

**BY-LAWS OF THE RENT LEVELING BOARD OF  
THE BOROUGH OF FAIR LAWN**

**SECTION 1 – JURISDICTION**

- (A) This Board is constituted under and regulated by N.J.S.A. 2A: 42-74 et. seq., 40:48 – 2, and 40:69A-30 and Chapter 177 of the Code of the Borough of Fair Lawn, 2000 and the Open Public Meetings Act N.J.S.A 10:4-6 to 10: 4- 21 and the Senior Citizens, and Disabled Tenants, Protected Tenancy regulations of N.J.A.C. 5:24-1 et. seq. and, where these by-laws do not make provision, Robert’s Rules of Order.

**SECTION 2 – BOARD MEETINGS**

- (A) The Board, at its discretion, shall meet every other month pursuant to the Open Public Meetings Act, beginning at the annual reorganization meeting in the Borough Hall beginning in January.
- (B) Any member, with the consent of one member of the Board who represents a landlord, tenant, or homeowner group, other than that of the person calling the meeting, may call a special meeting of the Board with 48 hour notice, when there is important business to transact.
- (C) The Board may meet at such additional times as it may deem necessary and in public hearing, public executive session and/or in closed session, as it may deem appropriate in accordance with the Open Public Meeting Act.
- (D) The first meeting of each calendar year shall be the re-organizational meeting.
- (E) The Board may, at its discretion, hold an informational meeting upon the request of a landlord, tenant or other interested party.
- (F) All Board members and alternates are encouraged to attend each and every meeting. Full attendance is a primary aspect of the responsibility of serving as a member of the Rent Leveling Board. If any member knows that he or she is going to be absent, they are to contact the secretary of the Board by 10:00 am on the day of the Meeting, and the secretary to the Board will notify the chairperson if a quorum is doubtful, after having contacted and encouraged all alternates to attend.
- (G) The attorney to the Rent Leveling Board is to attend every meeting of the Board. The Chairperson, Secretary to the Board, and Board Members shall consult with him or her as needed.

**SECTION 3 – QUORUM AND VOTING**

- (A) Quorum – The minimum number of Board members who must be present to conduct the business of the Fair Lawn Rent Leveling Board is a majority (4) of the

**(Revised 3/15/11)**

whole Board (7). Those wishing to form a quorum shall not have a conflict of interest in the matters to be resolved. An unfilled vacancy on the Board does not reduce the number of the whole Board from 7, such that a majority of the Board to form a quorum still remains 4 members present without a conflict of interest.

- (B) Who May Vote – All regular and elevated alternate Board members present at a Board meeting, not having a conflict of interest in the issue to be resolved, may vote. An elevated alternate Board Member is one who fills the seat of an absent Board Member.
- (C) Making Decisions – Except as stated elsewhere in the By-Laws, a majority vote of the votes cast at a meeting in which there is at least a quorum shall be sufficient to constitute a valid decision of the Board.
- (D) Alternate Members – Alternate Members of the Board may vote on an issue only when validly seated for an absent regular Board Member and when he or she has attended all meetings in which the issue to be decided was discussed or at which testimony was taken.
- (E) Abstention – For the purpose of a quorum, a present but abstaining member, without conflict of interest, constitutes a Member of the Board for counting a quorum. Once a quorum is established at a meeting, the abstention of a member does not defeat a quorum. However, if a member declares himself or herself to have a conflict of interest his or her absence defeats a quorum as to that issue if after he or she withdraws, less than four (4) members are present. So long as a quorum exists, the majority of those present and voting are sufficient to pass a motion or resolution provided that the motion or resolution has at least three (3) affirmative votes.
- (F) The chairperson may vote on every issue except those in which he or she has a conflict of interest.
- (G) The chairperson shall not propose any motion or resolution unless he or she yields the chair to the vice chairperson or a temporary replacement.
- (H) Tie Votes – Motions and resolutions that receive a tie vote do not pass.

