

MINUTES OF THE CALDWELL RENT REVIEW BOARD

August 21 , 2024

A meeting of the Borough of Caldwell Rent Review Board was held at the Irene Gibbons Health and Human Services Building, located at 14 Park Avenue, Caldwell, New Jersey, at 7:00pm on Wednesday, August 21, 2024.

PRESENT: Mr. Kostecka, Mr. Irwin, Mr. Galante and Councilman Jurgensen. Mr. Chiaia, Board Attorney, was also present.

ABSENT: Ms. Evans.

STATEMENT OF COMPLIANCE

PLEDGE OF ALLEGIANCE

MINUTES:

The meeting minutes from July 17, 2024 were accepted and approved by the Board, with the edit that the date be changed on the first page to Wednesday, July 17, 2024.

NEW BUSINESS:

Galiano Complaint, 550 Bloomfield Avenue

550 Bloomfield Avenue, Apt. 21

Mr. Galante read the complaint title and the parties involved introduced themselves to the Board: Mr. Galiano, tenant and complainant; Ms. Adrienne Lepore from Goldstein Kelin Attorneys at Law, representing the owner of the property at 550 Bloomfield Avenue, Legacy Real Estate Group.

Mr. Galiano provided the following testimony:

- He resides at Apartment #21 as a tenant on the premises of 550 Bloomfield Avenue.
- Mr. Galiano filed a complaint with the Rent Review Board on May 1, 2024 identifying 7 issues that he would like to address with his landlord, outlined in **EXHIBIT A**.
- After filing his complaint, he believes the property owner enacted a retaliatory eviction. At that time, an email was sent to him by the property owner apologizing for increasing this year's rent 3% and notifying him that the rent would be adjusted to the correct amount (a 2.75 % increase). Mr. Galiano read the email sent to him to the Board Members, provided herein as **EXHIBIT B**. He was asked to pay a monthly rent in his new lease of \$2,159 when it was supposed to be \$2,154.
- Mr. Galiano notified the Board that he was additionally charged for parking.
- According to Mr. Galiano, the landlord has been unresponsive to a request for repair of a window in his apartment. He claimed that they had tried to do the repairs multiple times but he still has rain leaking into his apartment and has mold issues as a result. The window repair issue is currently being heard in a court case that was filed with the New Jersey Superior Court in Newark.

Ms. Adrienne Lepore, Attorney for the property owner, verified for the Board that there are two current court cases filed in the Superior Court of New Jersey: Docket #LT 7635-24 for non-payment of rent and Docket #LT 9767-24 for violations other than non-payment of rent.

Mr. Galante stated that the Rent Review Board historically has deferred ruling on issues/cases that are being addressed by a higher authority.

Mr. Chiaia asked Mr. Galiano if he would like to, at this time, withdraw his complaint since the rent increase was rectified and adjusted back to 2.75%?

Mr. Galiano reported that he is unsure if the rent increase issue has been addressed since the paperwork filed in the Superior Court has the previous increase amount of 3%. The case is still pending in the court but he was informed that the Court does not have jurisdiction on rent control issues. Those matters are to be decided upon by the municipality. He stated that he still has other complaints against his landlord and at this time, the landlord is claiming that they are completely exempt from rent control.

Mr. Galiano was asked to agree to a Settlement Agreement with the landlord in which he was requested to come to this Rent Board Meeting, dismiss his complaint, and provide a copy of the adjudication to Ms. Lepore.

Ms. Lepore stated that her client did attempt to settle the disputes with Mr. Galiano. The Settlement Agreement was not admissible in Superior Court and she argued that it should not be admissible before the Caldwell Rent Review Board either.

Mr. Galante stated that the Board was in receipt of a letter dated March 4, 2002 from the landlord to the Borough of Caldwell stating that his property was exempt from Rent Control, citing New Jersey State Law N.J.S.A. 2A:42-84.1 through 84.6, which exempts newly constructed multiple residential buildings for a period of 30 years from the date of completion of construction.

Mr. Galiano has visited Borough Hall on many occasions to file his paperwork and to check on the status of his complaint and hearing before the Rent Review Board. It was not until the week prior to his hearing date that he was notified that the letter dated from 2002 even existed or that the New Jersey Law pertained to this particular property.

He notified the Board that he was skeptical of the document since it had not been presented to him earlier and that he only had a photocopy. He asked if an original existed and if he could see the original copy.

The Board Secretary confirmed for the Board that the letter had been in the block and lot file for the property at 550 Bloomfield Avenue and that Mr. Galiano could see the original document in Borough Hall during business hours.

