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NEW YORK STATE DEPARTMENT OF  
HOMES AND COMMUNITY RENEWAL  
WESTCHESTER COUNTY RENT GUIDELINES BOARD  
  
REBUTTAL AND VOTE MEETING

DATE: Monday, June 27, 2022

LOCATION: New Rochelle City Hall  
Room B-1  
90 Beaufort Place  
New Rochelle, New York 10810

TIME: 7:11 PM

REPORTER: BARRINGTON MOXIE

1           MR. STECKER: Okay. Good evening. It's Monday,  
2 June 27th, It's 7:11 p.m. We're here in the New Rochelle  
3 City Hall Council Chambers for the final Westchester County  
4 Rent Guidelines Board Public Meeting for the year. I'll turn  
5 it over to you, Chair.

6           CHAIR RUBIN: Good evening. Thank you for attending  
7 this meeting. My name is Elsa Rubin, Chair of the  
8 Westchester Rent Guidelines Board. I welcome you tonight and  
9 tonight we are going to hear the rebuttals of the tenants  
10 and owners representatives. And immediately after that, we  
11 are going to proceed with the vote. We are going to proceed  
12 with the votes for rent adjustments for leases being signed  
13 or renewed between October 1st, 2022 and September 30th,  
14 2023. I will now take roll call.

15           Velene Acquah --

16           MS. ACQUAH: Here.

17           CHAIR RUBIN: -- public member?

18           MS. ACQUAH: Here.

19           CHAIR RUBIN: Lamont Badru, public member is not here  
20 tonight and he's excused.

21           Eddie Mae Barnes, public member?

22           MS. BARNES: Here.

23           CHAIR RUBIN: Eliot Cherson: Owner representative?

24           MR. CHERSON: I'm here.

25           CHAIR RUBIN: Kenneth Finger, Owner representative?

1 MR. FINGER: Here.

2 CHAIR RUBIN: Sylvia Hamer, public member?

3 MS. HAMER: Here.

4 CHAIR RUBIN: Evelyn Santiago, public member?

5 MS. SANTIAGO: Present.

6 CHAIR RUBIN: Tamara Stewart, tenant representative?

7 MS. STEWART: Present.

8 CHAIR RUBIN: And I'm Elsa Rubin, public member.

9 Let the record show that we have a quorum. On  
10 behalf of myself and the rest of the Board, I'd like to  
11 thank all of you for being here tonight and for attending --  
12 those who attended previous meetings persons representing  
13 tenants and owners, members of advocacy groups who took time  
14 out of their busy schedule to come to testify before this  
15 Board. Your input is very valuable to us.

16 I also want to thank our counsel, Mr. Peter  
17 Stecker, and the rest of the staff for their support to this  
18 Board. I also want to thank all of my colleagues, members  
19 of this Board for your commitment and dedication serving the  
20 Westchester Community.

21 And now, Mr. Stecker, do you have any  
22 announcements?

23 MR. STECKER: Good evening, Chair. The only  
24 announcement I have is to remind everyone there will be one  
25 final meeting this year, which will take place in September

1 to certify the vote that's held tonight. That's for a date  
2 that has yet to be determined. There will be a new public  
3 notice once that date is determined.

4 CHAIR RUBIN: Okay. Thank you. So I believe that  
5 the last time we agreed that the tenant representatives were  
6 going to go first.

7 MR. FINGER: Yes.

8 CHAIR RUBIN: Okay?

9 MS. HAMER: Yes.

10 CHAIR RUBIN: So who's going to go?

11 MS. HAMER: It's going to be me.

12 CHAIR RUBIN: Okay. Ms. Sylvia Hamer is going to do  
13 her presentation.

14 MS. HAMER: Okay. Good evening, Chairwoman Rubin,  
15 fellow board members, Council Stecker, and members of the  
16 public. I first want to wish our board member Lamont and  
17 his daughter a speedy recovery. I know we all on the Board,  
18 wish them both well and keep them in our prayers.

19 Before I begin my rebuttal, I want to put my  
20 response in some context. Although I am currently employed  
21 at Hope Community Services, over 17 years I worked in New  
22 York State and New York City Governments. This includes  
23 working for three governors as a deputy secretary,  
24 overseeing legislation, budgets and policies for 14 agency  
25 boards and authorities. I also worked for the New York

1 State Senate Majority as a senior budget analyst. I worked  
2 for two New York State Attorney General overseeing the  
3 Division of Administration and the Office of the Brooklyn  
4 Borough President as the Chief of Staff.

5           Although I represented a particular interest at the  
6 negotiating table in each position, the one thing I kept in  
7 mind is that at the end of the day, we must do our best for  
8 the people of the State of New York or New York City. As I  
9 drafted this rebuttal, I was reminded of my days at the  
10 negotiating table. And as I sit here this evening with my  
11 fellow Board Members, I hope we consider the best course of  
12 action for the people of Westchester County and not our own  
13 personal interest. That said, I'd like to begin my rebuttal  
14 by quoting a few facts written in Board Member Stewart's  
15 statement last week. We are living through a truly historic  
16 time. Inflation is higher than it's been in decades,  
17 weakening everyone's buying power and forcing tenants and  
18 landlords to take long, hard look at our budgets to  
19 prioritize spending. Inflation is presently topping 8  
20 percent and we are unaware of anyone's salary that is pegged  
21 point for point to inflation. This Board's power is limited  
22 and our ability to help those who are suffering the most is  
23 small.

