

AttachmentB
Rent Increase Application I-094

" Attachment B "

HEARINGS DIVISION
Rent Stabilization Department
8611 Santa Monica Boulevard
West Hollywood, California 90069
Telephone: (310) 854-7450

CITY OF WEST HOLLYWOOD
RENT STABILIZATION COMMISSION

In the matter of the Rent Increase)
Application of:)
LUCILLE BECKER)
Regarding the property located at:)
1260 NORTH FLORES STREET)

HEARING EXAMINER'S
DECISION
ON RENT INCREASE
APPLICATION I-094

PROCEDURAL BACKGROUND

The following events of procedural significance took place on the dates shown:

- Registration Forms filed: September 11, 1985
- Application I-094 filed: March 31, 1992
- Notice of Hearing mailed: May 27, 1992
- Continued Hearing Notice mailed: July 13, 1992
- Hearing held: June 11 & July 17, 1992

ISSUE

Application I-094 raises the following issue: Is Applicant entitled to individual rent adjustments due to failure to receive the minimum Net Operating Income guaranteed by Rent Stabilization Ordinance Section 6411(C)? If so, then what amount of increase is Applicant entitled to pursuant to this Section?

SUMMARY OF TESTIMONY UPON WHICH DECISION IS BASED

All those who testified did so under oath and were questioned by the Hearing Examiner. The following people testified: Applicant Lucille Becker, William Becker and Brent

Mullins. No appearance was made by any Respondent or any representative of Respondents. The following testimony was found relevant to the determination of this matter:

Testimony of William Becker:

He is the son of the Applicant, and worked extensively in preparing the Rent Increase Application. He revised their Application based upon information received from the Rent Stabilization Department, and he submits this into the record (Exhibit No. 4). The changes include deletion of mortgage expenses and corrections in the calculation of financing costs of the seismic work. The break down of costs of the elements of the seismic safety work are only approximations. They paid for most of this work in one large total amount, and were not given any itemization of the charges leading up to that total. The financing costs are still amortized for the thirty-year period called for for seismic work; however, the actual financing they obtained is for fifteen years. The cavity within the walls of the structure made this seismic safety rehabilitation job more difficult than most.

Testimony of Applicant Lucille Becker:

She is the owner of this property; she acquired it in January 1946. She did not own any other real property during 1983, so all of the data relating to rental property shown on her 1983 tax return relates to this property. The photocopies submitted with this Application (Exhibit No. 1) are true and correct copies of the documents actually filed with the Internal Revenue Service for 1983.

Reviewing Schedule E from this tax return, the amount listed for "auto and travel" reflects the cost of commuting between this property and her home. The expense shown for legal fees was related to tenant non-payment of rent. With respect to the amount shown for entertainment, she speculates that she may have taken her lawyer to lunch, but cannot really recall.

With regard to utilities, she pays for water only; tenants pay their own bills for natural gas and electricity. There is a separate water heater in each apartment.

With respect to insurance for this property, she had maintained the same policies with the same types of coverage through the Base Year and the Current Year period.

R & R Painting & Remodeling does general maintenance work. In some instances she does not receive a breakdown of the cost of each repair listed on a bill, but instead receives only a lump sum total for all of the repairs listed.

Many of the small hardware items documented in the

Application were items that she purchased at the request of the R & R repair person for use in their work at the property. With respect to the small gardening items shown, she will buy some garden plants and supplies for the use of either her handyman, or of tenants at the property.

She paid cash for window screens installed by an individual brought in by Vahdani Construction. The size of a window was changed during the seismic work, and the contractor did not feel obliged to provide a new window, so costs related to this became an additional cost to her. She didn't receive any bill or statement for the window screens, but made this note at the time of her payment. Wood purchased from Anawalt Lumber was used to construct a new window. Items bought at Koontz Hardware were window chains and latches.

The R & R Painting statement dated May 24, 1991 reflects work done on the second structure at the property, which contains a parking garage and one rental unit. Termites were discovered there; this represented a resurgence of a problem that had come up a couple of years ago.

The R & R Painting statement dated July 18, 1991 reflects the construction of a new roof on this second structure. This roof had leaked during rain, and when she had it inspected a hole large enough to see through to the sky was found. The problems with this roof went beyond those that could be repaired with a patch. There were already multiple layers of roof present, and the roof was sagging and sinking. They had to remove these old layers and construct a new subroof.

The invoice from Carpeteria dated July 2, 1991 reflects the purchase of carpet for the living room only of the garage apartment. This purchase was necessary due to the deterioration of the existing wood floor in that room.

