

MAY 16 2012

Application for Additional Rent Increase

RECEIVED 23

#RTB-16

This form is used by a landlord for a dispute resolution officer's approval for a rent increase in an amount that is greater than the amount specified in the Residential Tenancy Act (RTA) and the Manufactured Home Park Tenancy Act (MHPTA) and associated regulations. The information is collected under the RTA and MHPTA. Information collected in this form may be disclosed to the public in accordance with the Freedom of Information and Protection of Privacy Act. For further information on the collection, use and disclosure of this information, please phone 1 800 665-8779.

File #:

791524

HOW TO COMPLETE THIS FORM ELECTRONICALLY: If you are accessing this form from the B.C. Government Web site, it can be printed and completed by hand (*print clearly, using dark ink*) or filled out while at the computer workstation—simply type your responses in the boxes. If you cannot complete all the sections at the computer right away, you can print off what you have completed and fill in the remaining fields by hand. Note, you **cannot** save the completed form to your computer, therefore, after you complete the form, make sure you review the form for accuracy and print the number of copies you require **before** you leave the document or shut down the program/computer.

A. APPLICANT'S / LANDLORD'S NAME (if entry is a business name, enter the full legal business name in the 'last name' field box)

K. TANG ENTERPRISES

last name

first and middle name(s)

APPLICANT'S / LANDLORD'S ADDRESS FOR SERVICE

S22

S22

VANCOUVER

BC

S22

unit/site#

street address

city

province

postal code

S22

S22

day time phone number

other phone number

service fax

B. RENTAL ADDRESS: ☒ Residential ☐ Manufactured Home Park

S22 1440 WEST 71 AVENUE

VANCOUVER

BC

V6P 3C7

street address

city

province

postal code

LANDLORD TO COMPLETE THIS PAGE, PLUS ADDITIONAL BOXES NOTED FOR APPLICABLE REASON(S) BELOW:

Please check off one or more of the following reasons that apply to your request for an additional rent increase:

- ☒ A) After the rent increase permitted by the Regulation, the rent for the rental unit or site is significantly lower than the rent payable for other rental units or sites similar to and in the same geographic area, as the rental unit or site (complete boxes D, E and K).
- ☐ B) The landlord has completed significant repairs or renovations to the residential property in which the rental unit is located that:
 - could not have been foreseen under reasonable circumstances, and
 - will not recur within a time period that is reasonable for the repair or renovation (complete boxes C, D, F and K) OR
 The landlord has completed significant repairs/renovations to the manufactured home park in which the manufactured home site is located that:
 - are reasonable and necessary, and
 - will not recur within a time period that is reasonable for the repair or renovation (complete boxes C, D, F and K).
- ☐ C) The landlord has incurred a financial loss from an extraordinary increase in the operating expenses of the residential property or the manufactured home park (complete boxes C, D, G, H and K).
- ☐ D) The landlord, acting reasonably, has incurred a financial loss for the financing costs of purchasing the residential property or manufactured home park, if the financing costs could not have been foreseen under reasonable circumstances (complete boxes C, D, G, I and K).
- ☐ E) The landlord, as a tenant, has received an additional rent increase for the same rental unit or manufactured home site (complete boxes D, J and K).

C. PERCENTAGE RENT INCREASE REQUESTED

Permitted increase

%

+ additional increase

%

= total increase

%

D. SIGNATURE (required to commence dispute resolution proceeding)

I, the Applicant/Agent for the Applicant apply to the Director of the Residential Tenancy Branch for approval of this additional increase. The fee for this application, as established under the Residential Tenancy Act and the Manufactured Home Park Tenancy Act, may be paid by cash, debit card, credit card or money order. Applications submitted to a Service BC-Government Agent or BC Access Centre may be paid by debit card, cash or certified cheque.

NAME

S22

last name

S22

first and middle name(s)

SIGNATURE:

S22

DATE:

MAY 10, 2012

File #:

791524

NOTICE [Responsibility of Applicant to Notify the Tenant(s)]

The Applicant must deliver a copy of this Application for Additional Rent Increase to each tenant named on the application within 3 days of the processing of this application by the Residential Tenancy Branch.

Where there are multiple tenancies affected by this application, tenants may choose to be represented by one or more of the tenants named on this application.

A landlord who applies for an increase because of significant renovations or repairs, or because an increase is required to compensate for a financial loss resulting from an extraordinary increase in operating costs, or because the landlord, acting reasonably, has incurred financial loss for the financing costs of purchasing the residential property or manufactured home park, must make a single application to increase the rent for all units in the residential property or sites in the manufactured home park by an equal percentage.

Information about the allowable annual rent increase is available by contacting any Residential Tenancy Branch.

FOR MORE INFORMATION . . .RTB website: www.rto.gov.bc.ca

Public Information Lines: 1-800-665-8779 (toll free) 604-660-1020 250-387-1602

E. RENT LOWER THAN COMPARABLE UNITS OR SITES

	Rent Before Increase	# of units/sites	Rent Increase Permitted	Comparable Rent	Additional Increase Requested	% Increase Requested
Rent 1	\$704.00	1	\$30.27	\$1,000.00	\$265.73	36.19
Rent 2						
Rent 3						

If rent for an individual unit or site is lower than other comparable units or sites in the building or park, attach details (e.g. standard rent for single wide or 1 bedroom units is "X"). If rents for all units or sites are lower than similar units or sites in buildings or parks within the geographic region, attach information on which comparison is based, including rent, size of unit or site, amenities, and services provided in each, with supporting documents as to how those comparisons were established.

F. SIGNIFICANT REPAIRS OR RENOVATIONS

Work Done	Cost	Year last done	Est. Year Next Req'd	For Rental Units under the RTA, Why Unanticipated; For Manufactured Home Sites under the MHPTA, Why Reasonable and Necessary

For rental units under the RTA: Attach invoices, explanation of why the work was required, and supporting information about why the work was unanticipated. If funds were set aside for this purpose, but were not adequate, please explain.

For manufactured home park sites under the MHPTA: Attach invoices, explanation of why the work was required, and supporting information about why the work was reasonable and necessary.

File #:

791524

G. FINANCIAL STATEMENT INFORMATION

Date of last fiscal year end

Total rent for period if all sites rented

\$

day

month

year

Other income

\$

Total operating costs for last fiscal year

\$

Total financing costs for last fiscal year

\$

Other costs for last fiscal year

\$

What types of costs were included as "other"?

The rent is payable: ☐ Monthly ☐ Weekly ☐ 2x/month ☐ Other

Attach financial statements for last fiscal year. If financial statements are not audited provide, before or at the hearing, sufficient evidence (e.g. supporting documentation) to verify accuracy.

H. EXTRAORDINARY INCREASE IN OPERATING COSTS

Type of cost (e.g., 'gas')	Cost last fiscal year	Cost previous fiscal year	Total Increase

Did you receive any refunds, rebates, grants or financial assistance for the increased operating costs referred to above? ☐ yes ☐ no
 If yes, please provide the source of assistance, the cost it applies to, the period to which it applies, and the total amount received.
 Attach supporting evidence of additional costs incurred, additional information requested, and any relevant explanation of cost increases.

