

Pages 1 through 10 redacted for the following reasons:

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Out of Scope - Section 3 of FOIPPA

Out of scope - Administrative Tribunals Act section 61.2



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing and Social Development

**File No: 761083**

In the matter of the *Residential Tenancy Act*, SBC 2002, c. 78, as amended

Between

**Fraser Plaza Apartments Ltd., Landlord(s),**

**Applicant(s)**

And

s.22

**Respondent(s)**

Regarding a rental unit at:

s.22

s.22 7440 Fraser Street, Vancouver, BC

Date of Hearing: December 02, 2010, by conference call.

Date of Decision: December 02, 2010

Attending:

For the Landlord: Sergio Cocchia, Agent, Peter Alexandru, Agent

For the Tenant:

s.22

## DECISION

Dispute Codes      RI

### Introduction

This hearing dealt with an application by the Landlord for a rent increase above the limit set by the Residential Tenancy Regulations. Both parties were represented in the conference call hearing and had opportunity to be heard.

The Tenants in rental units                      s.22                      have not attended the conference call hearing and are not represented by anyone at the hearing.

At the beginning of the hearing the Landlord has requested that the Tenant's for rental units                      s.22                      be removed from the application as both have entered into mutual agreements for rent increase with the Landlord.

The Tenant has filed evidence late on November 30, 2010 in response to the Landlord's evidence package received November 24, 2010 on the evidence submission deadline date. The Tenant has requested an adjournment to have the matter put over to accommodate the Tenant's evidence package not meeting the submission deadline.

The Tenant contends that the applicant has submitted evidence in a manner that did not give sufficient notice for the Tenant to review the evidence and submit a response before the evidence submission deadline. The Landlord has conceded that the majority of evidence submitted was available to the applicant prior to the submission deadline and does not object to the Tenant's evidence package being filed late. As the Applicant has conceded that no bias has occurred in the late filing of evidence of the Tenant, I accept the evidence and find that an adjournment is not required and the hearing can proceed.

### Issues(s) to be Decided

After a rent increase permitted by the Regulations, is the rent for these rental units significantly lower than rent payable for other rental units similar to and in the same geographic area as the rental units?

### Background and Evidence

The residential property is a 48 unit apartment building known as Fraser Plaza Apartments. Built in the late 1970's, it has 1, 2, and 3 bedroom apartments. Among the rental units affected in this application, tenancies began as early as 1993. Rent increases have been implemented in the rental units, but all rents fall within the allowed amounts as per the Regulations. The Landlord has testified that since the owners have decided on the future of Fraser Plaza Apartments, two years ago, a new caretaker was hired to begin the process of bringing their rents in line with market rents. Of the 48 units, 34 are one bedroom units. The Landlord states that 5 of recently vacated 1 bedroom rental units have been rented at the \$750.00 per month rate. The remaining 1 bedroom units not involved in this dispute are all rented at the \$750.00 rate level as a result of mutual agreements to a rent increase. The Landlord stated that the rent history shows that rent increases have been kept at a minimum and below the amount allowed in the Regulations as shown by the rent history of the Tenant in unit s.22 This Tenant began their tenancy in 1993 at \$553.00 and has incurred 4 rate increases to a current rent level of \$618.00. The Landlord admits to the rent increase oversight.

The Landlord has provided a map from the CMHC Rental Market Report released in the Fall of 2009. I note that the Landlord has also provided a schedule called a Private Apartment Average Rents by Zone and Bedroom Type for Vancouver CMA. The Vancouver CMA (Zones 1-10) show an average rent of \$936.00 to \$990.00. Zone 10 also known as Southeast Vancouver, show an average rent of \$821.00 to \$849.00. These rent averages are for the time period between October 2008 to October 2009.

The Landlord has provided information that the average square footage for each one bedroom unit from Fraser Plaza Apartments is 636 sf. (not including patio space). In most units, the hall-way and the bedroom is hardwood floor and the living room space is carpeted. The kitchen, dining and bathroom areas have vinyl flooring and in some cases the kitchen and dining areas in laminated floors. Heating is by boiler with hot water piped into radiators to provide heat, which is included in the rent. Electricity is not

included in the rent. The kitchens are provided with standard appliances of a fridge and stove. Two laundry rooms with coin operated machines are provided. Designated underground parking is available, but is not included in the rent.

