

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

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

Union City Municipal Court
3715 Palisade Avenue
Union City, New Jersey

Monday, July 8, 2024
Commencing at 7:03 p.m.

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

JUAN MILAN, CHAIRMAN
SANDRA VASQUEZ, VICE CHAIRPERSON
NORMA GUEVARA, COMMISSIONER
ROSANA COLON, COMMISSIONER

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

YAMIRUS HOLGUIN, COMMISSIONER
YDALY POZO, 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
KENNY CABALLERO, Staff Member
CASMILA SOLIS, Staff Member
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MELE & ASSOCIATES
BY: GREGG MELE, ESQ.
Attorney for 703A-707 28th Street

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Rent Dispute

WITNESS

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NO.

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123 44TH STREET
Rent Dispute

WITNESS

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MICHAEL McCABE

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E X H I B I T S

NO.

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New Construction

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NO

EXHIBITS

MARKED

1 MR. NG: Good evening. This is the
2 meeting of the rent leveling board. Today's date
3 is July 8, 2024, and the time is 7:03 p.m., we are
4 in the municipal court chambers, 3715 Palisade
5 Avenue, Union City, New Jersey.

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

14
15 (Whereupon, the Pledge of Allegiance was
16 recited.)

17
18 **ROLL CALL:**

19
20 MR. NG: Roll call. Commissioner Norma
21 Guevara.

22 COMMISSIONER GUEVARA: Yes.

23 MR. NG: Commissioner Ydaly Pozo is on
24 vacation.

25 Commissioner Yamirus Holguin, not

1 present yet.

2 Vice chairman and Commissioner Sandra
3 Vasquez.

4 VICE CHAIRPERSON VASQUEZ: Yes.

5 MR. NG: Commissioner Rosana Colon.

6 COMMISSIONER COLON: Present.

7 MR. NG: And Chairman, Mr. Juan Milan.

8 CHAIRMAN MILAN: Present.

9 MR. NG: And we have the interpreter,
10 Mr. Hector Reyes.

11 THE INTERPRETER: Present.

12 MR. NG: We have a quorum, Mr. Marotta.

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1 **HEARING:**

2 **717 16TH STREET, APT. #3 -**

3 **RENT DISPUTE:**

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5 MR. NG: So I don't know if we're going
6 to follow the agenda the same order or any changes
7 at the last minute?

8 MR. MAROTTA: I believe we have a couple
9 matters resolved at this point, so I would like to
10 take 717 16th Street first.

11 CHAIRMAN MILAN: 717 16th Street, anyone
12 here for that case, please come forward.

13 MR. MAROTTA: So this matter is a rent
14 appeal and rent dispute. Originally, there was a
15 calculation by the office that was based on a rent
16 registration. However, the tenant subsequently
17 showed rent receipts providing for a lesser rent.
18 As the policy in the office is, or the practice,
19 if a tenant shows lesser rents that's being
20 accepted by the landlord, that becomes the base
21 rent for that tenant only. So, in this instance,
22 the tenant was able to provide those receipts.
23 I've reviewed it with the property owner's
24 representative and I'm going to ask that he place
25 his name on the record.

1 MR. MOHAMED: Isaac Mohamed.

2 MR. MAROTTA: And that is for the
3 property?

4 MR. MOHAMED: Yes, for the property
5 owner.

6 MR. MAROTTA: And I'd ask that he be
7 sworn.

8
9 I S A A C M O H A M E D, after having been duly
10 sworn or affirmed, did testify as follows:

11
12 LEFT1: Mr. Marotta, do we need the
13 translator?

14 MR. MAROTTA: No. I believe Ms. Rivera
15 represents the tenant?

16 MS. RIVERA: Yes. Christina Rivera from
17 Union City Tenant Advocate's office, appearing on
18 behalf of Diego Valero and all tenants tonight.

19 I concur with Mr. Marotta's explanation.
20 And the tenant will continue to pay the rent as he
21 has been paying.

22 MR. MAROTTA: Okay. And just -- and I
23 advised that I'm going to make a recommendation to
24 the board that Mr. Mohamed needs to speak to the
25 property owner because it is a change in what he

1 had believed it to be. Even though he understands
2 it, he wants to be able to explain it to the
3 property owner. And I spoke to both parties and
4 that he would have the right within 30 days to
5 reopen the matter, if he had grounds to do so.

6 The other things is if he sees
7 something, he can actually come into the office
8 and we can review it again and that might resolve
9 it anyway. So I would request that the matter be
10 withdrawn without prejudice to a 30-day reopening.

11 CHAIRMAN MILAN: Okay.

12 MR. MAROTTA: Is that correct, Mr.
13 Mohamed?

14 MR. MOHAMED: Yes. As I've been
15 clarified by you guys that initially the previous
16 owner -- we acquired the building in 2018, the
17 previous owner falsely registered the rent and
18 that's what we received in the documentation.

19 MR. MAROTTA: The prior owner increased
20 the rent prior to selling the property?

21 MR. MOHAMED: Made it look more
22 appealing, so forth. But that's what we went
23 based off of. So then we continued to do the
24 registration, pre- and post-pandemic after the
25 moratorium, that's where our calculations are

1 from. When the tenant presented what was the
2 original -- his actual payment and when the
3 increases from the previous owner occurred, which
4 were incorrect, that's what made it clarified for
5 us. So we understand the position you guys are
6 coming from.

7 MR. MAROTTA: For the record, the
8 property owner was following the ordinance, except
9 for the discrepancy.

10 CHAIRMAN MILAN: Okay. So do we have to
11 close?

12 MR. MAROTTA: Motion to authorize --

13 CHAIRMAN MILAN: I make a motion that we
14 close testimony and go into deliberation.
15 Somebody second?

16 COMMISSIONER COLON: I second it.

17 MR. NG: Roll call.

18 Commissioner Guevara.

19 COMMISSIONER GUEVARA: Yes.

20 MR. NG: Commissioner and Vice Chairman
21 Sandra Vasquez.

22 VICE CHAIRPERSON VASQUEZ: Yes.

23 MR. NG: Rosana Colon seconded it?

24 COMMISSIONER COLON: Yes.

25 MR. NG: Chairman Juan Milan --

1 CHAIRMAN MILAN: Yes.

2 MR. NG: -- who did the motion. Motion
3 passes.

4 CHAIRMAN MILAN: So basically I think we
5 heard what was presented, they have a resolution.
6 But the landlord wants to look at it, I guess,
7 have at least 30 days to look at it and ensure
8 that there's nothing else that he missed, or that
9 he may not have accounted for, or might not have
10 realized. So that sounds fair.

11 I'm going to make a motion -- and again,
12 you guys can decide not to go with this -- but I'm
13 going make a motion that we dismiss this case
14 without prejudice. Meaning that if the landlord
15 finds something that he doesn't agree with later
16 on in the next few days, he can bring the case
17 back again with that extra argument. Both
18 understand well what that means?

19 MR. MOHAMED: Yes.

20 MR. NG: So, again, motion was made by
21 our chairman.

22 VICE CHAIRPERSON VASQUEZ: I'll second.

23 COMMISSIONER COLON: I'll second.

24 MR. MAROTTA: And Vice Chairman Sandra
25 Vasquez second it. Roll call.

1 Commissioner Norma Guevara.

2 COMMISSIONER GUEVARA: Yes.

3 MR. NG: Commissioner and Vice Chairman
4 Sandra Vasquez.

5 VICE CHAIRPERSON VASQUEZ: Yes.

6 MR. NG: Commissioner Rosana Colon.

7 COMMISSIONER COLON: Yes.

8 MR. NG: Chairman Juan Milan.

9 CHAIRMAN MILAN: Yes.

10 MR. NG: Motion has passed.

11 CHAIRMAN MILAN: Thank you very much.

12 MR. MOHAMED: Thank you.

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1 **123 44TH STREET, APT. #1 -**

2 **RENT DISPUTE:**

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4 CHAIRMAN MILAN: What's the other case?

5 MR. MAROTTA: The next matter is not a
6 hearing, it's 123 44th Street.

7 CHAIRMAN MILAN: 123 44th Street?
8 Anyone here for that case?

9 MS. RIVERA: Come up.

10 CHAIRMAN MILAN: Please come up. Do we
11 need chairs or we're okay?

12 MR. MAROTTA: So, Counsel, if you don't
13 mind, state your name for the record.

14 MR. HENDERSHOT: Sure, James Hendershot,
15 with the law firm of Caplan, Stewart. And I'm
16 here on behalf of the owner, 123 Gardens, LP.

17 MR. MAROTTA: Ms. Rivera?

18 MS. RIVERA: Christina Rivera on behalf
19 the tenant, Michael McCabe.

20 CHAIRMAN MILAN: Okay.

21 MR. MAROTTA: This was a question as to
22 new construction exemption. The property owner
23 had submitted proof that the notice -- the claim
24 of exemption had been delivered to Union City, and
25 within time. It was submitted in September 2017

1 and the certificate of occupancy was issued, I
2 believe, in March or April 2018, so within time.

3 The question arose that the tenant
4 presented a lease that did not provide for the
5 exempt language, that the unit is exempt from rent
6 control, nor did the tenant provide a notice
7 submitted to him by the property owner that the
8 property is exempt and the length of the
9 exemption.

10 So that has been presented before us
11 and, Counsel, I'm not 100 percent sure where we're
12 at on the matter, but if you'd like to proceed?

13 MR. HENDERSHOT: Sure. So I do have for
14 the board copies of the submission to the
15 municipality, as well as the certificate of
16 occupancy if they would like to review it. And we
17 would like to make that part of the record. I'm
18 not sure if we can stipulate as to the exemption?

19 MS. RIVERA: I think we can stipulate to
20 that part of the ordinance that required the
21 exemption to be filed with the City to the
22 building department. It had been done and there
23 was confirmation that that had been done.

24 MR. HENDERSHOT: We can stipulate to
25 that.

1 MR. MAROTTA: There's confirmation it
2 had been, by USPS, on certified mail, had been
3 delivered on the day of the -- the dating of the
4 letter and the proof of delivery coincided. So
5 although -- so there's proof.

6 MR. HENDERSHOT: Okay. So I think we
7 have a stipulation that the property is exempt
8 from the rent control statute.

9 The issue really as presented by the
10 other side is that this was not -- notice of that
11 was not provided in the lease. So I would just
12 have a few questions of the tenant in this case to
13 work through a couple issues. I do have a copy, I
14 have one copy of the current lease. I don't have
15 copies for everyone, but perhaps I can walk
16 through testimony and get some of the language in?

17 MR. MAROTTA: Okay.

18 MR. HENDERSHOT: So if I'm okay to
19 proceed, then I'll go about it that way?

20 MR. MAROTTA: That's fine. So you're
21 calling the tenant?

22 MR. HENDERSHOT: Yes, calling Mr. McCabe
23 as a witness.

24 CHAIRMAN MILAN: Can we swear him?
25

1 M I C H A E L M c C A B E , after having been
2 duly sworn or affirmed, did testify as follows:

3

4 MR. HENDERSHOT: Good evening, Mr.
5 McCabe, I just have a few questions for you. So
6 when was the first time that you leased this unit
7 in the building?

8 MR. McCABE: I believe that was 2022.

9 MR. HENDERSHOT: That was the first time
10 that you leased?

11 MR. McCABE: I believe, yes.

12 MR. HENDERSHOT: So it was the beginning
13 of 2022 and going to 2023 -- what was the term of
14 the lease?

15 MR. McCABE: The first lease was
16 18 months, I believe. Second lease, I believe it
17 was 12 because of the terms, it was by month, and
18 I don't think anything above 12 months was
19 offered. The current term is, I believe,
20 14 months. With 10 to 20 percent increases with
21 every one.

22 MR. HENDERSHOT: So you've had three
23 leases overall is what you're saying?

24 MR. McCABE: Yes.

25 MR. HENDERSHOT: Do you have copies of

1 those leases with you tonight?

2 MR. McCABE: Personally, no.

3 MR. HENDERSHOT: Okay. Do you have any
4 copy of any lease with you tonight?

5 MR. McCABE: No, I don't.

6 MR. HENDERSHOT: Okay. Well, I'm going
7 to show you the most recent lease that you have.
8 And I'm just going to direct your attention to --

9 MS. RIVERA: What's the date of that
10 lease?

11 MR. HENDERSHOT: This is a lease
12 dated -- the lease term is September 19, 2023, to
13 November 18, 2024?

14 MR. McCABE: That's the current lease.

15 MR. HENDERSHOT: So that's your current
16 lease?

17 MR. McCABE: That's correct.

18 MR. HENDERSHOT: And I believe the date
19 of the lease is August 21, 2023. So I'm just
20 going to show this to you and I'm going to flag a
21 page for you.

22 MS. RIVERA: What page would that be?

23 MR. HENDERSHOT: So this is going to
24 be -- well, first, I'm going to show it to him to
25 make sure that this is the right lease. And then

1 I'm going to direct his attention to page 19 of an
2 addendum.

3 MR. McCABE: Due respect, I haven't
4 memorized the lease, I can't --

5 MR. HENDERSHOT: Okay, that's fine. I
6 just want to make sure that this is your lease?

7 MR. McCABE: Again, I can't confirm
8 that. You printed papers. I can't confirm that's
9 that's my lease.

10 MR. HENDERSHOT: Why don't I show it to
11 you and then you can provide an answer.

12 MR. McCABE: All right.

13 MR. HENDERSHOT: I'm going to show this
14 to you.

15 MR. McCABE: Where would you like me to
16 go?

17 MR. HENDERSHOT: Just take a look
18 through it and let me know if that's your current
19 lease?

20 MR. McCABE: Again, I can't confirm that
21 this is my current lease. It's signed by me,
22 every other page in this, I have no idea. How
23 would I know that?

24 MR. HENDERSHOT: You don't know what
25 your lease is?

1 MR. McCABE: I'm assuming, sure, this is
2 my lease. I'm not sure --

3 MS. RIVERA: I mean I'm going to object
4 to it --

5 MR. MAROTTA: I think relevancy as to
6 where you're going with it?

7 MR. HENDERSHOT: I'm just to point to
8 some language that's in the lease because the
9 issue here is whether there was language in the
10 lease that put him on notice as to rent control
11 issues.

