

CITY OF UNION CITY
HUDSON COUNTY, NEW JERSEY
RENT STABILIZATION BOARD

REGULAR MEETING : TRANSCRIPT OF
: :
: :
-----: PROCEEDINGS

Union City City Hall
3715 Palisade Avenue
Union City, New Jersey

Monday, January 8, 2024
Commencing at 6:41 p.m.

M E M B E R S P R E S E N T:

JUAN MILAN, CHAIRMAN
SANDRA VASQUEZ, VICE CHAIRPERSON
ROSANA COLON, COMMISSIONER
YAMIRUS HOLGUIN, COMMISSIONER
YDALY POZO, COMMISSIONER

M E M B E R S A B S E N T:

NORMA GUEVARA, COMMISSIONER
ORQUIDIA SANCHEZ, COMMISSIONER

A L S O P R E S E N T:

NEIL D. MAROTTA, ESQ., Board Counsel
KENNEDY NG, Administrator
CHRISTINA M. RIVERA, ESQ., Tenant Advocate
FRANCOIS NUNEZ, Staff Member
CASMILA SOLIS, Staff Member
GUILLERMO MARTINEZ, Interpreter

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A P P E A R A N C E S:

LOPEZ NORIS, ESQS.

BY: ADOLFO LOPEZ, ESQ.

Attorney for 218 New York Avenue

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I N D E X

218 New York Avenue, #10
Rent dispute

WITNESSPAGE

CHRISTOPHER YEGEN

13

E X H I B I T SNO.DOCUMENTPAGE

T-1

8/1/16 lease

18

T-2

2018 registration

18

T-3

2019 registration

19

T-4

2020 registration

20

T-5

notice of rent increase

27

1 MR. NG: Good evening. This is the
2 meeting of the rent leveling board and today's
3 date is January 8, 2024, the first meeting of the
4 year. It is now 6:41, we're in the municipal
5 court chambers, 3715 Palisade Avenue, Union City,
6 New Jersey.

7 Pursuant to the Open Public Meeting law,
8 adequate notice of this meeting was provided to
9 The Bergen Record, The Jersey Journal, and North
10 Hudson Reporter more than 72 hours in advance of
11 the meeting and posted at the municipal building.
12 The notice includes the date, time, location, and
13 to the extent known, the agenda of the meeting.
14 Please rise for the flag salute.

15
16 (Whereupon, the Pledge of Allegiance was
17 recited.)
18

19 **ROLL CALL:**

20
21 MR. NG: I need to do roll call.

22 Commissioner Norma Guevara, not present.

23 Commissioner Ydaly Pozo.

24 COMMISSIONER POZO: Present.

25 MR. NG: Commissioner Yamirus Holguin.

1 MR. MAROTTA: She just texted me, she's
2 on her way.

3 MR. NG: Commissioner Rosana Colon.

4 COMMISSIONER COLON: Present.

5 MR. NG: Commissioner Vice Chairman
6 Sandra Vasquez.

7 VICE CHAIRPERSON VASQUEZ: Present.

8 MR. NG: Chairman Juan Milan.

9 CHAIRMAN MILAN: Present.

10 MR. NG: We have a -- do we have an
11 interpreter.

12 MR. MARTINEZ: Present.

13 MR. NG: I need your name.

14 MR. MARTINEZ: Guillermo Martinez.

15 CHAIRMAN MILAN: Do we want to swear the
16 gentleman since he's already standing?

17

18 G U I L L E R M O M A R T I N E Z, an
19 interpreter of the SPANISH language, after having
20 been duly sworn, did interpret the following
21 testimony:

22

23 MR. NG: Neil, before we start, I want
24 to apologize last meeting that I had to go
25 earlier, I had things to do in New York, very

1 important for my other career. But I know that
2 you handled it very well.

3 MR. MAROTTA: Thank you.

4 VICE CHAIRPERSON VASQUEZ: No problem.

5

6 **REORGANIZATION:**

7

8 MR. MAROTTA: Thank you, okay.

9 So we have -- today is the
10 reorganization of the officers of the rent control
11 board. So at this time, I would like to hear
12 nominations for the chairperson of the rent
13 control board. At this point, our prior chairman
14 was Juan Milan. And at this point, every year,
15 we're required to start the process again. And if
16 somebody could give a nomination of who you would
17 like to have as the chairperson of the board. And
18 the way you do that is you just say, "I nominate
19 so-and-so to be the chairperson".

20 VICE CHAIRPERSON VASQUEZ: I nominate
21 Mr. Milan to continue being the chairperson.

22 MR. NG: So nomination was made by
23 Commissioner Sandra Vasquez.

24 MR. MAROTTA: Are there any other
25 nominations for anybody else?

1 COMMISSIONER COLON: No.

2 MR. MAROTTA: There being no other
3 nominations, we close nominations. Now may we
4 have roll call.

5 MR. NG: So the nomination was made
6 Commissioner Vice Chairman Sandra Vasquez.

7 COMMISSIONER POZO: Second.

8 MR. NG: Second by Commissioner Ydaly
9 Pozo. Roll call.

10 Commissioner Ydaly Pozo.

11 COMMISSIONER POZO: Yes.

12 MR. NG: Commissioner Rosana Colon.

13 COMMISSIONER COLON: Yes.

14 MR. NG: Commissioner and Vice Chairman
15 Sandra Vasquez.

16 VICE CHAIRPERSON VASQUEZ: Yes.

17 MR. NG: Chairman Juan Milan.

18 MR. MAROTTA: He's allowed to vote for
19 himself.

20 CHAIRMAN MILAN: Abstain.

21 MR. NG: The motion passes.

22 MR. MAROTTA: At this time, if we may
23 have a nomination for vice chair?

24 COMMISSIONER COLON: I nominate Sandra.

25 MR. NG: Motion for Sandra Vasquez as

1 vice chairman was made by Commissioner Rosana
2 Colon.

3 MR. MAROTTA: Any further nominations
4 for anybody else? There being no further
5 nominations, we'll close nominations. If we may
6 have a motion and roll call.

7 MR. NG: We have a motion, who was
8 second?

9 COMMISSIONER POZO: Second.

10 MR. NG: Commissioner Ydaly Pozo. So
11 roll call.

12 Commissioner Ydaly Pozo.

13 COMMISSIONER POZO: Yes.

14 MR. NG: Commissioner Rosana Colon.

15 COMMISSIONER COLON: Yes.

16 MR. NG: Commissioner and Vice Chairman
17 Sandra Vasquez.

18 VICE CHAIRPERSON VASQUEZ: Yes.

19 MR. NG: Chairman Juan Milan.

20 CHAIRMAN MILAN: Yes.

21 MR. NG: Motion has passed.

22

23

24

25

1 **HEARINGS:**

2 **218 NEW YORK AVENUE, APT. NO. 10 -**

3 **RENT DISPUTE:**

4
5 MR. MAROTTA: Okay. I just would like
6 to go through the agenda briefly. We have four
7 matters listed on the agenda. The one is a return
8 from last meeting, 218 New York Avenue, Apartment
9 Number 10, it's a rent dispute. The other matters
10 have all been carried. There was a hardship
11 matter, which actually we're going to need
12 conflict counsel for that. So that will be
13 carried to preferably the February meeting, but
14 we'll confirm that.

15 The other matter is 703A-707 28th
16 Street, there was a mistake on the notice with
17 regards to notifying counsel. They sent an
18 adjournment request and we checked it and they had
19 reason -- they didn't know about the meeting in
20 time. So we'll be carrying that to a date to be
21 set. Basically pulled that one from the agenda
22 because of that.

23 MR. NG: Maybe that one could be for
24 next month because everything is done, it's just
25 only the issue with the address.

1 MR. MAROTTA: Well, they did put a
2 request not to next month because they have a
3 conflict.

4 MR. NG: Okay. Just make a note for
5 March.

6 MR. MAROTTA: I know one of our
7 witnesses may not be here in March, so we may have
8 to put it on for April. But I believe that
9 counsel, there's two attorneys for the tenants,
10 there's an attorney for the property owner. And
11 that should be discussed amongst themselves to
12 give us a date and confirm that.

13 MR. NG: Okay.

14 MR. MAROTTA: I think that would be the
15 best way to handle it. And then 818 22nd Street.
16 That was a capital improvement matter. That was
17 the prior matter where there was a hardship
18 application, if you recall, 818 22nd Street. And
19 I discussed with both counsel and also the fact
20 that our expert accountant is not here tonight, I
21 requested that it be carried. Because I'd also
22 like to discuss the matter for a potential global
23 resolution.

24 We have discussed with them that they
25 may have to come in another time for a further

1 hardship, but that might not be necessary. So
2 that's --

3 CHAIRMAN MILAN: Is this the gentleman
4 that did the case for himself?

5 MR. MAROTTA: Yes.

6 CHAIRMAN MILAN: Okay.

7 MR. MAROTTA: Therefore, that leaves us
8 with 218 New York Avenue, Apartment Number 10.
9 Mr. Lopez is here and with his client.

