

**NEPTUNE TOWNSHIP RENT LEVELING BOARD**

**Minutes – January 2, 2020**

Ms. Riley , Chairperson, called the meeting to order at 6:00 pm and requested the Secretary to call the roll. The following members were present: Constance Holmes, Ruth Johnson, Naomi Riley, Alternate #1 Jeff Klein; Alternate #2 Bryan Acciani. Absent: James Manning

Ms. Riley stated adequate notice of this meeting as required by P.L. Chapter 231 has been provided by notice in the Coaster, which was posted on the bulletin board of the Municipal Complex and filing a said notice with the Municipal Clerk.

Ms. Riley announced that the Consumer Price Index [December's price index was 279.468, **Area prices up 0.1 percent over the month and 1.8 percent over the year**]

**APPROVAL OF MINUTES**

Mrs. Johnson offered a motion, moved and seconded by Mrs. Holmes to approve the minutes of the meeting for December 5, 2019; all were in favor.

**RESOLUTIONS**

**APPOINT CHAIRPERSON**

Mr. Klein offered the following resolution, moved and seconded by Ms. Riley that it be adopted:

**RESOLUTION # 20-01  
RESOLUTION APPOINTING CHAIRPERSON  
FOR THE NEPTUNE TOWNSHIP RENT LEVELING BOARD**

WHEREAS, the Neptune Township Rent Leveling Board selects a Chairperson among its members during its Reorganization Meeting.

NOW, THEREFORE, BE IT RESOLVED, by the Neptune Township Rent Leveling Board that the Board hereby selects James Manning to serve as the Chairperson of the Neptune Township Rent Leveling Board for the year 2020.

The resolution was adopted on the following vote: Holmes, aye; Riley, aye; Johnson, Klein, aye; Acciani, aye.

**APPOINT VICE - CHAIRPERSON**

Mr. Klein offered the following resolution, moved and seconded by Mr. Acciani that it be adopted:

**RESOLUTION #20-02  
RESOLUTION APPOINTING VICE-CHAIRPERSON  
FOR THE NEPTUNE TOWNSHIP RENT LEVELING BOARD**

WHEREAS, the Neptune Township Rent Leveling Board selects a Chairperson and Vice-Chairperson among its members during its Reorganization Meeting.

NOW, THEREFORE, BE IT RESOLVED, by the Neptune Township Rent Leveling Board that the Board hereby selects Ruth Johnson. to serve as the Vice-Chairperson of the Neptune Township Rent Leveling Board for the year 2020.

The resolution was adopted on the following vote: Holmes, aye; Riley, aye; Johnson, Klein, aye; Acciani, aye.

### **DESIGNATE MEETING DATES**

Ms. Riley offered the following resolution, moved and seconded by Mrs. Johnson that it be adopted:

#### RESOLUTION #20-03

#### RESOLUTION ESTABLISHING REGULAR AND SPECIAL MEETING DATES OF THE NEPTUNE TOWNSHIP RENT LEVELING BOARD AND SETTING FORTH PROCEDURES THEREFORE

WHEREAS, it is incumbent upon the Neptune Township Rent Leveling Board to reaffirm by annual resolution, the time and place of its regular meetings and its executive sessions to be held throughout the ensuing calendar year, as established in its adopted rules and regulations; and

WHEREAS, there was effective on January 19, 1976, throughout the State of New Jersey, the "Open Public Meetings Act" (N.J.S.A. 10:4-6 et seq) commonly referred to as the "Sunshine Law" requiring notification, publication and airing of all acts taken by the Rent Leveling Board of this municipality; and

WHEREAS, the Neptune Township Rent Leveling Board desires to implement the said act.

NOW, THEREFORE, BE IT RESOLVED, by the Neptune Township Rent Leveling Board that:

1. Regular meetings of the Neptune Township Rent Leveling Board for the year 2020 will be held at 6:00 p.m. on the second floor in the Township Committee Chambers, Neptune Township Municipal Building, 25 Neptune Blvd., Neptune Township, New Jersey, or any other designated location on the following meeting dates: February 6, 2020; March 5, 2020; April 2, 2020; May 7, 2020; June 4, 2020; July 2, 2020; August 6, 2020; September 3, 2020; October 1, 2020; November 5, 2020; December 3, 2020 and the Reorganization Meeting for the year 2020 will be January 7, 2021.

2. Special meetings and executive sessions of the Neptune Township Rent Leveling Board shall be at the call of the Chairperson or upon the vote of the membership at a prior regular meeting or by motion to follow any particular regular meeting.

3. This notice shall be posted upon the public bulletin board in the main entranceway of the Township Municipal Building and shall remain so posted for at least one month.

4. A copy of this resolution shall be mailed by the secretary of the Rent Leveling Board or the attorney of the Rent Leveling Board to the official newspapers of the Township of Neptune and the Neptune Township Rent Leveling Board.

