

FAIR LAWN RENT LEVELING BOARD

Special Meeting

January 27, 2016

Meeting was called to order at 6:35 p.m. The new Alternate Tenant Member, Marshall Chandler, and the new Board Attorney, Steven Cohen were introduced to the Board.

Present: Michael Aversa, Marshall Chandler, Amy Sprechman DeBellis, Arlene Glassman, Anthony Lauro, Sharon Metzger, Michael O'Dea, Mark Singer and Robert Waxman

Absent: Saul Rochman

Also present: Steven Cohen, Esq., Attorney to Board and Marianne Pettineo, Secretary to Board

Mr. Aversa stated there was a rumor circulating that the Rent Leveling Board was planning to abolish the Rent Control Ordinance, which is not true. The Board was here to make a recommendation to the Council with regards to the Rent Control Ordinance and the Consumer Price Index (CPI).

The Rent Control Ordinance was adopted in 1982 and amended in 1995. He felt it was time to review the Ordinance again. When the Rent Board met in November, he made a suggestion that the allowable rent increase be changed to a flat 4%. The Board discussed the use of the CPI, which has been at zero for the last year and a half. Marshall Chandler noted that the CPI posted today was 0.7%. Arlene Glassman stated that the CPI was low because fuel and living expenses have gone down. There is no reason to remove the CPI from the Ordinance.

Anthony Lauro stated that although fuel prices have gone down, consumption of fuel has gone up. Heating degree days have been up a considerable amount since 2012 and they are consuming more gas. Ms. Glassman pointed out that mortgage percentages have decreased. Mr. Lauro explained that if someone took out a ten year mortgage four years ago and tries to refinance because rates have gone down, they are charged a serious pre-payment penalty to do so. Affiliated Management has mortgages on their properties. If it is cost prohibitive to refinance, they cannot take advantage of the lower rates.

Mr. Chandler stated that energy prices are down 19.9% over the last 12 months in the New York City area. Unless consumption has increased by 20%, there is a savings. Mr. Aversa reiterated that consumption has increased due to colder winters and significant snow storms in the past three years.

Ms. Glassman felt the base rents were already high with some tenants paying over \$1,100 per month. Many people are hurting. The landlords should open up their book to show they are losing money. Mr. Lauro stated they are not losing money; that is not what this is about. Expenses continue to increase. The perception that there are no increases in expenses because fuel is down and interest rates are lower is false.

Mr. Lauro continued that the three buildings owned by Affiliated Management look nice and are well kept. They have been fair in their increases. Even when the CPI was higher they kept their increases limited to the \$10 - \$20 range, and they will continue to do that. If the increases are not there and their revenue continues to decrease, they will not be able to set aside money for roof repairs or new boilers. They will have to cut back and the lawns and landscaping will not look as nice.

As their revenue continues to drop they will continue to file tax appeals. Successful tax appeals will result in a refund that has to go back to the tenants, but the cost of the refund will be borne by the homeowners, who will have to make up the revenue loss for the town. Their suggestion to look at the CPI is based on keeping up with the cost of living. The CPI may say it is zero, but that is clearly not the case with their buildings. Ms. Glassman suggested the landlords show their books and expenses to the Council and let them know they are losing money and need to have an adjustment.

Mr. Lauro stated they are having similar discussions with Rent Boards in other towns including New Milford, where the Ordinance is being reviewed chapter by chapter. There has been no discussion nor interest in changing the 2% increase there. However, New Milford has a tax pass through. There are 24 Rent Control Ordinances in Bergen County but only six use the CPI. Of the six only four towns have a tax pass through but two towns do not, Fair Lawn being one of them. Ms. Glassman stated that she has a survey from the Department of Community Affairs for the entire State that shows many municipalities use the CPI, so the process must be working. Mr. Lauro noted that the CPI did not seem to be working in Atlantic City and Paterson. Ms. Metzger felt they should focus on towns in Bergen County.