12 MR. MAROTTA: Okay.

13 MR. HENDERSHOT: So that's the
14 relevance. It's his lease and that's the issue.

15 MR. MAROTTA: I would just maybe take
16 him to that language -- I don't know. I don't
17 want to --

18 MR. HENDERSHOT: That's what I was going
19 to do. I just want to get a clear answer as to
20 whether he recognizes it or not.

21 MS. RIVERA: Okay. I mean I'm going to
22 direct him where it's highlighted, he's
23 highlighted some language.

24 MR. MAROTTA: I do believe that the
25 lease is in the packet.

1 MS. RIVERA: He testified that he signed
2 three different leases, so we don't know which
3 lease is what.

4 MR. MAROTTA: Okay. I guess it would go
5 to --

6 MR. HENDERSHOT: I guess the testimony
7 is we don't know what lease is what lease you
8 received? Is that your testimony?

9 MR. McCABE: From you? Look, I'm happy
10 to look at this lease, I'm happy to look at the
11 language. I defer to counsel as to how to answer
12 this, to be honest with you.

13 MS. RIVERA: You want him to confirm
14 that this is his lease. And he's telling you,
15 without reading from cover to cover and comparing
16 it to the lease he has at home, that it's the same
17 document. So I don't think he can do that today
18 as he sits here.

19 MR. HENDERSHOT: Okay. And he's got no
20 copy of the lease with him, he's --

21 MS. RIVERA: This lease? He said no, he
22 testified no.

23 MR. McCABE: The rent control office had
24 the leases, I did not bring any lease agreements
25 with me, no.

1 MR. HENDERSHOT: Okay. So if you
2 received -- if this is the same as the document
3 that's in the rent control office, then you would
4 agree that the language that would be in here
5 would be the same that they have and it would be
6 the same that's in your lease?

7 MR. McCABE: Of course.

8 MR. HENDERSHOT: Okay, all right. So on
9 page 19 of this truth in renting addendum, it
10 talks about rent control, rent increases. Do you
11 remember seeing anything in your lease regarding
12 that?

13 MR. McCABE: I remember reading basic --
14 it was a basic statement on rent control setting
15 the statute.

16 MR. HENDERSHOT: Okay.

17 MR. McCABE: The relevant statutes, I
18 should say.

19 MR. HENDERSHOT: Do you recall if it
20 directed you if you had any questions about rent
21 control to contact the rent control office?

22 MS. RIVERA: I'm sorry, objection. What
23 was the question? Can you repeat that?

24 MR. HENDERSHOT: So the language is in
25 there discusses if you have any questions about

1 whether your property you're renting is subject to
2 rent control, you can contact the rent control
3 office; is that correct?

4 MR. McCABE: I honestly don't remember.
5 I have no idea.

6 MR. HENDERSHOT: But if it's in the
7 lease, there's a fair chance that you looked it
8 over at some point?

9 MR. McCABE: Sure.

10 MR. HENDERSHOT: Okay. So when you --
11 I'm going to object to the whispering back and
12 forth between --

13 MS. RIVERA: I'm telling him his --

14 MR. HENDERSHOT: It's a personal issue,
15 understood. So when you moved into the property,
16 was it your understanding that it was a new build?

17 MR. McCABE: I had no idea.

18 MR. HENDERSHOT: And you moved in in
19 2021?

20 MR. McCABE: Correct.

21 MR. HENDERSHOT: Okay. So you had no
22 idea as to whether --

23 MR. McCABE: It was newish. I didn't
24 think to look into when it was built.

25 MR. HENDERSHOT: So you didn't have any

1 knowledge as to that?

2 MR. McCABE: No.

3 MR. HENDERSHOT: Okay. So the -- you
4 filed a complaint with the rent control office; is
5 that right?

6 MR. McCABE: That's correct.

7 MR. HENDERSHOT: Okay. And what was it
8 that caused you to file a complaint with the rent
9 control office?

10 MR. McCABE: We had reached out -- or we
11 had looked into this the first time our lease was
12 renewed because we were facing a roughly 18
13 percent increase, which we thought was nuts. So
14 we looked into this and didn't know what the
15 applicability of the existing laws were, ended up
16 dropping it. We were able to renegotiate the
17 lease a little lower and just dropped it.

18 With the second renewal the lease had
19 gone up, again, something like 12 or 15 percent,
20 we were shocked. We had a baby coming. And so we
21 said, all right, let's reach out to the rent
22 control office. And, in fact, that was after we
23 were looking for apartments and a Realtor had told
24 us reach out because this sounds illegal. These
25 are exorbitant increases and this is happening

1 across Hudson County. So I said okay.

2 I looked into it. I also looked into
3 the statutes and felt like, okay, it looks like we
4 have a case. And I met with Kenny and the other
5 folks at the rent control office, filed a -- I'm
6 not sure what the formal language is, but a
7 complaint, I suppose, and here we are.

8 MR. HENDERSHOT: So when you say you
9 reached out at one point and you negotiated a rent
10 decrease, when was that?

11 MS. RIVERA: Objection.

12 MR. McCABE: Not a decrease.

13 MS. RIVERA: That was not the testimony.

14 MR. HENDERSHOT: Okay. You said
15 something about how you found out about this issue
16 and you reached out and you just dropped it. When
17 was that?

18 MR. McCABE: Whenever, I think it was
19 18 months after the first -- 16 or 17 months after
20 the initial lease was signed.

21 MR. HENDERSHOT: Okay. So 16 or
22 17 months after the initial lease. So
23 approximately when was that? That was sometime in
24 2022?

25 MR. McCABE: Maybe, I'm not really sure

1 what the relevance is.

2 MR. HENDERSHOT: I'm just --

3 MR. McCABE: Whenever the lease --

4 MR. HENDERSHOT: 2022, 2023?

5 MR. MAROTTA: Mr. McCabe, just answer
6 the question. That's why you have Ms. Rivera.

7 MR. McCABE: I understand, I guess I'm
8 jammed up. I don't remember the dates of when the
9 lease was signed.

10 MR. HENDERSHOT: Let's just walk it back
11 this way. I don't want to belabor this too much,
12 but --

13 MR. McCABE: My guess is early 2023.

14 MR. HENDERSHOT: Okay. Early 2023. And
15 when did you sign your current lease?

16 MR. McCABE: That --

17 MR. HENDERSHOT: I'll just refresh your
18 recollection. So the lease that I have is
19 dated -- well, there's various different dates for
20 addendums. Let's just say late August, early
21 September 2023, does that sound right?

22 MR. McCABE: Yeah. It would be
23 September, it expires November, 14 months.

24 MR. HENDERSHOT: So that was, by your
25 estimation, some months, maybe ten months after

1 you found out about this rent control issue that
2 you just dropped as you testified?

3 MR. McCABE: I'm sorry, say that again?

4 MR. HENDERSHOT: When you signed the
5 current lease that you're operating under?

6 MR. McCABE: Sure.

7 MR. HENDERSHOT: That was approximately
8 ten months or so after you found out about the
9 rent control issue that you said you just dropped?

10 MR. McCABE: Honestly, I don't know.

11 MR. HENDERSHOT: Okay. But it's fair to
12 say that you signed your current lease after you
13 found out about rent control issues and dropped
14 them?

15 MS. RIVERA: I'm sorry, when you say --
16 objection, can you clarify "dropped"?

17 MR. HENDERSHOT: That was his testimony.
18 And I would love for him to explain a little bit
19 further what he means by that. But he just
20 dropped his renter control issues and I'm not
21 sure what --

22 MR. McCABE: Yeah, because we started
23 looking into it. And the fact of the matter is we
24 were going through IVF at the time and the baby.
25 So, all things considered, trying to take that

1 fight on, while we were also going through one of
2 the most difficult times of our life, it didn't
3 seem worth it.

4 MR. HENDERSHOT: So did you get any kind
5 of concession from the landlord?

6 MR. McCABE: No, no concession. When we
7 renegotiated -- when the new lease was offered or
8 the terms of a new lease were offered, we were
9 leaving. And after conversations with the
10 building manager, they agreed to drop whatever the
11 top rent was -- you have to understand. When we
12 get renewal letters, it goes one month, two month,
13 three months, four months, all the way up to
14 sometimes 18 months. You're trying to play this
15 math of what makes the most sense for us --

16 MR. HENDERSHOT: I don't want to
17 interrupt you, but you're going a little bit
18 astray from the question, which I think is did you
19 get any kind of -- I was trying to understand if
20 you had any concession from the landlord based on
21 rent control issues?

22 MR. McCABE: Can you define concession?

23 MR. HENDERSHOT: Did you get any kind of
24 benefit or --

25 MR. McCABE: No.

1 MR. HENDERSHOT: -- reduction in price
2 or anything like that from the landlord?

3 MR. McCABE: The signed lease or a lease
4 that we renegotiated?

5 MR. HENDERSHOT: Anything?

6 MR. McCABE: Well, we negotiated a
7 different rate compared to what they had given to
8 us on paper. Because we had said that we were
9 planning on leaving. So if that's what you mean,
10 then yes.

11 MR. HENDERSHOT: Okay.

12 MR. McCABE: I don't think of that as a
13 concession though.

14 MR. HENDERSHOT: So -- okay. Was that
15 or was that not tied to finding out about the rent
16 control issue?

17 MR. McCABE: I don't follow.

18 MR. HENDERSHOT: The reduction in price,
19 was that somehow, in some way, connected to you
20 raising a rent control issue with the landlord?

21 MR. McCABE: No.

22 MR. HENDERSHOT: Okay. But you found
23 out about this rent control issue before signing
24 your current lease? You already testified to
25 that.

1 MR. McCABE: I believe so.

2 MR. HENDERSHOT: And have you paid
3 consistently your rent under each one of your
4 leases, even with knowledge that a rent control
5 statute, in your opinion, arguably applied?

6 MR. McCABE: Absolutely.

7 MR. HENDERSHOT: Do you recall the first
8 time you inquired with Union City as to whether
9 this building was or was not exempt from rent
10 control, if you did?

11 MR. McCABE: I would say that was
12 probably about ten to twelve months ago -- no,
13 probably about ten months ago.

14 MR. HENDERSHOT: Okay. And you learned
15 at that time that the property was exempt from
16 rent control statutes?

17 MR. McCABE: Not immediately, no.

18 MR. HENDERSHOT: But you did find out
19 eventually that it was exempt from rent control
20 statutes?

21 MR. McCABE: Eventually, that was the
22 assumption, but it was made very clear that that
23 determination is to be made here.

24 MR. HENDERSHOT: Okay. But you assumed
25 that it was -- the building was an exempt

1 property?

2 MR. McCABE: I thought that all the
3 evidence was pointing to that. But, again, I also
4 thought to defer to the court.

5 MR. HENDERSHOT: Okay. No further
6 questions at this time.

7 MR. MAROTTA: Okay. Do you have
8 anything?

9 MS. RIVERA: I do, just a few.

10 Prior to entering into your initial
11 lease, when you first started, did you get any
12 written statement from the landlord that this
13 particular property and/or unit was exempt from
14 rent control?

15 MR. McCABE: No.

16 MS. RIVERA: Did your lease have a
17 statement that this apartment and this building
18 would be -- or is or would be exempt from rent
19 control?

20 MR. HENDERSHOT: I'm just going to
21 object to the extent that what lease are you
22 talking about?

23 MS. RIVERA: The first lease.

24 MR. HENDERSHOT: The first lease?

25 MS. RIVERA: Any lease.

1 MR. HENDERSHOT: I'm also going to
2 object on the grounds of best evidence, you know,
3 what he remembers -- it's clear he doesn't
4 remember what his lease was or was not. So if we
5 have leases, then I'd be happy to look at them.

6 MR. MAROTTA: Counsel, that's your
7 summation.

8 MR. HENDERSHOT: That's fine.

9 MR. MAROTTA: As to the value of his
10 testimony.

11 MR. HENDERSHOT: Thank you.

12 MR. MAROTTA: You can continue.

13 MS. RIVERA: Okay. Do you recall
14 whether -- I'm going to repeat my question. When
15 you entered into your lease, did the lease have a
16 statement that the property and/or unit was exempt
17 from rent control?

18 MR. HENDERSHOT: Again, I'm just going
19 to object, but I understand it was overruled.

20 MR. McCABE: It did not.

21 MS. RIVERA: It did not. And do you
22 know if any lease after the first lease, you said
23 you had three leases so far, correct?

24 MR. McCABE: That's correct.

25 MS. RIVERA: Do you know if any of those

1 leases had a statement that the property and/or
2 this unit was exempt from rent control?

3 MR. HENDERSHOT: I'm going to object on
4 the same grounds, just to preserve my objection.

5 MR. MAROTTA: That's fine.

6 MR. McCABE: I know for a fact that they
7 did not.

8 MS. RIVERA: Okay. I have nothing
9 further.

10 CHAIRMAN MILAN: Okay. If the board has
11 any?

12 MR. HENDERSHOT: No redirect or recross.

13 MR. MAROTTA: If the board has any
14 questions?

15 CHAIRMAN MILAN: Anyone has any
16 questions of any of the -- none at this point.

17 MR. MAROTTA: Okay.

18 CHAIRMAN MILAN: The only thing is,
19 maybe I misunderstood at the beginning, I thought
20 we were headed towards a resolution, but so far
21 I'm not getting a sense of that?

22 MS. RIVERA: It's a resolution as to the
23 stipulation that we made, right, that the property
24 itself, that they had complied with the first
25 prong, the claim exemption that was received and

1 acknowledged and that --

2 MR. MAROTTA: Proof.

3 MS. RIVERA: Proof was submitted.

4 MR. MAROTTA: Proof of submission was
5 provided.

6 So if the board has no further questions
7 and the parties are resting, or if they'd like to
8 sum up, they're welcome to do so. But as far as
9 your question, it appears counsel is trying to
10 establish and not to put words in his mouth, and
11 you can correct me, that there may have been some
12 acknowledgment or some kind of notice to the
13 tenant that the property was exempt. And I don't
14 really want to make his argument for him, you
15 know, they could sum up.