24           Michael McKee's testimony reminds us that everyone  
25 is affected by inflation, both landlords and tenants. He

1 encouraged us to think about potential increases in dollars  
2 rather than percentage terms, because rent increases are  
3 real numbers that will have a real impact on tenants who are  
4 struggling with paying more every time they purchase eggs;  
5 milk; butter; bread; orange juice; body wash; dish  
6 detergent; paying utilities; or fill up at the gas station,  
7 many items most people take for granted.

8 Tamara Stewart and I agree that landlords and  
9 tenants must work together during these difficult times. As  
10 such, we also want you to keep in mind that the estimated  
11 impact of inflation on the average lower income household  
12 next year amounts to \$433 per month, or \$5,200 a year. Or  
13 you can think of it this way, for every \$1 rents are raised,  
14 it adds to the \$433 per month a family is already going to  
15 have to spend just to tread water. What would this Board  
16 ask renters to give up so they do not get evicted? Should  
17 they give up bread; water; milk; eggs; juice; diapers? I  
18 don't know. That is why we suggest freezing rents for one  
19 year, which is justified by owners NOI of nearly 40 percent,  
20 or passing minimal increases like Rockland County's .5  
21 percent and .75 percent for one and two-year lease renewals.

22 However, we respectfully disagree with the  
23 following statement made during the owner's testimony last  
24 week. First statement. HSTPA has left apartments vacant  
25 and no one wants to rent an unrennovated apartment. Every

1 year we hear from owners and landlords that HSTPA is unfair.  
2 Is that because it eliminated unlimited MCI's and 20 percent  
3 vacancy increases, which used to provide owners with  
4 windfall income and perpetuity they came to rely on, as well  
5 as the means to deregulate and further reduce the supply of  
6 rent stabilized units? Who knows?

7           The expedience of HSTPA is not up for discussion,  
8 nor for this Board to decide. What is up to this Board is  
9 the very thing owners cannot deny, much less address.  
10 They're consistently high levels of operating profit based  
11 on their own survey numbers. Profits that far exceed the  
12 Board's mandate of reasonableness. Let's get real.  
13 Apartments are left vacant not because no one wants to rent  
14 an unrennovated apartment. As we all know, there are  
15 620,000 renters in the metro New York area, that includes  
16 Westchester County. Again, 620,000 renters in the metro New  
17 York area that include Westchester County. All looking for  
18 apartments they can afford. Apartments are vacant because  
19 owners were warehousing apartments while hoping the courts  
20 would overturn HSTPA and because they were unwilling to  
21 accept the rent freeze in effect for the first three  
22 quarters of 2021, which, by the way, did not hurt profit  
23 margins, as apparently neither did the Pandemic, HSTPA, or  
24 the continuing decline in rent stabilized units.

25           As Genevieve Roche correctly notes in her

1 testimony, what difference does their litany of experts make  
2 presenting testimony about individual rising expenses of  
3 their NOI has remained consistently higher than reasonable.

4 Excuse me, my allergies are bothering me, so give me a  
5 minute. My eyes are watering just a little bit.

6 Thank you.

7 Their second statement. Owner's say they really  
8 want to avoid deterioration on their buildings and make  
9 capital improvements, but are left with no safety nets after  
10 HSTPA. They just can't afford a way to improve their  
11 buildings because of the Board's failure to guarantee  
12 reasonable profit. The fact of the matter is that owners  
13 are not willing to dip into their consistently high net  
14 operating profits to fund repairs or impact a return on  
15 their highly-appreciated equity investment to make capital  
16 improvements. In their mind, the only solution is to put  
17 those costs on the backs of tenants. ERAP, LRAP, forgiven  
18 PPP loans that were committed to cover payroll and mortgage  
19 interest. This is not enough for them. It's profits over  
20 people.

21 Third statement. The ETPA a list of things that  
22 can be considered includes cost of financing and economic  
23 conditions of the real estate industry. Yes, the Board can  
24 consider these alone with the supply of housing and  
25 operating costs. However, after considering all of these



1 factors, the mandate of ETPA is to deliver as low a rent as  
2 possible, while permitting owners to realize a reasonable  
3 operating profit. A net operating profit of close to 40  
4 percent six years in a row significantly exceeds anyone's  
5 definition of reasonable, particularly, in the context of  
6 booming real estate values and lower incomes that are not  
7 back to pre-pandemic level, much less factoring in their  
8 depleting buying power due to inflation.

9 Do you know that the current \$1,561 average rent  
10 stabilized rent needs an income of \$62,440. More than one  
11 and a half times the average renters wage. What about the  
12 86 percent of extremely low income renters who are paying  
13 more than 30 percent of income on rent and the 71 percent  
14 who pay more than 50 percent? Should they pay even more so  
15 owners are guaranteed profit at current levels? Did any of  
16 the owners address this? No, they did not.

17 Another statement. NYC PIOC shows the need of 8  
18 percent and 12 percent rent increases just to stay even.  
19 These high increases are needed so that owners do not have  
20 to accept even slightly lower NOI's even if reasonable.  
21 Their next statement says Michael McKee could not convince  
22 New York City Board to go lower than 3.5 and 5 percent  
23 increases. First off, these percentages were misstated.  
24 NYC's new guidelines are 3.25 percent and 5 percent.