Mr. Chandler stated that he reviewed the Rent Control ordinances from other municipalities given to the Board. He is proud of Fair Lawn's Ordinance and felt it was well written. It was progressive to use the CPI, which in some years may serve the landlord better and in other years serve the tenant. They have not had inflation in the last ten to 20 years and as a result, the CPI is increasing very little. Many tenants are on Social Security, which is directly impacted by the CPI, and they should have the same privilege with rent control. He did not see anything flawed with Fair Lawn's Ordinance being linked to the CPI.

Mr. Aversa asked Mr. Chandler if he felt a zero increase for landlords last year was acceptable. Landlords are not able to save funds for roof repairs. In their Fair Lawn apartment complexes Affiliated Management has 15 boilers and over 25 water heaters, which are changed periodically. They have over 100 different roofs, all of which are at a maximum of 25 to 30 years old. The CPI also impacts landlords who rent their home and have their taxes increased.

Between 2011 and 2012 the taxes at Hollow Run increased 62% and their second complex had a 79% tax increase. Mr. Chandler asked if they were pursuing a tax adjustment. Mr. Aversa reiterated that any refund from a successful tax appeal goes back to the tenants. Many years ago when the allowable increase came through at 4%, a tenant wrote him a note saying that would be difficult for her and he adjusted the increase. That is how they run their complexes. Apartments renting near fair market price of \$1,595 could never be increased 4% because the tenants would move. In those cases they only give increases of \$5, \$10 or \$15.

Mr. Chandler stated that if Mr. Aversa wasn't going to take advantage of the opportunity that the current Ordinance allows and keep rent lower than what the CPI would permit, why then did he want to remove the CPI? Mr. Aversa explained that increases were needed on their other apartments so they can pay for repairs, snow removal, landscaping, painting, etc. Mr. Chandler stated that although he is a tenant now, he was once a homeowner in Fair Lawn. He knows what it takes to maintain a home. You have to budget in items such as hot water heaters or dishwashers replacements as part of the expense base.

Bob Waxman stated that the CPI is a Government set index that is not based on any prejudicial assumptions. It is based on inflation and a whole package of commodities. He does not know of any better index than the CPI if it were to be eliminated, other than taking the landlord's suggestion that perhaps there should be fixed amount added into the Ordinance. He thought that Ms. Glassman's point is a valid one. There is a clause for hardship. If the landlords feel their expenses are sufficiently higher than the rents provide, they have an avenue to pursue. They would be required to demonstrate that they cannot make ends meet. To simply say the CPI should be abandoned for a fixed amount does not seem to be the solution. Ms. Glassman clarified that Mr. Aversa had proposed getting rid of the CPI at their last meeting but that discussion was ended.

Mr. Lauro noted that he stated earlier he was not claiming a hardship. However, if a 0% CPI remains and they are not able to do the things they continue to do and have done for the past 30 years on their properties, there is no doubt the properties will deteriorate. The problem with the hardship clause is that properties do not qualify until they are deteriorated. The clause is set up in such

a way than unless a landlord is bankrupt he/she is not going to receive a hardship increase. Mr. Chandler stated that the hardship clause states that if a landlord's expenses exceed 60% of revenues then an application can be made. That is not bankrupt. Mr. Lauro stated it was close.

He continued that the Board's recommendation to the Council does not have to be an increase of 2%. The landlords just want the Council to review the Ordinance. The Council can proceed however they want but it is the Board's job to make a recommendation that they look at the Ordinance. Since there was a ceiling on the CPI perhaps they could add a floor. Ms. Metzger suggested installing a floor of 2% and a floor of 1% for seniors. She asked Mr. Aversa to provide some examples of actual rent increases based on those percentages to help tenants realize the amounts were not as large as they perceived.

Attorney Cohen felt many people present tonight were not aware of what the Ordinance says. He explained that in a 12 month period the maximum rental increase is 4% or the CPI, whichever is less. If the CPI was 15%, the most landlords could charge is 4%. If the CPI is 0%, the landlord can only charge 0%. Mr. Aversa explained that a 2% increase on a \$1,200 rent would be \$24 and a 1% increase would be \$12. Ms. Metzger stated that she is a homeowner on a fixed income and has various expenses. She did not think it would be unfair to add a 2% floor, with 1% for seniors. Ms. DeBellis agreed. Mr. Aversa noted that he has given a \$10 discount to seniors and veterans in the past, but no one has approached him recently.

