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September 5, 2019

TO: Gina Natoli, AICP
Hearing Officer

FROM: Shannon Louis

Case No. RSQ19-02024

AASW Alliance, LLC vs. Tenants of 11517 Obert Avenue Whittier, California 90604
Hearing Officer Meeting: September 12, 2019 – Agenda Item: 7

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 11517 Obert Avenue Whittier, California 90604 in the unincorporated area of South Whittier in Los Angeles County.

The Petitioner reports receiving \$118,217.50 annually in income for the property located at the address listed above. The Petitioner reports a total of \$116,586.27 annually in operating expenses. The Petitioner reports the following operating expenses: mortgage, property taxes, property insurance, maintenance and repairs, payroll, pest control, trash, gas, water and electricity. Based on the supporting documentation provided by the Petitioner, DCBA has calculated the monthly income and expenses for the property in [Figure 1](#).

Additional Documents

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 [Figures 1 and 2](#), below and discussed thereafter.

The proposed monthly increase of \$4,195-4450.00 would increase the total rental income for the property by \$50,340-53,400.00 annually. The Petitioner is requesting to increase rents as a result of needing to refinance the property and operating at a loss due to the mortgage expense. According to the ordinance, the landlord may already be allowed to increase the rental income by 3%, depending upon the date of the most recent rent increases for the units. **Ordinance No. 2018-0045 Section 3(A)(1).**

Since the hearing was continued on July 22, 2019, DCBA has received additional documentation from the Petitioner addressing missing documents from the previous NOI analysis, along with income and expenses for the months of May, June, July, and August 2019. As a result, DCBA has completed an updated NOI analysis for the Petitioner's income and expenses. This can be found in [Figure 1](#).

Petitioner vs. DCBA Staff Income and Expense Calculations

The Petitioner reports the following operating expenses: mortgage, property taxes, property insurance, maintenance and repairs, payroll and salaries, pest control, trash, and gas, water, electricity. The DCBA has substantiated an income of \$115,417.50 for the months of September 2018-August 2019. The Petitioner did not purchase the property until August 2018 – thus no information was available for the Base Year (prior to September 2018). The evidence provided includes the property management company's expense report, canceled checks, utility bills, bank statements and maintenance receipts/invoices provided by the Petitioner. DCBA used the property management company's expense report to identify expenses and cross-referenced these numbers against canceled checks, utility bills, bank statements and maintenance receipts/invoices provided by the Petitioner. Because of the large amount of expenses that were reported, the property management company's expense report allowed DCBA to capture all transactions related to the reported expenses that occurred over several months and that may have been split over time. Deviations in the numbers reported in [Figures 1 and 2](#) are explained below.

- September 2018: DCBA was unable to substantiate the Petitioner's reimbursement check for insurance in the amount of \$3,423.00 as the documentation provided for the claim does not demonstrate a relationship to what has been reported. Additionally reported a mortgage payment of \$5,482.02, but the bank statement only demonstrated a payment of \$1,983.26 on the mortgage.
- October 2018: DCBA was unable substantiate the Petitioner's petty cash claim of \$150.00 as it was indeterminable what this was being used for and it does not mean that an expense has been incurred.
- November 2018: DCBA was unable substantiate the Petitioner's property tax claim in the amount of \$2,710.78 as no documentation was provided related to this expense.

- December 2018: DCBA was unable substantiate the Petitioner's landscaping claim in the amount of \$320.00 as no documentation was provided related to this expense. DCBA was also unable to substantiate the \$50.00 bonus expense that was reported. Additionally, the Petitioner's claim of \$9,885.00 was unable to be substantiated as the check requests provided do not provide information related to the work the Petitioner claims was performed.
- March 2019: DCBA was unable substantiate the Petitioner's property tax claim in the amount of \$2,700.66 as no documentation was provided related to this expense.
- April 2019: DCBA was unable substantiate the Petitioner's property tax claim in the amount of \$7,110.78 as no documentation was provided related to this expense and the Petitioner paid himself. Additionally, DCBA was unable to substantiate the claim of \$21.58 toward employee training as no documentation was provided related to this expense.
- June 2019: DCBA was unable substantiate the Petitioner's Legal – Tenant Issues claim in the amount of \$10,000.00 as tenant buyouts are not an eligible expense under the IRSO DCBA. Additionally, DCBA was unable substantiate the Petitioner's Security Deposit Clearing claims in the amount of \$400.00 as security deposit refunds are not an eligible expense under the IRSO. Lastly, DCBA did not substantiate the Petitioner's claim in the amount of \$40.50 for the cost of mailing copies of petitions for the tenant. These are not eligible expenses under the IRSO as they are not related to the operation of the property.
- July 2019: DCBA was unable substantiate the Petitioner's Legal – Tenant Issues claims (2) in the amount of \$20,000.00 as tenant buyouts are not an eligible expense under the IRSO. Additionally, DCBA was unable substantiate the Petitioner's Security Deposit Clearing claims in the amount of \$500.00 as security deposit refunds are not an eligible expense under the IRSO.
- August 2019: DCBA was unable substantiate the Petitioner's Security Deposit Clearing claims in the amount of \$1,095.00 as security deposit refunds are not an eligible expense under the IRSO.

Based on the reported totals and what DCBA was able to substantiate, it has been determined that the Petitioner has an NOI of \$30,866.73. The spirit of the IRSO is that a fair return is determined by reviewing a property owner's NOI before and after implementation of the ordinance. The purpose of this comparison is to determine that a property owner's return on their property is not negatively impacted and that they are not experiencing undue hardship as a result of the ordinance. The ordinance does not deem financial packages as justification for not receiving a fair return and thus mortgages are not deemed as an eligible expense under the IRSO. As previously

mentioned, the basis of this particular petition is to allow the Petitioner to increase rents in order to refinance the property.

As a result, DCBA believes that the petition should be denied on technicality and spirit of the ordinance. With the constraints of the ordinance and reviewing NOI between years, we are unable to determine if the landlord is not able to receive a fair return as no operation occurred prior to the implementation of the ordinance. However, DCBA understands that it is within the Hearing Officer's discretion to make an alternative determination as it relates to this petition.

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 DENIAL of the Interim Rent Stabilization Ordinance Petition for Relief from Moratorium – Case Number RSQ19-02024.

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 RSQ19-02024 IS **DENIED**, SUBJECT TO THE ATTACHED CONDITIONS.

Suggested Denial Statement

Prepared by Shannon Louis
Reviewed by Jessica Gallegos

Attachments

Initials JMN:JG: sl
(9/5/19)