NEW YORK STATE HOMES AND COMMUNITY RENEWAL BOARD MEETING

Westchester RGB Rebuttal and Vote Meeting

Held Via Teleconference

Tuesday, June 23, 2020

7:01 p.m.

[START RECORDING]

MR. PETER STECKER: Good evening. It's Tuesday, June 23rd, 2020. The time is 7:01. We're here for the final Westchester County Rent Guidelines Board meeting for 2020 which is being brought to you by Zoom.

I'll go ahead and read the notice that appears at the beginning of the public notice.

"In response to the Governor's directive to take every effort to keep New Yorkers safe and mitigate the spread of COVID-19 and pursuant to Executive Order 202-1 which allows for the suspension of the Public Officers Law, the Westchester County Rent Guidelines Board will be conducting public hearings to set guideline rates or rent adjustment for housing accommodations within its jurisdiction, subject to the Emergency Tenant Protection Act of 1974, for leases commencing between October 1st, 2020 and September 30th, 2021 via teleconference. Instructions for members of the public to simultaneously view or listen to the meetings have been posted to HCR's website for the Office of Rent Administration under the public hearing section prior to all the meetings. And the hearings will also later be transcribed, and the public will have the ability to view the transcripts."

Now, with that being said, Madam Chair, I will send it over to you to call the roll.

MS. ELSA RUBIN: Thank you. Good evening. Everybody, welcome. This is our last meeting for the season. Tonight we are going to hear the rebuttals of tenants and owners' representatives. And immediately after that, we are going to proceed with the vote for rent adjustments.

I will now take rollcall. Please respond if you're present.

Velene Acquah.

MS. VELENE ACQUAH: Present.

MS. RUBIN: LaMont Badru.

MR. LAMONT BADRU: Present.

MS. RUBIN: Eddie Mae Barnes.

MS. EDDIE MAE BARNES: Present.

MS. RUBIN: Eliot Cherson. Eliot?

MR. ELIOT CHERSON: Hold on. Present.

MS. RUBIN: Kenneth Finger?

MR. KENNETH FINGER: I’m here.

MS. RUBIN: Evelyn Santiago?

MS. EVELYN SANTIAGO: Present.

MS. RUBIN: Tamara Stewart?

MR. TAMARA STEWART: Present.

MS. RUBIN: And Elsa Rubin, public member. Present.

Let the record show that we have a quorum.

I will now ask our counsel, Peter Stecker, if he has any announcements or --

MR. STECKER: Just to remind everyone that there will be one final meeting of the Rent Guidelines Board this year which will likely take place in September which will be to certify whatever guidelines the board adopts this evening. And also, the question has been asked a few times during these meetings, how many YouTube views there have been. I haven't had a firm answer for that any of the nights. But tonight I can tell you cumulatively over the five meetings we've had -- there's been 205 total views.

So with that being said, that's really all I have.

MS. RUBIN: Thank you.

So I will now ask the tenant and owner representatives who is going to go first. I think Kenneth went first last time.

So, Tamara, I think it's your turn to go first, or you want to debate it among yourselves?

MS. STEWART: I'm fine with first or second, whichever the owners prefer.

MR. CHERSON: I'd prefer second.

MS. RUBIN: Okay. So, Tamara, it's your turn.

MS. STEWART: All right. Thank you.

Good evening, Chairwoman Rubin, fellow board members, Deputy Counsel Stecker, and members of the public. We've heard a lot from landlords and their advocates, much of it the same complaints we hear from them year after year, that DHCR survey numbers are inaccurate, that our net operating income calculation is wrong, that capital expenses like mortgage interest and depreciation should be counted as operating expenses, and that landlords just can't make ends meet without an increase despite evidence to the contrary.

I took the liberty of sending you some bullet points earlier today that highlight key points that I believe you should consider as well as responsive to some owner, quote, fake facts, unquote, that should be dismiss.

The coronavirus pandemic is posing unthinkable possibly long-term threats to public health and the economy. I just read another sobering article today in the city newsletter that stated that New York City's independent budget office projected last month that it will take until 2024 for the city to reclaim the jobs lost over the past three months.

While both landlords and tenants are being affected by these momentous events, the economic health and resources of the two groups are far from equal.

Even before the advent of COVID-19, the facts warranted a rent freeze for Westchester tenants. Owners have been steadily enjoying a net operating income of about 38 percent for the past four years. And the first six months of implementation of HSTPA has not changed their healthy bottom line.

The cost of heating oil is down to 2004 levels which is half of 2008's high with heightened levels of uncertainty predicted through 2021. Meanwhile, fixed income seniors aren't expected to see a cost of living increase in 2021 and possibly not in 2022 either.

Our board has passed higher increases for each of the past four years than any of the other Rent Guidelines Boards while the need for affordable housing in Westchester is at a critical level according to last year's housing needs assessment. Clearly, owners had an advantage over tenants in a pre-pandemic assessment. And no rent increase is warranted.

More importantly, we know that the advent of the coronavirus pandemic has wrought havoc with the economy which affects all of us, regardless of where we live. Double-digit unemployment that is being compared to the Great Depression has taken residence in our nation with low-income black and Latino workers being hardest hit financially because of their overrepresentation in occupations that have faced higher rates of job loss.

To add insult to injury, these same workers have the dubious distinction of being, quote, essential workers, end quote, whose jobs have put them at higher risk of contracting COVID-19 even as their health profiles make it more likely that they could die from the disease if they catch it. No or inadequate health insurance also make the prospect of serious illness or even death a real possibility for many essential workers.

Private sector unemployment plummeted 25 percent in April. And there are serious concerns that there's a second wave of new layoffs heading our way once PPP loans have been forgiven.

The Federal Reserve is predicting years of high unemployment. And a 600-dollar-per-week of enhanced unemployment benefits that have been a lifeline enabling many tenants to pay their rent is set to expire on July 31st.

Without additional emergency government assistance, homelessness is expected to rise 45 percent. While it is heartening that some owners have stepped up and made payment arrangements with some of their tenants, I don't recall owners or their reps asserting that they won't pursue evictions once the moratorium is lifted. These are the daunting circumstances that tenants are facing with limited temporary assistance in the wake of COVID-19.

Landlords are also being challenged by the current economic circumstances, although they are far more likely to be able to work from home, have high-quality health insurance, savings, investments, and assets to help them combat the coronavirus.

