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COUNTY OF LOS ANGELES
**DEPARTMENT OF CONSUMER
AND BUSINESS AFFAIRS**

"To Enrich Lives Through Effective and Caring Service"



Joseph M. Nicchitta
Director

Joel Ayala
Chief Deputy

Rafael Carbajal
Chief Deputy

**Hearing Officer/Department of
Consumer & Business Affairs**

Hearing Date
04/29/2019
Agenda Item No.
2

Transmittal Checklist

Petitioner Name: Antonio Perez
Case Number: RSQ19-01207
Case(s): IRSO Petition for Relief from Moratorium
DCBA Staff: Shannon Louis

- Petition Summary
- Parcel Profile Report (separate attachment)
- Staff Report
- Draft Findings
- Burden of Proof Statement(s)

Reviewed By: Dana Pratt



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Case Number
RSQ19-01207

Hearing Date
4/29/2019

PETITION SUMMARY

PETITIONER NAME

Antonio Perez

PETITION DATE

February 1, 2019

PETITION OVERVIEW

Petitioner filed a Petition for Relief from Moratorium, requesting to increase rent in excess of the allowable limit as outlined in the Interim Rent Stabilization Ordinance, Ordinance Number 2018-0045. The Petitioner states that he is not receiving a fair return on the property.

PROPERTY ADDRESS

8738 Graham Ave Los Angeles, California 90002

8740 Graham Ave Los Angeles, California 90002

8742 Graham Ave Los Angeles, California 90002

KEY ISSUES

- Two of the three units are currently rented out for a reported total of \$1,704.00 monthly
- Petitioner is requesting to increase total rental income to \$2,250.00 or by \$546.00 (32.04%)
- 8738 Graham Ave Los Angeles, California 90002 reportedly became vacant on March 15, 2019, which provides the landlord the ability to set rent for the unit without approval from the County per the IRSO

STAFF RECOMMENDATION

Continue

DCBA STAFF:

Shannon Louis 213-974-4118 SLouis@dca.lacounty.gov



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April 22, 2019

TO: Gina Natoli, AICP
Hearing Officer

FROM: Shannon Louis

Case No. RSQ19-01207

Antonio Perez vs. Tenants of 8738-42 Graham Ave Los Angeles, California 90002
Hearing Officer Meeting: April 29, 2019 – Agenda Item: 2

Petition Description

Interim Rent Stabilization Ordinance (IRSO) Petition for Relief from Moratorium

Petitioner is requesting a rent increase above the maximum allowable limit (currently 3%) for the covered rental units located at 8738-42 Graham Ave Los Angeles, California 90002 in the unincorporated area of Florence in Los Angeles County.

The Petitioner reports receiving \$1,704.00 monthly or \$20,448.00 annually in income for the three units located at the addresses listed above. The Petitioner reports a total of \$1,331.35 or \$15,976.20 in operating expenses annually. When the petition was filed, the Petitioner reported that all three units were occupied and he was receiving \$2,560.00 monthly or \$30,720.00 annually in income. As of March 2019, the unit located at 8738 Graham Ave Los Angeles, California 90002 became vacant, which allows the petitioner to set the rent without County approval. The Petitioner reports the following operating expenses: mortgage, property taxes, utilities, maintenance and improvements. The Petitioner also reports needing to raise rents to qualify for a refinance. Based on the supporting documentation provided by the Petitioner, the DCBA has calculated the monthly income and expenses for the property in Figure 1.

Use Type

Multi-Family Residential; 0400

Year Built/Certificate of Occupancy(COO)

1946

Previous Petitions/History

N/A

Staff Evaluation & Burden of Proof

According to Ordinance No. 2018-0045, the DCBA has determined that the property located at 8738-42 Graham Ave., Los Angeles, California 90002 is covered under the Los Angeles County Interim Rent Stabilization Ordinance and is subject to its conditions.