The undated R & R Painting statement in the amount of \$301 reflects the replacement of old electrical wiring. This was necessary to restore function to a light and to the doorbell. The R & R Painting statement dated December 3, 1991 is all for "finishing" work following the seismic rehabilitation. The seismic work left many things in need of minor repair.

The invoice from Familian Pipe & Supply, as well as associated hardware from Builders Discount, all related to the replacement of the water heater for Unit 1262.

The item from Degendorfer Plumbing, Inc. dated October 2, 1991 is for the replacement of pipes in the 1262 unit.

The invoice from The Phoneman dated October 19, 1991 is for the repair of telephone wiring damaged during the seismic

rehabilitation work. She received a full credit for this expense on the bill from Vahdani Construction.

An electrician installed a new fuse box for Unit 3 during the period that the seismic work was proceeding. She never received any bill or statement from the electrician, but she did make the notation which is included in the Application at the time she paid the electrician for this work.

On occasion, Richard Tarin of R & R Painting requested advances from her to purchase supplies for work in progress at the property. Her notation dated November 8, 1991 reflects a \$500 advance, for which she was credited on a subsequent bill.

Andre LaRocca is a tenant at the property. He has professional experience in remodeling work, and was interested in the seismic project. She entered into an agreement with Mr. LaRocca under which he would act as an observer of the construction company's work on site, addressing concerns about the progress of the work to the construction workers as they arose. In return for these services, she provided him with free rent for the three months of September, October and November 1991.

In addition, she did not collect rent for Apt. 3 for the month of October, and did not collect rent for Apt. 4 for the month of November. In each case, construction activity was sufficiently disruptive to the tenants in each of these two units so as to force the tenants to temporarily relocate for periods of at least one week.

The bathtub in Unit 2 was refinished because the surface of the tub was pitted severely.

In connection with the seismic rehabilitation work, \$728.62 was paid to the City of West Hollywood as a plan check fee. The construction work was inspected by the City's Building and Safety personnel from time to time until the job was completed.

She initially hired the Vahdani Construction Company for engineering, analysis and design of the seismic rehabilitation project at a cost of \$3,500. In addition, she was required to have a strength test of the brick structure performed at a cost of \$1,700. She then obtained three estimates to perform the seismic rehabilitation work. Each of the companies providing estimates had the engineering study, so they were aware of the difficulties presented by this job. The estimates were \$69,000, \$60,000 and \$52,000; Vahdani was the one in the middle. Vahdani agreed to throw in a whole new roof and floor. She had heard positive comments on their work elsewhere, and had inspected a building in Pasadena upon which Vahdani had completed seismic

rehabilitation. Based upon these factors she selected Vahdani to complete the job.

She never received any written statement of the work to be performed, or the work that had been performed, beyond the written contract submitted into the record (Exhibit No. 3). The contractor discussed verbally what they were doing in several meetings, but never provided any details in writing. When the job was completed, the property was left in poor condition. Hardwood floors were damaged to such an extent that she had to have them carpeted.

Prior to this hearing, she was not aware of the meaning of the contract valuation listed on the building permit. After paying the \$60,000 cost of the basic seismic work, she had to pay the cost of "finishing" on top of this.

Testimony of Brent Mullins:

He is employed by Willdan Associates, which is presently under contract with the City of West Hollywood to provide building and safety services. Within this capacity he has managed the Building & Safety Division of West Hollywood for the last two years. His division has jurisdiction over issuing building permits and monitoring construction sites.

The "contract valuation" entered onto the building permit is arrived at by using industry accepted values for the type of work involved. For seismic rehabilitation work, they use valuations of \$8 per square foot for residential properties, and \$10 per square foot for commercial properties. To these amounts \$2 per square foot may be added when extra retrofitting of the roof is necessary. These valuations were based upon data compiled by the City of Los Angeles, which has extensive experience in the seismic retrofit area. Many buildings in the City of Los Angeles had completed retrofit before West Hollywood started its program. The County of Los Angeles developed valuation data which was similar to that drawn from the City of Los Angeles.

These valuations do not take into consideration the actual amounts of contracts entered into by property owners and contractors for specific jobs. An amount in excess of these values might represent the inclusion of work which is beyond what is strictly necessary to accomplish seismic rehabilitation; the contract valuations are intended to cover the cost of doing the minimum work to reach the seismic safety standards.

This is their general approach towards the contract valuation. Specific circumstances presented by particular properties might cause them to approach the valuation differently. Such circumstances might be discovered during the plan check, or when the permit applicant specifically requests it.

The contract valuation is intended to fall into a mid-range of total costs that would be charged for the planned work. They are aware that actual costs will in some cases end up higher, and in some cases lower. Each job is different, depending on the building involved. If problems arise that requires the engineer to come back to perform additional work on site, this will add a lot of time to a job.

