

FAIR LAWN RENT LEVELING BOARD

July 16, 2013

Meeting was called to order by Chairman Aversa at 7:35 p.m.

A statement was read by Chairman Aversa that the meeting complied with the New Jersey Open Public meeting Law.

Present: Michael Aversa, Marilyn Carlin, Arlene Glassman, Sharon Metzger, Michael O'Dea, Mark Singer, Robert Waxman and Saul Rochman (left early).

Absent: Anthony Lauro (Alternate Landlord)

Also present: Charles Tregidgo, Esq., Attorney to Board and Marianne Pettineo, Secretary to Board

Correspondence: Secretary Pettineo reported that a condolence letter was sent to the family of former Rent Leveling Board member, Leo Ciesielski. A copy of the letter had previously been emailed to the Board members. Letters were also sent to Michael Aversa on April 9, 2013, confirming final approval for vacancy decontrol applications submitted by Bergen Properties and Fair Lawn Properties at the March 19, 2013 meeting. A letter was also sent to Michael O'Dea confirming final approval for application submitted by Radnor Manor.

Tenant's Application for Rent Determination or Order Adjusting Rent filed by Tenant Daniel Furman against Landlord Anabelle Varela Re: Premises Located at 18-02 Berdan Avenue, Fair Lawn, NJ 07410:

Attorney Tregidgo stated that the purpose of tonight's hearing is to consider an application submitted by Mr. Furman pursuant to the Rent Control Ordinance. The Rent Leveling Board has the authority to hear such application under Section 177-13.A4. Tonight's applications pertains to Section 177-14 – Standards Maintained, which stipulates that landlords shall maintain the same standard of service, maintenance, etc. as he/she provided at the date of the lease agreement between the landlord and tenant.

Attorney Tregidgo swore in Mr. Daniel Furman, 18-02 Berdan Avenue, Fair Lawn, New Jersey. Mr. Furman stated that he filed the complaint because the same standards were not being maintained at the house that he rented. The central air conditioning system is no longer working and after multiple requests to get it fixed, the landlord has still not complied. He would like to obtain a judgment against the landlord.

Mr. Furman testified that he made the landlord aware of the non-functioning air conditioning on May 31, 2013. (Actual date was May 21, 2013). He sent text

messages, emails and a letter, copies of which were supplied to the Board. A technician came to service the unit on May 25, 2013 and determined that the unit needed to be replaced. The landlord did not want to replace the unit, so he provided Mr. Furman with a single air conditioning unit, which does not maintain the previous level of service.

Mr. Furman provided a copy of his text message to the landlord. (Exhibit T1). The repair quote submitted by the landlord as evidence indicated that he would need to repair the unit or recharge it with refrigerant to bring it back to working order. However, the landlord did not pick either option but instead responded that he would supply a single window unit. Mr. Furman was told that if he purchased the unit himself, the cost should not to exceed \$200.00 unless he was planning to purchase the unit and take it with him at the end of the lease.

Member Glassman asked Mr. Furman how long he was without air conditioning. Mr. Furman stated that he notified the landlord on May 21, 2013 as per a text message (Exhibit T1). He is still without air conditioning. Ms. Glassman asked if the Board was missing any text content or if there were any texts different than what was before the Board. She asked to review the submitted texts and noted that they all referred to the same issue of the air conditioner malfunctioning. Mr. Furman stated that the landlord came to address the problem because he brought in a contractor. It is the steps following that action that he has an issue with.

Mr. Furman referenced his letter dated June 4, 2013 (Exhibit T2) advising the landlord that he was taking this matter to the Rent Leveling Board. In the letter he also notified the landlord that his compromise offer of a single window unit was not acceptable and that a reduction in the rent was requested. He provided a copy of the quote the landlord received from A-Absolute Construction, Inc. (Exhibit J1). The house contains two bedrooms, a living room, bathroom and kitchen. There is also a basement.

Member Glassman asked if the house was marketed as having central air conditioning. Mr. Furman confirmed that it was, although he did not have the original listing. The landlord did not repair the air conditioning because of the cost. Member Glassman asked if he had to pay extra for central air conditioning or if it was included in the rent. Mr. Furman stated that the services included everything in the house; there was no stipulation of extra rent for air conditioning, heating or other appliances. These were services that were in the home when he rented it. He expected everything to keep functioning. There was a previous issue with the air conditioner that the landlord had repaired on August 18, 2012, referenced in Exhibit T1. Member Glassman stated that if Mr. Furman had central air conditioning when he moved in but did not have air conditioning now it was a diminution of service.