5. The secretary, on behalf of the Rent Leveling Board, shall be authorized to direct that any other necessary action be performed by the appropriate officials or employees of the Borough to fulfill the mandates of the "Open Public Meetings Act" insofar as the same is applicable to the work and activities of the Rent Leveling Board.

6. This notice shall be published in the official newspapers of the Township of Neptune and the Neptune Township Rent Leveling Board within seven (7) days from the date hereof.

The resolution was adopted on the following vote: Holmes, aye; Riley, aye; Johnson, Klein, aye; Acciani, aye.

### **CONTINUING COMPLAINT OF JADUS MCINTYRE**

Mrs. Johnson offered the following resolution, moved and seconded by Mrs. Holmes that it be adopted:

#### RESOLUTION #20-04

#### RESOLUTION OF THE NEPTUNE TOWNSHIP RENT LEVELING BOARD OF TENANT'S CONTINUING COMPLAINT OF JADUS MCINTYRE

**WHEREAS**, the Neptune Township Rent Leveling Board was presented with a complaint by JADUS MCINTYRE, residing at 1516 Monroe Avenue, Apt. 19A, Neptune Township, New Jersey, alleging reduction in services in violation of Section 4-30.9, entitled, "Standards of Service" of the Neptune Township Rent Control Ordinance, and sought relief as a result thereof; and

**WHEREAS**, a hearing on the complaint was scheduled and heard on May 2, 2019, after service was made upon the Landlord, namely, Harlee Garden Neptune Housing, 4403 15<sup>th</sup> Avenue, Suite 192, Brooklyn, NY 11219, as submitted by the Complainant, within the time period prescribed by local ordinance; and

**WHEREAS**, on May 2, 2019, the Complainant, JADUS MCINTYRE and witness YOLANDA BROWN, appeared before the Neptune Township Rent Leveling Board and testified, with no one appearing on behalf of the Landlord; and

**WHEREAS**, the Neptune Township Rent Leveling Board, per the aforesaid Complaint, received the following grievances and requests for relief:

1. That the Complainant's unit is one of 12 units in the apartment complex, and has lived in the complex since 1997 and has had complaints with the Township of Neptune Code Enforcement Department resulting in Notices of Violation since 2017 for various maintenance issues, and has during the time period allowed by the Rent Leveling Board Ordinance, had leaks in the bathroom since June of 2018 resulting in the buckling of the bathroom floor. The Complainant contacted the Landlord's representative by phone on June 11, 2018 concerning the aforesaid leak and the Landlord undertook repairs to the floor for two days starting June 15, 2018. Although the floor had been for the most part replaced, it still was soft and appeared to not have been a complete repair; though the leaks in the bathroom had been stopped.
2. That the Complainant on October 12, 2018 noticed a leak in his son's bedroom and hallway closet. On November 1, 2018 the Complainant contacted the Landlord concerning a mold issue arising from the hallway closet and son's bedroom for which the Complainant provided photographs with regard to mold identified by the Board as T-1A,B,C&D, and further mold in Complainant's own bedroom, resulting in mold showing up on Complainant's stored shoes for which evidence was submitted in the form of photographs identified as T-7C&D is believed by the Complainant that as a result there was a mold problem throughout the apartment, and it was determined that the mold problem may be arising from the crawl space underneath the subject apartment, where the Landlord's representative admitted that plumbing was apparently being dumped in the crawl space instead of the sewer system. The Complainant had contacted the Landlord through the Maintenance Manager, Lester, on numerous occasions and since November 1, 2018 and there has been attempts made to remediate the mold issue by cleaning the closet and painting over the mold, but no evidence of effective remediation or hiring of a certified mold remediation contractor to remediate mold either in the apartment or in the crawl space. Conversations with the Maintenance Manager, Lester, continued through March 28, 2019 concerning the mold problem without complete remediation, and both Complainant's son and Yolanda Brown, who testified suffer from chronic asthma and have presented evidence of needing medical care for the same.

3. That the Complainant indicated that as a result of work performed in the kitchen to replace the flooring due to leaks and apparent mold, the kitchen floor was not properly repaired or replaced with regard to the subflooring, and trip hazards continue to the present day, as evidenced by photographs and exhibits submitted into evidence as T-2A,B; T-3A,B,C&D; T-4A,B,C&D; T-5A,B&C; T-6A,B,C&D; T-7A&B.
4. That the Complainant had complained that much of the mold issue may be caused by improper dumping of sewer and water in the crawl space below the apartment, which was brought to the attention of the Landlord and resulted in a non-certified company removing material from the crawl space in plastic bags, demonstrated by T-8A,B,C&D, but without proof of complete remediation; and

**WHEREAS**, the Neptune Township Rent Leveling Board, based on the aforesaid grievances and request for relief, made the following determinations:

1. That the Board found that appropriate due process notice was given to the Landlord. Appropriate notice was made in accordance with the law set forth more fully in the case of Ivy Hill Park, Section 3 v. Abutidze, 371 N.J. Super. 103 (2004), as indicated by certified mail receipts attached to the Complaint.
2. That the Neptune Township Rent Leveling Board had subject matter jurisdiction over the tenant and Landlord, and the tenant/Complainant had been a tenant in the subject apartment complex, and the tenant/Complainant's unit was one of well over five (5) residential units in the apartment complex.
3. That the Complainant, JADUS McINTYRE, had occupied a unit at 1516 Monroe Avenue, Apt. 19A, Neptune, New Jersey, since 1997, at a present rent of \$1,022.00 per month, and had alleged reduction in services not yet totally resolved; and

**WHEREAS**, with regard to reduced services above the Board found:

1. The Board found that it was unrefuted that there were leaks in the kitchen in June, 2018, but that the leaks were corrected.
2. The Board found that apparently as a result of leaks and improper disposal of water and sewerage, a mold condition had developed in all rooms in the apartment, especially the hallway closet, both bedrooms, the kitchen and bathroom and that complaints had been filed with the Code Enforcement Department of Neptune Township concerning these issues since June 13, 2018 with complaints and reports submitted by Code Enforcement and submitted into evidence as T-9; that the Landlord was contacted verbally through the Maintenance Department as early as June 13, 2018 with the last discussion on March 28, 2019, and that the Landlord had responded and provided some remediation, which appeared to be insufficient and not certified as proper remediation for elimination of the mold, and that the Board found that the mold condition had existed from as least June 13, 2018 to the present date, and proper notice was provided to the Landlord and that the Landlord responded within a reasonable time but had not acted in a reasonable fashion to eliminate the condition.
3. The Board found that the kitchen floor replacement as a result of both mold and leaks was appropriately reported to the Landlord and that the Landlord responded and did floor replacement, but said replacement had not been a reasonable replacement and the floor continued to be a hazard and a trip situation with possible mold in the subflooring with regard to the kitchen as reported by the Code Enforcement Officer of Neptune Township's Complaint of December 28, 2018 and February 28, 2019 submitted into evidence as T-9 and said conditions had existed since May 2, 2018.
4. That the Board found that the leaks in the bathroom and the replacement of the flooring were also a deficiency, but that the Landlord was notified and acted within a reasonable time period and had corrected and therefore was no longer an actionable matter.

The Neptune Township Rent Leveling Board at the aforesaid hearing found that the above referenced reduced services represented a reduced rental value and that the Complainant, JADUS McINTYRE, was entitled to credits towards rents due and owing in the future, as set forth in the aforesaid Resolution of June 6, 2019; and

**WHEREAS**, the Board set forth in the Resolution of June 6, 2019, that mold was a significant deficiency in the subject unit, which resulted in a reduced rental value from June 13, 2018 through the date of the hearing of May

2, 2019 of 50% of the total base rent of the subject unit, with a present rent of \$1,022.00 per month; or for complete months, a credit of \$511.00 for a total credit through the hearing of May 2, 2019 of \$5,433.00; and

**WHEREAS**, the Board further found that the tenant/Complainant was allowed continuing credit of the 50% of the base rent until the mold had been totally eradicated by the Landlord by certified remediation; and

**WHEREAS**, the Board also found that the improper flooring in the kitchen was a significant deficiency; resulting in a reduced rental value of 5% of the total base rent of \$1,022.00 per month from May 2, 2018 to the hearing date of May 2, 2019 or \$612.00, and further held that the credit would continue representing 5% of the total base rent until said kitchen floor issue had been totally remediated by the Landlord. Based on the evidence presented, the floor continued to be a "hazard and a trip situation" as reported by Code Enforcement Officers of the Neptune Township Code Enforcement Department in a Complaint of December 28, 2018 and February 28, 2019 submitted into evidence; and

**WHEREAS**, the attorneys for the Landlord, Harlee Gardens, LLC, namely Regan and Regan, Peter Regan for the Firm, made a formal application before the Board in order to prove that all deficiencies aforesaid had been eliminated by letter of September 4, 2019. Based on a report from Centric Environmental Solutions, dated August 21, 2019; and

**WHEREAS**, the Landlord, through its attorney, Peter Regan, Esq., made its presentation on October 3, 2019 before the Rent Leveling Board and presented testimony from the owner and members of the staff who were involved in the alleged cleanup of the subject property and the fixing of the floors, but not the company that prepared the Mold Inspection Report, and based on the fact that the report that was submitted did not include all of the rooms allegedly subject to mold, Peter Regan made a request for continuance of the hearing and an adjournment so that his client could obtain another Mold Inspection Report that would include every room in the apartment and the crawl space, which was scheduled for November, 2019; and