I. INCREASE IN FINANCING COSTS:

Date of purchase of property

day

month

year

Interest rate at purchase

%

Purchase price

\$

Down payment \$

Date of latest change in interest rates

day

month

year

Interest rate

%

Impact on operating costs:

Total in last fiscal year \$

Total in previous fiscal year \$

Date of previous change in interest rates

day

month

year

Interest rate

%

J. LANDLORD, AS A TENANT, HAS BEEN ISSUED AN ADDITIONAL INCREASE UNDER THE REGULATION:

Rent before increase \$

Rent after increase \$

Date of Increase

Application for Additional Rent Increase FILE #

day

month

year

- If there are not enough entry lines on this page to list all units or sites, make a copy before filling in your information so you may continue with the entries on the copy.
- Make sure you attach any additional pages to this completed application form, providing the total number of pages required for Section K in the box at the bottom of this page.
- If a tenant's phone number is unlisted, you should obtain the tenant's permission before entering it on this form.
- If the street address of the tenant differs from that provided in Box B on page 1, enter the different street address on the line immediately following the entry for the applicable tenant.

File #: 791538

791524

[illegible]

SECTION K: page _____ of _____



BRITISH COLUMBIA
The Best Place on Earth

Office of Housing and Construction Standards
Residential Tenancy Branch

NOTES TO FILE

Discussed with Client:

Time Limit to Apply ☒
Legal Names ☒
Service: Personal ☒
Registered ☒
Door (LL's OP/ET only) ☒

File # 791524

Fee Waived: Yes ☐ No ☒

Hearing Process ☒
Name/Address Legible ☒
Schedule of Parties ☒
Stamped by IO ☒
Evidence (5 day rule) ☒

Cautioned client that evidence is being accepted as a copy: [Signature] (IO signature)

DATE:	COMMENTS / CAUTIONS:
RESIDENTIAL TENANCY BRANCH BURNABY, B.C. MAY 16 2012 RECEIVED 23	App for Additional Rent increase
	Will serve Nott in 3 days
	DIRECT REQUEST APPLICATION: YES <input type="checkbox"/> NO (circle one)
	EVIDENCE SUBMITTED WITH ORIGINAL APPLICATION:
	# PAGES <u>12</u> # PHOTOS _____
	OTHER _____ APPLICANT'S INITIAL _____

S22



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

File No: 791524

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

Between

K.TANG ENTERPRISES, Landlord(s),

Applicant(s)

And

S22

Tenant(s),

Respondent(s)

Regarding a rental unit at: S22 1440 West 71 Avenue, Vancouver, BC

Date of Hearing: June 15, 2012, by conference call.

Date of Decision: June 21, 2012

Attending:

For the Landlord:

S22

Legal Counsel

For the Tenant:

S22



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ARI

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain an additional rent increase.

The parties appeared at the teleconference hearing, acknowledged receipt of evidence submitted by the other and gave affirmed testimony. During the hearing each party was given the opportunity to provide their evidence orally, respond to each other's testimony, and to provide closing remarks. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

1. Is the Landlord entitled to an Order to allow an additional rent increase above the legislated annual amount?

Background and Evidence

The parties agreed that the Tenant began occupying unit # S22 in this building back in 1992 and on July 31, 2003 S22 moved into unit S22 in this building. Rent is currently payable on the first of each month in the amount of \$704.00 and in 1992 the Tenant paid \$100.00 as the security deposit.

The Landlord affirmed the rental unit is located in a ten unit building with nine 1 bedroom units and one 2 bedroom unit. The building is 51 years old and has been owned by the Landlord since 2008. They submit that the unit is 807 sq ft including the balcony and 784 sq ft without the balcony as supported by their evidence which included a footprint of the building they obtained from their municipality.

The Landlord asserted that the market rent for a two bedroom unit in this neighbourhood is \$1,000.00 as supported by the affidavit provided in their evidence. The affidavit was prepared by his legal counsel's articling student and includes the

student's summary of internet, telephone and e-mail inquiries. Attached to the affidavit is information pertaining to current rents composed by a Realtor of a building in the neighbour that is currently for sale, a listing of current rents charged in a neighbouring building which the Landlord owns, and a listing of current rents charged for the 10 units in the Tenant's building.

The Landlord submitted that the examples noted in the affidavit were of similar age and condition. He stated that he also owns another apartment building that is adjoined to the property that the Tenant's building is located and all of the two bedroom units in this building rent for more than \$1,000.00.

The Landlord argued that the Tenant's rent would only be \$734.13 after the allowable \$4.3 % increase for 2012 which he believes to be significantly lower than the market value of \$1,000.00. He noted how the *Residential Tenancy Policy Guideline* defines significantly lower rent and argued that even though

S22 it is clear the market value for a 2 bedroom unit is at least \$1,000.00.

The Tenant submitted that as soon as the Landlord purchased the building he attempted to have S22 sign a new tenancy agreement for higher rent. S22 has continued to refuse his requests. They attended dispute resolution back on March 23, 2010 at which time the Landlord's application for an additional rent increase was dismissed.

The Tenant disputes this request for an additional rent increase and stated that S22 has had a rent increase every year except for 2010 and 2011. When S22 moved from the one bedroom unit to S22 rent was increased from \$493.00 to \$630.00. S22 has occupied this unit since 2003 and there have never been any upgrades or maintenance. S22 has endured three floods during this time and the Landlords have never repaired or replaced anything in S22 unit. S22 stated that S22 carpet has been stained from the beginning, there have never been any upgrades to S22 unit, and there are silver fish in the hallway of S22 building,

The Tenant disputed the Landlord's submission as to the square footage of S22 unit and submitted that when S22 measured S22 unit it was approximately 750 sq ft. S22 advised that there has never been anyone in S22 suite taking measurements, there has been no attempt or request for someone to enter her suite to take measurements, nor has anyone ever requested to inspect S22 unit to determine what maintenance or repairs are required. S22 argued that all ten units in this building are of similar size and that S22 unit has a smaller kitchen/dining room area and one additional wall to create the second bedroom.

The Tenant submitted that S22 had called a couple of buildings in S22 area that had signs posted stating they had units for rent. One unit was charging \$1,250.00 for a unit that was 750 square feet which had just been fully renovated and the other was charging \$1,150.00 for a 900 square foot unit that had also been completely renovated.

The Tenant argued that the examples provided by the Landlord could not be considered similar as the Landlord has no idea of the condition of S22 unit as he has never been inside S22 unit. S22 also argued that the Landlord's examples all appear to be recently renovated units and therefore would demand a higher rent. S22 notes that S22 unit has never had any upgrades and that S22 rented her unit, as is, therefore S22 rent should not be increased.

In closing the Landlord stated his evidence of the measurements of the Tenant's unit were hand written on the floor plan by a consultant and were based on information obtained from the municipal office. He confirmed he has never seen the inside of the Tenant's unit. The Landlord argued he has completed upgrades to this building such as changing the roof and electrical systems however no work has been performed in the Tenant's unit because S22 has never requested work to be completed.

Analysis

The Landlord has made application for an additional rent increase pursuant to Section 43(3) of the Act and section 23(1) of the regulation. Section 23 (1) (a) of the regulation provides that a landlord may apply under section 43 (3) of the Act *[additional rent increase]* if after the rent increase allowed under section 22 *[annual rent increase]*, the rent for the rental unit is significantly lower than the rent payable for other rental units that are similar to, and in the same geographic area as, the rental unit.