25 Now, we all know who appoints the New York City

1 Public Board Members. This Board, like Rockland County's,  
2 should show New York City what a neutral Board can do when  
3 making a decision based on facts, not pack dollars.

4 Another statement that we do not agree with --  
5 agree with, excuse me, is the harmful effect of rent control  
6 that leaves empty nesters in two large apartments that could  
7 go to young families. What does this have to do with  
8 anything? Owner six-year NOI averages and the Board's  
9 mandate to keep rents reasonable in the context of a  
10 reasonable profit, absolutely nothing.

11 Their last argument from owners is why invest if  
12 they cannot make money and there's no incentive to purchase,  
13 renovate, or maintain buildings? The owners aren't making  
14 money? How much money and how much equity is enough  
15 incentive for owners?

16 In conclusion, Tammy and I are asking for the Board  
17 to put people over profit. Please freeze rents, if  
18 possible, for one more year.

19 Thank you.

20 CHAIR RUBIN: Thank you. Any questions or comments  
21 for Ms. Hamer?

22 Yes, Ms. Santiago has a question for you. Are you  
23 okay?

24 MS. HAMER: My allergies are bothering me. Sorry.

25 CHAIR RUBIN: Take your time.

1 MS. HAMER: You could go ahead and ask the  
2 question. Sorry about that.

3 MS. SANTIAGO: No, no worries. So my question is  
4 the NOI for this year was 38.68 percent?

5 MS. HAMER: Yes.

6 MS. SANTIAGO: And over the last six years it's  
7 been almost 40 percent?

8 MS. HAMER: Correct, yes.

9 MS. SANTIAGO: Do we know what like pre-COVID?  
10 What it was pre-COVID?

11 UNIDENTIFIED SPEAKER: It's a lot. Somebody say  
12 something.

13 UNIDENTIFIED SPEAKER: Yeah.

14 CHAIR RUBIN: Excuse me. You cannot interfere here.  
15 You cannot speak. Thank you.

16 MS. HAMER: NOI has been consistently between 35  
17 and even slightly above 40 percent for decades, despite  
18 whatever else has been happening in the economy, good times,  
19 bad times, it has been stubbornly consistent. You know,  
20 even though other factors have had a much greater impact on  
21 certain segments of the population, i.e. tenants. But the  
22 NOI has been very consistent. It was over 40 percent in  
23 2020. A little over that.

24 CHAIR RUBIN: Thank you.

25 Any other comments? No? Questions? Well, hearing

1 no one --

2 MS. HAMER: I just need to step out. My eyes are  
3 burning.

4 CHAIR RUBIN: She needed to take a break. We'll take  
5 a 5 minute break. We'll give her a chance to --  
6 [Whereupon a brief recess was had.]

7 CHAIR RUBIN: Thank you. We will resume and  
8 Mr. Cherson will be doing the presentation for the owner of  
9 Representative.

10 MR. CHERSON: Thank you very much. Everybody can  
11 hear me I hope. Good. Thank you.

12 So, good evening, members of the Board and the  
13 public. First off, I am not going to add to what Mr. Finger  
14 said last week as to the rationale for passing a reasonable  
15 and equitable guideline increase this year. Ken has already  
16 laid out the substantial facts supporting an increase. And  
17 as you know, most of the owner representatives were asking  
18 for 8 and 12 percent, which is nothing but keeping up with  
19 inflation.

20 While preparing for this year's rebuttal, I  
21 reviewed my statements from 2019, '20, and '21, all of which  
22 have occurred after the passage in Albany of HSTPA. That  
23 stands for Housing Stability and Tenant Protection Act.  
24 Make no mistake, HISPA, as you have heard repeatedly by the  
25 witnesses and you see in the data, changed everything. Some

1 points are worth repeating. And it's a reminder to all of  
2 our members here as to what has transpired over the last two  
3 years of zero and close to zero increases.

4 Ken Finger and I are both practicing real estate  
5 attorneys who represent landlords in New York City and  
6 Westchester Courts and administrative agencies. As such, we  
7 have a very real and practical experience for a very long  
8 time. Actually, much too long. In last year's statement,  
9 2021, I referred to a statement from '19 and '20 in which  
10 both years, which I made the following points. And,  
11 basically, what you're going to hear is that some things  
12 just don't change.

13 One. The new rent law HIRPA was passed in June of  
14 2019 and that has resulted in no more building-wide  
15 improvements due to the gutting of MCI's for new roofs;  
16 heating systems; elevators; windows; re-plumbing gas and  
17 water lines; new electric service; et cetera. You heard  
18 from the witnesses, they don't even bother with the MCI  
19 application. The return is much too low and it's temporary  
20 and the cost of repairing it is much too high. So what  
21 happens? They just don't apply for it. It's not as if  
22 they're doing the work and not applying for it, they're not  
23 doing the work. You're not putting on new roofs. You're  
24 not putting in new plumbing, new electric systems. And you  
25 heard about windows. One of the witnesses has been

1 replacing them every year and she had to stop doing it. No  
2 more individual apartment renovations such as new kitchens;  
3 bathrooms; floors; walls; doors; et cetera, due to the  
4 elimination of the vacancy allowance and the gutting of the  
5 IAI increases.

