

IN THE MATTER OF THE *RESIDENTIAL TENANCY ACT*, SBC 2002, c 78

BETWEEN:

1326 WEST 13TH AVENUE HOLDINGS INC., Landlord

APPLICANT

AND:

TENANTS OF 1326 WEST 13TH AVENUE, VANCOUVER, Tenants

RESPONDENTS

LANDLORD’S WRITTEN SUBMISSIONS

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I. INTRODUCTION

1. 1326 West 13th Avenue Holdings Ltd. (the “**Landlord**”) applies to the Director for an order approving an additional rent increase for 1326 West 13th Avenue, Vancouver (the “**Building**”) on the basis that the Landlord has made a number of eligible capital expenditures relating to the building, totaling \$528,106.69 (the “**Total Capital Expenditures**”).

2. The Building was constructed in 1964 and the Landlord took over ownership and operation on January 28, 2021.

3. The Total Capital Expenditures relate to the following five projects:
 - a. modernization of the elevator (Capital Expenditure 01);
 - b. renovations and repairs to the interior common areas of the building including the lobby and hallways (Capital Expenditure 02);
 - c. installation of additional exterior lighting (Capital Expenditure 03);
 - d. installation of new intercom and security systems (Capital Expenditure 04); and
 - e. installation of a building automation system (Capital Expenditure 05).

4. The Total Capital Expenditures were incurred in the 18-month period preceding the date of this application, are not expected to recur within the next 5 years, and were incurred to repair or replace a major component or major system that had failed, was malfunctioning or inoperative, or was close to the end of its useful life. The Total Capital Expenditures were also required in order to repair or replace a major system or major component to maintain the Building in a state of repair that complies with section 32(1)(a) of the *Residential Tenancy Act*, SBC 2002, c 78 (the “**Act**”).
5. The Director must therefore grant this application for an additional rent increase for capital expenditures pursuant to section 23.1(4) of the *Residential Tenancy Regulation*, BC Reg 477/2003 (the “**Regulation**”).
6. The Building has 30 rental units that are affected by this matter. The total amount of the increase sought, per unit, is determined by using a formula. The formula takes the Total Capital Expenditure, divides it by 30 rental units, and then further divides it by 120 months (the cost is amortized over 10 years). This comes to \$146.70 per rental unit per month. In the event \$146.70 is more than 3% of the current monthly rent for a rental unit, then the remaining portion in excess of 3% must be applied in a later year, and cannot be imposed all at once upon a tenant.

II. SUMMARY OF LAW RELATING TO ADDITIONAL RENT INCREASE APPLICATIONS

7. Section 23.1(4) of the Regulation states that the Director must grant an application for an additional rent increase for capital expenditures that are:
 - a. incurred in the 18-month period preceding the date on which the Landlord made the application;
 - b. not expected to recur for at least 5 years; and
 - c. incurred for one or more of the following reasons:
 - i. to install, repair or replace a major system or major component:

1. in order to maintain the residential property in a state of repair that complies with section 32(1)(a) of the Act;
 2. that has failed or is malfunctioning or inoperative or that is close to the end of its useful life;
 3. in order to reduce energy use or greenhouse gas emissions; or
 4. in order to improve the security of the residential property.
7. A capital expenditure is “incurred” when payment for it is made. If a landlord pays for a capital expenditure by cheque, the date the capital expenditure is considered to be “incurred” is the date the landlord issued the final cheque.

Residential Tenancy Policy Guideline 37C – Additional Rent Increase for Capital Expenditures [Tab 3]

8. The Landlord paid the Total Capital Expenditures by cheque, and the final cheques for each claim were dated after March 27, 2022. This application was made on September 27, 2023, and the Total Capital Expenditures were therefore incurred within the 18-month period preceding the application.
9. The Total Capital Expenditures are not expected to recur in the next 5 years. The estimated life expectancy for all five claims are between 5 and 25 years, described in more detail in the section that follows.
10. Finally, the Total Capital Expenditures were incurred due to the total failure or malfunction of a major system or major component, were required to be made in order to maintain the Building in a state of repair which complies with section 32(1)(a) of the Act., to reduce energy use at the Building, or to improve the security of the Building.
11. Therefore, the Landlord’s application is brought pursuant to section 23.1(4) of the Regulations for an additional rent increase for the following capital expenditures:
- a. modernization of the elevator (Capital Expenditure 01);