The burden of proof of the market value rent lies with the Landlord who has to meet the high statutory requirement of proving that rent being charge for similar units in the same geographic area are significantly higher than the Tenant's rent. Section 37 of the *Residential Tenancy Policy Guideline # 37* stipulates that:

- An application must be based on the projected rent after the allowable rent increase is added; and
- Additional rent increases under this section will be granted only in **exceptional circumstances**; and

- "Similar units" means rental units of comparable size, age (of unit and building), construction, interior and exterior ambiance (including view), and sense of community; and
- The "same geographic area" means the area located within a reasonable kilometer radius of the subject rental unit with similar physical and intrinsic characteristics. The radius size and extent in any direction will be dependent on particular attributes of the subject unit, such as proximity to a prominent landscape feature (e.g., park, shopping mall, water body) or other representative point within an area.

In this case the current monthly rent is \$704.00 and after the 2012 rent increase of 4.3% allowed under the Regulation is applied the monthly rent would be **\$734.27**.

When determining the existence of exceptional circumstances it is not sufficient for a landlord to base their claim that the rental unit(s) has a significantly lower rent that results simply from the landlord's recent success at renting out similar units at a higher rate. To determine the exceptional circumstances I must consider the relevant circumstances of the tenancy, the duration of the tenancy, and the frequency and amount of rent increases given during the tenancy. It is not exceptional circumstances if a landlord fails to implement an allowable rent increase.

In this case the Tenant has been issued a rent increase each year from 2003 to 2009; however the current owner did not issue a rent increase for 2010 or 2011. As rent has been increased each year up until 2009, and no increases for 2010 and 2011 simply because the Landlord made no effort to increase the rent, I find no basis to indicate rent has been kept artificially low; nor is there evidence to prove that the circumstances in this case are exceptional.

For examples of similar units the Landlord relies on an affidavit, a statement from a real estate agent on his opinion of market rent, and on what the Landlord currently charges in another building. The Tenant disputes the Landlord's evidence arguing that the Landlord has not proven the size of s22 unit, or the condition of the inside of s22 unit because he has not been inside s22 unit

Notwithstanding the Landlord's submission of a copy of the footprint of the building that was constructed 51 years ago, I accept the Tenant's argument that the Landlord cannot provide examples of units that could be considered similar to s22 unit as there is no evidence as to the type of construction of the Landlord's examples, nor can he prove that the interior and exterior ambiance (including view), and sense of community are

similar because he has not been inside S22 unit and there are no photographs of the examples he provided.

Based on the aforementioned, I find there to be insufficient evidence to meet the high standard of proof required to prove the presence of exceptional circumstance or the market value rent of similar units that are located in the same geographic area. Accordingly, I find the Landlord's application must fail.

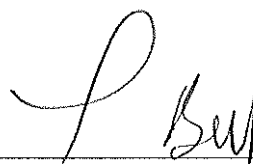
Conclusion

The Landlord has not met the burden of proof required for an additional rent increase. Therefore I DISMISS the Landlord's application, without leave to reapply.

The Landlord is at liberty to issue the required 3 month notice, on the prescribed form, if he wishes to increase the Tenant's rent in accordance with the legislated amount for 2012 at 4.3 %.

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: June 21, 2012.

A handwritten signature in black ink, appearing to read 'L. Bell', is written over a horizontal line.

L. Bell, Dispute Resolution Officer
Residential Tenancy Branch



Residential Tenancy Branch

RTB-136

Now that you have your decision...

All decisions are binding and both landlord and tenant are required to comply.

The RTB website (www.rto.gov.bc.ca) has information about:

- How and when to enforce an order of possession:
Fact Sheet RTB-103: *Landlord: Enforcing an Order of Possession*
- How and when to enforce a monetary order:
Fact Sheet RTB-108: *Enforcing a Monetary Order*
- How and when to have a decision or order corrected:
Fact Sheet RTB-111: *Correction of a Decision or Order*
- How and when to have a decision or order clarified:
Fact Sheet RTB-141: *Clarification of a Decision or Order*
- How and when to apply for the review of a decision:
Fact Sheet RTB-100: *Review Consideration of a Decision or Order*
(Please Note: Legislated deadlines apply)

To personally speak with Residential Tenancy Branch (RTB) staff or listen to our 24 Hour Recorded Information Line, please call:

- Toll-free: 1-800-665-8779
- Lower Mainland: 604-660-1020
- Victoria: 250-387-1602

Contact any Service BC Centre or visit the RTB office nearest you. For current information on locations and office hours, visit the RTB web site at www.rto.gov.bc.ca

Residential Tenancy Branch

#RTB-136 (2011/07)



Office of Housing and Construction Standards
Residential Tenancy Branch

Evidence

(or other information for delivery to Dispute Resolution Officer prior to a hearing)

File # 791524

ON TIME ☐
LATE ☒

DRO: BEL LOCATION: VIC

HEARING DATE: June 15 / 2012 TIME: 9:00 AM

RECEIVED BY:	MAIL - <input checked="" type="checkbox"/>	HAND - <input type="checkbox"/>	FAX - <input type="checkbox"/>	COURIER - <input type="checkbox"/>
	OTHER (GA) - <input type="checkbox"/> _____			
SOURCE:	LANDLORD - <input type="checkbox"/>	TENANT - <input checked="" type="checkbox"/>	NOT PROVIDED - <input type="checkbox"/>	
<div style="border: 1px solid black; padding: 5px; width: fit-content;"><p>RESIDENTIAL TENANCY BRANCH - BURNABY, B.C.</p><p>JUN 11 2012</p><p>RECEIVED 23</p></div> <div style="border: 1px dashed black; padding: 5px; width: fit-content; margin-left: 20px;"><p>Note: Date Received is the same as Date Submitted If by Hand, Fax, Courier or Email</p></div>				

EVIDENCE PROCESS:

(Check off each box that applies)

Date stamp first page of evidence

Evidence scanned/uploaded to CMS

Audit notes entered

Evidence: ☐ Placed in file
☐ Placed in DRO basket/slot
☐ Faxed to DRO
☒ E-mailed to DRO
☒ Housemailed to DRO

Pictures/audio/visual: ☐ Placed in file
☐ Sent to DRO (housemail)

TOTAL NUMBER OF PAGES: 5

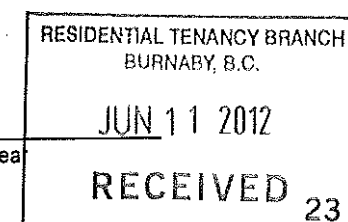
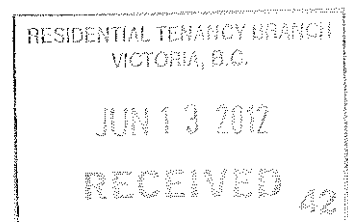
TOTAL NUMBER OF PHOTOS: _____

Processed and sent to DRO by: STAFF NAME: [Signature]

DATE: _____
Month/Day/Year

Placed on file by: STAFF NAME: _____

DATE: _____



Re: File No 791524

Vancouver BC

V6P 3B7

June 7/12

Residential Tenancy Branch

S22

400 - 5021 Kingsway

Burnaby BC V5H 4A5

RESIDENTIAL TENANCY BRANCH
BURNABY, B.C.

JUN 11 2012

RECEIVED 23

Concerning a dispute resolution hearing:

Please find a copy of a letter from myself to

K. TANG ENTERPRISES lawyer

S22

dated

March 13/12.