16 But then at that point, when their
17 summation is over, I, of course, would be able to
18 advise the board on the law, specifically the
19 statute that we have.

20 CHAIRMAN MILAN: Okay. So, please, can
21 we get the summations if you have them?

22 MR. HENDERSHOT: Sure. Just quickly, so
23 we started with the resolution, the stipulation,
24 this building is exempt from the rent control
25 ordinance, there's no dispute as to that. So

1 really what it comes down to is what kind of
2 notices, as was pointed out, this particular
3 tenant had. Which is really the purpose of the
4 statute putting this language in leases about rent
5 control and whether something is or is not subject
6 to rent control. So the question is what notice
7 did he have or not have as to the application of
8 the rent control ordinance or whether this
9 property was exempt.

10 And as we went through the testimony, it
11 was clear that this particular tenant knew that
12 rent control may be an issue. He knew about it
13 before he signed his current lease, certainly.
14 But he investigated whether the property was or
15 was not exempt. He ultimately found out, you
16 know, I think this property is exempt, but he
17 brought this challenge anyway, it appears. But at
18 that point, he clearly knew and certainly before
19 he knew that rent control could be an issue, but
20 he signed his lease anyway, moved forward, paid
21 his rent, paid everything.

22 And so I would argue -- first of all, I
23 think there's been substantial compliance with the
24 requirements of the statute based on the
25 stipulation. And then also language that appears

1 in the lease relating to rent control increases
2 and so forth. The tenant also knew that this
3 could be an issue, signed a lease anyway, and
4 moved forward. And so really there's substantial
5 compliance with the statute.

6 I also think that there's been a waiver
7 here of the argument that this property is subject
8 to rent control and we're not exempt. So for
9 those reasons --

10 MR. MAROTTA: Counsel, I just want to
11 ask you are you saying you waive rent control?

12 MR. HENDERSHOT: So he waived the
13 argument that we didn't comply with the statute,
14 essentially, such that -- thank you for the
15 clarification.

16 MR. MAROTTA: Okay.

17 MR. HENDERSHOT: Waived the argument as
18 to why we're here tonight essentially, which would
19 be a lack of notice is essentially the crux of the
20 argument.

21 MR. MAROTTA: Okay.

22 MR. HENDERSHOT: So for those reasons, I
23 would ask that the property be found to be exempt
24 in this particular tenant's case and rent be able
25 to be charged as it is under the lease. Thank you

1 for your time.

2 MR. MAROTTA: Thank you.

3 MR. NG: Neil, I'm sorry. Maybe you
4 could clarify --

5 MR. MAROTTA: I will. I just want to
6 give Ms. Rivera an opportunity to sum up as well.

7 MS. RIVERA: So I just wanted to say
8 that pursuant to our ordinance 334-2B-5, new
9 construction consistent with N.J.S.A. 2A:42-84.1,
10 et seq., shows that there will be an exemption
11 from the rent control provided certain things are
12 complied with. One -- so there's two to three
13 prong test. One they have to comply with what
14 they have to do with the building department,
15 which is getting in their exemption letter. They
16 have to, you know, make sure that's done. And we
17 stipulated that that was done.

18 Then there comes a second prong and
19 that's consistent with N.J.S.A. 2A:42-84.1, that
20 they have to provide pre-lease notice to the
21 tenant and the lease itself has to have a
22 statement that there is an exemption, that the
23 unit and/or property is exempt from rent control.
24 That is not done here.

25 Secondly, you know, in response to the

1 argument asserted by the landlord that he
2 essentially waived his notice requirement, the
3 court has said in Tave versus Furst 182 N.J.
4 Super. 497, that parties to a residential lease
5 cannot waive the structures of a local rent
6 control ordinance. So that argument has to fall.

7 So I submit that while the building
8 itself may be deemed exempt from rent control,
9 this particular tenant is covered under rent
10 control because the second and third prong, if you
11 will, of the requirements were not complied with.
12 There was no pre-lease notice and there was no
13 notice in the written lease.

14 MR. MAROTTA: Okay.

15 MR. NG: I think Christina answered
16 my --

17 MR. MAROTTA: I think she summed up.

18 MR. NG: -- about the lease she's saying
19 in exemption from rent control one of the
20 ordinance specify.

21 MS. RIVERA: And again the burden is on
22 the appellant to show that there is a lease that
23 has that language and they cannot show that
24 because there is not a lease that has that
25 language.

1 MR. HENDERSHOT: I would take issue with
2 that. And I would say our burden is to show that
3 the property is exempt and their burden is to show
4 in some form that we failed to comply with
5 provisions of the statute, such that the exemption
6 would not apply in this particular tenant's case.
7 And there's been no leases produced, and as I did
8 object as to the testimony as to the contents of
9 the leases, because they've not been introduced in
10 evidence. And so therefore, my argument is that
11 it's actually their burden to show the absence in
12 the lease.

13 MS. RIVERA: Well, his testimony is said
14 or confirmed that there is no such language.

15 MR. MAROTTA: Okay. If the board wants
16 any further questions or if you close testimony?

17 MR. NG: May I?

18 MR. MAROTTA: Close testimony and
19 deliberate.

20 CHAIRMAN MILAN: Before I do that.

21 MR. MAROTTA: Questions on the law.

22 CHAIRMAN MILAN: Before I do that, I
23 understand the three prong approach that counsel
24 explained. What weight do we give those prongs?
25 That although being germane, based on the relevant

1 law, show that there's something missing, but it's
2 not quite spelled out in our ordinance.

3 MR. MAROTTA: Okay. The -- it's spelled
4 out in our ordinance and the statute, our
5 ordinance relies upon the state law. And I'll
6 read the relevant paragraph of the statute.
7 Counsel had mentioned 84.1, it's actually --

8 MS. RIVERA: .3.

9 MR. MAROTTA: 2A:42-84.3. And it
10 provides as follows: The owner of any multiple
11 dwelling exempted from a rent control or rent
12 leveling ordinance pursuant to this act shall,
13 prior to entering into any lease with a person for
14 tenancy of any premises located in the multiple
15 dwelling, furnish the prospective tenant with a
16 statement that the multiple dwelling in which the
17 premises is located is exempt from rent control or
18 rent leveling for such time as may remain in the
19 exemption period. Each lease offered to a
20 prospective tenant for any dwelling unit therein
21 during the period the multiple dwelling is so
22 exempted shall contain a provision notifying the
23 tenant of the exemption.

24 So the statute is pretty clear on the
25 mandatory language. Now, this matter has been

1 heard -- taken up to the appellate division and
2 also the Supreme Court has not -- has declined to
3 hear the matter. However, the appellate division
4 said this language is mandatory and has to be
5 provided by the landlord.

6 And the burden was brought up here. And
7 as a legal analysis, the burden is on the landlord
8 to establish the exemption, based upon the
9 statute's own language, because it says the owner
10 shall do something. So the question becomes
11 whether the owner did that.

12 CHAIRMAN MILAN: Right.

13 MR. MAROTTA: As Ms. Rivera stated, you
14 cannot waive rent control. A tenant cannot go
15 ahead and say, okay, it doesn't apply to me. Not
16 allowed to do it. I mean if it's never brought
17 forward, but the tenant can always assert rent
18 control. If it's --

19 CHAIRMAN MILAN: In other words, you
20 cannot sign off your right to have the place that
21 you live be under rent control if it is. You
22 can't say I know it's rent control, but I don't
23 care I'm just going to pay and that's it.

24 MR. MAROTTA: Yeah.

25 CHAIRMAN MILAN: Okay, gotcha.

1 MR. MAROTTA: Yeah.

2 CHAIRMAN MILAN: Thanks for clarifying.

3 MR. MAROTTA: You can't be held to that.

4 MR. HENDERSHOT: Could I just ask a
5 question about the -- you were talking about the
6 case that was up the appellate and then went to
7 the Supreme Court. Do you have a citation for
8 that by any chance?

9 MR. MAROTTA: It was an unpublished
10 decision; however, since it dealt with this rent
11 board, it is binding on this rent board, okay.

12 MR. HENDERSHOT: Just --

13 MR. MAROTTA: I do not have the
14 citation, I can get that for you.

15 MR. HENDERSHOT: I do think I know the
16 case and I thought it was unpublished. And I do
17 just want to, for the record, object to the extent
18 that's not law of the case for this particular
19 rent board, but --

20 MR. MAROTTA: I can show it to you, no
21 problem.

22 MR. HENDERSHOT: Okay. I'll take a look
23 at it.

24 MR. MAROTTA: Sure, okay.

25 CHAIRMAN MILAN: I make a motion that we

1 close testimony and go into deliberation.

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

4 MR. MAROTTA: Motion was made by our
5 Chairman, Mr. Milan, second by Vice Chairman
6 Commissioner Sandra Vasquez. Roll call.

7 Commissioner Norma Guevara.

8 COMMISSIONER GUEVARA: Yes.

9 MR. NG: Commissioner and Vice Chairman
10 Sandra Vasquez.

11 VICE CHAIRPERSON VASQUEZ: Yes.

12 MR. NG: Commissioner Rosana Colon.

13 COMMISSIONER COLON: Yes.

14 MR. NG: Chairman Juan Milan.

15 CHAIRMAN MILAN: Yes.

16 MR. MAROTTA: Motion has passed.

17 CHAIRMAN MILAN: Okay. Let me frame it
18 a little bit in our own terms. And, obviously, as
19 always, you could definitely argue against it or
20 agree any which way you feel. Basically, based on
21 what was just read into the record by our counsel,
22 it looks like the three prong approach is not only
23 implicit, it's also explicit in the sense that it
24 clearly says that we need to have those leases
25 stating quite directly that an exemption is there

1 for that place where the tenant is going to live.
2 I get the feeling that these leases didn't because
3 it would have been brought out immediately by
4 counsel saying it's right here, it says it right
5 here, exemption, done deal.

6 In this case, the fact that you tried to
7 get the tenant to say, yeah, they spoke to me
8 about an exemption, tells me that most likely it
9 wasn't written anywhere. Otherwise you would have
10 clearly pointed to that record as being more
11 stronger evidence and that was not done. So I
12 sympathize with the case, I understand that, you
13 know, the process was followed, the building is
14 under exemption. But at least in this lease, I
15 think at the end of the line, the final item was
16 not being followed.

17 And, unfortunately, for this case, the
18 ordinance seems to be quite clear that that has to
19 be there. So based on that, I mean if I have to
20 make a motion, I will make a motion that the
21 building is exempt, they have the CCOs, they have
22 all that. But if they're doing leases and they
23 don't have that exemption properly listed there,
24 then for that tenant, it's not exempt. That's my
25 opinion. Obviously, you could have very different

1 ones and open the floor to any arguments.

2 VICE CHAIRPERSON VASQUEZ: I agree.

3 COMMISSIONER COLON: No.

4 COMMISSIONER GUEVARA: I second.

5 CHAIRMAN MILAN: Ms. Guevara agrees. I
6 make a motion that -- give me the address again?
7 123 44th Street, Apartment 1, even though the
8 building is exempt from rent leveling board
9 jurisdiction, for this apartment, since it was not
10 put in the lease, and only for I guess the
11 duration of the exemption period, I'm not sure
12 exactly how long that goes, but --

13 MR. MAROTTA: I didn't hear any
14 testimony as to that.

15 CHAIRMAN MILAN: Um-hum.

16 MR. MAROTTA: But the board can use its
17 own recollection.

18 CHAIRMAN MILAN: Okay. I guess it's the
19 duration of the lease, when you think about it,
20 right? Because the new lease, obviously, they can
21 put that wording in there and it would take over.

22 MR. MAROTTA: Well, that's a good
23 question. The fact is that the tenant has already
24 entered into a lease for the property without the
25 exemption being there. I do not believe that the

1 exemption can take place at a later date after the
2 tenant has already moved in.

3 CHAIRMAN MILAN: After the tenant has
4 already moved in. So what we're saying is --

5 MR. MAROTTA: Again, it would be only
6 for this tenant. If that tenant moves and the
7 landlord follows the process, that would be --

8 CHAIRMAN MILAN: That's for sure. It's
9 just a question of is the fact that he's signing
10 another lease negates the previous absence of such
11 wording or it doesn't. And in this -- it sounds
12 like it doesn't, based on -- I want to make sure
13 that that is the understanding, as far as you can
14 counsel us on the law?

15 MR. MAROTTA: The statute has a two-step
16 process. You say three prong, the one prong being
17 the building's exemption. The other two process
18 are that prior to entering into a lease, the
19 landlord must provide a prospective tenant with a
20 written statement that the multiple dwelling in
21 which the premises is located is exempt from rent
22 control for such time as may remain in the
23 exemption period. Since the tenant already lives
24 there, I don't see how they can do that.

25 CHAIRMAN MILAN: Gotcha, that's a good

1 interpretation, I think. Okay. So I make a --
2 the motion is that although the building is
3 exempt, for this tenant and this tenant only, for
4 apartment 1, he -- that apartment is under rent
5 leveling board, that's the motion. Is it clear or
6 I see some faces as what the heck did he say
7 there?