- b. renovations and repairs to the interior common areas of the building including the lobby and hallways (Capital Expenditure 02);
 - c. installation of additional exterior lighting (Capital Expenditure 03);
 - d. installation of new intercom and security systems (Capital Expenditure 04); and
 - e. installation of a new boiler and building automation system (“BAS”) (Capital Expenditure 05).
12. A major system or major component includes the elevator (Capital Expenditure 01), siding and load bearing elements such as walls, entryways (Capital Expenditure 02), and heating systems such as boiler systems (Capital Expenditure 05). Examples of installations which improve security include lighting in areas such as a parking garage (Capital Expenditure 03) and security systems (Capital Expenditure 04), and the BAS reduces the energy use of the Building (Capital Expenditure 05).

Residential Tenancy Policy Guideline 37C – Additional Rent Increase for Capital Expenditures [Tab 3]

13. As will be described in more detail in the following section, each of the claims required replacement of a system that was failing, at the end of its useful life, for reduction of energy consumption, or to enhance safety and security at the Building. None of the Total Capital Expenditures were due to the completion of routine maintenance or resulted from a failure by the Landlord to maintain the Building.

III. DETAILED DESCRIPTION OF CAPITAL EXPENDITURES 01 TO 05

Elevator Modernization (Capital Expenditure 01)

Scope of Work Completed: Major control modernization was completed including installation of a hands-free telephone, car door restrictors, hall door retainers, door unlocking devices, car top railings, cab finishes, barrier free access upgrades, emergency power operation, equipment guarding, and machine room cooling (Elevator Modernization Project Specifications & Modernization Contract [Tab 5]). Expenditure was recommended by an elevator consultant (see K.J.A. Report at Appendix C of Morrison Hershfield Report [Tab 6]). Consultant was retained to oversee bid process, progress, and completion of project (Rodney, Irving & Associates Services Scope of Work [Tab 7]).

Reason for Work: Major components of the elevator were at the end of their useful life and required replacing. Due to the age of the elevator, replacement parts were difficult to find. The Landlord wanted to complete the modernization before a major breakdown occurred as the planning and tendering required could take a long time during which the tenants would not have access to an elevator. To meet code requirements, hoistway door unlocking devices were installed at every landing where there is an entrance, and elevator hall door retainers were added (see K.J.A. Report at Appendix C of Morrison Hershfield Report [Tab 6]). The elevator modernization increased the safety and security of residents, as there was a chance the elevator could malfunction and trap residents.

Timing of Last Repair/Upgrade: The elevator was originally installed in 1964 and the Landlord does not know of any major modernization work that has taken place since that time (see K.J.A. Report at Appendix C of Morrison Hershfield Report [Tab 6]).

Anticipated Useful Life of Repair/Upgrade: The RTPG 40 [Tab 4] sets out the estimated useful life for an elevator as 20 years. The elevator was installed in 1964 and the Landlord does not anticipate making similar repairs or upgrades again for the next 20 years.

Total Cost of Work Completed (Capital Expenditures): \$252,197.31

Detailed Description of All Work Done, Dates Costs Incurred, and Method of Payment by Landlord

Work Done	Invoice No.	Tab 2a Pg.#	Cost	Date Paid	Cheque No. (Payment)	Tab 2a Pg.#
Rooney, Irving & Associates – Consulting services for elevator modernization	21-274	2	\$3,045.00	August 13, 2021	501	3
Rooney, Irving & Associates – Consulting services for elevator modernization	21-665	5	\$609.00	September 14, 2021	593	6

