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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
12/05/2019
Agenda Item No.
6

Transmittal Checklist

Petitioner Name: Laura Pulido
Case Number: RSQ19-07874
Case(s): IRSO Petition for Relief from Moratorium
DCBA Staff: Shannon Louis

- ☒ Petition Summary
- ☒ Parcel Profile Report (separate attachment)
- ☒ Staff Report
- ☒ Burden of Proof Statement(s)
- ☒ Supporting Documents (separate attachment)

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Reviewed By: Dana Pratt



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Case Number
RSQ19-07874

Hearing Date
12/5/2019

PETITION SUMMARY

PETITIONER NAME

Laura Pulido

PETITION DATE

July 11, 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 (IRSO), Ordinance Number 2018-0045, along with passthrough costs related to capital improvement projects completed at the property. The Petitioner states that they are not receiving a fair return on the property.

PROPERTY ADDRESS

744 S. Woods Avenue Los Angeles, California 90022

744 ½ S. Woods Avenue Los Angeles, California 90022

746 S. Woods Avenue Los Angeles, California 90022

746 ½ S. Woods Avenue Los Angeles, California 90022

KEY ISSUES

- The four rental units on the property are currently rented out for a reported total of \$4,870.00 monthly
- Petitioner is requesting a monthly increase of \$205.00 (4.21%) and a capital improvement passthrough
- Petitioner has issued allowable increases for two of the four units per the IRSO

STAFF RECOMMENDATION

Continue

DCBA STAFF:

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



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November 27, 2019

TO: Gina Natoli, AICP
Hearing Officer

FROM: Shannon Louis

Case No. RSQ19-07874
Laura Pulido vs. Tenants of 744 – 746 ½ S. Woods Avenue Los Angeles,
California 90022
Hearing Officer Meeting: December 5, 2019 – Agenda Item: 6

Petition Description

Interim Rent Stabilization Ordinance(IRS) 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 744 – 746 ½ S. Woods Avenue Los Angeles, California 90022 in the unincorporated area of East Los Angeles in Los Angeles County.

The Petitioner reports receiving \$4,870.00 monthly or \$58,440.00 annually in income for the four units located at the addresses listed above. The Petitioner reports a total of \$8,824.67 annually in operating expenses. The Petitioner reports the following operating expenses: property taxes, property insurance, maintenance and repairs, plumbing, gardening, pest control and water. Based on the supporting documentation provided by the Petitioner, DCBA has calculated the monthly income and expenses for the property.

Use Type

Multi-Family Residential; 0400

Year Built/Certificate of Occupancy(COO)

1955

Previous Petitions/History

N/A

Staff Evaluation & Burden of Proof

According to Ordinance No. 2018-0045, DCBA has determined that the property 744 – 746 ½ S. Woods Avenue Los Angeles, California 90022 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 ensuring 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.

The proposed monthly increase of \$205.00 would increase the total rental income for the property from \$4,870.00 to \$5,075.00 (4.21%) monthly. 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. It should be noted that the Petitioner issued the allowable increase (3%) for two of the units (744 & 746 S. Woods Avenue Los Angeles, California 90022) at the property in July 2019. Therefore, the Petitioner is not entitled to increase rent for those units until after July 2020 – unless another determination is made by the Hearing Officer. **Ordinance No. 2018-0045 Section 3(A)(1).**

The IRSO and implementing rules/regulations allow for review of capital improvements and their costs to determine whether and to what extent the capital improvement was reasonable. To determine the monthly passthrough of the related expenses, the total cost should be divided by the number of affected units and should be amortized over the useful life of the improvement. In most cases, the useful life should not be less than 5 years, as determined by the Hearing Officer. The cost of the capital improvement(s) may be passed on to affected tenants as a rent increase divided by the number of

affected units and amortized over this period. This evaluation is summarized in Attachment 1 and discussed thereafter.