8 MR. NG: Is that the motion?

9 CHAIRMAN MILAN: That's the motion I'm
10 trying to make sure they understand.

11 VICE CHAIRPERSON VASQUEZ: I'll second.
12 I understood.

13 MR. NG: So motion was made by our
14 chairman, Mr. Milan.

15 VICE CHAIRPERSON VASQUEZ: I'll second.

16 COMMISSIONER GUEVARA: Second.

17 MR. NG: Second by Commissioner Norma
18 Guevara.

19 Mr. Marotta, I just want to say few
20 words. This is not to change anything, just my
21 defense of my office. The steps, when I receive
22 the intake, if the building is --

23 MR. MAROTTA: I would -- just let's
24 finish the case. And then if you want to discuss
25 in general the process, that's fine. But I would

1 just ask that the motion, it's on the floor --

2 MR. NG: Because it's related to this
3 case, that's why -- but I follow your advice.

4 MR. MAROTTA: Okay.

5 MR. NG: So the roll call first?

6 MR. MAROTTA: Yes, please.

7 MR. NG: Thank you. That's why you're
8 my lawyer. You are a good lawyer, Neil.

9 MR. MAROTTA: Thank you, I try.

10 MR. NG: Commissioner Norma Guevara.

11 COMMISSIONER GUEVARA: Yes.

12 MR. NG: Commissioner and Vice Chairman
13 Sandra Vasquez.

14 VICE CHAIRPERSON VASQUEZ: Yes.

15 MR. NG: Commissioner Rosana Colon.

16 COMMISSIONER COLON: Yes.

17 MR. NG: Chairman Juan Milan.

18 CHAIRMAN MILAN: Yes.

19 MR. NG: Motion has passed.

20 CHAIRMAN MILAN: Thank you.

21 MR. HENDERSHOT: Thank you.

22 MR. McCABE: Thank you.

23 MR. MAROTTA: I'm going to ask for one
24 moment to speak with counsel.

25 **818 22ND STREET -**

1 **CAPITAL IMPROVEMENT:**

2
3 (Whereupon a short recess was taken.)

4
5 MR. MAROTTA: On the record.

6 CHAIRMAN MILAN: We're back. I guess we
7 have two more left, which one do we want to do
8 first.

9 MR. MAROTTA: 818.

10 CHAIRMAN MILAN: 818 22nd Street, okay.
11 Capital improvement. Is that you Mr. McCaskill?

12 MR. MAROTTA: Please? Actually, the
13 first matter we have on for tonight is an
14 agreement, acceptance -- acknowledgment of
15 agreement between the parties regarding the prior
16 hardship matter. So if you recall the board
17 addressed the hardship in this case and based upon
18 the order --

19 THE COURT REPORTER: Do you want the
20 interpreter sworn?

21 MR. MAROTTA: Yes, please.

22
23 H E C T O R R E Y E S, an interpreter of the
24 SPANISH language, after having been duly sworn,
25 did interpret the following testimony:

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THE INTERPRETER: Hector I. Reyes,
R-E-Y-E-S.

MR. MAROTTA: So the discussion was had
between the parties as to the fact that the
ordinance was somewhat conflicting on the amount
of the permitted increase. So they agreed to a
flat 15 percent increase a year until it reaches
the number that Ms. Colditz had put on the case.

CHAIRMAN MILAN: Okay.

MR. MAROTTA: So --

MR. McCASKILL: And that's just for the
tenant that's left.

MR. MAROTTA: That's just for the tenant
that's left, the other two apartments are vacant.
So the other understanding is that Ms. Colditz's
number would be the number for any other tenants
coming in to two other apartments.

MS. RIVERA: I thought that what the
board decided a 32 percent increase for the
another prior -- for the other -- this was -- the
remaining tenant the agreement, the settlement was
to her only. But they were -- the other two
apartments are bound by the 32 percent increase
decided by the board.

1 MR. MAROTTA: There's nobody to --
2 that's a good question, because the current tenant
3 is not able to address that. But what the board
4 could do is permit increases beyond that every
5 year of 15 percent and then it would be because
6 the board has that authority.

7 MR. McCASKILL: I'm not sure if it makes
8 any difference, but I'm occupying both of those
9 apartments, they're not really vacant. I'm
10 residing in three of the apartments right now.

11 MR. MAROTTA: Okay. So the thing is if
12 you ever want to go ahead and lease them, you want
13 to be able to lease them at a higher amount.

14 MR. McCASKILL: Right. So I don't know
15 what that -- impact that has.

16 MS. RIVERA: I think we have to revisit
17 the board's decision as to the other two
18 apartments.

19 MR. MAROTTA: Okay. Well, there's
20 nobody needs -- okay. And let the board make a
21 decision on that.

22 MS. RIVERA: I thought they did though.
23 That was the whole, this was as to her only.

24 MR. MAROTTA: Correct because she's the
25 one that has the authority to enter into an

1 agreement.

2 MS. RIVERA: Right. But the other --
3 the board decided as to the other apartments
4 already. The board decided as to the whole
5 building.

6 CHAIRMAN MILAN: I think we did like
7 32 percent or something.

8 MR. MAROTTA: It was approximately
9 32 percent.

10 CHAIRMAN MILAN: And then the fact that
11 they could come back every year and go above the
12 number for that, based on the fact -- as long as
13 he's living there.

14 MR. McCASKILL: I mean I think
15 because -- speaking from my perspective, last
16 year, that took a long time for me, for the
17 tenants, and for all of you as well. So I was
18 hoping to not have to do that every year and have
19 some, like, resolution where we can have like an
20 increase that's more workable year after year.

21 CHAIRMAN MILAN: I think that's a fair
22 proposition, but I think we should probably look
23 at what we did because, to be honest, if -- I mean
24 if I'd known that we were going to do it today,
25 then I would definitely have tried to read what

1 the decision was.

2 MR. MAROTTA: The decision was a
3 32 percent increase.

4 CHAIRMAN MILAN: Right. But I meant the
5 wording that we used for subsequent years. I
6 think it was they can do it again. But as he
7 says --

8 MR. MAROTTA: Well --

9 CHAIRMAN MILAN: -- it takes a heck of a
10 long time, it might be can we apply -- can we make
11 a resolution that will apply those numbers going
12 forward or something like that.

13 MR. MAROTTA: I believe the board has
14 the authority to set the rents if there's no party
15 in opposition to it. I would like to speak to Ms.
16 Rivera real quick. I'm sorry to do this, I know
17 we're in time crunch, but I'll make it less than
18 five minutes.

19 CHAIRMAN MILAN: I think it's definitely
20 a good point to raise with tenant advocate because
21 obviously the only concern is the maintenance of
22 the low rent, lower rent population of houses and
23 apartments --

24 MR. MAROTTA: Yep.

25 CHAIRMAN MILAN: -- in the City which is

1 the main thrust behind the ordinance. But given
2 that and knowing the fact that -- the numbers we
3 had seen and we felt that they were fair, and even
4 did the accountant. We can definitely reconsider
5 but, yeah, it's good to get her take on that.

6 MR. MAROTTA: I'd just like to discuss
7 it real quick.

8

9 (Whereupon a short recess was taken.)

10

11 CHAIRMAN MILAN: Let's go back on the
12 record. So basically I guess what that means is
13 for the current tenant, it will be 15 percent and
14 that's the agreement that they have negotiated, so
15 15 percent. For the other two apartments.

16 MR. MAROTTA: That would be --

17 CHAIRMAN MILAN: We're saying Ms.
18 Colditz's numbers will take over and you have
19 those numbers I'm sure. And do we know what they
20 are?

21 MR. MAROTTA: Well, I think we can
22 resolve that in the rent control office and then
23 the property owner --

24 CHAIRMAN MILAN: I just have to say Ms.
25 Colditz's --

1 MR. MAROTTA: And the property owner can
2 go ahead, when he registers for the next
3 registration, which is coming soon, can register
4 that rent.

5 MR. McCASKILL: And I would just clarify
6 duration, like, it would be either until she
7 vacates or until we hit the number of the other
8 apartments.

9 CHAIRMAN MILAN: Okay, yeah, definitely.

10 MS. RIVERA: So just to clarify, right
11 now, she's paying 644.81 and that's supposed to
12 change or his next registration date is August,
13 but giving the 30-day notice of rent increase, it
14 would go up the 15 percent by \$96.72 to 741.53 in
15 September.

16 CHAIRMAN MILAN: Okay. Is that -- she's
17 aware of it, I'm sure.

18 MS. RIVERA: You understand that, right?

19 MR. MAROTTA: We're going to go through
20 it. We're going to voir dire both parties.

21 MS. RIVERA: Okay.

22 CHAIRMAN MILAN: Which we always do.

23 MR. MAROTTA: So the -- and just to
24 state, I believe that if the registration
25 statement hasn't been filed yet, it has to be

1 effective September 1st to give it the 30 days as
2 well.

3 MR. NG: Neil, my office, talking to
4 Kenny, one of my staff, we need clarification
5 because we aren't sure, so how many apartments
6 this building has now?

7 MR. MAROTTA: Sure. There are four --
8 it's okay. There are four units in this
9 apartment, okay. The one is owner occupied,
10 although I believe Mr. McCaskill has stated that
11 he's actually utilizing the other apartments as
12 well, but it's still a four-unit.

13 MR. NG: That's the question we have.
14 If the owner is now occupying two apartments, it's
15 still two different apartments or legally --

16 MR. MAROTTA: It's still.

17 MR. NG: -- was done like one apartment
18 because that's a question for us.

19 MR. MAROTTA: It's still two different
20 apartments, unless the property owner goes to the
21 building department and goes through the process
22 of unifying the two apartments, for example.

23 MR. NG: And the reason -- again, this
24 is clarification for us. And the reason that the
25 owner -- this case it's him that occupy both

1 apartments, could be other buildings, the reason
2 is to avoid rent control or just to -- whatever --

3 MR. MAROTTA: No. If the property owner
4 wants a bigger apartment, they have the right to
5 go ahead.

6 MR. NG: A bigger apartment, but they
7 should unify both apartment and declare in the
8 building department as one.

9 MR. MAROTTA: They would have to do it
10 through a process.

11 MR. NG: At what point?

12 MR. MAROTTA: Whenever they chose to do.

13 MR. NG: So this --

14 MS. RIVERA: It's a four family.

15 MR. MAROTTA: At this moment.

16 MR. NG: That's what I wanted to know.
17 At the moment of registration have to appear four
18 apartments, not three?

19 MR. MAROTTA: Correct.

20 MR. NG: What is the legality of an
21 owner occupying two apartments in the same
22 building, if you know?

23 MR. MAROTTA: There's -- there's no
24 effect on the rent status, the base rent status of
25 the other units.

1 MR. NG: So when he raise them, he just
2 say I'm living -- this is my first apartment and
3 my secondary apartment is this, it's the same
4 thing with voting, you can live in two
5 different --

6 MR. MAROTTA: I don't think it needs to
7 go to that extent. I believe that when a
8 registration statement is filed, it would include
9 each apartment separately, and with the rent that
10 is already established and will be established by
11 this board tonight on the registration statement.
12 And then if the property owner chose to rent out
13 one of those apartments, it would be at that base
14 rent that is set. And if the property owner chose
15 to go to the building department and join two
16 apartments, they would have to go through that
17 process. At that point, it would be an owner
18 occupied three family and no longer subject to
19 rent control.

20 MR. NG: And this is my clarification
21 needed for our -- probably I will not be around by
22 that time. If the owner sell the property, I
23 should have under my name that that property is
24 three or four because --

25 MS. RIVERA: Until he does the

1 application -- any application -- it's a
2 four-family.

3 MR. NG: It's four-family.

4 MS. RIVERA: Four-family today until he
5 does anything different with the building
6 department.

7 MR. NG: That's what I wanted to know
8 because I am not by the window when registration
9 is going on, just to make sure for, not only for
10 this case, for all the cases. Because I don't
11 want to see my name signing things that it's three
12 or four because now it's two, it's three because
13 I'm living there occupying two apartments, but I'm
14 legally not unified as one. I don't know if you
15 understand.

16 CHAIRMAN MILAN: I gotcha. Unless they
17 go to the building department and make a process
18 of unification, it is what they have in there.
19 Even if he's using three of the apartments, you
20 have four apartments.

21 MR. NG: Okay.

22 CHAIRMAN MILAN: If he unifies it and
23 make two into one, then you have a three apartment
24 in that case, but unless he's doing that --

25 MR. NG: Okay, I'm good.

1 CHAIRMAN MILAN: I think you're okay.

2 MR. MAROTTA: That is correct.

3 Okay. So I'm going to ask you to voir
4 dire your client on the resolution.

5

6 Y V E T T E R E Y E S, previously sworn:

7

8 MS. RIVERA: You currently, just to
9 clarify the record, you currently pay \$644.81 in
10 rent?

11 MS. REYES: Yes.

12 MS. RIVERA: Okay. And that was
13 increased as of September of 2023?

14 MS. REYES: Yes.

15 MS. RIVERA: Okay. You understand that
16 when we presented the matter to the board, they
17 determined that the increase for this year would
18 be -- after this hearing would be 32 percent?

19 MS. REYES: Yes.

20 MS. RIVERA: Okay. And we talked about
21 the fact that he would have to come back and
22 reapply to seek further increases. And in lieu of
23 that, we had agreed to just a uniform 15 percent
24 increase until they reach the town's accountant's
25 number, you understand that?

1 MS. REYES: Yes.

2 MS. RIVERA: And you agree to enter into
3 this agreement for the yearly 15 percent increases
4 as opposed to, you know, the -- to get to that
5 other number instead of the 32 percent that was
6 initially decided?

7 MS. REYES: Yes.

8 MS. RIVERA: Okay. You understand that
9 by entering into this agreement, you're giving up
10 your right to further trial. If he were to bring
11 another, let's say hardship, we're kind of
12 waiving -- we're giving that scenario up?

13 MS. REYES: Yes.

14 MS. RIVERA: Okay. No one has forced
15 you or coerced you into entering into the
16 agreement?

17 MS. REYES: No.

18 MS. RIVERA: You're doing so freely and
19 voluntarily understanding all the terms of this
20 agreement?

21 MS. REYES: Yes.

22 MS. RIVERA: You haven't had any mind
23 altering substances today or when we spoke earlier
24 that would impair your ability to understand?

25 MS. REYES: No, no.

1 MS. RIVERA: I have nothing further.

2 MR. MAROTTA: I just have a couple
3 things. You understand that based upon the prior
4 determination of the board, it was a 32 percent
5 increase, correct?

6 MS. REYES: Yes.

7 MR. MAROTTA: And now it will be
8 15 percent. And that also the board had stated,
9 and the ordinance provides, that the property
10 owner if they were not earning a reasonable return
11 on their investment, could apply for another
12 increase and that increase could be even higher?