Richmond Elevator Maintenance – Supply materials and labour to modernize elevator	762738	8	\$33,071.69	June 9, 2022	11413	11
Rooney, Irving & Associates – Consulting services for elevator modernization	22-397	13	\$525.00	June 22, 2022	11472	14
Action Electric - Line sharing device supply and install	170967	16-17	\$1,131.80	August 9, 2022	11618	18
Richmond Elevator Maintenance – Supply materials and labour to modernize elevator	780620	20	\$110,238.98	September 14, 2022	11754	23
Richmond Elevator Maintenance – Supply materials and labour to modernize elevator	796503	25	\$22,047.80	December 13, 2022	11973	29
Richmond Elevator Maintenance – Supply materials and labour to modernize elevator	788190	31	\$33,071.69	December 13, 2022	11973	34
Rooney, Irving & Associates – Consulting services for elevator modernization	22-841	36	\$997.50	December 13, 2022	11960	37
Richmond Elevator Maintenance – Supply materials and labour to modernize elevator	792574	39	\$22,047.80	December 13, 2022	11973	42
Rooney, Irving & Associates – Consulting services for elevator modernization	23-311	44	\$913.50	April 6, 2023	12283	45
Richmond Elevator Maintenance – Holdback for elevator modernization	796920	2 of <u>Tab 2b</u>	\$24,497.55	Held	N/A	11, 23, 29, 34, 42
Total Cost			\$252,197.31			

Renovations and Repairs to Hallways and Lobby (Capital Expenditure 02)

Scope of Work Completed: Lighting was added and replaced to ensure adequate visibility for tenants, door hardware was updated, emergency exit signage was added, the entrance door was replaced, and electrical components including outlets were updated.

Reason for Work: Improvements to visibility and safety with electrical system, door hardware was replaced to ensure tenants had uninterrupted access, drywall was installed following elevator modernization, entry doors were replaced for compatibility with new intercom and FOB systems.

Timing of Last Repair/Upgrade: Unknown

Anticipated Useful Life of Repair/Upgrade: The RTB Guidelines estimate a useful life of 20 years for doors, 15 years for electrical panels and wiring, 15 years for light fixtures, and 15 years for intercoms (see RTPG 40 [Tab 4]). The Landlord does not expect to make any of the same repairs or upgrades again for a minimum of 5 years.

Total Cost of Work Completed (Capital Expenditures): \$53,993.77

Detailed Description of All Work Done, Dates Costs Incurred, and Method of Payment by Landlord

Work Done	Invoice No.	Tab 2b Pg. #	Cost	Date Paid	Cheque No. (Payment)	Tab 2b Pg. #
Cworth Developments Ltd. – Replacement of entry doors, upgrade lighting fixtures, replace door hardware on suites (Highlit lines only with 50% reduction for blue lines and proportionate 25.9% share of total for green)	1046	5-6	\$6,322.15	September 14, 2021	598	7
Cworth Developments Ltd. – Replacement of entry doors, upgrade lighting fixtures, replace door hardware on suites (Highlit lines only with 50% reduction for blue lines and proportionate 25.9% share of total for green)	1051	9-10	\$10,536.92	December 9, 2021	859	11
Eclairage Quebec Lighting – Supply new light fixtures	I206730	13	\$416.64	December 9, 2021	856	14
Eclairage Quebec Lighting – Supply new light fixtures	I206883	16	\$554.92	December 9, 2021	856	17
LAN Letter Art Neon Ltd. – Supply stairwell tactile signage (50% of total invoice only)	24170-1260	19-20	\$820.40	April 5, 2022	11206	21

Catalytic Contracting Inc. – Install lighting replacements and supply and install door hardware and closures	CLVS-062	23	\$16,417.28	April 5, 2022	11202	24
Cworth Developments Ltd. – Replacement of entry doors, upgrade lighting fixtures, replace door hardware on suites (Highlit lines only with 50% reduction for blue lines and proportionate 25.9% share of total for green)	1066	26-27	\$4,214.77	May 10, 2022	11329	28
Eclairage Quebec Lighting – Supply new light fixtures	I208264	30	\$270.31	May 25, 2022	11355	31
Eclairage Quebec Lighting – Supply new light fixtures	I210023	33	\$2,413.88	February 8, 2023	12125	34
Catalytic Contracting Inc. –Install of light fixtures and door hardware (Highlit lines only with proportionate 8.3% share of total for green)	CLV-049	35-36, 38	\$2,362.72	February 15, 2023	12158	39
Catalytic Contracting Inc. –Install of light fixtures and door hardware (Highlit lines only with proportionate 8.3% share of total for green)	CLV-050	35-36, 41	\$2,362.72	February 15, 2023	12158	42
Catalytic Contracting Inc. –Install of light fixtures and door hardware (Highlit lines only with proportionate 8.3% share of total for green)	CLV-054	35-36, 44	\$2,362.72	March 1, 2023	12189	45
Catalytic Contracting Inc. – Change order to add additional door hardware	CLV-055	47-48	\$3,773.43	April 19, 2023	12324	49
Catalytic Contracting Inc. – Holdback	CLV-057	35-36, 39, 42, 45, 49, 51	\$1,164.92	June 20, 2023	12158	53
Total Cost			\$53,993.77			