In addition, owners have access to federal assistance through the PPP Flexibility ACT, EIDL, federal loans up to $2 million each with one year deferred repayment, federally backed mortgage forbearance, non-gap loan modifications, tax benefits, and a $45 billion federal reserve program, plus whatever assistance becomes available for real estate and other taxes. Owners are clearly in a far better position to weather the current storm than the tenants who rent from them.

Beyond these compelling facts in favor of a rent freeze, please don't forget that Westchester County has been and is subject to the same economic racial and healthcare inequalities that have been brutally exposed by COVID-19. Our country's longstanding injustices created redlining and housing discrimination which have hindered black and Latino well-creation and created overrepresentation of black and Latino families in rental housing. Housing inequality is real.

During our hearings, while owner after owner railed against rent regulation in general, HSTPA in particular, and threatened to withhold maintenance and necessary repairs if it means cutting one iota into their healthy investment profit, tenant voices were silent because the technology gap is real. And it works against those of limited means, little education, and no broadband access.

We haven't inherited assets -- excuse me. Many tenants are like me. We rent out of necessity and not by choice. We haven't inherited assets or wealth. And the salary increases that we receive are minimal at best.

A rent increase on the back of rent-burden tenants and fixed-income seniors so that owners can expand for a fifth year running at 38 percent net operating income would be unjustified, unfair, and harmful under the current dire circumstances. That's why New York City just passed its third rent freeze since 2015. And Rockland rents have been frozen since 2016.

Westchester ETPA tenants' situation is similar to that of our tenants in neighboring communities, but we've raised our rents more than Rockland, Nassau, and New York City for each of the past four years. Westchester ETPA tenants need and deserve our consideration as they engage in an extremely lopsided battle with coronavirus, the economy, and landlords who are refusing to make necessary capital improvements because they can no longer game the system and overcharge for MCIs and IAIs indefinitely.

If we truly appreciate our essential workers and healthcare heroes, many of whom live in ETPA building, and if we believe that redlining, housing discrimination, and systemic racism are wrong (break in audio) our actions should reflect our values. Please do what little we can to support overwhelmed tenants and pass zero percent increases on one and two-year lease renewals. Thank you.

MS. RUBIN: Thank you, Ms. Stewart.

Any questions for Ms. Stewart? Yes, Evelyn.

MS. SANTIAGO: Tamera, last week we had a discussion about what mitigating factors landlords have in terms of mitigating income loss. And there was a discussion about whether or not they qualified for the PPP loans that turn into grants.

In your rebuttal, your written rebuttal, there is a -- one of the bullets says that the CARES Act provides direct relief to landlords with federally backed mortgages. Could you expand on that, please?

MS. STEWART: In the supplement that I sent out on Sunday --

MS. SANTIAGO: Yes.

MS. STEWART: -- there was --

MS. SANTIAGO: On the first page.

MS. STEWART: Right. There was an article in there, in the section on relief that was available to landlords that went into detail about the various assistance that is available to landlords. So -- let me see here.

MS. BARNES: I think it's on page 3.

MS. STEWART: With regard to -- are you speaking about the SBA loans, the paycheck protection program? Because they added the piece where they could --

UNIDENTIFIED SPEAKER: Yes.

MS. STEWART: -- they have enhanced the access to those funds. And there is also an article in there that said that even though they weren't initially supposed to get them, now they have gotten it anyway.

MS. SANTIAGO: Thank you.

MS. RUBIN: Anybody else? If no one else has a question, we will proceed with Mr. Eliot Cherson.

MR. CHERSON: Okay. Good evening, everyone.

MS. RUBIN: Good evening.

MR. CHERSON: That time of the year again.

When I made my rebuttal statement last year, I pointed out that the new -- to the new members of the board, and we had a few last year, about my experiences in the real estate industry as a practicing lawyer in real estate litigation with the specialty in the housing courts of New York City and Westchester County. Mr. Finger has a similar experience and expertise, although he's been doing it a little longer than me. Yes, smile.

All right. Anyway, these are some of the quotes from last year's statement that I find to be just as relevant and worth repeating as most of them have come true. Last year, the HSTPA was passed. And, obviously, Mr. Finger and I made a lot of points about how it's going to negatively impact the landlords. But now it's come to pass.

This is a quote from last year.

> "I am not going to say that every one of my clients is a saint. You can't say that about any business. However, I can tell you that all of my clients, large and small, deeply care about their tenants. They all strive to provide decent and safe housing for their tenants, no exceptions. To do so, they need funds to take care of the buildings.
>
> "The money comes from of only the following four sources: 1, rental income; 2, personal funds; 3, family funds; and 4 would be banks and other financial institutions."

And by the way, before we get into that, taking care of people, the COVID epidemic has added on additional burdens to landlords which they have taken on willingly in sanitizing buildings, cleaning buildings, and doing all of the necessary work in order to keep them as COVID-free as possible.

The first category is rental income. This is by far the largest source. Buildings are fun for a profit. This is no secret. So taking money from personal or family funds is counterproductive and detrimental to the overall financial health of the building.

Next one is bank loans. By and large, this option -- I said it last year that it won't happen. Now we know it has happened. By and large, the option of bank loans, whether it's refinancing or just getting a loan, does not exist as very few, if any, banks will refinance due to HSTPA. The banks -- I've heard this from many clients and have spoken to Chase which is our -- my own bank.

Because of HSTPA, the banks no longer know how to value a building. They used to before, but they don't anymore. And because of these changes, they are not willing, except under the most onerous of conditions, to refinance the mortgage or loan any additional monies. So because of that, the buildings are not worth what they were before. And they're worth substantially less.

People say, whether it's on this board or in the general public, that, okay, it's not such a great business anymore, sell the building. That's a great idea. The problem is that there are no buyers. There are no buyers for the type of rent-stabilized buildings in Yonkers, Mount Vernon, New Rochelle, et cetera, that exists. And even if you have a person who's willing to purchase these buildings which are by in large 100 or -- to 60, 70 years old, they're not there. And if they do find someone, the banks are not willing to loan for the new seller -- I mean, sorry, for the buyer.

So the landlord is stuck with his building. He'd like to sell, but he can't sell. He'd like to do things, but he can't. That's the reality of the situation.

