

NEPTUNE TOWNSHIP RENT LEVELING BOARD

Minutes – April 16, 2015

Constance Holmes, Chairperson, called the meeting to order at 5:00 pm and requested the Secretary to call the roll. The following members were present: James Manning, Jr., Ruth Johnson and Constance Holmes. Charles Woolfolk and Morrel Massicot were absent.

Ms. Holmes stated that the notice requirements of R.S. 10:4-18 have satisfied by the publication of the required advertisement in The Coaster on January 15, 2015 posting the notice on the Board in the Municipal Complex and filing a copy of the said notice with the Municipal Clerk.

APPROVAL OF MINUTES

Mr. Manning offered a motion, moved and seconded by Ms. Holmes to approve the minutes for April 2, 2015; all were in favor.

ACTION ITEMS

Mr. Anthony read the following resolution in its entirety. The resolution was offered by Mrs. Holmes, moved and seconded by Mrs. Johnson with corrections that are highlighted:

**RESOLUTION OF THE NEPTUNE TOWNSHIP RENT LEVELING BOARD OF
TENANT’S COMPLAINT OF ROBERT JONES**

WHEREAS, the Neptune Township Rent Leveling Board was presented with a complaint by ROBERT JONES, residing at 1516 Monroe Avenue, Apt. 17A (Harlee Gardens), Neptune Township, New Jersey 07753, on January 12, 2015, alleging reduction in services in violation of Section 4-30.9, entitled, “Standards of Service” of the Neptune Township Rent Control Ordinance and sought relief as a result thereof; and

WHEREAS, a hearing on the complaint was scheduled and heard on April 2, 2015, after service was made upon the landlord by Certified Mail/Return Receipt Requested, namely, Eli Frischman (Neptune Housing Associates, LLC) at 691 Elizabeth Avenue, Suite 2, Newark, New Jersey 07112, as submitted by the tenant, as Exhibit P-1 to the Complaint, within the time period prescribed by local ordinance; and

WHEREAS, on April 2, 2015 the complainant, ROBERT JONES, and witness, Betty Graham, of 1516 Monroe Avenue, Apt. 20A, Neptune Township, New Jersey, appeared before the Neptune Township Rent Leveling Board and testified, but neither the landlord nor a representative appeared despite notice of the hearing; and

WHEREAS, the Neptune Township Rent Leveling Board, per the aforesaid complaint, received the following grievances and requests for relief:

1. That the tenant was living in the subject premises with either a total lack of heat or a reduction in heat in violation of State and Local Law from January 12, 2014 through March 31, 2014; and October 1, 2014 through December 31, 2014 and January 1, 2015 through March 31, 2015. The tenant specifically indicated that fifty percent (50%) of the days in January through March of 2014, the apartment had no or inadequate heat, with inadequate heat one hundred percent (100%) of the days in October through November 2014, and fifty percent (50%) of the days in December, 2014. The tenant also provided specific days in January, 2015 where the temperature was measured at between 60 and 62 degrees, namely January 14, 16, 18, 22, 24, 25 and 26; also on February 6 and March 3, 6, 7, 20 and 21; though the tenant testified that by and large fifty percent (50%) of the days in January, 2015 through March, 2015 there was inadequate heat mainly between the temperatures of 60 and 62 degrees as measured. The tenant was cold enough where he had to use multiple blankets and leave his gas stove on at times during the aforesaid periods.
2. That the toilet in the subject apartment leaked for two to three weeks and there was mold above the toilet, but the tenant admitted that these items were not included in his Complaint.
3. That the parking lights have been inoperable or insufficient in his apartment parking lot from January 12, 2014 to the present date. More particularly, there were no lights through December, 2014, but one light was installed from January, 2015 to the present, but served to be totally inadequate. Existing light fixtures in the parking lot are either inoperable, or do not have working light bulbs. The tenant keeps a flash light in the glove compartment of his car in order to see on very dark nights.
4. That the sole bathroom shower faucet and hot water valve on the exterior of the shower leaked from June 11, 2014 through February 11, 2015 before it was corrected, causing difficulties in showering with hot water and requiring a bucket to be placed under the outside valve to catch water leaking.
5. That as a result of the aforesaid lack of heat, the tenant was advised by representatives of the landlord that the heating system, or furnace, was in need of repair or replacement.