Mr. Furman stated that he moved in on August 1, 2012. Chairman Aversa asked if Mr. Furman was using the air conditioning back in August, 2012. Mr. Furman confirmed that he was. In addition to being his residence, he also works from his home and, as such, needs the air conditioning to be functioning for his day to day activities.

Member O'Dea asked Mr. Furman what he thought the appropriate resolution should be if there were to be an adjustment in rent. Mr. Furman stated that he would like a credit for the months of June and July, 2013. Mr. O'Dea asked for a dollar amount. The rent is \$2,000 per month for renting the entire home, which comes to \$66 dollars or so per day. He asked Mr. Furman what amount per day he was requesting. Mr. Furman stated that if the house was marketed without central air conditioning it would not have been worth \$2,000 per month. He was asking for a 10% or 15% reduction for the months that he was impacted during the last two months. Mr. O'Dea asked if Mr. Furman was looking for a credit in the amount of \$400. Mr. Furman stated that was correct.

Member O'Dea noted that had the air conditioning been repaired by putting in the refrigerant it would have cost the landlord \$650. The \$400.00 represents in Mr. Furman's mind the amount of the adjustment without air conditioning. He can see the landlord stating that he made an attempt to give some air conditioning. He asked Mr. Furman if he would be comfortable with a compromise between \$400 and another amount. Mr. Furman stated that the landlord has not yet compensated him for the air conditioning unit that he purchased. As one window unit would not cool an entire house, he did not feel it was an adequate compromise. There is also less security with a window unit as it is easier to break into a home. He reiterated that central air conditioning was an initial service that came with the home. He felt a reduction of \$200 per month for the last two months is a fair compromise.

Member Metzger asked how much Mr. Furman paid for a 6,000 BTU air conditioner. Mr. Furman stated that he had a receipt showing that he paid \$164.00. (Exhibit T3). Member Waxman asked if he knew how many square feet there were in the home. Mr. Furman was not sure. Member Metzger stated that a unit that size would only be good for one bedroom.

Member Glassman asked for clarification about Mr. Furman's other air conditioning unit. Mr. Furman explained that he had an old unit that he was using to supplement the new unit. Member Waxman asked if he had been reimbursed for the new unit yet. Mr. Furman confirmed that he has not been reimbursed.

Chairman Aversa asked if Mr. Furman was moving out of the rental house. Mr. Furman stated that he was leaving once his lease ended on July 31, 2013. Attorney Tregidgo showed Mr. Furman a copy of the lease. (Exhibit 4) Mr. Furman confirmed that this was a copy of the exact lease.

Chairman Aversa asked Mr. Furman if he made any other calls to anyone besides the landlord, such as the Health Department or an attorney. Mr. Furman stated he did not call the Health Department or an attorney, but did speak to a tenant organization. Chairman Aversa asked if he ever heard of a Marini hearing. Mr. Furman stated that he did not. Member Glassman stated that she informed Mr. Furman that he could file a complaint with the Rent Leveling Board.

Mr. Furman stated that there were other elements of the Ordinance that were not adhered to. Attorney Tregidgo reminded him that they were only dealing with the basis of his complaint regarding the air conditioning. Chairman Aversa asked about the temperature in his house. Mr. Furman stated he had a picture on his cell phone of the thermostat registering 93 degrees. Chairman Aversa asked how many days the temperature inside the home reached that high. Mr. Furman stated that anytime it was a 90 degree day it reached in the 90's inside the home as well. Attorney Tregidgo asked Mr. Furman if it was his testimony that this picture represents the temperature registering in the house on a day during the period of June to the present. Mr. Furman confirmed that it was.

Mr. Furman concluded by stating that he gave notice about the air conditioner to the landlord and tried to compromise. He was utilizing this venue as a last resort.

Attorney Tregidgo swore in Christina Hrycyna, 18-02 Berdan Avenue, Fair Lawn, New Jersey, who resides with Mr. Furman. Ms. Hrycyna stated that the house has been registering temperatures in the 80's and 90's since the air conditioning broke, leaving them trapped in the one room that has air conditioning. They cannot cook in the kitchen and the living room and office are hot. They are cut off from all the other services. They are limited to putting air conditioning in the two bedrooms.