10 CHAIRMAN MILAN: Let the record show
11 that Commissioner Holguin has now joined the
12 proceedings.

13 MR. MAROTTA: Just to let you know, we
14 had the reorganization of the board. And, again,
15 Chairman Milan and Vice Chair Vasquez have been
16 appointed.

17 COMMISSIONER HOLGUIN: Great.

18 MR. MAROTTA: So as we left off at the
19 last meeting, there was a question whether or not
20 the property owner had received the notice of
21 determination that was sent out in 2019, if you
22 recall. And the board had requested that a
23 representative of the property owner come forward
24 and testify or answer any questions that are
25 necessary. I'm going to let counsel go, both

1 explain where they believe this is at in their own
2 words.

3 MR. LOPEZ: The only thing I would like
4 to clarify is that we had determined that no
5 certified mail was ever sent to the property owner
6 and that the decision was sent merely by regular
7 mail.

8 MR. MAROTTA: I believe that the record
9 will reflect that, yes.

10 MR. LOPEZ: You believe it will reflect
11 it or the record does reflect that?

12 MR. MAROTTA: That's my recollection of
13 what the record said.

14 MR. LOPEZ: All right. So my client is
15 here. The chairman indicated that he had some
16 questions for my client.

17 MR. MAROTTA: Correct.

18 MR. LOPEZ: My client is here, he's
19 ready to be sworn.

20

21 C H R I S T O P H E R Y E G E N, after having
22 been duly sworn or affirmed, did testify as
23 follows:

24

25 MR. LOPEZ: What's your position with

1 218 NY Ave, LP, Chris?

2 MR. YEGEN: I'm one of the owners.

3 MR. LOPEZ: Managing partners?

4 MR. YEGEN: Yeah.

5 MR. MAROTTA: If I could interject, I
6 just want to confirm we do not need the
7 interpreter.

8 MR. NG: You can stay or you can go.

9 MR. MARTINEZ: I'll stay for a little
10 while.

11 MR. MAROTTA: Sorry, please proceed.

12 MR. LOPEZ: In that position, you are
13 familiar with the operation of this limited
14 partnership?

15 MR. YEGEN: I am.

16 MR. LOPEZ: There was a decision entered
17 by the rent leveling office dated October 28,
18 2019, which has been previously marked as A-1 and
19 the 12/11/23 date was the date of the last
20 meeting. Are you familiar with this notice?

21 MR. YEGEN: I have seen it only in
22 regards to the lawsuit brought by the tenant --

23 MR. LOPEZ: Okay.

24 MR. YEGEN: -- Ms. Suarez.

25 MR. LOPEZ: Just for the record, Ms.

1 Suarez filed a lawsuit in Superior Court alleging
2 a rent over charge; is that correct?

3 MR. YEGEN: Yes, it is.

4 MR. LOPEZ: And as part of that court
5 case and court proceedings related to that case,
6 you became aware of what is shown here as A-1; is
7 that correct?

8 MR. YEGEN: Yes, that's correct.

9 MR. LOPEZ: There was a -- at the last
10 meeting, the issue came up that the amount
11 reflected on A-1, on this notice as the rent being
12 \$473.46 was included in the December 2019
13 registration of the property. And they wanted
14 some clarification of that.

15 The assumption of the tenant advocate is
16 that you would have received notice by that date,
17 by the December 2019 filing. And so I think
18 that's where they wanted to ask you for some
19 clarification. Is that something that you
20 yourself carry out?

21 MR. YEGEN: The filing of the rent
22 registrations?

23 MR. LOPEZ: Yes.

24 MR. YEGEN: No, I haven't done that for
25 many years.

1 MR. LOPEZ: Is there someone in your
2 office that does these -- the routine
3 recordkeeping items for the limited partnership?

4 MR. YEGEN: Yes, there is.

5 MR. LOPEZ: And after I brought up the
6 issue to you, did you try to find out how it is
7 that you first -- that the company first received
8 notice -- obtained notice that this determination
9 had been entered by the rent leveling office?

10 MR. YEGEN: I believe our employee who
11 went into Union City rent control to file the rent
12 registration statement was told that there was an
13 issue with the legal rent for apartment 10. And I
14 believe received a call had from Nilda, who was in
15 the rent control office, about it, telling me that
16 the legal rent was lower than what was on the rent
17 registration statement.

18 MR. LOPEZ: Than what was on the
19 proposed rent registration; is that correct?

20 MR. YEGEN: Yes.

21 MR. LOPEZ: And as a result of the
22 information that you were given -- not you
23 actually, but as a result of the information, your
24 employee, the one who handles this, did he then
25 make the corrections to the December 2019 rent

1 registration statement?

2 MR. YEGEN: Yes, he did.

3 MR. LOPEZ: And is that what was filed
4 in, as best as you -- understanding that you
5 didn't do the filing, that would have been the
6 figure that was included at that point; is that
7 correct?

8 MR. YEGEN: To the best of my knowledge,
9 yes.

10 MR. LOPEZ: I have nothing else. There
11 are questions, obviously.

12 CHAIRMAN MILAN: Do you have anything?

13 MS. RIVERA: I do.

14 Mr. Yegen, whose responsible in the LLC
15 for preparing the leases?

16 MR. YEGEN: Preparing the leases?
17 Usually, it's our manager.

18 MS. RIVERA: Okay. And what about
19 notice for rent increase?

20 MR. YEGEN: We have somebody in our
21 office who handles that.

22 MS. RIVERA: And so I'm going to show
23 you what I'm going to mark -- do I have any
24 marked?

25 MR. MAROTTA: I don't think you did.

1 MS. RIVERA: T-1. Do you recognize
2 that?

3 MR. YEGEN: Yes. It looks like one of
4 our leases.

5 MS. RIVERA: Okay. And that's for Ms.
6 Suarez?

7 MR. YEGEN: Um-hum.

8 MS. RIVERA: What is the date of that
9 lease and when does it begin the tenancy?

10 MR. YEGEN: August 1, 2016.

11 MS. RIVERA: Okay. And what is the
12 initial rent?

13 MR. YEGEN: \$1,400.

14 MS. RIVERA: Okay. So the rent
15 registrations were done every January, right? If
16 we look through --

17 MR. YEGEN: I believe so.

18 MR. LOPEZ: They were effective in
19 January, they would have been done in December.

20 MS. RIVERA: Okay. Last registration
21 date looks like the date of this received is
22 January 30th, 2018.

23 MR. LOPEZ: Okay.

24 MS. RIVERA: Okay. I'm going mark this
25 T-2.

1 MR. LOPEZ: We can agree that if it was
2 done at a different date, the subsequent
3 registration would need to be 12 months later.

4 MS. RIVERA: Right, okay. So for the
5 one --

6 MR. MAROTTA: If I may interject? Did
7 you give a description of what T-1 was?

8 MS. RIVERA: T-1 is the lease.

9 MR. LOPEZ: The original lease with Ms.
10 Suarez.

11 MR. MAROTTA: Thank you.

12 MS. RIVERA: So T-2, we have a
13 January 25, 2018, rent registration. Do you
14 recognize this document? That's page two --

15 MR. LOPEZ: What date did you say?

16 MS. RIVERA: January 25, 2018, is what
17 is at the top.

18 MR. YEGEN: It looks like our
19 registration statement.

20 MS. RIVERA: Okay. And so Ms. Suarez's
21 apartment is reflected as what in terms of rent
22 amount?

23 MR. YEGEN: \$551.22.

24 MS. RIVERA: So then we go to the next
25 year, 2019, and I'm going to mark this T-3. It's

1 a two page --

2 MR. LOPEZ: Let's just mark the one,
3 it's the same.

4 MS. RIVERA: So what is Ms. Suarez's
5 rent reflected as?

6 MR. YEGEN: \$560.04.

7 MS. RIVERA: So you would agree that
8 that would have the CPI increase, right --

9 MR. YEGEN: Correct.

10 MS. RIVERA: -- for the following year.
11 Okay. And this is still before she filed her
12 inquiry with the rent control office?

13 MR. YEGEN: Correct.

14 MS. RIVERA: So now we go to the one
15 that would have been done on January 23, 2020, I'm
16 going to mark this T-4. What is it reflected
17 there, her rent?

18 MR. YEGEN: \$483.88.

19 MS. RIVERA: Before that, right, because
20 you were reading from the cover, it would be --

21 MR. LOPEZ: Are you asking for what base
22 rent as opposed to total rent?

23 MS. RIVERA: Base rent.

24 MR. YEGEN: \$473.46.

25 MS. RIVERA: Now, you would agree that

1 that's less than the preceding year, right?

2 MR. YEGEN: Yes.

3 MS. RIVERA: Okay. And it's exactly the
4 same amount as reflected in the notice that was
5 October of 2019, right?

6 MR. YEGEN: Yes. As I indicated, we
7 were told to change it.

8 MS. RIVERA: Okay. And so that would
9 be -- okay. So you're telling me and the board
10 that they were corrected at the time of
11 registration that this was the rent?