13 MS. REYES: Yes.

14 MR. MAROTTA: Okay.

15 MS. REYES: I understand.

16 MR. MAROTTA: Thank you, okay.

17 MS. RIVERA: But now we're not doing
18 that because we're settling for the 15 percent.

19 MR. MAROTTA: Now you have a stability
20 up until a certain number.

21 MS. REYES: Yes.

22

23 L A N C E M c C A S K I L L, previously sworn:

24

25 MR. MAROTTA: Okay. I think I'll voir

1 dire Mr. McCaskill, okay.

2 Mr. McCaskill, you understand that the
3 board had previously established a 32 percent
4 increase per unit for the other three units in
5 this property, correct?

6 MR. McCASKILL: Yes.

7 MR. MAROTTA: Okay. And that now the
8 agreement you have is with the current tenant,
9 there will be a 15 percent increase a year up
10 until that rent reaches the number provided by Ms.
11 Colditz in her analysis?

12 MR. McCASKILL: Correct.

13 MR. MAROTTA: And you understand also
14 that since the other two units are vacant, you're
15 able to register those rents for those two units
16 at Ms. Colditz's number --

17 MR. McCASKILL: Yes.

18 MR. MAROTTA: -- when your next
19 registration is due?

20 MR. McCASKILL: Yes.

21 MR. MAROTTA: Okay. And the -- you
22 understand that by entering into this agreement,
23 you are waiving your right to appeal the board
24 prior decision and to take it any further?

25 MR. McCASKILL: Yes. But I'm not

1 waiving my right to, like, down the road, if you
2 know, I'm in the same situation where expenses
3 aren't covering things, to apply for hardship.

4 MR. MAROTTA: You always have right to
5 apply for a hardship again, but not against this
6 tenant.

7 MR. McCASKILL: Right, right.

8 MR. MAROTTA: Okay. So you are entering
9 into this agreement knowingly and willingly?

10 MR. McCASKILL: Yes.

11 MR. MAROTTA: You're not coerced to
12 enter into this agreement?

13 MR. McCASKILL: No.

14 MR. MAROTTA: You're not taking any
15 substance that would affect your ability to
16 understand these proceedings?

17 MR. McCASKILL: Not tonight.

18 MR. MAROTTA: Okay. So if the board
19 doesn't have any further questions, I believe
20 that --

21 CHAIRMAN MILAN: I'm fine.

22 MR. MAROTTA: I request the board to
23 entertain a motion to accept the agreement reached
24 between the parties.

25 CHAIRMAN MILAN: I make a motion that we

1 accept the agreement that has been made between
2 the landlord, Mr. McCaskill, and the tenant and
3 also as it applies to the two vacant apartments.

4 COMMISSIONER COLON: I second it.

5 MR. NG: So motion was made by our
6 Chairman, Mr. Milan, and seconded by Commissioner
7 Rosana Colon. Roll call.

8 Commissioner Guevara.

9 COMMISSIONER GUEVARA: Yes.

10 MR. NG: Commissioner and 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 MR. MAROTTA: Just for the record, we
19 are going to confirm the amount of the other two
20 apartments this week through rent control.

21 MR. McCASKILL: Sorry, I should have
22 asked this earlier, one more point of
23 clarification. I still get the 10 percent
24 increase that first year after this, on top of
25 that --

1 MR. MAROTTA: That was not discussed in
2 this matter.

3 MR. McCASKILL: No.

4 MR. MAROTTA: Okay. That was not
5 discussed.

6 MR. McCASKILL: Okay.

7 CHAIRMAN MILAN: That's it.

8 MR. MAROTTA: Again, just to -- you're
9 going straight up to 100 percent as opposed to the
10 32 percent and then 10 percent on top of that.

11 CHAIRMAN MILAN: Sounds good, thank you.

12 MS. RIVERA: There was one other thing,
13 his capital improvement.

14 MR. MAROTTA: Now, the next matter that
15 is on the agenda is the capital improvement.

16 MS. RIVERA: Well, not really, only
17 because -- I don't need --

18 MR. MAROTTA: Make her argument, so she
19 can leave.

20 MS. RIVERA: So he has a capital
21 improvement application that dealt with the boiler
22 that we kind of left out, the boiler expense back
23 when we did that and the water heater. So I have
24 no position as it relates to the other three
25 apartments because they're vacant and it looks

1 like Ms. Colditz has arrived at a figure that is
2 not offensive, if you will.

3 But I would submit that Ms. Reyes is
4 exempt because she's a protected tenant under the
5 statute and our ordinance subsection 8 of
6 334-10(d)8 says that no capital improvement
7 surcharge shall be imposed upon any tenant who has
8 been granted protected tenant status pursuant to
9 N.J.S.A. 2A:18-61.2 or 2A:18-61.40. And I would
10 submit to the board that she falls under two
11 categories of protected tenant, she's above 62 and
12 she has a disabled son. So those two criteria
13 would exempt her from any capital improvement
14 under the ordinance.

15 MR. MAROTTA: Okay. Do you have any
16 position on that?

17 MR. McCASKILL: Yeah. The way I read
18 that part of the ordinance is that that status has
19 to be granted according to the rent control
20 ordinance. So as you stated, no capital
21 improvement surcharge shall be imposed on any
22 tenant who's been granted protected tenant status
23 pursuant to that.

24 I've never received any form, shape, or
25 notification or any document that that's been

1 granted. Pulling the rent control ordinance
2 mentions N.J.S.A. 2A:18-61.22 or 2A:18-61.40.
3 Pulling that, that purpose of that act is to
4 establish protections for senior citizens and
5 disabled persons from forced eviction due to
6 condominium or cooperative conversions, in which
7 case, she's not being displaced. I'm not doing a
8 condominium conversion.

9 It also requires that a tenant seeking
10 protected tenancy status must send an application
11 to the agency within 60 days of the notification
12 to convert, in which case, I haven't provided any
13 notice to convert. I'm not aware that she's
14 sought any kind of protected tenancy status, so I
15 don't think that it covers her.

16 MR. MAROTTA: Okay. I'd just -- go
17 ahead, Counsel. I have an opinion on it, but
18 please, go ahead.

19 MS. RIVERA: Well, I was just going to
20 clarify that she and her husband were living there
21 for I think 20 something years. And her husband
22 was in his 80s and I think that the prior owner
23 never raised the rent on them. So they were -- I
24 don't think that this became a need and I don't
25 think he even registered. She and her husband,

1 had he still been alive, would have definitely
2 qualified. And they would have, if there had been
3 registration statements before, she would have the
4 gotten the exemption of the two percent. He never
5 did that.

6 Now, we're here with this landlord who,
7 you know, increased, got the hardship application
8 in. And she's declaring her exempt status, she's
9 declaring her status as a protected tenant as two
10 components, her son is disabled and resides with
11 her and she's above 62. So she, I would submit,
12 is a protected tenant. I don't know --

13 MR. MAROTTA: So it is correct that the
14 protected status is applicable to a condominium
15 conversion. However, the ordinance in this
16 instance --

17 MS. RIVERA: References it.

18 MR. MAROTTA: With regards to the
19 capital improvement section of the ordinance is
20 saying that if you meet that criteria for
21 protected tenancy under the statute that is
22 applicable to condominiums -- and I'm not saying
23 it's not -- but the ordinance adopts that to say
24 that if you meet that criteria, you're not subject
25 to a surcharge from a capital improvement.

1 That being said, Mr. McCaskill is
2 correct that you still have to meet that criteria.
3 So the -- I would state that the issue of whether
4 the tenant meets that criteria, whether the tenant
5 meets that criteria has to be provided to the
6 board -- I would say to the rent control office
7 for review, analysis, and a determination whether
8 it meets that criteria. In part, the requirement
9 would be a driver's license and the income on the
10 apartment, okay.

11 So we can proceed with the capital
12 improvement application right now. And then
13 follow up with the requirement that the office go
14 ahead and make a determination whether the tenant
15 qualifies.

16 CHAIRMAN MILAN: Okay.

17 MR. MAROTTA: So --

18 MR. McCASKILL: And just to clarify, the
19 office would also grant protection on whether or
20 not the disability qualifies?

21 MR. MAROTTA: Yeah.

22 MR. McCASKILL: Because I think you
23 mentioned --

24 MR. MAROTTA: I think if the one
25 qualifies, I think that would be sufficient. I

1 don't think it's necessary to go into medical
2 records if we do not have to.

3 MR. McCASKILL: Okay.

4 MR. MAROTTA: Okay.

5 MR. McCASKILL: Ms. Colditz isn't here?

6 MR. MAROTTA: She is not, she's on
7 vacation. And that was scheduled prior to our
8 notice of the meeting. So I do -- what I would
9 recommend, Ms. Colditz has submitted her analysis
10 of the -- and I believe everybody has it in their
11 packet -- has submitted her analysis of the life
12 span of the assets, both of which are 27 and a
13 half years, for both the boiler and the water
14 heater, okay. The water heater showed \$6,103.71.
15 I guess that assumes all costs associated with it,
16 not just the water heater itself, but the
17 installation of the water heater, okay. And as
18 well as the boiler at \$13,800. These are provided
19 by Mr. McCaskill.

20 I would recommend that we proceed
21 tonight and he address the calculations. He's
22 already provided that he's okay with proceeding
23 tonight.

24 And in fairness to Mr. McCaskill, I had
25 thought that he had an exchange with Ms. Colditz,

1 but it appears that was not the case. Because on
2 the hardship, they exchanged a lot. So I just
3 thought there was an exchange on this matter as
4 well. However, if he would like to speak to Ms.
5 Colditz and challenge these numbers with Ms.
6 Colditz, we would have to carry it. But we can
7 proceed with his position tonight.

8 MR. McCASKILL: I mean the main thing I
9 don't really get is 27 and a half years of useful
10 life for a water heater and a boiler. I find that
11 quite egregious. I printed off and provided to
12 the board a copy of the last time the hot water
13 heater was replaced, which was November 2013, you
14 could see it down here at the bottom of the page,
15 which was almost exactly 10 years ago from when I
16 replaced it.

17 So I think it sort of varies. The
18 average life of these -- like the boiler and the
19 water heater, so whether it's ten years or twelve,
20 thirteen or less, kind of depends on which one you
21 get, but I don't -- they don't last 27 and a half
22 years.

23 MR. MAROTTA: And I understand that,
24 having changed a hot water heater myself. The
25 boiler obviously lasts more than that. So the 27

1 and a half years is based upon the IRS guidelines,
2 which states for specific items, the useful life,
3 okay. And based upon your comment, we would need
4 Ms. Colditz to address that because I am not an
5 accountant and I'm not able to address it. But I
6 would request is that the main issue you have with
7 regards to the calculation.

8 MR. McCASKILL: Yeah. I mean I think
9 everything else is clear for me.

10 MR. MAROTTA: All right.

11 CHAIRMAN MILAN: I think it probably
12 would behoove you to talk to her and see, make
13 sure she did pull the right number and everything.

14 MR. MAROTTA: We could approve -- the
15 board can approve subject to the confirmation of
16 qualification for the protected tenancy and Mr.
17 McCaskill's conversation with Ms. Colditz. It's
18 up to the board.

19 CHAIRMAN MILAN: Question is is it -- I
20 mean --to be a leap in the sense that 27 and 10,
21 I'm sure it can affect the calculation quite a
22 lot. I mean if it were one or two years, I would
23 say yeah. But, in this case, we could approve
24 something and then really have to discard it
25 altogether because the number may be very

1 different.

2 MR. MAROTTA: It wouldn't take effect
3 until it's confirmed.

4 MR. McCASKILL: And I guess like a
5 follow-up question I have would be like -- when I
6 have to replace -- if we stick with 27 and a half
7 years, I have to replace the hot water heater
8 again or the boiler again within the next
9 15 years, I mean I'm going have another capital
10 improvement surcharge overlapping with the
11 amortization of the previous one?

12 MR. MAROTTA: I believe that you need to
13 have -- we have to have that conversation with Ms.
14 Colditz. My understanding the 27 and a half years
15 is definitely relevant with regards to the boiler.
16 As far as the hot water heater, you raise a good
17 point. I don't know the answer to that.

18 CHAIRMAN MILAN: Sounds long, but maybe
19 that is the guideline. I don't know what the
20 guideline is.

21 MR. MAROTTA: And I don't know what they
22 base it upon.

23 CHAIRMAN MILAN: Yeah.

24 MR. MAROTTA: So --

25 CHAIRMAN MILAN: I think if you do have

1 a lot of questions, it may be best to --

2 MR. NG: I think it's better if we speak
3 to Ms. Cold.

4 CHAIRMAN MILAN: And that they have the
5 same type of conversations they had before because
6 I thought that worked pretty well in the sense
7 they got the numbers.

8 MR. MAROTTA: Okay. So I would request
9 that we carry this to the --

10 CHAIRMAN MILAN: I make a motion that we
11 carry this matter until Mr. McCaskill has had a
12 chance to -- and I guess Ms. Rivera has had a
13 chance to speak to Ms. Colditz and see the numbers
14 that she's working with.

15 VICE CHAIRPERSON VASQUEZ: I'll second.

16 MR. NG: Motion was made by our
17 Chairman, Mr. Milan, and seconded by Vice Chairman
18 Sandra Vasquez. Roll call.

19 Commissioner Norma Guevara.

20 COMMISSIONER GUEVARA: Yes.

21 MR. NG: Commissioner and Vice Chairman
22 Sandra Vasquez.

23 VICE CHAIRPERSON VASQUEZ: Yes.

24 MR. NG: Commissioner Rosana Colon.

25 COMMISSIONER COLON: Yes.

1 MR. NG: Chairman Juan Milan.

2 CHAIRMAN MILAN: Yes.

3 MR. NG: Motion has passed.

4 CHAIRMAN MILAN: Okay.

5 MR. McCASKILL: Thank you.

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1 **703A-707 28TH STREET, ALL APARTMENTS -**
2 **NEW CONSTRUCTION:**

3
4 CHAIRMAN MILAN: I'm ready.

5 MR. MAROTTA: All right. The next
6 matter we have is 703A-707 28th Street, all
7 apartments, new construction is the issue.