Attachment 1: DCBA Staff Capital Improvement Passthrough Calculations

The following capital improvements were reported by the Petitioner and substantiated by DCBA: air conditioner and vinyl plank flooring installation. The evidence provided includes paid invoices and cancelled checks provided by the Petitioner. The invoice from NRG related to the air conditioning work completed at the property totals \$26,278.35. The cancelled checks from Brian Torres and Hernandez Carpet Brokers related to the installation of vinyl plank flooring completed at the property total \$3,986.80.

The cost of the completed capital improvements totals \$30,265.15, which affects 3 of the 4 units. It should be noted that only 2 units (67% of the affected units) are potentially eligible to receive a passthrough for the improvements related to the air conditioner (\$26,278.35), as the remaining unit has a tenancy that began after the completion of the project which should include a rental rate that accounts for the costs related to the capital improvement. Therefore, only \$17,518.90 (67% of the total air conditioner costs for affected units) would be applicable to the remaining 2 units that are potentially eligible to receive a passthrough. For the vinyl plank flooring, the passthrough would be applicable to 3 units.

For the air conditioner improvement, DCBA recommends an amortization period of 10 years (120 months). Per the IRSO guidelines, DCBA completed the following calculation:

(Total Applicable Cost ÷ Affected Units) ÷ Amortization Period = Monthly Passthrough

$$(\$17,518.90 \div 2 \text{ Units}) \div 120 \text{ Months} = \$73.00$$

With a total of 2 affected units and a recommended amortization period of 120 months, DCBA calculates a monthly passthrough of \$73.00 per affected unit.

For the flooring improvement, DCBA recommends an amortization period of 7 years (84 months). Per the IRSO guidelines, DCBA completed the following calculation:

$$(\$3,986.80 \div 3 \text{ Units}) \div 84 \text{ Months} = \$15.82$$

With a total of 3 affected units and a useful life of 84 months, DCBA recommends a monthly passthrough of \$15.82 per affected unit.

The rents charged for the 3 affected units range from \$1,030.00 - \$1,390 monthly. The proposed monthly passthrough of \$73.00 would increase monthly obligations for affected units between 5.25% - 7.08%. The proposed monthly flooring passthrough of \$15.82 would increase monthly rents for affected units between 1.14% - 1.54%. While

the flooring singular passthrough would only increase rents between 4.14% - 4.54%, combined with the allowable limit (currently 3%), it does not account for the additional passthrough of the air conditioner for 2 of the 3 units. When combined, the flooring and air conditioner passthroughs account for an increase of up to 11.62% above the base rent. According to the ordinance, the landlord may already be allowed to increase rent by (currently 3%), depending upon the date of the most recent rent increases – unless another determination is made by the Hearing Officer. Per the IRSO guidelines, it is not DCBA's recommendation that any cumulative increase (rent increases plus any passthroughs) exceed 10% of the base rent charged on September 10, 2018 or the date the tenancy began.

DCBA Staff Income and Expense Calculations

DCBA has calculated a reported net operating income (NOI) in 2018 (the "Base Year") equaling \$41,218.70. DCBA calculates the Petitioner's NOI in 2019 (the "Petition Year") to be \$40,595.33. It should be noted that DCBA arrived at this number with consideration of the landlord Petitioner's expenses related to property taxes, insurance, maintenance and repairs, and utilities for the property. Mortgage costs are not considered to be an eligible expense for the purposes of 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. DCBA calculated a decrease in NOI between the Base Year and Petition Year due to a calculated decrease in rental income between the Base Year and Petition Year. The evidence provided includes utility bills, bank statements, canceled checks, and maintenance invoices provided by the Petitioner.

The CPI for the Base Year (annual average) is 265.962. The most recent (half annual average) CPI published by the BLS is 272.199, which reflects an increase of 4.167 or 1.55 percent from the Base Year. For the Petitioner to maintain the value of the NOI earned from the property in the Base Year (\$41,218.70) that amount must have increased in accordance with the change in CPI (1.55%). Accordingly, the CPI-inflated NOI should equal at least \$41,857.59 ($\$41,218.70 \times 1.0155$). Here, DCBA calculates a reported monthly NOI of \$40,595.33 which does not meet or exceed the CPI-inflated NOI. Therefore, the Petitioner appears to be entitled to an increase in rent in order to maintain the value of the NOI earned in the Base Year. Based on DCBA's calculations, the Petition Year NOI currently falls short of the CPI-inflated NOI by \$1,262.26. DCBA is lacking sufficient documentation related to the costs of water in the base year, property insurance in the base year, and pest control for the base year and petition year to correctly determine the adjusted NOI. Therefore, any recommended increase at this time would prove inaccurate.