6           Again, you heard the witnesses, you saw the  
7 figures. It confirms the prediction that we all made. Any  
8 necessary repairs are being done with patches, band-aids,  
9 and spit instead of replacing a roof, et cetera, they just  
10 patch up the little area. Again, you heard the witnesses  
11 and you've seen the evidence of it.

12           Vacancies will result in empty apartments instead  
13 of renting to new tenants due to the elimination of the  
14 vacancy increase and the very high cost of necessary  
15 renovations when a 20, 30, or even 40-year tenant passes or  
16 relocates. The owners can simply not afford the cost to  
17 renovate these apartments, which are usually renting for  
18 under \$1,000 and with all that work being done to get  
19 another \$10 per month makes absolutely no sense whatsoever.  
20 And I can tell you, as somebody who practices this every  
21 day, I have many, many clients who simply do not rent these  
22 apartments. They would like to. They would like to  
23 renovate the apartments, but it is just totally cost  
24 prohibitive and they're not doing it and that is because of  
25 what is happening in our real world.

1           I doubt that the legislators and the governor  
2 foresaw, well, the former governor, foresaw this  
3 consequence, but they have done absolutely nothing to  
4 rectify it except a small carve out for market co-ops. Not  
5 even Mitchell-Lama co-ops or lower income co-ops. Only for  
6 so called Fifth Avenue co-ops, that's what I call them. And  
7 the lowering number of rent stabilized units is a cause of  
8 apartments being kept vacant. Again, it's because the  
9 owners can't afford to do the necessary work when an  
10 apartment becomes vacant. The New York Times stated in an  
11 editorial from about two years ago in June 2019, this is The  
12 New York Times speaking, the government needs to make sure  
13 that owners of rent stabilized buildings are earning  
14 sufficient return so that real estate remains an attractive  
15 investment. New York Post 2020, tenants hit by COVID may be  
16 having trouble making the rent, but the Rent Guidelines  
17 Board is seriously out of touch to think landlords aren't  
18 hurting too and can bear yet another rent freeze. A rent  
19 freeze will worsen the pain for landlords struggling to pay  
20 their bills when the lockdowns have left a quarter of all  
21 tenants paying no rent at all. To freeze rents, the Board  
22 must ignore its own data. And the move for zero increases  
23 will ultimately harm the tenants because landlords will have  
24 to cut back on the services to survive. Already, more and  
25 more buildings are falling into financial distress.

1           The real deal is a real estate publication, and  
2 they stated as follows: The removal of vacancy deregulation  
3 means that landlords no longer have a clear end goal when  
4 attempting to raise rent. At this point, under the new  
5 rules, landlords have used up all of the available tools to  
6 increase rent beyond any approved RGB increases. I'd like  
7 to repeat that. There's no vacancy increases. There's no  
8 IAI'S. There's no MCI'S. The only way for landlords -- and  
9 you've heard it from the witnesses -- the only way they're  
10 going to get more money is through what we do here tonight.

11           And you have to remember, of course, that most of  
12 the rent stabilized housing stock in Westchester, like New  
13 York City, is approximately 80 to 100 years old. You have  
14 heard many times about the negative effects of HISPA that  
15 Mr. Finger and the owner representatives who have testified  
16 this year. So what has changed from 2021 to 2022? Let's  
17 summarize. One, the cost of living has increased 8.6  
18 percent. B, fuel oil costs have increased an astounding 100  
19 percent in one year. In 2021, the price in the data went  
20 down 12 percent and went up 15 percent in the current  
21 survey, an increase of 27 percent since 2019.

22           And we certainly know what has happened to the  
23 costs of fuel by going to the gas pump when the surveys were  
24 actually completed. Natural gas costs, if you're lucky  
25 enough to have it, and Con Ed has placed a moratorium on



1 conversions, has gone up 30 percent. Insurance is up 9  
2 percent in the surveys and expected to be 10 percent this  
3 year. Repairs and we're not talking about renovations or  
4 building systems such as roofs, boilers; windows; electric;  
5 and plumbing systems; etc. went down 10 percent in 2021 and  
6 increased 11 percent this year, which is a 20 percent swing.  
7 Why? Because the landlords -- again, the landlords cannot  
8 afford the necessary replacement of old systems and instead  
9 used patches and temporary lower cost repairs. Labor costs  
10 average increase of 5.6 percent to the highest in two  
11 decades. Everything else, where else it's up.

12 Almost -- before I conclude, I would like to make a  
13 few comments in rebuttal to Ms. Stewart's statement of  
14 June 22nd. Ms. Stewart stated in her statement, quote,  
15 landlords continue to thrive. Landlords continue to thrive.  
16 She speaks to the NOI to prove that landlords, in her words,  
17 quote, continue to yield healthy net operating incomes,  
18 despite the pandemic, inflation, HISPA, the price of oil;  
19 insurance increases; labor costs; and the various other  
20 factors presented by the owner advocates.

21 This is simply false. As you heard from the  
22 witnesses, including the professor, the NOI does not include  
23 interest, depreciation, or amortization. These are real,  
24 out of pocket costs. It's not fake. It's not ghost money.  
25 It's real dollars and cents that the owners must spend.