8 CHAIRMAN MILAN: I guess we have --

9 MR. MAROTTA: I'm going to request that
10 right now we have a discussion with the board on
11 the issues. We have enough chairs, but the
12 tenants would not be able to come up. So can you
13 hear okay? What's --

14 MR. KURZEJA: Neil, I was going to raise
15 that today. They've been participants in this,
16 they have a stake in the outcome. We've never
17 pressed the issue, but I asked them tonight if
18 they wanted to sit at the table as part of the
19 proceedings. I think they have every right to do
20 that.

21 MR. MAROTTA: They do and we will
22 accommodate that.

23 MS. RIVERA: You know what, I will
24 move --

25 MR. NG: We can bring two chairs you can

1 stay there.

2 MR. NG: We don't need the translator
3 anymore, so you can leave.

4 MR. MAROTTA: Good evening. So this
5 matter, 703A-707 28th Street, is a continuation
6 which was started in July 10, 2023. At that
7 point, Mr. Caballero testified before the board
8 and presented documentation evidence, which we
9 have the list of exhibits.

10 And then again Ms. Suriel testified I
11 believe in October '23 and presented the building
12 department file as an exhibit. And at that point,
13 we've had several adjournments in the matter. And
14 I believe it's Mr. Mele's turn to present his
15 client, okay. And present any evidence that he'd
16 like to submit.

17 But that being the case, one of the
18 questions Mr. Mele sent me an email last week or
19 letter stating that he had a couple witnesses that
20 he'd like to present; however, he's advised
21 tonight that he wishes to present them via Zoom.
22 The question comes to the board whether it's
23 comfortable with the Zoom. If we had done it, I
24 would have put it up on the screen, which we have
25 that capability of doing. And one of my concerns

1 is whether the court reporter and the board
2 members would all be able to see the witness. As
3 a witness, that person is subject to credibility
4 determinations, you know, not only based upon what
5 they say, but how they look when they say it.

6 So by all means, Counsel can weigh in on
7 whether they're comfortable with the Zoom
8 appearance by these witnesses this evening. And
9 then the board can make a determination whether
10 they wish to permit it by Zoom or not. Counsel?
11 Could we have appearances, I'm sorry.

12 MR. KURZEJA: Ronald Kurzeja,
13 K-U-R-Z-E-J-A, appearing for certain named
14 tenants.

15 MS. RIVERA: Christina Rivera appearing
16 from the Union City Tenant Advocates Office on the
17 remaining tenants.

18 MR. MELE: Gregg Mele, Mele and
19 Associates appearing for the landlord.

20 MR. MAROTTA: Thank you, okay. So, Mr.
21 Mele, if you'd like to present why -- your request
22 for Zoom, that's fine.

23 MR. MELE: Sure. Well, basically, it's
24 in one instance it is someone who turned out did
25 not come back as planned from a vacation, so

1 they're about six hours ahead, they're still
2 waiting up.

3 MR. KURZEJA: I'm sorry, we can't hear.

4 MR. MELE: One witness is -- has not
5 come back from a trip as it turned out. And they
6 are six hours ahead of us, they are waiting on
7 standby. But it's also the middle of the night
8 for them, I guess. But I would expect that that
9 person and also one of the Realtor offices, that's
10 one Realtor, the other realtor in their office
11 could not make the arrangement to send just one
12 person. They also -- there's four of them in that
13 office actually that want to sign in on the Zoom
14 because they're going to be reviewing their file
15 that different people have different
16 responsibility for. So for both of them, I would
17 look to try -- I mean if not by Zoom now, then,
18 you know, I would hope to be able to come back.
19 Although, we've come back several times, but to
20 have them testify in person. I would tell them
21 that would be a necessity, but that's where I am
22 with those folks at this point.

23 MR. MAROTTA: Okay. Counsel?

24 MR. KURZEJA: I'll go. First of all,
25 these meetings, to accommodate board members,

1 witnesses and parties, are routinely conducted in
2 the evening. I doubt the boards would be very
3 effective if they have to try to compete for
4 attorneys' times during the day because of court
5 schedules mostly and even witness schedules, who
6 most of which probably have full time jobs, okay.
7 So an evening proceeding, I think, is very
8 favorable to the functioning of a board like this.
9 Unfortunately, we had a pandemic, very serious
10 consequences. The courts came up with the concept
11 of Zoom -- well, they didn't come up with the
12 concept, they existed -- using Zoom to deal with
13 the problems about keeping people separated, very
14 effective during the pandemic, almost everything
15 in the courts was conducted by Zoom.

16 Now, the pandemic, for all practical
17 purposes, pretty much didn't end, but reached a
18 point about two years ago -- and I refer to the
19 courts because that's where my experience is --
20 basically weaned off of virtual proceedings and
21 got back to live proceedings. My experience with
22 the courts over, at least the past couple years,
23 has been that most courts that I'm familiar with
24 will not permit virtual appearances without prior
25 approval.

1 Now, Mr. Marotta made mention of the
2 fact about witness issues and demeanor and
3 credibility. We think that's going to be
4 important here. And I know from my own
5 experiences that you lose a lot between a live
6 appearance by a witness and a virtual appearance
7 by a witness, it's just not the same. I did hear
8 Mr. Mele make mention of the fact that one witness
9 is not yet back and then another witness could
10 not -- something could not arrange his schedule or
11 I don't know exactly, there might have been four
12 people, one of which would come. I suspect during
13 this proceeding, there's going to be a fair amount
14 of objections, at least by, me probably a lot on
15 the grounds of hearsay. I try to anticipate what
16 these people are going to say, I don't think a lot
17 of testimony can come in because they're going to
18 be relying, I think, on what other people told
19 them, which is classical hearsay. So demeanor,
20 also comes in as I said, and credibility is going
21 to be an issue in these proceedings.

22 Having said that, it's my position on
23 behalf of the tenants that any and all testimony
24 should be live. And if there's going to be
25 exceptions, it has to be pre-approved, not by Mr.

1 Marotta, not by anybody else here other than the
2 board, who's going to take into consideration the
3 statements I just made and factor it into a
4 determination as to whether they even want to
5 permit people to appear by Zoom.

6 So, in summary, my position is that Zoom
7 was a very viable tool. It's not as important as
8 it used to be. This board, by holding evening
9 hearings, is very accommodating. And under the
10 circumstances, I contend that the board should
11 limit, given what problems virtual appearances do
12 come with, to limit every witness without a
13 specific request and a specific approval to live
14 appearances at these proceedings. I don't have to
15 say anything more, I think I made my position
16 known.

17 MR. MAROTTA: Thank you.

18 MS. RIVERA: I'm just going to add to
19 that. And I notice that Mr. Mele made reference
20 to some of these witnesses potentially having a
21 file. So if that file is going to be referred to
22 or relied upon by a witness, then we should
23 definitely have access to it. And I don't think
24 that we can do that by way of the Zoom. So I'm
25 going to also oppose that.

1 MR. MAROTTA: And you raise a good
2 question. Mr. Mele has presented extensive
3 documents already. I don't know if any testimony
4 plans to go beyond those documents. If it does,
5 that should be submitted as well. So at this
6 point, I'll turn it over to the board.

7 MR. NG: If I may, because I have
8 something very important for all of us. Me, as
9 administrator, after the pandemic, I received a
10 memo from my superiors, Board of Commissioners, no
11 virtual meeting, not anymore, unless it's
12 extremely necessary, and have to be approved by my
13 office first and by the body of the City. So this
14 is what I have the comments from my superior.

15 MR. MAROTTA: Okay. I mean one other
16 factor tonight is, Mr. Mele's client is here, I'm
17 sure he's -- would like to proceed with this case
18 and presenting it and has documentation that he
19 would be able to enter into evidence. It's 9:00,
20 I don't know what -- I think our cut off time is
21 10:00.

22 MR. NG: 10:00.

23 MR. MAROTTA: And no further witnesses
24 after 10:00, unless the board makes the decision
25 to relax the rule. Often in the case if it's

1 going to wrap up quickly, then the board would
2 relax the rule. But we can proceed and see where
3 the meeting goes. And if we have to carry the
4 matter for another hearing, for Mr. Mele to
5 present his other witnesses. We could not have
6 the meeting take this matter first because the
7 other matters were shorter and they also had
8 children with them. So it would not have been
9 appropriate that's why we took the cases in the
10 order that we had them.

11 So that being said, it is the board's
12 pleasure of how to proceed. But I would request
13 that we start the matter and Mr. Mele can
14 introduce his first witness.

15 CHAIRMAN MILAN: The only point I would
16 raise is I think I heard you say you still have
17 someone on standby in Turkey or something like
18 that, which --

19 MR. MELE: Not quite that far this time,
20 but yeah.

21 MR. MAROTTA: Six hours is not that far.

22 CHAIRMAN MILAN: That's true.

23 MR. MELE: If we know that we won't do
24 the Zoom part tonight, I would ask just for a
25 chance to text a couple people to let them know.

1 CHAIRMAN MILAN: Even just to coordinate
2 it and make sure that -- we would have to our
3 technical staff and make sure they're all --

4 MR. MELE: I understand. And ideally I
5 would have them all here. And if we wind up
6 carrying, they certainly will be hear or I'll have
7 my own --

8 MR. NG: This is one of the issues that
9 the City use vendors for outside of the City, so
10 that company is in Queens. I have to let them
11 know in advance --

12 CHAIRMAN MILAN: Well in advance,
13 especially if you're going to be coordinating
14 files or even trying to look at anything in the
15 screen, yeah, definitely.

16 MR. MELE: And just to comment, as far
17 as -- I don't know who might recall, but last time
18 I was away and I was away for a little while after
19 the last meeting. So I didn't have a full month
20 to check other people's schedules, for example.
21 It was a tight timing given vacation, more or
22 less, so I apologize for that. But my intention
23 is certainly get through testimony here tonight.

24 MR. MAROTTA: Just so you know, there's
25 no meeting in August, so it would be carried to

1 September.

2 MR. MELE: Okay.

3 MR. MAROTTA: Or whatever the board
4 office decides.

5 MR. MELE: And whenever would get
6 rescheduled or scheduled for the next time for
7 these other folks, if it should be. Then like I
8 said, I will be dragging them over if I have to to
9 get it done.

10 MR. NG: Mr. Marotta, it's not better
11 that the lawyer let me know when those witnesses
12 are in town --

13 MR. MAROTTA: Well --

14 MR. NG: -- before I schedule it.

15 MR. MAROTTA: This matter has gone on so
16 long.

17 MR. NG: Not our fault.

18 MR. MAROTTA: I'm not saying it is. But
19 we have to move it. And I'm believing that
20 August, there is no meeting, that it be handled,
21 finalized in September. And we have Mr. Mele is
22 able to proceed with a large part of his case
23 tonight anyway. So that being the case --

24 MR. NG: I'm okay, just --

25 MR. MAROTTA: Yes. And he did send me.

1 MR. NG: As a courtesy, if I put it for
2 September, then he can call the office, look,
3 there's no issue with witnesses, they're going to
4 be in the meeting.

5 MR. MAROTTA: I might ask that the board
6 make this a try or dismiss situation.

7 MR. MELE: For September?

8 MR. MAROTTA: For September, unless --

9 MS. RIVERA: Wasn't it already set as a
10 try or dismiss?

11 MR. MAROTTA: Yeah, but the board
12 changed that. And the fact is that this matter,
13 if it extends to a certain period of time and we
14 could not accommodate any witnesses anyway, the
15 matter would proceed forward, so let's --

16 CHAIRMAN MILAN: Let's hear what the
17 gentleman has to say and go from there.

18 MR. MAROTTA: Sure. Okay. Mr. Mele?
19 He's going to ask you questions.

20

21 E R O L K I L I K C I E R, after having been
22 duly sworn or affirmed, did testify as follows:

23

24 MR. MAROTTA: I am going to ask that
25 since we have a long table with people at both

1 ends that voices be raised a little bit.

2 MR. MELE: Okay. So, Mr. Kilikcier,
3 what's your relationship to the property?

4 MR. KILIKCIER: Yes, we bought two years
5 ago.

6 MR. MELE: So you're the current owner,
7 landlord?

8 MR. KILIKCIER: Landlord.

9 MR. MELE: Okay. So when you were
10 buying the property before the closing, what was
11 your understanding, first of all, regarding rent
12 control status of the property? Were you aware of
13 it being rent controlled or not? Or did you have
14 no idea? What was your understanding?

15 MR. KILIKCIER: I asked the previous
16 owner and he answered to me absolutely --

17 MR. KURZEJA: Objection. Sounds like
18 it's going to elicit a hearsay response. The
19 question was what was your understanding, that's
20 different than the question. An understanding may
21 not be hearsay, but it sounded like this was going
22 over the line into hearsay.

23 MR. MAROTTA: If you could rephrase the
24 question? Thank you.

25 MR. MELE: Did you believe that the

1 property was subject to rent control or not?

2 MR. KILIKCIER: Not, absolutely.

3 Because I checked the situation and I asked him
4 and he answered to me our building is new one.
5 And thirty years, you continue exemption of rent,
6 he answered to me.

7 MR. MAROTTA: I do want to state for the
8 record that the rules of evidence are somewhat
9 relaxed at this hearing and the board can weigh
10 the evidence to the extent that they wish. So
11 hearsay is also relaxed somewhat. If the whole
12 case is based upon hearsay, that would be a
13 problem. I don't think that would be presenting
14 the case sufficiently for the board to make a
15 decision. But the board has the right to consider
16 hearsay statements and give it the weight that it
17 deems appropriate. Again, hearsay itself would
18 not be sufficient to present one's position.

19 MR. MELE: So, again, prior to closing,
20 did you have to prepare any paperwork for the rent
21 control office? You, yourself?