The Landlord has submitted information on 11 apartment buildings for comparison, but only one fall within the geographic area known as zone 10, Southeast Vancouver. The Landlord has noted that he could have included several properties close to the area bordering what is known as zone 6, the Westside/Kerrisdale also known as Oakridge. The Landlord feels that although within the geographic area, it is known as a preferred living area geographically over that of where the Fraser Plaza Apartments are and is not a comparable because of the higher rating. The Landlord has submitted approximately 10 other similar properties with some basic information for comparison consideration. The Landlord has also submitted some recent newspaper postings, but I find that there is insufficient information provided as to the location or condition of these units and I have not considered these units. The Landlord has stated that there are no other comparables within the geographic zone 10 because it is occupied primarily with residential houses. I note that the 4940 Fraser Street property falls on the border of the geographic area and include this because I find this property similar enough in attributes, but also noting the difference in apartment size and location versus that of the higher rent. The Landlord states that although the properties are in different zones, they show enough similar attributes for a comparison to take place, but taking note of their location.

**4940 Fraser Street:** This is a residential building with 54 units consisting of 1 and 2 bedroom apartments, built in the late 80's. The current rent advertised for a 1 bedroom is \$875.00 per month. The average square footage of a 1 bedroom apartment is approximately 427.9 feet, not including patio space. The apartments are carpeted with standard kitchen appliances of a fridge and stove. Heating is electrical and is not included in the rent. The average monthly electrical bill is \$60.00 - \$70.00. The building has a laundry room with coin operated machines. Underground parking is provided and is included in the rent.

**605 South East Marine Drive:** Known as Sharp Villa's, this residential property consists of bachelor and 1 bedroom apartments. The current rent advertised for a 1 bedroom is \$750.00 (heat and hot water included) per month. The average square footage for a 1bedroom apartment here is 415 feet. The apartments are carpeted, but do not have a dining area, but has a small living room, bedroom and kitchen. The kitchen area has the standard appliances of a fridge and stove, but show rotted cabinets and cabinet doors. Severe decay is displayed in some cabinets and some drywall. Heating is provided from a boiler with hot water piped into radiators to provide heat. The building has a laundry room with coin operated machines. Underground parking is included in the rent.

The Tenant's have provided a summary of the Landlord's East Vancouver comparables. The Tenant's state that all of the property units are classified as, "Mount Pleasant/Renfrew Heights", in zone 8 and as such should not be used, save one.

### Analysis

The Landlord bears the burden of proving that the rent for the rental units is significantly lower than other comparable rental units. Having reviewed the evidence and the testimony provided by both parties, I find that 605 South East Marine Drive is a comparable property.

The CMHC fall 2009, rental market report for the City of Vancouver (Zones 1-10) show an average 1 bedroom apartment rent of \$936.00 to \$990.00. Specifically zone 10, Southeast Vancouver show an average 1 bedroom rent of \$821.00 to \$849.00. The current rent for Fraser Plaza Apartments are between \$618.00 to \$643.00. The Mount Pleasant/Renfrew Heights show an average rent rate between \$778.00 to \$796.00. Based upon geographic location zone 25 shows as the least desirable when looking at proximity to the downtown Vancouver core when in comparison to zone 10. The details of the rental units in the Mount Pleasant/Renfrew Heights provided do not give weight to an exact comparison, but do provide enough details to perform a

comparison. The buildings are of a comparable age, offer less square footage than that of the Tenant's units, but show on average a higher rent rate of between \$750.00 and \$1,100.00. I find that when considering average rental rates, the rates for zone 10 and that of zone 8 are skewed in favour of zone 8 because of their location. I take into consideration the average rent, community location and amenities versus square footage.

Although not taken into consideration for my decision, I find that if the Landlord had maintained their diligence in raising the rent at below the prescribed allowed percentages calculated at 2%, the Landlord would have a current averaged rental rate of \$765.00. The Landlord's application is still below that.

The Landlord has also provided information that 5 of recently vacated similar 1 bedroom rental units at Fraser Plaza Apartments have been rented at the \$750.00 per month rate. I order that the Landlord be permitted to raise the rent on units

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at 7440 Fraser Street, Vancouver, BC, to \$750.00 per month. The Landlord must serve these Tenants with a 3-month notice of rent increase in the proper form and the effective date of the increase must not be less than one year from the effective date of the last rent increase.

### Conclusion

The Landlord's application has been granted.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: December 17, 2010.

