle that there is a "range" of rents that may be considered reasonable.

Relying on precedent from the U.S. and New Jersey Supreme Courts, one California Court of Appeal, 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.³

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, some of those guidelines - such as "commensurate with returns ... in other enterprises having comparable

¹ *Palomar Mobilehome Park Assn. v. Mobile Home Rent Review Com.*, 16 Cal.App.4th 481, 484 (California Court of Appeal)

² *Rainbow Disposal Co. v. Escondido Mobilehome Rent Review Bd.* 64 Cal.App.4th 1159, 1172 (1998, California Court of Appeal)

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

risks” or balancing the “interests of the investor” and the “interests of the consumer” - have been largely theoretical.

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.⁴

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.”⁵

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 Park 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.⁶

⁴ *Hutton Park Gardens v. Town of West Orange*, 350 A2d. 1, 15 (1975, New Jersey Supreme Court).

⁵ *Kavanau v. Santa Monica Rent Control Board*, 16 Cal.4th 761, 772 (1997, California Supreme Court)

⁶ *Galland v. Clovis*, 24 Cal.4th 1004, 1026 (2001)

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.⁷

The appellate court of New Jersey of , Massachusetts, and California have rejected the contention that an apartment owner is entitled to a fair return on the “value” of a property, on the basis that a return on value approach is circular in the context of rent regulation.⁸ These courts have concluded that his type of standard is “circular” in the context of a rent regulation, since value depends on the rent that is permitted.

An exception to the more theoretical aspects 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.”⁹

Subsequently, a California Court of Appeal ruled in 1983¹⁰ and the State Supreme Court ruled in 1984,¹¹ 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.¹² They have not set forth a minimum rate at which net operating income must be allowed to increase.

⁷ *Fisher v. City of Berkeley*, 37 Cal.3d. 644, 680 (1984, California Supreme Court)

⁸ *Helmsley v. Borough of Fort Lee*, 394 A.2d. 65, 81 (1978); *Niles v. Boston Rent Control Adm'r*, 374 A.2d. 296 (1978); and *Fisher v. City of Berkeley*, 37 Cal.3d. 644, 680 (1984)

⁹ *Helmsley v. Borough of Fort Lee*, 394 A.2d. 65, 76 (1978, New Jersey Supreme Court)

¹⁰ *Cotati Alliance for Better Housing v. City of Cotati*, 148 Cal.App.3d 280,293 (1983, California Court of Appeal)

¹¹ *Fisher v. City of Berkeley*, 37 Cal.3d. 644, 681 (1984, (California Supreme Court)

¹² *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)

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 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 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.

Furthermore, the rate of return on investment approach is circular in the context of a rent regulation.

In the following decades, the MNOI standard has been approved by the courts. 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.¹³

In *Oceanside Mobilehome Park Owners' Ass'n v. City Oceanside*¹⁴ and *Baker v. City of Santa Monica*¹⁵, 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.¹⁶

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]."¹⁷

¹³ *Rainbow Disposal Co. v. Escondido Mobilehome Rent Review Bd.*, 64 Cal.App.4th 1159, 1172 (1998, California Court of Appeal)

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

¹⁵ *Baker v. City of Santa Monica*, 181 Cal.App.3d. 972 (1986, California Court of Appeal) .

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

¹⁷ *Palomar Mobilehome Park Assn. v. Mobile Home Rent Review Com.*, 16 Cal.App.4th 481, 486 (1993, California Court of Appeal))

In *Rainbow Disposal Co. v. Escondido Mobilehome Rent Review Bd.* (1998) a California Court of Appeal held that the MNOI standard is a “fairly constructed formula,” although other standards may provide for a greater return.

Baar's MNOI approach adopted by the Board is a "fairly constructed formula" which provided Rainbow a sufficiently "just and reasonable" return on its investment. "The [MNOI] approach has been praised by commentators for both its fairness and ease of administration. [Citations.]" ... The Board was not obliged to reject Baar's MNOI analysis just because an historical cost/book value formula using Rainbow's actual cost of acquisition and a 10 percent rate of return would have yielded a higher rent increase.¹⁸

¹⁸ 64 Cal.App.4th 1159, 1173 (1998).