Last year I said the new law would result in the following: A, no more building-wide improvements due to the death of MCIs for new roofs, heating systems, elevators, windows, security systems, repiling gas and water lines, new electric service, et cetera. This is the reality for the past year. No more renovations in apartments such as new kitchens, bathrooms, floors and walls, doors, et cetera. This is the reality of the past year. Any necessary repairs will be done with patches, Band-Aids, and spit. This is the reality of the past year.

And the cause of all of these detriments, cause of all of this, is to the detriment of the tenants due to the elimination of the New York's -- by New York State of vacancy increases, MCIs, IAIs, et cetera.

Most landlords are so disgusted by the turn of events over the past year that they would sell the building but can't find a buyer. As I said, even if they could find a buyer, it would be a fire sale. The buyer probably can't even find a mortgage. And results in buildings they no longer want to own. They will not do any major repairs or renovations. A new tenant will simply get a coat of white paint, and that's it.

And we've talked about this a number of times. They will keep vacant apartments which were rented -- low-rent apartments vacant because they're simply not worth renting at the same exact amount an apartment that a person in all likelihood with a rent that low, you probably had a person living there for many, many, many decades. Grandma, grandpa. And in all likelihood, not much has been done to the apartment. Grandma and grandpa didn't want a lot of things done to the apartment in all likelihood.

So when those apartments in the past became vacant, they needed new bathrooms. They needed new kitchens. They needed new floors, walls, doors, you name it. That cost is extensive. And before at least the landlord can recoup some of that. That no longer exists.

Last year, last year, a year ago in a New York Times editorial dated June 10th, 2019, the New York Times said the government needs to make sure that owners of rent-stabilized buildings are earning a sufficient return so that real estate remains an attractive investment. That was last year.

In an editorial dated June 16th, 2020, which, of course, is this year in the New York Post, the Post said:

> "Tenants hit financially by COVID may be having trouble making the rent, but the Rent Guidelines Board is seriously out of touch to think landlords aren't hurting too and can bear another rent freeze. A rent freeze will worsen the pain for landlords struggling to pay their bills when the lockdowns have left a quarter of all tenants paying no rent at all. To freeze rents, the Board must ignore its own data showing 3.7 percent bump in the landlord's cost," that's New York, "and a 0.6 deduction or dip in their net income from 2017 to 2018", which was the first in 15 years.

Ken Finger gave the numbers last week concerning Westchester. And the move -- this is -- they keep going on. This is from the Post still.

"The move will ultimately harm tenants because landlords will have to cut back on services to survive. Already more and more buildings are falling into financial distress. Ironically, many building owners are the same -- very same people that Mayor de Blasio says he wants to help Mom and Pop operators, immigrants, people of color. But since they aren't as numerous as tenants, he has no qualms about squeezing them."

As the Real Deal stated a year ago, on June 14th, 2019, New York Community Bank, Signature Bank, and Dime Community Bank, which are three of the largest lenders to multifamily rent-stabilized housing, have lost a combined 2.5 billion with a B, B, billion in market capitalization since June 2019 when the new laws became operable. The banks simply won't lend for re-fis or purchases or major repairs.

Another article in the Real Deal on June 18th, 2019 has also come to pass. They said this last year. The removal of vacancy deregulation means that landlords no longer have a clear end-all when attempting to raise rents. At this point under the new rules, landlords have used up all of the available tools to increase rent beyond any approved RGB rent hikes. That means that what we do for Westchester County landlords, we are the only manner, the only way that rents can be raised whatsoever.

Last year when you were listening to me or Ken, you probably thought that a lot of what we were saying about the impact of HSTPA was like scare tactics. But name one of the predictions that I just cited, and these were cited by major publications, not just myself, as -- name one of the predictions that has not come true. There are none.

A few items in rebuttal to Tamara's statements last week and tonight. Ms. Stewart made light of the landlords' allegations concerning apartments renting for less than $800 per month. The surveys of 3,447 apartments, which is six percent of all surveyed apartments, shows that there are 185 such apartments. And of the 185 such apartments, 39 are below $600. 49 are between 601 and $700. 97 apartments are between 701 and $800, again, a total of 185. And if you extrapolate that figure to include all 27,000 ETPA apartments in the county. It comes to 1,620 apartments that are renting for less than $800 per month. It is not any significant figure.

Ms. Stewart also cited Ms. Roche handouts. And she stated that -- Ms. Roche, I guess, you know, she stated that large owners have access to capital markets and several federal programs already offering them billions, that's again with a B, a B, billions in assistance. And then she has footnote number 13 which Ms. Stewart also cited last week, today or last week.

Footnote 13 says:

"In addition to availing themselves of PPP loans not originally intended for landlords and the loosening forgiveness requirements of the June 5 PPP Flexibility Act, the federal government has put in place EIDL loans of up to $2 million with no repayment for one year. SBA bridge loans, forbearance for federally backed mortgages, non-GAAP loan modifications, tax benefits, and $454 billion," again with a B, "in federal reserve programs."

And then she cites an article of some sort. That's just bunk. None of that exists. I mean, don't you think we all would have heard on the news, in publications that landlords are getting 454 billion dollars in federal reserve program? I mean, obviously we saw in the news -- there was a big to-do about large corporations, airlines, you know, huge corporations getting PPP money. Then when it became known, as I recall, most of those corporations were forced to return the monies to the federal government.

Have you heard anything about a $454 billion program to get money to landlords? It doesn't exist. There's no EIDL loans of up to $2 million with no repayment for one year. This is fantasy, pure unadulterated fantasy. It does not exist.

Ms. Stewart also claims that there will be an avalanche of evictions. There is no substantiation of same. The courts are presently in a basically nonoperating state even though the court administrators are like -- are saying otherwise lately. The very earliest any new case will appear on a court calendar in my guess, and it's basically a guess, is September or October. And at that point, the goal of the court system is to have every single tenant have an attorney.

And there will be a conference, a virtual conference like what we're doing between the landlord's attorney, the tenant, pro se -- well, I'm sorry, tenant, and their counsel. And according to Jean Schneider who's an administrative judge in the city, and basically these things apply to Westchester as well, even if you have your first conference in September or October, the next date is probably going to be three months from then. So that will bring us already into 2021 for the second appearance.

In order to have anybody be evicted, you have to have a judgment of possession and you have to have a warrant issued to a marshal. At the present time and for the foreseeable future, the courts, through -- and pursuant to Cuomo's order, have -- and the administrative judges, they have stated unequivocally that there will be no default judgments.