Victor Varela stated that he acts as the agent for his wife, Anabelle Varela who is the landlord. He stated that he would like to go over the Ordinance again so that he could be clear in his understanding. Attorney Tregidgo read Section 177-14 – Standards Maintained. Mr. Varela stated that it was his understanding that the Ordinances applied to services provided by “law or lease”. His lease did not specify that he was going to provide the tenant with central air conditioning, nor did he take that into consideration in the rent. The current rent of \$2,000 barely covers the property taxes and expenses on the property. He felt it was unfair to ask for a rent reduction on a home that is only being rented for \$2,000.00 as there are expenses to owning a home. He understands that Mr. Furman is entitled to services, but stated that he currently has two air conditioners in a two bedroom house; one in his bedroom and one in his office. He contacted an attorney to find out what his obligations were and was advised that he had to follow his obligations in the lease. He reiterated that the lease does not state that he has to provide Mr. Furman with air conditioning. Mr.

Furman has paid his rent on time, but he has hounded him for things like a scratch on the wall and other things and he has tried to accommodate him. He did try to get Mr. Furman a window unit air conditioner so he could sleep better at night.

Member Waxman asked Mr. Varela if he showed the house and rented the house with working central air conditioning. Mr. Varela stated that he did. Mr. Waxman assumed there were other amenities that were shown in the house that were also not specified in the lease. Mr. Varela stated that was correct. Member Waxman asked if Mr. Furman provided the two units previously discussed. Mr. Varela stated that he did. He had offered to pay for one unit and a receipt was mailed to him. He has not paid him for the air conditioner yet because Mr. Furman has not paid July's rent. That is a separate issue that he is dealing with as a landlord. Member Waxman asked when Mr. Varela received the bill for the air conditioner. Mr. Varela stated that he received the bill in June, prior to the rent being due. Member Metzger pointed out that when Mr. Varela rented the house the lease also did not include other items such as the stove or refrigerator that came with the house.

Mr. Varela stated he was renting the home for approximately \$66.00 per day, less than the cost of a hotel room. He was not sure what type of reduction was fair. He does not feel Mr. Furman is entitled to a reduction since the air conditioning was not included in the lease, although he conceded that the air conditioning was working when Mr. Furman moved in.

Member Waxman summarized to clear up any confusion. Mr. Furman rented the house with working central air conditioning, which failed during the course of the rental. It was Mr. Varela's decision not to repair the unit back to the condition that it was in at the time of rental. Mr. Varela stated that was correct. He rented a two bedroom house to Mr. Furman, which now contain air conditioning units in each bedroom window. He received a quote (Exhibit J1) for \$8,500 to repair the whole system, which he cannot afford at this time.

Member Waxman asked Mr. Varela is he understood that when he rented the house to Mr. Furman that it was a market transaction between them. If Mr. Varela feels that he rented the home below market value that was an agreement between him and Mr. Furman. It has nothing to do with the Rent Leveling Board, as the Board does not set rent for a fair market rental. Mr. Varela understood that. He stated that it seemed the Board was leaning towards a reduction. Member Waxman stated the Board was merely trying to determine the facts.

Member Glassman stated that there is a provision in the Ordinance that provides for certain reductions in rent if the service is reduced. The air conditioning was a service. Attorney Tregidgo reminded Member Glassman that she was to ask questions. Member Glassman stated that Mr. Varela had

said he was aware of this portion of the Ordinance. She asked him what he did not understand. Mr. Varela said that the Ordinance states "reduction in service or the lease". He wondered if that applied if a lease was not in effect, since they currently have a lease. Attorney Tregidgo stated that will review that when they make a decision to determine how the Ordinance applies to these circumstances. Mr. Varela should tell the Board what he thinks they should do based on his testimony.