The purpose of the Building & Safety Division in arriving at the contract valuation is to become the basis of their permit fees. The higher the valuation the higher the permit fees which are charged.

The contractor's plans are filed with a clerk in his office. The review of these plans is performed by Willdan Associates under a contract with the City. Willdan can require additional documentation when they feel it is necessary.

The valuations are standardized and intended to cover a complete rehabilitation job, including finishing/clean up work. However, such valuations cannot anticipate unforeseen problems that may arise once the work is underway.

He has heard of the Vahdani construction firm and is aware that they do considerable seismic work in the West Hollywood area.

SUMMARY OF EXHIBITS UPON WHICH DECISION IS BASED

Five exhibits were admitted into evidence:

Exhibit No. 1 is the Rent Increase Application with supporting documentation of income and operating expenses for this property.

Exhibit No. 2 is the Registration for these properties filed by the current landlord, listing information pertaining to the rental units, including the Base Rents, the number of bedrooms, and housing services provided to each unit.

Exhibit No. 3 is a supplemental submission of additional supporting documentation of income and operating expenses for this property.

Exhibit No. 4 is a revised Application dated June 11, 1992, reflecting changes made in various calculations based upon additional information.

Exhibit No. 5 is a second supplemental submission of additional supporting documentation of income and operating expenses for this property.

ANALYSIS OF THE EVIDENCE

Under the Rent Stabilization Ordinance landlords are assured that the Net Operating Income (NOI) of their property may increase at least 60% of the percentage increase in the Consumer Price Index (CPI). In order to determine whether or not the property owner has received at least this increase in his or her NOI, one must compare the NOI during an earlier base period with the NOI during a recent period. The evidence presented is used to determine what period of time should be used as the base period, and what the income and operating expenses have been during the base period and during a recent period. Income less operating expenses is the NOI. Once the NOI has been determined for each period, the figures may be compared to determine the rate of growth (if any) in the NOI. The rate of growth may then be compared with the rate of growth in the CPI. This comparison determines whether or not the Applicant has received at least the minimum increase in NOI which is guaranteed by the Ordinance. If not, rent increases shall be ordered sufficient to reach this standard.

This property was required to undergo seismic rehabilitation to reduce earthquake hazards. Special provisions within the Ordinance (Sections 6411.1 through 6411.6) and Regulations (60070 through 60073) apply to such properties, and accordingly they will be applied to this case.

Base Year Gross Income

Base Year Gross Rents, as detailed in Table 1, is determined to be \$33,610. (All tables follow the text and should be considered a part of this Decision.) Contemporaneously-prepared rent records were available for all months in the Base Year. Contemporaneously-prepared rent records are usually the most reliable available evidence of rent levels. Furthermore, this figure is consistent with the rental income figure reflected on the Applicant's federal income tax return Schedule E. No conflicting evidence was introduced into the record.

Subtracted from gross rents are rent losses beyond the landlord's control. Records reflect no rent losses at all during the Base Year.

No additional income attributable to the property was claimed. Total rents, with no rent loss or additional income, totals the Base Year Total Collected Gross Income of \$33,610.

Base Year Operating Expenses

Operating expenses for 1983, as detailed in Table 2, are determined to be \$6,451. Expenses for property taxes and

water have been determined based upon the statements submitted and upon the property owner's federal income tax Schedule E for 1983. There was no consumption of electricity or natural gas attributable to the property. The cost of trash collection is included on the property tax bill.

The presumption that management expenses were six percent of gross income (Ordinance Section 6411(C)(1)(c)) has not been rebutted; therefore, management expenses of \$2,017 shall be allowed. It may be noted that a number of expense categories shown on the Schedule E would fall within this total, such as auto and travel, and stationery and mailing.

A total of \$150 for legal expenses is allowed as reflected on the Schedule E, and supported by the Applicant's testimony, even though this payment is not indicated in any of the other records submitted in support of the Application. Documents relied upon in determining federal tax liability, with no incentive to minimize expenses, are highly reliable, and are preferred over retention of miscellaneous eight-year-old expense documentation.

Insurance expenses during the Base Year are allowed at \$830, based upon the entry on the Applicant's Schedule E. Documents submitted indicate an annual premium during the Base Year of \$565. In resolving this conflict in the evidence, the tax schedule is preferred for the reasons noted above.

