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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.  
5

## Transmittal Checklist

**Petitioner Name:** LLJ Stratford Rowland Heights, LLC

**Case Number:** RSQ19-03285

**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**  
RSQ19-03285

**Hearing Date**  
12/5/2019

## PETITION SUMMARY

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### PETITIONER NAME

LLJ Stratford Rowland Heights, LLC

### PETITION DATE

March 27, 2019

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### PETITION OVERVIEW

Petitioner filed a Petition for Relief from Moratorium, requesting to temporarily pass through the costs associated with a capital improvement project in excess of the allowable limit as outlined in the Interim Rent Stabilization Ordinance, Ordinance Number 2018-0045. The Petitioner states that they are not receiving a fair return as a result of the capital improvement project completed on the property.

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### PROPERTY ADDRESS

**1940 Fullerton Road Units #1-126 Rowland Heights, California 91748**

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### KEY ISSUES

- 70 of the 126 rental units on the property were rented out prior to the completion of the capital improvement project
- Petitioner is requesting a monthly passthrough of 5% in excess of the allowable limit (currently 3%) for each affected unit
- Petitioner has issued rent increases to affected tenants where permitted by the IRSO

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### STAFF RECOMMENDATION

Approval

**DCBA STAFF:**

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

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November 26, 2019

**TO:** Gina Natoli, AICP  
Hearing Officer

**FROM:** Shannon Louis

**Case No. RSQ19-03285**

**LLJ Stratford Rowland Heights, LLC vs. Tenants at 1940 Fullerton Road Units #1-126 Rowland Heights, California 91748**

**Hearing Officer Meeting: December 5, 2019 – Agenda Item: 5**

### **Petition Description**

*Interim Rent Stabilization Ordinance(IRS0) Petition for Relief from Moratorium*

Petitioner is requesting a capital improvement passthrough, which will temporarily increase rent above the maximum allowable limit (currently 3%) for the affected rental units located at 1940 Fullerton Road Units #1-126 Rowland Heights, California 91748 in the unincorporated area of Rowland Heights in Los Angeles County.

The Petitioner reports spending \$1,860,243.15 for three capital improvement projects at the property, which included upgrades and/or replacements to plumbing, carports, and parking lot asphalt. The Petitioner reports that 70 of the 126 units at the property were occupied prior to the completion of the capital improvement project and would be affected by the any allowable passthroughs. Based on the supporting documentation provided by the Petitioner, DCBA has calculated the potential monthly passthrough for the affected units at the property in Attachment 1.

### **Use Type**

Multi-Family Residential; 0501

### **Year Built/Certificate of Occupancy(COO)**

1974

### **Previous Petitions/History**

N/A

### **Staff Evaluation & Burden of Proof**

According to Ordinance No. 2018-0045, DCBA has determined that the property 1940 Fullerton Road Units #1-126 Rowland Heights, California 91748 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 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 reasonable 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 improvements may be passed on to affected tenants as a rent increase divided by the number of affected units and amortized over the useful life of the improvement. This evaluation is summarized in Attachment 1 and discussed thereafter.

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.

### Attachment 1: DCBA Staff Capital Improvement Passthrough Calculations

The following capital improvements were reported by the Petitioner and substantiated by DCBA: plumbing, carport reconstruction, and removal and replacement of parking lot asphalt. The evidence provided includes paid invoices provided by the Petitioner. The

invoice from Field Brothers Construction related to the plumbing work completed at the property totals \$1,133,100.00. The invoice from Imperial Contracting related to the carport reconstruction and repair completed at the property totals \$575,754.15. The invoice from NPG Asphalt related to the asphalt removal and replacement in the parking lots totals \$151,389.00.

The cost of the completed capital improvements totals \$1,860,243.15, which affects all 126 units. However, only 70 units (55% of the units) are potentially eligible to receive a passthrough, as the remaining 56 units have tenancies that began after the completion of the project and/or are vacant and should have rental rates that account for any costs related to the capital improvements. Therefore, only \$1,023,133.73 (55% of the total cost) would be applicable to the remaining 70 units that are potentially eligible to receive a passthrough.

DCBA recommends an amortization period of 10 years (120 months) for all of the capital improvements performed at the property. Per the IRSO guidelines, DCBA completed the following calculation:

$$\text{(Total Applicable Cost} \div \text{Affected Units)} \div \text{Amortization Period} = \text{Monthly Passthrough}$$

$$(\$1,023,133.73 \div 70 \text{ Units}) \div 120 \text{ Months} = \$121.80$$

With a total of 70 affected units and a recommended amortization period of 120 months, DCBA calculates a monthly passthrough of \$121.80 per affected unit.

The rents charged for the 70 affected units range from is \$1,495.00 - \$1,895.00 monthly. The proposed monthly passthrough of \$121.80 would increase monthly payments for affected units between 6.43% - 8.14%. This means that the passthrough, combined with any allowable rent increase, would account for an increase of up to 11.14% above the base rent. According to the ordinance, the landlord may already be allowed to increase rent by 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. **Ordinance No. 2018-0045 Section 3(A)(1).**

#### **Proof of Service/Notice of Hearing**

The Petitioner, LLJ Stratford Rowland Heights, LLC, returned the Proof of Service form to DCBA on April 1, 2019. The DCBA sent the original Notice of Hearing on May 3, 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 APPROVAL of the Interim Rent Stabilization Ordinance Petition for Relief from Moratorium – Case Number RSQ19-03285 under the following conditions:

- Only 50% of the capital improvement costs may be passed through to affected tenants for a maximum of \$60.90 ( $\$121.80 \times 0.50$ ) at any given time
- The capital improvement passthrough shall not commence until affected tenants are served a proper written notice
- The capital improvement passthrough of \$60.90 shall not exceed 120 months.
- The capital improvement passthrough shall be listed as a separate line item and not deemed as rent.
- The capital improvement passthrough 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 passthrough shall not exceed 10% per year, which may result in the Petitioner not receiving the entire allowable passthrough of \$60.90 in certain years depending on the allowable increase.
- Only the 70 affected tenants may be charged for the passthrough. The remaining 56 tenants shall not receive a capital passthrough. The rental rate for new vacancies should account for the capital passthrough and it may not be charged in addition to the listed rent.

### **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 RSQ19-03285 IS **APPROVED**, SUBJECT TO THE ATTACHED CONDITIONS.

### **Suggested Statement**

Prepared by Shannon Louis  
Reviewed by Dana Pratt

### **Attachments**

Attachment 1: DCBA Staff Capital Improvement Passthrough Calculations

Initials SL:DP  
(11/26/19)

## BURDEN OF PROOF STATEMENT

DCBA Case #:

RSQ19.03285

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

See enclosed cover letter.  
In brief, we acquired the property in late 2017 and undertook major property systems upgrades. We spent just under \$2,000,000 to replace the failing plumbing system, deteriorating parking lots, and affected carport structures in 2017-18.  
We're asking to pass-through the cost of these repairs to all 126 units in order to earn a fair return. Cost per unit was \$15,760; estimating a 10y life would translate to approximately an additional ~~5%~~ 5% per unit ~~per month~~ in addition to 3% market growth.  
Property affected: 1940 Fullerton Rd; ~~Rowland Heights~~ Rowland Heights, CA 91748. Units 1-126

#### IS THIS MATTER URGENT?

☐ Yes ☒ No

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

### Section V: Signature of Petitioner

Mark Halling; LLI Stratford Rowland Heights, LLC  
Petitioner Name (Print)

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