In other words, if a tenant fails to appear, a tenant fails to answer, no default judgments whatsoever. So if a tenant gets a petition and they just ignore it, and people do that, and they just ignore it, nothing is going to happen to them. There is no hammer to make them want to pay the rent because it doesn't exist. And they have stated that that will be the case for the foreseeable future. I don't have a crystal ball that's going to tell us when that -- you know, the old system, the normalcy that existed before March will come back, but it's going to be a long time. It's a very lengthy process. It just is.

Ms. Stewart also stated in her presentation that Assistant Commissioner Guy Alba, quote, signed off, unquote, on Ms. Roche's analysis of the cost of living chart as accurate. When questioned by Mr. Finger about this, Ms. Stewart stated that, quote, Guy Alba included Roche's calculations in the explanatory statement, thereby confirming Mr. Alba's signing off, quote, signing off, unquote. Roche's position is that interest and depreciation should not be included, among other things, because there is this 38 percent profit for landlords.

On June 17th, 2020, Guy Alba responded to Ken Finger's query about this. And Mr. Alba stated, and I'm going to show it to you in a second.

Good morning, Ken. This is June 17th, 2020, last week. I do not, quote, sign off, unquote, on products that I did not structure, create, and analyze on my own or through my staff. Be well and stay safe.

I'm hoping that you can -- that you can read this, or I can send it to Peter. Can I send that to you, Peter, or just scan it through? You're -- you're muted, Peter.

MR. STECKER: Yeah, sure. I can -- I can scan it.

MR. CHERSON: So I'll scan it to you?

MR. STECKER: Yeah, that's fine.

MR. CHERSON: All right. So as soon as I finish, I'll put it in the scanner.

So that -- that -- you know, when I heard that statement, it was like, wow. I mean, if I'm a public member, I'm saying to myself, wow, Guy Alba is endorsing Ms. Roach's figures and Ms. Stewart's claims. That's pretty hefty. I would like Guy to substantiate or acknowledge and agree to some of the claims -- the statements that we're making. But it's not the case. And I think most of us know Guy for many, many years. This is not something he would do. And why Ms. Stewart brought that up and made that statement is beyond me.

Based upon some of the things that Tamara stated tonight, I just have a few other points. And I'm almost done. She stated Westchester County needs affordable housing. There is no doubt about that. New York City needs affordable housing. Nassau County needs, it, Rockland County, the whole state. The whole country needs affordable housing. The landlords can't build it. The only entity that can build new affordable housing is the government, whether it's the state of New York, the city of New York, or the United States Government.

And I think we all know that the United States Government under the present administration, who has been trying for the past three and a half years to cut back on Section 8 vouchers, they're not going to be doing the building that went on, let's say, in the 1970s, the 1960s and 1970s. That's not going to happen.

And as far as NYCHA, is that really something you want to emulate? I doubt it. This is not the burden of private landlords. It is the burden of the government to provide safe and affordable housing for people who can't afford it. It's a simple as that. There's too much --

it takes too much money to build buildings and get a lesser rent because the people are lower income.

One of the things that Ms. Stewart also brought up, and I would too if I was her. Folks have had the rent freeze in New York City. The rent freeze in New York City -- unlike our board -- I'm not sure if everybody understands this or knows it, so if I'm repeating it, please forgive me. The New York City Rent Guidelines Board, all nine of them, are appointed by the mayor of the city of New York. The landlords don't get to pick two sort of like what we do. The tenant organizations don't get to pick two like our board. And the five public members as well are all appointed by the mayor.

And he also designates who the chairperson of the board will be. They're all appointed by him. How many speeches has Bill de Blasio made in the past few months leading up to the RGB hearings in New York City in which he said I want a zero increase, I want a zero increase? That's hard if you're appointed by this guy to say no to. It's almost impossible. That's why there should be a separation to insulate, but there isn't.

It's like federal judges, they get appointed. They're appointed for life. And the president, whoever the president is, can say whatever he or she wants. But the -- it's up to the Supreme Court to make their decisions because the president has no influence over them because they have this lifetime appointment. So that doesn't exist. It's a terrible system in that -- how they do it.

Just last but not least, landlords, despite the statements that have been made, are not getting these loans. They are not getting the financial assistance that has been presented to this board. As a practical matter, it doesn't exist. There has so far been no mortgage relief. There has been no bills passed in Albany that give landlords any type of relief.

For example, taxes, maybe make the taxes payable over more time or reduce the taxes. The taxes, obviously, need to be paid because the city of New York and the city of Yonkers and the city of Mount Vernon all need that money to run the city. And, yes, there's less income tax and sales tax because of the COVID. So where is the greatest source of income? It's real estate taxes. And there is no forgiveness by the states, the cities, the municipalities. We -- it's due July 1st. you have to pay it July 1st. And if you don't pay it July 1st, there are interest and penalties. And that goes for the water charges. And that goes for everything else.

So the tenants have a tremendous break, if that's the right word, maybe not, with regard to the COVID. They don't have to pay the rent now because the courts and system is shut down for all practical purposes. There's nothing a landlord can do you if you don't pay the rent. That's commercial or residential.

And most of my clients I've spoken to, any tenant how goes to the landlord and says I am a COVID victim, I lost my job, they all say, the landlords, okay, I'm sorry to hear it, we understand, how would you like to pay it back, we will give you time, how much time do you want. And by and large, they're more than willing to give payout. And this is without going to court. And that's what all of the landlords are doing even though they're taking it on the chin because not everybody is going to them and saying I would like to pay you, Mr. Landlord, but I need more time. Most people don't do that.

And the commercial premises, they don't do anything. And a lot of them are open. It's not as if they're closed. A lot of them are open. I had one client in (indiscernible) city, huge store, he's been open since the beginning with a very high rent. He pays nothing. And he's got -- because of the COVID and the other stores being closed, he's got probably twice the business that he had before.

MS. RUBIN: Mr. Cherson?

MR. CHERSON: I'm done.

MS. RUBIN: Okay. You want to summarize?

MR. CHERSON: How's that? No. I think I did already. But thank you, Ms. Rubin.

MS. RUBIN: Thank you.

MR. FINGER: Elsa, I have -- I have one --

MS. RUBIN: Yes.