Normal repair and maintenance expenses for non-capital items have been allowed in the amount of \$1,476. This reflects addition of the following expense categories on the Applicant's Schedule E: cleaning and maintenance, repairs, and gardening. This total varies considerably from the total of the repair and maintenance documents submitted with the Application, which is \$806 (see Table 7). Most of this discrepancy appears to be related to gardening services, shown as \$723 on the Schedule E, but as only \$118 in the supporting documentation. There is a reference on Mr. Koseki's gardening bill to a \$55 monthly charge, but this one bill is the only documentation of his charges included among the documents submitted. Again, the Schedule E is found to be the more reliable source of Base Year expense data.

There was no claim of any owner-performed labor for 1983.

An expense of \$55 for a County of Los Angeles business license was documented and is allowed.

The Applicant's Schedule E does not differentiate any repair and maintenance expense as being capital expenses. Review of all of the supporting documents submitted does not indicate that any of the costs were for capital expenses as defined by the Rent Stabilization Ordinance. Therefore, none

of the expenses shall be amortized as capital expenses for the Base Year.

Base Year Net Operating Income

The Base Year Net Operating Income is \$27,159. The Net Operating Income is arrived at by subtracting the total operating expenses from the total collected gross income. (See Table 3.)

Fair Base Year Net Operating Income

Ordinance Section 6411(C)(1)(f) establishes the presumption that the Net Operating Income produced by the property during the Base Year provided the landlord a fair return. Section 6411(C)(1)(g) provides that it may be determined based upon the evidence received on a particular property that the Base Year Net Operating Income yielded other than a fair return. There was no contention that the Base Year did not yield a fair return. Therefore, in the absence of any evidence to the contrary, the presumption shall be applied.

Current Year Gross Income

The Current Year (calendar year 1991) Gross Rents, as detailed in Table 4, is determined to be \$43,507. Current Maximum Allowable Rents for applicable periods have been utilized in arriving at this figure. No rent receipt records were submitted by the Applicant. Tax records relating to the property, Applicant's Schedule E, do not include a projection of rental income at 100% occupancy.

Subtracted from gross rents are rent losses beyond the landlord's control. The Applicant testified that rent losses for three units were related to the seismic rehabilitation work during 1991. She provided a rent concession of one month each for the tenants in Units 3 and 4; in both cases, construction activity forced tenants to vacate the premises for periods of at least one week. The rent loss relating to Unit 3 was \$782, while the rent loss relating to Unit 4 was \$729. In addition, the Applicant provided a rent concession of three months to Andre LaRocca to compensate him for his assistance to her during the seismic work. Categorization of this amount as rent loss or as expense may be debated, but the ultimate impact on the Application is not substantial, and it will be listed as a rent loss for purposes of these calculations. This rent loss totals \$2,251.

A recent amendment to the Rent Stabilization Ordinance provides that rent losses not likely to recur in the future not be recognized for NOI analysis. The effective date of this amendment is after the date this Application was filed with the Department, and therefore it shall not be applied in this case. Based upon the analysis above, a total of \$3,762

will be allowed as rent loss for the Current Year period.

As in the Base Year, the record indicates that there was no other income attributable to the property for the Current Year period.

Total rents, less allowable rent loss, with no additional income, makes up the Base Year Total Collected Gross Income of \$39,745. This total clashes with the amount shown as rents received on the Applicant's Schedule E, \$31,414. While the reason for this is not readily apparent, it is possible that occupancy of Unit 2 by a relative may substantially explain the discrepancy, if the relative is provided this unit rent free. Of course, such an arrangement would not constitute an unavoidable rent loss. In any event, the total shown above is supported by the preponderance of the evidence in the record.

Current Year Operating Expenses

Current Year Operating Expenses, as detailed in Table 5, are determined to be \$15,204. Expenses for property taxes and water have been determined based upon the statements submitted, which cover all twelve months of the Current Year period. As in the Base Year, there was no consumption of electricity or natural gas attributable to the property, and the cost of trash collection is included on the property tax bill.

The presumption that management expenses were six percent of gross income (Ordinance Section 6411(C)(1)(c)) has not been rebutted; therefore, management expenses of \$2,385 shall be allowed. No legal expenses were claimed for the Current Year period.

Insurance expenses totaling \$1,373 are allowed for the Current Year period. The annual insurance policy period ran from October 15, 1990 through October 14, 1991, renewing on October 15, 1991. The cost of insurance was prorated based upon nine-and-a-half months under the 1990-91 policy, and two-and-a-half months under the 1991-92 policy, based upon documentation reflecting the amounts paid.

Normal repair and maintenance expenses have been determined based upon the documentation submitted. The only significant total in this category was \$496 to R & R Painting & Remodeling for various minor repairs. This same firm did substantial "finishing" work following the seismic rehabilitation (see capital expenses, below). All other receipts in this category were for \$30 or less. Normal repair and maintenance expenses totaling \$624 are allowed for the Current Year period (see Table 8).