12 MR. YEGEN: Correct.

13 MS. RIVERA: Okay. And clearly it's
14 less than what was registered the preceding year?

15 MR. YEGEN: Yes.

16 MS. RIVERA: And it's certainly less
17 than the rent that's reflected on her lease?

18 MR. YEGEN: Yes.

19 MS. RIVERA: The person that works for
20 you doesn't go back and say, hey, there's a
21 different number, they lowered the rent? I mean
22 there's no communication with you and the employee
23 that goes and does the rent registration?

24 MR. YEGEN: Well, he would have told us
25 in December.

1 MS. RIVERA: Right. So that would be
2 two months after the letter was dated, right?

3 MR. LOPEZ: Three months.

4 MS. RIVERA: Three months.

5 MR. LOPEZ: According to your document.

6 MS. RIVERA: Three months, we were using
7 December.

8 MR. LOPEZ: Right.

9 MS. RIVERA: But January is certainly
10 three months after you would have received that
11 letter?

12 MR. YEGEN: Correct.

13 MR. LOPEZ: Wait, wait, I object to the
14 form of the question. You're saying that he would
15 have received the letter, that has not been
16 established.

17 MS. RIVERA: Okay. But I'm --

18 MR. LOPEZ: When the notice was
19 allegedly sent by the rent leveling office.

20 MS. RIVERA: Correct.

21 MR. LOPEZ: Okay.

22 MS. RIVERA: It's three months later,
23 right? And --

24 MR. LOPEZ: Let him answer that.

25 MS. RIVERA: Okay.

1 MR. LOPEZ: Do you agree that that
2 registration was done three months after the --
3 approximately three months after the letter dated
4 October 28, 2019, which has been marked as A-1?

5 MR. YEGEN: It looks to be about
6 three months.

7 MS. RIVERA: Yeah, it's the same rent
8 amount that's reflected on that letter.

9 MR. LOPEZ: That's been asked and
10 answered.

11 MS. RIVERA: Right, so he can reiterate,
12 right, for the purposes of clarity.

13 MR. LOPEZ: He's answered and
14 acknowledged.

15 MS. RIVERA: No, you've answered.

16 MR. LOPEZ: No, he answered.

17 MS. RIVERA: Let's hear it from him.

18 MR. YEGEN: Yes.

19 MS. RIVERA: Okay. So let's go back to
20 T-4. So the base rent is 473, but with the
21 allowed increase it went up to 483.88, right,
22 that's what it says here on the form?

23 MR. YEGEN: Yes.

24 MS. RIVERA: Okay. And no one went back
25 and said, hey, this a different number, they

1 lowered the -- your employee doesn't go back and
2 tell you there's a different number reflected?

3 MR. LOPEZ: We explained that last
4 time --

5 MS. RIVERA: I'm --

6 MR. LOPEZ: -- that we were involved in
7 litigation.

8 MS. RIVERA: I'm asking the client.

9 MR. LOPEZ: All right.

10 MS. RIVERA: Can you answer, please?

11 MR. YEGEN: Sure. We received notice in
12 the form of litigation papers from the tenant.

13 MS. RIVERA: Okay. But when your
14 employee went back, they don't converse with you
15 about what they fill out and what they do?

16 MR. YEGEN: He told us, but we didn't
17 receive any documentation.

18 MS. RIVERA: You didn't call and
19 inquire?

20 MR. YEGEN: I said we did hear from the
21 rent control board.

22 MS. RIVERA: Well, now, part of this
23 litigation. I'm talking about back in 2020,
24 receiving and communicating with your employee
25 that there was a change?

1 MR. LOPEZ: Counsel, what's your point?

2 MS. RIVERA: I'm getting --

3 MR. LOPEZ: If at that point, we're way
4 beyond the time to do any type of appeal?

5 MS. RIVERA: I didn't interrupt you --

6 MR. LOPEZ: I'd like to --

7 MS. RIVERA: Please give me --

8 MR. LOPEZ: I want to know where you're
9 going with this.

10 MS. RIVERA: We'll get there.

11 MR. MAROTTA: Mr. Lopez, if you have an
12 objection, by all means state it. But I don't
13 see --

14 MR. LOPEZ: My objection is that it's --
15 all this is clear. She's saying that the first
16 notice from what it appears from the testimony in
17 the documents is three months later. At that --
18 what are we doing at that point?

19 MS. RIVERA: The question is you didn't
20 inquire with the rent control office and say, hey,
21 why did this change?

22 MR. LOPEZ: We're beyond the time to do
23 any --

24 MS. RIVERA: I'm sorry, if you're going
25 to give testimony, maybe we should put you under

1 oath --

2 MR. LOPEZ: I'm not --

3 MS. RIVERA: I'm asking --

4 MR. LOPEZ: If you'd like to put me on,
5 I'll gladly --

6 MS. RIVERA: I'm asking your client.

7 MR. LOPEZ: -- testify.

8 MS. RIVERA: I'm not asking you. I want
9 to --

10 MR. LOPEZ: I understand.

11 MS. RIVERA: If you want to put your
12 objection --

13 MR. LOPEZ: My objection --

14 MS. RIVERA: Please don't be
15 inconsiderate and interrupt me when I'm speaking
16 to -- when I'm asking your client questions.

17 MR. LOPEZ: My objection is that at that
18 point, it makes absolutely no difference. So your
19 question is totally irrelevant.

20 MS. RIVERA: That's for the board to
21 decide, not you.

22 MR. LOPEZ: We're 90 days beyond the
23 time.

24 MS. RIVERA: That is --

25 MR. LOPEZ: Your ordinance says you have

1 30 days to appeal. The notice says you have
2 10 days to appeal. And now we are 90 days out.

3 MS. RIVERA: Okay.

4 MR. LOPEZ: Where is the relevance of --

5 MS. RIVERA: So what --

6 MR. LOPEZ: -- your question.

7 MS. RIVERA: I'm asking him to --

8 MR. MAROTTA: The objection is stated
9 for the record. I'd like to proceed.

10 MS. RIVERA: So, again, I'm going to
11 repeat my question. When you get -- when your
12 employee goes and registers this rent in
13 January 2020 or December of 2019, they don't go
14 back and tell you, hey, there's something
15 different on this? They told me that the rent was
16 reduced? They don't have a question --
17 conversation with you? You don't have a
18 conversation with your employee?

19 MR. YEGEN: Yes, I talked to the
20 employee. I also talked to rent control.

21 MS. RIVERA: Okay.

22 MR. YEGEN: As I indicated, I spoke to
23 Nilda about it.

24 MS. RIVERA: Okay. And so I'm going to
25 now mark T-5. I'm going to show this to you,

1 that's a notice of rent increase. Do you
2 recognize that document?

3 MR. YEGEN: Looks like our standard rent
4 increase.

5 MS. RIVERA: Okay. And what is the rent
6 increased to?

7 MR. YEGEN: \$483.88.

8 MS. RIVERA: Okay. Now, is that the
9 same figure that's reflected on that same
10 registration statement showing the new rent at
11 483.88?

12 MR. YEGEN: I believe so.

13 MS. RIVERA: Okay.

14 MR. MAROTTA: What's the date of that
15 notice?

16 MR. YEGEN: January 23, 2020.

17 MS. RIVERA: January 23, 2020, which is
18 consistent with the registration statement, right?

19 MR. YEGEN: Yes.

20 MS. RIVERA: Okay. So you then had
21 notice that there was a determination of rent that
22 was lower than what you had been charging. And
23 you based your rent increase on that same figure,
24 adding the exact same figure of the new rent
25 amount, right?

1 MR. YEGEN: Correct.

2 MS. RIVERA: Okay. So that clearly
3 doesn't reflect that you just got notice of this
4 amount upon this litigation?

5 MR. LOPEZ: Objection to the question.

6 MS. RIVERA: Okay. I'm asking --

7 MR. LOPEZ: I need you to clarify it
8 because he's not saying that -- he's already
9 testified as to when he received the notice as
10 part of the filing of T-4 around January of 2020.

11 MR. MAROTTA: I'm not sure if he
12 testified when he got notice of it. I believe he
13 testified that he got notice of it. He spoke with
14 his employee and he spoke with Nilda, but I don't
15 recall any discussion as to when that occurred.

16 MR. LOPEZ: I think it was pretty clear
17 that his testimony was that as a result of his
18 employee being told on the filing of T-4, sometime
19 in January of 2020 is when he received notice.

20 MR. MAROTTA: I just don't recall that
21 that date was stated.

22 MR. LOPEZ: Okay.

23 MS. RIVERA: So now, I ask the court
24 reporter can you read back the first question --
25 when we go back to when he got notice of the

1 increase? Are you able to do that?

2 THE COURT REPORTER: No.

3 MS. RIVERA: I believe your testimony at
4 the beginning was that you actually got notice of
5 this upon the filing of the litigation, right, in
6 2023?