Appendix C

Excerpt from Internal Revenue Service Regulations Capital Improvements

(B) *Building system.* Each of the following structural components (as defined in § 1.48-1(e)(2)), including the components thereof, constitutes a building system that is separate from the building structure, and to which the improvement rules must be applied—

(1) Heating, ventilation, and air conditioning (''HVAC'') systems (including motors, compressors, boilers, furnace, chillers, pipes, ducts, radiators);

(2) Plumbing systems (including pipes, drains, valves, sinks, bathtubs, toilets, water and sanitary sewer collection equipment, and site utility equipment used to distribute water and waste to and from the property line and between buildings and other permanent structures);

(3) Electrical systems (including wiring, outlets, junction boxes, lighting fixtures and associated connectors, and site utility equipment used to distribute electricity from property line to and between buildings and other permanent structures);

(4) All escalators;

(5) All elevators;

(6) Fire-protection and alarm systems (including sensing devices, computer controls, sprinkler heads, sprinkler mains, associated piping or plumbing, pumps, visual and audible alarms, alarm control panels, heat and smoke detection devices, fire escapes, fire doors, emergency exit lighting and signage, and fire fighting equipment, such as extinguishers, hoses);

(7) Security systems for the protection of the building and its occupants (including window and door locks, security cameras, recorders, monitors, motion detectors, security lighting, alarm systems, entry and access systems, related junction boxes, associated wiring and conduit);

(8) Gas distribution system (including associated pipes and equipment used to distribute gas to and from property line and between buildings or permanent structures); and

(9) Other structural components identified in published guidance in the FEDERAL REGISTER or in the Internal Revenue Bulletin (see § 601.601(d)(2)(ii)(b) of this chapter) that are excepted from the building structure under paragraph (e)(2)(ii)(A) of this section and are specifically designated as building systems under this section.

(IRS Regulations Section 1.263(a)-3T(e)(2)(ii)(B) (4-1-2102 edition)

Appendix D

1990 Property Tax Bill



DEPARTMENT OF FINANCE

Isiah Leggett
County Executive

Joseph F. Beach
Director

DUPLICATE BILL REQUEST

9/27/2013

JAMES E & B W LEWIS
815 HILLSBORO DR
SILVER SPRING, MD 20902

LEVY FOR THE FISCAL YEAR
Beginning July 1, 1990
LEVY TYPE: Full

SEQUENCE NUMBER: 77512646
BILL DATE July 1, 1990
DUE DATE September 30, 1990

STATE OF MARYLAND TAX	181.17
MONTGOMERY COUNTY TAX	1430.36
SPECIAL AREA TAX	672.04
MUNICIPAL DISTRICT TAX.	0.00
TOTAL TAX AMOUNT	2283.57

LOT/BLOCK	005/045
TAX CLASS	074
LIBER/FOLIO	5856/807
ACRES/FEET	15510F
TOTAL ASSESSMENT	86270
DIS	13
SUB	25
ACCOUNT NUMBER	1070918

SERVICE CHARGES:

REFUSE	0.00
FRONT FOOT BENEFIT CHARGE	0.00
TOTAL BILLED AMT	2283.57
INTEREST	0.00
ADV	0.00
GRAND TOTAL	2283.57

BILL PAID IN FULL

09/24/90

Division of Treasury

255 Rockville Pike, Suite L-15 (Monroe Street Entrance) • Rockville, Maryland 20850
www.montgomerycountymd.gov

montgomerycountymd.gov/311



240-773-3556 TTY

Appendix E

Ordinances Setting Refuse Collection Rates

ORDINANCE NO. 2572

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF TAKOMA PARK,
MARYLAND

SECTION 1. THAT the multi-family refuse fee schedule has not been adjusted since 1975; AND

SECTION 2. THAT owing to increased costs to the City, the Mayor and Council deem it necessary to increase the refuse collection fees for multi-family dwelling units as reflected in the schedule below.

SECTION 3. THEREFORE THAT Sec. 10-15 of Chapter 10, "Refuse," of the Code of Takoma Park, Maryland, 1972, as amended, be amended to read as follows:

Sec. 10-15. Multi-family unit refuse fee schedule.