Every time I've spoken to the landlord or lawyer I agreed to the Residential Tenancy Act, and proposed to pay \$750- from \$704-. They always wanted more.

I've previously had a large increase when I moved from the one bedroom in 2003 (493⁰⁰ → 630⁰⁰) 28% increase.

S22

I was told for only one person living in the suite. This suite has never had any upgrades, has a large stain on the dining room carpet from one of the 4 floods in this suite. It is lumpy under the

S22

floor boards / carpet. I had agreed to the rent as is.

Sincerely

S22

S22 1440 West 71st Ave
Vancouver BC
V6P 3B7
March 12/12

S22

S22

Your File No 2010529EA

Dear

S22

As per our telephone conversation today 3/12/12, I disagree with a rent increase to \$850⁰⁰ per month starting May 1, 2012.

S22 HAS harassed me with several phone calls about increasing the rent. EACH time I've said I would agree to the Residential Tenancy Act, and I propose to pay \$750⁰⁰ from the 704⁰⁰.

I have been a very good tenant in this building for more years. I have had a rent increase every year except last year. The year before that... S22 tried to raise it 28% (Re: Tues. March 23, 2010 - File 746682) at/with Ministry of Housing and Social Development.

The laundry was free prior to the new owners of the building. I've paid \$16⁰⁰ - \$20⁰⁰ extra per month for use of the laundry machines in this building... for more than two years now.

I am aware of the Residential Tenancy Act stating that the landlord must ensure that the tenant's right to quiet enjoyment and peaceful occupation of the premises are respected.

Sincerely

S22

To Ministry of Housing + Social Development

400-5021 Kingsway
Burnaby BC V5H 4A5

March 4/10 From

Tenant:

S22

S22 1440 W 71st Ave
Vancouver BC
V6P 3B7

Re: File 746682

Concerning premise at 1440 W 71st Ave
Vancouver BC

My Conference call is for Tues. March 23/10
@ 9:00am

Dear Rental Board

I have read the notice from my landlord
K-Tang Ent (S22)

I have lived in this building

S22

I was in Suite S22 then in 2003 I moved
to S22 My rent was 493⁰⁰ increased

to 630⁰⁰. I have had increases every year.

The Agreement stated one person only to rent

Jan 11/09 - 704-

Cont

My Copy

Cont (Letter of March 4/10)

that to the previous landlord and
the fault has not been remedied.

Sincerely

S22

Office of Housing and Construction Standards
Residential Tenancy Branch

Evidence

(or other information for delivery to Dispute Resolution Officer prior to a hearing)

ON TIME ☒
LATE ☐

File # 791524

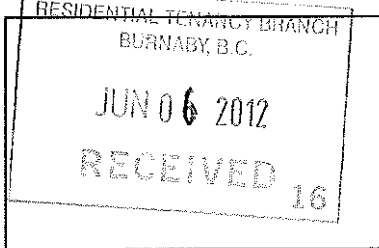
DRO: BEL LOCATION: VIC

HEARING DATE: June 15 TIME: 9:00

RECEIVED BY: MAIL - ☐ HAND - ☒ FAX - ☐ COURIER - ☐

OTHER (GA) - ☐ _____

SOURCE: LANDLORD - ☒ TENANT - ☐ NOT PROVIDED - ☐



Note: Date Received is the same as Date Submitted if by Hand, Fax, Courier or Email

EVIDENCE PROCESS:

(Check off each box that applies)

Date stamp first page of evidence

Evidence scanned/uploaded to CMS

Audit notes entered

Evidence: Placed in file
Placed in DRO basket/slot
Faxed to DRO
E-mailed to DRO
Housemailed to DRO

Pictures/audio/visual: Placed in file
Sent to DRO (housemail)

☒ Cautioned client rec'd as a copy _____
(IO signature)

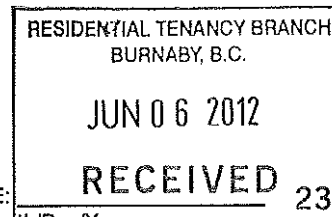
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TOTAL NUMBER OF PAGES: 7

TOTAL NUMBER OF PHOTOS: _____

Processed and sent to DRO by: STAFF NAME: [Signature]

DATE: JUN 06 2012
Month/Day/Year

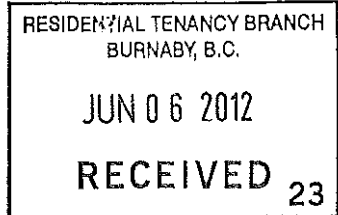


Placed on file by: STAFF NAME: _____ DATE: _____

June 4, 2012

Our File No: 2010529EA

Residential Tenancy Branch
400 - 5021 Kingsway
Burnaby, BC V5H 4A5



Dear Sir or Madam:

Re: S22 1440 West 71 Ave, Vancouver BC (the "Premises")
Your file No. 791524
Hearing Date: June 15, 2012 at 9:00 am

We have been retained to represent K Tang Enterprises (the "Landlords") with respect to its application for a substantial rent increase for the Premises.

BACKGROUND:

The Premises S22
which is a ten unit residential building consisting of 9 one bedroom apartments and 1 two bedroom apartment.

The Premises is S22 of the
building and it measures 807 sq. ft with a balcony and 784 sq. ft without a balcony.

On or around July 31, 2003, S22 (the "Tenant") signed a Residential Tenancy Agreement to rent the Premises on a month-to-month basis starting August 1, 2003. The rent was stipulated at \$630.00 per month. The last rent increase was effective January 1, 2009 by which the rent was fixed at \$704.00 per month.

In or around September 2009, the Landlords became a new owner of the Building.

Since September 2009 to the present time, the Landlords has been in the process of negotiating new lease with the Tenant.

The current market rent of a similar apartment is at least \$1,000.00.

LAW:

S. 43(1) The *Residential Tenancy Act* [SBC 2002] Chapter 78 (the "*Residential Tenancy Act*") permits a landlord to impose a rent increase up to the amount

- (a) calculated in accordance with the regulations, or
- (b) ordered by a dispute resolution officer on application.

If a landlord would like to increase rent in an amount that is greater than the basis Annual Rent Increase, he may make an application to a dispute resolution officer for approval of such increase.

In accordance with the *Residential Tenancy Regulation* B.C. Reg. 477/2003 (the "*Residential Tenancy Regulations*"), the grounds for such an application is one of the following:

- (a) if after the allowable Annual Rent Increase, the rent for the rental unit is significantly lower than the rent payable for other rental units that are similar to, and in the same geographic area as, the rental unit;

SIGNIFICANTLY LOWER RENT:

S. 37 of the *Residential Tenancy Branch Policy Guidelines* define the term "significantly lower" as when (i) the rent for the rental unit is considerably below the current rent payable for similar units in the same geographic area, or (ii) the difference

between the rent for the rental unit and the current rent payable for similar units in the same geographic area is large when compared to the rent for the rental unit.

Under the *Residential Tenancy Regulations*, the landlord is entitled to a rent increase of 4.3% for the year of 2012. As a result, under section 22 of the *Residential Tenancy Regulations*, the landlord is entitled to increase the rent for the Premises by \$29.13 to \$734.13.

Consequently, there is a difference of 26.6% between the market rent and the current rent after the permitted increase.

The *Residential Tenancy Branch Policy Guidelines* use a 25% difference as an example of significant difference between the market rent and payable rent.