#### **SECTION 4 – BOARD OFFICERS, DUTIES**

- (A) All members of the Rent Leveling Board filling the seven seats on the Board shall vote to elect a chairperson and a vice chairperson. A majority (4) of the entire seven (7) members Board is required to elect these officers. However, a simple majority may act to elect an acting chairperson for one (1) meeting at a time if the elected chairperson or vice chairperson is absent for a particular meeting.
- (B) Officers of the Board shall consist of a chairperson, a vice chairperson, each of whom shall serve his or her position for a term of one (1) year or until a successor is elected or until December, whichever is sooner. The secretary of the Board shall be a secretary employed in the Legal Department or other department of the Borough.

- (C) The duties of the chairperson shall be as follows and where ministerial, may be delegated with instructions to the Secretary:
1. To conduct all meetings of the Board and exercise general control.
  2. To sign all resolutions made by the Board.
  3. To cause all members of the Board to be notified of all meetings in reasonable advance time, and to arrange for all additional meetings to be held at a time and place convenient for Board members.
  4. To ensure that all interested parties and the general public are notified of the date, time and place of all public meetings.
  5. To regularly report to the Borough's governing body regarding the general work and activities of the Board when called upon by the Board's Governing body.
  6. To appoint a member of the Board to act as secretary in the secretary's absence.
  7. To enforce the by-laws, rules and regulations of the Board and to perform all duties incident to his or her position and office as may be required.
- (D) The Board shall select a vice chairperson, who shall have the power to perform all of the duties of the chairperson in the chairperson's absence, but shall not lose his/or her vote when undertaking these duties.
- (E) The secretary and when appropriate an acting secretary shall have the duty to certify as accurate the minutes of meetings and of the Board as they may be approved by the Board. The secretary may also certify resolutions and determinations of the Board when requested.

#### **SECTION 5 – ORDER OF BUSINESS**

- (A) The order of business at each meeting is as follows:
1. Roll Call
  2. Reading of Public Notices
  3. Approval of the minutes from the previous meeting
  4. Hearing and adjudication of cases continued from prior hearings
  5. Hearing and adjudication of current cases
  6. Hearing of public comments and questions, excluding comment on #4 and #5
  7. Old business
  8. New business
  9. Adjournment

#### **SECTION 6 – TENANT'S COMPLAINTS**

- (A) A tenant may institute a proceeding by completing and signing an approved complaint with 13 copies on Form RLB – 1 and filing it with the Secretary of the Rent Leveling Board and receiving back a stamped filed copy. Appropriate

complaint forms may be obtained at the Borough Hall. A copy of RLB-1 is attached to these By-Laws.

- (B) When filing a Complaint, the tenant shall be advised to obtain and read a copy of the Borough Rent Leveling Ordinance and a copy of the By-Laws of the Rent Leveling Board.
- (C) The complainant shall be required to submit with his or her complaint copies of the written leases pertaining to the rented premises, or other proof of present and previous rent charges. If the complainant wishes, he or she may attach an additional written statement to the complaint.
- (D) The office of the Secretary of the Fair Lawn Rent Leveling Board shall number the complaints consecutively as they are received and filed, and matters shall be presented to the Board, as far as practicable, according to the order of such numbers.
- (E) Where the Board feels that further information or witnesses would be necessary for purposes of adjudication, the Board may inquire so as to obtain such further information.

#### **SECTION 7 – LANDLORD’S APPLICATION**

- (A) A landlord may apply to the Board for an additional rental increase based on the grounds set forth in Chapter 177, Sections 10 and 11, of the Code of the Borough of Fair Lawn, 2000 by completing and signing an approved application with 13 copies on Form RLB-2 and filing it with the Secretary of the Fair Lawn Rent Leveling Board and receiving back a stamped filed copy. Appropriate application forms may be obtained at the office of the Secretary of the Fair Lawn Rent Leveling Board. A copy of RLB-2 is attached to these By-Laws.
- (B) In the filing and signing of such application, the landlord shall follow the requirements mandated by Chapter 177 of the Code of the Borough of Fair Lawn, 2000.
- (C) When filing an application, the landlord shall be advised to obtain and read a copy of the Borough Rent Leveling Ordinance, and a copy of the By-Laws of the Rent Leveling Board.