MR. FINGER: -- matter of information I'd like to point out. I understand that the Kavanagh bill that we talked about last week was passed. It is being funded with $100 million that goes to the tenants to make up for the inability to pay rent to those that are paying over 30 percent of their income in rent. And it is -- it actually goes to landlord on behalf of the tenants. So we talked about the Kavanagh bill. So I just wanted to make the board aware that there is financial assistance for those tenants that can't meet their obligations because of the COVID. Thank you, Madam Chairwoman.

MS. RUBIN: Thank you.

Anybody else has a question for Mr. Cherson?

Yes, Ms. Stewart?

MS. STEWART: Hi. I would like to address a couple of Mr. Cherson's points that are inaccurate.

First, please let me know if you did not receive a sheet from the statisticians that says cost-to-income ratio both, one side including interest and depreciation and the other side excluding interest and depreciation, Westchester County, 1987 to 2019. That chart from which Genevieve Roche calculates net operating income is one that initially she first started doing when she was on the board and that has since been adopted by the statisticians such that they include it every year in the paperwork that we receive when they do their presentation.

So it seems to me that if they're providing that information that was first provided because Genevieve Roach started that calculation and they've continued it, that that would imply that they have verified that, in fact, that information is accurate since they are producing it and providing it.

I also recall a number of past rent guidelines, explanatory statements that did include Ms. Roach's calculations in them. So I can't imagine that they'd have been including a bunch of explanatory statements that were inaccurate if there was not somebody taking a look to make sure that the information that was being presented was verifiable. So that's one point.

Another point that Mr. Cherson brought up, in the supplement that I sent on Father's Day, there is an article from Greenberg Gulsker dated April 7th. And the title is Real Estate Implication of the CARES Act. And it is from that article that I make the assertion that there are quite a few options and opportunities, assistance programs that are available to landlords.

The 454 billion dollars is not only available to landlords, but they are eligible to apply as other businesses are eligible to apply, the same thing with the PPP FA where they -- where more latitude is allowed for businesses that apply to be able to get PPP money to use for things other than payroll. So that information I did provide to folks on Sunday. I refer you back to that.

In addition, the -- let's see. The repeated statement that guideline increases are the only way that landlords can increase their income is just inaccurate. Landlords are still eligible to apply for IAIs and MCIs. Granted, they may not find them as attractive as they found in years' past because the percentage that they can charge back has been reduced. And they can't, you know, game the system indefinitely by inflating rent through IAIs and MCIs that say stay in -- that are effective in perpetuity.

However, 30 years is a good long time. And the calculation was done in such a way that landlords do recoup the monies that they spend on MCIs and IAIs that have been approved by HCR. And so to act like that avenue is no longer available is just inaccurate.

On top of that, there was an article that I sent you all on Sunday that says what can an equitable pandemic rental assistance program look like in New York. And one of the points that gets made in that article is that there are a lot of landlords that are having trouble financially because they are overleveraged because of either speculation or monies that they took out of their properties after 2008 and the mortgage crisis. And based on the expectation that they were going to be able to jack up rent in their buildings and get longtime tenants out, get new tenants in, push the rents up to market rate.

And now that HSTPA has finally righted a 20-plus year wrong, landlords are saying, oh, we can't -- our buildings aren't worth anything, we can't do anything. No. It's not tenants' fault that some landlords have chosen to take on more debt than they can comfortably afford. That's got nothing to do with tenants. Tenants certainly weren't the ones that approved these loans. But that article does a very good job of addressing some of those concerns. And that's not me saying that. That is what has been written on the subject.

Last but not least, Mr. Finger just referred to the Kavanagh Act, which, in fact, is designed to provide some rental assistance for some tenants who may be in need. Unfortunately -- and even the people who wrote and passed the bill are honest enough to say it's not enough money, it doesn't include everybody. There are definitely tenants that will fall through the cracks who are in need of assistance. The means test is questionable. And the act is that because the funds go directly to landlords, there -- and at the end, there is no guarantee that tenants are protected from being evicted even after the landlords get the money from program. So those are the key points that I wanted to address.

MS. RUBIN: Thank you, Ms. Stewart.

Anybody else? Yes, Mr. Finger?

MR. FINGER: I have a couple -- just a couple of comments. Number 1, the statute provides that we're supposed to look at data, not newspaper articles. I would suspect that if we wanted to trade newspaper articles, we could spend the next three years finding articles that support our position. And I have a little -- I have a little concern about making decisions about what an article said in either April or May or June or whenever. I'll leave it up to Mr. Cherson to deal with the issue of the -- what he pointed out. But I did -- I am the one that wrote to Mr. Alba.

And certainly, the form is a form that the explanatory statement refers to as it refers to the fact that the survey show that expenses went up more than income in the past four years as it shows that -- what the arguments of the parties were which is what I believe Mr. Alba was referring to when he disputed the fact that he confirmed anything.

Certainly, he does put forth different contentions but at different parties. That doesn't mean he confirms them or affirms them. And I think that Mr. Cherson will submit the --

MR. CHERSON: Done it already.

MR. FINGER: -- email that specifically said he didn't do that.

And another point -- but I lost my train of thought. I'll get back to that later.

MR. CHERSON: Just I've emailed Mr. Alba's statement I think to everybody, Peter and the members of the board. April, I might have left you off. Sorry.

Maybe, Peter, you could send that off to her. That'd be great.

Did everybody get it? Did anybody get it?

MR. FINGER: No.

MR. CHERSON: No. Nobody got it?

MS. RUBIN: I just got it.

MR. CHERSON: Oh. And I might not have sent it to you. I know -- I know you know what's in it.

I mean, the response to -- it is what it is. I mean, here we have the document from Mr. Alba that says no. What Ms. Stewart is saying and Ms. Roach is saying or their allegations about himself and his -- what his representations are is simply not fact, plain and simple.

MS. RUBIN: May I just interject? I think that what Ms. Stewart is implying is that it was a suggestion upon a suggestion from Ms. Roche that this new line, maybe new column was added. And that's what I understand.

MR. FINGER: No, it wasn't added.

MS. RUBIN: Is that correct?

MR. FINGER: This column has been there since I've been on the board for the past 20 years. They've always had that column which doesn't include both the cost of an -- it does include interest and depreciation. But it also doesn't include the cost of MCIs and the cost of IAIs, only the amortized cost. And you have to do it for tax purposes over 27 years.