There was no claim of owner-performed labor for the Current Year period.

Rent stabilization fees were paid by Applicants in the amount of \$96 per unit per year, of which only \$48 per unit per year may be recovered from tenants. The resulting cost to Applicants of \$192 is allowed as an operating expense for the purpose of assessing the merit of the Application, pursuant to Section 6411(C)(1)(c).

The annual cost of building improvements, major repairs and replacements have been included as amortized; see Table 9 for detail. The dominant cost was the seismic retrofitting, along with associated expenses, totaling \$72,276. The Applicant was required to undertake this work by the City of West Hollywood. Although Vahdani Construction was not the low bidder, the Applicant's selection of this firm reflected reasonable business judgment. The necessity and reasonableness of associated costs for "finishing" after the construction firm completed its work was supported by the Applicant's testimony. No contrary evidence appears in the record, and the full amount of these expenses is allowed.

Rent Stabilization Ordinance Section 6411.4(b) provides a presumption that the contract valuation, \$56,000 in this case, approved by the City's Department of Building and Safety are complete and actual records of the reasonable cost of performing the seismic retrofitting work. The testimony of Mr. Mullins explained that this figure is arrived at by using standardized cost data drawn from a large number of past seismic rehabilitation jobs. While this method appears to be a sound approach to estimating the costs involved in this type of work, it does not stand against the evidence of the actual costs incurred by the Applicant in this case. The record reflects that the Applicant obtained competing bids, and exercised reasonable business judgment in incurring all costs in this work. Based upon the analysis above, the presumption is found to have been rebutted.

Pursuant to Regulations, the cost of actual financing obtained by an Applicant to finance capital expenditures shall be included, utilizing the greater of the amortization period of the expenditure or the actual length of the financing. Applicant obtained financing for the seismic work from Wells Fargo Bank at an 8.5% rate of interest for fifteen years. The amortization period for seismic work, thirty years, is the greater amortization period. Therefore, financing at 8.5% for all of the seismic expenses for thirty years is allowed.

The reasonableness and necessity of other capital expenses was also supported by the Applicant's testimony. For these other expenses, no outside financing was obtained. Therefore, pursuant to Regulation 60040(D), imputed financing at the rate of 5.5% is allowed. The annual cost of all Current Year Capital Expenses is \$7,730.

Current Year Net Operating Income

The Current Year Net Operating Income is \$24,541. The Net Operating Income is arrived at by subtracting the total operating expenses from the total collected gross income. (See Table 6.)

Proposed/In Progress Capital Expenses

The Applicant did not seek conditional approval of rent increases based upon proposed/in progress capital expenses.

Rent Increase

There has been a decrease of \$2,618 in the NOI from the Base Year NOI of \$27,159 to the Current Year NOI of \$24,541. This represents a 9.6% decrease in the NOI from the Base Year to the Current Year.

Ordinance Section 6411(C)(1)(h) guarantees minimum growth in the NOI of 60% of the percentage growth in the local Consumer Price Index (CPI).

The relevant CPI to this Application is the CPI last released as of the date of the Application, which was the February 1992 CPI of 428.1. The CPI in 1983 was 292.7. There has been a growth of 135.4 in the CPI from the Base Year to the date of the Application. This is a 46.3% increase in the CPI. Sixty percent of this increase is 27.8%.

There was an actual decrease in the NOI from the Base Year to the Current Year of 9.6%; therefore special rent increases are required for the Applicant to receive the guaranteed Net Operating Income for this property.

The Rent Stabilization Ordinance provides that upon a finding that a rent increase application has merit, the portion of the annual rent registration fees paid by landlords shall be waived by the Commission. This has the effect of reducing the amount of rent increases required in this case by \$192.

The rent increases provided pursuant to this Decision are calculated as follows: the Applicant is entitled to a 27.8% increase over her Base Year NOI of \$27,159, or \$34,709. The difference between the guaranteed NOI and the actual NOI is \$10,168; refund of the registration fees reduces this total to \$9,976. Of this total amount, \$6,936 may be attributed to capital expenses which benefited specific units. This increase is documented in Table 10.

