

**BOROUGH OF DUMONT
BERGEN COUNTY, NEW JERSEY
RENT LEVELING BOARD
FEBRUARY 14, 2011**

Meeting was called to order at 7:00pm by Co-Chairperson Judy Parker.

Flag Salute

SUNSHINE LAW: The notice requirements of the Open Public Meetings Act of the State of New Jersey have been satisfied by the inclusion of the date, time and place of this Rent Leveling Board meeting of the Borough of Dumont having been sent to *The Record*, the *Press Journal* and posted on the Borough website and in the Borough Hall on December 17, 2010.

ROLL CALL: Judy Parker, Albert Taxter, Irwin Buchheister, Lillian DeCristofaro, Coleman Szely - present
Michael Falcone – absent

Also in attendance was Kathy Schaefer, Board Secretary.

Ms. Schaefer introduced Marty Caspare, Council Liaison for 2011, to the Board members.

Copies of the October 18, 2010 minutes were submitted to the Board for review prior to the meeting

Motion to approve October 18, 2010 minutes: Mr. Taxter

Second: Mr. Buchheister

Ms. Parker and Ms. DeCristofaro: abstain

All in favor: Aye

Copies of the December 13, 2010 minutes were submitted to the Board for review prior to the meeting

Motion to approve the December 13, 2010 minutes: Mr. Szely

Second: Ms. DeCristofaro

Mr. Taxter: abstain

All in favor: Aye

Copies of the December, 2010 and January, 2011 attorney invoices were submitted to the Board for review prior to the meeting.

Motion to approve the invoices: Mr. Taxter

Second: Mr. Buchheister

All in favor: Aye

Copies of the RFQ for 2011 by Monica Cho of Bhalla and Cho and Resolution 11-01 were submitted to the members of the Board for review prior to the meeting.

Motion to approve Resolution 11-01 Authoring Agreement for Professional Services for Rent Leveling Board: Mr. Taxter

Second: Mr. Buchheister

All in favor: Aye

Ms. Schaefer advised that Mr. Buchheister and Ms. DeCristofaro were re-appointed to the Board by the Mayor and Council at its January 4, 2011 meeting. Per the request of the Board, Ms. Schaefer had contacted Ms. Elliott to see if she was still interested in serving on the Board; she requested not to be re-appointed.

Ms. Schaefer advised that based on the average CPI for the months of July through December 2011, the CPI to be used for rent increases for the period January through June, 2011 is 1.4%.

Mr. Falcone arrived at the meeting at 7:10pm.

Tenant Complaint Hearing

Mr. Falcone advised that he would be running the hearing. He wants to set some ground rules so that it runs smoothly. Most important ground rule is that no one interrupts, it is going to be run just like a courtroom. Everyone who is going to testify is going to be sworn in by Monica. The first thing he is going to do is question Ms. Matula. He has a list of questions for her, she will answer the questions, and when he is finished, without being interrupted, if the Board has any questions then they may ask questions. Then the landlord has the right to cross-examine her and after he has completed cross-examining her, then he will proceed to ask the landlord questions. When he is done with the landlord, then the Board has their turn too to ask the landlord questions. Please do not ask the same questions he has already asked, this would be ridiculous and waste a lot of time. Then Ms. Matula has the right to cross examine the landlord. Then the landlord has an attorney, so the landlord may want to make some closing arguments which he is entitled to do; Ms. Matula can also make some closing arguments if she would like to. Then at the end we have to determine what we are going to do. Mr. Falcone stated that he had just received some new information from the Board secretary. He stated that probably he would recommend that we do not make a decision tonight but if the Board did decide that they want to make a decision tonight, we can do that. Mr. Szely questioned that if the new information is relevant to the hearing, then why proceed since we did not have the time to examine it.

Ms. Cho, Board Attorney, arrived at 7:20pm.

Mr. Salvatore, the attorney for the landlord, advised that he had the same concern as the gentleman at the table (Mr. Szely) in that in less than three hours before the hearing, he received all this paperwork. He is willing to proceed but he does not think it is fair that he didn't have time to digest it all and he gave Monica his objection; he would like to have that noted. Mr. Falcone stated that probably at the end of this hearing he is going to make a recommendation to give us time to look at the new paperwork and he doubts that we will want to make a decision tonight, but that is for the whole Board to decide.

Mr. Falcone introduced himself to the landlord, John Cangiamila; and his attorney, Vincent Salvatore. Ms. Cho stated she wanted to touch on one point that Mr. Salvatore had said. She emailed to him the documents that Ms. Schaefer had emailed to her that were given by the tenant today. Mr. Salvatore did email back saying that he is objecting to this, so she just wanted to state on the record: Mr. Salvatore, I don't know if you are prepared to go forward, I don't think that the Board wants to prejudice the landlord in any way. She asked if he had had a chance to review. He stated very quickly, very briefly; he does not want to drag this on forever either and would like it to come to a head and be done with. It is kind of unfair to spring this right before the meeting. Mr. Falcone stated that there are a lot of questions that he would like to have answered; are all the questions that are in here answered in here. Ms. Cho advised that there is a lot of testimony that needs to be elicited. Mr. Falcone advised that he feels he has to hear some type of testimony. Ms. Cho advised that the only thing she wanted to make clear was whether the landlord's attorney wanted to go forward, because we do not want the landlord to be prejudiced in any way. Mr. Salvatore questioned as to when the next meeting would be as he was going to be away. Mr. Falcone stated in two months or April 11th, that we meet every other month. He stated that we could call a special meeting. Mr. Salvatore stated that he is torn between the fact that this is a relatively informal hearing and he would like to cooperate but on the other hand Ms. Matula was supposed to get any reply to us by January 21st and this is February 14th, after 4:00pm that he received these papers. He had no time at that time to review these papers except for standing in the hallway here to try to go over some of this stuff briefly, so it is kind of prejudicial for us to proceed because I do not know what she is going to say. Mr. Falcone stated that the problem is that Ms. Matula is an elderly lady and she has no help. We have been telling her to seek out help to help her with this claim. Mr. Salvatore stated that he thought she did have an attorney. Mr. Falcone stated that he didn't know what took her so long to get the paperwork. Ms. Matula stated that she could not write a letter nor can she type. She had to get a gentleman from the NJ Legal Aid Society to put this information together but they do not come to hearings. Mr. Salvatore advised they were willing to proceed and as he said to Ms. Cho, as long as he has the opportunity that if anything is brought up out of these documents today, that we would not render a decision tonight and that he would be able to supplement the record.

Ms. Cho asked Mr. Falcone if we could just ask the attorney for his information for the record: Vincent M. Salvatore hearing for the landlord Gaetano-Fina, Inc.

Tenant Ann Matula and Landlord John Cangiamila were sworn in by Ms. Cho.

Mr. Falcone stated that a complaint was filed by the tenant, Ann Matula, who lives at 8 Grant Avenue, Apt. 3B, in Dumont against the landlord. Have all the parties received all the documents-As just established –no.

Mr. Falcone asked Ms. Matula the following questions:

Q: How long have you been a tenant of this building? A: Over 20 years, like 23

Q: Do you have a copy of this year's lease? A: Yes

Q: Do you have it with you? A: Yes, but I would have to go through the papers.

Q: Do you have a copy of last year's lease? A: I believe so, I'm not sure.

Q: Is it the same lease? A: Same type of lease, except amount of rent and he said something that I have to pay for electric and the heating of the water.

Q: So last year's lease is not exactly the same as this year's lease? A: No

Q: Do you have a water meter in your unit right now? A: Yes, I do

Q: When was it installed? A: A few months ago, I don't know the exact date.

Q: January, December? A: I don't know – he would know-referring to the landlord. The landlord responded that it is not a water meter, it is a hot water heater and it was installed the end of September 2010.

Q: Prior to this water heater being installed, had you ever paid for hot water before? A: No

Q: Are you now responsible for paying for your hot water usage? A: Yes

Q: Did you read your landlord's letter of January 5th in answer to your complaint? He says that you are responsible for electricity and hot water. A: Yes

Q: Have you always been responsible for electricity? A: Yes, I always paid my electricity bills except for two years when PSE&G paid them through some sort of arrangement made through the town.

Q: Have you always been responsible for your hot water? A: No because that came with it, I did not have to pay a hot water bill.

Q: How is the hot water provided through gas? A: Landlord responded yes, through gas through the boiler throughout the building, but hers is electric.

Q: But the rest of the building is through the boiler? A: Landlord responded yes. On all the leases it does say that she pays for hot water.

Q: When the landlord installed your water heater, did he decrease your rent? A: After I said that it was too much and I reported it at Borough Hall and I told him so they dropped it \$10.00. Yes, after I reported it.

Q: Did you have any discussion with your landlord about this decrease, the \$10.00. A: Afterwards, I had the town get in touch with him first and then he made the change. Not a real discussion, no, he just mentioned that he heard about this.