Mr. Aversa stated that Fort Lee was known for having a strict Rent Control Ordinance, but they allow a 5% increase on renewals and 3.5% increase for seniors. In Fair Lawn they can do a \$50,000 to \$60,000 renovation and bring apartments up to fair market price. In Fort Lee they cannot do that so the tenants are sitting in apartments that are not upgraded. Mr. Chandler felt that was an excellent clause in Fair Lawn's Ordinance to allow landlords to do renovations. Ms. Glassman stated that Fort Lee had a 5% increase at the same time Fair Lawn drafted its current Ordinance, but it didn't matter to them. They wanted to do what was best for the citizens and they felt the CPI would work best for Fair Lawn.

Michael O'Dea stated that he is a landlord representative. He respects that people are proud of Fair Lawn's Rent Control Ordinance and its use of the CPI. From his perspective, though, it is very difficult to operate a property when your increases have to be zero. At their last meeting the Board said they felt the need to consider at least having a floor to the CPI, which was reasonable.

He is a landlord representative in many towns and they are careful with increases because they want to keep their tenants. They give the increases that

the market can bear but they also abide by the Rent Control Ordinances. It is very difficult to be in a town where they do not have the ability to increase anything. Fuel is a big part of their expense, but it is not the only one, and expenses are going up. They are not asking to have a 4% Rent Control Ordinance, but they would like the Board to consider putting in a floor and something to give them a gradual increase that would help them operate a business the way it should be operated.

Mr. Waxman stated that Mr. O'Dea was assuming the CPI would remain at 0%, but that has not been the history. News reports keep stating that interest rates will be increasing, which means the CPI will increase as well. The CPI is there to reflect current expenses. If expenses go up the CPI will go up. Mr. Lauro asked if Mr. Waxman was suggesting that they also remove the ceiling from the CPI. Mr. Waxman stated the ceiling was added with the feeling that tenants, especially those on fixed incomes, can only bear so much of an increase. The safety valve for the landlord is the hardship portion of the Ordinance. If the 4% ceiling is not sufficient for landlords to make a profit, they have the hardship clause to fall back on.

Ms. Metzger thought the CPI has been at 0% for four years. Mr. Lauro clarified that in January, 2012 the CPI was 3.8% and it has gradually decreased since then. Mr. Waxman did not want to go to the Council with a recommendation based on a temporary occurrence. They are in an unusually low period because interest rates have been kept low, which should be reflecting in mortgage rates.

Mr. Aversa noted that the CPI takes into consideration many things like agriculture and commodities. Mr. Lauro stated that the Clinton Administration removed Fuel from the CPI. Mr. Waxman noted that benefitted the landlords. Mr. Aversa reiterated that there are many expenses involved with maintaining the properties so that the tenants are happy living there. He has already started cutting back on chemicals for the lawn. They are asking for something to bring to the Council. The appearance of their properties reflects on the entire town and keeps home values increasing. If the apartments on Chandler Drive were in disrepair the value of the town would decrease.

Mr. Waxman reiterated that there is hardship clause for landlords that are not meeting 60% of their expenses, but it requires landlords provide their records to show that they are not meeting their expenses. He did not feel a floor on the CPI was a necessity.

Mr. Singer stated that with the market changing this might be a moot point. That notwithstanding, ultimately this is going to be a decision that the Council has to make. He is somewhat sympathetic to the tenants who have to pay their rent, but as a homeowner he did not want to see maintenance cut back and

have the apartments become an eyesore. He would support making a recommendation that the Council investigate the particulars, but he did not want to specify an amount or number. The town needs to weigh the interests of the tenant in two regards - the properties they live in and their ability to pay - plus the landlords' concerns. They need to decide whether or not to ask the Council to look at this. He felt the landlords deserve that much.