1 Ms. Roche is literally trying to pull the wool over your  
2 eyes without any real justification.

3 ERAP. Oh, boy, here we go again. I have no idea  
4 how Ms. Roche twisted her logic to come up with the idea  
5 that in some way, ERAP monies are, quote -- and in my own  
6 quote -- in addition, unquote, to the regular rental  
7 payments that have come due. It's 100 percent wrong. ERAP  
8 is not a bonus of some sort. It is not more money than the  
9 owner would receive in rents from the tenants had they paid  
10 it. It is simply the government paying the rent that the  
11 tenant owed who didn't pay it during the pandemic. And  
12 Sylvia -- Ms. Hamer, you also said, ERAP is a profit. It's  
13 not a profit, plain and simple. I don't know how else to  
14 explain it. There is no profit. If a tenant owed \$10,000  
15 and they get \$10,000 in ERAP, where's the profit? It's just  
16 the same \$10,000 that they would have paid had there been no  
17 pandemic and the rent had been paid in the normal course.  
18 There is no profits.

19 The Westchester Rent Guidelines Board, for at least  
20 the past 20 years, has voted on the guidelines in the same  
21 manner. The Chair usually asks the landlords to make the  
22 first proposal, which is defeated by a seven to two vote,  
23 because the perception is that the proposed increases are  
24 too high. The tenants then propose either a guideline  
25 reduction or a zero increase. This is also defeated, and

1 usually by a seven to two vote. Then what happens? The  
2 landlords reduce their proposal, which is also defeated, and  
3 the tenants may raise them by .5 percent or so. Also  
4 defeated. Usually after the two proposals from each side  
5 are defeated, a public member makes a proposal. In the past  
6 years, that proposal has been much too low. However, it  
7 passed, including the zero, zero from 2020.

8 We need to change the same old game that we have  
9 been playing. How? Ken Finger and I respectfully request  
10 or suggest that Chair, Elsa Rubin, make a proposal for a  
11 reasonable guideline increase that benefits both the tenants  
12 and the owners. And, yes, we do feel 8 and 12 percent is  
13 the proper number, but we're also realistic to know that  
14 that is not going to pass. It's the public members here who  
15 decide the guidelines. It's not the owner members and it's  
16 not the tenant members. We are simply asking that the Chair  
17 and public members make their decision based upon the facts  
18 and the realities of the situation we find ourselves in,  
19 much of which has to do with the extremely negative effects  
20 of HISPA. If you want the affordable housing stock of  
21 Westchester, which is basically the rent stabilized  
22 buildings we are dealing with, then it is imperative that  
23 after years of none or minimal increases since HISPA, that  
24 the Board pass increases that benefit both the owners and  
25 the tenants. It's on your shoulders.

1           Despite the Albany politicians seemingly endless  
2 cycle of irrational laws and low increases, which only hurts  
3 the tenants. Despite the politicians pandering for votes  
4 every election day. It is in the Chair's prerogative to  
5 make the first proposal. Let's try to chart a new course  
6 from the past that benefits both the owners and the tenants,  
7 which is our responsibility as Members of the Board.

8           Thank you very much for your consideration.

9           Elsa, I'm sorry to put you on the spot that way.

10          CHAIR RUBIN: Thank you.

11          Any questions?

12          MS. SANTIAGO: Yeah.

13          CHAIR RUBIN: Yes, Ms. Santiago?

14          MS. SANTIAGO: I'm going to address the same  
15 question about the NOI's, because when I raised the question  
16 to the tenant representative, we heard an audible response,  
17 so I'm giving a chance to -- for you to respond. The NOI of  
18 being 38.68 percent in the last year and between 35 and 40  
19 percent in the previous years.

20          MR. CHERSON: Well, what is -- Okay. My response  
21 is this; what exactly does that mean? Are -- the NOI of  
22 using that figure is it trying to say that landlords are  
23 making a 38 or 40 percent profit on the income of the  
24 building? Well, of course that's just simply hogwash. It's  
25 not. NOI is a very complicated formula that, personally, I

1 have some difficulty figuring out. I'd like to talk to the  
2 professor over there to try to explain it and I know Ken  
3 does as well. What the tenants are mimicking is just these  
4 figures. You're pulling them out of a big, long study, and,  
5 you know, they pull that out as one thing to show the  
6 landlords are making these huge profits.

7 But you heard from the tenants themselves -- I'm  
8 sorry -- you heard from the landlords themselves. You heard  
9 that they're not making this money. And if they would  
10 make -- think about this: If they were making those kinds  
11 of profits, why would it not behoove them to put a new roof  
12 on the building, to put a new elevator in the building, to  
13 put new windows on the building? Because that would mean  
14 under the scenario where these monies are so high, that they  
15 have all this extra money. What landlord would not want to  
16 improve his building by putting a new roof on it when it  
17 needs it or a new elevator?

18 I remember two years ago when we were here and it  
19 was before the pandemic and the HISPA was just passed.  
20 Maybe some of you remember and an owner testified, he came  
21 up and he said that he had two or three brand new elevators  
22 on order. He put the deposits down for them. And as soon  
23 as HISPA was passed, because it happened just a few days  
24 before we were meeting, he called up the elevator company  
25 and he said, I'm canceling the order. Nobody's putting new

1 elevators in buildings, they're just too expensive. And  
2 nobody's putting a new boiler in a building because they're  
3 too expensive. There's no funds to pay for it. Plain and  
4 simple. Let's look at the reality, not, you know, phrases  
5 like NOI.