The IRSO covers residential dwellings on properties with two or more units in the unincorporated areas of Los Angeles County with initial certificates of occupancy or equivalent issued on or before February 1, 1995. **Ordinance No. 2018-0045 Section 1(A) and Section 1(B).**

The IRSO limits rent increases to 3% once per 12-month period and applies to any rent increase taking effect on or after September 11, 2018, unless a greater rent increase is authorized in order to allow a landlord to earn a fair return. **Ordinance No. 2018-0045 Section 3(A).**

The IRSO regulates Housing Service Adjustments and indicates that a decrease in Housing Services can be considered an increase in Rent. Rent and Housing Services are defined in Section 2 of the IRSO. **Ordinance No. 2018-0045 Section 3(C).**

The IRSO and implementing rules/regulations define a fair return as ensuring a landlord may maintain the value of the net operating income (NOI) earned from the property prior to the regulation of rents under the IRSO and continue those earnings during the pendency of the IRSO. NOI is defined as gross income less operating expenses. Maintaining the value of the NOI is achieved by ensure NOI increases no less than any increase in the consumer price index (CPI) for the Los Angeles area, as reported monthly by the U.S. Department of Labor, Bureau of Labor Statistics (BLS). To maintain NOI, the County compares a landlord's NOI prior to the IRSO and at the time the landlord petitions the County for a rent increase, to ensure the NOI received when the petition is submitted has increased in value equal to the change in CPI. This evaluation is summarized in Figure 1, below and discussed thereafter.

The proposed monthly increase of \$546.00 would increase the total rental income for the property from \$1,704.00 to \$2,250.00 (32.04%) per month. The unit located at 8738 Graham Ave Los Angeles, California 90002 is currently vacant. Since the IRSO does not enforce vacancy decontrol, a landlord (petitioner) may set the rent for a vacant unit without County approval. At this time, the DCBA is unable to evaluate the vacant unit based on the data provided. According to the IRSO, the landlord may already be allowed to increase the rental income by 3%, which would allow for a total of \$1,755.12 monthly, depending upon the date of the most recent rent increases for the units. **Ordinance No. 2018-0045 Section 3(A)(1).**

Figure 1: Petitioner vs. DCBA Staff Income and Expense Calculations

	Base Year (2018)		Petition Year(2019)	
	Petitioner	DCBA Staff	Petitioner	DCBA Staff
Gross Income	\$1,704.00	\$1,704.00	\$1,704.00	\$1,704.00
Operating Expenses	\$917.76	\$133.52	\$909.88	\$909.88
Net Operating Income (NOI)	\$ 786.24	\$ 1,570.48	\$ 794.12	\$794.12
CPI	268.032	268.032	271.311	271.311
Change in CPI	1.22%	1.22%		3.279(1.22%)
Adjusted NOI	\$ 795.83	\$ 1,589.64		
NOI Difference:	\$ 1.71	\$ 795.52		

Numbers provided are per month

Figure 1: Petitioner vs. DCBA Staff Income and Expense Calculations

The following expenses were reported by the Petitioner: mortgage, property taxes, utilities, maintenance and improvements. The Petitioner also reports needing to raise rents to qualify for a refinance. The Petitioner reports a monthly net operating income (NOI) in 2018 (the "Base Year") equaling \$786.24 per month. The Petitioner reports a monthly NOI in 2019 (the "Petition Year") equaling \$794.12 per month. It appears the increase in monthly NOI between the Base Year and Petition Year is due to a decrease in operating expenses between the Base Year and Petition Year. Additionally, the DCBA was unable to substantiate any maintenance and repair expenses for the Petition Year, which also contributed to an increase in the monthly NOI between the Base Year and Petition Year. Based on the numbers and documentation provided, the petitioner's net operating income appears to have increased. The evidence provided includes utility bills, insurance statements, and a statement provided by the landlord petitioner. However, the maintenance related costs were all from the 2018 Base Year.

