

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

BETWEEN:

8675 FRENCH STREET HOLDINGS INC., Landlord

APPLICANT

AND:

Tenants of 8675 French Street, Vancouver, Tenants

RESPONDENTS

LANDLORD’S WRITTEN SUBMISSIONS

Counsel for the Applicant

Michael Drouillard
Drouillard Lawyers
1910-777 Hornby Street
Vancouver, BC V6Z 1S4

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I. INTRODUCTION

1. 1885 Barclay Street Holdings Inc. (the “**Landlord**”) applies to the Director for an order approving an additional rent increase for 1885 Barclay Street, Vancouver, BC (the “**Building**”) on the basis that the Landlord has made a number of eligible Capital Expenditures relating to the building, totaling \$310,672.89 (the “**Total Capital Expenditures**”).
2. The Total Capital Expenditures relate to the following four projects:
 - a. modernization of the elevator (Claim 01);
 - b. hallway and lobby renovation and replacement (Claim 02);
 - c. installation of new exterior lighting (Claim 03); and
 - d. installation of a building automation system (Claim 04).
3. 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, to enhance building security, or to

reduce energy use. 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**”).

4. 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**”).
5. The Building has 72 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 72 rental units, and then further divides it by 120 months (the cost is amortized over 10 years). This comes to \$62.29 per rental unit per month. In the event \$62.29 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.

BC Assessment Information [Tab 1]

II. SUMMARY OF LAW RELATING TO ADDITIONAL RENT INCREASE APPLICATIONS

6. 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.
6. 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]***

7. The Landlord paid the Total Capital Expenditures by cheque, and the final cheques for each capital expenditure were dated after March 15, 2022. This application was made on September 15, 2023, and the Total Capital Expenditures were therefore incurred within the 18-month period preceding the application.
8. The Total Capital Expenditures are not expected to recur in the next 5 years. The estimated life expectancy for all four claims are between 5 and 25 years, described in more detail in the section that follows.
9. Finally, the Total Capital Expenditures were incurred due to the total failure or malfunction of a major system or major component. The Total Capital Expenditures 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.
10. 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 new exterior lighting (Capital Expenditure 03); and

- d. installation of a building automation system (Capital Expenditure 04).
11. A major system or major component includes the elevator (Capital Expenditure 01), siding and load bearing elements such as walls, entryways (Capital Expenditure 02), lighting (Capital Expenditure 03), and heating systems (Capital Expenditure 04).

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

12. As will be described in more detail in the following section, each of the capital expenditures 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 CLAIMS 01 TO 04

Elevator Modernization (Capital Expenditure 01)

Scope of Work Completed: Major control modernization was completed including installation of a hands-free telephone, hall door retainers, door unlocking devices, cab finishes, barrier free access upgrades, emergency power operation, 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]).

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 1969 and it appears some upgrade work was carried out in 2013 (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 1969 and the Landlord does not anticipate making similar repairs or upgrades again for the next 20 years.

Total Cost of Work Completed (Capital Expenditures): \$162,392.75

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 – Consultant services for elevator modernization | 21-277 | 2 | \$3,045.00 | March 31, 2021 | 159 | 3 |
| Rooney, Irving & Associates – Consultant services for elevator modernization | 21-668 | 5 | \$609.00 | September 14, 2021 | 593 | 6 |
| Richmond Elevator Maintenance – Elevator modernization work | 716044 | 8 | \$9,862.40 | October 1, 2021 | 648 | 10 |
| Richmond Elevator Maintenance – Elevator modernization work | 771349 | 12 | \$59,174.39 | May 25, 2022 | 11359 | 16 |
| Action Electric Ltd. – Electrical work for sub panel to accommodate the addition of a new AC unit in machine room | 170427 | 18-19 | \$952.97 | June 9, 2022 | 11401 | 20 |

