

## **MINUTES OF THE CALDWELL RENT REVIEW BOARD**

**October 17, 2018**

Meeting called to order **7:04PM**

Mr. Valente was sworn in as a Landlord Member

Ms. Pemrick read the portion of the Open Public Meeting Act

### **ROLL CALL**

**PRESENT:** Ms. Evans, Ms. Pemrick, Mr. Valente and Mr. Linden

**ALSO PRESENT:** Mr. Joseph Angelo, Esq (standing in for Mr. Russo)

**ABSENT:** Councilman Cole, Mr. Galante, Ms. D'Ambolia and Mr. Russo, Esq.

### **Pledge of Allegiance**

#### **MINUTES:**

**May 16, 2018**

Minutes of the Rent Review Board meeting accepted and approved.

Ms. Evans, Ms. Pemrick and Mr. Linden voted in the affirmative. Mr. Valente abstained.

#### **NEW BUSINESS:**

##### **Invitation to Mr. Guiliano to speak on Section 182-2 of the Ordinance**

Mr. Guiliano testified that he is the Fire Inspector in Caldwell and the Property Maintenance Inspector.

- His duties are to inspect buildings on behalf of the State and the Fire Prevention Code on behalf of the Municipality for Property Maintenance. His inspection authority is under the fire code for three family and up and owner occupied one and two family homes.
- He would like to establish somewhere between the Municipal Code and section 182-2 this section does not include non-owner occupied for one family dwellings. What the town has done is included one family properties that are non-owner occupied that are being rented and he is able to get into these homes as the Fire Official and as the Property Maintenance Official to inspect that home.

Mr. Guiliano asked Mr. Angelo if it would be possible to do an ordinance change and have that code amended to include non-owner occupied one family dwelling.

Ms. Pemrick asked that Mr. Guiliano first explain the issues so the Board understands and then for the Board to ask you questions and then the attorney will get involved.

Mr. Guiliano responded that the rent ordinance does not include non-owner occupied family dwellings and what he would like to do is include non-owner occupied one family dwellings within the Rent Board authority. So this way the Property Maintenance Code, the Fire Code and section 182-2 is all the same.

Ms. Pemrick asked the question to Mr. Guiliano, the Municipal Code and the Fire Code permits you to have access to single family dwellings that are not owner occupied and Mr. Guiliano responded yes, it is strictly a rental property that he can get into to inspect.

Ms. Pemrick read

- 182-2 (B) “dwellings consisting of one housing space unit and dwellings consisting of two housing space units, with one of the housing space units occupied by the owner of said dwellings, are exempt from the provisions of this chapter. It wouldn’t make a difference under our ordinance whether one housing space was owner occupied or not.

Mr. Linden asked the question to Mr. Guiliano, if you have the authority under your fire code, maintenance and everything else to inspect those units that are non-owner occupied from your point of view why does this need to be in the Rent Control Ordinance, your concern is very valid and we want everything to be safe but I’m not clear why the Rent Control Board, which I view is limited to rent increases, capital improvements why it needs to be amended in our section of the ordinance. Mr. Guiliano responded that part of the ordinance is for a landlord to register as a landlord and they are subject to rental license.

The Board discussed with Mr. Guiliano on Certificate of Occupancy and what Mr. Guiliano is trying to change is the fact that Certificate of Occupancy is not required for a one family non-owner occupied.

Mr. Linden responded that this is more a town council issue not rent control.

Ms. Pemrick asked the question to the attorney as to whether there is a state law for what Mr. Guiliano is asking of the Board or is there anything we need to do and Mr. Angelo responded that Mr. Guiliano needs to go to the Governing Body. This board can recommend it to the Council. Ms. Pemrick responded that in the past when issues were brought to the rent board such as the maintenance of service clause we deliberated on those and we made recommendations which was brought to the Council.

Mr. Linden responded that he is not sure this is our issue but because it has been presented to the Board rather than making a recommendation saying that we received the concern we believe as a Board we think it is a legitimate concern and we are unsure as to whether we are the right forum for that so Council would you please consider this.

Ms. Pemrick responded that we can take that attitude with everything that we do; it is taking the legs out of participatory democracy.

Ms. Pemrick responded that we as a Board have a right to deliberate on it. One of the powers and duties of the Rent Board is to review the ordinance “the Board shall annually review the provisions of this chapter, and shall render to the Borough Council such recommendations for amendment hereof as it deems appropriate to effectuate the purposes of this chapter”. What Mr. Angelo is suggesting that we don’t specifically make the recommendation we just turn it over to Council to decide and she feels it would help to get information and based on that information we would recommend to the Council that it should be changed.

Ms. Pemrick read Powers and duties of Board.

- To issue and promulgate such rules and regulations as it deems necessary to implement the purposes of this chapter, (she doesn’t think this is the purpose of this chapter) which rules and regulations shall have the force of law until revised, repealed or amended from time to time by the Board in the exercise of its discretion, provided that such rules and regulations are filed with the Borough Clerk.