22 MR. KILIKCIER: When I came to the
23 building first time, I met Mr. Kennedy. And I
24 asked our administration, Mr. Kennedy, but after
25 closing, you know. Last year probably in

1 February, and I asked to him and he answered to me
2 your building, as I register, shows old building.
3 And I ask him you have to be sure, yes, I am sure
4 and I have to check your situation. But I argue,
5 I remember, and maybe we met you (indicating) and
6 we were -- made a meeting together include Gershon
7 and my lawyer and me and you and Kenny, I remember
8 Kenny and include Gershon and they --

9 MR. MAROTTA: I'm sorry, who's Gershon?

10 MR. MELE: Gershon is the Realtor for
11 the seller.

12 MR. MAROTTA: Thank you. Yes, I
13 remember the other gentleman that was there.

14 MR. MELE: The five of us in the
15 meeting.

16 MR. KILIKCIER: Yes.

17 MR. MELE: Okay. So you didn't have to
18 do anything about rent control prior to closing?

19 MR. KILIKCIER: Yes, of course.

20 MR. MELE: You only found out after
21 closing that you had a rent control issue?

22 MR. KILIKCIER: Yes.

23 MR. MELE: Okay. So we had that
24 meeting, five of us. What was your understanding
25 of what needed to happen? We understand you were

1 told it was rent control at that point?

2 MR. KILIKCIER: Yes. And I was shocked
3 because the same floor, rent control office and
4 building department, maybe ten steps, if I
5 remember, maybe, sorry, my language may be not
6 enough. But I know a lot of words maybe, I can
7 add some words. But building department and rent
8 control office working together on same floor, and
9 maybe thirty feet. And they don't know each other
10 job and I was shocked because he answered to me
11 our register shows your building is old.

12 I checked my registration and I
13 learned -- I remember the building law says to us
14 if land owner made a new building, they can have
15 30 years exception like previous owner
16 explanation, the same. And the other problem in
17 my opinion, I'm ex-lawyer, you know, I learned --

18 MR. MELE: Ex-lawyer.

19 MR. KILIKCIER: Yes, ex-lawyer.

20 MR. MELE: In his country.

21 MR. KILIKCIER: Yes, I am retired now.
22 And I'm not something in my faculty. All law says
23 to us to cites, one of them worse, the other cite
24 very important in my opinion spirit of law. If
25 land owner made a new building, we don't discuss

1 the position, we are discussing about only letter,
2 maybe they lost, maybe previous owner maybe, I
3 don't know because I'm new owner.

4 Our tenants moved new building. In my
5 opinion, all human population needs and deserve
6 good conditions and our tenants --

7 MR. KURZEJA: Objection.

8 MR. MAROTTA: Excuse me one second.

9 MR. KURZEJA: My objection is I heard
10 he's trying to give an opinion now, he's a fact
11 witness only at this point in time. So he ought
12 to be limited to the facts and not what his
13 opinion is, which is what he was getting to.

14 MR. MAROTTA: I would ask you to -- I
15 agree with Mr. Kurzeja.

16 MR. KILIKCIER: Not their opinion, my
17 opinion.

18 MR. MAROTTA: I'm just going to ask you
19 to let Mr. Mele -- the benefit of a lawyer, as you
20 know, is to take you through the case to the
21 best --

22 MR. MELE: Yeah.

23 MR. KILIKCIER: Okay.

24 MR. MELE: So we talked about that
25 meeting, you found out it was rent controlled.

1 Did you receive any information about if there was
2 anything further you could do about that situation
3 to change that?

4 MR. KILIKCIER: We have to start the
5 case, you know?

6 MR. MELE: This case?

7 MR. KILIKCIER: This case.

8 MR. MELE: Okay. And so as far as the
9 documents in the package here, this is -- it's my
10 original exhibit A from July 3rd or actually
11 June 9th, this submission. It was resent in July.
12 So this exhibit A from that date so this has been
13 previously admitted I believe, but --

14 MR. MAROTTA: It was submitted to the
15 board, but it hasn't been introduced into
16 evidence.

17 MR. MELE: Okay. So Mr. Kilikcier, do
18 you --

19 MR. MAROTTA: I'm sorry to interrupt one
20 more time, but I believe that everybody has a copy
21 of the packet. So if you're going to refer to it,
22 just let everybody know what you're referring to.

23 MR. MELE: Sure. So this is --

24 MR. MAROTTA: I'm going to apologize,
25 does this help? If you could provide that to him.

1 MR. MELE: This is not that. This was
2 Landlord 1, this was the -- but only the
3 submission, actually exhibit A has more to it.

4 MR. MAROTTA: I'm just saying that was
5 already presented before the board at a prior
6 meeting.

7 MR. MELE: This packet --

8 MR. KURZEJA: Mr. Marotta?

9 MR. MELE: -- is one of my submissions,
10 this does --

11 MR. MAROTTA: I'm just saying we have
12 that, it's already into evidence.

13 MR. KURZEJA: Mr. Marotta, I just want
14 the record to be clear that you just handed
15 counsel a document premarked -- well, it was
16 marked back in October as L-1.

17 MR. MAROTTA: Correct.

18 MR. KURZEJA: I wanted to be exactly
19 clear what Mr. Mele is working from because I have
20 a packet of various documents, but I still don't
21 know what he wants to use.

22 MR. MAROTTA: He's going to go ahead and
23 present. I just showed that so that all parties
24 know what was already presented.

25 MR. KURZEJA: Okay.

1 MR. MAROTTA: That's all.

2 MR. KURZEJA: So who wants it?

3 MR. MAROTTA: Me. Thank you.

4 MR. MELE: This is actually under
5 June 9th submission, I resubmitted later on.
6 There were two dates of submissions I then put
7 together for a third. So the exhibit A in there
8 is -- that was sent ahead of time is a few more --
9 certainly a few more pages than that one.

10 MR. MAROTTA: If you can then, by all
11 means, present them through your client.

12 MR. MELE: Okay. So, Mr. Kilikcier,
13 have you seen this first page before?

14 MR. KILIKCIER: Yes.

15 MR. KURZEJA: Mr. Marotta, this isn't an
16 objection yet, but I just want the record to be
17 clear, I still don't know the document is that Mr.
18 Mele is working from. If he's going to use
19 something and he's calling it A, he should
20 pre-mark it at this point.

21 MR. MAROTTA: Well, for the purpose of
22 the meeting that we are moving forward, I am going
23 to ask him to have his client identify the
24 document and then our court reporter will be able
25 to mark the exhibit as it goes forward, each

1 exhibit as they go forward.

2 MR. KURZEJA: The only thing I would ask
3 is mark them before he even shows them to the
4 witness to identify, just mark it for
5 identification. And then if it gets to evidence,
6 then, you know --

7 MR. MAROTTA: Okay.

8 MR. KURZEJA: -- gets so identified.

9 MR. MAROTTA: You want to -- you could
10 write on it.

11 MR. NG: Neil, the package that he has,
12 is the same as --

13 MR. MELE: So as far as admissibility,
14 I'm starting with L-1 again, even though --

15 MR. MAROTTA: I would go with L-2
16 because you already submitted that page as L-1.

17 MR. MELE: That's the same page, so that
18 would match up with your marker.

19 MR. MAROTTA: But you could supplement
20 L-1 with the additional documents, if you think
21 it's appropriate.

22 Counsel? Ron? I think Mr. Mele is
23 looking to present additional documents to L-1 as
24 L-1. I have no issue with him supplementing L-1
25 to add additional documents so we have clarity

1 going forward. Is that okay?

2 MS. RIVERA: L-1, just for purposes of
3 clarity, is just one piece of paper which is --

4 MR. MAROTTA: Correct.

5 MR. MELE: I'm wondering, sorry, but if
6 this was a page that was introduced on cross way
7 back, maybe with Kenny, it may have been.

8 MR. MAROTTA: Well, it was October 23rd.
9 And Ms. Suriel, I believe that it was introduced
10 on cross by you to Ms. Suriel asking her if she
11 saw it.

12 MR. MELE: Maybe it was her, one of
13 them. But I think that's probably why it's marked
14 as a page. I do have other documents that I know
15 I've talked about.

16 MR. MAROTTA: By all means, please.

17 MR. MELE: And I'll address these as a
18 group, but this was the original submission prior
19 to hearing, exhibit A from the June 9th submission
20 of 2023.

21 MR. MAROTTA: Correct.

22 MR. MELE: So I've got these pages. So
23 to the extent that those should be with everyone,
24 I hope so, it was submitted back then.

25 So you said you recognize this page?

1 MR. KILIKCIER: Yes.

2 MR. MELE: Okay. And so what can you
3 tell me about that? What is that?

4 MR. KILIKCIER: Remember our process
5 continued maybe more than nine months and I
6 checked a lot of papers. One of them shows our
7 tenants incomes more than higher average
8 population. And, secondly, previous owner paid
9 double taxes because we don't belong to rent
10 control, you remember. And maybe this a lot of
11 maybes to you what happened and you explained the
12 situation and finally the building, new one,
13 everything is good. They are living in more than
14 1,650 square meters and they have every modern
15 system, every condition is good, closing garage
16 area and elevator, and separated AC systems.

17 MR. MELE: Understood, but yeah, let's
18 stick to this. So what was your understanding of
19 this letter?

20 MR. KILIKCIER: We are discussing about
21 ownership, one letter came or not, very important
22 in my opinion.

23 MR. MELE: Well, so I guess first of
24 all, just to make sure everybody, has this what's
25 the top line?

1 MR. KILIKCIER: Yes, previous owner.

2 MR. MELE: Read it off?

3 MR. KILIKCIER: Yes. Yakut Investments,
4 LLC.

5 MR. MELE: Okay. So also the date of
6 the letter?

7 MR. KILIKCIER: Yes.

8 MR. MELE: If you can?

9 MR. KILIKCIER: 7/30/2021.

10 MR. MELE: So after closing, when you
11 found out there was a rent control --

12 MR. KILIKCIER: I was shocked.

13 MR. MELE: -- issue, but then had you
14 seen this letter before that or only after you
15 found out about that rent control?

16 MR. KILIKCIER: Then I sent, first time,
17 the notice, that time I remember --

18 MR. MELE: I'm asking you specifically
19 had you seen this letter before --

20 MR. KILIKCIER: No.

21 MR. MELE: -- the closing or after?

22 MR. KILIKCIER: After, yes.

23 MR. MELE: Okay. And was it when you
24 first heard about the rent control?

25 MR. KILIKCIER: Yes.

1 MR. MELE: That you saw this and who
2 gave it to you?

3 MR. KILIKCIER: Previous owner sent to
4 me.

5 MR. MELE: Okay. And so this was
6 something that was supposed to be delivered before
7 closing by the seller?

8 MR. KILIKCIER: Remember, you gave me
9 like this and my language is not enough and I
10 believe and I signed it.

11 MR. MELE: Well --

12 MR. KILIKCIER: Because --

13 MR. MELE: We're talking about this
14 letter. This letter doesn't have your signature?

15 MR. KILIKCIER: Yes.

16 MR. MELE: So you only got this after
17 closing from the seller?

18 MR. KILIKCIER: Okay.

19 MR. MELE: What did he tell you about
20 it, if anything, as far as what he did with this
21 or why he prepared it? Did you get any
22 information about that?

23 MR. KILIKCIER: Yes. I asked him, you
24 gave the letter, but they answered to prove it.

25 MR. KURZEJA: Objection. Before he

1 completes his response, we're getting into the
2 heart of what I think is a real hearsay problem.
3 He's going to say exactly what the prior owner
4 told him, he's not here to testify. It goes to
5 the truth of the matter being asserted. Mr.
6 Marotta, I think you've got to start controlling
7 hearsay.

8 MR. MAROTTA: Well, there are certain
9 points that come up and this is the crux of the
10 issue with regards to the exemption on the
11 building. And I believe that you're going to
12 present that person who -- at least you've
13 proffered that you're going to present a witness
14 who gave the letter to the building department.
15 And that might be the better way to handle this.
16 I understand asking did he understand, when he
17 received it, what he understood it to be. That's
18 as presented. But when you're talking about
19 whether it was actually provided, I think your
20 witnesses's statement of what somebody else said
21 would, as Mr. Kurzeja, goes to that point.

22 MR. MELE: That's fine.

23 MR. NG: Mr. Marotta, I'm sorry, this is
24 a technical question, maybe it's part of
25 administration. Is this gentleman understanding

1 what the lawyer is asking because I understand and
2 I have seen others cases, I have worked in other
3 offices, if we have to use a translator for the --
4 to be fair, you know. I think that the city allow
5 me to do it.

6 MR. MAROTTA: To obtain a translator, I
7 mean --

8 MR. NG: With all my respect, we have to
9 be fair. I don't know if he's understanding
10 100 percent what he's asking. I don't see it.

11 MR. MAROTTA: Gregg? Would an
12 interpreter be better for you?

13 MR. KILIKCIER: Better, yes.

14 VICE CHAIRPERSON VASQUEZ: I agree.

15 MR. MAROTTA: I see the same issues.

16 MR. NG: The only thing that I should
17 know what the language is the gentleman speak, so
18 I can search in the office. It will be approved
19 by the City, I'm sure.

20 MR. MELE: Okay.

21 MR. KILIKCIER: Okay.

22 MR. MELE: If that's your preference?

23 MR. MAROTTA: It's obvious your client
24 can speak English, but in a hearing, it's a
25 different standard.

1 MR. MELE: Yeah. It's been different
2 than my conversations with him obviously.

3 MR. MAROTTA: I don't know whether you
4 want to try to get any other documents through,
5 but I think at that point now, we should call the
6 hearing and reschedule the matter with an
7 interpreter.

8 MR. MELE: Yeah, I mean it's all related
9 stuff to --

10 MR. MAROTTA: And I'm going to request
11 that you, as Mr. Kurzeja had said, have all the
12 documents premarked.

13 MR. MELE: Sure. Certainly, I'll have
14 it ready for that.

15 MR. MAROTTA: That would move the matter
16 much more quickly.

17 MR. MELE: Certainly.

18 MR. MAROTTA: Yeah, and understandably.

19 MR. MELE: Yeah.

20 MR. MAROTTA: Okay.

21 CHAIRMAN MILAN: I make a motion that we
22 table this matter for, I guess, September, we're
23 trying to get it done.

24 MR. NG: As long as I receive the
25 information about the language and I can identify

1 an interpreter that can do the job.

