



Order under Section 126 Residential Tenancies Act, 2006

Citation: Hama Investments Limited v Benat, 2026 ONLTB 41116

Date: 2026-05-26

File Number: LTB-L-081950-23

In the matter of: 370 Forest Street, Ottawa, Ontario, K2B 8B3

Between: Hama Investments Limited Landlord

And

Refer to attached Schedule 2 Tenants

Hama Investments Limited (the 'Landlord') applied for an order permitting the rent charged to be increased by more than the guideline for one or more of the rental units in the residential complex.

This application was resolved by a written hearing. The Board received submissions from the following Tenants: Hoang Nguyen, Brenda Delorme, and Darryl McCain. A reply to the Tenant submissions was received from the Landlord.

It is determined that:

1. I find that the Landlord has justified a rent increase above the guideline because the Landlord incurred an eligible capital expenditure for the residential complex or one or more of the rental units in it.

THE DEFINITION OF CAPITAL EXPENDITURE

2. The Landlord must lead evidence to establish that each of the capital expenditures claimed meets the definition of "capital expenditure" as set out in s. 18(1) of the regulation. It says:

"capital expenditure" means an expenditure for an extraordinary or significant renovation, repair, replacement or new addition, the expected benefit of which extends for at least five years including,

- a. an expenditure with respect to a leased asset if the lease qualifies as determined under subsection (2), and
- b. an expenditure that the landlord is required to pay on work undertaken by a municipality, local board or public utility, other than work undertaken because of the landlord's failure to do it,

but does not include,

- c. routine or ordinary work undertaken on a regular basis or undertaken to maintain a capital asset in its operating state, such as cleaning and janitorial services, elevator servicing, general building maintenance, grounds-keeping and appliance repairs, or
- d. work that is substantially cosmetic in nature or is designed to enhance the level of prestige or luxury offered by a unit or residential complex;

"ELIGIBLE" CAPITAL EXPENDITURES

- 3. In addition to meeting the definition of capital expenditure, each of the Landlord's claimed items must be an "eligible" capital expenditure.
- 4. Subsections 126(7) and (8) of the Act say:

(7) Subject to subsections (8) and (9) and except under the prescribed circumstances, a capital expenditure is an eligible capital expenditure for the purposes of this section if,

- a. it is necessary to protect or restore the physical integrity of the residential complex or part of it;
- b. it is necessary to comply with subsection 20 (1) or clauses 161 (a) to (e);
- c. it is necessary to maintain the provision of a plumbing, heating, mechanical, electrical, ventilation or air conditioning system;
- d. it provides access for persons with disabilities;
- e. it promotes energy or water conservation; or
- f. it maintains or improves the security of the residential complex or part of it.

(8) A capital expenditure to replace a system or thing is not an eligible capital expenditure for the purposes of this section if the system or thing that was replaced did not require major repair or replacement, unless the replacement of the system or thing promotes,

- g. access for persons with disabilities;
- h. energy or water conservation; or
- i. security of the residential complex or part of it.

THE 18-MONTH WINDOW

- 5. Pursuant to s. 26(2) of the regulation a rent increase shall not be ordered in respect of a capital expenditure unless the work was completed during the 18-

month period ending 90 days before the effective date of the first intended rent increase referred to in the application. In this case the 18-month window is from April 3, 2022 to October 3, 2023.

6. The expenditure must also be "incurred" which essentially means the work must have been paid for prior to the application being filed. This is not an issue with respect to any of the items claimed in this application.

THE USEFUL LIFE

7. If the expenditure meets the requirements set out above, then the Board must establish the useful life of the work done in order to calculate the allowable increase.
8. Section 27 of the regulation says:

27. (1) The useful life of work done or a thing purchased shall be determined from the Schedule subject to the following rules:

- a. Where the useful life set out in Column 3 of the Tables in the Schedule is less than 10 years, the useful life of work done or a thing purchased shall be deemed to be 10 years.
- b. If, when a thing is purchased, it has previously been used, the useful life of the thing shall be determined taking into account the length of time of that previous use.
- c. If the work done or thing purchased does not appear in the Schedule, the useful life of the work or thing shall be determined with reference to items with similar characteristics that do appear in the Schedule.
- d. Despite paragraphs 2 and 3, for the purposes of making a finding under this section, the useful life of work done or a thing purchased shall not be determined to be less than 10 years.

(2) If the useful life of work done or a thing purchased cannot be determined under subsection (1) because the work or thing does not appear in the Schedule and no item with similar characteristics appears in the Schedule, the useful life of the work or thing shall be what is generally accepted as the useful life of such work or thing but in no case shall the useful life be determined to be less than 10 years.