Q: Did you complain to him about this? A: Yes, I said to him is everybody getting this decrease; I didn't get an answer; I only knew we were all supposed to get the same heating system which they didn't.

Q: Did the landlord tell you what the average monthly water charge is for the building for the other tenants? A: No

Q: Do you know what the average monthly water charge is for the building or for the other tenants? A: No, I don't know what it is.

Q: Is that what we have here now (referring to the paperwork received that day)? Mr. Salvatore questioned as to was this what she had submitted. A: Board secretary to Mr. Salvatore – no, this is something we would have had to get from you.

Q: I am asking her. Did the landlord tell you what the average monthly water charge was for the other tenants in the building? A: No, that's a secret, you're not allowed.

Q: To the Landlord: In other words, how did you arrive at the \$10.00 that you gave her off? Did you tell her what everybody else was paying? A: Landlord stated no, he just took \$10.00 off. When she called him to say she was paying too much money, he wasn't

going to argue with her. He believes he had raised her 2%, less than what any other tenant got raised. He said she was worried and he told her don't worry about it, I will take care of it and put it in the lease which we did.

Q: What was your rent in July 2010? A: It was the \$10.00 difference, it was \$40 or \$45, \$10.00 difference.

Q: What was the rent for the last term of 2009? A: I paid \$265 and they dropped it down to \$255. Mr. Salvatore said it went from \$775 to \$765; I think she is confused about the number. The landlord said it went from \$765 to \$755.

Q: After the landlord installed the water heater, are you paying for any of the utilities that you had previously not been paying? A: No I am still paying only the one electric bill.

Q: Only it's higher? A: Definitely.

Q: So you are now paying for the hot water heater? A: Yes.

Q: Same bill. A: But he said everyone was getting it and I am the only one.

Q: I need your water bills of July, August, September, October, November and December of '09 and January, February, March, April, May and June of '010. A: I have a list of electric bills, but Julia Farrell got me on a plan where I did not have to pay them for almost two years.

Q: It does not matter who pays the bills, it is still your responsibility and we still need to know the amounts. A: Well I have something with me that I got from PSE&G.

Ms. Cho advised that the list is part of the document that she had brought to Ms. Schaefer, so if it is going to go into evidence, maybe she can tell us where she got it from. The Chairman questioned as to whether he had it, the secretary advised that it was part of the paperwork they had received that the landlord's attorney did not want to discuss because they received it too late. Ms. Matula advised that she had requested it from PSE&G and they sent it to her through the mail. Mr. Falcone stated that these are not actual bills; this is just a list. He questioned if this was a PSE&G letterhead. Mr. Salvatore advised that this is what the problem is, he is at somewhat of a disadvantage here; in this day and age of computers and Excel spreadsheets, who knows who made this up. Mr. Falcone advised that he would like to see something on a PSE&G letterhead that actually tells him that this is in fact what it is. Who did this come in the mail from. Ms. Matula stated PSE&G. Mr. Falcone questioned if she had the envelope this came in from. She stated yes, but not with her, but she knows it came from PSE&G because she called them. Mr. Falcone asked if she knew who she had talked to at PSE&G; she replied with a young lady who had just said she would take care of it and it came in three days afterwards. She called on a Friday and they mailed it on Monday. Mr. Falcone advised that if she could produce that envelope, she stated that she didn't think so, that she thought she had ripped it up when she received it.

Q: When was this water meter installed, September? A: Landlord responded the end of September.

Q: Of '010? A: Landlord responded yes as of '010.

Mr. Falcone reviewing the list from PSE&G stated this is some jump from \$91, \$152, \$208, \$166. Ms. Matula showed Mr. Falcone a piece of paper she had received today from the lawyer front and back. It showed the average is \$67.96 a month, before the

average bill was \$21.45 a month. Ms. Matula told Mr. Falcone to look on the other side at what he wrote. Mr. Falcone stated it says there is a \$46.51 a month average increase.

Q: The Legal Aid figured that out for you? A: The lawyer figured it out in my presence. Mr. Salvatore said he would continue with his objection to that document just for the record.

Q: Your landlord alleges that you constantly run hot water day and night and that you have caused damage to your apartment as well as the apartment below. Is this true?

A: Some of it is true, not all of it. What is true is that I did have a leakage which did come downstairs but I do not run it all night because I have to sleep too. The gentleman next to me sleeps all day and at night, he is awake. That's it, but I am not a loud tenant. I do not run it all night long, we are not allowed to run hot water, can't do laundry or nothing.

Q: Why would you run your hot water at all if you are not taking a shower or a bath or washing dishes? A: He says that I take a shower late, the police said that I can take a shower whenever I want to take a shower. He hasn't got the right to tell me. Right out in the hall publicly this was said. He knocks on my walls, slams doors and keeps yelling "shut the water off". This is what I put up with him, banging on my door, knocking on my door.

Q: Is this a new tenant? A: No he isn't.

Q: Has he been there a long time? A: He came after me but I was there many years before him. He came after we had the fire.

Q: I need a direct answer to the question, do you run your hot water all the time? A: No I don't, there would be no reason for me to do that.

Q: Tell me when you run it, what times of the day and for what reason you run it? A: I'll run it a little bit during the day, I don't cook at home, so I am not doing any dishes, I run it at night sometimes for a shower or something like that. I am out a lot and I live alone so I am not sitting in my apartment running water.

Q: So your hot water is not on all day? A: No, on hours, I mean at times, but not all day, no this is what I am trying to say.

Q: Is your hot water faucet leaking? A: No it is not, I called PSE&G one day and asked them to go downstairs to look at the meter and they said "My god, that meter is running like crazy and here you are talking to me, so I can't figure that out." I called it in and they came right away to check it downstairs to see if it wasn't hooked up to something.

Q: You are talking about water usage, I am talking about hot water. A: I do not run the hot water all day long. There is no sense to that.

Q: Okay – it is not leaking in the bathtub, it is not leaking in the bathroom sink? A: No. No.

Q: So you are out during the day and when you come home at night, you run the hot water? A: I am in and out – I am not home all the time. I run it in and out. I run it when I am home and maybe a little longer, but I am not running it all day long.

Q: Are you doing anything differently now than you've done for the past 20 years? A: No, I don't think so, my lifestyle hasn't changed like that, No that's what I am trying to prove.

Q: You are still living there alone with nobody else? A: Yes. I may use water in cleaning but I shut my water off, I don't keep running it, that's why this gets to me.

Q: Have any of your neighbors complained about you? A: Yes, but she doesn't get it from anyone else.

Q: Is there any damage to your apartment? A: In the bath there is some damage. There was damage before.

Q: To the floor? A: Yes, to the floor because before I moved in the people that had the apartment before me painted the whole floor purple and they had to give me a new floor, the floor was at an angle. So he had to fix the tub, it was never a perfect job because when he came there was still an opening between the door and the tub. To the landlord: your man never got to do that, he was supposed to come back but he never got to do that.

Q: Do you have a sliding door on the tub? A: No I have a regular door where the paneling comes down like that and spreads in between. He did some kind of work on the tub when the man downstairs complained about the tub, but he left that other area open and it has been open since.

Q: So I guess the damage from your floor went to the person downstairs? A: Yes, I would say so but its an old floor too. Just like I never had any trouble with the toilet and he has accused me of that and I never had a plumber to do that and now I'm getting leakage around the bottom of the toilet bowl. I have lived there over 25 years and never had to have that done.

Mr. Falcone advised that he can't think of any more questions. Does any other members of the Board have any other questions?

Ms. Parker advised she would like to ask some questions.

Q: On your water bill, since this new water heater has been placed in your apartment, do you also pay your water bill or is that a pass through from your landlord? A: That's a pass through. For about two years, I had a service in the community that paid for it. I always got the bill that said "Do not Pay this Bill" and it went for a whole two years like that. Now since the water heater is in, I have to start paying my water bill.

Q: So you are invoiced directly from United Water for your water usage and you are invoiced directly from PSE&G for your electric usage. Correct? A: When they were paying PSE&G, I had a plan like that, I did not have to pay that for two years.

Q: What I am talking about now is the new water tank. You have to pay your own bills, you are responsible for your own bills? A: Yes, I have paid two or three of them already and now I have to pay another one that came this week.

Q: Your original complaint, I am a little bit confused, you're complaining because the landlord installed a water meter and water heater in your apartment. Mr. Falcone advised that it was not a water meter, it is a water heater. Ms. Parker stated so you are complaining that you got a water heater installed in your apartment? A: Yes

Q. Why is that a problem for you? A: Because when he put that in he told me that you are not the only one, everyone was going to get it. I am the only one that got it.

Q: But why is that a problem? A: Because it is a bill that I have to pay everytime, it cuts half of the room off, it's a big thing monster.