Exterior Lighting (Capital Expenditure 03)

Scope of Work Completed: Supply and install new exterior lighting for Building.

Reason for Work: Outside of building was insufficiently lit and additional light fixtures were installed to enhance building safety.

Timing of Last Repair/Upgrade: Unknown

Anticipated Useful Life of Repair/Upgrade: The RTB Guidelines provide an estimated useful life of 15 years for light fixtures (see RTPG 40, page 40-7 [Tab 3])

Total Cost of Work Completed (Capital Expenditures): \$2,504.90

Detailed Description of All Work Done, Dates Costs Incurred, and Method of Payment by Landlord

Work Done	Invoice No.	Tab 2c Pg.#	Cost	Date Paid	Cheque No. (Payment)	Tab 2c Pg.#
Catalytic Contracting - Supply and install 230W LED flood lights	CLVS-087	2	\$1,890.00	March 22, 2022	11147	3
Eclairage Quebec Lighting – Supply new exterior light fixtures	I207494	5	\$614.90	March 30, 2022	11164	6
Total Cost			\$2,504.90			

Intercom and Security System (Capital Expenditure 04)

Scope of Work Completed: A new access control system, CCTV, and intercom system were installed which included additional cameras and FOB access at all points of entry.

Reason for Work: A new intercom system was installed which enhanced safety and security at the building and allows for remote access and the security system was upgraded including the addition of a new access control system and installation of CCTV cameras. This replacement was recommended by consultants (see 8.5.4 of Morrison Hershfield Report [Tab 6]).

Timing of Last Repair/Upgrade: The intercom and FOB system was installed approximately 15 years ago (Morrison Hershfield Report [Tab 6])

Anticipated Useful Life of Repair/Upgrade: The RTB Guidance does not provide an estimated useful life for security systems, but intercom systems have an estimated useful life of 15 years (see RTPG 40, page 40-7 [Tab 3])

Total Cost of Work Completed (Capital Expenditures): \$43,175.30

Detailed Description of All Work Done, Dates Costs Incurred, and Method of Payment by Landlord

Work Done	Invoice No.	Tab 2c Pg.#	Cost	Date Paid	Cheque No. (Payment)	Tab 2c Pg.#
Vandelta Communication – Supply and install a Kantech intercom, access control system, and CCTV	7338	8-9	\$29,357.30	March 30, 2022	11195	10
1 Valet Corp. – Supply and install intercom system	INV-01807	12	\$1,344.00	September 20, 2022	11786	14
1 Valet Corp. – Supply and install intercom system	INV-02341	16	\$12,096.00	December 21, 2022	12005	18
Vandelta Communication – Lobby camera and exit proxy sensor installed	8183	20	\$378.00	July 13, 2022	11547	21
Total Cost			\$43,175.30			

Installation of New Boiler and Building Automation System (Capital Expenditure 05)

Scope of Work Completed: Replacement of hydronic boiler system was completed. Installation of building automation system (“BAS”) including sensors and artificial intelligence (“AI”) integration.

Reason for Work: Hydronic boiler system was replaced as recommended by consultants (see Morrison Hershfield Report at 8.4.2 [Tab 6]). Work was undertaken to reduce the CO2 emissions through the use of sensors and AI to enhance tenant comfort and overall efficiency. Also provides real-time data to Landlord to allow for rapid response to any issues with systems (See Statement of Marek Kozlowski [Tab 8]).

Timing of Last Repair/Upgrade: The boiler was originally installed in 1987.

