

NEPTUNE TOWNSHIP RENT LEVELING BOARD

Minutes – October 13, 2016

Ruth Johnson , Chairperson, called the meeting to order at 6:00 pm and requested the Secretary to call the roll. The following members were present: Ruth Johnson, Catherine McAphee, Connie Holmes, James Manning, Jr. and Jeff Klein. Morrell Massicot. was absent.

Mrs. Johnson stated adequate notice of this meeting as required by P.L. Chapter 231 has been provided by notice in the Coaster on January 28, 2016, which was posted on the bulletin board of the Municipal Complex and filing a said notice with the Municipal Clerk.

Mrs. Johnson announced that the Consumer Price Index [August's price index was 264.306, area prices up 0.2 percent over the month and up 1.1% over the year].

APPROVAL OF MINUTES

Mrs. Holmes offered a motion, moved and seconded by Mrs. Johnson to approve the minutes of the meeting for September 1, 2016; all that were eligible to vote were in favor.

RESOLUTIONS

Initially a motion failed to pass this resolution because both Mrs. Johnson and Mr. Klein were not in favor but after further discussion between Mr. Klein, Mrs. Johnson and Mr. Anthony the Board decided to revote and the vote was as follows: Mrs. Johnson offered a motion, moved and seconded by Mrs. Holmes to approve the following resolution; Holmes, aye; Manning, abstained; Johnson, aye; McAphee, aye; Klein, aye.

RESOLUTION OF TENANT COMPLAINT OF SUE JOHNSON

WHEREAS, Sue Johnson (hereinafter referred to as "Complainant") resides at 2009 Milton Avenue, Neptune, New Jersey, and filed a tenant complaint on August 3, 2016, under Case No. 16-17, alleging an illegal increase in rent in violation of Section 4-30.2 of the Township of Neptune's Rent Control/Protective Tenancy Ordinance, and demanding relief pursuant to the aforesaid ordinance for an illegal increase in rent; and

WHEREAS, a hearing on the aforesaid complaint was scheduled and heard on September 1, 2016, after appropriate notice was provided to the Landlord by the Complainant

pursuant to the notice and time requirements of the Neptune Township Rent Control Ordinance;
and

WHEREAS, the Landlord, Neptune Housing Associates, was represented by legal counsel, Alvin Kim, Esq., of the Law Firm of Sobel Han, LLP, during said hearing, with the Complainant, Sue Johnson, present during the said hearing, and the Complainant provided testimony during the aforesaid hearing with an opportunity for cross-examination by the Board and the Landlord's attorney; and

WHEREAS, the issues raised in the aforesaid complaint were namely an alleged illegal rent increase, insufficient notice, and based on the testimony, the applicability of a Consent to Enter Judgment for Possession that was entered between the parties on July 15, 2016;
and

WHEREAS, the Complainant was paying a rent of \$979.00 per month, and during an eviction proceeding the parties reached a settlement with a rent increase effective August 15, 2016 at \$1,003.48.

NOW, THEREFORE, BE IT RESOLVED, by the Neptune Township Rent Leveling Board that based on the testimony and representations made by the respective parties, the Neptune Township Rent Leveling Board has made the following determination:

1. The Neptune Township Rent Leveling Board has factually determined that the Complainant moved into the subject unit in 2008 and was paying rent in 2014 in the amount of \$979.00, when the Complainant received a Notice to Quit and to Increase Rent from \$979.00 to \$1,003.48. Based on the testimony of the Complainant and the Complainant's son, Mario Johnson, apparently the increase never went into effect due to the fact that Complainant's son was

serving as a manager at the subject property. In any case, the Landlord never enforced the increase, and allowed the Complainant to continue at \$979.00. Apparently upon the son being dismissed as the manager, the Landlord brought an action for possession based on non-payment of part of the rent in the past; namely the difference between \$979.00 and \$1,003.48, as a result of the Notice to Quit and Increase Rent dated February 13, 2014, but never followed through until 2016. The Complainant, during a hearing with regard to possession and with Legal Aid Counsel reached an agreement and Stipulation by way of Consent to Enter Judgment whereby the Landlord apparently waived all past rent increases and late charges and legal fees in return for a new Lease Agreement beginning August 15, 2016 at \$1,003.48. It was clear that the Legal Aid Attorney was not aware of the existence of a Rent Control Ordinance in Neptune Township at the time of the settlement, and the Stipulation was not reviewed or approved as part of a hearing by the Court.

2. The Neptune Township Rent Leveling Board determined by motion and by a vote of 3 to 2 that the past rent increase cited in the Notice to Quit and to Increase Rent of February 13, 2014 was waived by the Landlord by its conduct in not enforcing the increase and allowing continuation of the rent due to the Complainant's son serving as a manager. The Neptune Township Rent Leveling Board further found by same motion that the Stipulation of Settlement reached between the parties by Consent to Enter Judgment was still subject to the Rent Control Ordinance of Neptune Township and was entered into illegally, since it circumvented the notice requirements and the increase of rent

requirements of the Neptune Township Rent Control Ordinance. Therefore, the Rent Leveling Board moved not to recognize the Stipulation entered into between the parties.