Capital Expenditure

9. The Landlord justified a rent increase above the guideline because of capital expenditures.
10. The Landlord's evidence justifies a rent increase above the guideline of 15.18% because of capital expenditures. However, pursuant to subsection 126(11) of the Act, the maximum permitted rent increase above the guideline because of capital

expenditures is 9.00% taken as follows: 3.00% in the first year, 3.00% in the second year and 3.00% in the third year. These increases are in addition to the annual guideline rent increase. The increase may be lower for Tenants who have moved into their units more recently or who are not affected by some of the capital expenditures. See Schedule 3 for the unit specific increases.

11. The Landlord's application is for the following capital expenditure:

a. Balcony Restoration.

Capital Expenditure #1: Balcony Restoration

12. The Landlord submits that the balcony restoration project was necessary as the "balcony slabs were deteriorating due to age and exposure to the elements and required repairs". The scope of the work involved restoration work to the balconies including concrete, soffit, and waterproofing repairs. The Landlord submits that this item is "eligible" under subsection 126(7)(a) because the work was necessary to protect or restore the physical integrity of the residential complex. The cost claimed in this capital expenditure is \$1,991,257.24.

Condition of the Balcony Soffit

13. The Tenant, Brenda Delorme, submitted a photograph of the underside of the balcony which depicts an uneven and worn soffit finish.

14. The Landlord, in its reply, submits that the "underside of the balcony slab of Unit 803, was fully inspected and passed as safe, with no structural deficiencies identified. The condition referenced is cosmetic in nature and relates solely to surface appearance. It does not affect the structural integrity, safety, or functionality of the balcony. The work undertaken was a rehabilitation of existing balcony structures, not full restoration or replacement and therefore was not intended to result in a newly finished or aesthetic surface".

15. While I acknowledge the Tenant's submission, the issue alone would not automatically disqualify the capital expenditure from being eligible. The issue for the Board to determine is whether the project was necessary to protect or restore the physical integrity of the complex. Given that the Tenants are not contesting the necessity of the work, I am satisfied the balcony repairs were required. If the Tenant believes the resulting condition of the underside of the balcony would support a finding of a breach of section 20(1) of the Act, the Tenant is entitled to file their own application(s) at the Board in respect of these issues.

Tenant Consultation

16. The Tenant, Darryl McCain, expressed dissatisfaction with the Landlord's choice of materials and submits that the cost of the restoration is being passed to the Tenants and therefore, the Tenants should have had "input, a voice, suggestions, etc on how or what materials were used".

17. The Landlord, in its reply, submits that “the work completed part of necessary repairs undertaken to address safety and structural integrity. The colour and selected railing system were selected following careful consideration to ensure conformity with the building facade, durability, engineering and long-term maintenance requirements. While the tenant may prefer a different appearance, such preferences do not affect the necessity, appropriateness, or eligibility of the work completed, nor do they impact the landlord's entitlement to seek an above-guideline increase for qualifying capital expenditures”.
18. Although the Tenant may feel it is unjust, a landlord is not required to consult the Tenants regarding capital expenditure projects at the complex. Section 126 of the Act specifically provides that a landlord may apply for an AGI for eligible capital expenditures incurred respecting the residential complex or rental units. For the reasons set out above, I am satisfied that the balcony restoration was an eligible capital expenditure.
19. Accordingly, I am satisfied the balcony restoration project meets the definition of capital expenditure contained in subsection 18(1) of the O.Reg 516/06 as it was a significant repair, the expected benefit of which extends for at least five years. It also meets the test for eligibility under subsection 126(7)(a) as it is necessary to protect or restore the physical integrity of the residential complex.
20. The cost of this capital expenditure is \$1,991,257.24.
21. The useful life of this capital expenditure is 10 years.
22. The weighted useful life for the capital expenditure is 10 years.

Written Submissions

Notice of Rent Increase

23. The Tenant, Nguyen Hoang, submitted into evidence a copy of a Notice of Rent Increase, along with two correspondences from the Landlord outlining the above guideline increase, but did not provide additional context as to the purpose behind their submissions. I believe it may be the Tenant's position that the notices are in someway defective or don't comply with the legislation.
24. The Landlord, in its reply, submits that “the tenant's submission does not identify any error, deficiency, or non-compliance in the Notices themselves, nor does it provide evidence relevant to the landlord's eligibility to seek an above guideline increase. The landlord confirms that the Notices were properly completed and served in accordance with the Residential Tenancies Act (RTA)”.
25. The validity of the Notice of Rent Increase forms (N1 form) served upon the Tenants, and the lawful rent for each unit, are not issues the Board is entitled to consider in determining whether a Landlord's above guideline increase application is successful. Members do not have the discretion to deviate from the legal tests set out above.