**WHEREAS**, it was determined at the October 3, 2019 hearing that work was done on the subject floors and Complaints filed previously by Code Enforcement were dismissed voluntarily by Code Enforcement on July 25, 2019; and

**WHEREAS**, at the continuation of the subject hearing on December 5, 2019, a subsequent Mold Remediation Report was submitted, dated November 11, 2019 by Centric Environmental Solutions and signed by James T. Dallas, a Board Certified Environmental Consultant, which covered an inspection of the entire subject unit, and both the Report and testimony for the first time of Mr. Dallas concluded that any mold that may have existed previously in the subject unit had been eradicated; apparently as a result of actions taken by the Landlord through individuals who testified at the October 3, 2019 hearing, and based on said testimony and based on testimony from December 5, 2019, both credits with regard to mold and credits due to improper flooring should be discontinued.

**NOW, THEREFORE, BE IT ORDERED AND DETERMINED**, by the Neptune Township Rent Leveling Board, that the Neptune Township Rent Leveling Board has found and determined the following:

1. Based on the report of James T. Dallas, a Certified Environmental Consultant in the area of mold remediation and inspection, and based on his Mold Remediation Report of November 11, 2019 and his testimony of December 5, 2019, it was determined that although there was no evidence of a Certified Remediation, that the evidence from a Certified Inspector in Mold Inspection and Eradication was sufficient to establish that the mold had been discontinued as of the date of the final inspection report dated November 11, 2019, and that credits previously provided to the tenant with regard to the mold issue should be discontinued as of November 11, 2019.

**BE IT FURTHER ORDERED AND DETERMINED**, that based on testimony both at the hearings of December 5, 2019 and October 3, 2019, credits with regard to the flooring issue be discontinued as of the date in

which the Code Enforcement Officer's Complaints were dismissed on July 25, 2019, as stipulated to by the Landlord; which meant that if the tenant had taken credits through December, 5, 2019, the date of the hearing in this matter, the Landlord would be entitled to a refund of credits of 6 days in July of 2019; \$1.65 per day or \$9.90 for the month of July and \$51.00 per month for any credits taken by the tenant in the months of August through December, 2019.

**BE IT FURTHER ORDERED AND DETERMINED**, that based on the consent and stipulation of the Landlord, the Landlord shall place a humidifier or humidifiers in the crawl space below the subject unit that have a capacity of 1,000 sq. feet per humidifier within 30 days after the adoption of this Resolution and maintain the same to keep the humidity to appropriate levels in the crawl space, and shall also have access to the unit with the cooperation of the tenant to clean the interior of the heating system to reduce the amount of "dust" which may have caused the mold.

**IT IS FURTHER ORDERED AND DETERMINED**, that the municipal attorney is hereby authorized to provide the Landlord, Harlee Garden Neptune Housing, through its attorney, Peter Regan, Esq., of Regan and Regan, located at 3100 Rt. 138 West, Brinley Plaza, Bldg. 1, Wall, New Jersey 07719, and the tenant/Complainant, JADUS McINTYRE, 1516 Monroe Avenue, Apt. 19A, Neptune Township, NJ 07753, with a written notice of this decision by copy of this Resolution effective the date of execution of this Resolution by supplying the same pursuant to Ordinance and that either the Landlord or the tenant/Complainant shall have a right within twenty (20) days of the date of receipt of the determination in accordance with the Neptune Township Rent Control Ordinance, Rules and Regulations of the Neptune Township Rent Leveling Board to file an appeal before the Neptune Township Committee.

Ms. Riley questioned whether they were obligated to prove they put humidifiers in the apartment.

Mr. Anthony stated he would send a letter advising them to do so within 90 days.

Mrs. Johnson requested a copy of the letter be sent to Mr. McIntyre as well.

The Board discussed the credits for the mold.

The resolution was adopted on the following vote: Holmes, aye; Riley, aye with reservations; Johnson, Klein, aye; Acciani, aye.

Mr. Anthony stated an appeal was made regarding this case and because the Board used the address that was listed. He stated the owner should have notified the Township of the change of address which he did not so they appealed it. The cost of the transcript has been ordered but they haven't paid for it and his though process was to send a letter to the Township to decline the appeal. The Board discussed deposit fees for transcripts in the event of an appeal in the future. He recommended the appeal be dismissed for lack of prosecution over 90 days since the landlord was notified as to the cost of Board transcripts and his failure to pay. A motion was offered, moved and seconded by Ms. Riley all were in favor.

The Board also agreed to amend the rules and regulations of the Board, offered by Mrs. Holmes, moved and seconded by Mrs. Johnson; all were in favor.

**PUBLIC PARTICIPATION**

None

Mr. Manning offered a motion, moved and seconded by Mrs. Johnson to adjourn the meeting. All were in favor.

Pamela D. Howard

Secretary