

NEPTUNE TOWNSHIP RENT LEVELING BOARD - AGENDA MAY 2, 2019- 6pm

Naomi Riley, Chairperson calls the meeting to order and requests the Secretary to call the roll:

ROLL CALL:

Catherine McAphee ____ Connie Holmes _____ James Manning, Jr. ____

Ruth Johnson ____ Naomi Riley _____ Alternate #1 Jeff Klein ____

Flag Salute

Chairperson Riley announces that the notice requirements of R.S. 10:4-18 have been satisfied by the publication of the required advertisement in The Coaster, posting the notice on the Board in the Municipal Complex, and filing a copy of the said notice with the Municipal Clerk.

Consumer Price Index [March's price index was 276.570, **Area prices up 0.3 percent over the month and 1.6 percent over the year**]

Action Items:

Approval of Minutes – April 4, 2019.

Offered by: _____ Seconded by: _____

Vote:

McAphee ____; Holmes ____; Manning ____; Johnson ____; Riley ____;

Klein ____

Resolutions

Resolution #19- 05 – Tenant Complaint Rhonda Robinson - no credits shall be assessed in favor of complainant.

Offered by:_____ Seconded by:_____

Vote:

McAfee _____; Holmes _____; Manning_____; Johnson _____; Riley _____;

Klein _____

DISCUSSION ITEMS:

A. TENANT COMPLAINT HEARING (S) -

#19-02 – JADUS MCINTYRE – NEPTUNE HOUSING

#19-03 – ROSE SEWARD – NEPTUNE HOUSING

PUBLIC PARTICIPATION:

ADJOURNMENT (Time): _____

Offered by: _____ Seconded by: _____

Vote:

McAfee _____;Holmes _____; Manning_____; Johnson _____; Riley _____;

Klein _____

NEPTUNE TOWNSHIP RENT LEVELING BOARD

Minutes – April 4, 2019

Mr. Manning called the meeting to order at 6:05 pm and requested the Secretary to call the roll. The following members were present: Ruth Johnson, Connie Holmes, Catherine McAphee, James Manning Jr. , Jeff Klein. Naomi Riley Absent

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

Mr. Manning announced the Consumer Price Index [February's price index was 275.823, area prices up 0.2 percent over the month and up 1.3% over the year].

APPROVAL OF MINUTES

Mrs. Johnson offered a motion, moved and seconded by Mrs. Holmes to approve the minutes of the meeting for March 7, 2019; all that were eligible to vote were in favor.

RESOLUTIONS

Mrs. Johnson offered the following resolution, moved and seconded by Mr. Manning:

Resolution #19-04

**RESOLUTION OF LANDLORD/APPLICANT JUMPING BROOK APARTMENTS
3633 HIGHWAY 33 AND 3805 HIGHWAY 33, NEPTUNE TOWNSHIP, NEW JERSEY
SEEKING APPROVAL OF FINAL COST AND CALCULATED SURCHARGES FOR
PHASE I BY THE NEPTUNE TOWNSHIP RENT LEVELING BOARD**

WHEREAS, Jumping Brook Apartments, legally known as JB Neptune Holdings, LLC, presented an application through their attorney, Paul H. Schneider, Esq., of the Law Firm of Giordano, Halleran and Ciesla, for a Capital Improvement Surcharge encompassing a two phase plan of upgrades and improvements associated therein. The aforesaid application was dated January 10, 2018 and filed January 25, 2018, with the Neptune Township Rent Leveling Board and the Rent Board Attorney, Gene J. Anthony, Esq.; and

WHEREAS, Chapter IV, §4-30, entitled “Rent Control” of the Revised General Ordinances of the Township of Neptune, Volume I, and in particular, §4-30.4, entitled, “Appeal by Landlord” provides that, “Landlord may seek additional surcharges for Major Capital Improvements or services. To qualify for a major improvement surcharge, claimant must show a benefit to the Tenant, in the form of improved lifestyle, convenience, ease and/or security, and compliance with the definition of Capital Improvements found in the Internal Revenue Code. The landlord must notify each Tenant of the total costs of the completed Capital Improvement or service, the number of years of useful life of the improvement as claimed by the landlord for purposes of depreciation for income tax purposes, the cost of the improvement, the total number of square feet to the dwelling or garden apartment complex, the total square feet occupied by the Tenant and the capital improvement surcharge he is seeking from each Tenant. The landlord seeking the Capital Improvement or service surcharge shall appeal for the surcharge to the Rent Leveling Board who shall determine if the improvement is a major improvement, and if so, may permit such increase to take place and may direct that the increase shall be collected in equal monthly payments spread over the useful life of the Capital Improvement. If the increase is granted it shall not be considered rental and calculated in the cost of living increases. In any event, no increase authorized by this section shall exceed 15% of the Tenant’s rent”; and