(a) The fees for collection and disposal of refuse placed for collection at ground level outside the dwelling in a position easily accessible to the refuse collector or at any point as may be designated by the Director of Public Works and not more than one hundred (100) feet distant from the side of the street or alley from which the collection is to be made not more than twice each week shall be as follows:

(1) There shall be no fee for the first unit in each multiple-family dwelling.

(2) Dwellings not in excess of six (6) units or families: Fifty-Three Dollars (\$53.00) per year per family or unit for each of the first five (5) units or families in excess of one (1) unit or family.

(3) Dwellings not in excess of eleven (11) units or families: Two Hundred Sixty-Three Dollars (\$263) per year for the first five (5) units or families in excess of one (1) unit or family, plus Thirty-Eight Dollars (\$38.00) per unit or family for each of those in excess of six (6) units or families.

(4) Dwellings in excess of eleven (11) units or families: Four Hundred Fifty Dollars (\$450) per year for the first ten (10) units or families in excess of one (1) unit or family, plus Twenty-Six Dollars (\$26.00) per year per unit or family for each of those in excess of eleven (11) units or families; AND

SECTION 4. THAT this ordinance and the fee schedule enumerated herein shall become effective on July 1, 1981, and the City Treasurer is hereby authorized to bill and collect such refuse collection fees on all covered multi-family dwellings registered in the City.

ADOPTED BY THE MAYOR AND COUNCIL, JUNE 8, 1981, Vol. 45, page 159.

SEP 11 2013

Introduced by:
Drafted by: P. Jewell
and L. Perlman

1st Reading: 5/29/90
2nd Reading: 6/25/90
Effective Date: 7/1/90

"REVISED"
ORDINANCE NO. 1990-31

(Revision of Multifamily Unit Refuse Fee Schedule)

- WHEREAS, Section 10-15 of the Takoma Park Code sets forth fees for the collection and disposal of refuse for multifamily dwellings; and
- WHEREAS, these fees are based on a sliding scale according to the number of units or families in each multifamily dwelling; and
- WHEREAS, approximately 80% of the multifamily dwellings which use City refuse services have less than eleven units or families; and
- WHEREAS, the cost of City refuse collection and disposal has risen; and
- WHEREAS, the Council desires to establish a more economically feasible fee schedule for multifamily unit refuse collections and disposal.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TAKOMA PARK, MARYLAND:

SECTION 1: Chapter 10 (Refuse), Article 3 (Multifamily Unit Refuse Collection), Section 10-15 (Multifamily unit refuse fee schedule), of the Takoma Park Code is repealed and reenacted as follows:

CHAPTER 10. REFUSE.

ARTICLE 3. MULTIFAMILY UNIT REFUSE COLLECTION.

Sec. 10-15. Multifamily dwelling units --
refuse fee schedule.

The annual fees for collection and disposal of refuse placed for collection at ground level outside the multifamily dwelling in a position easily accessible to the refuse collector or at any point as may be designated by the Director of Public Works and not more than one hundred (100) feet distant from the side of the street or alley from which the collection is to be made not

more than twice each week shall be as follows:

(a) Multifamily dwellings with two (2) through ten (10) dwelling units: no fee for the first dwelling unit and one hundred dollars (\$100.00) for each additional dwelling unit.

(b) Multifamily dwellings with eleven (11) or more dwelling units: no fee for the first dwelling unit and ninety dollars (\$90.00) for each additional dwelling unit.

SECTION 2: This ordinance shall be effective on July 1, 1990.

Adopted this 25th day of June, 1990, by roll and call vote as follows:

Aye: Elrich, Hamilton, Leary, Moore, Prensky, Sharp
Nay: None
Abstained: None
Absent: Douglas

EXPLANATION:

1. Underlining indicates additions to existing Code language.
2. Sec. 10-15, subsections (a), (b), (c), and (d) of the existing Code are being repealed. Therefore, the language of these subsections (which is being deleted by this ordinance) is not set forth in this ordinance.

refuse.mem
corr66/cp

due date of fees as scheduled in Sections 10.12.030 through 10.12.060 of this chapter.

D. Private means as stipulated in subsections (A) and (C) of this section shall be subject to the approval of the Director of Public Works as related to the public health, safety and welfare.