Mr. Varela concluded by stating that he felt the Board should take into consideration that he was renting a home for \$66.00 a day. He pays \$800 per month in property taxes plus insurances. There are a lot of costs associated with this property. Member Glassman asked if he thought a home without air conditioning was habitable. It is similar to having a house without heat in the winter. Mr. Varela stated that he would not like to live without air conditioning, so he would purchase a wall unit if he was renting and in Mr. Furman's position. Member Metzger asked what he would do if the tenants said they were unable to put in air conditioners in some of the rooms because of the window construction. Mr. Varela stated that they would not be able to put an air conditioner in the living room and it would be awkward to put one in the kitchen. He would open the two bedroom doors and let the air conditioning cool the rest of the house. Member Metzger did not think there would be sufficient cooling. She asked Mr. Varela what he would do about cooling the kitchen. Mr. Varela was not sure about the specifications for a 6,000 BTU air conditioner, but the house is roughly 700 square feet. He thought two wall units would be sufficient to cool the area.

Member Rochman asked how much rent the previous tenants paid. Mr. Varela stated that the previous rent was \$2,200. Member Waxman recalled that the paperwork indicated a \$200 reduction in rent. He asked if the reduction was the result of a complaint. Mr. Varela stated that he met Mr. Furman and his references checked out. He did not feel there would be a problem. Mr. Furman agreed to the \$2,000 per month rent. Member Waxman stated that \$2,000 per month was the fair market rental that he and Mr. Furman decided on. Mr. Varela felt the rent was below market price. Member Waxman explained that the definition of "fair market rent" is when two parties negotiate a rent and decide on an amount. The rent is not determined by Rent Control.

Attorney Tregidgo swore in Anabelle Varela, 15 Blish Place, Dumont, New Jersey. Ms. Varela stated that when they originally advertised the house for rent the rent was listed as \$2,200. They negotiated with Mr. Furman because he wanted the rent to be reduced. They made a mistake by renting the house for that low and they are not able to save for repairs. When it came to paying for the air conditioning unit, they received a letter from Mr. Furman and it was agreed to reduce/deduct it from his deposit. It was not that they did not pay; it was agreed upon to do it this way. Member Metzger asked how much the deposit was. Ms. Varela stated that it was \$2,000. Member Metzger asked if he will

receive all of the deposit. Ms. Varela stated that Mr. Furman did not pay his July rent. She reiterated that they were not being irresponsible; they made a deal and they agreed that they would just deduct it from that money.

Seeing no more questions or comments, Chairman Aversa thanked everyone for their testimony. Attorney Tregidgo explained that the Board has to act by Resolution, which will not be adopted tonight. The Board may opt to discuss this hearing tonight or wait until the next meeting. A copy of the Resolution containing the Board's decision will be mailed to both parties, who are obligated to follow it. Mr. Furman was advised to give the Board his forwarding address.

Member Singer stated that the Board has to be careful about expressing opinions. This is a hearing. They are supposed be asking questions of a tenant and landlord. They cannot provide their opinions in the middle of it. He felt very uncomfortable with that. They have to be careful about offering opinions or educating the person on something that is his or her job to find out. They can do that as a service at the end of the day to provide a reason for their decision. He was uncomfortable with some of the questions.

Attorney Tregidgo stated that they were not bound by the rules of court, but they have to remain on topic at all times as best as they can. They need to remember that comments and questions are limited to the subject matter. Prior rent is irrelevant. The landlord will be bound by the current rent, with a 10% increase upon vacancy as allowed in the Ordinance.

Secretary Pettineo expressed concern that it appeared a Board member may have had a prior connection with one of the people testifying. Member Glassman asked if she meant her. She stated that Mr. Furman came to her and she advised him that he could file a complaint with the Rent Leveling Board, but she did not get that involved with him. She could recuse herself if she felt it was appropriate.

Secretary Pettineo stated that Member Glassman did a wonderful job and she has referred numerous tenants to her for advice. She felt it was obvious, however, that Member Glassman had prior conversations with Mr. Furman and she was concerned as to what the Varella's might think. Member Glassman stated that she has recused herself in the past, and even though Mr. Furman was not a tenant in her complex she would be happy to do so again. Member Waxman said that if Member Glassman tells the Board that her conversation was strictly limited to advising Mr. Furman that he could come to the Rent Leveling Board with a grievance that is not objectionable.

Member Glassman stated that Mr. Furman told her about his air conditioner and she advised him to file a complaint with the Rent Leveling Board. She did not get into any specifics and did not provide him with any legal advice. Member

Waxman said there was nothing wrong with providing someone with public information that any landlord or tenant can come before the Board with a grievance. If that is all that transpired then there is no reason for Member Glassman to recuse herself. Member Glassman stated that she will recuse herself so that there is no question.