WHEREAS, the hearing before the Neptune Township Rent Leveling Board was originally scheduled for April 5, 2018, but due to a request by the applicant, was adjourned to May 3, 2018 and continued to June 14, 2018 and to August 9, 2018, with a confirmation of background documents on December 6, 2018; and

WHEREAS, present at the hearings for the applicant throughout the proceedings was the attorney for the applicant, Paul H. Schneider, Esq. of the Law Firm of Giordano, Halleran and

Ciesla; and testifying on behalf of the Landlord/Applicant were Mr. Jack Adler; Mr. Isaac Gluck and Mr. Biegeleisen, all of whom testified as to the general improvements and background of the intended improvements; invoices and contracts entered into and paid for by the applicant and improvements yet to be completed, and participated in public comments and questions from the Board throughout the proceedings, including May 3, 2018; June 14, 2018 and August 9, 2018, with comments and questions posed to the applicant's attorney on supporting documentation on September 6, 2018 and ;December 6, 2018; and

WHEREAS, the Rent Leveling Board attorney found that appropriate notice was provided to all parties pursuant to local ordinance and Rules and Regulations; that pre-certification from the Housing and Construction Department of Neptune Township that the buildings and grounds are in substantial compliance with the Municipal Property Maintenance Ordinance, Uniform Construction Code, and Multiple Dwelling Law, and that the same was satisfied and that all pre-hearing requirements were satisfied allowing the hearing to proceed; and

WHEREAS, the Landlord/Applicant presented its application seeking surcharges in a 100 percent residential development containing 308 rental units (104 units on the west side and 204 units on the east side) seeking a surcharge of \$1,998,283.52 in Capital Improvements which had either been completed and fully paid for, or, in a few instances, near final completion and payment, and in addition, a Phase 2 project of Capital Improvements yet to be started, which would provide for additional surcharges to cover the renovation of the gymnasium, balcony renovations and unit upgrades; and

WHEREAS, as a result of all hearings and concluded testimony of the Landlord/Applicant and its witnesses with regard to proposed and existing Capital Improvements, issues were raised concerning whether all of the improvements undertaken or proposed in the future were Major

Capital Improvements and actually satisfied the definition of Capital Improvements under the Municipal Ordinance, and what the future intention of the Landlord/Applicant was in seeking the Capital Improvements, and ultimately under a separate hearing in the future, what the calculation of the surcharge would be for those Capital Improvements that were approved by the Board, if any; and

WHEREAS, as a result of the hearings concerning existence of proposed Capital Improvements, the Board adopted a Resolution incorporated herein on December 6, 2018, which identified those proposed Capital Improvements in Phase I and Phase II that were ruled as Capital Improvements or not as Capital Improvements by the Board, with a total number of items in Phase I classified as Capital Improvements totaling \$1,586,049.87; which included roofs and gutters and soffits/fascia, hot water heaters on the west side of the complex and boilers yet to be completed (Phase II), breezeway upgrades, exterior lighting upgrades, parking lot repaving; thus reducing the original application request for Capital Improvements by \$610,773.93; and

WHEREAS, the Board further held that under Phase II involving Capital Improvements yet to be completed and surcharged, only balcony renovations were considered Capital Improvements; and

WHEREAS, by letter application of February 5, 2019, received by the Board on February 9, 2019, the Applicant submitted final costs and supporting documentation to the Neptune Township Rent Leveling Board, including an updated Rent Roll and a Amortization Calculation Schedule for the Capital Improvement Surcharge, Phase I; and

WHEREAS, on March 7, 2019, the Neptune Township Rent Leveling Board reviewed the updated Amortization Calculation Schedule for the Capital Improvement Surcharges sought by the Applicant on Phase I, based on those Capital Improvements previously approved by the

Neptune Township Rent Leveling Board, and proposed rent surcharges to all tenants along with proof of service of notice of the hearing.

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

- A. That the Rent Leveling Board had jurisdiction to hear the application of the Landlord/Applicant, Jumping Brook Apartments, also known as JB Neptune Holdings, LLC, that all notice requirements were satisfied as well as conditions concerning construction and maintenance code compliance.
- B. After the Board review all the documentation in supporting the actual cost of all Capital Improvements approved by the Board for Phase I and reviewed the Applicant's updated Rent Roll and Amortization Calculation Schedule for the Capital Improvement Surcharge, including the proposed rent surcharges for all tenants, and the Board hereby approves the rent surcharges submitted by Jumping Brook Apartments, made a part hereof as Exhibit A.
- C. The Board further determines that the Landlord shall have to apply to the Neptune Township Rent Leveling Board for approval of any final costs and proposed rent surcharges with regard to Phase II upon completion of all work with regard to the same, and the Board retains jurisdiction to rehear and approve of said costs and surcharges upon submission by the Landlord.