Ms. Lepore stated that the letter was discovered in the file subsequent to the filing of an OPRA request made by her client, for any documents pertaining to rent or rent control regarding the property.

Mr. Galiano questioned whether the letter was fabricated for the benefit of the landlord and stated that the letter is only a notification from the property owner to the town that the New Jersey Statute is applicable for his property. There are no accompanying documents that show that the Borough acknowledged or awarded the landlord this exemption.

Mr. Galante stated that he was uncomfortable with the Board making a ruling when there are open cases in the Superior Court of New Jersey.

Mr. Galiano replied that rent control issues need to be addressed by the Caldwell Rent Review Board. He stated that as part of the New Jersey Statute exempting newly constructed multiple dwellings, the landlord is

required to notify tenants of the property being exempted from municipal rent control at the initial signing of the lease and at each renewal of the lease. Failure to do so, leaves tenants, like himself, unaware of the rent control exemption.

Mr. Chiaia stated that the Caldwell Rent Review Board heard a similar case for the same property last meeting. The Board determined that the landlord had filed the exemption paperwork properly, and the Board set a precedent by dismissing the case. The previous case did not have any complaints about repairs to the apartment, however, it has been noted that the repair issue that Mr. Galiano has reported is currently being handled by the Superior Court.

Mr. Galante reported that the Rent Review Board could not rule on this case for Mr. Galiano while he has pending cases in the Superior Court of New Jersey. Mr. Chiaia agreed that it would be inappropriate for the Board to address Mr. Galiano's complaints while he has pending court cases in Superior Court.

Ms. Lepore notified the Board that the Superior Court of New Jersey has been waiting to hear the Caldwell Rent Review Board's determination with regard to this case, as it may have implications for the court cases filed against Mr. Galiano in their jurisdiction. She stated that the rent for Mr. Galiano was never increased more than what is allowed by the Borough of Caldwell's Rent Ordinance, so she expressed her unsurety as to what relief Mr. Galiano is seeking with this case.

*Mr. Galiano stated that even if the letter of exemption is authentic, there was no notification to the tenants, as the law requires. What happens when there is no notification by the landlord? In addition, Mr. Galiano referenced **Section 2A:42-84.2 of the New Jersey Newly Constructed Multiple Dwellings Statute** which states as to the applicability of municipal rent control ordinances and the duration of a property's exemption from municipal rent control laws as "for a period of time not to exceed the period of amortization of any initial mortgage loan obtained for the multiple dwelling, or for 30 years, following completion of construction, whichever is less."*

Mr. Galante reported that the notification issue, or lack of, does not pertain to the Borough of Caldwell's Ordinances and therefore they are unable to take action or rule on that issue as a Board. The Caldwell Rent Review Board is not able to answer or address a New Jersey State Statute. He reported that there is a precedent from the Caldwell Rent Review Board's previous case for the same property that attests to the validity of the rent exemption letter for the property. Furthermore, the Board has no way of knowing if there is a mortgage on the property or if it is currently paid off.

Mr. Galante made a motion to take no action with regard to Mr. Galiano's complaints, informing Mr. Galiano that if new evidence is presented, then the Board can re-evaluate the case. There was no second to his motion.

Mr. Chiaia recommended that the Board dismiss Mr. Galiano's complaints.

Mr. Kostecka made a motion to table Mr. Galiano's case until the Board's next meeting date. The motion was seconded by Mr. Irwin. Mr. Galiano was informed that the Caldwell Rent Review Board would continue to hear his complaints at their next Board Meeting.

It was stated for the record that the next Rent Review Board Meeting would be scheduled for 7:00pm Wednesday, September 25, 2024 at the Borough of Caldwell Health and Human Services Building, 14 Park Avenue, Caldwell.

OLD BUSINESS:

Ordinance Review of Chapter 182.

Rent Control for the Borough of Caldwell

Mr. Galante stated that the Board Members were in receipt of the Resolution recommending changes to the Borough of Caldwell's Rent Ordinance that was drafted and sent to the Caldwell Governing Body, and a letter that was submitted by Legow Management addressed to the Mayor and Council outlining concerns regarding the proposed changes.