  
K. LAM  
Dispute Resolution Officer

Pages 17 through 129 redacted for the following reasons:

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September 02, 2010

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s.22  
s.22 7440 FRASER ST  
VANCOUVER, BC  
V5X 3W4

**APPLICANT:**

FRASER PLAZA APARTMENTS LTD

**NOTICE OF A DISPUTE RESOLUTION HEARING**

Concerning premises at: 7440 FRASER ST, VANCOUVER BC

File No. 761083

A date has been set for a hearing to resolve the dispute described in the attached Application form. This hearing will be conducted by **TELEPHONE CONFERENCE CALL**. Please use one of the following phone numbers and passcode below to join the Telephone Conference Call.

**DATE AND TIME OF HEARING:** Thursday, December 2, 2010 at 09:30 AM  
(Pacific Time)

**Phone Number**

- **Vancouver area:** (604) 899-1159
- **All other locations:** 1 (888) 458-1598 (toll free call)

**Passcode:** s.17

**INSTRUCTIONS:**

1. Call EITHER the Vancouver area phone number (604) 899-1159 OR, for all other areas, the toll free number 1(888) 458-1598, a MAXIMUM of 5 minutes BEFORE the scheduled start time.
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**NOTE:** The Dispute Resolution Officer at his/her discretion may call witnesses who are identified by either party.

The Residential Tenancy Branch Rules of Procedure apply to these proceedings. You can get a copy of the Rules by contacting the Residential Tenancy Branch, a Government Agent office, or BC Access Centre. You can find the Rules online at <http://www.rto.gov.bc.ca/>

Before the hearing date, both the Applicant and Respondent must give each other, and the Residential Tenancy Branch, a copy of all their evidence. The deadlines for evidence are in the attached hearing package.

Attachments: Originating Application  
Hearing Information Sheets

  
for DIRECTOR  
Residential Tenancy Branch

**Ministry of Housing and Social Development**  
Residential Tenancy Branch

Mailing Address:  
400-5021 Kingsway  
Burnaby BC V5H 4A5

Telephone: 604 660-3400  
Toll Free: 1 800 665-8779  
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2. When asked, key in your passcode (shown above).
3. When asked, say your FULL NAME, then press #.
4. You have now joined the conference call, and will hear music while you wait for the dispute resolution officer to join the conference call.

You or your agent, and witness, should be available at the date and time shown. A FINAL AND BINDING ORDER OR DECISION TO RESOLVE THIS MATTER MAY BE MADE EVEN IF YOU CHOOSE NOT TO PARTICIPATE IN THE HEARING.

NOTE: The Dispute Resolution Officer at his/her discretion may call witnesses who are identified by either party.

The Residential Tenancy Branch Rules of Procedure apply to these proceedings. You can get a copy of the Rules by contacting the Residential Tenancy Branch, a Government Agent office, or BC Access Centre. You can find the Rules online at <http://www.rto.gov.bc.ca/>

Before the hearing date, both the Applicant and Respondent must give each other, and the Residential Tenancy Branch, a copy of all their evidence. The deadlines for evidence are in the attached hearing package.

Attachments: Originating Application  
Hearing Information Sheets

  
for DIRECTOR  
Residential Tenancy Branch

Ministry of Housing and Social Development  
Residential Tenancy Branch

Mailing Address:  
400-5021 Kingsway  
Burnaby BC V5H 4A5

Telephone: 604 660-3400  
Toll Free: 1 800 665-8779  
Facsimile: 604 660-2363

September 02, 2010

RESPONDENT:

APPLICANT:

s.22 s.22  
1770 FRASER ST  
VANCOUVER, BC  
V5X 3W4

FRASER PLAZA APARTMENTS LTD

**NOTICE OF A DISPUTE RESOLUTION HEARING**

Concerning premises at: 7440 FRASER ST, VANCOUVER BC

File No. 761083

A date has been set for a hearing to resolve the dispute described in the attached Application form. This hearing will be conducted by **TELEPHONE CONFERENCE CALL**. Please use one of the following phone numbers and passcode below to join the Telephone Conference Call.

DATE AND TIME OF HEARING: Thursday, December 2, 2010 at 09:30 AM  
(Pacific Time)

**Phone Number**

- Vancouver area: (604) 899-1159
- All other locations: 1 (888) 458-1598 (toll free call)

**Passcode:**

s.17

**INSTRUCTIONS:**

1. Call EITHER the Vancouver area phone number (604) 899-1159 OR, for all other areas, the toll free number 1(888) 458-1598, a MAXIMUM of 5 minutes BEFORE the scheduled start time.
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V5X 3W4

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Pages 142 through 149 redacted for the following reasons:

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Out of Scope - section 3 of FOIPPA