FINDINGS OF FACT

1. The property is located at 1260 North Flores Street, West Hollywood, California.

2. The Applicant has had an ownership interest in this property since 1946.

3. The current Maximum Allowable Rents for units at this property are as follows:

<u>Unit I.D.</u>	<u>CMAR</u>	<u>Unit I.D.</u>	<u>CMAR</u>
1260--1	771.03	1260--4	749.07
1260--2	738.73	1262	749.07
1260--3	803.31		

4. The total collected gross income for the 1983 Base Year was \$33,610.

5. The operating expenses for the 1983 Base Year were \$6,451.

6. The Net Operating Income for the 1983 Base Year is \$27,159.

7. The total collected gross income for the Current Year period (calendar year 1991) was \$39,745.

8. The operating expenses for the Current Year period were \$15,204.

9. The Net Operating Income for the Current Year period is \$24,541.

10. The relevant Consumer Price Index figures for this Application are CPI 428.1 for the Current Year and 292.7 for the Base Year.

11. There has been growth of 135.4 in the CPI from the Base Year to the date of the Application. This is a 46.3% increase in the CPI. Sixty percent of this increase is 27.8%.

12. If any statement under the above heading is determined to be a conclusion of law, it is to be treated as such.

CONCLUSIONS OF LAW

1. For purposes of the Net Operating Income analysis, gross income includes gross rental income computed at 100% occupancy. Rent Stabilization Ordinance Section 6411(C)(1)(b)(1). Gross income shall be reduced only by the amount of uncollected rents due to circumstances beyond the landlord's control. Uncollected rents in excess of 3% of gross rents shall be presumed to be unreasonable unless established otherwise. Rent Stabilization Ordinance Section 6411(C)(1)(b)(5). Rent losses did not exceed 3% in the Base Year. Rent losses exceeding 3% in the Current Year period

were reasonable due to the nature and side effects of the seismic rehabilitation work.

2. Only those capital expenses which were actually incurred during the Base Year and/or Current Year period may be considered in determining the operating expenses of the property. Rent Stabilization Regulation 60040(A).

3. Ordinance Section 6411(C)(1)(f) establishes the presumption that the Net Operating Income produced by the property during the Base Year provided the landlords a fair return. Section 6411(C)(1)(g) provides that it may be determined based upon the evidence received on a particular application that the Base Year Net Operating Income yielded other than a fair return. (See also Vega v. City of West Hollywood, (1990) 223 Cal.App. 3d 1342, and Birkenfeld v. City of Berkeley (1976) 17 Cal.3d 129.) The evidence in the hearing record does not rebut the presumption that the property produced a fair return during the Base Year.

4. Only major capital improvements which are determined to be necessary or reasonable to maintain and/or improve the property and of real benefit to tenants are eligible as capital expenses for inclusion to support rent increases. Rent Stabilization Regulation 60040(B). Expenses incurred in performing seismic retrofitting are presumed to be reasonable and necessary. Rent Stabilization Ordinance Section 6411.4. This presumption was not rebutted.

5. It is presumed that the contract valuation, \$56,000 in this case, approved by the City's Department of Building and Safety is the reasonable cost of performing the seismic retrofitting work. Rent Stabilization Ordinance Section 6411.4(b). The record reflects that the Applicant obtained competing bids, and exercised reasonable business judgment in incurring all costs in this work. The presumption is found to have been rebutted, and the higher cost total incurred by the Applicant is found to be reasonable.

6. Pursuant to Rent Stabilization Ordinance Section 6411(C)(1)(h), Applicant is entitled to receive an NOI of \$34,709. As Applicant has received an NOI of \$24,541, additional rent increases are required to assure the Applicant a just and reasonable return on this property.

7. Annual registration fees which pursuant to resolution of the City Council cannot be passed through to tenants shall be waived by the Commission if the application is found to be meritorious. Rent Stabilization Ordinance Section 6411(C)(1)(c). This Application is meritorious. The City of West Hollywood shall reimburse the Applicant the amount of \$192.

8. The MAR for a unit shall be increased by a maximum of twelve percent during the first twelve months and by an

additional 12% during the second twelve months after the date of a final decision of the Commission. If the final decision of the Commission determines that the landlord is entitled to an increase in the MAR which is greater than twelve percent in the first year and an additional twelve percent in the second year, then the MAR for the unit shall be increased by only those percentages and the remainder of the increase shall be granted during the third year. In addition, during the second year, the landlord is entitled to ten percent interest on the amount over twelve percent which was not charged during the first twelve months, plus any other adjustment to which the landlord is entitled under the Ordinance. During the third year, the landlord is entitled to ten percent interest on the amount which could not be charged during the second twelve months, plus any other adjustments to which the landlord is entitled under the Ordinance. Each year's ten percent interest shall remain in effect for one year after it was imposed, and shall not be considered rent for purposes of calculating the general adjustment. Rent Stabilization Ordinance Section 6411.5(e).

9. If any statement under the above heading is determined to be a finding of fact, it is to be treated as such.

DECISION

IT IS DECISION OF THE HEARING EXAMINER that Rent Increase Application I-094 be granted.