Q: But why is it a problem-because you have to pay your own water bill? A: Because I never had to pay, the price of that water bill is \$100 and something each time.

Q: Is that the water or is that electric? A: It comes on the electric bill because the water is heated by electricity.

Q: So the bill that you are telling me is so high, is that your electric bill or your water bill? A: It is really I guess the water bill. I don't know how they work it but that's what it is – just one bill.

Mr. Buchheister advised that the electric bill is high because the hot water heater is run by electricity. Ms. Parker advised that she is aware of that. The point she is getting to is that don't you think if you don't use the hot water so much, the bills wouldn't be skyrocketing like they are. That's my point, if you keep the hot water off, the bills won't be so high. Mr. Falcone advised that he had just asked Ms Matula if she used the hot water and she said no.

Ms. Parker proceeded with her questions.

Q: When this bill in October shot up to 486 kilowatt hours, did you call them and say why is it so high? A: I called two weeks ago and they came and they said that the meter downstairs was going like crazy and I said I am not doing anything. I said is someone using it. He said now turn it on and turn it off which I did. He said that it went down lower but is still running wild and that he would check into that.

Q: But you said that was two weeks ago? A: A little more than two weeks, I didn't put a record of the time. But this was after the water heater was installed that these two men came from PSE&G.

Q: Have you been getting your bills since October? I just can't see why this is a problem to have a water heater installed in your apartment, since now you can monitor your usage? A: Before that he put a tile under my sink and checked it out; he's keeping tabs on me. Now I also have pipes through the room.

Mr. Buchheister asked if he could ask a question.

Before this all started, she paid electricity on the meter, according to the lease – correct? Mr. Salvatore replied that he was not sure what Mr. Buchheister's question is. Her electric bill was on an individual electric meter. Mr. Salvatore stated yes. According to the lease, she is responsible for hot water too – correct? Mr. Salvatore responded yes. Mr. Buchheister asked if she had a separate hot water meter before. The landlord responded no. Mr. Buchheister asked well how do you bill? Mr. Salvatore stated that the water bills come in and the landlord pays it. Mr. Buchheister questioned do you pro-rate it, then say it is \$1,000 and you have 10 residents, then each pays \$100. Mr. Salvatore said exactly, but that is not the situation here. Mr. Buchheister said but that is how she was paying. Mr. Falcone stated the water is produced by a master boiler. Mr. Buchheister stated he knows that but if she is responsible for the water costs, the landlord has one meter, he doesn't have sub-metering like other people do, he decides that whatever his bill is is divided by the tenants equally. He stated we are trying to establish what is before and what is now.

Mr. Falcone stated that he wanted to say one thing that no matter what, the ordinance of the Dumont Rent Leveling Board does in fact state that if any changes are made that adds additional costs to a particular tenant then that tenant's rent must be decreased by the

amount of the change. Ms. Cho advised that the ordinance does say something to that effect. Mr. Falcone advised that as soon as we establish what this amount is, that's what is going to have to be done.

Mr. Falcone stated that if there are no more questions, Mr. Buchheister stated that he was not finished. Before this all started, as I stated before, she was billed individually electrically, she was billed water on a pro-rated basis. He asked the landlord if this was correct. Ms. Cho advised that he was not behaving procedurally. Mr. Buchheister asked Ms. Matula if she paid her own electric bill. She stated no, now she does. Mr. Falcone asked Ms. Matula when you pay your electric bill, you pay it through an electric meter and someone from the borough pays it for you. You have a separate water bill that you get from the landlord that everybody in the building gets - a pro-rated bill. Ms. Matula stated that no one else has that kind of heat, only me. Mr. Falcone asked prior to the installation of that heater, every month you got a water bill from the landlord. She stated no she didn't, she never paid for water before. Mr. Buchheister stated it was included in her rent, now she has to pay separately because of excessive use. He asked Ms. Matula again if she never got a separate water bill from the landlord. She stated no. She stated she got complaints but she didn't get a bill. I only got electric bills and that was after the thing stopped from PSE&G that gave me the break that Julia Farrell from Services had got for her. Mr. Salvatore asked if he could clarify this and advised that the landlord is responsible for water, the lease says that. Ms. Matula stated hot water, not cold. Mr. Buchheister said that so before all this happened, she got a separate electric bill and the water was in her rent. Now there is a problem, the landlord installed a separate water heater and a separate meter and you pay your water directly to the water company. Mr. Falcone stated that there is no separate meter, there is no meter. Mr. Buchheister asked then how does she pay the water bill. Mr. Falcone stated she doesn't, there is no hot water meter, only a hot water heater. He stated that this was worded incorrectly from the very beginning, there was no meter put in. Mr. Buchheister stated there was a hot water heater put in, Mr. Falcone said yes, but never a meter.

Ms. DeCristofaro pointed out to Mr. Salvatore that in his letter he indicated that a separate water meter and larger hot water heater were installed. Mr. Salvatore said that was his mistake. Mr. Buchheister asked why they had put a separate water heater into her apartment. Mr. Falcone stated that is the reason why we are here to determine, we can't get into that right now because they have to have their turn to talk.

Mr. Falcone advised that Mr. Salvatore now has the right to cross-examine Ms. Matula.

Q: Ms. Matula your landlord for years, correct me if I am wrong, has complained about your running the water day and night. Is that correct? A: Yes, according to his opinion, he always said that.

Mr. Salvatore advised that he would like to submit a letter that he wrote to Ms. Matula's attorney back in 2002, this is how long this has been going on, and before that even. We settled a court matter, we did not want to evict her, we just wanted her to stop and in the letter I wrote - this is an agreement. This is to the woman attorney. Ms. Cho stated that

this is a cross-examination, you are not a witness in this case. Mr. Salvatore stated that he is going to submit this as evidence and I want to ask her a question about it. It is a letter to her attorney and in that letter it says that you would not run the shower or hot water for extended periods of time in the bathroom as this has caused severe damage to the bathroom, loosened tiles, rotted floor, etc. and water leakage into the apartment below. Do you remember that? Ms. Matula stated that offhand she does not recall.

Q: Do you remember us going to court many years ago? A: Many years ago, we went because you said I was using the sink and you said I am not allowed to do laundry there.

Q: And wasn't that in fact about the usage of hot water? A: A little bit but no it was mostly about my having done laundry there.

Q: On the average day, how long do you run the hot water in your apartment? A: It all depends, I don't know, I don't count, but I shut it off whenever I am finished with it, I don't keep running it. No, I don't do that.

Q: How long would you estimate, you have a giant water bill all of a sudden, sorry I mean an electric bill? The only difference from between before September and after September, the only difference is the heating of the hot water, is that correct? A: Yes.

Q: There is no other reason that bill went up? A: No, but don't forget I didn't pay it for two years because I was given that by PSE&G.

Q: I understand that but you can't estimate how long you run hot water each day? A: Sometimes 15 minutes, sometimes 20, when I wash my hair, it is a little longer but I don't sit there with a watch.

Q: But that is what caused your water bill in December, I'm sorry, your electric bill to be \$208 from \$22 earlier. A: No I never paid that much.

Q: Well this is what this says, this is what you submitted. \$208.01 was your electric bill for December 2010. The last bill before the water heater was put in was \$23.15. A: Well I wouldn't know that cause I didn't see that. I didn't pay a bill like that, what was the date of that. Mr. Salvatore advised that bill was dated December 6, 2010. Ms. Matula advised that no then I didn't send that yet, I sent in one for 200 and something a couple of months ago and then another one for one hundred and something.

Mr. Falcone stated that the bills were in the double digits and now they are in the triple digits. Ms. Matula stated you don't know the full thing because they take off because they also said to me "Ms. Matula your bills are so low, you hardly use it". Besides they always said "do not pay this bill". That was put on the bill when they came in like that. Mr. Falcone stated that Mr. Salvatore needs a direct answer. I asked the same question that he asked you and I was not able to get a direct answer either. She stated that for two years she did not have to pay the bill, all of a sudden, I have to pay the bill. Mr. Falcone told Ms. Matula that is not the question, you have to answer the question as it was asked – how long do you run the water during the day? Ms. Matula stated that during the day it is not that long. Mr. Falcone asked one hour, two hours? She stated that during the day no it is not that long. Mr. Falcone asked total for the whole day, two hours maybe. She said she would not say two hours, it is not a steady thing. Mr. Falcone stated you take a shower, you wash your dishes, you wash your hair; two hours? I don't have many dishes, I do a little things around the house and then go out. Do you wash the floor with hot water? No most of the time with cold water. Mr. Falcone advised Mr. Salvatore that the

question will have to go unanswered, I cannot get a definite answer either. Ms. Matula advised that she cannot answer it directly because most of the time she is out of the house.