E. Any fees accrued for prior service shall be subject to delinquent account procedure as stipulated in Section 10.12.070. (Prior code § 10-13)

10.12.020 Refuse regulations applicable to multifamily units.

Separation of refuse, preparation of refuse and refuse containers provided by owners, tenants, lessees or occupants of the multifamily unit premises shall comply with all ordinances and regulations of the City presently in effect and to become effective in the future, except for Section 10.08.080, if the City does not collect refuse from the premises. (Prior code § 10-14)

10.12.030 Multifamily dwelling units refuse and recycling fee schedule.

The annual fees for collection and disposal of refuse and recyclables placed for collection at the ground level outside the multifamily dwelling in a position easily accessible to the sanitation personnel or at any point as may be designated by the Director of Public Works and not more than 100' feet distant from the side of the street or alley from which the collection is to be made shall be as follows:

Multifamily dwellings with 2 through 12 dwelling units: no fee for the first dwelling unit and \$143.00 for each additional dwelling unit. (Ord. 2010-28 § 1, 2010/prior code § 10-15)

10.12.040 Multifamily unit refuse collection fee date—Delinquent accounts.

A. All fees chargeable under Section 10.12.030 shall be due semiannually on July 1st and January 1st of each year.

Appendix F

Ordinances Setting Rental Housing License & Inspection Fees

Introduced by: Councilmember
(Drafted by S. Weiss)

1st Reading: 05/29/90
2nd Reading: 06/11/90
Effective : 01/01/91

ORDINANCE 1990 - 30

ORDINANCE TO AMEND THE 1972 TAKOMA PARK CODE, CHAPTER 6,
ARTICLE 9, SEC.6-107(a) (1), LICENSING AND INSPECTION FEES

WHEREAS Section 6-107 (a)(1) of the Takoma Park Code requires the payment of licensing fees in the amount of \$ 24.00 per rental unit and requires the payment of inspection fees in the amount of \$ 8.00 per unit, AND

WHEREAS The Accounting Division has never collected more than one inspection fee per unit, and all indications are that the collection of additional inspection fees, individualized to specific properties and based upon the number of inspections individual properties have received, would not be feasible in the near future, AND

WHEREAS The Department of Housing Services averages 3 inspections per property , which results in an average uncollected sum of \$ 16.00 per unit, AND

WHEREAS The fees established in Section 6-107 (a)(1) of the Takoma Park Code have been designed to offset actual City expenses related to licensing and inspection activities.

NOW THEREFORE, BE IT ORDAINED THAT the City shall replace the current fee structure for licensing and inspection with one combination fee; AND

BE IT FURTHER ORDAINED THAT the combination licensing and inspection fee shall be \$ 48.00 per licensing period; AND

BE IT FURTHER ORDAINED THAT Section 6-107 (a)(1) of the Takoma Park Code shall be amended as follows:

Sec. 6-107 Licensing and inspection fee[s].

(a) Each [application filed] rental property subject to licensing under this Article shall be [accompanied by] charged the following licensing and inspection fee[s]:

(1) One (1) or more units: [twenty-four dollars (\$ 24.) per unit for licensing and eight dollars (\$ 8.) per unit for inspection] forty-eight dollars (\$ 48.) per licensing term, where such term or duration is specified in Sec. 6-106 of the Code.

This Ordinance becomes effective January 1, 1991.

Adopted by the Council of the City of Takoma Park this 6th day of June, 1990, by roll call vote as follows:

AYE: Douglas, Elrich, Hamilton, Leary, Moore, Prensky, Sharp
NAY: none
ABSTAINED: none
ABSENT: none

note: Deletions are bracketed ([]); additions are underlined.

prior code § 6-201)

6.08.030 License fees.

A. Each owner of a rental facility shall pay an annual rental housing license fee per rental unit in the rental facility for an annual rental housing license, a biennial rental housing license fee per rental unit in the rental facility for a biennial rental housing license or a six-month rental housing license fee per rental unit for a temporary rental housing license.

B. Rental housing license fees shall be due and payable 30 calendar days after billing. License fees are nonrefundable and are not prorated in the event that a license is issued after January 1st of a calendar year or the number of rental units in a rental facility decreases during a calendar year.