| | | | | | | |
|---|--------|----|---------------------|------------------|-------|----|
| Rooney, Irving & Associates - Consultant services for elevator modernization | 22-403 | 22 | \$525.00 | June 22, 2022 | 11472 | 23 |
| Richmond Elevator Maintenance – Elevator modernization work | 772124 | 25 | \$26,299.73 | June 29, 2022 | 11506 | 28 |
| Anglo Glass and Doors Ltd - Supply and install new metal ventilation grill to elevator room | 4372 | 30 | \$1,977.03 | June 29, 2022 | 11501 | 31 |
| Richmond Elevator Maintenance – Elevator modernization work | 762624 | 33 | \$9,562.40 | July 13, 2022 | 11537 | 36 |
| Cascade Communications & Security Inc. - Supply & installation of IP video surveillance security camera inside elevator cab. Additional conduit, cabling, and power as required for installation of IP video surveillance security camera | 5526 | 38 | \$3,730.65 | August 9, 2022 | 11619 | 39 |
| 1185229 B.C. Ltd. Western Trades - Demo and high risk abatement of certain 12x12 access holes in level 1 and 2 and access holes and Chanel in level 3 | WT1430 | 41 | \$3,832.50 | August 9, 2022 | 11633 | 43 |
| Richmond Elevator Maintenance – Elevator modernization work | 780560 | 45 | \$13,149.86 | October 19, 2022 | 11712 | 47 |
| Rooney, Irving & Associates - Consultant services for elevator modernization | 22-757 | 49 | \$1,911.00 | October 13, 2021 | 11845 | 50 |
| Richmond Elevator Maintenance – Elevator modernization work | 779720 | 52 | \$13,149.86 | January 17, 2023 | 12087 | 56 |
| Richmond Elevator Maintenance – Holdback invoice | 778170 | 58 | \$14,610.96 | February 8, 2023 | 12141 | 62 |
| Total Cost | | | \$162,392.75 | | | |

Hallway and Lobby Renovation and Replacement (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. Fire code mandated signage for stairwells, exits, and tactile signage was procured and installed. A new intercom and FOB system was installed, and security cameras were installed. (See Excerpt from BC Fire Code [Tab 9]).

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, and new intercom and FOB systems were installed to enhance building security.

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]).

Total Cost of Work Completed (Capital Expenditures): \$108,828.02

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. # |
|---|--------------------|---------------------|-------------|------------------|-----------------------------|---------------------|
| Catalytic Contracting Inc. – Lobby & Hallways - Update electrical, installation of emergency lighting, update door hardware, cover exposed wiring with crown moulding, and management, disposal, and delivery costs. (Indicated lines only plus proportionate 43% share of general conditions for hallways) | CLV-011 | 1-2, 4 | \$10,858.77 | November 4, 2021 | 737 | 5 |
| Catalytic Contracting Inc. – Lobby & Hallways - Update electrical, installation of emergency lighting, update door hardware, cover exposed wiring with crown moulding, and management, disposal, and delivery costs. (Indicated lines only plus proportionate 43% share of general conditions for hallways) | CLV-014 | 1-2, 8 | \$10,858.77 | January 13, 2022 | 10963 | 9 |
| Catalytic Contracting Inc. – Lobby & Hallways - Update electrical, installation of emergency lighting, update door hardware, cover exposed wiring with crown moulding, and management, disposal, and delivery costs. (Indicated | CLV-015 | 1-2, 12 | \$10,858.77 | January 13, 2022 | 10963 | 13 |

| | | | | | | |
|--|------------|-----------|---------------------|-------------------|-------|----|
| lines only plus proportionate 43% share of general conditions for hallways) | | | | | | |
| Catalytic Contracting Inc. – Holdback invoice | CLV-020 | 1-2, 15 | \$3,619.59 | September 2, 2022 | 11706 | 17 |
| Catalytic Contracting Inc. -Supply and install of lights, signage, and door hardware | CLVS-064 | 20 | \$5,005.88 | March 30, 2022 | 11168 | 21 |
| Catalytic Contracting Inc. – Supply light fixtures | CLVS-023 | 23 | \$1,726.48 | March 30, 2022 | 11168 | 24 |
| LAN Letter Art Neon Ltd. – Supply various signs (exterior/interior only) | 24166-1256 | 26-27 | \$4,923.24 | April 5, 2022 | 11206 | 28 |
| Catalytic Contracting Inc. – Install signage (50% of indicated line only) | CLVS-096 | 30-32 | \$727.52 | April 5, 2022 | 11202 | 33 |
| Vandelta Communication Systems Ltd. – New intercom system and security cameras | 7776 | 35-36 | \$32,256.70 | April 26, 2022 | 11297 | 37 |
| Catalytic Contracting Inc. – Hallways - Update electrical, cover exposed wiring with crown moulding, and management, disposal, and delivery costs (Indicated lines only plus proportionate 21% share of general conditions for hallways) | CLV-033 | 38-39, 41 | \$6,098.10 | August 24, 2022 | 11674 | 42 |
| Catalytic Contracting Inc. – Hallways - Update electrical, cover exposed wiring with crown moulding, and management, disposal, and delivery costs (Indicated lines only plus proportionate 21% share of general conditions for hallways) | CLV-034 | 38-39, 44 | \$6,098.10 | September 2, 2022 | 11706 | 45 |
| Catalytic Contracting Inc. – Hallways - Update electrical, cover exposed wiring with crown moulding, and management, disposal, and delivery costs (Indicated lines only plus proportionate 21% share of general conditions for hallways) | CLV-041 | 38-39, 48 | \$6,098.10 | October 12, 2022 | 11839 | 49 |
| Catalytic Contracting Inc. – Holdback invoice | CLV-047 | 38-39, 51 | \$2,032.70 | February 8, 2023 | 12131 | 53 |
| Eclairage Quebec Lighting – Supply lighting | 1208989 | 55 | \$7,665.28 | September 2, 2022 | 674 | 56 |
| Total Cost | | | \$108,828.02 | | | |