Mr. Salvatore stated that the only difference over this whole period of time starting in October is now you are paying for heating the hot water. She agreed and he stated that is the reason why these bills went up.

Q: Do you run the hot water at night? A: No, unless I take a shower.

Q: Aside from taking a shower for about say ½ hour, do you run the hot water at all at night? A: No, if I am sitting reading or watching TV, I am not running water.

Mr. Falcone stated he thinks what he means is when you are sleeping. She stated she thinks that's a joke, Mr. Salvatore said no it is not a joke, this is not a laughing matter. She asked who runs hot water when they are sleeping. Mr. Salvatore said he is just saying at night, it doesn't mean you are sleeping all night, sometimes 7:00 is at night. She stated maybe sometime she takes a late shower, because he hears that but I am not doing dishes or housework at night and I am not doing laundry either. Mr. Salvatore advised that Ms. Matula had already testified that neighbors are complaining to you about the hot water. She stated only him, Mr. Salvatore asked who is him? The man next door to me. Mr. Salvatore asked if no one else had ever complained to her. She said no. He asked what the man next door said to her. She stated he said he can't sleep because I am running the hot water. She stated I do not, I use the water in the bathroom because I have a problem in the kitchen. I have to have a plumber come and look so that's why I'm using the bathroom now, but I don't go running hot water all the time and if I did, it is on and off, it is not running. I'm against that.

Q: Over the past years Ms. Matula, has the landlord had to replace your bathroom floor?

A: Yes, around the tub.

Q: Why? A: Because it was leaking. Because like I said before, the man had some trouble with his tub and he fixed it. I looked at it and said don't you close that? He left the distance between the tub and the wall that now I have an insect with long hair coming through there, but other than that, it has to be closed and he doesn't close it.

Q: Do the walls of your shower, have those tiles come off during the past?

A: No

Q: They never came off, you never had to have them repaired? A: He took them off when he was doing work but they never fell off like that. He removed some when he was doing some kind of work, not that he had to fix them, I never lost a tile like that.

Q: You said there was a problem with the floor, when was that caused?

A: Oh, a long time ago.

Q: How long ago? A: I would say at least three or four years.

Q: And that was a repairman who caused the problem? A: No, he didn't cause, he didn't do a real good job to close the hole between the tub and the wall. It's open like that. He never finished it. He said he was coming back.

Q: Did you ever call the landlord and tell him to fix that? A: No I didn't tell him because he said he was coming back, he was the regular man to do that work and it got worse. I have other work that has to be done and it hasn't been done and I reported it.

Q: You reported it to who? A: Well back by the kitchen sink, the whole thing is off and he saw it, everybody sees it and he told me it was going to be fixed and it is not fixed. The only thing that was done lately was that I got a new floor and he is blaming me for that too. I walk barefoot in the house; I don't wear shoes in the house.

Mr. Salvatore advised that he had nothing further.

Mr. Falcone asked if he should ask the questions of the landlord or you Mr. Salvatore? Ms. Cho advised that she thinks he (Mr. Salvatore) direct his own questions to the landlord. Mr. Salvatore advised that Mr. Falcone would certainly be welcomed to ask any questions of the landlord afterwards if he wants to.

Mr. Salvatore stated to John Cangiamila, the landlord, that he has been sworn in and that he is under oath.

Q: John, as the landlord, the landlord pays the water bill, is that correct? A: Yes.

Q: Up until let's say September of last year, there was no separate water heater for any tenant? A: No.

Q: But you installed one in Ms. Matula's apartment. A: Yes.

Q: Why did you do that? A: She constantly runs the hot water and creates a tremendous amount of damage in her apartment and also the apartment downstairs. We regutted her bathroom and the bathroom downstairs in less than ten years, about three times approximately and not counting when her tub almost went through her floor where we had to redo her tub, the beams underneath and her bathroom, it's like a studio apartment, the next room is like a small bedroom, we had to redo all her tiles which we did about three times and the last time we redid them was about this past September because the tenant that lives downstairs from her is rarely home. He believes he lives in another house and he just comes in when he works in the area and he called him up and said he can't live in here. He asked him what's the matter, he said his ceiling caved in, the walls crushed in, his tiles caved in, she had a tremendous leak in there which obviously had to be there approximately for a few months because it ate through her wall, the floor, the wall of her bathroom, of her sink, it went from the bedroom and right down to his apartment and destroyed it. This is the third time we are doing this.

Q: So the last repair was back in 2010? A: Yes, around September.

Q: Before that, if you recall, when was the last time that you had regutted? A: Before that, we had to gut out her bathroom again in 2002 and I think 2005 or 2006. We have done it approximately three times, gutter her bathroom, did the tiles in her kitchen and she constantly runs the hot water and has a tremendous amount of mold in her apartment because of the steam from the hot water. We had to redo her floor in her kitchen and her little bedroom area, we did it in there twice.

Q: Mr. Cangiamila, you have photographs, is that correct of the mold? A: Yes.

Ms. Matula asked if she could interrupt, Mr. Falcone and Mr. Salvatore both told her no.

Q: Can you show us photographs of the mold? A: Yes.

Q: Who took these pictures Mr. Cangiamila? A: I took the pictures.

Q: What is this a picture of? A: This is her bathroom floor where the tiles, even though they are tiles, when the water sits in there, what happens they just loosen up, it ate through the tile floor, the grout and the wood.

Mr. Falcone asked what type of base is under this tile? Mr. Cangiamila stated that the first time we did wood, then we did Wonderboard.

Q: Is it Wonderboard now, are the seams of the Wonderboard plastered? A: Yes, everything is done properly

Q: Were the edges caulked before you put tile down? A: Yes. He said he found out a couple of days ago that her floor that she had another leak, her floor is starting to sink again and we did all the beams in there about three to five years ago.

Q: Regarding the tiles around her bathtub, is there Wonderboard behind the tiles? A: Yes, it is all Wonderboard and wherever we use sheetrock, we use waterproof sheetrock.

Q: Mr. Falcone stated that waterproof sheetrock does not work. A: Landlord stated that around the tub there is all Wonderboard.

Q: Is the Wonderboard over the lip of the tub? A: Yes, it is on this side, that way the water never goes there.

Q: Is that all sealed prior to installation of the tile? A: Yes, perfectly sealed, even air can't get in there.

Q: Even if the grout comes out between the tiles, when it hits the Wonderboard it cannot go anywhere because Wonderboard is a concrete product. Behind the sink, is that Wonderboard also? A: No, in the sink area, there is just a little cabinet area and the sink is right on top. This past September that's where we found the damage came in.

Q: Is this a cast iron tub? A: Yes, what is also happening here is that the cast iron tubs have the trap underneath it. Obviously I think she tries to use some type of bleach or something which eventually will eat up the pipes and that's where we had that problem too right after we fixed her bathroom and the downstairs bathroom we had to rip up the sheetrock because the trap was deteriorating

Q: Have you tried an Americast tub, that's the tub that is partially cast-iron, partially fiberglass, it is a lighter tub. A: That's not the problem, the problem is that there is an tremendous amount of water.

Q: Well you stated before that the tub almost fell down through the floor. A: Yes and after that we did everything with the Wonderboard.

Q: You need something lighter. A: She constantly has water in her bathroom and in the other room, it's always wet in there. When we go in there that always wet, no matter when and all I hear from her is that she is mopping the floor.

Mr. Salvatore continued his questions of the landlord.

Q: Mr. Cangiamila, in your opinion, is this damage to the apartment caused by water getting within the grout and wood? A: Guaranteed water damage.

Ms. Cho interjected to Mr. Salvatore, are you trying to certify him as an expert? Mr. Salvatore said no, he is just asking his opinion as a regular person. He stated everyone took Ms. Matula's opinion on why there is damage, he is asking the landlord what is his opinion. If you don't want me to ask the question, I will not ask the question. I think it is reasonable to ask him his opinion since he has repaired it three or four times as to why.

She stated that she was just asking since he seems knowledgeable, Mr. Salvatore advised that he is knowledgeable because he is taking care of the apartments. Ms. Cho asked if the landlord was a licensed plumber; he responded that he was not.

Q: Have other tenants complained to you about her water usage? A: Yes.

Q: How many times have they complained to you? A: Two have actually complained about the water and also I have been there 2 or 3:00 in the morning and the water runs. Then I knock on her door, I don't know if she is sleeping or if she is not there, I personally have witnessed it.

Q: So you personally have been there? A: Yes, I personally have been there and put my ear up to the door and I hear it. I knock, I know you are running the water. I don't know if whether she is sleeping or not there, I honestly don't know.

Q: And you've got those two tenants here this evening to give testimony? A: Yes.

Mr. Falcone stated that he wanted to clarify some of the questions Mr. Salvatore had just asked the landlord.

Q: You stated you gutted the bathrooms? A: Yes, in other words, we took that bathroom completely apart.