Mr. Waxman felt that the summary in the last minutes gave the impression that the Board is recommending to the Council that the current situation is not adequate and they should do something about it. He did not agree with that. It should be worded that the landlords are concerned without making a Board recommendation to the Council that there is a problem that has to be solved. Ms. Glassman agreed. Mr. Singer was reticent about making a firm decision because he did not feel he had a handle on it, but they are hearing from three landlords who are saying there is an issue. They have a good track record in town and their properties are good and tenants are happy. They are owed a "look-see". He did not feel the Board had the merits to fathom their case be it making more money or keep up the property. The Council, who ultimately decides this matter, has to consider all sides.

Amy DeBellis agreed with Mr. Singer. She has been a homeowner for many years and now she is a tenant. She is also a businesswoman who appreciates how well kept her apartment complex is. She wants to be proud of where she lives. The landlords have been respectful to tenants throughout the years, and have been careful about not raising the rents too high. They are blessed to live in a town with rent control.

As a realtor she sees apartments all over Bergen County and notices the difference between a well-run management company and a poorly run company. She didn't want rent control taken away, but she also knows there should be negotiation and understanding of both sides. They are telling the landlords they have to be almost broke before the Board will allow any type of change. They should look to see what can be done so that everyone walks away feeling this is fair. They have to allow the town to look at something that will benefit everyone. By allowing a 1% floor on the CPI the buildings will continue to be well kept, which adds to the tenants' quality of life. She would like to take a look at everything to be fair to all sides, although she felt it would be better to have the Council, who has experience negotiating and understanding what has to be done, hear about the situation as they are in a better position to make the recommendations.

Ms. Glassman agreed that is where the Council comes in. The purpose of the Rent Leveling Board is to hear cases when the law is being violated. This is place for tenants to turn if they are being overcharged or there is a reduction in service. She noted that Mr. Lauro stated the hardship clause only helped when

the landlord was almost bankrupt, but maybe those were the only landlords who opened up their books and showed their expenses.

Ms. DeBellis stated that the landlords run a business with payroll and expenses. She did not want landlords to make a lot of money on the backs of the tenants, but the Board cannot tell the landlords they cannot help them unless they are almost broke. She does not want her services cut or poor snow removal. There has to be a happy medium without hurting either party. The landlords are running a business.

Ms. Glassman noted they do not know where the landlords stand because they do not expose their books. Ms. DeBellis stated that she understands the concept that landlords need help. The numbers show that the CPI has been very low. She misunderstood at the last meeting and thought the CPI had been under 1% for four or five years but she is learning that is not the case. They should not make a judgement on a one or two year lower amount. That is something that should be up to the Council and not the Rent Board.

Mr. Chandler stated that he is a tenant and a businessman in retail. Businesses are cyclical and there are times when his margins are better than other times. Compared to a fixed amount that he sees in other communities, the CPI gives them the flexibility to address the economic conditions as they exist and evolve.

Mr. Waxman noted that the Rent Control Ordinance has been in effect since 1982. This issue has occurred at a time when the CPI is exceptionally low, but he felt certain it will improve once interest rates are increased. Landlords have kept their properties very well and have survived all these years with the Ordinance as it is. He wondered if they were overreacting to a short, one and half year period, when the CPI was near zero.

Mr. Aversa asked about the Board's vote at the November meeting. Ms. Pettineo stated there was majority consensus to inform the Council that the Board would be holding a special meeting in January to discuss the CPI, specifically with a view towards installing a floor on the CPI. The Board did not want to list a specific percentage at the time and wanted to discuss the matter further.

Mr. Waxman stated that if the Board was going to bring this to the Council it must be made clear that the landlord members of the Board are recommending putting in a floor, but it is not the general consensus of the Board members. Ms. Pettineo reminded him there was majority consensus – four members vs. three – to send a memo alerting the Council that the Board was going to have a special meeting in January and including a recommendation

that the Council, either jointly with the Board or individually, meet to discuss installing a floor on the CPI. The memo to the Council was drafted by Attorney Tregidgo.