Proof of Service/Notice of Hearing

The Petitioner, Laura Pulido, returned the Proof of Service form to DCBA on July 11, 2019. The DCBA sent the original Notice of Hearing on September 10, 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 the Interim Rent Stabilization Ordinance Petition for Relief from Moratorium – Case Number RSQ19-07874 under the following conditions:

- Petitioner provides all requested documentation within the required timeframe

If the Petitioner does not provide the requested documentation by the continued hearing date, unless otherwise approved by the Hearing Officer, DCBA recommends a denial as to the fair return increase.

As to the capital passthrough request, staff recommends APPROVAL of the Interim Rent Stabilization Ordinance Petition for Relief from Moratorium Capital Passthrough Request under the following conditions:

- Only 50% of the capital improvement costs may be passed through to affected tenants for a maximum of:
 - \$36.50 (\$73.00 x 0.50) for the air conditioner capital improvement
 - \$7.91 (\$15.82 x 0.50) for the flooring capital improvement
- The capital improvement passthrough shall not commence until affected tenants are served a proper written notice.
- The capital improvement passthrough related to the air conditioner of \$36.50 shall not exceed 120 months.
- The capital improvement passthrough related to the flooring of \$7.91 shall not exceed 84 months.
- The capital improvement passthroughs shall be listed as separate line items and not deemed as rent.
- The capital improvement passthroughs should indicate an expiration date.
- The Petitioner may increase rents by the allowable limit where allowed by the IRSO and permanent RSO. Capital improvements should not be calculated in the rent increase.
- The combined allowable increase and capital improvement passthroughs shall not exceed 10% per year, which may result in the Petitioner not receiving the entire allowable passthroughs of \$36.50 and/or \$7.91 in certain years depending on the allowable increase.
- Only the affected tenants may be charged for the passthrough. The remaining tenants shall not receive a capital passthrough. The rental rate for new vacancies should account for the capital passthroughs and may not be charged in addition to the listed rent.

SUGGESTED STATEMENT

I, THE HEARING OFFICER, CONTINUE THE PUBLIC HEARING FOR THE INTERIM RENT STABILIZATION ORDINANCE PETITION FOR RELIEF FROM MORATORIUM, CASE NUMBER RSQ19-07874

Suggested Statement

Prepared by Shannon Louis
Reviewed by Dana Pratt

Attachments

Attachment 1: DCBA Staff Capital Improvement Passthrough Calculations

Initials SL:DP
(11/27/19)

BURDEN OF PROOF STATEMENT

DCBA Case

RSQ19-07874

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

The limitations with the temporary rent increase will prevent me from receiving a fair & reasonable return on the residential rental property. We have invested a substantial amount of money into this property to make it comfortable. Just this year we have invested over \$30,000.00

Current Rent:	Proposed Rent (if known):
1. \$1000.00	1. \$1100.00
2. 1350.00	2. \$1485.00

HAVE YOU RECEIVED OR ISSUED A NOTICE OF RENT INCREASE IN EXCESS OF THE ALLOWABLE LIMIT?

☒ Yes ☐ No

IS THIS MATTER URGENT?

☐ Yes ☐ No

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

Section IV: Respondent Information

Respondent Type: ☒ Tenant(s) ☐ Landlord ☐ Mobilehome Homeowner(s) ☐ Mobilehome Park Owner

1. Alberto & Maria Viramontes

2. Rafael Morales

Respondent Name/Organization (Please list the names of each Tenant or Mobilehome Homeowner who received a copy of this petition below)

Tenant

Tenant

Respondent Title Tenant, Landlord, Mobilehome Homeowner or Mobilehome Park Owner)

Staff Reports
RSQ19-07874