(Amendment to this provision and Landlord Application form presently under review by Borough Council.) Referenced section marked “Reserved”.

#### **SECTION 8 - PROTECTED TENANCY APPEALS**

- (A) Pursuant to the regulations of the administrative code pertaining to Senior Citizens and Disabled Tenants, N.J.A.C. 5:24-1.1 et. seq. and Chapter 177-13(6) of the Code of the Borough of Fair Lawn, 2000, a tenant whose request for protection is denied by the Borough Clerk shall appeal the decision of the Borough Clerk to the Fair Lawn Rent Leveling Board, in the following manner.
- (B) A tenant may institute a formal Appeal by notifying the Secretary to the Board in writing of the tenant’s appeal, setting forth the grounds and basis for the Appeal and

providing the Secretary with 13 copies of the Appeal along with a \$10.00 filing fee to the Secretary of the Fair Lawn Rent Leveling Board, and receiving back a stamped filed copy.

- (C) An Appeal by a tenant shall be filed with the Secretary of the Rent Leveling Board within twenty one (21) days from the date he or she receives written notice of the decision of the Borough Clerk.
- (D) The tenant shall be required to submit with his or her complaint copies of the written leases pertaining to the rented premises, or other proof of present and previous rent charges and written notice received from the Borough Clerk. If the tenant wishes, he or she may attach an additional written statement to the complaint.
- (E) The office of the Secretary of the Fair Lawn Rent Leveling Board shall number the complaints consecutively as they are received and filed, and matters shall be presented to the Board, as far as practicable, according to the order of such numbers.
- (F) Where the Board feels that further information or witnesses would be necessary for purpose of adjudication, the Board may inquire so as to obtain such information.

#### **SECTION 9 – RESERVED FOR FUTURE USE**

#### **SECTION 10 – NOTICE AND ANSWER; SERVICE**

- (A) Upon the filing of a complaint by a tenant with the office of the Secretary of the Fair Lawn Rent Leveling Board, a copy of the complaint shall be served by the Secretary of the Fair Lawn Rent Leveling Board upon the landlord within twenty one (21) days of such filing by certified mail, return receipt requested. The Rent Board Secretary shall schedule the matter for the next appropriately scheduled meeting and provide the Landlord and members of the Rent Leveling Board with notice of the date, time and place of hearing, along with a copy of the complaint and/or answer.
- (B) Upon the filing of a complaint and receipt of service, the landlord shall have twenty one (21) days in which to file a written answer or reply with the office of the Secretary of the Rent Leveling Board by certified mail return receipt requested. If the landlord submits a written answer, the Landlord shall mail to the tenant the landlord's answer by certified mail return receipt requested or deliver by hand the answer to each Tenant within five (5) days.
- (C) Upon the filing of an application for additional rent increase or hardship increase or other application by a landlord, a copy of the application will be served upon the tenant residing in the affected dwelling units within twenty one (21) days of such filing by certified mail return receipt requested or hand delivery. The Rent Board Secretary shall schedule the matter for the next appropriately scheduled meeting and provide the Landlord and members of the Rent Board with notice of the date, time and place of the hearing, along with a copy of the complaint and/or answer. The Tenant will also be served with notice of the date, time and place of the

scheduled hearing, along with a copy of the application by the Landlord at the Landlord's expense.

- (D) If hand delivered, the party making hand delivery shall submit an Affidavit or Certification explaining the method, success and date of hand delivery and shall be signed by the person who actually made the hand delivery.