C. License Fee Increases.

1. Effective on January 1st of each year all license fees shall increase by an amount equal to the percent change in the Consumer Price Index ("CPI-U"), or any successor or replacement to this CPI, rounded to the nearest dollar. All annual computations shall be based on the prior nonrounded figures; only the fee charged shall be rounded. The percent change in the CPI-U shall be computed for the 12-month period ending in September of each year from the average CPI-U for the 12-month period ending in September of the previous year. If there is no increase in the CPI-U, then the license fee shall remain the same.

2. Fees shall not be increased for the holder of a license during the time that license is valid, but nothing contained herein shall be construed to limit the amount of any fee due and payable at the time of renewal or reinstatement. If the number of rental units in a rental facility increases during the license term over the number specified in the application, then, within 15 calendar days of such increase, the license application shall be amended and any additional amount of license fee required by reason of such increase shall be paid.

Appendix G

Water and Sewer Rate Schedules (Washington Suburban Sanitary Commission)

Resolution No. 89-1207 (Adopted June 14, 1989)

WASHINGTON SUBURBAN SANITARY COMMISSION
WATER/SEWER RATE SCHEDULE
Effective July 1, 1989

APPENDIX C

Average Daily Consumption By Customer Unit During Billing Period (Gallons Per Day)	Rate Schedule Established per 1,000 Gallons of Total Consumption		Average Daily Consumption By Customer Unit During Billing Period (Gallons Per Day)	Rate Schedule Established per 1,000 Gallons of Total Consumption	
	Water Consumption	Sewer Use		Water Consumption	Sewer Use
Less Than 20	1.10	1.25	510-519	2.31	2.98
20-29	1.12	1.33	520-529	2.31	2.98
30-39	1.13	1.36	530-539	2.31	2.98
40-49	1.15	1.41	540-549	2.31	3.02
50-59	1.21	1.47	550-559	2.32	3.02
60-69	1.23	1.52	560-569	2.32	3.02
70-79	1.23	1.57	570-579	2.32	3.02
80-89	1.25	1.60	580-589	2.32	3.02
90-99	1.31	1.65	590-599	2.32	3.02
100-109	1.35	1.74	600-609	2.37	3.02
110-119	1.41	1.79	610-619	2.37	3.03
120-129	1.41	1.83	620-629	2.37	3.03
130-139	1.45	1.88	630-639	2.37	3.03
140-149	1.51	1.92	640-649	2.37	3.03
150-159	1.53	1.98	650-659	2.37	3.03
160-169	1.59	2.07	660-669	2.37	3.03
170-179	1.60	2.15	670-679	2.37	3.03
180-189	1.65	2.18	680-689	2.37	3.03
190-199	1.71	2.22	690-699	2.37	3.07
200-209	1.79	2.26	700-709	2.37	3.07
210-219	1.80	2.32	710-719	2.37	3.07
220-229	1.80	2.35	720-729	2.37	3.07
230-239	1.83	2.40	730-739	2.37	3.07
240-249	1.86	2.44	740-749	2.38	3.07
250-259	1.91	2.46	750-759	2.38	3.07
260-269	1.97	2.51	760-769	2.38	3.07
270-279	2.00	2.53	770-779	2.38	3.07
280-289	2.00	2.56	780-789	2.39	3.07
290-299	2.03	2.63	790-799	2.39	3.07
300-309	2.09	2.64	800-809	2.39	3.08
310-319	2.10	2.67	810-819	2.39	3.08
320-329	2.10	2.69	820-829	2.39	3.08
330-339	2.11	2.73	830-839	2.39	3.08
340-349	2.12	2.73	840-849	2.39	3.09
350-359	2.15	2.77	850-859	2.39	3.09
360-369	2.18	2.78	860-869	2.39	3.09
370-379	2.18	2.79	870-879	2.39	3.09
380-389	2.18	2.81	880-889	2.39	3.09
390-399	2.20	2.81	890-899	2.39	3.09
400-409	2.22	2.84	900-909	2.42	3.09
410-419	2.22	2.89	910-919	2.42	3.11
420-429	2.23	2.89	920-929	2.42	3.11
430-439	2.23	2.90	930-939	2.42	3.11
440-449	2.23	2.91	940-949	2.42	3.15
450-459	2.29	2.91	950-959	2.43	3.15
460-469	2.29	2.93	960-969	2.43	3.15
470-479	2.29	2.93	970-979	2.43	3.15
480-489	2.29	2.93	980-989	2.43	3.19
490-499	2.31	2.97	990-999	2.43	3.19
500-509	2.31	2.97	1000 & Up	2.43	3.20

Howard County Water Rate - Based upon average Daily Consumption (ADC) per individual unit adjusted for Administrative and Maintenance costs.