NOW, THEREFORE, BE IT RESOLVED, by the Neptune Township Rent Leveling Board, that the Neptune Township Rent Leveling Board has found the following facts:

1. A question was raised to the Township through documentation as to whether the apartment complex, known as Harlee Gardens, was privately owned and financed, or privately owned and subsidized or financed by a Federal or State Agency. It was concluded by the Board through testimony that the apartment complex appeared to be privately owned and financed, and therefore not subject to any restrictions due to Federal or State Statute. It was noted by the Board that even if there was State or even Federal financing that the action requested by the tenant, Robert Jones, was not to address a rent increase or eviction, which may have been preempted by Federal or State Statute, but merely to address habitability and reduced services, which have not been preempted by State or Federal Statute, per the court decision of Housing Authority v. Scott, 137 N.J. Super. 110 App. Div. (1975).

2. The Board finds that appropriate due process notice was given to the landlord. Appropriate notice by Certified Mail/Return Receipt Requested was made in accordance with the law set forth more fully in the case of Ivy Hill Park, Section 3 v. Abutidze, 371 N.J. Super. 103 (2004), per Exhibit P-1 to the Complaint, at the address provided to all tenants.
3. The Neptune Township Rent Leveling Board has subject matter jurisdiction over the tenant and landlord, and the tenant/complainant has been a tenant in the subject apartment for over **seven years**, and the tenant/complainant's unit is one of well over five (5) residential units in the apartment complex.
4. The tenant, Robert Jones, has occupied the unit with a heating system, which is totally inadequate, leading to inadequate or no heat for fifty percent (50%) of the days from January 12, 2014 through March 31, 2014, one hundred percent (100%) of the days in October through November, 2014, fifty percent (50%) of the days in December, 2014 and fifty percent (50%) of the days in January, 2015 through March, 2015. Since the Board can only enforce the Ordinance for one year back from the filing of the Complaint, the Board cannot enforce reduced services before January 12, 2014. However, the Board does find reduced services and the lack of heat representing evidence of a significant deficiency as viewed by law, so as to qualify by law for rent relief for the aforesaid time period and to the extent provided above. The aforesaid determination is based on testimony of the tenant and his neighbor, Betty Graham, and a Police Incident Report on January 24, 2015 and included into evidence as P-2 to the Complaint.
5. The Board finds unrefuted evidence that there were no lights in the parking lot from January 12, 2014 through December 31, 2014 and inadequate lights from January 1, 2015 to the date of hearing on April 2, 2015, and that this is evidence of a significant deficiency as viewed by the law so as to qualify for rent relief.
6. The Board finds that there is unrefuted evidence that the tenant's shower and outside hot water valve leaked for 8 months from June 11, 2014 to February 11, 2015, and that this is a significant deficiency as viewed by the law to as to qualify for rent relief.
7. The Board finds that testimony concerning leaks in the toilet and mold cannot be considered by the Board under the Complaint filed on January 12, 2015 since such allegations were not included in the Complaint.
8. The Board finds through testimony and documentation, including Proof of Service found in Exhibit P-1 of the Complaint and notice from the Police Department found in Exhibit P-2 of the Complaint, that the landlord was given reasonable and adequate notice concerning heating problems and deficiencies, and to date has not provided sufficient or reasonable response in addressing said

heating problems, and that heat in the subject unit is an essential habitability facility required by law and existing at the time that the tenancy first commenced. The Board also finds credible evidence and testimony that oral notice was given to the landlord in person and by telephone and through maintenance employees with regard to the lack of heat, lighting in the parking lot, and shower hot water valve leaks, with the landlord having further constructive notice through his maintenance employees concerning the parking lot lighting, which is an exterior common element issue, and considering the necessity of lighting in the parking lot, the use of hot water in the shower and the heat in general did not respond in a reasonable time period to correct the same. It is also concluded by the Board that these items are vital facilities for habitability and are required by law and existed at the time the tenancy commenced.

The Neptune Township Rent Leveling Board hereby finds that the above referenced reduced services represent a reduced rental value, as set forth below and that the tenant/complainant, Robert Jones, shall be entitled to credits towards rents due and owing in the future, as set forth below.