The DCBA has calculated a reported monthly net operating income (NOI) in 2018 (the "Base Year") equaling \$1,570.48 per month. The DCBA reports a monthly NOI in the 2019 (the "Petition Year") equaling \$794.12 per month. It should be noted that the DCBA arrived at this number with consideration of the landlord petitioner's expenses related to property taxes, insurance, and utilities for the property. Mortgage costs are not considered to be an eligible expense for the purposes determining fair return in the implementation of the IRSO. This is done in an effort to treat tenants fairly irrespective of a landlord's creditworthiness. However, it appears the DCBA calculated a decrease in monthly NOI between the Base Year and Petition Year due to the inability to substantiate the property tax and insurance costs for the Base Year. Without the property taxes and insurance costs being calculated for the Petition Year, the DCBA is unable to accurately calculate the NOI for the Petition Year. However, if the property taxes and insurance costs are at the minimum of \$746.65 for the Base Year and the maintenance costs in 2019 are at the reported \$37.59 for the Petition Year, the

Petitioner's NOI would reflect \$756.53 for the Petition Year. Without proper documentation, the DCBA is unable to adjust for inflation and determine whether the Petitioner is entitled to an increase in rent in order to maintain the value of the NOI earned in the Base Year.

The CPI for the Base Year (September 2018) is 268.032. The most recent CPI published by the BLS is 271.311, which reflects an increase in 3.279 or 1.22 percent from the Base Year. For the Petitioner to maintain the value of the monthly NOI earned from the Property in the Base Year (\$1,570.48) that amount must have increased in accordance with the change in CPI (1.22%). Accordingly, the CPI-inflated monthly NOI should equal at least \$1,589.64(\$1,570.48 x 1.0122). Here the DCBA calculates a reported monthly NOI of \$794.12 which is less than the CPI-inflated monthly NOI. However, the DCBA does not have the proper evidence to demonstrate that the CPI-inflated monthly NOI is accurate. Therefore, the Petitioner should provide documentation related to the 2018 and 2019 reported maintenance costs, property taxes, and insurance.

Proof of Service/Notice of Hearing

The Petitioner, Antonio Perez, returned the Proof of Service form to DCBA on February 1, 2019. The DCBA sent the original Notice of Hearing on March 27, 2019.

Public Comments

N/A

Fees/Deposits

N/A

Staff Recommendation

The following recommendation is made prior to the public hearing and is subject to change based upon testimony and/or documentary evidence presented at the public hearing:

Staff recommends CONTINUING of the Interim Rent Stabilization Ordinance Petition for Relief from Moratorium – Case Number RSQ19-01207.

SUGGESTED STATEMENT

I, THE HEARING OFFICER, CLOSE THE PUBLIC HEARING AND FIND THAT THE INTERIM RENT STABILIZATION ORDINANCE PETITION FOR RELIEF FROM MORATORIUM CASE NUMBER RSQ19-01207 IS **CONTINUED**, SUBJECT TO THE ATTACHED CONDITIONS.

Suggested Statement

Prepared by Shannon Louis

Reviewed by Dana Pratt

Attachments

Initials JMN:DP: sl

(4/22/19)



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Joseph M. Nicchitta
Director

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Rafael Carbajal
Chief Deputy

April 22, 2019

**Case No. RSQ19-01207
Antonio Perez vs. 8738-42 Graham Ave Los Angeles, California 90002**

Hearing Officer, Gina Natoli, by her action of April 29, 2019 has continued the Interim Rent Stabilization Ordinance (IRSO) Petition for Relief from Moratorium hearing for the above referenced project. Enclosed are the Hearing Officer's Findings and Conditions. Please carefully review the included information.

For questions or for additional information, please contact Shannon Louis of the Rent Stabilization Program at 213-974-4118, or by email at slouis@dcbalacounty.gov. Our office hours are Monday through Friday, 8:00 a.m. to 4:30 p.m.