Member Waxman cautioned her from doing that if her conversation was limited to what she just said. It takes away one votes from the common decision and she has a right to make a judgment on the case. If she only told Mr. Furman he could go to the Rent Board that is public information. Member Glassman stated that Mr. Furman had another issue he wanted to speak to her about, but she told him she could not discuss it with him because she was on the Board. Member Waxman stated that she acted properly. Member Glassman stated that if there were another tenant coming before the Board with the same issue and she had never spoken to the person before, she would have the same opinion about that matter. Member Waxman reiterated that giving out the advice "go to the Rent Board if you have a grievance" is perfectly proper action.

Member Glassman stated that she gave Mr. Furman a copy of prior Rent Board Minutes. If there is a question, she will recuse herself. Secretary Pettineo pointed out that this discussion will be included in the minutes, which both parties will receive. They will hear the explanation. If Member Glassman's contact is as benign as it sounds, it should appease any concerns. Member Singer stated that only Member Glassman can decide if she needs to be recused. Attorney Tregidgo stated that if the only thing Member Glassman did was tell Mr. Furman to go to the Rent Board and give him a copy of the ordinance (minutes) then there is no issue. Member Glassman stated that since she is the type that will continue to think about this afterwards, she would feel more comfortable recusing herself so that there will be no further questions. Attorney Tregidgo advised Member Glassman that she will not be discussing the case nor voting on it.

Member Singer stated that the landlord based his case on facts that were not pertinent to the case, such as renting his home for undervalue. He thought the tenant asked for too low of a reduction. He felt a \$400.00 settlement was more than fair. Member Metzger stated that landlord did not make a good case by stating there was nothing in the lease about the air conditioner. The lease does not mention a stove or refrigerator either. Since the air conditioning was working when he rented the house and is not working now, there is a decrease in service.

Attorney Tregidgo stated that Section 177-14 of the Ordinance controls their decision. He felt the landlord in his testimony interprets the lease to say that if it is required by the lease or other agreement, but omits the fact that since it was there at the inception is required to maintain the same equipment, etc. that was

there when the lease started. Member Waxman stated that the Ordinance is clear. It is generally accepted that when you show something and it is rented based on the amenities the tenant sees, every item does not have to be called out in the lease. Since Mr. Furman rented the house with working air conditioning it does not seem reasonable for the landlord to say that it did not specify in the lease that he had to provide a working air conditioner. He may have rented the home at a lower cost than he should have, but that has nothing to do with the Rent Board. In his view the landlord diminished the services that were rented. He agreed that it was a modest amount Mr. Furman was asking for. He felt a reduction in rent was appropriate. Member O'Dea agreed.

Upon motion by Robert Waxman and seconded by Mark Singer, it was agreed that Mr. Furman be awarded \$400.00 (\$200.00 per month for two months) for reduction in air conditioning services. The motion passed with Member Glassman recused.

Minutes: Upon motion by Mark Singer and a second by Marilyn Carlin, the minutes for the meeting of March 19, 2013 were unanimously approved.

Applications for Capital Improvements Qualifying for Vacancy Decontrol and Certifications of Completion of Work Submitted by Fair Lawn Properties:

Submitted by Fair Lawn Properties, c/o Affiliated Management, Inc., for units at 16-73 Chandler Drive, 18-64 Chandler Drive, 19-06 Chandler Drive, 19-24 Chandler Drive, 17-03 Chandler Drive and 16-30 Chandler Drive (FL09-13 through FL14-13 respectively).

Chairman Aversa turned the meeting over to Vice Chairman Glassman.