Mr. Waxman felt they should present a new resolution to the Council that more accurately reflected what is going on. The landlord members have made a strong point for having a floor on the CPI, which he does not dispute other than not having any numbers. He felt they should make a new recommendation to the Council that the landlord members are recommending the Council look at whether the CPI is fair as an increase amount. Ms. Pettineo reiterated that the entire Board voted, not just the landlords.

Ms. Glassman felt it was inappropriate to bring up the fact that the landlords are asking to change the Ordinance. The matter should have gone directly to the Council. Attorney Cohen stated that although he was not present at the November meeting, he did not agree with her statement. The Board's function was to hear tenant appeals on improper rent charges, but it was also designed to make recommendations to the Council as stated in the By-laws. He felt it was entirely appropriate for the Board at the conclusion of the meeting to make a motion to bring any issues before the Council. Ultimately it will be up to the Council to decide if they wish to act upon the Board's suggestion.

Arnold Cohen, 13-37 Sperber Road stated there was so much wind coming through his casement windows at his apartment in Knollcroft Gardens that the curtains were blowing. He has lived there 50 years and does not notice any maintenance. All they do is water the lawns. He did not see how Knollcroft Gardens could justify an increase.

Ignatz Gary DeStefano, 14-06 Chandler Drive stated that he was a senior citizen, a veteran and disabled. The landlords do not care that they did not get a raise in Social Security and that their Medicare and prescription costs increased. He noted that Ms. DeBellis worked in Real Estate and asked if she rented apartments in Fair Lawn. Ms. DeBellis stated that she did not. She assured him there wasn't a conflict of interest.

Mr. DeStefano felt that the rents should be decreased not increased. Tenants will not be able to afford food or will be forced to move out. There are problems in his apartment that he lives with because he likes being in Fair Lawn, but he stressed that he cannot afford raises.

Sheila Kornreich, 20-14 Chadwick Place stated that she used to be a member of the Rent Leveling Board. She felt the Ordinance was working. She is a senior citizen living on Social Security and has lived in the same apartment for over 30 years. The heat works properly and the landscape is maintained. Her only

concern was that the Ordinance is based on a monthly CPI, as sometimes the allowable increase for her renewal month is higher than the previous month.

Laurence LaCasse, 19-23 Chandler Drive thought the rent in Fair Lawn is good. If the landlords start getting 2% or 4% floors without him receiving a comparable increase in Social Security, he will move to affordable housing. He likes the Ordinance the way it and does not think it should be changed.

Frances Tamler, 13-23A Sperber Road stated she did not have any complaints about the rent because she only pays \$700. She has lived in her apartment for 57 years. When she was living at Knollcroft she had a parking spot, but now she does not. When she goes home tonight she may have to park very far away. She asked why the tenants couldn't have their own individual parking spots. She is frustrated with Knollcroft tenants who park in her complex and take their parking spaces. Mr. Aversa advised her that Knollcroft charges their tenants for parking spaces while Affiliated Management does not. He will look into the matter of Knollcroft tenants parking in the Affiliated Management lots.

Ellen Taner, 0-30 Hamlin Court felt the Board should give the Council a specific recommendation that they can vote on, such as Ms. Metzger's suggestion that they have a 2% increase with a 1% increase for seniors or keeping the CPI but have a floor of 1%, rather than ask the Council to review the Ordinance and have them choose what they want. The Board might not like the final result.

Ms. Glassman stated she was very involved in the process for the current Ordinance. The Council asked various people, including members of the Rent Leveling Board, to attend Council Work Sessions. It was done very methodically. Mr. Singer stated that the Council answers to tenants, homeowners and landlords. He did not understand why Ms. Taner felt the Council would not take this matter seriously. That is their job. He did not feel the Rent Board should supersede the Council.

Rita Schochet, 13-51 Sperber Road stated she has lived in her apartment for 41 years. The grounds are beautiful, but the apartments need upgrades. The prices for garages have gone up to \$90 per month, so her rent is now \$1,000. She will not get an increase in Social Security and there is no interest on her savings. She was thankful that she did not get an increase last year.