7 MR. YEGEN: I don't remember when that
8 was.

9 MS. RIVERA: Okay. Well, I have nothing
10 further.

11 MR. MAROTTA: Okay. Adolfo?

12 MR. LOPEZ: I actually have a question.

13 So, Chris, is it fair to say that the
14 adjustments made to the rent leveling registration
15 of January of 2020 were the result of a
16 notification that was given to you by -- you
17 indicated Nilda -- that's Nilda Mercado, correct?

18 MR. YEGEN: Yes.

19 MR. LOPEZ: At the time, she was the
20 secretary of the rent leveling office; is that
21 correct?

22 MR. YEGEN: Yes.

23 MR. LOPEZ: And is it correct to say
24 that the modifications to T-4, which is the
25 January 2020 registration, were the result of

1 information that Nilda gave you when you called to
2 inquire?

3 MR. YEGEN: Well, she called me
4 actually.

5 MR. LOPEZ: Okay.

6 MR. YEGEN: After she spoke to my
7 employee.

8 MR. LOPEZ: Okay. And that's how you
9 received the notice?

10 MR. YEGEN: Yes.

11 MS. RIVERA: I have nothing.

12 MR. MAROTTA: Okay. Anybody?

13 CHAIRMAN MILAN: Do you recollect or do
14 you have anything in your file that shows that you
15 got anything prior to that conversation with Ms.
16 Mercado?

17 MR. YEGEN: No.

18 MR. MAROTTA: I'm going to ask a
19 question that I don't think --

20 MR. LOPEZ: Wait a minute, why are you
21 asking questions?

22 MR. MAROTTA: Because I can ask
23 questions. I ask questions very often.

24 MR. LOPEZ: You're here --

25 MR. MAROTTA: I'll let my chairman, if

1 he has any questions for me, we'll --

2 MR. LOPEZ: Thank you.

3 MR. MAROTTA: We'll keep a procedure.

4 MR. LOPEZ: Yes, let's do this --

5 CHAIRMAN MILAN: Okay. So -- again,
6 let's ensure we're getting right the time table.
7 In October 2019, there's an increase, you hear
8 about it in December by a call from Ms. Mercado?

9 MR. LOPEZ: Just to clarify.

10 MR. MAROTTA: Decrease.

11 MR. LOPEZ: Your question is --

12 CHAIRMAN MILAN: A change.

13 MR. LOPEZ: There was a determination.

14 CHAIRMAN MILAN: A determination, let's
15 put it that way. You have a determination at that
16 point in December and the first you hear about it
17 is through a phone call from Ms. Mercado, she
18 calls you, almost out of the blue? You haven't
19 put in your rent registration yet?

20 MR. LOPEZ: I object to the question.

21 MR. MAROTTA: Okay.

22 MR. LOPEZ: It doesn't properly reflect
23 the facts as have been testified to.

24 CHAIRMAN MILAN: I'm trying to clarify
25 the facts as they've been testified.

1 MR. LOPEZ: But you indicated that --
2 your question said that he got a phone out of the
3 blue from Ms. Mercado. That wasn't his testimony.

4 CHAIRMAN MILAN: Okay. He got a phone
5 call from Ms. Mercado --

6 MR. LOPEZ: After his employee tried to
7 record the registrations.

8 CHAIRMAN MILAN: Is that the order of
9 things? I did not hear that order --

10 MR. MAROTTA: I didn't hear that.

11 CHAIRMAN MILAN: -- when he testified.

12 MR. MAROTTA: That it was after.

13 CHAIRMAN MILAN: That's I why I'm --

14 MR. LOPEZ: I think we need to pay
15 attention then.

16 CHAIRMAN MILAN: It could be. But in
17 any case, is that the order that you recall or
18 has been proposed by your lawyer now?

19 MR. YEGEN: To the best of my knowledge,
20 that's what I said earlier, yes.

21 CHAIRMAN MILAN: Okay. So you're
22 stating then that you sent your employee to put in
23 a rent registration --

24 MR. LOPEZ: That's not what the
25 testimony was, Mr. Chairman. The testimony was

1 that that's not among his duties with this
2 company. And that the employee goes as a matter
3 of course because that's what they do as part of
4 the job.

5 CHAIRMAN MILAN: Fine.

6 MR. LOPEZ: So they didn't send the
7 employee anywhere. The employee went on his own
8 was the testimony. This needs to be clear, I need
9 to establish a clear record. We can't just jump
10 around on the facts.

11 CHAIRMAN MILAN: Okay. So he goes when
12 December?

13 MR. LOPEZ: Well, according to this --

14 MR. MAROTTA: Objection.

15 MS. RIVERA: I'm going to object.

16 MR. MAROTTA: Adolfo, the question was
17 put to your client. Please let him answer.

18 MR. LOPEZ: Okay. So --

19 MR. MAROTTA: Please let him answer.

20 MR. LOPEZ: Do you need to refer to the
21 documents as to when he went?

22 MR. YEGEN: It was filed in January of
23 2020, he would have gone in January of 2020.

24 CHAIRMAN MILAN: Okay. But you said
25 before that he was asked or he was told that there

1 was a change. I'm assuming he goes there and goes
2 with a form, usually you don't fill it on the fly
3 at the office, I would think, you probably come
4 from your office with it. So he gets told by Ms.
5 Mercado or one of the other members of the staff.

6 MR. NG: Mr. Chairman, I don't believe
7 that Nilda was working, she was retired already
8 the date they are mentioning.

9 CHAIRMAN MILAN: I'm not so sure. I
10 think it's close to call, but I don't know if I
11 have the recollection to be honest. You need to
12 check your records to make sure.

13 MR. NG: Do you remember when Nilda
14 retired? I just want to be sure.

15 MR. NUNEZ: If I answer that, I got -- I
16 don't --

17 MR. MAROTTA: If we can have Mr. Nunez
18 sworn in.

19 MR. NUNEZ: I don't have the exact.

20 MR. MAROTTA: I will say she was not
21 retired yet.

22 CHAIRMAN MILAN: I don't know if she was
23 retired officially. I don't know if she was not
24 working because she was sick at that point. Now,
25 you have to check probably the records and that is

1 not probably something you can do easily now at
2 this hour. But I know that she was out quite a
3 lot at the end because of a lot of respiratory
4 issues, but that was it. I don't know if she was
5 officially retired or if she was coming --

6 MR. NG: I know she retired before
7 Covid.

8 CHAIRMAN MILAN: So we know it's before
9 March 2020, but it's like kind of you need -- we
10 need to check the date exactly, if we're going to
11 go down that path. But, again, let me go back to
12 where we were. In January, your employee goes or
13 the firm's employee goes and assuming he goes with
14 one of these forms then to hand it in. He's told
15 sorry, you should have received a notice in
16 October. And, you know, that's no longer the
17 number, this is the number. I'm guessing he goes
18 back. He must have spoken to you guys or to
19 somebody prior to Nilda's call, that if we have an
20 alleged call from her around January 2020.

21 The question then becomes didn't your
22 employee tell you when they went back, before even
23 Nilda calls, hi, this is -- there's a problem
24 here?

25 MR. YEGEN: Yes.

1 CHAIRMAN MILAN: He did?

2 MR. YEGEN: Yes.

3 CHAIRMAN MILAN: He did. And what
4 action did you take? You're saying Nilda called
5 you -- I kind of would have expected it the other
6 way around, I would have reached for the phone and
7 said what are you talking about. But okay.

8 MR. YEGEN: We would have had him redo
9 the form.

10 CHAIRMAN MILAN: And that was it?

11 MR. YEGEN: That was it.

12 CHAIRMAN MILAN: No questions for the
13 administrators of why didn't I get this? Why --

14 MR. YEGEN: I'm sure.

15 CHAIRMAN MILAN: -- I would like to
16 argue this because this is not what we understood
17 and we have never heard anything about it.

18 MR. YEGEN: I certainly asked Nilda if
19 that was a possibility, yes.

20 CHAIRMAN MILAN: But you're saying that
21 only happened because she called you?

22 MR. YEGEN: No.

23 CHAIRMAN MILAN: Okay. So did you call
24 her then before she called you? Or did you speak
25 to any of the other administrators?

1 MR. YEGEN: Maybe I called her and
2 somebody called me back.

3 CHAIRMAN MILAN: Okay.

4 VICE CHAIRPERSON VASQUEZ: Because Nilda
5 wasn't working by --

6 CHAIRMAN MILAN: By 2020, she was gone
7 to be honest.

8 MR. MAROTTA: '19, she was still there.
9 2020, she was gone.

10 CHAIRMAN MILAN: I think she left late
11 in -- that's why I was saying December before
12 because I figured that conversation had taken
13 place --

14 MR. MAROTTA: We need clarification.

15 CHAIRMAN MILAN: I don't have the exact
16 date in my mind of when she left.

17 MR. NG: I know when she retired, she
18 was not in the office. She as out.

19 CHAIRMAN MILAN: No, I know she had been
20 out for awhile.

21 MR. NG: It was a little confusion then.

22 CHAIRMAN MILAN: And it wasn't Nilda, it
23 was somebody else, maybe we can even do testimony
24 today, but okay. You have some questions?