Michael Aversa, a representative of Fair Lawn Properties, presented the applications for discussion and summarized the work to be done, as complete renovations, as set forth on the itemized list for the applications, i.e., new kitchen cabinets, fixtures and appliances, kitchen floor, bathroom fixtures and vanity, plumbing, electrical upgrade, air conditioning unit in living room and bedroom, etc. He also presented the final inspection reports and Certificates of Approval, where applicable, from the Borough approving the plumbing, electrical and building work as follows:

Address	Assessed Value	Minimum for Capital Imp.	Cost of Improvement	Inspection Approval Date
16-73 Chandler Drive	\$74,963.00	\$11,244.00	\$18,883.90	5/9/13
18-64 Chandler Drive	\$74,963.00	\$11,244.00	\$19,184.30	4/15/13
19-06 Chandler Drive	\$74,963.00	\$11,244.00	\$19,179.35	2/22/13
19-24 Chandler Drive	\$85,672.00	\$12,851.00	\$18,577.80	2/5/13
17-03 Chandler Drive	\$74,963.00	\$11,244.00	\$19,695.21	2/1/13
16-30 Chandler Drive	\$74,963.00	\$11,244.00	\$18,936.10	3/22/13

Upon review of the application, inspection certificates, bills and certification of completion of work for the subject unit at Fair Lawn Properties referenced above, a motion was made by Mark Singer and seconded by Mark O'Dea to accept the application, as the work performed qualified as capital improvements, and to accept the certification of completion of work that the renovations have been completed and accepted by Board for vacancy decontrol, and the new rent shall be retroactive to the date of the final inspections as specified. Motion carried, with Michael Aversa abstaining.

Application for Capital Improvements Qualifying for Vacancy Decontrol and Certification of Completion of Work Submitted by Bergen Properties:

Submitted by Bergen Properties, c/o Affiliated Management, Inc., for unit at 13-59 C Abbott Road (Application No. HR01-2013)).

Michael Aversa, a representative of Bergen Properties, presented application for discussion and summarized the work to be done as set forth on the itemized list for the application, i.e., new kitchen cabinets, fixtures and appliances, kitchen floor, bathroom fixtures and vanity, plumbing, electrical upgrade, air conditioning unit in living room and bedroom, etc. He also presented the final inspection reports from the Borough approving the plumbing, electrical and building work as follows:

Address	Assed Value	Minimum for Capital Imp.	Cost of Improvement	Inspection Approval Date
13-59C Abbott Road	\$80,210.00	\$12,031.00	\$19,276.30	3/12/13

Upon review of the application, inspection certificates, bills and certification of completion of work for the subject unit at Bergen Properties referenced above, a motion was made by Mark Singer and seconded by Sharon Metzger to accept the application, as the work performed qualified as capital improvements, and to accept the certification of completion of work that the renovations have been completed and accepted by Board for vacancy decontrol, and the new rent shall be retroactive to the date of the final inspections as specified. Motion carried, with Michael Aversa abstaining.

Application for Capital Improvements Qualifying for Vacancy Decontrol and Certification of Completion of Work Submitted by Hollow Run:

Submitted by Hollow Run, c/o Affiliated Management, Inc. for units at 13-17 D Sampson Road and 10C Stewart Road (Application Nos. HR01-13 and HR02-13 respectively).

Michael Aversa, a representative of Hollow Run, presented application for discussion and summarized the work to be done as set forth on the itemized list for the application, i.e., new kitchen cabinets, fixtures and appliances, kitchen

floor, bathroom fixtures and vanity, plumbing, electrical upgrade, air conditioning unit in living room and bedroom, etc. He also presented the final inspection reports from the Borough approving the plumbing, electrical and building work as follows:

Address	Assed Value	Minimum for Capital Imp.	Cost of Improvement	Inspection Approval Date
13-17D Sampson Road	\$73,620.00	\$11,043.00	\$18,736.22	1/8/13
10C Stewart Place	\$55,215.00	\$8,282.00	\$20,026.87	1/15/13

Upon review of the application, inspection certificates, bills and certification of completion of work for the subject unit at Hollow Run referenced above, a motion was made by Sharon Metzger and seconded by Marilyn Carlin to accept the application, as the work performed qualified as capital improvements, and to accept the certification of completion of work that the renovations have been completed and accepted by Board for vacancy decontrol, and the new rent shall be retroactive to the date of the final inspections as specified. Motion carried, with Michael Aversa abstaining.

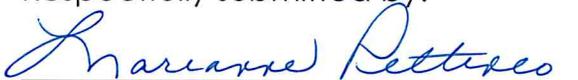
Old Business: There was no old business.

Public Comments: There were no public comments.

New Business: There was no new business

There being no further business coming before the Board, upon motion by Member Waxman and a second by Member Glassman, it was unanimously agreed to adjourn the meeting at 9:10 p.m.

Respectfully submitted by:



Marianne Pettineo,
Board Secretary