Maintenance Issues and City Order

26. The Tenant, Brenda Delorme, submitted a copy of an order from the City of Ottawa which required that Landlord to address: removal of debris from the complex, a damaged tree limb, repairing loose deck boards, replacing a drain in the parking garage, removing and awning and graffiti, repairing exit doors, repairing water damage, cleaning common areas, and repairing a light.
27. The Landlord, in its reply, submits that “the Order addressed separate building matters, all of which were promptly corrected by the landlord and subsequently cleared through City inspection”.
28. After reviewing the Tenant’s maintenance claims, I acknowledge that some of the issues raised would constitute a breach of subsection 20(1) of the Act. However, considering the Landlord’s assertion that these maintenance issues have been addressed, I am not convinced that, either taken individually or collectively, the remaining issues rise to the level of a serious breach of the Landlord’s maintenance obligation. A disrepair problem that is not “serious” as that term is used under the Act is not relevant to these proceedings. However, if there are outstanding maintenance issues the Tenants are entitled to file their own application(s) at the Board in respect of these issues.

General

29. The Certificate of Service filed by the Landlord on November 27, 2025, indicates that some rental units listed in the application were not served with the application and notice of hearing. The LTB shall therefore amend the application by removing these rental units. As a result, this order for a rent increase above the guideline under section 126 of the Act does not apply to the following units: 502, 512, 513 and 717.
30. The first effective date of the rent increase above the guideline is January 1, 2024.

It is ordered that:

1. The Landlord may increase the rents charged by 9.00% for the units set out in Schedule 1.
2. The percentage increase set out in paragraph 1 is to be taken as follows:
 - a. The Landlord may increase the rents charged by 3.00% within the time period of January 1, 2024 to December 31, 2024;
 - b. The Landlord may increase the rents charged by 3.00% within the time period of January 1, 2025 to December 31, 2025; and
 - c. The Landlord may increase the rents charged by 3.00% within the time period of January 1, 2026 to December 31, 2026.

3. The percentage increase set out in paragraph 1 may be taken in addition to the annual guideline in effect on the increase date for the unit.
4. The Landlord or the Tenants shall pay to the other any sum of money that is owed as a result of this order within 150 days of the date of this order.

May 26, 2026
Date Issued

Andrew Laurich
Member, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
Toronto ON M7A 2G6

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.

Important Notes:

1. The landlord may increase the rent charged by the ordered increase within the time period specified if at least 12 months have passed since the last rent increase or since the tenant moved in, and if the landlord has given the tenant at least 90 days proper Notice of Rent Increase. Any part of the ordered increase that is not taken within the time period specified cannot be added to subsequent rent increases in subsequent time periods.
2. If the landlord has given a Notice of Rent Increase for a rent increase that is less than the ordered increase, the landlord may only take the rent increase set out in the Notice.
3. If the Tenant's rent is increased pursuant to the percentage increase ordered for capital expenditures and the same Tenant remains in the unit after the expiration of the weighted useful life for capital expenditures, then the rent will be reduced. Refer to Schedule 3 for information about the date and amount of the rent reduction.
4. The annual guideline for 2024 and 2025 is 2.50% and for 2026 is 2.10%.

Schedule 1 - Units affected by this Order:

105	305	412	604	711
109	306	413	605	712
119	307	414	606	713
201	308	415	607	714
202	309	416	608	715
203	310	417	609	716
204	311	419	610	719
205	312	501	611	801
206	313	503	612	802
207	314	504	613	803
208	315	505	614	804
209	316	506	615	805
210	317	507	616	806
211	319	508	617	807
212	401	509	619	808
213	402	510	701	809
214	403	511	702	810
215	404	514	703	811
216	405	515	704	812
217	406	516	705	813
219	407	517	706	814
301	408	519	707	815
302	409	601	708	816
303	410	602	709	817
304	411	603	710	819

Schedule 2 - Tenants who are Affected by this Order:

Agostinho, Lopes	Georgina, Joyce	Michel, Marc Williams
Akot, Joan Kuvonda	Ghazaleh, Nourparvar	Mikhail, Kudrin
Alan, Eady	Godwin, Muzuva	Minh, Khoi
Alankrita, Rajaram	Grant, Swartz	Mohammad, Najib Allahyari
Alexander, David Ansell	Gregor, Mitchell	Muriel, Blais
Alpesh, Senghani	Gurinder, Parwana	Nocholas, Arthur Balak
Ange-Vine, Jean	Harjeenna, Sivapatham	Noella, Gatt
Azizur, Rahman	Hayzell, Meriweather	Norlita, Villanueva
Basma, Abdel-Aal	Hoang, Nguyen	Olivia, Heimpel
Benat, Susan Alias	James, Montgomery	Patricia, Goings
Bishnu, Hari Dhakal	Jason, Norman Schultze	Patricia, Rodgers
Brad, Poirier	Jean, Charette	Patrick, Disotell
Brandon, Zaworski	Jim, Scissons	Paul, Denis Tremblay
Brenda, Delorme	Jithin, Sebastian	Pegah, Behradmajd
Bruce, Pollex	John, Clorey	Phuc (Michael), Dinh
Byron, Anthony Tomlison	John, Thompson	Prabal, Bhusal
Carl, Robert	Jonathan, Gervais	Raymond, Kluke
Carolyn, Cloutier	Jordan, Headley-Orchard	Reta, Surret
Chacko, Anto	Joshua, Kingsbury	Richard, Dejoode
CHAD, POS	Judy, Love	Robert, Browning
Cheryl, Gan Wei Li	Justin, Howell	Robert, Claude Parent
Clayton, Shier	JYOTIRMOY, MAJI	Ronit, Bayangolkar
Curtis, McNish	Kalen, Beauvais	Rowena, Edic
Cyril, Purcell	Kariki, Supriya	Samuel, Menard
Cyril, Yanchula	Katie, Birtch	Samuel, Vaillancourt
Daniel, McCormick	Kristin, Vitols	SANDHYA, KC
Daniel, McCormick	Krystal, Sobhie	Sean, Robinson
Darlene, Hebert	Lal(RT), Tluanga	Sharon, McDonald
Darryl, McCain	Lindsay, Griffiths	Sharyon, Elizabeth Mahoney
David, Marsh	Lioudmila, Ouvarova	Somneang, Keang
Deepanshu, Gaba	Liza, Chrzanowska	Srivarshini, Mohan
Dennis, Paul Piche	Lorna, Beattie	Stephen, Pilon
Derek, Gibbons	Loveleen, Kaur	Steven, Sheehan
Diana, Keillor	Luc, Cronier	Steven, Short
Diana, Margaret Soosai	Lynn, Simpson	Tatiana, Moloughney
Diana, Martel	Makase, Macintosh	Tracey, Barbara Fitzpatrick
Dulsie, White	Manoraj, Pant	Umna, Majeed
Edman, Chan	Marcel, Gravelle	Vanshika, Vanshika
Emelita, Eracho	Martin, Breedyk	Vibhas, Gautam
Ernest, Larwill	Martine, Laflamme	Vilma, Bayubay
Gabriel, Ladouceur	Masy, Reine Raeliaritrimo	Wayne, Lonsdale
Gage, Lapierre	Michael, Georgantopoulos	

Schedule 3 - Rent Reduction related to Capital Expenditures

A. Date of Rent Reduction

If the Tenant's rent is increased based on capital expenditures during the period 2024 then:

The date of the rent reduction will be the day before:

- the date of the Tenant's first rent increase under this order, plus
- the number of years for the weighted useful life for capital expenditures for the unit (set out in the order).

Example:

If the Tenant's rent was increased on June 1, 2021 and the weighted useful life for capital expenditures is 10 years, then the rent will be reduced on May 31, 2031.

If the Tenant's rent was *not* increased based on capital expenditures during the period 2024 but was increased during the later periods set out in the order then:

The date of the rent reduction will be the day before:

- the First Effective Date of Rent Increase in this order, plus
- the number of years for the weighted useful life for capital expenditures for the unit (set out in the order).

Example:

If the first effective date of increase in this order is April 1, 2021 and the weighted useful life for capital expenditures is 10 years, then the rent will be reduced on March 31, 2031.

B. Amount of Rent Reduction

If the Tenant's rent is increased by the total percentage increase set out in this order then:

The rent must be reduced by the total percentage increase set out in this order for capital expenditures.

If the Tenant's rent is *not* increased by the total percentage increase set out in this order then:

The rent must be reduced by an amount determined in accordance with the prescribed rules which may be equal to or less than the total percentage increase set out in this order for capital expenditures.