2 MR. MELE: I'll be in touch with you
3 this week.

4 MR. MAROTTA: Neil, myself, or one of my
5 staff.

6 MR. MELE: Do we know what that date
7 would be in September?

8 VICE CHAIRPERSON VASQUEZ:
9 September 9th.

10 MR. MELE: Okay, all right.

11 CHAIRMAN MILAN: So a motion is on to
12 postpone it until then.

13 MR. KILIKCIER: The new meeting in
14 August? Because I have to fly to Turkey in
15 September.

16 CHAIRMAN MILAN: You're not back until
17 the 30th.

18 MR. KILIKCIER: Yes, 30th. All August
19 is empty for me.

20 CHAIRMAN MILAN: The whole of September
21 you're out?

22 MR. KILIKCIER: Yes.

23 MR. NG: He's coming back --

24 MR. MAROTTA: He's leaving.

25 MR. NG: We don't have a meeting in

1 August.

2 MR. MELE: He's saying leaving the 3rd,
3 coming back the 30th.

4 CHAIRMAN MILAN: So he's not here in
5 September.

6 MR. NG: So it will be in October.

7 MR. KILIKCIER: October.

8 MS. RIVERA: October 7th is the meeting.

9 MR. MAROTTA: October 7th because of the
10 holiday.

11 CHAIRMAN MILAN: Motion on the table to
12 adjourn or table this matter until the October
13 meeting to ensure --

14 COMMISSIONER COLON: I second it.

15 CHAIRMAN MILAN: -- to ensure we can
16 have a translator and possibly the witnesses that
17 counsel is trying to provide.

18 MR. MELE: If they're not available
19 personally.

20 MR. NG: Motion was made by Mr. Milan
21 and second by Commissioner Rosana Colon. Roll
22 call.

23 Commissioner Guevara.

24 COMMISSIONER GUEVARA: Yes.

25 MR. NG: Commissioner and Vice Chairman

1 Sandra Vasquez.

2 VICE CHAIRPERSON VASQUEZ: Yes.

3 MR. NG: Commissioner Rosana Colon.

4 COMMISSIONER COLON: Yes.

5 MR. NG: Chairman Juan Milan.

6 CHAIRMAN MILAN: Yes.

7 MR. NG: Motion has passed.

8 CHAIRMAN MILAN: Thank you.

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OTHER BUSINESS:

CHAIRMAN MILAN: I make a motion that we open the public section of this meeting.

MR. NG: The motion was made by Chairman Juan Milan, second by?

COMMISSIONER COLON: I'll second it.

MR. NG: Commissioner Rosana Colon.
Roll call.

Commissioner Norma Guevara.

COMMISSIONER GUEVARA: Yes.

MR. NG: Commissioner and Vice Chairman Sandra Vasquez.

VICE CHAIRPERSON VASQUEZ: Yes.

MR. NG: Commissioner Rosana Colon.

COMMISSIONER COLON: Yes.

MR. NG: Chairman Juan Milan.

CHAIRMAN MILAN: Yes.

MR. NG: Motion has passed. I don't think we have any.

CHAIRMAN MILAN: Do we have anyone in the public that wants to make any statements?

Seeing no one, I make a motion that we close the public section of the meeting.

VICE CHAIRMAN VASQUEZ: Second.

1 MR. NG: Motion made by Mr. Million.
2 And second by Vice Chairman Sandra Vasquez. Roll
3 call.

4 Commissioner Guevara.

5 COMMISSIONER GUEVARA: Yes.

6 MR. NG: Commissioner and Vice Chairman
7 Sandra Vasquez.

8 VICE CHAIRPERSON VASQUEZ: Yes.

9 MR. NG: Commissioner Rosana Colon.

10 COMMISSIONER COLON: Yes.

11 MR. NG: Mr. Milan.

12 CHAIRMAN MILAN: Yes.

13 MR. NG: Motion has passed.

14 CHAIRMAN MILAN: Our administrator has a
15 couple things.

16 MR. NG: Very fast. Just two things
17 that I tried to give my input on the first case,
18 but it's not about the first case, it's something
19 that probably we have to talk in general.

20 When we receive, in our intake, any
21 requests to search about the building is exempt or
22 not, it's very easy three or four steps. I search
23 first in my office and all the office, then we
24 send to the building department a request so they
25 can search, if they have the exemption letter.

1 Then that letter comes back to us. And I also,
2 you know, just show it to Neil, show it to my
3 staff, in case we just find something else in the
4 meantime.

5 In the first case, building department
6 gave us, there was no exemption. And then after
7 that, you know, they have like 25 days, the
8 landlord have to prove or disagree or not agree.
9 I have this to prove I have it. So they show us
10 the proof that they submit it, okay. And that was
11 the case, just want to know that it was not that I
12 miss or we miss one step. It was that was the
13 issue.

14 MR. MAROTTA: The proof was that it was
15 accepted, the certified mailed was accepted in
16 this building. I could not overcome that.

17 MR. NG: Okay.

18 MR. MAROTTA: The corresponding letter.

19 MR. NG: For the future and I probably
20 will use you for this, my office rent control,
21 probably city clerk and building department, we
22 have student internship and the program that we
23 have with the Union City High School that we give
24 employ for four weeks, six weeks, two weeks.

25 Sometimes those students take certified

1 letters or packages, very sensitive, maybe they
2 sign or they don't sign it or -- there's no way to
3 track it. So I'm going to ask the administration
4 that people in those departments in the entire
5 city in order to accept those sensitive packages
6 have to be someone that is full time or the
7 administrator or someone competent because I
8 mean --

9 MR. MAROTTA: It has to be a full time
10 person or at least somebody who is employed
11 consistently to sign a certified --

12 MR. NG: They can show it to the
13 administrator or directors whatever they want to
14 call a manager. Because I mean we receive --

15 MR. MAROTTA: I recommend that your
16 office do that.

17 MR. NG: Yeah, yeah. So this is one
18 thing. The other thing is I think that I am going
19 to ask Casmila because some of the tenants, some
20 tenants, they use very bad language when they call
21 to the office, I mean offensive, threatening. And
22 we had someone today that have called one of my
23 staff that she feels very awful about the way this
24 gentleman speak to all of my staff. So she
25 reported it to me and I have to report it to you

1 guys. And I didn't want to present it in front of
2 other people. Casmila, can you explain when you
3 received the call, this is the time. Because I
4 want to make sure that I handle it in the proper
5 way.

6 MS. SOLIS: He's not a tenant, he's a
7 landlord and it was Mr. Lance McCaskill. He was
8 very offensive. He used very swearing words and
9 it happens to be that I took the call and I put
10 him on speaker phone because I was doing other
11 stuff with my hands. And the gentleman was very,
12 very rude to the point that, you know, he bashed
13 our work, saying bad profanity words. I mean I
14 don't know if I'm allowed to say what he said.

15 VICE CHAIRWOMAN VASQUEZ: You could.

16 MR. MAROTTA: I don't think it's
17 necessary.

18 MR. NG: Not necessary for the
19 terminology, but that we know because this is not
20 the only time, okay, you know.

21 MS. SOLIS: I approached Mr. Kennedy if
22 it could be a sign to the board or he can say,
23 please, when you approach my office, do not use
24 profanity or don't bash the work. If you could
25 see the work that I have prepared for you guys

1 here, you're not missing a document. And if
2 somebody is looking for a document, I go and show
3 you where the document is at. I'm very, very
4 specific with the documentation that is provided
5 for you guys for this -- for the board, for the
6 members.

7 And I found it very unfair for him to
8 bash our work and the words that he expressed, you
9 know, over the phone it was very unfair.

10 MR. NG: It was obscene.

11 MR. MAROTTA: My comment on that would
12 be that if somebody speaks to you in that manner,
13 you do not have to listen to it. You could say,
14 I'm sorry --

15 MS. SOLIS: When I approach him tonight
16 and I tried to explain myself, hey, listen, I
17 don't think our work here it's, you know, what you
18 think. And I did not say the same word he used.
19 I think you know we handle your matter very well
20 and he just -- he knew what was coming and he just
21 proceeded to hang up.

22 MR. MAROTTA: So I would say that you
23 have every right not to listen to it and just to
24 state "when you are able to express yourself in an
25 orderly manner, then we will entertain your

1 matter", okay. And handle it just like that.

2 MS. SOLIS: I did not say any profanity.
3 I mean I was on speaker phone I was in shock the
4 stuff that he had said.

5 MR. NG: Was somebody else listening to
6 it on speaker?

7 MS. SOLIS: All my colleagues were
8 there.

9 MR. CABALLERO: I personally heard it.
10 It was in the afternoon, after closing. I was on
11 my phone and I'm here thinking it was something I
12 was listening to, but my phone was on mute the
13 entire time. And the profanity, I was astonished
14 because how he spoke to Casmila.

15 MR. NG: One of the reasons that I'm
16 bringing this to the table is because the city
17 hall the entire City, we received two times a
18 year, probably for sure one time, harassment
19 training. And when the staff approach me and tell
20 me this, I have to go ahead and do my job.
21 Francois, as the president of the union, can tell
22 you that I have to do my job.

23 I want to be clear on that because.
24 This started from the very beginning with this
25 gentleman, okay, when the former legal secretary

1 that we had Yoelis Marte. The first thing that he
2 told -- Yoeli told me that manipulating the poor
3 girl, saying I'm going to kill myself if I don't
4 win this case because I cannot pay whatever to
5 maintain my building, unacceptable. And I thought
6 it was a joke, but you can see.

7 MR. MAROTTA: I think that we might want
8 to have a posting of "way to conduct yourself in
9 the office", you know. And I've seen this at
10 different courts, no foul language, conduct
11 yourself honorably. I'll look into something like
12 that to be posted.

13 MR. NG: Please.

14 MR. MAROTTA: Okay.

15 CHAIRMAN MILAN: But it was that
16 offensive in the sense of profanity.

17 MS. SOLIS: It really bothers me more
18 because there was more to it. After he finished
19 bashing us, he went ahead and said something I,
20 myself, would not ever repeat about someone else
21 that worked along with us. And it was very
22 disheartening to see the gentleman -- I'm saying
23 gentleman, which he's not -- the words that he
24 used, you know, for someone that is very caring to
25 us, to our office. And the fact that the person

1 is always looking out for us when we need help
2 with our cases. And I'm saying it, Mr. Marotta,
3 you know he referred to Mr. Marotta in a way that
4 I did not appreciate at all. And that's why I did
5 not look at him today and I will not never ever
6 repeat the words he said.

7 MR. CABALLERO: Neither will I. It was
8 very disrespectful. Coming from somebody that's a
9 younger age and lives that almost every day, what
10 he said, I would not repeat or even want to think
11 about because that day, I was -- I was completely
12 shook with what he said.

13 MS. SOLIS: That's the reason I ask Mr.
14 Kennedy, please, can this be approached and just
15 let him know that --

16 CHAIRMAN MILAN: There's no reason to
17 take it absolutely.

18 MR. MAROTTA: All right. Well, I
19 appreciate it.

20 CHAIRMAN MILAN: Do you want the board
21 to make a --

22 MR. MAROTTA: I think we can talk about
23 it. Let's see what the proper process --

24 CHAIRMAN MILAN: You think it's a more
25 administrative thing.

1 MR. NG: I don't want him to think that
2 we are afraid of him of doing things in his way
3 and everything that he's saying or asking, we say
4 yes, this is good, this is good, just for him you
5 know.

6 MR. MAROTTA: Well, obviously, you
7 waited until the end to present this, so what he
8 did did not have an impact. The board heard the
9 matter without any bias.

10 MR. NG: That's how we decided --

11 MR. MAROTTA: So it was done
12 appropriately.

13 CHAIRMAN MILAN: It was better. And
14 that's more administrative, please, don't approach
15 my staff ever in this way again.

16 MR. MAROTTA: Yeah, exactly.

17 CHAIRMAN MILAN: If we do it and
18 anything he brings in front, he may say you guys
19 are biased against me already because the office
20 has made you like that.

21 MR. NG: The other thing -- the last
22 thing. I really wanted you to search a little bit
23 on the legality of owner occupying two units.

24 CHAIRMAN MILAN: He's actually occupying
25 three.

1 MS. RIVERA: I think, Kennedy, though
2 until he -- that property will be a four-family
3 until he takes whatever steps he has to take. He
4 can't just occupy three and turn it into a
5 two-family.

6 MR. NG: He will.

7 MS. RIVERA: But he can't. He has to go
8 to the building department, take permits, he has
9 to get an engineer. If he's going to combine the
10 two, let's say, top and bottom, he has -- he needs
11 an engineer maybe to determine a staircase.

12 MR. NG: That's a lot of work.

13 MS. RIVERA: So he can't just say I'm
14 going to live in three apartments and it's going
15 to now become a two-family. Or I'm going to live
16 in two apartments, it's going to be a
17 three-family, he can't do that. He has to go
18 through the proper steps.

19 MR. MAROTTA: Correct.

20 MR. NG: Because, Francois, what was it
21 you asked me about why we allowing to increase the
22 rent if the building is not three units, it's
23 still four?

24 MR. NUNEZ: They're doing capital
25 improvement.

1 MR. MAROTTA: We're going into the
2 merits of the case, I'd rather not do that
3 without -- I mean if we want to talk about that in
4 general with regards to occupying more than one
5 unit and the relevancy of that on determining the
6 rent for each unit, we kind of put that on the
7 record already during the matter and that -- the
8 rent is the rent. But I'd rather not go into a
9 specific case and discuss it.

10 MR. NG: Okay. That's what it is. So
11 we don't have a meeting in August. And have a
12 nice vacation or whatever from here.

13 MR. MAROTTA: Vacation from rent
14 control.

15 MR. NG: Thank you.

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1 **ADJOURNMENT :**

2
3 CHAIRMAN MILAN: I make a motion that we
4 adjourn.

5 COMMISSIONER COLON: Second.

6 MR. NG: All in favor to adjourn the
7 meeting?

8 (Whereupon, all Commissioners indicate
9 in the affirmative.)

10
11 (Whereupon the meeting was adjourned at
12 9:43 p.m.)

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
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