Q: Gutted means down to bare walls. A: That is what we had to do.

Q: Ceiling, walls, floors down to the studs? A: Everything.

Q: That means every stud was inspected for strength and integrity. A: Yes.

Q: All new insulation, new Wonderboard, you know. A: Yes, all the beams underneath the tub were the ones that needed to be replaced up to her living area which was approximately another six or seven feet of 2 by 4s being put in because there was just constant, constant water damage.

Q: You kept the existing tub? A: Yes.

Q: New plumbing up to the shower head? A: Yes, everything is new.

Q: New showerhead, new faucet? A: Yes, brand new.

Q: Like a Moen faucet? A: Delta, I got the one handle.

Q: Do you have access behind this wall to the plumbing? A: No.

Q: What's on the other side of the wall? A: A tenant's apartment.

Q: Another apartment? A: Yes

Q: Is there another bathtub there, with another faucet and another showerhead back to back with it? A: I believe they are back to back, they might be off an inch.

Q: Is there also Wonderboard in that tenant's apartment? A: I don't know, I don't think we ever did that there, we never had a problem there.

Q: Okay I am a licensed home inspector, that is why I am asking these questions. I don't see how water, I don't care if you run it all day, can get through a good tile job properly done with Wonderboard and new plumbing. A: He stated that it was the pipe between the walls. Her bathroom is here and her kitchen area is here and the pipe coming in between the wall just directs itself underneath her sink which is the tenant's sink downstairs and when we ripped up the wall, we saw the water coming as it travelled by pipes or 2 by 4s right above his bathroom which is about a foot or so and the sheetrock just caved in.

Mr. Falcone stated that he did not want to tell him his business but perhaps the wall on the other side of her apartment should also be opened and looked at and inspected for leaks. Mr. Cangiamila stated there is nothing wrong with that apartment, we don't want to go ahead and break the wall if we don't have to.

Mr. Falcone advised that he wanted to ask his questions and he wants to clarify this lease thing for the last time.

Q: You do in fact pay for the hot water bill for the whole building? A: Yes I do.

Mr. Salvatore advised that he would like to clarify this. The landlord pays for the water for the whole building and he pays the electricity that heats that water for the whole building except since September.

Mr. Falcone continued his questions.

Q: When was the hot water heater installed in Ms. Matula's apartment? A: September 2010.

Q: Was any other hot water heaters installed in any other apartment? A: No.

Q: I know that they weren't but am asking a few questions just to clarify it.

Q: What made you install the meter in just her unit? A: Because she is constantly running hot water and damaging everything again.

Q: What is the motivation behind you putting a hot water heater in her unit? Did you feel by doing that she would stop running the hot water? A: No sir, I don't feel that she will every stop.

Q: Okay, so your motivation to do that was to make her pay for it or make her leave the apartment, what was the reason to make you put this hot water heater in? A: Well eventually we will be putting them in all the apartments. I started with her first (***cannot hear recording due to cell phone ringing***)

Q: Where are you putting them; where are you installing them? A: Right next to the bathroom.

Q: So the motivation behind your putting the water heater in is just to ease your burden of the extra financial expense of her running the water, that she would pay for her own hot water? A: It has been in her lease for quite a few years that she pays for her water.

Q: Did you decrease her rent when you installed this hot water heater? A: Instead of going to \$765, it went to \$755. We lowered it \$10.

Q: Did you discuss this with her? A: I told her.

Q. Are you familiar with the Dumont Rent Ordinance that requires a landlord to decrease a tenant's rent by the amount of the average monthly tenant's utility charge, if the same was previously provided by the landlord? A: No.

Mr. Falcone stated that perhaps you and your lawyer can get familiar with that ordinance. Mr. Salvatore stated that you should also be familiar with the fact that it is her responsibility to pay for hot water, not his. It is not a change in her lease. Mr. Falcone stated no, he pays hot water for the whole building. Mr. Salvatore stated that in her lease, she is responsible for the hot water. She initialed that. Mr. Falcone asked if this is the new lease you wrote for her. Mr. Salvatore answered and the old lease, the lease that she provided was for 2007. It says she is responsible for hot water, she submitted that

herself. Mr. Falcone stated that he was confused because we just said that the landlord provides hot water for the whole building. Mr. Salvatore advised the landlord has chosen in most cases he does not pass on the electricity unless someone abuses it at which point she has to pay her share. Mr. Salvatore advised he does not know what is so confusing about this, it is her responsibility to pay hot water, not the landlord. Mr. Falcone stated so you are stating the landlord has the right to pick and choose who he charges for hot water. Mr. Salvatore advised that if someone abuses the hot water, he has the right to make her pay her share. Mr. Falcone asked where does it say that? Mr. Salvatore stated he is really not sure that he follows that line of thinking.

Ms. Cho stated that she thinks right now what is going on is the attorney is just making the argument for the landlord and the Board can deliberate as to whether that is the proper application for the ordinance. In other words because he runs the building, he has the right to run the building whatever way he wants. Mr. Salvatore stated absolutely that has not been said tonight, don't put words in his mouth. Mr. Falcone stated he did not say that. I just said that he owns the building so he has the right to make decisions regarding how he runs the building.

Ms. Cho stated that she thinks there are two separate issues. I think that what Mr. Salvatore, correct me if I am wrong, was saying was that because the lease prior to this says that she was to pay for hot water, that she had agreed to it, that I think there were two leases provided. I think that you are both talking about two different things. You were talking about that she had agreed to pay for it and you were asking that there was a point when she wasn't paying for it and then it was changed. So I think that is where the disconnect came from. Mr. Falcone stated yes, it was changed, but only for Ms. Matula. But there was one lease where she hadn't initialed it and one lease where she had. So I think that's where the confusion came in.

Mr. Falcone said to Ms. Matula, you knew this was happening and you still initialed this lease. She stated he did not discuss it like that, he said you are all going to pay electric for the hot water and I am the only one who does. I heard another tenant say when was that going to happen because I am not having nothing put in my house.

Mr. Falcone continued to question the landlord.

Q: What was your method of calculating the decrease of \$10, how did you come up with that figure? A: I don't know.

Q: You didn't use any method? A: No.

Q: Did you do any type of calculation when you determined what estimated water bill for each tenant was? Obviously, you didn't? A: No.

Q: What was the building's average monthly PSE&G bill prior to installation of the water heater? A: I don't know.

Q: I meant average for tenant? A: Mr. Salvatore asked if we wanted that as a post hearing submission; do you want us to submit that after the hearing, obviously we are not prepared at this point. Mr. Falcone stated we are not going to make a decision tonight.

Mr. Salvatore said you want us to submit the average electric bill per tenant? Ms.

DeCristofaro questioned as to would they have that? Mr. Salvatore said they were just

going to divide the bill by the numbers of tenants we have. Ms. DeCristofaro stated that what she is saying is each tenant, I'm assuming, was responsible for their own electric service. Mr. Salvatore said that is correct. Ms. DeCristofaro stated do you have those figures available. The water bill was paid in unison, everybody used from the same water meter. Mr. Salvatore stated for quality sake there is also an electric bill that goes to the landlord. Part of that electric bill has to do with heating the general boiler. I am sure he can take bills from how far back do you want to go. Mr. Falcone said we don't care about his bill, we just want all the bills from the electric meters of the tenants. Mr. Salvatore stated that they can't get that, that's the property of the tenants, he can't produce that, how can he do that. Ms. Cho stated that what she thinks we would want is the building's PSE&G bill. Mr. Salvatore said in other words he gets a water bill, he pays the whole thing. He also gets an electric bill. That electric bill covers the lighting and it covers heating the hot water in the boiler. That we can give you but we can't give you what the tenants are paying, that's their private bill. Mr. Falcone stated that you can divide by the number of tenants and average it out and then we have to do the same thing after installation of her hot water heater. Mr. Salvatore asked the landlord if we could get that, you have a water and electric bill every month, you are going to get that to me. Mr. Salvatore stated we would submit them. Ms. Cho asked if they could get the bills for a period of a year before and up until the present. Perhaps that would be helpful for the Board for comparison. Mr. Salvatore said how about from January 1, 2010 and by the time we do it, we should have a bill for February or March possibly. Mr. Falcone agreed, Mr. Salvatore said that was about the best we could do. He stated we can't do anything about the tenant's individual bills, we don't have them. Ms. DeCristofaro stated we already have Ms. Matula's average bill and we can see the dramatic jump.