In the decision 1504 that was made on November 2011, the residential tenancy officer allowed an application of the landlord for an additional rent increase of 18.6%. A copy of the decision is enclosed for your review.

CONCLUSION:

The current rent is *SIGNIFICANTLY LOWER* than the rent payable for comparable sites. As a result, the Landlord's application should be allowed.

If you have any questions, please feel free to contact the writer.

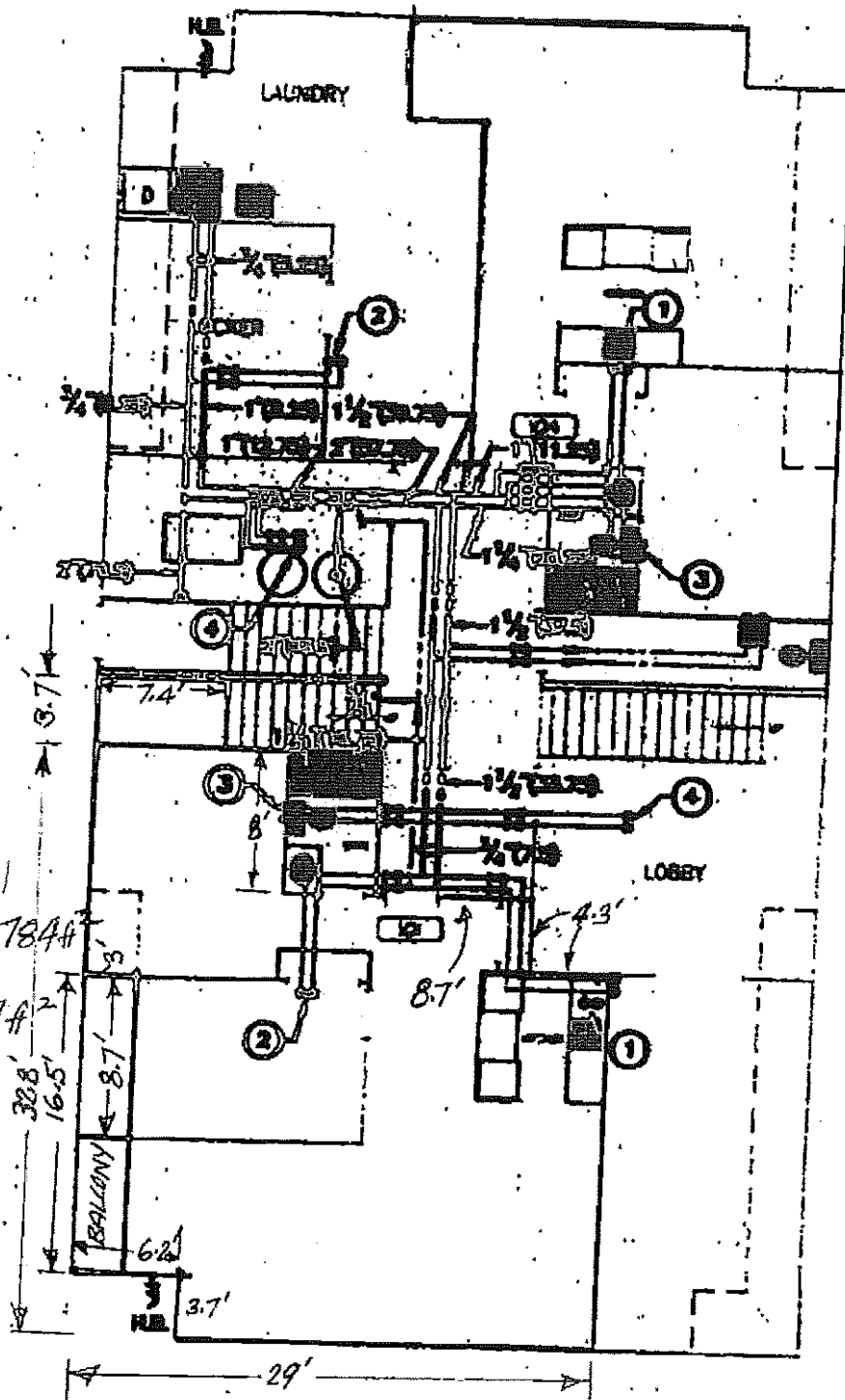
Yours truly,

S22

Enc.

DD COPY
BU429458

1440 W. 71 AVE



AREA NOT INCL. BALCONY: 784.4'

AREA INCL. BALCONY: 807.4'

5



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ARI

Introduction

This hearing dealt with an application by the landlord for an order approving a rent increase greater than the amount calculated by section 22 of Residential Tenancy Regulation. Both parties attended the hearing and had an opportunity to be heard.

This matter was adjourned from September 6, 2011 to today's date to allow the tenant to submit evidence in response to the landlord's application. The parties had both agreed to the adjournment because the tenant had not had enough time to prepare and submit s22 evidence. Ultimately, the tenant did not submit any evidence.

Issue(s) to be Decided

Is the landlord entitled to the requested order?

Background & Evidence

This tenancy began more than s22 years ago. The rent is \$600.00 per month. The rent has been increased to this amount over the past seven years in \$25.00 increments. The residential property is located in a rural area on the outskirts of Ladysmith and is comprised of s22 units. Tenants occupy all four units. The tenancy agreements for the other three units were all entered into in the past two years and the rents for them are \$800.00, \$850.00 and \$850.00. Copies of these tenancy agreements were submitted by the landlord. The landlord also submitted documentary evidence which shows that the roofs on both duplexes have been replaced and that the septic field for the property has been repaired. The total cost of the repairs was approximately \$46,000.00.

The tenant did not submit any evidence.

Analysis

7

Page: 3

The landlord responded that there are really no other rental units in the same geographic area because it is a rural area with larger homes. Further, I note that the Act does not require that the landlord provide any 'arm's length' examples of other rental units but rather only that the other rental units be "*similar to, and in the same geographic area as, the rental unit.*" Clearly, the other three rental units in the residential property are similar to and in the same geographic area as the rental unit.

In sum, the landlord has, in my view, complied with the regulations and provided evidence which shows that the after the rent increase allowed under section 22 [*annual rent increase*], the rent for the rental unit is significantly lower than the rent payable for other rental units that are similar to, and in the same geographic area as, the rental unit. Accordingly, I find that the landlord is entitled to a total rent increase in the amount of \$125.00.

Conclusion

Pursuant to section 69 of the Residential Tenancy Act I hereby order that the rent for the rental unit may be increased to \$725.00. The landlord may give a notice of rent increase for this amount.

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*.

Sworn May 10, 2012
Action No.

IN THE RESIDENTIAL TENANCY BRANCH

BETWEEN:

K. TANG ENTERPRISES

APPLICANT

AND:

S22

RESPONDENT

AFFIDAVIT OF

S22

I, S22 an articling student at S22 make oath
and say as follows:

1. I am employed as an articling student by the law firm, S22
representing K Tang Enterprises with respect to 1440 West 71st Avenue,
Vancouver, British Columbia which is a ten unit residential building (the
"Building"), and as such have personal knowledge of the facts and matters
hereafter deposed to, except where such facts and matters are stated to be based
upon information and belief in which case I verily believe them to be true.
2. Between Thursday March 29 and Monday April 2, 2012, I made telephone
enquiries into the cost of two bedroom apartments in the Marpole area of
Vancouver based on ads I found on the classifieds website www.craigslist.org.
3. I found the following apartments available for rent in Marpole and obtained the
information presented in this affidavit either by speaking on the phone to the
landlord or communicating via email.