And the last point that I wanted to make before was that Ms. Stewart said that you get back the cost of your MDCI. Well, what you get back is two percent a year for 30 years. The way I calculate that, if you multiply two percent times 30 years, you get 60 percent. So the maximum you can get back is 60 percent over 30 years.

And I mention this last week, that when you figure out the present-day value of getting back two percent over 30 years, it's certainly nowhere near 30 or -- even 30 or 40 percent. And then after 30 years it comes off the rent anyway.

So, yes, you get something back. You certainly don't get back enough, considering you don't get back the value of the financing to put in a major capital improvement to make it worthwhile doing it.

MR. CHERSON: If I can just add --

MS. RUBIN: Anybody else --

MR. CHERSON: Can I just add something to that, Ms. Rubin?

MS. RUBIN: Sure.

MR. CHERSON: Again, Ms. Stewart said, I believe, hopefully I'm quoting you correctly, that landlords can take on more debt if they wanted -- they could always just take on more debt to put in a new elevator or a roof or something like that, whatever it is. Taking on more debt means that somebody is going to give you the money. And that somebody, unless it's grandpa or Uncle Joe, is a bank. That's who gives the money. That's who, you know, gives you a mortgage, gives you money secured by the building. And they will give you the funds to put on a new roof, for example.

But they're not doing it anymore. Banks are not lending for that purpose anymore because they don't even -- they're worried about getting the original mortgage back. They're worried about getting that amount to add onto it another few hundred thousand dollars or whatever. They're taking an even greater risk. Hey, if they can't pay back two million, how are they going to pay back 2.2 million? And that's the reality that we're living in. It is the reality that we're living in.

MS. RUBIN: Last time we were discussing the EIDL, I think it was Ken that mentioned that it's only $10,000. And I found out that that's an advance that the persons get for -- the people who are borrowing. Beyond that, you can get up to $200,000. So I don't know if people have applied for that, but it's available.

MR. CHERSON: Well, I can tell you --

MS. RUBIN: Well, it's supposedly available.

MR. CHERSON: I can tell you, Elsa, that I know a lot of people in different businesses who have requested that money. The $10,000 was given out very easily. I mean, basically you put in an application, you got $10,000. But nobody has gotten more than that that I know of. And I think there --

MS. RUBIN: I --

MR. CHERSON: -- have been a few articles that the

SBA who runs it, they -- there's been complaints by various politicians in Washington saying, hey, guys, how come you're not giving out the money we gave you? Because they're not doing it.

MS. RUBIN: I know at least two people who have gotten 150- and 180,000 on top of the 10,000 to pay --

MR. CHERSON: But they're --

MS. RUBIN: -- within 30 years a three percent rate so --

MR. CHERSON: Are they landlords?

MS. RUBIN: No, they're not landlords.

MS. ACQUAH: May I say something as well?

MS. RUBIN: Yes.

MS. ACQUAH: Elsa?

MS. RUBIN: Yes.

MS. ACQUAH: Okay.

MS. RUBIN: Go ahead and --

MS. ACQUAH: Right. No. So from what I understand, there are some stop points with that program as well. Whether it's the SBA or if there's an -- if that particular applicant has existing loans or other debt that exists, I think there's some stop points as to what would make them eligible to have -- to receive added funds basically.

MS. RUBIN: Yes. Yes.

MS. ACQUAH: Yeah.

MS. RUBIN: They check the credit for everybody.

MS. ACQUAH: Correct.

MS. RUBIN: If you have a low credit, you don't get it.

MS. ACQUAH: Correct.

MS. RUBIN: Anybody else wants to add to the discussion? Yes, Evelyn first and then Tamara.

MS. SANTIAGO: Okay. I have a question for Eliot and Ken. Kenneth, you mentioned the passing of the Kavanagh bill for the 100 billion dollars for tenants who have difficulty paying their rent. I just wanted to know over what time period those funds are going to be available. In other words, how long will tenants' rents be paid by this bill?

MR. FINGER: I do not know the answer to that, Evelyn. I wish I did. My understanding is it'll be for as long as the money lasts. And it's 100 million dollars. And it's for tenants who have more than thirty percent of their income going to rent. That is the main condition that I understand, somewhat similar, I think, to the condition for Section 8 which is, I think, predicated also on 30 percent. Hopefully, it -- they've already funded it. They're using the federal money coming to the state that they can renew that. But that's up to our legislature. So perhaps we all agree to get to the legislatures. Maybe they'll increase it to 500 million. Who knows?

MS. SANTIAGO: And what percentage of tenants would fall under those guidelines?

MR. FINGER: Any tenant that is paying more than 30 percent of their income for rent.

MS. SANTIAGO: No, I mean the percentage of total tenants.

MR. FINGER: Oh, I have no idea what the -- how many tenants pay more than 30 percent. You can read newspaper articles that say 40 percent of the tenants are, 20 percent, 60 percent. It depends on which articles, which survey, whatever. I have great hesitancy in accepting anything I read these days in the newspaper as fact.

MS. RUBIN: Well, okay.

MR. CHERSON: If I can just --

MS. RUBIN: I think I'm going to go to (indiscernible) --

MR. CHERSON: I just wanted to add to that --

MS. RUBIN: -- and then you, Eliot.

MR. CHERSON: -- if I could.

MS. RUBIN: Tamara first and then you, Eliot.

MR. CHERSON: Okay.

MS. RUBIN: Thank you.

Yes, Tamara?

MS. STEWART: I find it a bit distressing that my colleagues are claiming that the New York Times and the Wall Street Journal are like some, you know, fly-by-night papers that do not provide information, credible information, that's based on data and sources. Meanwhile, you know, there are assertions being made that all the landlords are working with their tenants as if either of the gentlemen has -- could possibly speak to every single landlord in Westchester County to determine that all of them are willing to cut their tenants a break and work with them.

And then there are the assertions about, oh, no one has been able to get more than 10,000. Where is your data? Where is the data to that that backs these assertions that you're making? As much as you want to -- you know, to claim that what I'm saying is not credible, I've at least provided some data, some articles, some courses that at least document what I'm saying.

You're saying that based on your own experience, all of this and all of that. That is highly suspicious in my mind.

MS. RUBIN: Yes, Mr. Cherson.

MR. CHERSON: Two things.

The data that you're requesting comes from the fact that my law firm represents a few hundred landlords. I don't know the exact number, but quite a few. They're in New York City, they're in Nassau, and quite a few here in Westchester County.