Sincerely,

DEPARTMENT OF CONSUMER AND BUSINESS AFFAIRS
Shannon Louis

Dana Pratt, Chief
Rent Stabilization Program

Enclosures: Draft Findings

JMN:DP: sl

**DRAFT FINDINGS AND CONDITIONS OF THE HEARING OFFICER
AND ORDER
COUNTY OF LOS ANGELES
CASE NUMBER RSQ19-01207**

1. The Los Angeles County ("County") Hearing Officer conducted a duly-noticed public hearing in the matter of Interim Rent Stabilization Ordinance Petition for Relief from Moratorium, Case Number RSQ19-01207 on April 29, 2019.
2. The petitioner(s), Antonio Perez, is proposing a residential rent increase above three percent (3%) for the covered rental unit(s) located at 8738-42 Graham Ave Los Angeles, California 90002 in the amount of \$546.00 or 32.04% monthly. The \$546.00 proposed rent increase would raise the petitioner's rental income from \$1,704.00 to \$2,250.00. According to Ordinance 2018-0045, the Petitioner may already be allowed to increase the rental income by 3%, which would allow for a total of \$1,755.12 monthly, depending upon the date of the most recent rent increases for the units. Based on Figure 1, which uses the supporting evidence provided by the Petitioner, the Petitioner is maintaining the NOI at a monthly average of \$1.71 below the adjusted monthly NOI.

Figure 1: Petitioner vs. DCBA Staff Income and Expense Calculations

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	Petitioner	DCBA Staff	Petitioner	DCBA Staff
Gross Income	\$1,704.00	\$1,704.00	\$1,704.00	\$1,704.00
Operating Expenses	\$917.76	\$133.52	\$909.88	\$909.88
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NOI Difference:	\$ 1.71	\$ 795.52		

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The following expenses were reported by the Petitioner: mortgage, property taxes, utilities, maintenance and improvements. The Petitioner also reports needing to raise rents to qualify for a refinance. The Petitioner reports a monthly net operating income (NOI) in 2018 (the "Base Year") equaling \$786.24 per month. The Petitioner reports a monthly NOI in 2019 (the "Petition Year") equaling \$794.12 per month. It appears the increase in monthly NOI between the Base Year and Petition Year is due to a decrease in operating expenses between the Base Year and Petition Year. Additionally, the DCBA was unable to substantiate any maintenance and repair expenses for the Petition Year, which also contributed to an increase in the monthly NOI between the Base Year and Petition Year. Based on the numbers and documentation provided, the petitioner's net operating income appears to have increased. The evidence

provided includes utility bills, insurance statements, and a statement provided by the landlord petitioner. However, the maintenance related costs were all from the 2018 Base Year.

The DCBA has calculated a reported monthly net operating income (NOI) in 2018 (the "Base Year") equaling \$1,570.48 per month. The DCBA reports a monthly NOI in the 2019 (the "Petition Year") equaling \$794.12 per month. It should be noted that the DCBA arrived at this number with consideration of the landlord petitioner's expenses related to property taxes, insurance, and utilities for the property. Mortgage costs are not considered to be an eligible expense for the purposes determining fair return in the implementation of the IRSO. This is done in an effort to treat tenants fairly irrespective of a landlord's creditworthiness. However, it appears the DCBA calculated a decrease in monthly NOI between the Base Year and Petition Year due to the inability to substantiate the property tax and insurance costs for the Base Year. Without the property taxes and insurance costs being calculated for the Petition Year, the DCBA is unable to accurately calculate the NOI for the Petition Year. However, if the property taxes and insurance costs are at the minimum of \$746.65 for the Base Year and the maintenance costs in 2019 are at the reported \$37.59 for the Petition Year, the Petitioner's NOI would reflect \$756.53 for the Petition Year. Without proper documentation, the DCBA is unable to adjust for inflation and determine whether the Petitioner is entitled to an increase in rent in order to maintain the value of the NOI earned in the Base Year.

The CPI for the Base Year (September 2018) is 268.032. The most recent CPI published by the BLS is 271.311, which reflects an increase in 3.279 or 1.22 percent from the Base Year. For the Petitioner to maintain the value of the monthly NOI earned from the Property in the Base Year (\$1,570.48) that amount must have increased in accordance with the change in CPI (1.22%). Accordingly, the CPI-inflated monthly NOI should equal at least \$1,589.64 (\$1,570.48 x 1.0122). Here the DCBA calculates a reported monthly NOI of \$794.12 which is less than the CPI-inflated monthly NOI. However, the DCBA does not have the proper evidence to demonstrate that the CPI-inflated monthly NOI is accurate. Therefore, the Petitioner should provide documentation related to the 2018 and 2019 reported maintenance costs, property taxes, and insurance.