Mr. Falcone stated he cannot think of anything else, does any of the Board members have any more questions for the landlord. Mr. Szely advised that he has one: You indicated that these water heaters would be installed in every apartment eventually. The landlord stated eventually they are. Mr. Szely asked if there was a time frame for that? The landlord stated he couldn't say, the money, to be honest with you, has been pretty tight. Mr. Szely said the heater was installed in Ms. Matula's apartment in September? Landlord responded yes. Mr. Szely stated now it is several months later and nothing has been done. The landlord stated no, nothing has been done. Mr. Szely questioned as to when all the heaters are installed, all the tenants will be under the same policy, they will all be responsible for paying their own water bill? Ms. DeCristofaro said not the water bill, the electric bill. The landlord stated that it is always been that way, every lease has been that way since 1996. Mr. Szely asked then if the policy that Ms. Matula is now under will then be the policy for every tenant. The landlord said he would assume so. Ms. DeCristofaro stated that in other words the electric use for the hot water heater will be part of their electric bill? Landlord stated right. Ms. DeCristofaro said which is what is happening with Ms. Matula's bill now right. The landlord responded right.

Mr. Buchheister asked that if in the future all the tenants are going to have hot water heaters, all you are responsible for is supplying the cold water and they are going to heat it on their own. The landlord responded that we pay for the heat. Mr. Buchheister said that right now you are heating the water and each person pays their share of the water.

Now each person is going to have their own hot water heater and all you have to do is supply the cold water because you are not heating it, they are heating it. That's what is going to be done down the line. The landlord stated ultimately, yes, but we are paying for the heat. So you will be just supplying the cold water and then the tenant's costs will all increase because of the electrical difference between getting hot water that she is paying for and getting hot water that you are paying for. The landlord stated that he assumes if you run the water all the time, the bill will go up. Mr. Buchheister said forget about that, but that's about what it's going to be. So from what I gather right now, the lady is still paying her water bill pro-rated, she is still paying her own electric and the difference is that her electric bill is higher because she has to heat her own hot water. So the difference is whatever her difference is between her electric bill now and her electric bill in the future is the dispute that we feel should be reduced by the landlord.

Mr. Falcone asked if there are any other questions. Mr. Caspare said he is asking the landlord, and he knows he is not a plumber, just say that she did use all this water, are you saying that the moisture and steam rotted this thing out or that the tub is overflowing or there's water running behind. My question is what's causing the damage? The landlord responded saying that one of the reasons is that she constantly washes her clothes in the tub, that's why it gets clogged. It's constant clogs, my plumber has never been in that building to unclog anybody's tub but hers, since 1996, never. The clogs cause the overflowing and goes into the tenant behind her and then he will call him up and say it is clogged again and that's the way we know she has a clog in her tub. And the water plenty of times has gone over the tub and gone on the floor also. Mr. Caspare stated so it's not the actual electric that is running all the time but the steam? The landlord stated it's the constant steam in there. Her whole apartment I guarantee it has mold in it. Look at the picture right there. Mr. Caspare stated that answered all his questions. The landlord stated there is constant steam in there, her bathroom for example is here and her living area, the windows over there are full of mold.

Mr. Caspare asked Ms. Matula if he could ask a question of her because all of us didn't hear your answer, we looked at each other and it was about something the lawyer said about something about 2002. You said of course I ran then it because of my and I thought you said lungs, you said a word and we couldn't hear it down here. He said in 2002 you had a case of something wrong. I am going to get it played back to me because I couldn't understand. Ms. DeCristofaro asked if Ms. Matula was ill at that time. Ms. Matula stated no.

Mr. Falcone stated if there were any more questions. Ms. Schaefer advised that she had a question on this lease, the original lease the new rent was \$765 and you brought it down to \$755 and Ann Matula initialed it and you are saying, I think you are saying, because she is also agreeing that she is going to pay for her hot water and the hot water heater that is being placed in her apartment. She is acknowledging that this was in there. The landlord stated that yes she acknowledged it, it's been in there, every lease has been that way as far as the hot water and electric. Ms. Schaefer advised that I think I also got the impression that you were giving her a \$10 break. Ms. Schaefer stated that if she remembered correctly, the first time I met Ann Matula is when she called the Borough

Clerk's office and she was complaining about her rent increase. The landlord stated that usually he calls to find out what the CPI is, if its 5%, 4% whatever it is. To be honest with you, I don't remember the percentage, but she says that I went too high. Ms. Schaefer stated that she sent Steve Cavadias to him, right. The landlord said yes, I believe he called. I said to my assistant just tell me what it is and make the change, don't worry about it. So this \$10 had nothing to do with the heat, it was just that you raised the rent too much. The landlord said yes, I believe so. Ms. Schaefer advised so this \$10 is worthless as far as figuring into any calculation because of heat. The landlord stated it was supposed to be more than what she was supposed to be paying, but let's leave it at that, it's easier that way.

Mr. Falcone addressed Ms. Matula and told her she had the right now to question the landlord directly. Ms. Matula stated to the landlord you said to me that you were going to put the new heater in everyone's apartment. He stated we started with you first, he told you that. She stated no, she asked those people, one of your witnesses came in saw the thing in the house and he said "that thing, I am not getting that". Ms. Matula said he stated that, that they all knew it. Mr. Salvatore told her to just ask questions, not testimony. Mr. Falcone stated to Ms. Matula, that it has to be in the form of a question and he can give you a yes or a no answer. She stated that when she took that apartment back in November 1988, the landlord responded that he wasn't there, she stated she knew he wasn't, he stated that he came in 1996. She stated half the time you were talking about the leaks in the building, we had a very bad problem, the floor was sinking in, all that work was not all due to me. Mr. Falcone stated that the question has to have something to do with what we talked about tonight, it cannot have to do with any incidents that happened in your apartment in the past. It has to be directly involved with the water heater and the extra expense. She said that she can't think off hand, you don't think anything like harassment or nothing like that.

Mr. Falcone stated that if it's okay with everyone here, he would like to ask Ms. Matula a few more questions. Mr. Salvatore said we are still presenting our case and you can do it after we are done. Mr. Falcone stated he had more questions and Mr. Salvatore stated yes, but he has more witnesses. Mr. Falcone asked if he wanted to bring his witnesses in. Mr. Falcone stated to bring them in. Mr. Salvatore asked if he wanted them both in at the same time.

While waiting for the witnesses, Ms. Cho asked Mr. Falcone if could confirm from Ms. Matula that the actual leases that she gave us are the original leases. Ms. Parker noted that neither of the leases she gave us are executed so are they valid leases. Ms. Schaefer advised that Ms. Matula gave them to her, they looked like an original, but they were not signed.

Ms. Cho stated that we could swear them both in but maybe we should listen to the witnesses one at a time. The witnesses both came in, Ms. Cho asked them to raise their right hands and do you swear of affirm that the testimony that you are about to give will be true and accurate to the best of your ability? Both advised yes, they would.

Ms. Cho asked them to state their names and addresses. Alan Scher, 8 Grant Avenue, Apartment 1B, and Richard Presutti, 8 Grant Avenue, Apartment 8B.

Mr. Scher stepped outside

Mr. Salvatore questioned Mr. Presutti:

Q: You are a tenant in the building? A: Yes.

Q: Are you familiar with Ms. Matula? A: Yes.

Q: And you know where her apartment is? A: Yes.

Q: Have you had occasion to hear water running? Yes.

Q: With what frequency does that happen? A: In the middle of the night. What happened was that John told me one time, I do a lot of work for him, I am like the super there, what happened is the water was running, the other tenant was complaining, so he asked me if I could go by there every once in a while and listen at the door. So I did. At 3:00 in the morning I go out there and the water is running. I can go out there at 5:00 in the morning, the water is running. I can hear it. The floor over there is always soaked. Every time I go in there to do something

Q: The floors are wet? A: She tells me she uses the hot water for heat, she's cold. That's why she runs the hot water, that's why she told me.

Q: How long has this been going on Richard? A: Years, I have been here for over ten years.

Q: Have you ever discussed that with Ms. Matula? A: Yes.

Q: Did you tell her that she is running water? A: Yes, I told her that the tenants are complaining to me, knocking on my door. I went down there, I told her that she is running the water. They all tell me the same thing.

Q: And what was her response? A: She's not running her water.

Q: But you heard it yourself? A: Yes.

Q: And you hear that on a regular basis? A: Yes, many, many times I go out there at night, I walk my dog a lot.

Q: And you can easily hear it? A: Yes, I can easily hear it. Just go listen by the door and you can hear it, it could be 3 or 4:00 in the morning and you can hear it.

Mr. Caspare asked Mr. Salvatore if he could ask a question, because this is important to me because I live in a house. He stated that he can be sitting in his house and he hears the water running but I don't know where it is coming from. I then go and find out that it is the shower upstairs or I find out it's the bathroom and you know you have to jiggle. When you say hear the water running, can you hear it in a room or do you hear the noise of water running. Mr. Presutti said he can hear it running right through her door. These rooms are not that big. Mr. Caspare asked are you hearing water or are you hearing it out of the pipe. Mr. Caspare asked if you could hear hot water running. Mr. Presutti that he doesn't know if it is hot, but he can hear water running. When I go into her apartment it steams, it is like a sauna, the floor is soaking wet. Mr. Caspare asked what floor, Mr. Presutti stated all the floors are wet. The room is about 10 X 10, it is a tiny little studio, her apartment is very small. He stated it is pretty easy to hear where it is coming from; it's not that I have to go into the apartment to find out where the water is coming from.