25 VICE CHAIRPERSON VASQUEZ: No. I just

1 don't recall that Nilda was here in 2020, in
2 January.

3 CHAIRMAN MILAN: Okay.

4 VICE CHAIRPERSON VASQUEZ: I don't think
5 so.

6 MR. YEGEN: It might have been somebody
7 else.

8 VICE CHAIRPERSON VASQUEZ: But is that
9 the procedure that you guys have, if it wasn't
10 Nilda, did somebody --

11 MR. NG: Usually, the secretary --

12 MR. MAROTTA: I'm going to ask you to be
13 sworn.

14

15 K E N N E D Y N G, after having been duly sworn
16 or affirmed, did testify as follows:

17

18 MR. NG: Kennedy, Ng, N-G, I'm the
19 administrator of the rent control.

20 CHAIRMAN MILAN: Go ahead.

21 MR. NG: Usually, the secretary calls
22 tenants or sometimes lawyers, the people involved.
23 So that's why I was asking before if Nilda that
24 called or someone else.

25 CHAIRMAN MILAN: Or another --

1 MR. NG: But I believe she retired
2 probably 2019, late.

3 CHAIRMAN MILAN: Okay, November,
4 December, something like that. Okay. I get it,
5 but we don't have the exact date. I don't want to
6 rely on that.

7 But you're saying that it could be
8 procedure that Nilda or somebody will call --

9 MR. NG: Of course.

10 CHAIRMAN MILAN: -- somebody and say
11 that. It still brings out like why wouldn't you
12 guys have called to at least complain that you
13 didn't receive the letter? I'm not sure if you
14 remember why that wouldn't have happened, but
15 okay.

16 MR. YEGEN: I did call her is what I
17 testified.

18 CHAIRMAN MILAN: But then you told us
19 that the call was actually done by her.

20 MR. YEGEN: Well, I believe I may have
21 left a message and she called me back. But my
22 recollection is somebody from the office called me
23 about the issue. And, yes, I asked why this was
24 the case. Especially when we had done a ton of
25 work in the apartment, made it brand new. And was

1 there an opportunity to appeal and she said yes.
2 And you're likely to lose.

3 CHAIRMAN MILAN: Okay.

4 MR. MAROTTA: Okay.

5 CHAIRMAN MILAN: It is what it is. I
6 mean if you have any questions, I'll give you, as
7 our counsel, the opportunity to ask them in order
8 to clarify for the perspectives of the board
9 members.

10 MR. MAROTTA: My only question was do
11 you recall when your employee may have spoken to
12 her originally?

13 MR. YEGEN: I don't know if he spoke to
14 her, I don't know who he spoke to there, but it
15 would have been in January --

16 MR. MAROTTA: Okay.

17 MR. YEGEN: -- of 2020.

18 MR. MAROTTA: Okay. I have nothing
19 further.

20 CHAIRMAN MILAN: Either of counsel have
21 anything else to add at the end?

22 MR. LOPEZ: No.

23 MS. RIVERA: No.

24 CHAIRMAN MILAN: Okay. I make a motion
25 that we close testimony and go into deliberation.

1 MR. NG: Motion was made by chairman,
2 Mr. Milan. I need a second.

3 COMMISSIONER COLON: I second it.

4 MR. NG: Second by Commissioner Rosana
5 Colon. Roll call.

6 Commissioner Ydaly Pozo.

7 COMMISSIONER POZO: Yes.

8 MR. NG: Commissioner Yamirus Holguin.

9 COMMISSIONER HOLGUIN: Yes.

10 MR. NG: Commissioner Vice Chairman
11 Sandra Vasquez.

12 VICE CHAIRPERSON VASQUEZ: Yes.

13 MR. NG: Commissioner Rosana Colon.

14 COMMISSIONER COLON: Yes.

15 MR. NG: Chairman Juan Milan.

16 CHAIRMAN MILAN: Yes.

17 MR. NG: Motion has passed.

18 CHAIRMAN MILAN: Okay. Let me try
19 framing a little bit here. I think by looking at
20 the testimony of Mr. Yegen, he's saying that
21 basically someone spoke, they're not really
22 100 percent sure it was Ms. Mercado or somebody
23 else in the office. But the person said, yeah,
24 you can appeal. The appeal was never made.

25 I mean it could have been that we would

1 have said no, you're past the 30 days or whatever,
2 and gone forward. But we also could have said
3 they never got the letter, this didn't happen,
4 they have a right to appeal, even though it's gone
5 past the date. The date is a set number, it's
6 definitely something that we look at, but if it
7 was an error on the part of a -- a very obvious
8 error on the part of the administrators, we could
9 consider. And I think the answer from whoever
10 answered, possibly Nilda, possibly somebody else,
11 you're likely to lose, but if you want to go that
12 way, go ahead. You're likely to lose because the
13 date is pretty much set in the ordinance, but
14 there could be something that you could see is
15 violating it, beyond that letter. And even the
16 spirit of the ordinance that may say you have to
17 look at this one different, this case different
18 because they didn't take into account these things
19 when they did the notification or they send the
20 notification to an address in Timbuktu, and the
21 owner doesn't live there. Something like that can
22 happen and it could be looked at. That was not
23 even explored. They just changed the number and
24 put it down and went on.

25 So at that point, I think they are --

1 it's almost like when you go in front of a judge,
2 like in this court, and they ask you, you realize
3 that if you plead guilty, we won't throw the book
4 at you, but you're waiving your right to certain
5 things here. By not proceeding, they were waiving
6 their possibility of having that case looked at
7 and possibly said, look, this is one of those
8 anomalies where we cannot follow the straight
9 number that it says in the ordinance because there
10 are all these factors that are doing it. Were
11 there those factors? I'm not sure. I don't think
12 so, but I'm not sure because the case was never
13 brought up in that way at that time. Maybe at
14 that point, we would have found something that we
15 could have said, hey, this was not sent to the
16 right place, this was not -- I mean something
17 could have come up by the freshness of the date,
18 something might have been found that, by now, we
19 see the testimony of the managing agent seems to
20 be a little bit fuzzy because it's been
21 four years. My mind would also be pretty fuzzy if
22 you started asking me what I was doing in January
23 of 2020.

24 So if they have come at that point, it
25 would have been a lot fresher. And it could have

1 pointed to this is where you guys made the mistake
2 and we can't really abide by the letter of the
3 ordinance in this 30 days because the person was
4 really not given those 30 days to present their
5 case. Because you sent it, you know, all the way
6 to Antarctica, that's it.

7 So based on that, on the fact that they
8 didn't pursue that option, I'm saying they were
9 relinquishing their right to have it explored in
10 an expeditious way that could have still looked at
11 it in the light of the ordinance and in the light
12 of what could have gone wrong in this particular
13 case. Given that, I would say I have no choice
14 but to uphold the decision of the administrative
15 staff. I mean, again, please, feel free to go
16 against it and tell me your points or agree and
17 tell me why. We all have to --

18 MR. MAROTTA: The only thing that has to
19 be addressed further is the fact that there was a
20 lease submitted during this process, during -- and
21 it fell under the determination of vacancy
22 decontrol. So I believe that there was a
23 recalculation done in October of 2023, based upon
24 that lease that was submitted from Mr. Lopez's
25 office. And the board has addressed issues

1 concerning the vacancy decontrol and prior
2 determinations because this is not the only case
3 where that has arisen, since the determination by
4 the board to address vacancy decontrol. So there
5 is a regulation that was adopted by this board
6 that is part of the packet. So I'm going to
7 request that you consider that regulation that was
8 adopted by the board and incorporate that into
9 your decision.

10 CHAIRMAN MILAN: Let me look at it again
11 to refresh. Leases entered into during the
12 vacancy decontrol period presented for the purpose
13 of obtaining a current legal rent calculation
14 shall not apply to a tenant who previously
15 received the legal rent calculation. And leases
16 entered into the during the vacancy decontrol
17 presented for the purpose of obtaining a legal
18 rent calculation shall not apply to a tenant who
19 previously received a legal rent calculation or
20 whose rent is lower than that which will result
21 from a legal rent calculation based upon a lease
22 entered into during the vacancy decontrol period.
23 The prior legal rent calculation or rent the
24 tenant is paying shall continue in effect for the
25 tenant. A new legal rent calculation based on a

1 lease entered into during the period vacancy
2 decontrol was in effect may apply to the unit
3 after the tenant vacates the unit.

4 Okay. In this case, I guess the lease
5 was done on what day was it --

6 MR. MAROTTA: I think in 2012.

7 MR. LOPEZ: The lease was 2010.

8 MR. MAROTTA: 2010.

9 MR. LOPEZ: December 2010.

10 MR. MAROTTA: Yes.

11 CHAIRMAN MILAN: Okay.

12 MR. LOPEZ: Which established -- it was
13 during the vacancy decontrol period and it
14 established the rent at \$1,300.