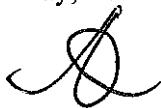
4. At 8635 Heather Street, there is a 1000 square foot two bedroom apartment available for \$1200 per month. The price includes heat and hot water. The building is more than 30 years old. The apartment has wood floors and has not been renovated recently.
5. At 8047 Heath Street, there is a 1000 square foot two bedroom basement suite available for \$1150 per month. The price includes heat and hot water. The floors are tiled with carpet in the bedrooms. The house was built in 2003, and the apartment was painted less than two years ago. The owner did not give me the exact address of the building.
6. At 8775 Osler Street, there is a 1200 square foot two bedroom apartment available for \$1150 per month. The price includes heat and hot water. It has hardwood floors. The landlord did not know the exact age of the building but said it was of a similar age (more than 30 years old) to others in the area. The apartment was renovated within the last few years.
7. In addition to the Building which is the subject of these proceedings, K Tang Enterprises is also the owner of Gran Park Apartments at 1445 W 72nd Avenue ("Gran Park"), Vancouver, B.C. Attached hereto as Exhibit#A is a listing of the February 2012 rents for all of the one and two bedroom apartments in Gran Park.
8. Attached as Exhibit#B is an advertisement for the sale of a building at 8644 Cartier Street, Vancouver, B.C., which is in the same vicinity as the Building. On the second last page of Exhibit#B, there is a table with the rents and area for the two bedroom apartments at this address.
9. On May 8, 2012, I telephoned Bill Goold of Bill Goold Realty who listed the Building in 2009 and asked him what he thought an appropriate rent for a two-bedroom apartment in the Building should be based on the location and other relevant factors. He said that \$1000 is a reasonable rent for a two-bedroom

apartment in the Building. However, he also noted that if everything is new in the apartment, then a landlord would be able to get a higher rent.

10. Attached as Exhibit#C is a table showing the rents for the one and two-bedroom apartments in the Building. Due to resistance by the Respondent S22 the rent for S22 two-bedroom apartment is currently lower than the rent for many of the one-bedroom apartments.

I swear this affidavit in support of the Petitioner's application to the Residential Tenancy Branch for a substantial rent increase for the two bedroom apartment at S22 - 1440 West 71 Avenue, Vancouver BC.

SWORN BEFORE ME)
in the City of Vancouver,)
Province of British Columbia,)
this 10th day of May, 2012)



S22

A Commissioner for taking affidavits
In British Columbia

S22

This affidavit is filed by S22 of the law firm of S22
S22

S22

This is Exhibit "A" referred
 affidavit of _____
 sworn before me at Vancouver
 this 10 day of May, 2012

 A COMMISSIONER FOR TAKING
 AFFIDAVITS FOR BRITISH COLUMBIA

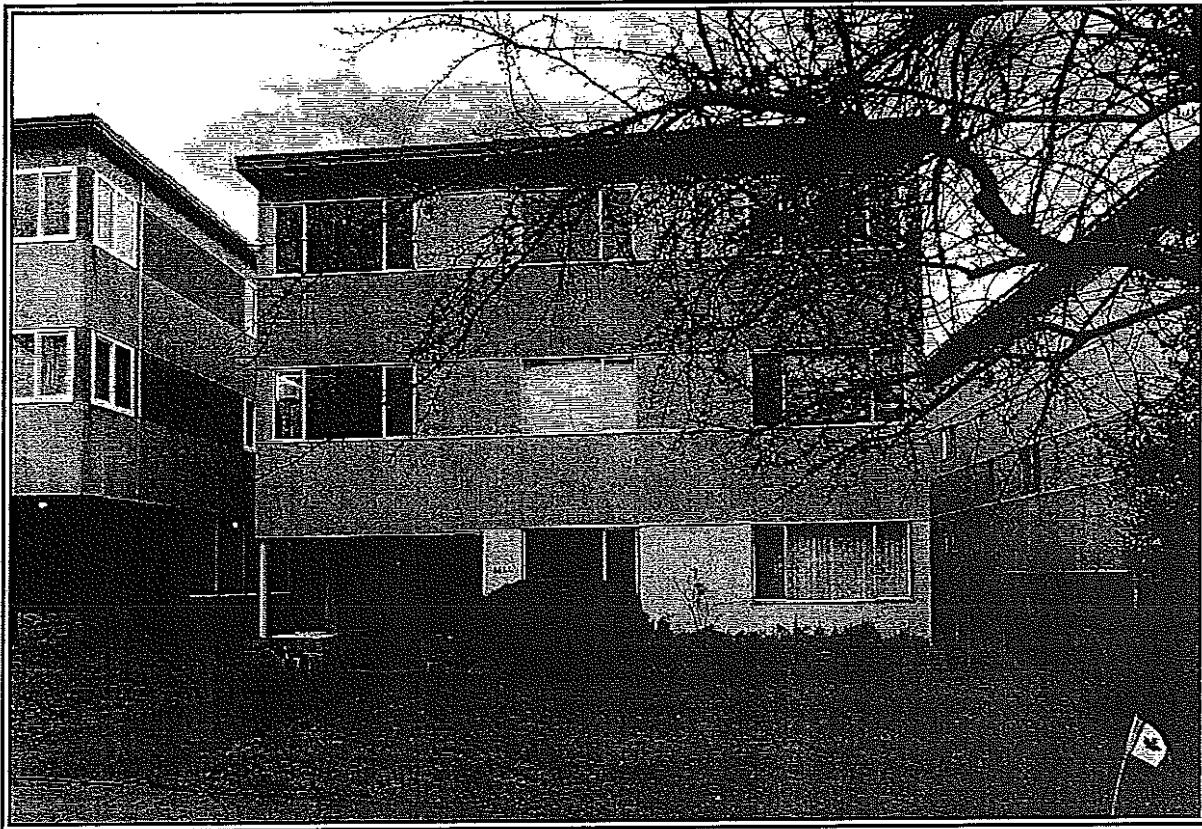
Gran Park Apts.

FEB.2012
 1445W.72nd.AVE.
 Vancouver, B.C.

STE #	BED	TENANT	RENT&PRK	CHQ	CSH	TOTAL/DEP.
1	1		\$775.88	\$775.88	\$	775.95
2	2					
3	1		\$ 800.00	\$ 800.00	\$	800.00
4	1		\$850.00		\$850.00	\$ 850.00
5	1		\$ 835.00	\$ 835.00	\$	835.00
6	2		\$ 1,135.00		\$ 1,135.00	\$ 1,135.00
7	B		\$ 880.00	\$ 880.00	\$	880.00
201	1		\$ 800.00	\$ 800.00	\$	800.00
202	2		\$ 1,135.00	\$ 1,135.00	\$	1,135.00
203	1		\$ 850.00	\$ 850.00	\$	850.00
204	1		\$ 875.00	\$ 865.00	\$ 10.00	\$ 875.00
205	1		\$ 875.00		\$ 875.00	\$ 875.00
206	1	S22	\$ 850.00	\$ 850.00	\$	850.00
207	1		\$ 850.00		\$ 850.00	\$ 850.00
208	2		\$ 1,088.00	\$ 1,088.00	\$	1,088.00
301	1		\$ 785.00	\$ 785.00	\$	785.00
302	2		\$ 1,088.00	\$ 1,088.87	\$ 18.13	\$ 1,088.00
303	1		\$ 850.00		\$ 850.00	\$ 850.00
304	1		\$ 795.00	\$ 795.00	\$	795.00
305	1		\$ 869.55	\$ 869.55	\$	869.55
306	1		\$ 825.00	\$ 825.00	\$	825.00
307	1		\$ 774.00	\$ 774.00	\$	774.00
308	2		\$ 1,135.00	\$ 1,135.00	\$	1,135.00
TOTAL RECEIPTS			\$ 19,480.50	\$14,892.37	\$4,588.13	\$ 19,480.50