Mr. Salvatore asked if anyone had any questions for Mr. Presutti?

Mr. Falcone stated yes, he does.

Q: You just said that her answer to you was that she was cold so she runs the water? A: She told me directly that she runs the hot water.

Q: What kind of heat do you have in the building, steam heat? A: We have baseboard heat.

Q: Hot water baseboard heat? A: To the landlord, is that what it is? Landlord – yes.

Q: Were her radiators checked - are they working properly? A: She's very hot there, even when I go into the apartment with no water running, it is warm in there. The building itself, apartments that I have been in, fixing things in, are very hot, sometimes you have to keep the windows open sometimes.

Q: The heaters were bled and everything, there is definitely hot water flowing through them? A: You can hear her running the hot water and if I go up to the door and she is not running hot water, I can hear that she is not running water. If you did a test like I just did, you can tell.

Q: But she has plenty of heat though, she has no reason to be cold? A: No.

Mr. Falcone asked Ms. Matula if she was cold. Ms. Matula stated that there were times that the apartment was cold, but she was not running water for that, how ridiculous, that's insanity, I meant it as a joke. Mr. Petrusi advised that he had to go in to reset a Delta drive inside the faucet inside the shower to make it hotter as an adjustment because she wanted it and he told me to go ahead and do it and I did. That's when she told me she needs the hot water for heat because she was cold. Ms. Cho advised Ms. Matula she could ask questions in a while, Mr. Falcone is asking questions right now. Mr. Falcone advised he had nothing else.

Ms. Cho asked Ms. Matula if she had any questions for Mr. Petrusi, she should ask them now. Ms. Matula asked who is running a shower at 3:00 in the morning. Mr. Petrusi stated her water is running; she stated no I may run water in the sink for a minute but I am not. Mr. Petrusi stated like I said to him he can do the same thing, he can come there right now and put your shower on and he will hear the difference when you shut the water off, there will be a difference in that room and I guarantee you that. Ms. Matula said you can't guarantee that, not at 3:00 in the morning. Mr. Petrusi said let him go there now and do it. Ms. Cho asked if Ms. Matula had any additional questions. She stated no because she knows what the answer will be. Mr. Petrusi stated she had accused cops of taking bribes in town. Mr. Salvatore asked if we were done with the witness, should we bring the other witness in now.

Mr. Scher came in. Mr. Salvatore asked him the following questions.

Q: Mr. Scher, you live in the apartment next to Ms. Matula? A: Yes.

Q: How long have you been a tenant there? A: About 10 years.

Q: In that 10 years, have you heard water running on a regular basis in Ms. Matula's apartment? A: Almost every day.

Q: About how long a period of time does she run it for? A: About 45 minutes to, 45 minutes that's about it.

Q: How often, every day? A: He stated he is there every day because he is ill. She shuts it off, lets the hot water build up again, she turns it back on, it is just constantly. Yesterday I seen her as I was walking out to check the mail and she quoted to me why are you going to court, you are not paying the bills, ain't none of your concern. He said all I ever wanted from you Ann was to please stop. Ms. Matula stated that you were asking me a question? Ms. Cho advised Ms. Matula that she will have her time to ask her questions. Mr. Falcone told Ms. Matula it is not her time to ask questions. Mr. Scher stated that all he ever asked her was to please stop running the water at night. For a seldom there she did but then she started running it again. Then after I got out of the hospital in '08, I asked her not to do the laundry in there because the bathtub got clogged up and he had to wait for the plumber to come to fix the bathtub. Since then, the plumbing has been backed up in the bath tub three times since '08 and she says she is never doing the laundry in there. She is never running showers or anything but as Richie said you can hear it constantly and all I have ever asked her for is to let me sleep at night but at 3:00 in the morning she runs it for 45 minutes, shuts it off. At 5:00 in the morning she turns it back on and runs it.

Q: And this is disturbing? A: Yes, it's disturbing my sleep. I called Dumont Police one time and they said there is nothing we can really do, just take her to court and I told John about it and I have been calling John several times to complain and he just got tired of it and said he was going to put a hot water heater in there and maybe she will stop. Well, that didn't stop it, she constantly runs the water. Ms. Matula stated she was asking him a question, can I? Didn't the cops say to you that she can take a shower whatever hour of the day she wants, that you have no right to say that to her. He stated yes, but in my lease. Ms. Matula asked and didn't the officer say to you. Ms. Cho told Ms. Matula if you are going to ask a question, please give him the time to respond before your next question. Mr. Scher stated yes, but that in his lease, it says there is a quiet time from 11 to 6:00 in the morning, I can't get no quiet time while somebody is running the water at 3:00 in the morning or 4:00 in the morning. She stated she is not running the water at 3:00 in the morning and don't you slam on my door everytime I take a shower or. Mr. Scher said at 4:00 in the morning, yes. Ms. Cho stated that we cannot have two people talking at the same time because it's on the record. Ms. Matula stated wasn't it 9:00 in the morning when I said to you, you have the nerve to knock on my door, are you telling me now. He stated he doesn't think so. She stated you did, you were banging on my door and you went out in the hall and you were yelling in the hallway. Am I right? – he stated no I don't think so, maybe at 4:00 in the morning or 3:00 in the morning. She stated no. Mr. Salvatore asked if anybody had any more questions. Okay, Mr. Scher, you can step out.

Mr. Falcone told Ms. Matula I have to ask you now, do you wash your clothes in the bathtub? She stated no, I stopped it and they know because the man here, with his permission goes outside and looks into the window to see whether I am doing my laundry here or not and I always say that I am going down to do my laundry because I did it at one time not all the time, once in a while, I did it in the sink. You can't wash a lot of laundry in the tub, it's not that big. Mr. Falcone asked if she had a laundry facility; she responded yes, right across the street, not in the building no, across the street. He sees me do it there. Mr. Falcone advised that washing clothes in the bathtub is a very bad

thing. Ms. Matula stated yes I know and I stopped it. Mr. Falcone stated because that does in fact create mold. You can't let clothes hang and dry. I inspected a house at one time that they used to hang their laundry in the basement and there was mold in the attic because it was an open frame type house. You can't let clothes dry in your apartment. So you dry your clothes across the street in the clothes dryer. You don't bring them back to the apartment wet. Ms. Matula stated no, absolutely not. Mr. Falcone stated that he didn't have any more questions, he asked if anybody else had other questions.

Mr. Salvatore advised that we are getting ready to sum up, right. Ms. Cho stated that she thinks just before they go to the summation, that there were some leases, I think I sent them to you via email. Just for the benefit of the Board, if they are going to consider it, that there is a lot of documentation, could we have at least the landlord look at it. Mr. Salvatore advised that it is not a signed copy, we can't verify it without comparing it to the signed lease. Ms. Cho stated that she just wanted the landlord to take a look at them to tell her if he recognizes them, he will know if it is his own lease. Mr. Salvatore stated that he can tell you it is a lease but I don't know if that is the one that was signed. Ms. Cho stated that that is what she is trying to ask the landlord. Mr. Salvatore asked the landlord did he remember from 2007 absolutely that there was no change in this lease. The landlord stated that for all he knows there was no change. Ms. Cho asked if the landlord could just look at the leases. The landlord was given a copy of the 2005 and 2007 leases. Mr. Salvatore stated that again he is raising his objection to any of those documents being in evidence, they were sent at the last moment. Mr. Salvatore stated that is what he is asking, can you honestly say that these are the actual ones that had been signed. The landlord stated that he can't say that. Mr. Falcone asked Mr. Salvatore if these leases are the ones you do not wanted submitted for evidence. Mr. Salvatore stated that he is objecting to all documents submitted today that were supposed to be submitted by January 21st. Ms. Cho asked what are the grounds for the objection? Mr. Salvatore advised Ms. Cho that her very directions were that any reply by the tenant had to be received by January 21, 2010; that is in your letter. Ms. Cho asked if that is because they are late is that the basis for the objection. Mr. Salvatore stated they are beyond late, yes, it is beyond the eleventh hour. Mr. Falcone stated we have to go over the leases at the next meeting, is that what you are saying? Ms. Cho stated that the Board can decide whether they are going to review them or not. He has placed the objection that he does not want the Board to look at them because they are late. Mr. Salvatore stated that if the Board decides they are going to look at them, I think we are entitled to a reason why your attorney's letter was ignored by the tenant and at the last moment, just started submitting stuff hours before the hearing. Ms. Cho asked Ms. Matula if perhaps she could respond to Mr. Salvatore's statement that you sent in documents beyond the deadline. Ms. Matula stated yes she did, first of all she can't write any more, her fingers are damaged from they know why, and she was hoping that she could get somebody to do it for her so she went to Legal Aid, I tried my best. Ms. Schaefer asked Ms. Cho if there was information we were supposed to get from the landlord that we didn't.