<u>Unit I.D.</u>	<u>Current Maximum Allowable Rent</u>	<u>Amount of Increase</u>	<u>New Maximum Allowable Rent</u>
1	771.03	92.52	863.55
2	738.73	88.65	827.38
3	803.31	96.40	899.71
4	749.07	89.89	838.96
1262	749.07	66.71	815.78

The new Maximum Allowable Rents listed above do not include the partial pass through of the registration fee, which may add \$4.50 per month to each unit.

The Maximum Allowable Rents may be increased above 12% as provided for by this Decision after the first twelve months following the effective date of this Decision as provided by law (see Table 11). Additionally, the Applicant may receive 10% simple interest on the amount of rent increase delayed during the second twelve months; the interest shall remain in effect for only twelve months, and shall not be considered rent for purposes of calculating the general adjustment.

<u>Unit</u> <u>I.D.</u>	<u>Additional</u> <u>Increase</u>	<u>Interest on</u> <u>Delayed Amount</u>	<u>Total</u> <u>Increase</u>
1	99.47	9.95	109.42
2	99.29	10.14	109.43
3	97.45	9.75	107.20
4	98.84	9.88	108.72
1262	-0-	-0-	-0-

The increase during the second twelve months is also limited to a maximum of 12%. For one unit only, a small additional increase is required after the first twenty-four months:

<u>Unit</u> <u>I.D.</u>	<u>Additional</u> <u>Increase</u>	<u>Interest on</u> <u>Delayed Amount</u>	<u>Total</u> <u>Increase</u>
2	2.11	0.21	2.32

Within sixty days following the date of the final decision on this Application, the City of West Hollywood shall issue a refund to the Applicants of that portion of the annual registration fees which pursuant to resolution of the City Council cannot be passed through to tenants.

Rent increases permitted by the Ordinance may only be implemented after the landlord has first given notice to the tenants as required by state law and the terms of any lease or rental agreement regarding the tenancy.

Date: October 19, 1992

Dennis M. Orfirer
DENNIS M. ORFIRER
Hearing Examiner

TABLE 1
GROSS RENTS - BASE YEAR

<u>Unit I.D.</u>	<u>Rents at 100% Occupancy</u>	<u>Total</u>
1260--1	550X6+597X6=	\$ 6,882.00
2	525X6+572X6=	6,582.00
3	557X6+597X6=	6,924.00
4	525X6+572X6=	6,582.00
1262	540X8+580X4=	<u>6,640.00</u>
Total		\$33,610.00

TABLE 2
OPERATING EXPENSES - BASE YEAR

1. Property Taxes	\$ 1,429.88
2. Electricity	0.00
3. Gas	0.00
4. Water	493.00
5. Trash Collection	0.00
6. Management Expenses	2,016.60
7. Legal Expenses	150.00
8. Insurance	830.00
9. Normal Repairs & Maintenance	1,476.39
10. Owner-Performed Maintenance	0.00
11. License, Registration & Other Fees	55.00
12. Amortized Capital Expenses	<u>0.00</u>
Total	\$ 6,450.87

TABLE 3
NET OPERATING INCOME - BASE YEAR

Total collected gross income	\$33,610
Total operating expenses	<u>- 6,451</u>
Net Operating Income	\$27,159

TABLE 4
GROSS RENTS - CURRENT YEAR

<u>Unit I.D.</u>	<u>Rents at 100% Occupancy</u>	<u>Total</u>
1260--1	725.01X8+750.39X4=	\$ 8,801.64
2	694.65X8+718.96X4=	8,433.04
3	755.37X8+781.81X4=	9,170.20
4	704.37X8+729.02X4=	8,551.04
1262	704.37X8+729.02X4=	<u>8,551.04</u>
Total		\$43,506.96

TABLE 5
OPERATING EXPENSES - CURRENT YEAR

1. Property Taxes	\$ 2,085.28
2. Electricity	0.00
3. Gas	0.00
4. Water	814.63
5. Trash Collection	0.00
6. Management Expenses	2,384.70
7. Legal Expenses	0.00
8. Insurance	1,373.31
9. Normal Repairs & Maintenance	623.69
10. Owner-Performed Maintenance	0.00
11. License, Registration & Other Fees	192.00
12. Amortized Capital Expenses	<u>7,730.16</u>
TOTAL	15,203.77

TABLE 6
NET OPERATING INCOME - CURRENT YEAR

Total collected gross income	\$ 39,745
Total operating expenses	<u>-15,204</u>
Net Operating Income	\$ 24,541