Exterior Lighting Upgrades (Capital Expenditure 03)

Scope of Work Completed: Lighting was added to the exterior of the Building to improve visibility and security.

Reason for Work: The Landlord determined the exterior of the Building was insufficient and added or replaced light fixtures to improve visibility and security.

Timing of Last Repair/Upgrade: Unknown

Anticipated Useful Life of Repair/Upgrade: The RTB Guidelines estimate a useful life of 15 years for light fixtures, (see RTPG 40 [Tab 4]).

Total Cost of Work Completed (Capital Expenditures): \$594.70

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.# |
|--|--------------------|------------------------|-----------------|-------------------|-------------------------------------|------------------------|
| Eclairage Quebec Lighting – Supply lighting (portion indicated on page 3 only) | I207494 | 2 | \$594.70 | March 30, 2022 | 11164 | 3 |
| Total Cost | | | \$594.70 | | | |

Installation of a Building Automation System and Boiler Upgrade (Capital Expenditure 04)

Scope of Work Completed: Installation of building automation system (“BAS”) including sensors and artificial intelligence (“AI”) integration. New pot feeders were installed to allow

Reason for Work: 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 10]). The installation increased reliability for adding chemicals into the closed loop system, to control corrosion, scale and microbial control, and improve the effectiveness of water treatment (see Letter re: Pot Feeders [Tab 11]).

Timing of Last Repair/Upgrade: Unknown

Anticipated Useful Life of Repair/Upgrade: 15-25 years (See Statement of Marek Kozlowski [Tab 7] and Letter re: Pot Feeders [Tab 11])

Total Cost of Work Completed (Capital Expenditures): \$38,857.42

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.# |
|---|-------------------|----------------|--------------------|-------------------|----------------------------|----------------|
| Canadian Plumbing Systems Ltd. - Installation and alteration for heating system chemical pot feeder | 4334 | 2 | \$1,155.00 | December 30, 2021 | 909 | 3 |
| 2257808 Ontario Inc. o/a PID Controls – Provide and install KMC system to boiler system (1/16 th of total invoice) | INV-2021-0028-001 | 5 | \$261.31 | December 30, 2021 | 644 | 6 |
| 2257808 Ontario Inc. o/a PID Controls – Provision of Thermowells (1/6 th of total invoice) | INV-2022-0066-100 | 8 | \$488.25 | July 19, 2022 | 11561 | 9 |
| 2257808 Ontario Inc. o/a PID Controls – Installation of new BAS system | INV-2022-0100-001 | 11 | \$10,212.38 | October 19, 2022 | 11844 | 12 |
| 2257808 Ontario Inc. o/a PID Controls – Installation of new BAS system | INV-2022-0100-002 | 14 | \$26,552.18 | January 17, 2023 | 12081 | 15 |
| 2257808 Ontario Inc. o/a PID Controls – BAS Server Software and Setup | INV-2022-0118-002 | 17 | \$188.30 | February 15, 2023 | 12166 | 18 |
| Total Cost | | | \$38,857.42 | | | |

IV. Conclusion

13. 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.
14. 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.
15. As set out above, the Building has 72 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 Expenditures, divides it by 72 rental units, and then further divides it by 120 months (the cost is amortized over 10 years). This comes to \$62.29 per rental unit per month. In the event \$62.29 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 19, 2023



Michael L. Drouillard
Counsel to the Landlord