6 MR. FINGER: Let me -- I'd like to add also on  
7 that.

8 UNIDENTIFIED SPEAKER: We can't hear you.

9 MR. CHERSON: Ken, move the microphone closer.

10 MR. FINGER: I'm sorry. Can you hear me?

11 UNIDENTIFIED SPEAKER: You have to turn it on.

12 MR. FINGER: Okay. Thank you.

13 When you look at the numbers there's a couple of  
14 things are not included in which we talked about. Number  
15 one, interest is not included and amortization. And  
16 amortization even in old buildings, is a real number,  
17 because in order to do some of these improvements or capital  
18 improvements or whatever, even in the 75 or 100 year old  
19 buildings, the landlords have to take out a mortgage and the  
20 interest cost is a real cost. If you buy the building, same  
21 thing.

22 Secondly, in order to put aside money, you use a  
23 depreciation schedule, which gives you the actual 27 and a  
24 half years or whatever it is, to do certain repairs or make  
25 some capital improvements. So you have to put aside that

1 money in a reserve fund. So that's real too.

2 Those three items in addition the others are not  
3 reflected in the so-called NOI table. Now, there's also a  
4 very complicated mathematical formula that will show you why  
5 it doesn't work in terms of the rentals. But I'm not going  
6 to get into that because we'd be here through next week.  
7 But in any case, it's not an accurate schedule. But look at  
8 the reality. The reality is, if you want people to maintain  
9 and invest in real estate, there also has to be an element  
10 of profit otherwise, why not just put your money in the  
11 stock market, sit there, and watch the Dow Jones double in  
12 five or ten years?

13 So if you want housing to continue, if you want  
14 affordable housing to continue, there has to be an element  
15 of return to a landlord. Profit is not a dirty word. And  
16 that's also in the NOI, which is the, quote, not included  
17 there. So there's a whole number of reasons why it's a  
18 fictitious calculation, because it's not complete.

19 CHAIR RUBIN: Thank you.

20 Yes, Ms. Stewart.

21 MS. STEWART: First, let me start by saying that  
22 the table that we receive from the statisticians that  
23 indicate what NOI is --

24 MR. CHERSON: Is there a question?

25 MS. STEWART: I'm responding to what was said.

1 MR. CHERSON: Well, it needs to be a question.

2 CHAIR RUBIN: It's a comment.

3 MS. STEWART: There was a question about NOI and  
4 about what was said. And this is not anything that I've  
5 made up. This is in the information we received from the  
6 statisticians every year. The statistician's information  
7 that they get, they give to us, and we rely upon that.  
8 They've actually done their work. And net operating income  
9 says that after all the expenses, this is what owners have  
10 left.

11 Now, some owners have mortgages, but other ones do  
12 not. So your insistence -- the owner's insistence that that  
13 has to be factored in does not translate across the board  
14 because all owners are not in the same position.

15 I do have a question, however, with regard to the  
16 assertions that there are no more MCI's and no more IAI's.  
17 I read HSTPA and they are still allowed. Granted, they are  
18 not as much as they were in past years, but the statements  
19 that there are no more MCI's and no more IAI's is  
20 inaccurate.

21 Now, some owners may decide that they don't wish to  
22 fill out the paperwork that would be required in order to  
23 apply now, because there is a higher standard of what they  
24 have to show and demonstrate. But there are new elevators  
25 recently in my complex. There are new rooms that are



1 recently put in the buildings and in one building there was  
2 a new boiler put in. So all of this about owners, no one is  
3 putting it in -- that's not accurate. There are some owners  
4 that are still doing it.

5 Now, in some cases it's because the state is making  
6 them do it, because there are rent production orders in  
7 place and they can't raise the rent until they do some of  
8 this necessary repair work. But I just wanted to clarify  
9 that the statements that there are no MCI's and no IAI's,  
10 that is inaccurate.

11 MR. CHERSON: I did not mean to imply that they  
12 were maybe illegal such as when vacancy decontrol the 20  
13 percent vacancy was eliminated. It's very true that MCI's  
14 and IAI'S were not eliminated on paper. Just on paper. But  
15 in reality, they were eliminated. There are a few people  
16 that are going to apply for them, sure, but very, very few  
17 compared to what was occurring before.

18 I have a client and has a lot of buildings in the  
19 Bronx. They're very similar to the buildings in Yonkers and  
20 Mount Vernon and in New Rochelle. And a new tenant moved in  
21 and he went to the landlord and he says, hey, you know, I  
22 just visited down the hall. I was in the same apartment as  
23 mine, the guy hasn't been living there that long, and he's  
24 got a brand new kitchen, he's got a brand new bathroom, nice  
25 floors. And everything else. How come I don't have that?

1 Why do I have this 40-year-old kitchen and bathroom and et  
2 cetera? And my client said to him, don't complain to me.  
3 Find your assemblyman or senator and complain to Albany  
4 because he -- and he's a pretty big landlord -- they  
5 eliminated all improvements to bathrooms and kitchens.

6 A tenant moves out, the only thing they do -- and  
7 this is quite common in the industry -- they put up a coat  
8 of white paint and that's it. And who's that benefiting?  
9 Who?