Mr. Legow, Business Owner of Legow Management and Property Owner of Several Multi-Family Apartment Complexes in the Borough of Caldwell spoke to the Board Members and expressed his concerns regarding the Borough's Rent Control Policies:

- *The Caldwell Rent Control Ordinance is in dire need of revision in order to enable landlords to make expenditures required to properly maintain an aging stock of multi-family buildings that need upgrades.*
- *Most of Caldwell's neighboring town's allowable rates of annual increase fall above the Borough's proposal of 2 ¾ %: West Caldwell allows 5.5%, Verona allows 3% or the CPI (whichever is higher), West Orange allows 3%, South Orange allows 5.5%, and Cedar Grove currently allows 4%.*
- *Most of these towns have Vacancy De-control. The Borough allows no more than a 25% increase of rent after a tenant leaves, no matter how far below the rent is from the market rate.*
- *The annual allowable increase needs to be at least 4% in order to allow landlords to make large capital investments on the property. In addition, the Board should consider permanent Vacancy De-Control, that allows for improvements to be made, maintains the town's database, and allows property owners to compete in the marketplace. Other towns that have decided to de-regulate rent rates after tenant vacancies include Randolph, Eatontown, Bayonne and Cherry Hill.*
- *Mr. Legow provided pictures of some of the capital improvements that have been made in his buildings. Carlyle Towers had a new heating system installed that cost approximately \$730,000. If Mr. Legow is unable to recoup some of the costs of the project, he may have to file a hardship case with the Board. Carlyle Towers also needs their parking deck to be replaced, which would cost \$500,000. The elevators, cooling tower and chiller have already all been repaired or replaced, totaling roughly \$1,000,000 in costs. Parkview Commons requires new catwalks, sidewalks, doors and railings, which Mr. Legow estimates will cost roughly \$180,000. Some of his buildings need new piping and electric, which are costly to upgrade.*

Mr. Alan Hammer, property owner of Several Multi-Family Apartment Complexes in the Borough of Caldwell relayed his concerns regarding the Borough's Rent Control Policies:

- *Mr. Hammer and his family have always been good partners with the Borough of Caldwell and have been generational owners of several buildings in town: Caldwell House, Grover Cleveland Apartments, Rumsey Park Apartments, Westover House and Parkway East Apartments.*
- *Mr. Hammer has never had to appear before the Rent Review Board. He has not had complaints filed by tenants in his buildings and he has never filed a tax appeal in Caldwell.*
- *His request is that the Board not go out of their way to help landlords in town, but just "don't hurt us".*

- *Mr. Hammer has made many capital improvements in his buildings, including recently spending \$450,000 for new elevators and \$150,000 for the redecoration of hallways. These costs take a long time for landlords to recover their losses.*
- *Mr. Hammer cited one of his buildings, Westover House, as having 30% of its occupants as senior citizens. If the Caldwell Rent Review Board allows only a 1 ¾% annual increase for tenants who are senior citizens, he will lose 1% of revenue on 30% of the 45 units in the building.*
- *He asked for the Board to consider making a fair decision.*

OPEN TO PUBLIC:

Jeff Mense, a Tenant at Maryann Apartments in Caldwell asked Mr. Legow why these repairs and replacements were not done all along since he has owned the Carlyle Towers since 1970? He asked why is it the tenant's responsibility to pay for repairs and renovations?

Gail Krumer, a Tenant at 507 Bloomfield Avenue in Caldwell stated that she felt that an annual allowable increase of 2 ¾% was fair to everyone. She is a senior citizen on a fixed-income. Any allowable increases more than 2 ¾% would leave her homeless.

John Ferrari, Property owner of 8 Cleveland Street asked the Board to provide more information regarding the Rent Control Exemption for landlords.

Mr. Galante reported that the exemption is ruled by a New Jersey State Statute; not a Borough Ordinance, and that a landlord would have to apply or provide notification for the exemption.

The Board deliberated. Mr. Galante made a motion to have the Caldwell Rent Review Board keep their recommendation for a flat annual allowable rent increase of 2 ¾% for all rental units, and to eliminate the proposal for a discounted allowable annual increase rate of 1 ¾% for tenants who are senior citizens. Upon roll call, the votes were as follows:

Mr. Kostecka yes

Mr. Irwin yes

Mr. Galante yes

(3 – 0 – 0 Approved)

Councilman Jurgensen explained that a resolution outlining the Board's revised recommendations would be drafted for a vote by the Rent Review Board at the September 25, 2024 meeting. The Resolution would then be forwarded to the Mayor and Council for a First and Second Reading and Adoption. Councilman Jurgensen also stated that renters who make under \$150,000 in income are entitled by the State of New Jersey for a \$450 rebate under the New Jersey Anchor Program. Senior Citizens who make under \$150,000 and are eligible for the Anchor Rebate can also qualify for an additional rebate of \$250. Any renters that need help with obtaining their Anchor Rebates should contact the town since Caldwell cares about their renters.

Mr. Galante made a motion to adjourn the meeting, seconded by Mr. Kostecka.

At 8:35 pm the meeting adjourned.

Respectfully Submitted,

Kim Conlon

Rent Board Secretary