Mr. Salvatore stated that he would be brief, very briefly, he thinks that the Board has gotten the flavor of the unfortunate situation that has been here for a long period of time. If the landlord is expected to take the hot water bill and divide it among all his tenants, it

would be highly unfair to have one tenant run the water on a continuous basis and have every tenant pay her share of that, because that is what would happen. If you took an electric bill and divided it among 16 tenants, whatever it is, that means everybody is paying the same, but one is not using just a little bit more, by the testimony of three witnesses including the landlord, she runs it on a regular basis. If you do consider what she said today, it is clear once the meter went in, her electric bill skyrocketed and her own testimony was there was no other difference in the usage of her electricity except for the heating of the hot water. Now, I know Mr. Chairman, you are very touchy, touchy is not really the word but it is too late and my mind is not really working the way it should be, you like to stick to the letter of the law when it comes to your ordinance and I can understand that but you also have to please take into consideration, that we have a situation here where if he doesn't do this, either he is going to lose money substantial, or all the tenants are going to pay for her usage of the hot water. I think when you get two impartial witnesses to come in, tenants in the building who testified that she runs the water on a regular basis, on a continuing basis; the repairs that have had to be done; the wet floors, the wet walls, this is not your situation that arises every day. We've avoided trying to evict her, this woman should not be living alone. We don't want to evict her, we've gone out of our way and like I said since 2002, nine years ago, we have been waging this battle to please stop doing this and it doesn't stop. We were willing to put up with it to a point but as you see, look at the size of those bills from the running of the water. There is no other excuse for that, no other excuse and why should the other tenants pay for it and why should he pay for it. That's basically my situation. Now I know that you are not making a decision and I need to know how much time I have to submit those bills, I know you want to see them. Mr. Falcone stated that we would probably have a special meeting before our next one, because we have to go over things, so I will say a month. Mr. Salvatore stated there are two blocks of dates that he is not available, March 10th to 15th and April 15th to April 22nd, aside from that I am at your disposal. If that next meeting date doesn't fall within those dates, that's fine with me, but I wish you would take that into consideration if you are going to set a meeting. Mr. Falcone stated that we are going to have a special meeting and we will try to come up with a date that would fit into your schedule. Mr. Salvatore stated that if you can just avoid those dates, he would appreciate it. Ms. Cho asked if Mr. Salvatore could he get the documents to the Board before he goes away. He stated of course and asked the landlord how long it would take to get those bills together. The landlord stated a couple of days. Mr. Salvatore said he would have them to us before the end of the month, how's that. Mr. Falcone said fine. Mr. Salvatore stated and again, we do not enjoy this, this is a sad situation. I wish there was someone who could help her for lack of a better word, but there comes a point after nine years. What are you going to do evict the lady? That's our alternative if the Board decides that we should be penalized for this, the next step is to evict her for being a nuisance and we do not want to do that. I am serious, we would have done it a long time ago if he we could. You just have to take that into consideration, we are not trying to hurt anybody here, but we don't want the other tenants' peace and quiet to be disturbed to have to pay for her use of the hot water. That is really what it comes down to. Or him to pay it and let it run and do constant repairs, the water damage, the only other alternative is to evict her and do you think I want to do that, please I do not want to be in that position.

Ms. Matula asked if she could interrupt or not, Mr. Salvatore stated that she can talk. Ms. Cho asked Mr. Salvatore if he was finished – he responded yes. Ms. Matula stated that when she took the apartment it was in terrible shape and when you talk about the floor, he does know better. It was sinking in already and these young fellows who took the apartment covered all the tile in the bathroom maroon. It was sinking already. Mr. Falcone stated that you are talking about 20 years ago. Ms. Matula stated that was the only statement she wanted to make. Mr. Falcone advised that since then your apartment has been fixed several times. She said yes but it wasn't always like he is saying, no he is wrong, I'm sorry, and I don't do laundry, he said we can't, I don't. Mr. Falcone stated that you cannot do laundry in that apartment and you cannot dry laundry in that apartment. You can't hang it up and let it dry. Ms. Matula stated that she doesn't. He sees, one of the witnesses comes and looks in the window to see what I am using and doing. Mr. Falcone stated that you cannot create any steam in that apartment and it is not good for you, not good for the building. You have to bring the laundry across the street, wash it and dry it. She stated he follows me every single time I go along, I do not like this harassment and that is harassment, looking into the window to see what she is doing.

Mr. Caspare speaking to the chairman said when you walked in tonight, you made a statement saying, I think that we shouldn't make any decisions tonight and I don't know, this is my first meeting. Monica, is he permitted to do that or can the people who are sitting here tonight say we have heard enough and are ready to make a decision; that's his question. Ms. Cho stated that the chairperson can make a recommendation that the Board reserve decision, if he feels that the Board needs more time, then it is a recommendation by him if he is not prepared to go forward. Mr. Caspare asked after his recommendation, what happens then? She stated there could be a motion or. He stated that is what he wanted to know, from these people, he is not a voting member, but if they can make a motion if they wish. Mr. Falcone stated yes, a motion can be put on the floor and entertained, Mr. Caspare stated that he did not know that and that was why he was asking.

Mr. Falcone asked if anyone would like to do that? Ms. Parker advised that she would. Ms. DeCristofaro asked to do what. Ms. Parker stated to vote. Do we want to make a straw vote? Mr. Salvatore said you cannot, you have to make a motion. Ms. DeCristofaro stated that she did not quite feel what the decision should be, have we decided what the decision should be. Mr. Buchheister said are you saying should we continue or do we want to make a decision tonight. Mr. Szely stated he might want to make a decision tonight but he would not want to make it with the other parties in the room, that he thinks we need discussion. Ms. DeCristofaro stated that in other words she is not quite sure what we are deciding. Are we deciding that the rent decrease was not enough or it has to be more; Mr. Falcone asked or not at all. She stated that she has nothing to say about the hot water heater, the hot water heater is allowed by the landlord to put in there, so that's not our issue right. So are we deciding whether the rent decrease was enough and if not, how much should it be, is that correct. Mr. Falcone said let me explain why I said that so Marty understands. Basically I said that because I feel that we can be here until midnight and I don't think you can make a wise decision when

everybody is getting tired and the questions start getting ridiculous and I just thought it would be better to come again with a fresh mind. Ms. DeCristofaro stated her point personally is she does not know what we are deciding. Mr. Falcone stated that I, personally, am a private reader, I would like to take this home and read the whole thing all over again, go through it myself and I would hope that everyone else here would do the same thing and I can't see how we can do that, I may see something in here that will tip me off to something or make my feelings different toward this whole situation. Mr. Falcone stated that we need a motion here to table it to the next meeting or a motion to vote. Mr. Buchheister stated that he thinks we need to decide whether we are finished with the both sides, then we can discuss it in private. Ms. Cho stated she thinks there are a couple of things going on, she stated right now the summations have all been concluded so the next step would be that the Board can have a discussion. She advised Mr. Buchheister that the Board cannot have discussions in private, you can have a discussion and the parties can be present where they cannot participate. This discussion is pursuant to the Open Public Meetings Act. In response to Ms. DeCristofaro's question as to what the Board is voting on, this matter was brought before the Board by the tenant's complaint, who made a complaint that a water heater was installed. What the central issue seems to be is that a water heater was installed, so should she have a decrease in her rent. The issue before the Board is whether the landlord had violated the Dumont Rent Control Ordinance in light of the testimony that has been given by both sides. Mr. Buchheister stated that is not the issue, I want to know if we are finished with the witnesses, we all heard their testimony and we should as a Board decide are we going to postpone it or are we going to give them two or three months or are we going to make a decision based on what we heard tonight. Ms. Cho stated that as of right now is that the landlord's attorney is going to be providing certain information. Mr. Falcone stated we asked him for information that he said he would give us in a couple of weeks. Ms. Cho stated that we asked him to give us information and he said he would give it to us by the end of the month. Mr. Buchheister stated then we can't make a decision until the landlord gives us more information.

Mr. Falcone stated he needed a motion to adjourn the meeting. Mr. Buchheister asked how we could adjourn the meeting if we are not finished with the meeting. Mr. Falcone advised that we are finished for tonight.

Motion to adjourn the meeting: Mr. Taxter
Second: Ms. Parker
All in favor: Aye

Minutes Submitted by

Kathy Schaefer, Board Secretary