10 CHAIR RUBIN: Any other questions or comments?

11 Hearing no one, then I will proceed.

12 I resented the implications that we will do this  
13 that year and the other year and to be throwing suggestions.  
14 So we are going to do it the way we have done it before,  
15 because I don't want to have pressure on me.

16 MR. CHERSON: That's an honest opinion.

17 CHAIR RUBIN: The first motion to do a guideline will  
18 come either from the landlord or the tenants, whoever you  
19 prefer to go first.

20 MR. CHERSON: Well, as I recall, we went first last  
21 time, so I'd ask the tenants to go first.

22 CHAIR RUBIN: And the second motion? After that  
23 motion is made, we will have a second -- somebody to second  
24 that motion and then there will be a discussion of the  
25 motion. Once the discussion is concluded, I'm going to ask

1 the council to restate the motion for clarity purposes, and  
2 then we'll take the vote.

3 So, Ms. Stewart?

4 MS. STEWART: I vote for a zero percent for  
5 one-year, and 1.5 percent for two-years.

6 CHAIR RUBIN: Second?

7 MS. HAMER: Second.

8 CHAIR RUBIN: Mr. Stecker, do you want to --

9 MR. STECKER: You want me to repeat the motion?

10 MR. FINGER: I have a question.

11 CHAIR RUBIN: Yes, go ahead.

12 MR. FINGER: I would like to know the rationale for  
13 that.

14 MS. STEWART: You'd like to know that rationale for  
15 why that's my proposal?

16 MR. FINGER: Yes.

17 MS. STEWART: I gave you the rationale in my  
18 statement in the argument last weekend. It's going to be  
19 the same, which is that net operating income has remained  
20 steady, the economy is bad for everyone, and it hits  
21 tenants -- the inflation is hitting tenants just as hard as  
22 it's hitting landlords and there are some people that are  
23 not as well equipped to weather the storm that we're still  
24 in as some other folks. That's the rationale. We believe  
25 in people over profits.

1 CHAIR RUBIN: Any other questions or comments?

2 MR. STECKER: Okay, Chair, so to restate the  
3 motion, it was a 0 percent for one-year leases, .5 percent  
4 for two-year leases, the motion made by Ms. Stewart and  
5 seconded by Ms. Hamer. Would you like me to call the roll?

6 CHAIR RUBIN: Yes, please.

7 MR. STECKER: Tamara Stewart?

8 MS. STEWART: Yes.

9 MR. STECKER: Sylvia Hamer?

10 MS. HAMER: Yes.

11 MR STECKER: Ken Finger?

12 MR. FINGER: Is that me?

13 MR. STECKER: Yeah, it's you.

14 MR. FINGER: No.

15 MR. STECKER: Eliot Cherson?

16 MR. CHERSON: No.

17 MR. STECKER: Velene Acquah?

18 MS. ACQUAH: No.

19 MR. STECKER: I'm sorry. Was that a no?

20 MS. ACQUAH: No on this one.

21 MR. STECKER: Evelyn Santiago?

22 MS. SANTIAGO: No.

23 MR. STECKER: Eddie Mae Barnes?

24 MS. BARNES: No.

25 MR. STECKER: And, Chair Rubin?

1 CHAIR RUBIN: No.

2 MR. STECKER: Okay. That motion fails by six to  
3 two.

4 CHAIR RUBIN: So now the --

5 MR. CHERSON: Okay. We propose an increase of 8  
6 percent for one year and 12 percent for two years. And the  
7 rationale for that is very simple. You've heard it before,  
8 it is simply the rate of inflation. If an 8 and a 12  
9 percent was cited by this Board, there would be no  
10 additional monies, it would just allow the landlords to  
11 remain running in place. Instead of less money, it will  
12 mean equal money to this year and this year or last year, if  
13 you want to call it was not exactly a banner year. So  
14 that's the proposal.

15 CHAIR RUBIN: Any questions or any seconds for the  
16 proposal?

17 MR. STECKER: I haven't heard a second yet, Chair.

18 CHAIR RUBIN: Oh, the second.

19 MR. FINGER: I second.

20 CHAIR RUBIN: Any questions? Discussion? None?  
21 Mr. Stecker?

22 MR. STECKER: Okay, Chair, just to restate the  
23 motion. 8 percent for one-year leases and 12 percent for  
24 two-year leases. The motion made by Eliot Cherson, seconded  
25 by Ken Finger.

1                   Would you like me to call the roll?

2                   CHAIR RUBIN: Yes, please.

3                   MR. STECKER: Okay. Ken Finger?

4                   MR. FINGER: Yes.

5                   MR. STECKER: Eliot Cherson?

6                   MR. CHERSON: Yes.

7                   MR. STECKER: Tamara Stewart?

8                   MS. STEWART: No.

9                   MR. STECKER: Sylvia Hamer?

10                  MS. HAMER: No.

11                  MR. STECKER: Evelyn Santiago?

12                  MS. SANTIAGO: No.

13                  MR. STECKER: Eddie Mae Barnes?

14                  MS. BARNES: No.

15                  MR. STECKER: Velene Acquah?

16                  MS. ACQUAH: No.

17                  MR. STECKER: And, Chair Rubin?

18                  CHAIR RUBIN: No.

19                  MR. STECKER: That motion failed by six to two as

20 well.