Flat Rate Sewer Charge - \$56.00 per quarter.

Appendix H

Consumer Price Indexes - Electricity and Utility (piped) Gas

Consumer Price Index - All Urban Consumers (Old Series)**Original Data Value**

Series Id: MUURA315SE2601

Not Seasonally Adjusted

Area: Washington, DC-MD-VA

Item: Electricity

Base: 1982-84=100

Period:

Years: 1980 to 1997

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
1980	75.7	74.1	70.4	73.2	73.9	94.1	95.9	96.0	96.9	90.8	81.9	81.8	83.7
1981	82.5	82.0	80.8	79.8	84.9	98.4	100.1	99.5	100.0	93.4	85.6	87.9	89.6
1982	90.1	90.6	90.9	89.8	93.9	104.2	107.9	106.9	106.3	99.7	91.9	92.4	97.1
1983	95.1	93.2	92.8	95.0	97.1	110.4	112.7	112.5	111.0	106.6	97.0	93.0	101.4
1984	94.2	92.9	91.8	92.8	93.1	106.6	108.8	114.2	115.3	111.5	99.4	98.5	101.6
1985	95.9	98.9	100.9	101.9	104.5	117.3	118.9	115.5	113.5	111.1	98.8	99.5	106.4
1986	101.4	102.2	101.5	101.5	100.0	110.4	112.8	112.3	111.8	104.5	100.3	98.9	104.8
1987	99.2	99.7	98.8	98.7	99.9	103.5	112.0	111.5	113.5	106.2	100.1	98.8	103.5
1988	97.7	97.9	100.1	98.9	80.5	108.9	109.1	109.9	110.5	107.3	99.0	99.0	101.6
1989	99.3	93.3	99.5	97.4	99.5	115.5	117.7	118.6	118.9	111.3	102.2	102.7	106.3
1990	95.9	102.1	101.4	101.2	103.5	121.2	123.1	123.9	123.5	116.5	103.0	103.3	109.9
1991	103.6	103.4	105.0	104.5	103.8	108.4	124.9	125.2	129.2	122.0	107.8	107.6	112.1
1992	107.2	107.7	108.1	108.0	109.5	128.2	129.5	123.6	127.2	120.3	109.9	108.7	115.7
1993	108.9	72.1	110.6	110.8	110.5	133.1	133.5	134.5	137.8	129.3	115.5	112.9	117.5
1994	112.9	114.9	116.4	93.9	118.7	136.5	136.4	135.9	139.1	130.3	117.4	115.7	122.3
1995	115.2	115.7	117.6	117.3	117.1	137.8	135.3	136.8	137.8	132.7	117.6	115.6	124.7
1996	115.3	116.0	116.1	116.1	116.2	157.4	154.9	155.1	156.7	146.3	117.6	117.8	132.1
1997	117.2	117.7	118.2	118.1	119.2	156.3	156.3	155.3	154.9	145.2	116.2	115.8	132.5

Consumer Price Index - All Urban Consumers
Original Data Value

Series Id: CUURA311SEHF01

Not Seasonally Adjusted

Area: Washington-Baltimore, DC-MD-VA-WV

Item: Electricity

Base: DECEMBER 1997=100

Period:

Years: 1997 to 2013

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
1997												100.0	
1998	100.4	99.9	100.3	100.5	100.6	133.5	134.1	133.3	132.4	113.5	98.8	98.9	112.2
1999	99.4	99.6	104.8	105.3	105.5	132.7	132.4	131.7	131.3	120.1	104.8	104.8	114.4
2000	104.2	105.1	105.6	106.3	100.4	134.0	132.3	127.7	127.4	113.5	111.7	98.4	113.9
2001	99.5	99.1	99.4	99.1	99.1	125.4	125.4	125.7	125.9	112.5	100.0	99.7	109.2
2002	99.5	99.4	99.6	99.5	99.5	124.7	124.2	124.5	114.7	110.4	98.5	98.5	107.8
2003	98.2	98.2	98.4	98.3	98.9	124.0	124.1	124.0	124.8	110.9	99.5	99.1	108.2
2004	99.7	99.9	100.2	100.3	99.8	125.2	126.6	126.5	126.8	112.5	105.8	105.7	110.8
2005	105.8	106.8	108.3	108.3	108.4	130.0	130.3	130.9	131.7	117.2	111.2	111.5	116.7
2006	111.4	111.6	112.0	112.4	112.2	143.4	149.7	149.8	149.8	134.9	128.3	128.4	128.7
2007	126.979	127.670	127.637	128.043	127.696	174.874	176.347	176.587	177.610	175.282	171.534	172.294	155.213
2008	167.586	168.631	169.565	167.839	168.554	186.674	194.806	193.141	197.484	193.928	189.755	189.979	182.329
2009	189.285	189.743	186.944	185.888	187.022	205.019	204.075	203.473	206.394	191.921	186.971	186.323	193.588
2010	186.163	149.438	184.234	181.354	184.034	196.350	194.421	193.145	192.729	174.125	170.236	170.322	181.379
2011	173.564	174.178	174.464	176.972	177.149	181.408	184.564	181.397	181.751	171.344	165.900	167.237	175.827
2012	167.754	168.811	168.514	168.815	169.044	181.997	181.539	179.874	178.649	168.855	163.597	163.975	171.785
2013	163.269	166.569	169.741	169.044	165.219	179.757	185.333	189.343					

Consumer Price Index - All Urban Consumers (Old Series)
Original Data Value

Series Id: MUURA315SE2602
Not Seasonally Adjusted
Area: Washington, DC-MD-VA
Item: Utility (piped) gas
Base Period: 1982-84=100
Years: 1980 to 1997

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
1980	59.4	62.3	62.9	63.9	64.1	60.8	61.1	58.8	64.7	66.2	64.8	65.7	62.9
1981	65.8	70.7	72.3	72.7	74.0	70.2	69.5	69.4	74.8	77.6	75.7	82.5	72.9
1982	82.1	84.2	87.7	89.8	88.8	84.6	84.0	85.0	92.2	97.2	97.8	107.7	90.1
1983	101.7	103.8	106.0	111.1	109.2	104.0	100.1	102.9	110.4	102.8	106.1	107.0	105.4
1984	107.3	107.9	106.8	102.9	104.5	97.3	100.2	100.8	106.0	104.4	109.4	106.3	104.5
1985	109.3	101.9	107.1	98.8	105.0	102.2	101.9	98.7	104.2	105.4	104.8	102.5	103.5
1986	101.0	103.3	101.2	105.3	102.4	98.6	97.8	96.1	100.5	101.9	100.0	101.2	100.8
1987	102.4	100.4	102.4	98.4	86.8	84.9	84.2	86.7	89.7	84.9	87.9	88.8	91.5
1988	88.6	89.0	88.6	93.4	91.5	87.5	81.7	82.5	88.2	93.7	98.9	102.0	90.5
1989	101.4	101.2	104.4	99.6	94.1	89.1	95.8	91.4	100.2	97.2	98.7	100.3	97.8
1990	103.7	105.7	102.7	92.9	91.6	77.2	77.3	78.1	97.9	96.6	96.2	97.1	93.1
1991	97.7	101.4	96.1	97.2	91.7	85.8	84.3	83.1	90.1	89.7	90.2	94.4	91.8
1992	97.0	95.2	91.6	86.0	88.9	89.7	90.3	90.8	96.9	100.8	103.1	108.5	94.9
1993	112.5	111.2	108.4	109.2	111.5	109.8	111.7	113.9	109.0	107.5	110.3	108.7	110.3
1994	107.3	108.3	110.5	110.4	111.6	109.5	103.5	106.0	105.1	108.7	107.5	109.0	108.1
1995	108.6	109.2	106.4	111.9	111.2	102.9	101.7	103.1	106.9	104.8	100.9	97.3	105.4
1996	97.8	100.1	105.2	107.4	104.6	111.1	107.3	106.7	103.1	105.4	105.1	120.6	106.2
1997	123.8	117.1	112.1	112.2	112.4	111.0	108.1	108.3	115.8	120.7	127.9	114.1	115.3