TABLE 7
REPAIR AND MAINTENANCE - BASE YEAR

<u>Payee</u>	<u>Amount Total</u>
Anawalt Lumber Co.	\$ 32.95
Builders Emporium	59.31
Cleaning supplies (vendor unidentified)	7.92
Ever-Ready Fire Protection	6.00
Garbage cans (vendor unidentified)	22.75
Hardware (vendor unidentified)	26.28
James L. Ray and Son	49.00
Ted Koseki	75.48
Laurel Hardware	36.34
Oles	8.43
Pete the Plumber	126.38
Plumbing (vendor unidentified)	86.56
Refuse clean up (vendor unidentified)	75.00
Repairs (vendor unidentified)	12.63
Rompage Hardware	6.42
Sears	42.59
Snyder Diamond	68.99
Standard Paint	22.27
Tashman Hardware	2.76
Tri-City Electric Inc.	<u>38.24</u>
Total	\$806.30

TABLE 8
REPAIR AND MAINTENANCE - CURRENT YEAR

<u>Payee</u>	<u>Amount Total</u>
Armstrong Gardens	29.35
Builders Emporium	24.28
International Tile	5.03
Koontz Hardware	5.83
Laurel Hardware	25.94
Mordigan Nursuries	22.26
R & R Painting & Remodeling	496.00
Window screens (vendor unknown)	<u>15.00</u>
Total	\$ 623.69

TABLE 9
CAPITAL EXPENSES - CURRENT YEAR

<u>Expense descrip.</u>	<u>Cost</u>	<u>Cost of Finance</u>	<u>Total</u>	<u>Amort. Period</u>	<u>Annual Cost</u>
Interest rate: 8.50%					
UNITS 1260, 1-4					
Seismic rehab	61260.00	108314.40	169574.40	360	5652.48
Engineering	3500.00	6187.60	9687.60	360	322.92
Strength test	1700.00	3005.20	4705.20	360	156.84
Plan check fees	778.62	3177.78	2156.40	360	71.88
Window hardware	106.92	188.28	295.20	360	9.84
Finishing	4930.00	8717.60	13647.60	360	454.92
				Subtotal	6668.88
Interest rate: 5.50%					
ALL UNITS					
Garage door	650.00	196.00	846.00	120	84.60
Garage roof	5450.00	1648.00	7098.00	120	709.80
				Subtotal	794.40
UNIT 1260-1					
Electrical wiring	220.00	104.00	324.00	180	21.60
UNIT 1260-2					
Bathtub finish	185.00	56.20	241.20	120	24.12
UNIT 1260-3					
Fuse box	185.00	86.80	271.80	180	18.12
UNIT 1262					
Carpet	140.00	28.84	168.84	84	24.12
New pipes	650.00	196.00	846.00	120	84.60
New ceiling	375.00	113.40	488.40	120	48.84
Water heater	263.54	54.82	318.36	84	45.48
				Subtotal	203.04
GRAND TOTAL					\$7,730.16

TABLE 10
NET OPERATING INCOME COMPARISON

A.	1.	Current Year NOI:	\$24,541
	2.	Base Year NOI:	27,159
	3.	Growth/decline in NOI:	-2,618
	4.	Percentage growth/decline in NOI:	-9.6%
B.	1.	Consumer Price Index - Los Angeles as of date of Application - 2/92:	428.1
	2.	CPI - Base Year (1983):	292.7
	3.	Change in CPI:	135.4
	4.	Percentage Growth in CPI:	46.3
	5.	Rent Stabilization Ordinance allows for 60% growth of CPI:	27.8%
C.	1.	Base Year NOI:	\$27,159
	2.	Guaranteed percentage increase in the CPI allowed:	27.8%
	3.	Amount of increase in NOI guaranteed by the Ordinance:	7,550
	4.	Total guaranteed NOI:	34,709
	5.	Current Year NOI:	24,541
	6.	Refund of Registration fees	192
	7.	Total amount of rent increase allowed:	9,976
	8.	Total amount of increase which relates to specific units:	6,936
	9.	Total amount of increase which relates to all units:	3,040
	10.	Percentage increase which relates to all units:	6.83%

TABLE 11
RENT INCREASES

<u>Unit I.D.</u>	<u>Current MAR</u>	<u>General Increase</u>	<u>Specific Unit Increase</u>	<u>New MAR</u>	<u>Increase Based On Approved Proposed Capital Expenses</u>
1260					
1	771.03	51.25	140.74	863.55*	-0-
2	738.73	49.10	140.95	827.38*	-0-
3	803.31	53.40	140.45	899.71*	-0-
4	749.07	49.79	138.94	838.96*	-0-
1262	749.07	49.79	16.92	815.78	-0-

*All rent increases limited to 12% annual maximum phase-in.