15 MS. RIVERA: However, not raised until
16 three years after the letter of determination.

17 MR. LOPEZ: No. We're talking about the
18 lease --

19 MS. RIVERA: That lease came up now in
20 this matter. In August of 2020, when you --

21 MR. LOPEZ: No, no, the lease, what's
22 been marked as A-3 was the lease during the
23 vacancy decontrol period and called for a rent of
24 \$1,300 a month. And that's what was being charged
25 to the tenant.

1 MS. RIVERA: Correct. However, that
2 lease never made its way into the proceedings,
3 certainly not in 2019, when the original
4 determination was made at that 473 number and
5 wasn't raised until three years later as a
6 defense. So --

7 MR. LOPEZ: It wasn't -- there's no
8 reason to raise it as a defense. The ordinance
9 provided for it. You don't need to raise it with
10 anyone. That's the legal rent.

11 MS. RIVERA: Again, he could have done
12 that back in January of 2020 --

13 MR. LOPEZ: And he could have done it
14 now.

15 MS. RIVERA: I disagree with that, that
16 it's now --

17 MR. LOPEZ: If the purpose is to find
18 the correct rental determination at that time, we
19 would agree that the rent leveling office did not
20 have all of the information. They basically
21 pulled the number out of a hat --

22 MR. MAROTTA: I don't think that's a
23 proper characterization.

24 MR. LOPEZ: Well, but the unit was
25 subject to vacancy decontrol by the ordinance

1 since 2010.

2 MS. RIVERA: In order for the board to
3 have recognized -- and this was determined by the
4 board -- that a lease --

5 MR. LOPEZ: Not the board.

6 MS. RIVERA: I'm not talking about in
7 this matter. This board has previously ruled that
8 this has to be done within a certain period of
9 time and not three years later. And I'm not --
10 I'm characterizing a generalization of the board's
11 decision in prior matters, that to raise this
12 issue of vacancy decontrol three years after the
13 fact is not consistent with what the board has
14 ruled in the past.

15 MR. LOPEZ: But we were involved with
16 litigation, it was being proved -- and as a matter
17 of fact, a judge ruled in our favor.

18 MS. RIVERA: Okay. But again, back in
19 2020, when he was confronted with the new lower
20 rent at 473, he very well could have said, hey,
21 wait a second, I have this lease --

22 MR. LOPEZ: That's what the chairman
23 just said. We are beyond the time -- and this is
24 where I need a clarification from your proposed
25 ruling. Where in the ordinance does the board

1 have the right to expand the time frames
2 indicated? There are certain deadlines set forth
3 by the ordinance. This board needs to follow
4 those deadlines, does it not?

5 MR. MAROTTA: Correct.

6 MR. LOPEZ: Okay.

7 MR. MAROTTA: But this board has already
8 considered matters and the office has presented
9 matters where there's been an issue of service and
10 if there has been no service, the board had
11 considered that.

12 MR. LOPEZ: Not in this case, Mr.
13 Marotta.

14 MR. MAROTTA: We don't know in this
15 case.

16 MR. LOPEZ: Certainly the rent leveling
17 office could have issued a new notice and said
18 since you didn't get the old notice, we're
19 expanding your time --

20 MR. MAROTTA: There was no testimony
21 that I didn't get this notice in time. The
22 testimony was that you have the wrong amount,
23 okay.

24 MR. LOPEZ: No, no, please don't
25 mischaracterize the testimony.

1 MR. MAROTTA: The board knows what the
2 testimony was.

3 MR. LOPEZ: The board was clear that it
4 was not until January of 2020 that the notice --
5 that they received notice of the determination.

6 MR. MAROTTA: The board heard testimony,
7 I agree with you, testimony is closed. Let the
8 board --

9 MR. LOPEZ: Okay.

10 MR. MAROTTA: -- trust their
11 recollection.

12 CHAIRMAN MILAN: Based on the clauses
13 that were read into the record from the
14 resolution, is Jessenia Suarez still at all
15 involved with --

16 MS. RIVERA: Yes.

17 CHAIRMAN MILAN: -- these --

18 MR. LOPEZ: She's the tenant in the
19 apartment.

20 MS. RIVERA: Currently, she's still the
21 tenant.

22 CHAIRMAN MILAN: So I think that at the
23 very least, we can say that because of the factors
24 in the way our resolution has read, that for her,
25 there can't be a change, that it would have to be

1 for a new tenant. That's how I see this looking
2 in terms of this.

3 Now, the second question is given the
4 vacancy decontrol issue, how firm do we keep on
5 the fact that there is a dispute as to whether the
6 landlord received the notification or not. And
7 how much weight do we give that for the new
8 tenant. Forgetting Ms. Suarez, who I think is set
9 at what she is.

10 MR. LOPEZ: Well, for another tenant?

11 CHAIRMAN MILAN: Right. If once she
12 left, you have another tenant, do we go back to
13 the calculation, which the administrators did for
14 assuming vacancy decontrol or do we go to the one
15 that it's being looked at now because that
16 apparently the original one was either not acted
17 upon or was not sent.

18 MR. MAROTTA: I think the resolution
19 sets forth what the step is.

20 CHAIRMAN MILAN: In number two.

21 MR. MAROTTA: Yeah, whatever the lease
22 was.

23 CHAIRMAN MILAN: Is.

24 MR. MAROTTA: Without looking at it,
25 whatever the lease provided during vacancy

1 decontrol, that would be the new calculation for a
2 future tenant.

3 CHAIRMAN MILAN: Okay. So given that, I
4 would say for Ms. Suarez, it stays as is. But if
5 she were ever to move, then the calculation which
6 the administrators sent to -- taking into
7 consideration the vacancy decontrol -- will take
8 effect.

9 MR. LOPEZ: When you refer to the
10 calculation, you refer to A-2, the one that was
11 issued December 19, 2022?

12 CHAIRMAN MILAN: December 19, 2022, hang
13 on. Give me a second to get there.

14 MR. LOPEZ: Mr. Chairman, here.

15 CHAIRMAN MILAN: That might be faster
16 than me looking through my pile, yes.

17 So in other words, for Ms. Suarez, it
18 stays as is. But once she's not there, then you
19 have that calculation to go by, based on the
20 resolution and what it says there. That's my
21 proposed motion, but please, if there are
22 disagreements, I know I'm -- I'm really delving
23 into a lot of areas here, so you might have
24 disagreements, so please air them out. Let's get
25 them out there and let's make sure we discuss them

1 before we put in a vote.

2 VICE CHAIRPERSON VASQUEZ: What is her
3 current rent?

4 CHAIRMAN MILAN: Her current one?

5 VICE CHAIRPERSON VASQUEZ: Remain the
6 same?

7 CHAIRMAN MILAN: It would stay as is for
8 Ms. Suarez, the latest note that they have sent --
9 they meaning administrators -- will take effect
10 and go on with that. If she ever leaves that
11 place, then they can go back to the vacancy
12 decontrol calculation, which the administrators
13 previously published, not taking into account that
14 there were all these other issues involved for the
15 current tenant.

16 MR. MAROTTA: I'm just going to phrase
17 the motion, based upon what you stated.

18 CHAIRMAN MILAN: Please.

19 MR. MAROTTA: The motion is to uphold
20 the decision of the rent control office
21 administrator. This shall apply to the current
22 tenant. Upon the current tenant relocating and a
23 new tenant entering the unit, the vacancy
24 decontrol rent with increases, annual increases,
25 shall apply.

1 CHAIRMAN MILAN: Yes, that's the motion.

2 VICE CHAIRPERSON VASQUEZ: I'll second
3 that.

4 MR. NG: What is the set amount that Ms.
5 Suarez is paying now?

6 MR. LOPEZ: She's not paying anything.

7 CHAIRMAN MILAN: But what --

8 MR. MAROTTA: What is the current?

9 MR. LOPEZ: Whatever the calculation is.

10 MS. RIVERA: I think the calculation,
11 the last calculation was 483.

12 MR. MAROTTA: No, I think --

13 MS. RIVERA: 513.34.

14 CHAIRMAN MILAN: Okay. So that would be
15 as long as Ms. Suarez is the tenant, that's what
16 it would be.

17 MR. MAROTTA: With any other increases.

18 CHAIRMAN MILAN: With any other
19 increases that take place, that continues until
20 she's there. Then after that, after she leaves,
21 then new rent that your staff gave will take over
22 and proper increases.

23 MR. NG: The motion was made by our
24 chairman, Mr. Juan Milan.

25 VICE CHAIRPERSON VASQUEZ: I'll second.

1 MR. NG: Seconded by our vice chairman,
2 Commissioner Sandra Vasquez. And we need a roll
3 call.

4 MR. LOPEZ: Before you take a vote, I
5 just want an explanation as to the reasoning --
6 and I understand what the ruling will be, but I
7 need an explanation because some things I'm not
8 sure of, and so I just want the record to be
9 clear. I understand this board's ruling to be
10 that the determination of October 28, 2019, ruling
11 that the proper rent was 473.46 per month is what
12 you're seeking to uphold?