### **SECTION 11 – HEARING AND ADJUDICATION**

- (A) The presiding officer of a hearing shall be the chairperson or vice chairperson.
- (B) The attorney for the Fair Lawn Rent Leveling Board shall assist the chairperson and the Board with parliamentary procedure, conducting a hearing, conducting questioning and fact finding, drafting findings of fact and conclusions of law where and when necessary.
- (C) A hearing on any complaint or application shall be opened by introductions of parties and/or their counsel, followed by identification of pertinent documents and other papers.
- (D) Landlords and tenants, as affected parties, shall have an absolute right to appear at a hearing. Parties may be represented by counsel if they so choose at their own expense.
- (E) The Board may request and compel non-party witnesses to leave the hearing at which they will appear when other witnesses are testifying.
- (F) The parties shall be advised to provide for a transcript at their expense if they wish to appeal the decision of the Board.
- (G) The general order of proceedings at hearings shall be as follows:
  1. As each case is called, the Chairperson will introduce the complaint or Application, and shall ascertain whether the Rent Board has jurisdiction to hear the case. Unless there is an objection by any Board member, the Chairperson's ruling will be decisive. If there is an objection, a vote will be taken. If a majority vote decides that no jurisdiction exists, the parties have the right to file an appeal of the Board's decision. If a majority vote decides that jurisdiction exists, the hearing shall proceed. The complainant/applicant and all witnesses shall be sworn. The complainant/Applicant will present his or her own case; thereafter, members of the Board may ask any question of the complainant/applicant or his or her witnesses which they consider to be pertinent.
  2. At the conclusion of the questioning by the Board, complainant or respondent or their attorneys may ask material questions concerning the complaint/application. Each person must state his or her name and address. Orderly procedure requires that speeches or statements not be permitted at this time. After the complainant/applicant or respondent has presented all of his or her testimony, he or she may present witnesses to support the application or complaint. These persons may be questioned by the Board, by complainant or respondent or their representatives.

3. Irrelevant or immaterial or unduly lengthy or repetitive statements may be ruled out of order by the Chairperson.
  4. The Board will not hear or consider testimony concerning statements made by persons who are not witnesses at the hearing. A person may testify only to facts that are within his or her own personal knowledge.
  5. Every party shall have the right to present his or her case or defense by oral and documentary evidence, to submit rebuttal evidence and to conduct such cross-examination as may be required for a full and true disclosure of the facts without being irrelevant or repetitive. The complainant or applicant shall proceed first.
  6. The Chairperson or presiding officer may, at his or her discretion, exclude any evidence if he or she finds that its probative value is substantially outweighed by the risk that its admission will either necessitate undue consumption of time or create substantial danger of undue prejudice or confusion or is irrelevant or repetitive.
  7. Notice may be taken of judicially noticeable facts. In addition, notice may be taken of generally recognized technical or scientific facts within the Board's specialized knowledge. Parties shall be notified either before or during the hearing of the material notices, including any expert's report and they shall be afforded an opportunity to contest the material so noticed. The Board's experience, technical competence, and specialized knowledge may be utilized in the evaluation of evidence.
  8. Upon the completion of the taking of testimony and other evidence, each party or his or her attorney shall be allowed to make a final statement. The Board shall proceed to deliberate either immediately or at the end of the meeting, or on another date, and shall announce which procedure it will follow.
- H) Proceedings before the Board shall be informal in that the rules of evidence generally applicable in trials before the courts of this State need not be strictly adhered to but the statutory and common law and rules of court shall apply.
- (I) Whenever a procedural question arises at a meeting, Robert's Rules of Order shall govern unless otherwise specified in these By-laws. The Secretary shall bring a copy of Robert's Rules to each meeting.
- (J) Members of the Rent Board may not discuss a pending case with a complainant, applicant or respondent or witness except at the Public Meeting.

## **SECTION 12 – DISQUALIFICATION OF MEMBERS**

- (A) Any member of the Board shall be automatically disqualified from participating in a pending matter if (1) he or she has any direct or indirect proprietary or leasehold property interest in the dwelling unit; or (2) he or she is related, by blood or marriage, to a person who has a direct or indirect proprietary or leasehold interest in such dwelling unit.