11's Exhibit
affidavit of _____ S22
sworn before me at Vancouver
this 10 day of May, 20 12 (5)
A COMMISSIONER FOR TAKING
AFFIDAVITS FOR BRITISH COLUMBIA

West Side



8644 Cartier Street, Vancouver

\$2,100,000

11 Unit Apartment Building

Suite Mix

9 - 1 Bedroom

2 - 2 Bedroom

BILL GOOLD or PATRICK MCEVAY

604-263-2823

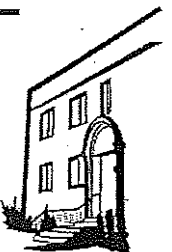
contact@billgooldrealty.com

RE/MAX BILL GOOLD REALTY
410 North Tower, 650 West 41st Avenue
Vancouver, BC V5Z 2M9

PHONE 604-263-2823
FAX 604-263-1057
BILLGOOLDREALTY.COM

Each office independently owned and operated. The information contained herein has been obtained from sources deemed reliable. While we have no reason to doubt its accuracy, we do not guarantee it. It is your responsibility to independently confirm its accuracy and completeness.

Selling Apartment Buildings as if they were our own!



6

BUILDING SUMMARY

8644 Cartier Street, Vancouver

"Cartier Manor" is a three storey walkup located on a nicely landscaped lot, on a quiet treed street in Vancouver's West Side. It is also blocks from shopping, transit and easy access to the airport. This wood frame, stucco exterior building has a torched on roof that was replaced in 1998, and single glazed windows. The building also has a workshop, as well as 5 open parking stalls and 10 storage lockers.

The heat is natural gas with central heat controls and a Tekmar control to save on fuel. There are two new Bradford White gas hot water tanks for the domestic hot water and a Slant Fin boiler that was replaced in 1998 for heating the building. The hot and cold copper piping has been replaced with new boiler in 2008. The electrical box is circuit breakers and the oil tank has been removed.

The entrance to the front has a refurbished wood door that leads to a very bright lobby with lots of windows, mailboxes, power smart lighting, newly painted hallways, wool carpeting, and a fire annunciator panel that was installed in 2008. The large laundry room is very bright and has a Huebsch washer and dryer which are leased. There are also heat detectors in all the common areas.

Floors in the units are all refinished oak hardwood, and all have hard wired smoke detectors and intercom systems. The kitchens have mahogany wood cabinets, ceramic tile counters and back splashes and lino floors. The fridges and stoves are all newer. Bathrooms have ceramic tile floors and countertops, refurbished wood cabinets, new sinks, newer low flow toilets, and newer ceramic tile in the tub surrounds. Some of the bathrooms have fans. The suites also have venetian blinds for window coverings, and large closets with lots of extra storage space.

Every suite is a corner unit with lots of windows. This is a very well maintained building in Marpole.

BILL GOOLD or PATRICK MCEVAY

604-263-2823

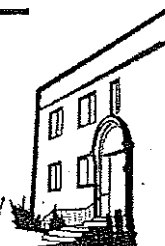
contact@billgooldrealty.com

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(7)

PROPERTY INFORMATION*8644 Cartier Street, Vancouver*

Legal Description	PID 014-344-181 Lot 10 Block 15 District Lot 318 Plan 1749
Suite Mix	9-1 Bedroom <u>2-2 Bedroom</u> 11 Units Total
Chattels	11 Fridges, 11 Stoves
Zoning	RM-3A (Multiple Dwelling)
Lot Size	50' x 140' (7000 s.f.)
Age	55 years (Constructed 1957)
Property Taxes 2011	\$ 6,663.33
Assessments 2012	\$1,218,000 Land <u>630,000 Improvements</u> \$1,848,000
Contracts	Phelps Laundry Bluestream Energy Northwest Waste
Financial Encumbrances	Treat as clear title

BILL GOOLD or PATRICK MCEVAY

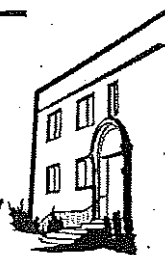
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FINANCIAL SUMMARY
8644 Cartier Street, Vancouver

Annual Revenue	Current	Projected
Rental Income (Rents x 12)	\$	
Laundry (Estimated)		S21
Less Vacancy Rate (1%)		
Total Annual Gross Revenue	\$	
Annual Expenses	2011	
Business License (2012)		
Gas (estimated)		
Electricity		
Insurance		
Property Tax (2011)		
Repairs & Maintenance (estimated)		
Waste Collection		
Water (2011)		S21
Total Annual Expenses	\$	
Total Annual Net Revenue	\$	
Capitalization Rate		
Expense Ratio		
Purchase Price / Per Unit	\$	

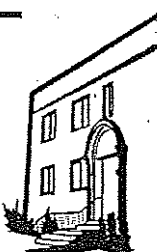
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9

RENT ROLL

As at July 2012 with increases

8644 Cartier Street, Vancouver

Unit Number	Unit Type	Square Footage (approx.)	Monthly Rent	Market Rent
1	1 Bedroom	600	808	808
2	1 Bedroom	600	750	808
*2-A	1 Bedroom	400	580	700
3	1 Bedroom	640	844	850
4	2 Bedroom	781	1,001	1,100
5	1 Bedroom	640	808	850
6	1 Bedroom	781	840	850
7	1 Bedroom	640	808	850
8	2 Bedroom	781	1,043	1,100
9	1 Bedroom	640	756	850
10	1 Bedroom	781	782	850
TOTAL			\$9,020	\$9,616

*Caretaker unit

Please note that our market rents are based on research.
We strongly recommend that you do your own research as this
is only to be used as a guideline.