13 CHAIRMAN MILAN: Um-hum.

14 MR. LOPEZ: And as I understand the
15 ruling is we are not taking into consideration the
16 fact that there was A, no proof -- no certified
17 mailing made of this notice, none has been
18 established, that I can recall. There's no clear
19 indication as to when, if ever, this notice was
20 received.

21 There's no clear indication that the
22 amount was even correct because the rent leveling
23 office was not aware that this apartment had been
24 previously subject to vacancy decontrol. But it
25 seem to be the ruling that because the landlord

1 found out approximately three months later that
2 they could have appealed, despite the fact that
3 nobody told them in writing that they could have
4 appealed it at that point, and despite the fact
5 that the ordinance doesn't have any leeway as to
6 the extension of the 30 days to appeal or that the
7 time period indicated on the notice was only
8 10 days. But despite all of that, the ruling is
9 simply because it was entered as that amount,
10 whether it was correct or not, but we are going to
11 affirm it just because the landlord didn't appeal
12 the determination in accordance with the
13 ordinance.

14 MR. MAROTTA: First of all, I'm going to
15 object --

16 MR. LOPEZ: I'm asking for a
17 clarification.

18 MR. MAROTTA: It's not a clarification,
19 it's you stating what you want it to be.

20 MR. LOPEZ: No, no, no.

21 MR. MAROTTA: It absolutely is.

22 MR. LOPEZ: Well then, if any of the
23 things that I said are incorrect, then I'd like
24 clarification that they're incorrect.

25 MR. MAROTTA: It is absolutely part of

1 an argument, it should have been part of the
2 closing. It was --

3 MR. LOPEZ: There was no closing.

4 MR. MAROTTA: -- part of your opening.

5 MR. LOPEZ: It was part of the case.

6 MR. MAROTTA: It was part of the
7 testimony, your closing from the last hearing.

8 MR. LOPEZ: There was --

9 MR. MAROTTA: It's already been
10 presented to the board. The board's made a
11 determination. You're trying to lay ground --

12 MR. LOPEZ: Mr. Marotta, there was no
13 closing ever. It was presented part of my case.
14 I just want --

15 MR. MAROTTA: Mr. Lopez, you're trying
16 to get the board to determine something based upon
17 what you just stated.

18 MR. LOPEZ: If I am --

19 MR. MAROTTA: And to adopt your
20 reasoning. That's exactly what you tried to do.

21 MR. LOPEZ: Mr. Marotta, if I am
22 incorrect as to any of the statements, the board
23 can clarify it for me.

24 MR. MAROTTA: The record will speak for
25 itself. The board has already made a motion, you

1 requested a clarification, but you prefaced it
2 with the way you want the clarification to be.

3 MR. LOPEZ: Do you want to do it one by
4 one and they can refute any clarification?

5 MR. MAROTTA: That's not necessary to
6 do.

7 MR. LOPEZ: They don't want to give me a
8 clarification?

9 MR. MAROTTA: I'm not saying that. But
10 it's inappropriate what you're trying to do. It's
11 definitely inappropriate to go ahead --

12 MR. LOPEZ: Mr. Marotta, is it
13 inappropriate to request a clear understanding as
14 to what the ruling is?

15 MR. MAROTTA: Mr. Lopez, you said that
16 the original number was incorrect, the 470
17 something dollars, you haven't prefaced any basis
18 for the original determination.

19 MR. LOPEZ: Mr. Marotta, there was prior
20 evidence submitted that this unit was -- had been
21 subject to vacancy decontrol since 2010.

22 MR. MAROTTA: Not prior to the original
23 determination in October 2019.

24 MR. LOPEZ: Yes, the ordinance --

25 MR. MAROTTA: Not only that, but the

1 registrations themselves show \$510, I don't
2 understand that. That wasn't addressed.

3 MR. LOPEZ: Mr. Marotta, the rent
4 control office doesn't -- just because you put it
5 on the rent registration statement, that means
6 absolutely nothing. And we're all pretty aware of
7 that.

8 MR. MAROTTA: That's not correct.

9 MR. LOPEZ: All right.

10 MR. MAROTTA: That's an incorrect
11 position to take.

12 MR. LOPEZ: Mr. Marotta, it is not
13 incorrect. Just because you put it on there
14 doesn't mean it's upheld. So let's be clear about
15 that.

16 So number two, the ordinance, the
17 vacancy decontrol ordinance did not require any
18 type of notice to the rent leveling office. It
19 simply indicated the rent -- the vacancy decontrol
20 ordinance decontrolled the rent, period.

21 MR. MAROTTA: Okay. Mr. Lopez --

22 MR. LOPEZ: Am I right or am I wrong?

23 MR. MAROTTA: You're wrong.

24 MR. LOPEZ: Okay. Where in the
25 ordinance --

1 MR. MAROTTA: You were not at the
2 hearing. And the reason for the hearing
3 originally to determine whether vacancy decontrol
4 was acknowledged, okay. There was a question at
5 that time whether or not there was actual -- what
6 I will call it blanket vacancy decontrol. And the
7 reason that's the case is because correspondingly
8 there was an ordinance that required -- and you're
9 fully familiar with it -- a rental unit
10 preservation allowance and subsequently a rental
11 unit renovation allowance, which if read in para
12 menteria with each other, would determine that
13 certain steps had to be made. And the board had
14 acted accordingly in regard to that up until
15 November 2021. And at that time, it was presented
16 to the board what is the actual case. And it was
17 put before the board and the board made a
18 determination there was blanket decontrol from '96
19 on, until May 2013, May 5, 2013.

20 MR. LOPEZ: That's what the ordinance
21 said from '96 to 2013, there was vacancy
22 decontrol.

23 MR. MAROTTA: And that board made that
24 determination in November 2021.

25 MR. LOPEZ: But that was already in the

1 ordinance, Mr. Marotta. Either the ordinance
2 contained it -- if the ordinance did not contain a
3 vacancy decontrol provision, this board could not
4 have found that vacancy decontrol existed. So it
5 either existed through the ordinance or it didn't
6 exist at all.

7 MR. MAROTTA: I think it was clear from
8 what I stated.

9 MR. NG: Mr. Marotta, I'm sorry to
10 interrupt. But both lawyers have the opportunity
11 to argue, to discuss everything. We have a motion
12 alive, seconded. Why are we going back to the
13 beginning?

14 MR. LOPEZ: I'm not looking to argue,
15 I'm just looking for clarification as to what is
16 being considered by this board. I don't care what
17 the ruling is going to be. Before I first stepped
18 into this room in December, I knew what the ruling
19 was going to be. We all knew what the ruling was
20 going to be. There's never fairness before this
21 board.

22 MR. MAROTTA: Objection.

23 MS. RIVERA: Objection.

24 MR. LOPEZ: It's a waste of time. Rule,
25 but clarify what you're doing.

1 MR. MAROTTA: Objection. The
2 clarification was stated based upon the resolution
3 that was already adopted in October.

4 MR. LOPEZ: So they don't want to
5 address any of the points, they don't want to
6 clarify it in way?

7 MR. MAROTTA: No. Another statement,
8 self-serving statement, Mr. Lopez. Where you're
9 going ahead to try to characterize the way you
10 wanted the board to establish a record for you.
11 It's just not correct.

12 MR. LOPEZ: Not at all.

13 MR. MAROTTA: It's not appropriate.

14 MR. LOPEZ: Not at all.

15 MR. MAROTTA: I disagree.

16 MR. LOPEZ: Okay. Can we have them
17 clarify for me the individual points. If it's
18 no -- if I'm wrong, then no, that's not what was
19 taken into consideration.

20 MR. NG: Can I finish my roll call?

21 MR. MAROTTA: I'm going to present it to
22 the board. The board can --

23 MR. LOPEZ: Let them vote.

24 MR. MAROTTA: Further, it's the board's
25 right to open anything, to close anything, and to

1 move forward with the matter.

2 MR. LOPEZ: Mr. Marotta, I have no
3 objection with them voting. There's a motion I
4 understand. After they vote, I would like them to
5 clarify these points, just so the record is clear.
6 That's the only thing I'm asking.

7 MR. NG: Let me tell you, I prefer to --

8 MR. MAROTTA: Let me go --

9 MR. NG: -- with the roll call.

10 MR. MAROTTA: It's up to the board --

11 MR. NG: -- the clarification.

12 CHAIRMAN MILAN: Definitely, let's go
13 ahead with the roll CALL because it's going to
14 confuse the record and a lot of other things if we
15 don't vote for 20 minutes after the motion is
16 done.

17 MR. NG: So motion was made by our
18 chairman, Juan Milan, and our vice chairman
19 seconded. So roll call.

20 Commissioner Ydaly Pozo.

21 COMMISSIONER POZO: Yes.

22 MR. NG: Commissioner Yamirus Holguin.

23 COMMISSIONER HOLGUIN: Yes.

24 MR. NG: Commissioner Vice Chairman
25 Sandra Vasquez.

1 VICE CHAIRPERSON VASQUEZ: Yes.

2 MR. NG: Commissioner Rosana Colon.

3 COMMISSIONER COLON: Yes.

4 MR. NG: Chairman Juan Milan.

5 CHAIRMAN MILAN: Yes.

6 MR. NG: Motion has passed. So you go
7 ahead, whatever you want to do.

8 MR. LOPEZ: So the clarification that I
9 would like is the Chairman's explanation was that
10 when they did the filing in January of 2020, that
11 they could have appealed the decision at that
12 point; is that correct, Mr. Chairman?