Ms. Pemrick moved that we refer Mark Guiliano's request to the town council for their consideration in as much we believe that his request does not fall within the jurisdiction of the our Rent Control Ordinance, seconded by Mr. Linden.

Ms. Evans        yes  
Ms. Pemrick     yes  
Mr. Valente     yes  
Mr. Linden       yes

Ms. Premrick asked the Board if anyone read David Cowell's email that was forwarded with his concerns about this issue.

### **Revised decision letters to complainants**

Ms. Pemrick discussed previous chairs on the Rent Board that whenever a complaint was heard we would look at the complaint first and make a decision of the Board and afterwards we would draft a resolution which gives the law behind the decision.

Ms. Pemrick discussed previous complaints where letters were sent and no reason as to why it was dismissed. The Board received an example of a resolution that was done.

Ms. Pemrick read from 182-10 Rent increases violating chapter; complaints.

- In the event that a timely answer is filed and served in the manner within the time prescribed in Subsection B(2) of this section, the Board shall determine, without hearing, upon a complete review of all documents submitted, whether or not the landlord has violated this chapter. Such determination shall be made by the Board within 30 working days from the date of such filing and service by the landlord of such landlord's answer. Such determination shall be reduced in form to formal resolution containing findings of fact and conclusions of law, which shall be mailed to both the complaining tenant and such tenant's landlord. Whenever, in the opinion of the Rent Control Board, an alleged violation may justify imposition of a monetary penalty, the Board shall refer the matter to the appropriate officer or to the Borough Attorney, pursuant to 182-18, to initiate an appropriate complaint in Municipal Court.

Ms. Pemrick is asking that the Board do this maybe not as extensive as this example but doing this in all cases. This way the complainant will have an idea of why they were denied other than your complaint was dismissed.

Ms. Pemrick discussed previous complaints that were dismissed.

Mr. Angelo advised the Board that the "harmonize procedures for hearing complaints" is as simple as when you have a hearing if you collectively decide just tell your attorney can you give us more detail.

Mr. Angelo advised the Board that the items on the agenda need to be voted on do we find as a collective Board see the need to harmonize procedures for hearing complaints.

Ms. Pemrick responded that the minutes of the previous meeting this was discussed and she believes that there was a consensus reached that Mr. Galante had stated that it was inconsistent throughout the ordinance in the various cases.

Ms. Evans responded this would give closure to the person who made the complaint.

Mr. Angelo responded that nothing needs to be done now it should be brought up with the attorney when a case is to be filed.

Mr. Valente responded that he agrees with the attorney that we should do this when there is a hearing and let the attorney know at that time.

Mr. Linden responded that he would like Frank Galante's opinion on this topic. If we are not talking about suggesting a revision to the ordinance in terms of requiring written opinions in certain circumstances we can always discuss amongst ourselves that this warrants more of a write up. If we want to go beyond than what's called for in the ordinance to give more detail, he doesn't see a problem with that.

Ms. Pemrick responded that as the ordinance is currently written it does require it under the condition of "tenant complaint for rent increase". What we would be considering is whether we would expand that to be for all complaints that come before the Board.

Ms. Pemrick moved to table the issue regarding the decision letters until the Board decides on whether we want to harmonize procedures for hearing complaints.

Mr. Linden responded that he is okay with a discussion point and we can put this on the next agenda.

Ms. Pemrick asked for the record if the Board members to expand on decision letters to complainants.

Board members feel that there was discussion and can be discussed at another meeting.

Ms. Pemrick responded that in the absence of the Chair the Vice Chair serves as a Chair if the Board is really saying they don't want one person to dominate but you're going to hold all business until the Chair arrives your saying you want the Chair to dominate.

Mr. Linden responded not at all we are just trying to include all the members.

**Motion made for Revised decision letter to complainants**

Ms. Pemrick moved that all complaints, be it from tenants or landlord that are filed with the Board and determinations by the Board shall be reduced in form to formal resolution containing findings of fact and conclusions of law which shall be mailed to all parties as already described in section 182-10 paragraph E for one type of complaint. No second.

The Board discussed the procedures of 182-10 complaints and 182-17 Maintenance of services. There are not specific time tables.

**Motion made for Harmonize procedures for hearing complaints & proposed revision to ordinance on timetable to be followed between filing of complaint and Rent Board's hearing of complaint**

Ms. Pemrick moved that we continue to discuss the issue of how we should harmonize the procedures for all the complaints that come before the Board to make time changes and other things, seconded by Mr. Valente.

Ms. Evans        yes  
Ms. Pemrick     yes  
Mr. Valente     yes  
Mr. Linden       yes

Ms. Pemrick distributed the current tenant complaint form to the Board and asked them to look at and perhaps discuss at another meeting.

Ms. Evans made motion to adjourn meeting at 8:14p.m., seconded by Ms. Pemrick. All in favor.