And I've been talking to them almost constantly over the past three months while, you know, I have not been able to go to my office. I've been working from here. They all are asking questions. They all -- I talk to them. And they're all saying the same thing. They're not out to hurt the tenants. They're willing to give them time to pay. They understand the COVID. They're not living in some -- on Mars. They certainly understand. And if a tenant wants to work with them, they are more than willing to work with the tenant.

No landlord -- and this is to my detriment, again, no landlord wants to pay legal fees to bring tenants to court, knowing that the system and the courts, whether it's in Westchester or New York, is a pro-tenant, very, very long process of delays, delays, delays. It takes forever to get the money by going to court, if you get it.

And what happens many times with court cases is the tenant doesn't pay, then the marshal gets to the door, knocks on the door. And what happens many, many times, and I know this from my experience, the tenant left.

They skipped, owing the money. The landlord gets none of the rent, and the landlord has to pay the legal fees and the costs. So that's why they would much rather make an agreement with Mr. Jones, a tenant, who's willing to pay the back rent at, you know, 10 percent a month for the next 10 months or whatever it is. All of them want to do that.

I also speak to people -- I'm counsel to the Bronsman (ph.) and Association of Realtors. I deal with banks. I deal with people who own buildings. I deal with brokers. This is not something that hasn't been discussed over the past few months. This is something that's real. Plus there are a lot -- there's been many meetings on Zoom of bar associations and landlords and CHIP and RSA. This information comes from them. And this information is accurate.

MS. RUBIN: Yes, Mr. Finger?

MR. FINGER: Yeah. I just want to say that I have avoided personalizing. And I would hope that when I'm quoted, I'm quoted accurately. You've all heard what I've said. I never called the New York Times or the Wall Street Journal fly-by-nights. And I resent being misquoted. And I'll stand by what words I have and not by those that Ms. Tamara puts in my -- in my mouth.

MR. CHERSON: And I quoted from the New York Times in my presentation.

MS. STEWART: So, obviously, some newspaper articles are acceptable if you quote from them, but somehow if I quote from them they're not?

MR. CHERSON: You know --

MR. FINGER: This is demeaning.

MR. CHERSON: This is --

MR. FINGER: I'm not going to even respond to that.

MR. CHERSON: Yeah, this is -- this makes -- this is not productive to get into that discussion.

MS. STEWART: I did not -- I wasn't the one that made the assertion. You were.

MS. RUBIN: Anybody else has any other -- yes, Eddie May?

MS. BARNES: Certainly, our responsibility is not to -- to be fair with the landlords and with the tenants. And we're all experiencing hard times now. And we certainly -- as to rent guideline members, we don't want to add to people who are homeless. We don't want the landlords to not be able to do what they have to do. And I don't know if you remember, but there are a plethora of -- can you hear me?

MS. RUBIN: Yes, we can hear you.

UNIDENTIFIED SPEAKER: Yes.

UNIDENTIFIED SPEAKER: Uh-huh.

MS. BARNES: A couple of the landlords who presented, they were asked if they were making some money, and they said yes. And I don't know if other people remember that being said, but it made me feel better.

And I just really believe that if the landlords themselves, they're saying, you know, things aren't as bad as, you know, is being put here. But let's look at it from both points of view and try to do the best we can with deciding, you know, what we can do in terms of, you know, what tenants are going to do and the landlords.

MR. FINGER: Hear, hear.

MS. RUBIN: All right. Anybody else have any comment? Not hearing any more comments.

MS. ACQUAH: Yes. Yes, I want to say something.

MS. RUBIN: Oh, go ahead.

MS. ACQUAH: Velene. Velene, yes, yes.

MS. RUBIN: Yes.

MS. ACQUAH: I really -- yes. I definitely -- I agree with Eddie Mae. Her point is that we are here to do the best that we can under the circumstances, especially -- we're in a crisis right now. We're talking about -- and we talked about it the last meeting we're in with the health crisis, rent crisis, income crisis.

UNIDENTIFIED SPEAKER: Um-hum.

MS. ACQUAH: We have a whole list. So where are -- you know, where -- basically, okay, where society is -- where is our society? Where are the priorities? What are the priorities? Okay. Do we choose renters let's say possibly being homeless or do we choose having landlords make a small profit, let's put it that way, instead of a large profit? And I don't know another way of saying that.

But, as I said before, I think for me, as a member -- and looking at the facts, actually, I'm looking at facts. I'm hearing both sides. I'm hearing the facts. We're going to talk about who's suffering the most and who's feeling it the most, who's hurting the most. And I think we're at that point where we have to sort of I would say make also some type of moral decision while we're contemplating what to do with this at this time.

MS. RUBIN: Okay. I want to -- did you finish? I'm sorry.

MS. ACQUAH: Yes, I'm finished.

MS. RUBIN: Yes. I just want to say that as board members, I'm going to ask the -- under the circumstances, because these are very special circumstances, I'm going to ask the owners to make reasonable and fair motions ant to -- same to Ms. Stewart because this is a pandemic, and we are all suffering.

And to my colleagues, the public members, I want to remind you that we are representing both the tenants and the owners. And we have to remember the small landlords. And we have to remember the people who don't make a lot of profit.

So with that said, I'm going to --

MR. FINGER: Eliot.

MR. CHERSON: Yes.

MR. FINGER: Eliot has the motion.

MS. RUBIN: No. We're not ready for --

MS. ACQUAH: No, no motion.

MS. RUBIN: -- to make a motion. I just to say -- I just want to give thanks to each and every one of the participants who came and time of their busy schedules during this pandemic to come to testify in front of this Court. We really appreciate that effort.

And once again, I want to thank our counsel, Peter Stecker, for the tremendous job that he has done and the rest of the staff. April Gray-Huertas is here and so is Francis (ph.) is here tonight. Thank you and the rest of the HCR staff for making possible for us to meet through this venue which was no easy task. I know that.

And again, to my fellow board members for the passion, dedication, and commitment to this mission that we have been entrusted with.

And with that said, I'm going to ask who wants to go first with the motion. Okay.

Mr. Cherson?

MR. CHERSON: Okay. I appreciate -- before I say -- before I make my motion, I appreciate very much what Chairman Rubin just stated. And it says it all, that we know the landlords -- we represent landlords; Ms. Stewart represents the tenants and the five public members who represent the public, which is made up of both. And I'd ask also, just repeating what Ms. Rubin said, that you think about both, not just one.