3. The property is located in the unincorporated area of Florence in Los Angeles County, is a residential dwelling on property with two or more units, and was built in 1946, as indicated by public records.
4. Ordinance 2018-0045 was adopted on November 20, 2018, which established rent levels as they existed on September 11, 2018 and limited rental increases to no more than three percent (3%) within a twelve month period.
5. No comments have been received from the public at this time.
6. The petitioner, Antonio Perez, visited the Department of Consumer and Business Affairs(DCBA) on February 1, 2019 to determine if the property was covered under the newly approved IRSO and filed an Interim Rent Stabilization Ordinance Petition for Relief from Moratorium. The Petitioner states that he would like to

increase rent by \$546.00 monthly and would like to do so in order to refinance the property.

7. The Hearing Officer finds that:
 - a. RSQ19-01207 Interim Rent Stabilization Ordinance Petition for Relief from Moratorium is continued subject to the following conditions:
 - i. Until the next hearing date, total rental income shall not exceed \$1,704.00 (total rental income)
 - ii. The landlord may increase the rent an additional 3% (or whatever allowable cap is established) without the approval of DCBA, per Ordinance 2018-0045 and in accordance with California Civil Code Section 827.
 - iii. Rent increases above 3% for the affected unit(s) shall not occur unless approved by the Hearing Officer.

BASED ON THE FOREGOING, THE HEARING OFFICER CONCLUDES THAT:

- A. The Petitioner's requested residential rent increase is in excess of the allowable 3% per the Los Angeles County Interim Rent Stabilization Ordinance 2018-0045.
- B. The Petitioner has not proven that a rent increase in excess of the allowable 3% is necessary in order to meet a fair return on the property.

THEREFORE, THE HEARING OFFICER:

1. Continues RSQ19-01207 Interim Rent Stabilization Ordinance Petition for Relief from Moratorium subject to the above conditions.
2. If monthly rent is due before the Hearing Officer decision is received by the petitioner and respondent, the tenant respondents are responsible for their currently monthly rent of:
 - **\$856.00** for the unit located at 8740 Graham Ave Los Angeles, California 90002
 - **\$856.00** for the unit located at 8742 Graham Ave Los Angeles, California 90002
 - An amount to be determined by the landlord (petitioner) without the approval of the County for the unit located at 8738 Graham Ave Los Angeles, California 90002

If the landlord petitioner should wish to increase rents, they may do so without County approval in accordance with the IRSO and California Civil Code Section 827—provided their rental agreements allow for such an increase at the time of this hearing. If the landlord proceeds with the rent increase, the tenant respondents are responsible for no more than the base rent as of September 11, 2018 plus 3% as allowed by Ordinance 2018-0045, not to exceed:

- **\$881.68** for the unit located at 8740 Graham Ave Los Angeles, California 90002
- **\$881.68** for the unit located at 8742 Graham Ave Los Angeles, California 90002
- An amount to be determined by the landlord (petitioner) without the approval of the County for the unit located at 8738 Graham Ave Los Angeles, California 90002

Draft Findings
RSQ19-01207

ACTION DATE: 4/29/2019

JMN: DP: sl

4/22/2019

BURDEN OF PROOF STATEMENT

DCBA Case #:

Section IV: Reason for Petition *(explain in detail why you are requesting a hearing)*

not a fair return on investment

IS THIS MATTER URGENT?

Yes No

REASON FOR URGENCY *(must attach relevant documents in order to be considered):*

income from rents necessary to pay mortgage, property taxes, utilities, maintenance and improvements (for refinanced qualification)

Section V: Signature of Petitioner

Antonio Rivas
Petitioner Name (Print)

landlord
Petitioner Title (Tenant, Landlord, Mobilehome Homeowner or Park Owner)

(323) 251-8300
Petitioner Telephone Number


Signature

2/1/19
Date