BE IT FURTHER RESOLVED, that the Municipal Board Attorney, Gene J. Anthony, Esq., is hereby authorized to provide the Landlord/Applicant through its attorney, Paul H. Schneider, of Giordano, Halleran and Ciesla, with offices located at 125 Half Mile Road, Suite 300, Red Bank, New Jersey, 07701 with a written notice of this decision by a copy of the

Resolution effective the date of execution of this Resolution, and the Landlord/Applicant may implement all actions necessary with regard to the Resolution, upon notification to all tenants as set forth more fully below.

BE IT FURTHER RESOLVED, that all Tenants shall receive a copy of this Resolution, with attached Exhibit A, submitted by regular mail by the Landlord/Applicant, and notification as to when actual surcharges shall go into effect, submitting proof of service to the Neptune Rent Leveling Board.

BE IT FURTHER RESOLVED, that future Tenants shall be put on written notice of the surcharge to be imposed upon Tenant prior to or at the time of execution of a written lease or commencement of tenancy.

BE IT FURTHER RESOLVED, that pursuant to §4-30.7 of the Rent Control Ordinance of the Township of Neptune, both the Landlord/Applicant and any Tenant may appeal in writing the finding of the Board to the governing body within twenty (20) days from the date of receipt of the determination pursuant to the Rules and Regulations set forth for the Rent Leveling Board and the Municipal Ordinance for such appeals.

The resolution was adopted on the following vote: McAphee, Aye; Holmes, Aye; Manning, Aye; Johnson, aye; Klein, Aye.

HEARING - #19-02 RHONDA ROBINSON

The hearing for Rhonda Robinson vs Jumping Brook Apts was held. Ms. Robinson was present as well as Robert Rosso the Manager for the Complex. The Board established they had jurisdiction to hear the complaint. The hearing was held and the three major complaints were heating problems, electrical and noise. Ms. Robinson was unable to give specifics as far as the temperature in the apartment but kept reiterating that the thermostats did not work properly and the circuit breaker kept tripping Mr. Rosso stated the maintenance team did replace base boards and every thermostat in every room. They did find an electrical issue and corrected it. He stated this was the first time of hearing about the circuit breaker. Mr. Rosso stated the complaint as far as the noise with the upstairs neighbor, the neighbor is willing to work with Ms. Robinson.

Mrs. Johnson stated that there was no significant deficiency for heat because they did not know what the temperature in the apartment was, moved and seconded by Mr. Klein; all were in favor.

Mr. Klein stated there was a deficiency with the electrical system but they cannot determine the value recommended and suggested the landlord contact a contractor, moved and seconded by Mrs. Johnson; all were in favor.

Mr. Klein stated there wasn't a significant deficiency with the upstairs neighbor and suggested it be resolved with the landlord and if not resolved come back here and it can be a significant deficiency, moved and seconded by Mrs. Holmes; all were in favor

The Board agreed that they had to allow the tenant and the landlord to work out the arrangements and urged Mrs. Robinson to give the landlord notice to meet with her.

Mr. Anthony recommended the landlord fix the electrical situation that could affect her health and heating. The landlord was put on notice to fix the issue.

Mrs. Johnson offered a motion to close the hearing, moved and seconded by Mrs. Holmes; all were in favor.

PUBLIC PARTICIPATION

None

Mr. Manning offered a motion to adjourn the meeting, moved and seconded by Mrs. Johnson. All were in favor.

Pamela D. Howard

Secretary

RESOLUTIONS

Resolution #19-05

**RESOLUTION OF THE NEPTUNE TOWNSHIP RENT LEVELING BOARD OF
TENANT’S COMPLAINT OF RHONDA ROBINSON**

WHEREAS, the Neptune Township Rent Leveling Board was presented with a Complaint by RHONDA ROBINSON, residing at 3633 Highway 33, Apt. 295, Neptune Township, New Jersey, 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 4, 2019, after service was made upon the Landlord by Certified Mail/Return Receipt Requested, namely, J. B. Neptune Holdings, LLC, 3633 Highway 33, Suite 317, Neptune Township, New Jersey 07753, as submitted by the Tenant (hereinafter referred to as the “Complainant”) within the time period prescribed by local ordinance; and