Based upon this conversation, the hearings, and all of the information that's before us, I would propose a two percent increase for one year and 3.5 for two years.

MS. RUBIN: Okay. Peter, do you want to call the roll for the vote?

MR. CHERSON: Need a second.

MS. BARNES: Wait, wait, wait, wait.

MS. RUBIN: Oh, second.

MS. BARNES: The wasn't a --

MS. RUBIN: Somebody has to second.

MS. BARNES: -- second on that. I didn't hear anybody second it.

MR. FINGER: I second it.

MS. RUBIN: Yeah, sorry.

MS. BARNES: Oh.

MS. RUBIN: Thank you.

MS. BARNES: I didn't hear you.

MR. FINGER: I was -- I was muted. My apologies.

MS. BARNES: Oh, okay.

MS. ACQUAH: Yeah. We didn't hear you. Yes.

MR. FINGER: It's rare when someone doesn't hear me. Ask my wife.

MS. ACQUAH: Oh, dear.

MR. FINGER: Or my children.

MS. RUBIN: Peter, can you call the roll --

MR. STECKER: Okay. Do you want me to call --

MS. RUBIN: -- for the vote?

MR. STECKER: -- the vote? Okay. So just again, the motion was two percent for one-year leases, 3.5 percent for two-year leases, motion made by Eliot Cherson, seconded by Ken Finger.

Ken Finger?

MR. FINGER: Yes.

MR. STECKER: Eliot Cherson?

MR. CHERSON: Yes.

MR. STECKER: Tamara Stewart?

MS. STEWART: No.

MR. STECKER: Eddie Mae Barnes?

MS. BARNES: No.

MR. STECKER: Lamont Badru.

MR. BADRU: No.

MR. STECKER: Evelyn Santiago?

MS. SANTIAGO: No.

MR. STECKER: Velene Acquah?

MS. ACQUAH: No.

MR. STECKER: And Chair Rubin?

MS. RUBIN: No.

MR. STECKER: Okay. That motions fails with two in favor and six against.

MR. CHERSON: Seven.

MR. STECKER: No. There's only eight members on the board right now.

MR. CHERSON: Oh, of course.

MS. BARNES: Yes.

MS. RUBIN: Ms. Stewart, do you want to go next?

MS. STEWART: I would like to make a motion for a zero percent one-year and zero percent for two-year on lease renewals.

MS. RUBIN: Any second?

MS. BARNES: Second.

MR. STECKER: Okay. Chair, do you want me to call the roll?

MS. RUBIN: Yes, please.

MR. FINGER: Who seconded?

MR. STECKER: It was a zero one and two-year motion made by Tamara Stewart, seconded by Eddie Mae Barnes.

So call the roll now?

MS. RUBIN: Could you restate the motion just for clarity, please?

MR. STECKER: Sure. It was zero percent for one-year leases and zero percent for two-year leases.

Okay. So Tamara Stewart?

MS. STEWART: Yes.

MR. STECKER: Eddie Mae Barnes?

MS. BARNES: Yes.

MR. STECKER: Evelyn Santiago?

MS. SANTIAGO: Yes.

MR. STECKER: Velene Acquah?

MS. ACQUAH: Yes.

MR. STECKER: Lamont Badru?

MR. BADRU: Yes.

MR. STECKER: Ken Finger?

MR. FINGER: No.

MR. STECKER: Eliot Cherson?

MR. CHERSON: No.

MR. STECKER: And Chair Rubin?

MS. RUBIN: No.

MR. STECKER: Okay. That motion passes by a vote of five to three.

MS. RUBIN: I think we have a rent guideline for 2020-2021. And if anybody has any comment at this point --

MS. SANTIAGO: I can only -- I would like to explain my vote if I may. I think that as a public member, I indeed -- I think it's our responsibility to look at both sides. And indeed, in my own family, I have people on both sides. I have people who are renting, and I have people who are small owners of properties. And it's the duty of this board to strike a very delicate balance between the needs of landlords and the needs of tenants who may be experiencing financial loss.

But I believe that -- rather, the landlords may be experiencing financial loss. But I believe and I know that, on the tenant side, the needs are more Maslowian, Maslow needs of food, shelter, clothing, the very basic needs.

MS. BARNES: Medication.

MS. SANTIAGO: And so I think that that was why I made the decision that I made.

MS. RUBIN: Thank you, Ms. Santiago.

Yes, Ms. Stewart? You wanted to say something?

MS. STEWART: I wanted to thank the public members and appreciate you for recognizing the asymmetry of both resources available to tenants and landlords at an incredibly difficult time for everyone. I truly hope and pray that the jobs come back, that, you know, the economy rebounds much faster than a lot of what's being forecast.

And certainly when we reconvene next year, we will have a lot more information to see whether it did or it didn't. But there are a lot of people who are hurting right now and will be for the foreseeable future. And I wanted to thank you and appreciate you for recognizing that many tenants have few or no resources to help get them through this difficult time. So thank you very much.

MS. RUBIN: Thank you, Ms. Stewart.

If nobody else has a comment, this meeting is going to be concluded.

MS. ACQUAH: No. I'd like to make a comment.

MS. RUBIN: Yes. Yes, Ms. Acquah.

MS. ACQUAH: Yes. And I do -- I want to echo what Ms. Santiago said. It is about the needs. That's what I have been echoing myself. And I do appreciate the owners and their presentations. And I would say under, quote, normal circumstances, you know, the outcome may have been different. You know, it may have been. But I do appreciate when there is appreciation for a situation that calls for it. And that's my comment for the night.

Thank you.

MS. RUBIN: Thank you. Any more comments? No one else has a comment?

I will ask for a motion to adjourn.

MS. BARNES: So moved.

MR. BADRU: Second.

MS. RUBIN: Second?

MR. BADRU: Second.

MS. RUBIN: Thank you, everybody. The meeting is adjourned.

MS. ACQUAH: Thank you.

MS. RUBIN: Have a good night.

[END RECORDING]

C E R T I F I C A T I O N

The prior proceedings were transcribed from audio files and have been transcribed to the best of my ability. I further certify that I am not connected by blood, marriage or employment with any of the parties herein nor interested directly or indirectly in the matter transcribed.

Signature

Date June 29, 2020

T

U