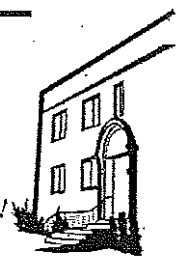
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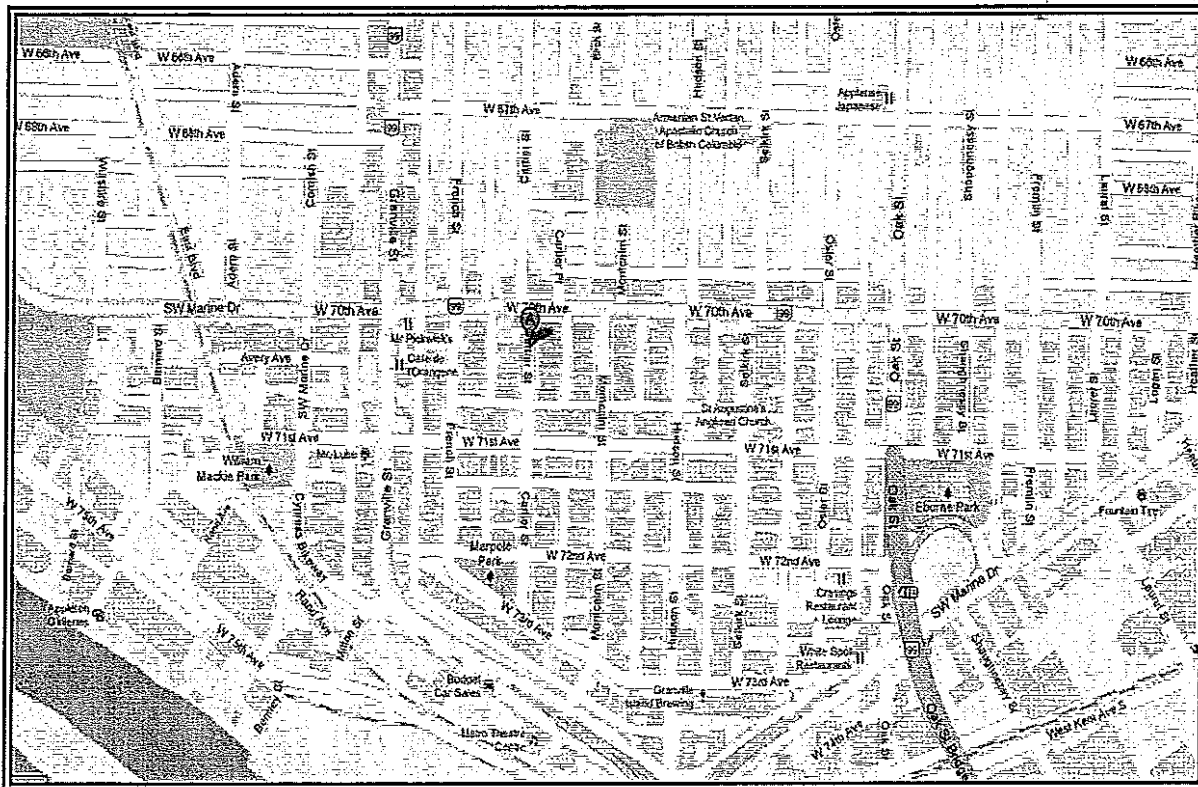
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10

LOCATION

8644 Cartier Street, Vancouver



\$2,100,000

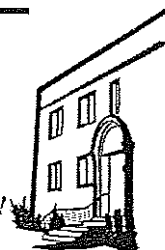
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affidavit of S22
sworn before me at Vancouver
this 10 day of May, 20 12

A COMMISSIONER FOR TAKING
AFFIDAVITS FOR BRITISH COLUMBIA

PARISIENNE APTS.
1440 WEST 71st. AVE.
VANCOUVER B.C.
V6P3B7

RENTS

FEB.2012

[illegible]

Sworn May 10, 2012
Action No.

IN THE RESIDENTIAL TENANCY BRANCH

BETWEEN:

K. TANG ENTERPRISES

APPLICANT

AND:

S22

RESPONDENT

AFFIDAVIT OF

S22

Prepared by:

S22

May 16, 2012

RESPONDENT:

S22

S22 1440 WEST 71 AVENUE
VANCOUVER, BC
V6P 3C7

APPLICANT:

K. TANG ENTERPRISES

NOTICE OF A DISPUTE RESOLUTION HEARING

Concerning premises at: S22 1440 WEST 71 AVENUE, VANCOUVER BC

File No. 791524

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: Friday, June 15, 2012 at 09:00 AM
(Pacific Time)

Phone Number

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

Access Code: 1388725#**INSTRUCTIONS:**

1. At the scheduled start time, call one of the numbers available:
Vancouver (604)899-1159 OR, for all other areas, 1(888) 458-1598.

NOTE: Calling in prior to your scheduled start time may result in you not successfully entering your hearing.
Press *0 to reach an operator if you encounter a problem joining the conference call or anytime during the call.

Now, follow the prompts:

2. When asked, key in your access code: It is shown above.
3. When asked, say your FULL NAME, then press #.
4. You have now joined the conference call, and will hear music while others join the call.

GENERAL INFORMATION about your responsibility and the hearing

1. Evidence to support your position is important and must be given to the other party and to the Residential Tenancy Branch before the hearing. Instructions for evidence processing are included in this package. Deadlines are critical.
2. Residential Tenancy Branch Rules of Procedure apply to the proceedings: For details, contact the RTB or a Service BC Office or check online at <http://www.rto.gov.bc.ca/>.
3. You (or your agent) must participate in the hearing at the time and date assigned.
4. The hearing will continue without you if you or your representative is not in attendance.
5. A final and binding decision will be issued once the hearing is concluded.

RESIDENTIAL TENANCY BRANCH

Attachments: Originating Application
RTB Fact Sheets containing important information for you

Office of Housing and Construction Standards
Residential Tenancy Branch

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

Telephone: 604 660-1020
Toll Free: 1 800 665-8779
Facsimile: 604 660-2363

GA1599
HST# R107864738

GOVERNMENT AGENTS REVENUE MANAGEMENT SYSTEM
TRANSACTION RECEIPT

PAGE 1

MAY 16, 2012 10:44 TRANSACTION ID: 1000006 (DUPLICATE RECEIPT) SC96390
02010 RESIDENTIAL TENANCY - BURNABY

	ITEM	PRICE	QUANT	AMOUNT
4117	RTB RTB RTB RTA ADDITIONAL REN	205.00	1	205.00
	RENT INCREASE FEE			

FILE # 791524

DOCUMENT: CUSTOMER NAME K TANG ENTERPRISES

REFERENCE: COMMENTS ACCT. S22

SUBTOTAL	205.00
HST CHARGED ON	0.00

TRANSACTION TOTAL 205.00

VISA 205.00
TOTAL PAYMENT 205.00

CHANGE 0.00



**Ministry of Public Safety
& Solicitor General**

**REVENUE COLLECTION
AUTHORIZATION**

FEE COLLECTION:

RTA ☒ MHPTA ☐

DOCUMENTS WILL NOT BE PROCESSED UNTIL PAYMENT IS MADE

FILE# 791524 CLIENT/CO. NAME K. Tang Enterprises

Payment is for: (Please check 1 only)

☐ Arbitration Filing Fee ☐ Direct Request \$50

☐ Arbitration Filing Fee – Claim Over \$5000 \$100

☒ Arbitration Fee – Additional Rent Increase \$200
(\$200.00 plus \$5.00 each unit – maximum \$500)

☐ Review Filing Fee \$25

☐ Substituted Service \$25

☐ Joined Application – Each Joined Application \$25

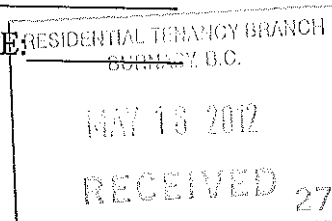
☐ Fee Waiver for: ☐ Arbitration ☐ Review \$00

☐ Photo Copies _____ Pages @.50 per page Total Cost \$ _____

TOTAL AMOUNT COLLECTED: \$ 205.00.

FILING FEE PAID ONLINE: DATE PAID ON-LINE: _____

IO INITIAL: MA CASHIER INITIALS: MA DATE: _____



Ministry of Public Safety and
Solicitor General

Residential Tenancy Branch
Burnaby Office

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

Telephone: 604-660-3400
Facsimile: 604-660-4587