21                  MR. FINGER: Madam Chairperson, I would renew our

22 request. I know you don't want the heat and as Harry Truman

23 said, sometimes you have to get out of the kitchen. I think

24 you're in the kitchen right now. We would ask for the

25 Chairperson of the Board to put forth a proposal. You can,

1 of course, say no.

2 CHAIR RUBIN: I don't have to.

3 MR. FINGER I know.

4 MR. CHERSON: No, you don't have to. No.

5 MR. FINGER: I know you don't. We agree with that.

6 CHAIR RUBIN: I'm going to ask a member of the public  
7 to make a proposal.

8 MS. SANTIAGO: So that would be Eddie Mae, Velene,  
9 or myself; correct?

10 MR. RUBIN: Correct.

11 MS. SANTIAGO: I'm deferring to our senior members  
12 of the public.

13 CHAIR RUBIN: Well, if nobody wants to do it then I'm  
14 going to do it. Okay, I'm going to do it. I propose 2  
15 percent for one year and 3 percent for two years.

16 Any discussions or other comments?

17 MR. STECKER: I haven't heard a second yet, Chair.

18 MS. SANTIAGO: Please repeat that. The motion.

19 UNIDENTIFIED SPEAKER: Second.

20 MS. HAMER: Hold on. She asked if you could repeat  
21 it.

22 MS. BARNES: Could you repeat that, Elsa?

23 CHAIR RUBIN: 2 percent for one year and 3 percent  
24 for two years.

25 Do I have a second?

1 MS. Santiago: Second.

2 CHAIR RUBIN: Questions or comments?

3 MR. FINGER: Before we vote, can we have a five  
4 minute recess?

5 CHAIR RUBIN: What did --

6 MS. STEWART: I was just interested in your  
7 rationale. That's all.

8 CHAIR RUBIN: Good question. Yes, my rationale is  
9 everybody is hurting in this economy. Landlords are  
10 hurting, tenants are hurting and we have to be fair.

11 Also, I have to remind my colleagues, the public  
12 members, that we are here to be neutral and to be in favor  
13 of the people who need the most. People who need the most I  
14 understand are the tenants, but in this economy, in this  
15 crisis, landlords, especially small landlords, are hurting.  
16 That's my rationale.

17 MS. STEWART: Thank you.

18 MR. FINGER: Can I ask if you would accept an  
19 amendment?

20 CHAIR RUBIN: No, I don't accept an amendment.

21 MR. FINGER: Okay.

22 CHAIR RUBIN: No, that's mine. If anybody else wants  
23 to propose something else?

24 MR. FINGER: So could we have five minutes, please?

25 CHAIR RUBIN: Okay. We're going to take a five



1 minute recess.

2 MR. FINGER: Thank you.

3 [Whereupon a brief recess was had.]

4 MR. FINGER: Thank you, Madam Chairperson.

5 MR. CHERSON: Thank you.

6 MR. FINGER: We appreciate the courtesy.

7 MR. STECKER: All right.

8 CHAIR RUBIN: Mr. Stecker, could you please restate  
9 the motion and then we'll take the vote.

10 MR. STECKER: Yes, just to restate, the motion was  
11 2 percent for a one year increase and 3 percent for a  
12 two-year increase. The motion was made by Chair Rubin and  
13 seconded by Evelyn Santiago.

14 Would you like me to call the roll?

15 CHAIR RUBIN: Yes.

16 MR. STECKER: Okay. Chair Rubin?

17 CHAIR RUBIN: Yes.

18 MR. STECKER: Evelyn Santiago?

19 MS. SANTIAGO: Yes.

20 MR. STECKER: Tamara Stewart?

21 MS. STEWART: No.

22 MR. STECKER: Ken Finger?

23 MR. FINGER: Wait. What was the last vote?

24 MR. STECKER: Tamara voted no.

25 MR. FINGER: Yes.

1 MR. STECKER: Velene Acquah?  
2 MS. ACQUAH: No.  
3 MR. CHERSON: What was that? I didn't hear that.  
4 MS. ACQUAH: No.  
5 //  
6 MR. STECKER: Sylvia Hamer?  
7 MS. HAMER: No.  
8 MR. STECKER: Eddie Mae Barnes?  
9 MS. BARNES: Can I have that repeated?  
10 MR. STECKER: You want the motion repeated,  
11 Ms. Barnes?  
12 MS. BARNES: Yes.  
13 MR. STECKER: The motion is 2 percent for one year  
14 and 3 percent for a two year.  
15 MS. BARNES: Yes.  
16 MR. STECKER: And, Eliot Cherson?  
17 MR. CHERSON: Yes.  
18 MR. STECKER: Okay. That motion passes by a vote  
19 of five to three.  
20 MR. CHERSON: No, it's eight people. Five to  
21 three.  
22 MR. FINGER: Five to three. Okay.  
23 CHAIR RUBIN: Well, that's it for tonight. Do I have  
24 a motion to adjourn the meeting?  
25 MR. CHERSON: Motion to adjourn.

1 CHAIR RUBIN: All right. Second?

2 MS. SANTIAGO: Second.

3 CHAIR RUBIN: Thank you.

4 The meeting is adjourned. Thank you very much,  
5 everybody.

6 [END RECORDING]

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## C E R T I F I C A T E

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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.

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*Marisa D'Antonio*

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MARISA D'ANTONIO

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DATE: 07/05/2022

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