13 MR. MAROTTA: Again, I'm going to -- the
14 board --

15 CHAIRMAN MILAN: What do you advise as
16 our counsel?

17 MR. MAROTTA: The board has --

18 CHAIRMAN MILAN: Do we answer?

19 MR. MAROTTA: -- voted on the matter.
20 The record has been -- there's been definite basis
21 for the determination that has been set forth by
22 the board, okay. So there's a factual basis,
23 there's a regulation basis for that decision.
24 It's up to the board if they want to continue. I
25 do believe that initially the way it was stated by

1 Mr. Lopez, it was totally inappropriate because he
2 was --

3 MR. LOPEZ: Neil, it wasn't --

4 MR. MAROTTA: -- giving a --

5 MR. LOPEZ: It wasn't considered. So
6 whatever I said that you found inappropriate, it's
7 not a factor, they voted. Now I want to know --

8 MR. MAROTTA: My decision is the board
9 has made its decision, the matter is closed.

10 VICE CHAIRPERSON VASQUEZ: What
11 difference that's going to make whatever we say if
12 we already voted and that's already done with?

13 MR. MAROTTA: Counsel is trying to
14 establish his record. I appreciate that, I really
15 do.

16 MR. LOPEZ: I want to know what right
17 the applicant had to file an appeal beyond the
18 time frame established by the ordinance?

19 CHAIRMAN MILAN: As far as I understand,
20 correct me if I'm wrong, you can always file an
21 appeal.

22 MR. LOPEZ: Not according to the notice.

23 MR. MAROTTA: That's correct.

24 MR. LOPEZ: Where is the -- can we have
25 an indication from the ordinance, Counsel, as to

1 what gives you the right to appeal at any time
2 even beyond --

3 MR. MAROTTA: A person can appeal any
4 time. But if -- because you cannot --

5 MR. LOPEZ: If you file a complaint
6 after the statute --

7 MR. MAROTTA: You can file it. Whether
8 there's reason to consider it thereafter --

9 CHAIRMAN MILAN: That's different.

10 MR. MAROTTA: -- is up to the board to
11 make a decision.

12 MR. LOPEZ: My question is where is that
13 power entrusted to the board? I'd like that
14 clarification.

15 MR. MAROTTA: I think due process. If
16 they go ahead and say you were never served the
17 notice and they could prove that -- for example, a
18 notice went out tonight on another matter. It was
19 the wrong address.

20 MR. LOPEZ: So the same due process that
21 the rent leveling office doesn't follow because
22 they don't send anything by certified mail?

23 MR. MAROTTA: That is not correct.

24 MR. LOPEZ: That's a different due
25 process.

1 MR. MAROTTA: That's not correct.

2 CHAIRMAN MILAN: By the way, at the time
3 that we're talking about, certified mail was not
4 the process that they were using.

5 MR. LOPEZ: But Mr. Chairman --

6 CHAIRMAN MILAN: It was changed to make
7 it more accurate, as issues with Covid and all
8 that, made the mail a heck of a lot tougher to get
9 out.

10 MR. LOPEZ: No, Mr. Chairman, because
11 it's the right thing to do, to send by certified
12 mail. And just because they were doing it
13 improperly back then doesn't justify their
14 actions. Let's be real.

15 MR. NG: It was not improperly, that was
16 the procedure that they used to do.

17 CHAIRMAN MILAN: It was the procedure
18 for over ten years.

19 MR. NG: When you came to be --

20 MR. LOPEZ: It doesn't --

21 MR. NG: Then we changed it to be
22 better.

23 MR. LOPEZ: Correct. And it doesn't
24 make what was done at the time correct, so let's
25 be real.

1 CHAIRMAN MILAN: I know, but things are
2 done the best way possible that people see until
3 they realize what we can do a lot better. I mean
4 I remember having to tape our meetings with that
5 machine where we were looking, like did we go
6 over?

7 MR. NG: And when we did I change it.
8 And we didn't have a transcriber. And I brought
9 the transcriber here. So we made --

10 CHAIRMAN MILAN: We obviously improve.

11 MR. LOPEZ: But certified mailing was
12 available in 2019.

13 MR. MAROTTA: We understand. I mean
14 this matter has been --

15 CHAIRMAN MILAN: The matter has been
16 closed. I think the explanation is that based on
17 what we saw --

18 MR. MAROTTA: -- to the application,
19 then he's welcome.

20 MR. LOPEZ: I understand that's the
21 explanation for that. Then the other explanation
22 that I would like is how was the 473.46 arrived.

23 MR. MAROTTA: I've given my advice. The
24 matter is closed.

25 CHAIRMAN MILAN: That I think has

1 already been explained.

2 MR. LOPEZ: No, no. No one has ever
3 explained it here. If you don't want to give me
4 an explanation, that's fine also. But we're --
5 it's my understanding that we are just -- we're
6 following a figure just because it was written on
7 this --

8 MR. NG: Mr. Lopez, I believe --

9 MR. LOPEZ: I'm not asking you.

10 MR. NG: No, no.

11 MR. LOPEZ: Mr. Ng, I'm not asking you.

12 MR. NG: Wait a minute, wait a minute.

13 MR. LOPEZ: You're here --

14 MR. NG: Excuse me --

15 MR. LOPEZ: You're not here, you're only
16 here to answer questions, if there are any. I'm
17 addressing my questions --

18 MR. NG: Because you think you talk so
19 loud, people are going to be --

20 CHAIRMAN MILAN: Guys.

21 MR. LOPEZ: This is not being --

22 CHAIRMAN MILAN: At this point --

23

24 (Unreportable cross-talk.)

25

1 CHAIRMAN MILAN: The matter is over.
2 Thank you very much. Thank you very much.

3 MR. LOPEZ: Thank you. You got it.
4 When is the resolution going to be adopted, so I
5 can appeal it.

6 MR. MAROTTA: Depending on when I
7 receive the transcript, it will either be the
8 February or the March meeting.

9 MR. LOPEZ: I need a resolution though.

10 MR. MAROTTA: Absolutely. Let the
11 record reflect, there's been a resolution --

12 MR. LOPEZ: Counsel has indicated that
13 she's going to send me copies of the items that
14 she marked into evidence today.

15 MR. MAROTTA: And if we don't have
16 anything, I'll get them from you. Okay.

17 MR. LOPEZ: Thank you.

18 MR. MAROTTA: Thank you. If you can
19 send your exhibits when you get a chance?

20 MR. LOPEZ: I'll send them. To you?

21 MR. MAROTTA: To me and the office, by
22 email is fine.

23

24

25

1 **OTHER BUSINESS:**

2

3 CHAIRMAN MILAN: Do we have any other
4 matters?

5 MR. NG: Just a question for next
6 month's meeting. Is everybody good with the date?
7 I believe it's the 5th?

8 CHAIRMAN MILAN: A motion for the public
9 session of our meeting.

10 MR. NG: A motion was made by our
11 chairman.

12 COMMISSIONER POZO: I second it.

13 MR. NG: Second by Commissioner Pozo.

14 MR. MAROTTA: All in favor.

15 (All Board Members indicate in the
16 affirmative.)

17 CHAIRMAN MILAN: Is there anyone that
18 has -- in the public -- anything to say? Seeing
19 no answer, or hearing no answers, I make a motion
20 that we close that public session of the meeting.

21 MR. NG: So I need a motion to adjourn
22 the meeting.

23 CHAIRMAN MILAN: First we got to vote.

24 COMMISSIONER HOLGUIN: Second.

25 MR. NG: Commissioner Yamirus Holguin.

1 All in favor?

2 (All Board Members indicate in the
3 affirmative.)

4

5 **ADJOURNMENT:**

6

7 CHAIRMAN MILAN: Now I make a motion to
8 adjourn unless, there's some other administrative
9 thing to do?

10 MR. MAROTTA: The only thing is next
11 meeting, we'll have some resolutions at the next
12 meeting.

13 MR. NG: Okay.

14 CHAIRMAN MILAN: So I make a motion to
15 adjourn.

16 COMMISSIONER POZO: I second it.

17 MR. NG: All in favor?

18

19 (All Board Members indicate in the
20 affirmative.)

21

22

23 (Whereupon the meeting was adjourned at
24 8:10 p.m.)

25

C E R T I F I C A T E

I HEREBY CERTIFY that the foregoing is a true and accurate transcript of the testimony and proceedings as taken stenographically by me at the time, place, and on the date hereinbefore set forth.

SUSAN BISCHOFF, CCR, RPR
LICENSE NO. 30XI00233700