

Hardship Standard

At the Council meeting of May 8th an amendment was passed related to hardships that severely damaged the interests of many property owners.

- Constitutionality of rent control requires a return for the landlord, who can make a hardship application if rents do not cover expenses. A recent amendment to the ordinance limits rent increases to 2.5% increase. Hardship applications are cumbersome and time consuming, discouraging many owners from applying even if they are qualified. Often, these buildings are demolished or otherwise repurposed, reducing the availability of rental housing.
- The return previously was 6% over passbook interest, and justified in the ordinance, which correctly observed that real estate is illiquid and subject to risk and unpredictable market conditions. By definition a real estate ownership does not have the liquidity that stocks, bonds, or other assets classes enjoy and therefore the landlord is entitled to a liquidity bonus, for owning and operating the asset. The whole logic of this formula was to provide a return ABOVE that amount that could be realized in a bank account. In addition, the level of passbook interest MUCH HIGHER in the 1980s when the ordinance was first passed, and so the incentive to invest in and improve real estate in Jersey City is undermined.
- The Rent Leveling Office reversed its position on the key definition of “equity,” on which the hardship is based. The new amendment calculates equity based on the initial investment in the building. All rent control buildings were constructed more than 30 years ago and many are 50 years and older. The Rent Leveling Office’s new policy on equity contradicts the Rosato Case decided under Judge Weffing and is the subject of ongoing litigation.
- Reinvestment, renovations and improvements made over the years are constitutionally considered equity, which is now being ignored by Jersey City.
- Most if not all landlords applying for hardship status do not have a capital reserve fund in case the furnace is needed to be replaced or other major repairs are needed. They will never accumulate the reserve with 2.5%, imperiling the buildings’ tenants and increasing the odds that a conditions issues will cause disruption to tenancy.