3. As a result of the aforesaid position of the Neptune Township Rent Leveling Board, the Rent Leveling Board has factually determined that the proposed increase by the Landlord from \$979.00 to \$1,003.48 a month, for an increase of \$24.48 was per month, was inappropriate and in violation of the Neptune Township Rent Control Ordinance. The Board finds that due to the proper reading of the New York/Northern New Jersey Consumer Price Index from April 1, 2015 to April 1, 2016, there should be a proposed increase as set forth more fully below:

Anniversary date of original tenancy relationship was reestablished by the Landlord as the first of August for Rent Control purposes only;

CPI published April 1, 2016 – 262.6.
CPI published January 1, 2015 – 259.9
Difference in CPI – 2.7
Percentage change per Rent Control Ordinance – 2.7 divided by 259.9 = .01
\$979.00 (current rent) x .01 = \$9.79 per month.
New rent rounded to the nearest dollar – is the past rent of \$979.00 + \$9.79 = \$988.79 or rounded off to <u>\$989.00</u> per month, which shall continue for no less than one year after appropriate notice is given to the Complainant.

4. The Neptune Township Rent Leveling Board hereby finds that the Board did have jurisdiction over the Landlord through service of process and subject matter jurisdiction with regard to the subject apartment unit being subject to the Rent Control Ordinance. The Board has made a determination that the appropriate rent increase is based on the traditional anniversary date of the first of August of each year as based on the history of the Landlord.
5. The Neptune Township Rent Leveling Board also found that notice was insufficient to the Complainant by the Landlord in that it was less than the sixty (60) day requirement under the Ordinance, and therefore, the rent increase aforesaid will only be provided to the Landlord upon the requirement of the Landlord of 60 day's written notice to the Complainant of the increase set forth in this Resolution, with a demonstration of the formula for arriving at the aforesaid increase as set forth in this resolution.

IT IS ORDERED AND DETERMINED, that the Municipal Attorney is hereby authorized to provide the Landlord, Neptune Housing Associates, through its attorney, Alvin Kim, Esq., with a mailing address of Sobel Han, LLC, 120 Sylvania Avenue, Ste. 304, Englewood Cliffs, NJ 07632 and the tenant, Sue Johnson, at a mailing address of 2009 Milton Avenue, Neptune Township, New Jersey 07753, with written notice of the decision of the Neptune Township Rent Leveling Board effective the date of execution of this Resolution by supplying the Landlord and the tenant with a copy of the Resolution provided by the Board pursuant to Section 4-30.7 of the Rent Control Ordinance, and that the Landlord shall have the

right of an appeal in writing of the Board's decision to the Neptune Township Committee within twenty (20) days of the date of receipt of the determination.

OFFERED BY BOARD MEMBER:

SECONDED BY BOARD MEMBER:

AND ADOPTED ON ROLL CALL BY THE FOLLOWING VOTES:

ROLL CALL

Affirmative:

Negative:

Abstain:

Absent:

Dated: October 13, 2016

RUTH JOHNSON,
CHAIRWOMAN

ATTEST:

PAM HOWARD, Secretary

DISCUSSION ITEMS

The Board discussed the proposed amendment to the Rent Control Ordinance – Hardship Application.

Mr. Klein stated they could not ask a person to purchase property with expenses to go up without them getting proper returns and suggested they have a two person committee to go over the ordinance and send suggestions to Mr. Anthony and then the entire Board could look at it.

Mr. Anthony stated the Board did not get involved with legislative changes. He stated he brought this to the Board because the ordinance was currently deficient.

Mr. Klein stated everything was being based on gross annual income and he did not feel that it was fair.

Mr. Anthony stated he wanted to make sure that the landlord could get a proper review.

Mr. Klein stated based on this the landlords would start to pocket the rent and the property would go down.

Mr. Anthony responded to Mr. Klein by stating there was no evidence to establish what he was saying was true.

An ongoing discussion continued between Mr. Anthony and Mr. Klein in which Mr. Klein stated he felt that rent increases should be 3% and Mr. Anthony stated that was not fair.

Mrs. Holmes stated rent control was a good thing because landlords were increasing rent by 35%/40% and that was why they were getting vacant properties.

Mr. Klein explained why homes were being abandoned in Asbury Park.

Mr. Anthony stated he wanted to make sure that they had sufficient information to hear the landlords case.

Mr. Manning stated he was not in support of changing the CPI component but would be willing to sit down with members and go over the ordinance.

Mr. Anthony informed Mr. Klein that he could go before the Township Committee and express his concerns and make his requests.

Mrs. Johnson clarified what she understood it to be.

Mr. Anthony stated he needed the form approved and the recommendation of the ordinance to the Township Committee.

Mrs. Holmes offered a motion to approve the form and recommend the ordinance to the Township Committee, moved and seconded by Mr. Manning. All were in favor with the exception of Mr. Klein who abstained.

Mr. Anthony requested the Secretary to attach the hardship form to the rules and regulations and post online.

PUBLIC PARTICIPATION

Bob Bowne, 23 Ocean Avenue, explained his living conditions and questioned whether he qualified for rent control/rent increases.

Mr. Anthony informed him that he did not fall under the guidelines for Rent Control but stated he could challenge his rent increase if he felt it was unconscionable.

Mr. Klein stated his landlord was not being outrageous in what she was asking for.

Mr. Anthony stated anything under 3% was fair.

There being no further comments, Mr. Manning offered a motion to adjourn the meeting, moved and seconded by Mrs. Holmes; all were in favor.

Pamela D. Howard
Secretary