WHEREAS, on April 4, 2019 the Complainant, RHONDA ROBINSON, appeared before the Neptune Township Rent Leveling Board and testified, and the Property Manager, Robert Russo, appeared on behalf of the Landlord, J. B. Neptune Holdings, LLC, 3633 Highway 33, Suite 317, Neptune Township, New Jersey 07753 and testified; and

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

1. That the Complainant, who had been living in the subject unit since October, 2013 had lack of adequate heat, with temperatures at 65 degrees to 69 degrees from January 1, 2019 through February 2, 2019 in the kitchen and bedroom, with the heat on in the living room on and off at 70 degrees and the bathroom at 69

degrees, with general temperature approximately 65 degrees for the aforesaid period. The Complainant did not present any proof of what the actual temperature was at any point in time anywhere in the apartment and did not have evidence from Municipal Code Enforcement or witnesses.

2. That the electrical system with regard to the thermostats, which are in each room, did not work properly and caused the circuit breaker to cut off occasionally or cause variation of heat in each room; even though all thermostats were set at the same temperature. On both the heating and electrical system there was testimony which is unrefuted that the Landlord has acted to address these problems on a continuous basis, but the Complainant has not presented any witnesses concerning an electrical contractor or report to assist us in determining the electrical problem.
3. The Complainant complained that when the upstairs neighbor was using his washing machine it causes a rocking of the Complainant's apartment ceiling and other portions of the apartment. Testimony was unrefuted that the Office Manager appeared a number of times at the upstairs Tenant's apartment to determine the problem, and has been unable to determine any problem with regard to the washing machine or dryer.

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. That 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), as acknowledged by the Landlord's attorney, at the address provided to all Tenants.
2. That the Neptune Township Rent Leveling Board has subject matter jurisdiction over the Complainant and Landlord, and the Complainant has been a Tenant in the subject apartment since October, 2013, and the Complainant's unit is one of well over five (5) residential units in the apartment complex.
3. That the Complainant, RHONDA ROBINSON, has occupied the unit at 3633 Highway 33, Apt. 295, Neptune Township, New Jersey, since October, 2013, and has experience heat, electrical and upstairs neighbor noise since at least January 1, 2019 and has been paying rent in the amount of \$1,020.00 a month and has notified the Landlord of the heating, electrical and neighborhood problems, and the Landlord has, on numerous occasions addressed said problems; though apparently has not found a satisfactory solution to any of them to date.

4. That the Board finds that the Complainant provided insufficient evidence as to the lack of sufficient heat in the subject property and even with her testimony indicated that the heat levels were between 65 and 70, which are at levels allowed by the State of New Jersey during the subject months, and therefore, find no basis for a reduction in services at this time with regard to heat, but encourages the Landlord to address the issue of multiple thermostats, and how to maintain heat evenly throughout the apartment unit.
5. That the Board finds that there was insufficient evidence establishing what the electrical problem was, but that one does exist; though no rental value can be determined, and finds that the Landlord needs to address the electrical problem in the near future by hiring an electrical contractor to address the wiring of thermostats, but cannot provide any relief in the form of reduced services to the Tenant at this time.
6. That the Board finds that the problem with the upstairs neighbor is one beyond the scope of the Board's ability to remedy and represents a contractual issue between the Tenant and the Landlord for peaceful and quiet habitation.

The Neptune Township Rent Leveling Board hereby finds that the above referenced alleged reduced services do not represent a reduced rental value, as set forth above, and that the Complainant, RHONDA ROBINSON, shall not be entitled to credits towards rents due and owing in the future or at present at this time.

IT IS FURTHER ORDERED AND DETERMINED, that no credits shall be assessed in favor of the Complainant due to the reasons set forth more fully above. However, it is strongly suggested that some of the deficiencies, though not significant or subject to sufficient evidence, may be more than merely inconveniences, and that the Landlord should correct and address those issues as soon as possible so as to avoid a future complaint with sufficient evidence on the part of the Complainant.

IT IS FURTHER ORDERED AND DETERMINED, that the municipal attorney is hereby authorized to provide the Landlord, J. B. Neptune Holdings, through its Property

Manager, Robert Russo, LLC, 3633 Highway 33, Suite 317, Neptune Township, New Jersey 07753, and the Complainant, RHONDA ROBINSON, 3633 Highway 33, Apt. 295, 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 Complainant shall have a right within twenty (20) days of the date of receipt 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:

Negative:

Absent:

Dated: May 2, 2019

JAMES MANNING, JR.,
VICE-CHAIRMAN

ATTEST:

PAM HOWARD, Secretary

I hereby certify the foregoing to be a true copy of the resolution adopted by the Neptune Township Rent Leveling Board at a meeting held on May 2, 2019.

ATTEST:

PAM HOWARD, Secretary