Anticipated Useful Life of Repair/Upgrade: The RTPG 40 provides an estimated useful life for heating systems of 15 years (see RTPG 40, page 40-6 [Tab 3]), and the BAS system installed is expected to last 20-25 years (See Statement of Marek Kozlowski [Tab 8])

Total Cost of Work Completed (Capital Expenditures): \$167,998.16

Detailed Description of All Work Done, Dates Costs Incurred, and Method of Payment by Landlord

Work Done	Invoice No.	Tab 2d Pg.#	Cost	Date Paid	Cheque No. (Payment)	Tab 2d Pg.#
2257808 Ontario Inc. o/a PID Controls - KMC upgrades to boiler system to connect to network and remote management	INV-2021-0028-001	2	\$261.31	December 30, 2021	925	3
Inline Sales & Services Ltd. – Supply and install new natural gas boiler	50920	5	\$96,870.35	February 2, 2022	11019	6
2257808 Ontario Inc. o/a PID Controls – Install building automation system	INV-2021-010-001	8	\$8,400.00	May 31, 2022	11366	9
Inline Sales & Services Ltd. – Supply and install new natural gas boiler	51702	11	\$24,244.00	August 9, 2022	11620	12
Inline Sales & Services Ltd. – Supply and install new natural gas boiler	52241	14	\$12,760.00	September 14, 2022	11749	16
2257808 Ontario Inc. o/a PID Controls – Supply and shipping and handling for BAS control panel	INV-2021-0101-002	18	\$262.50	September 20, 2022	11769	19
2257808 Ontario Inc. o/a PID Controls – Supply and shipping and handling for BAS control panel	INV-2021-0101-003	21	\$25,200.00	January 17, 2023	12081	22
Total Cost			\$167,998.16			

Exterior Wall Restoration and Repairs (Capital Expenditure 06)

Scope of Work Completed: Grout repairs to specific stone walls around exterior parking lot in areas that had deteriorated, and concrete cracks were repair on the exterior stairs by parking lot entrance.

Reason for Work: Repairs to concrete stairs, concrete brick walls, and grout were performed as there was deterioration and posed a risk to tenant safety and to the general structural integrity of the Building.

Timing of Last Repair/Upgrade: Unknown

Anticipated Useful Life of Repair/Upgrade: The RTB guidelines provides an estimated useful life of 20 years for interlocking brick, 25 years for retaining walls, and 10 years for concrete stairs [**Tab 3**]

Total Cost of Work Completed (Capital Expenditures): \$8,237.25

Detailed Description of All Work Done, Dates Costs Incurred, and Method of Payment by Landlord

Work Done	Invoice No.	Tab 2d Pg.#	Cost	Date Paid	Cheque No. (Payment)	Tab 2d Pg.#
5 SHR Restoration Inc. – Repairs to walls & foundations	413	24-25	\$8,237.25	September 20, 2022	11771	26
Total Cost			\$8,237.25			

IV. CONCLUSION

7. The Total Capital Expenditures were incurred in the 18-month period preceding the date of this application, are not expected to recur within the next 5 years, and were incurred to repair or replace a major component or major system that had failed, was malfunctioning or inoperative, or was close to the end of its useful life. The Total Capital Expenditures were also required in order to repair or replace a major system or major component to maintain the Building in a state of repair that complies with section 32(1)(a) of the Act, to reduce energy use, and to enhance building security.

8. Therefore, the Director must grant this application for an additional rent increase for the Total Capital Expenditures pursuant to section 23.1(4) of the Regulation.

9. As set out above, the Building has 30 rental units that are affected by this matter. The total amount of the increase sought, per unit, is determined by using a formula. The

formula takes the Total Capital Expenditure, divides it by 30 rental units, and then further divides it by 120 months (the cost is amortized over 10 years). This comes to \$146.70 per rental unit per month. In the event \$146.70 is more than 3% of the current monthly rent for a rental unit, then the remaining portion in excess of 3% must be applied in a later year, and cannot be imposed all at once upon a tenant.

All of which is respectfully submitted.

Dated: September 27, 2023



Michael L. Drouillard
Counsel to the Landlord