Consumer Price Index - All Urban Consumers
Original Data Value

Series Id: CUURA311SEHF02

Not Seasonally Adjusted

Area: Washington-Baltimore, DC-MD-VA-WV

Item: Utility (piped) gas service

Base Period: DECEMBER 1997=100

Years: 1997 to 2013

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
1997												100.0	
1998	97.7	93.9	95.3	93.3	92.3	87.5	91.0	90.0	93.1	95.2	95.7	99.4	93.7
1999	99.3	96.9	90.9	91.2	92.9	93.1	93.6	94.5	105.6	104.6	105.3	97.3	97.1
2000	97.6	100.6	99.3	101.8	99.3	97.3	109.8	108.2	121.0	127.1	123.5	128.2	109.5
2001	141.3	142.7	134.5	135.5	131.7	118.0	117.9	114.9	102.2	104.0	105.7	108.6	121.4
2002	112.1	100.8	103.9	107.5	110.5	113.3	112.6	111.2	109.1	110.4	114.7	113.0	109.9
2003	114.0	118.4	153.1	140.2	136.8	134.2	127.9	130.9	126.0	125.0	126.3	130.3	130.3
2004	139.7	141.4	129.0	134.5	143.0	150.0	146.9	146.6	136.6	137.7	155.3	151.0	142.6
2005	151.9	150.0	139.9	151.9	151.3	146.1	154.3	155.0	173.5	205.0	211.6	194.9	165.5
2006	214.8	202.6	177.8	175.9	158.0	138.4	138.9	137.6	149.5	147.2	156.1	169.7	163.9
2007	170.427	172.208	161.449	159.745	157.532	159.989	154.953	145.612	152.845	147.662	156.339	168.783	158.962
2008	166.273	170.324	173.588	171.017	190.613	205.220	229.206	197.469	174.887	173.388	169.414	181.294	183.558
2009	171.426	161.463	133.062	149.318	133.977	133.272	134.252	132.714	131.995	135.838	141.191	134.581	141.091
2010	143.673	144.918	140.143	132.645	132.308	140.571	157.980	158.667	135.052	135.331	133.021	131.089	140.450
2011	133.665	131.892	131.980	128.865	129.162	131.245	133.841	138.673	127.540	127.457	128.980	135.345	131.554
2012	134.341	130.557	122.441	129.889	120.879	129.499	124.814	134.619	119.837	117.692	123.897	123.605	126.006
2013	122.715	125.298	123.366	134.819	135.622	134.967	128.425	113.663					

Appendix I

Calculation of Allowable Rent

Rent Report of Owner

9A. Rent Report (All rent increases/decreases taken during reporting period - July 1, 2011 - June 30, 2012)

This section is to be completed for ALL rental units - including those occupied by the owner or an employee of the owner and all units granted an exemption by the City of Takoma Park in accordance with *Takoma Park Code Chapter 6.20*.

A Unit Number	B Number of Bedrooms	C Exemption Status	D Date Current Tenant(s) Moved into the Unit	E Date of Last Change in Rent Occurring During Reporting Period (7/1/2011-6/30/2012)	F Rent on June 30, 2012	G Banked Rent
1	1		05/01/2009	04/01/2012	\$ 772	\$ 773
2	0		06/01/2011	03/01/2012	\$ 650	\$ 650
3	0		08/01/2006	07/01/2011	\$ 709	\$ 709
4	1		06/01/2006	06/01/2012	\$ 743	\$ 742
5	1		06/01/2010	04/01/2012	\$ 824	\$ 824
6	1		08/01/2006	12/01/2011	\$ 644	\$ 644
7	1		10/01/2011	03/01/2012	\$ 784	\$ 784
8	1		09/01/2011	08/01/2011	\$ 673	\$ 673

Analyst's Calculations

Allowable Rent with Fair Return Rent Increase

Unit No.		Rent on June 30,2012		Allowable Rent with fair return rent increase
1		772		861
2		650		739
3		709		798
4		743		832
5		824		913
6		644		733
7		784		873
8		673		762