BE IT ORDERED AND DETERMINED, as follows:

1. The tenant is entitled to a fifty percent (50%) rent reduction for fifty percent (50%) of the days for January 12, 2014 through March 31, 2014; fifty percent (50%) rent reduction for one hundred percent (100%) of the days between October 1, 2014 through November 30, 2014 and a fifty percent (50%) rent reduction for fifty percent (50%) of the days in December, 2014, as well as a fifty percent (50%) rent reduction for fifty percent (50%) of the days between January 1, 2015 and March 31, 2015. Based on rent of \$979.00 in 2014 until April 30, 2014 the reduced rental value represents \$32.63 per day divided by 50% or a credit of \$16.32 per day for fifty percent (50%) of the days from January 12, 2014 through March 31, 2014 or \$16.32 times 39.5 days equals \$644.64. With rent at \$1,003.53 after April 30, 2014, the balance of the heat credits involve daily rent for October 1, 2014 through November, 2014 with heat credits of fifty percent (50%) of one hundred percent (100%) of the days in the aforesaid months and fifty percent (50%) rent reduction for fifty percent (50%) of the days for the month of December, 2014 and January, 2015 through March 2015, which provides for an apportionment of rent of \$33.45 per day, with a fifty percent (50%) credit of \$16.73 times 61 days for the months of October through November, 2014 or \$1,020.53; and \$16.73 for fifty percent (50%) of the days in December, 2014 and January, 2015 through March, 2015 or 60.5 days, equaling a credit of \$1,012.65; for a grand total credit based on heat deficiency of \$2,677.82.
2. The Board finds a reduced rental value as a result of the leaky hot water shower valve not working from June 11, 2014 to February 11, 2015 or 246 days at rent of \$33.45 a day, the Board finds in reduction and rental value of five percent (5%) or \$1.67 per day times 246 days equals \$410.82 in reduced rental value.

3. The Board finds the lack of lighting in the parking lot from January 12, 2014 through April 2, 2015, which represents a reduction of value of 2 percent (2%) or \$.65 per day from January 12, 2014 through April 30, 2014 for a total of \$70.85, and from May 1, 2014 through April 2, 2015 at \$.67 per day for total of \$225.79 for total credits due on improper lighting of \$296.64.

4. Total credits due and owing with regard to all deficiencies amount to \$3,385.28, which will apply to reduction in rent for the months of May as a full credit of \$1,003.53; June in the amount of \$1,003.53; July in the amount of \$1,003.53 and August with a credit of \$374.69; that is no rent need be paid for the months of May, June and July, 2015, with a partial credit in August, 2015. It is also hereby ordered, that should the landlord not correct the heating situation to comply with State Statute and local ordinance between April 2, 2015 and May 1, 2015, the tenant shall automatically have a continued credit of fifty percent (50%) of all rent for **up to (100%)** of the days in which there continues to be a violation for the period between April 2, 2015 and May 1, 2015. The tenant shall also have the right to file a subsequent complaint for any continued reduced services with regard to the subject unit either with regard to heat after May 1, 2015 or any other deficiency that may arise at any time. In addition, if the landlord does not correct the lighting situation in the parking lot, the tenant shall continue to have a five percent (5%) reduction in rent for each and every day that the lighting of his parking lot remains insufficient **past** April 2, 2015.

IT IS FURTHER ORDERED AND DETERMINED, that the municipal attorney is hereby authorized to provide the landlord, Neptune Housing Associates, LLC, with offices located at 691 Elizabeth Avenue, Suite 2, Newark, New Jersey 07112, and the tenant, ROBERT JONES, 1516 Monroe Avenue, Apt. 17A, Neptune Township, NJ 07753, with a written notice of this decision by copy of this resolution effective the date of execution of this resolution by supplying the same pursuant to Ordinance and that either the landlord or the tenant shall have a right within twenty (20) days of the date of the determination in accordance with the Neptune Township Rent Control Ordinance, Rules And Regulations of the Neptune Township Rent Leveling Board to file an appeal before the Neptune Township Committee.

SECONDED BY BOARD MEMBER

AND ADOPTED ON ROLL CALL BY THE FOLLOWING VOTES:

ROLL CALL

Affirmative: Ruth Johnson, James Manning, Constance Holmes

Negative: None

Absent: Morrel Massicot, Charles Woolfolk

Dated: April 16, 2015

CONSTANCE HOLMES, CHAIRWOMAN

DISCUSSION ITEMS

Mr. Anthony stated a complaint has been filed regarding an illegal rent increase and will be heard at the June 4th meeting. He stated the resident had a prior reduction.

PUBLIC PARTICIPATION

Robert Jones, 1516 Monroe Avenue Apt 7a , stated there were so many problems with the building. He told his cousin to come before the board but she won't complain.

Mr. Manning offered a motion to adjourn the meeting at 5:41 pm, moved and seconded by Mrs. Holmes. All were in favor.

Pamela D. Howard

Secretary