- (B) Any member of the Board may also disqualify himself or herself if he or she feels that he or she cannot fairly and impartially determine the matter presented to the Board without the necessity of explaining their withdrawal.

### **SECTION 13 – DETERMINATIONS BY THE BOARD**

- (A) All determinations by the Board shall be made by a majority vote of those in attendance but never less than a majority of the quorum.
- (B) In all applications brought under Section 6, pertaining to Tenant’s complaints, Section 7, pertaining to Landlord’s Application for Rental Increase for Extreme Financial Hardship and Section 8, protected Tenancy Appeals, the final decision of the Board shall be by the formal resolution adopted by the Board. These resolutions shall be in writing and shall include findings of fact and conclusions of law and signed by the Chairperson ad Secretary.
- (C) In all other applications and cases, the decision of the Board may be rendered by motion. These motions shall be reduced to writing and forwarded to all parties who appear. The Board may render its determination by formal resolution in the event that the Board deems it to be applicable.
- (D) All resolutions and written decisions of the Board shall be part of the official minutes and shall be certified by the Secretary of the Board.
- (E) The Board shall be responsible for causing written resolution of its final determination on every matter to be sent to both the landlord and the tenant within thirty (30) days following the meeting at which final determination was made. These resolutions are prima facie evidence of the Board’s decision. All Resolutions shall be kept in a Resolution Log and as a matter of public record in the office of the Rent Leveling Board.
- (F) Each resolution of the Board shall bear a number consisting of the last two digits of the year, a dash, and the consecutive number of the Board’s resolution in that calendar year (i.e. 89-001, 89-002, 89-003).

### **SECTION 14 – REHEARINGS**

- (A) The following are grounds upon which the Rent Leveling Board may grant a rehearing:
  1. The Board made a material mistake in its calculations
  2. Proper notice was not given or received by interested parties and this materially affected the decision.
  3. The written resolution differed materially from the Rent Leveling Board’s actual decision.
  4. There is additional material evidence which could not have been discovered by the hearing which is clearly capable of producing a different determination.



5. A member of the Rent Leveling Board failed to disqualify himself or herself in Accordance with Section 12 of these by-laws where that vote would have changed the outcome of the decision.

### **SECTION 15 – APPEALS**

When appeals are taken from a decision of the Fair Lawn Rent Leveling Board the party taking the appeal has forty five (45) days from the date of the written resolution to file an action in Lieu of a Prerogative Writ to the Superior Court, Law Division, Bergen County pursuant to Court Rule 4:69-1.

### **SECTION 16 – BY-LAWS AS A MATTER OF PUBLIC RECORD**

These By-Laws shall be kept as a matter of public record at the office of the Rent Leveling Board.

### **SECTION 17 – FORMS AND APPLICATIONS**

The Board shall have the power to draft and use forms and applications which implement, codify and memorialize the decisions and needs of the Board and shall number them in an orderly fashion.

### **SECTION 18 – ADOPTION AND AMENDMENTS**

The Board shall adopt or amend these By-Laws by a majority vote of the entire Board. Four out of seven votes are required. Proposed amendments may be introduced at any meeting of the Board and shall be voted upon at the next scheduled meeting. No vote shall be taken without first allowing the public an opportunity to discuss the adoption or amendment.

### **SECTION 19 – SEVERABILITY**

If any section, subsection, clause, paragraph, sentence or part of these By-Laws or the applications or forms used by the Board, shall, for any reason, be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of these By-Laws.

### **SECTION 20 – LIBERAL CONSTRUCTION**

These By-Laws shall be liberally construed in order to accomplish the purposes and the public policy of the Borough of Fair Lawn as set forth in the Rent Leveling Ordinance and its Amendments.

### **APPENDIX OF FORMS:**

- RLB – 1      Tenant’s Complaint
- RLB – 2      Landlord’s Application for Rental Increase for Extreme Financial Hardship