Charles Katz, 13-08A Sperber Road considered the CPI the measure of fair play between the greedy and the needy. It is a wonderful instrument to keep the powerful from oppressing the general population. He highly recommends that the Board does not ask the Council to reconsider or undermine the CPI. He disagreed that there is an increase in heating volume. The increase is the result

of more tenants who bring more income. He is dependent on the CPI as he is on a fixed income. He noted that real estate properties get tax exemptions for replacing boilers and rent increases when they do renovations.

Mark Hann, 15-57 Chandler Drive did not think the Board could make an informed recommendation without seeing the financial information from the apartment complexes' landlords. He feels his is paying a fair rent of \$1,400 for a comfortable apartment that is well maintained, but milk and bread are expensive and his daughter's tuition is increasing.

Lascinda Goetschius, 13-21 6th Street stated that her mother, who is on fixed income, lives above her in a two family home. The landlord wanted to increase her mother's rent from \$791 to \$1,200. Without the protection of the CPI, her mother would have been forced to move.

Mr. Aversa explained to the public that single family and two family homes are also covered under Rent Control. Ms. Glassman stated she wanted to keep it that way. Mr. Aversa noted that most towns did not have rent control on single or two family homes. Ms. Glassman stated they do what is best for their citizens. Fair Lawn is one of the better towns. Mr. Waxman noted that he reviewed the other ordinances and in most towns single family homes are exempt from rent control.

Arthur Cohen, 13-37 Sperber Road stated that he cannot run his air conditioner or any appliance in his apartment without blowing a fuse. The electrical and plumbing are terrible. He would like the landlord to justify what he does. Mr. Aversa stated that most of the apartments were built in the 1940's.

Mr. Waxman made a motion, seconded by Ms. Glassman, that the Ordinance remain as is and that the CPI be the guiding amount, under the assumption that landlords will benefit when it increases. He noted many people present tonight were on Social Security, which also uses the CPI. Mr. Waxman and Ms. Glassman voted in favor, Ms. DeBellis, Mr. O'Dea, Ms. Metzger and Mr. Aversa voted against and Mr. Singer abstained. The motion did not carry.

Mr. Aversa suggested adding a 1% floor to the CPI and sending a recommendation to the Council stating the same. Ms. DeBellis asked what would occur in the CPI increased to 1.2%. Mr. Aversa stated the increase would be 1.2%. Attorney Cohen explained that the current Ordinance states the landlord can increase the rent up to 4% or the CPI, whichever is less. An increase can never exceed 4%. The present motion is asking to create a floor of 1% so that at a minimum the landlords have the right to raise the rent 1% if they wish.

Mr. Aversa made a motion, seconded by Ms. Metzger that a memo be sent to the Council recommending they consider the installation of a 1% floor on the CPI. The motion passed with Ms. DeBellis, Mr. O'Dea, Mr. Aversa and Ms. Metzger voting in favor and Ms. Waxman, Ms. Glassman and Mr. Singer voting against.

Mr. Singer explained that he voted against the motion because he was no closer in understanding this issue. Both the tenants and landlords had good concerns. He felt the Council needs to work on the Ordinance and do a further review.

Ms. Pettineo reminded the Board that at the November meeting she advised them that there are numerous landlords who rent out single and two family homes. Most are not aware there is a Rent Control Ordinance so they are not in compliance with the allowable rent increases. Ms. Glassman stated that the Fair Lawn Tenants' Association put a notice in the Community News when Sylvia Tedona was secretary, and Ms. Tedona was inundated with calls from landlords. She hesitated to do that again because it would be a hardship for the Board Secretary and the Clerk's office to handle all the calls. Attorney Cohen stated that the Borough administration would have to be prepared if the Board decided to go that route.

Adjournment:

There being no further business coming before the Board, upon motion by Mark Singer, and a second by Michael Aversa it was unanimously agreed to adjourn the Special Meeting at 8:30 p.m.



Marianne Pettineo
Secretary to Board