

515 Garden Street
Hoboken, NJ 07030

July 22, 2010

Mayor Dawn Zimmer
City Council President Carol Marsh
City Council Vice President Bhalla Ravinder
Councilman at Large David Mello
Councilman Angelo ("Nino") Giacchi
City Clerk's Office
94 Washington Street
Hoboken, NJ 07030

Re: A Real Life Rent Control Horror Story

Dear Mayor Zimmer and Councilpersons,

While we are very much in favor of Rent Control and believe that tenants must be protected from usurious landlords, this is not our situation. Hoboken's Rent Control Ordinance needs a complete overhaul because it readily leads to unjustified results. We say that from our personal experience with our tenant of 26 years, Eileen McNamara, and her attorney, Cathy C. Cardillo. When you finish reading this hopefully you will come to the same conclusion that our neighbors in town have come to - No Good Deed Goes Unpunished.

In 1984 we raised the rent when one of the two apartments in the building in which we live (our home) became vacant. For the entire top floor of our home in the 500 block of Garden, we raised the monthly rent that had been \$300 to \$425. We now know that this was done improperly; at the time we were unaware of the restrictions on what was in fact a rent controlled unit. Twenty-six years later, Eileen McNamara, due to circumstances described below, was now paying only \$666.00 per month for the same apartment she first rented in 1984 for \$425.00.

At the direction of her attorney, Cathy C. Cardillo, our tenant requested a legal rent calculation. Hoboken's Rent Control Office calculated the legal rent to be \$599.00 based solely on the annual Consumer Price Index. Based on that calculation, we were sued and faced a claim for approximately \$140,000.00 plus attorney fees. After several stressful weeks of legal consultations, we settled the matter by paying our tenant and her attorney \$84,000 and agreeing to let Ms. McNamara live rent free in the apartment for six months. Interestingly, while all of this was going on, we had the Rent Control Office calculate what we would be entitled to by way of Property Tax and Water surcharges. We had never passed any of these or other charges along to the tenant. The surcharge amount for the tenant came to \$160.06 and added to the Legal rent of \$599.00 meant that the tenant would have been paying \$759.06 which is considerably more that she was paying when she began the court action.

Please take a moment to read the balance of this letter setting out in more detail the history and we believe that at the conclusion, you will agree that the current ordinance results in an unjustified outcome.

First, to introduce ourselves – Joe is 69 years of age and Jim is 57. Around a decade after purchasing our home, Joe went to law school and, since being admitted to the Bar in 1996, has worked as a public interest attorney (namely, he represents clients free of charge); Jim works full time in

publishing to support his full time career as an artist. We purchased our home located at 515 Garden Street in 1982 and have been the owner/occupiers of the four story building since buying it. We have always lived on two floors and, until recently, rented out two floors.

With the likelihood of Joe retiring soon given that he is 69 years of age we had to consider our options – one of which was to sell our home. We consulted our accountant and were advised that to get any exemption from part of the capital gains tax we would have to have been the sole residents of the building for two out of the last five years before any possible sale. Therefore, to prepare for such a possibility, we reluctantly had to take steps to evict Ms. McNamara. This possibility had been mentioned to Ms McNamara in the past. We made the tenant what we considered to be a reasonable financial offer and let her know that she had two months to vacate. We also told her at the time that this period would most likely be extended to six months and that we would not contest that arrangement.

When we purchased our home, there was a family living on the top floor. They voluntarily moved out in 1984 as they needed more space. We then rented the space to a friend who moved out of state not long after. At that point we engaged a local realtor who brought in Ms. McNamara. Even though we always treated her in a more-than-fair manner (something she herself has confirmed to us), a mistake that we unintentionally made in renting has caused us to have to pay the tenant \$84,000 to avoid a possible \$140,000-plus damage award.

In 1984 when we rented the vacant apartment, we thought that vacancy decontrol meant that we could raise the rent by whatever amount we wanted. Little did we know we were wrong. Having come five years earlier from New York City where decontrol meant that there was no rent control when the tenant vacated the apartment, we believed that we were allowed to do likewise. Supporting that conclusion was our own previous Hoboken rental experience. We had rented an apartment under a five-year lease. When the lease expired, the landlord nearly doubled the rent. The landlord's attorney (now disbarred) told us that the landlord could raise the rent to whatever he wanted as there were only two rental units in the building. As we likewise only had two rental units in our building, we assumed that we could do likewise. Lastly, when we told the realtor what the monthly rent would be, we were told that we could get much more. Our response to the realtor was that we did not want more as we wanted to keep the apartment affordable for one tenant (so as to avoid the need for a roommate). Being reasonable was just the beginning of the many well-intentioned missteps we took which led to the \$84,000 payment.

What other missteps? Did we go for a hardship increase even though we were losing money on our home? NO, because we wanted to keep the rent reasonable. Did we allow the tenant to use her security deposited within eighteen months of moving in when she did not have the money to pay the rent? YES. Did we allow the tenant to sublet twice for a year each time so that she would have the apartment when she returned? YES. When one of the sublets decided to move and therefore jeopardize the tenant's ability to return to the apartment and/or make it necessary for her to pay the rent even though she was not living in the apartment, did we, on our own, find a new sub-tenant thereby keeping the apartment available and saving her the need to pay rent on it while she was away? YES. Did we go for the annual Cost of Living increases every year? NO, in point of fact several times we went for more than five years without increasing the rent. Did we go for Property Tax and Water surcharges? NO. When all of the windows were replaced, a new furnace installed, the roof repaired, and a new entry put in with an intercom, did we go for Capital Improvements so that a portion of the expenses could be passed onto the tenant? NO.

How were we repaid for showing the tenant these considerations? We had to pay an \$84,000 settlement to that same tenant in order to avoid an even more unconscionable payment in excess of \$140,000. Can you believe it but after treating our tenant in a very reasonable manner, we had to pay her \$84,000, an amount virtually equal to one-half of all the rent we received from her over the 26 year period?

What three steps can the City Council and the Mayor take to ensure that similar unjustified results do not continue to happen? First, remove owner occupied buildings with two or less rental units from rent control. The State of New Jersey exempts such buildings from the Anti Eviction Act. Second, either the seller or a seller's attorney upon or prior to entering in the Sale Contract should be obligated to notify purchasers of houses covered by the Rent Control Ordinance of the fact that the building is under Rent Control. The rules that apply must be clearly outlined and made available to the purchaser. Lastly, limit to two years the time that the Rent Control Board can look back in calculating the legal rent if the tenant had been made aware that the apartment was covered by rent control. The other cities in Hudson County have similar look-back limitations—if a tenant knows that the apartment is rent controlled (as our tenant did by virtue of those few cost-of-living increases which we did pass on to her), then they have to share the obligation and not simply wait until it is in the tenant's interest to make a claim.

Payout on this outrageous settlement has truly and irrevocably altered our financial situation. We can honestly say that we feel that we are the victims of a sort of legal extortion. The above mentioned changes to existing laws would go a long way in protecting both tenants and homeowners from unjustifiable results and will ensure the in the future Good Deeds Are Not Punished.

If after reading this you want to talk with us further, feel free to call us at our home number which is 201-798-9206 or by e-mail at hiho2@aol.com

Very truly yours,

Jim Goss and Joe Murray

ccs: Robert G. Sacks, President, Hudson County Taxpayers Association
Ron Simoncini, Executive Director, Mile Square Taxpayers Association
Caren Matzner, Editor in Chief, Hoboken Reporter