

**Westbank First Nation
Residential Premises Law No. 2008-03**

RENTAL INCREASE REGULATION "D"

1. Interpretation

1.1 In this regulation:

"**arbitrator**" means an arbitrator appointed under Part IV of the Law;

"**inflation rate**" means the 12 month average percent change in the All-Items Consumer Price Index for British Columbia ending in July that is most recently available for the calendar year for which a rent increase takes effect.

1.2 For the purpose of section 33.1 of the Law, a landlord may impose a rent increase that is no greater than the amount calculated as follows:

- (a) for rental units – Percentage amount = inflation rate + 2 percent; or
- (b) for manufactured home pads – Percentage amount = inflation rate + 2.5 per cent.

2. Additional Rent Increase

2.1 A landlord may apply to the arbitrator for an order for additional rent increase if one or more of the following apply:

- (a) after the rent increase allowed under section 33.1, the rent for the residential premises is significantly lower than the rent payable for other residential premises that are similar to, and in the same geographic area as, the residential premises;
- (b) the landlord has completed significant repairs or renovations to the residential property in which the residential premises is located that:
 - (i) could not have been foreseen under reasonable circumstances; and
 - (ii) will not recur within a time period that is reasonable for the repair or renovation;
- (c) the landlord has incurred a financial loss from an extraordinary increase in the operating expenses of the residential property;

- (d) the landlord, acting reasonably, has incurred a financial loss for the financing costs of purchasing the residential property, if the financing costs could not have been foreseen under reasonable circumstances;
 - (e) the landlord, as a tenant, has received an additional rent increase under this section for the same residential premises.
- 2.2 If the landlord applies to an arbitrator for an increase under paragraph 2.1 (b), (c), or (d), the landlord must make a single application to increase the rent for all residential premises in the residential property by an equal percentage.
- 2.3 The arbitrator must consider the following in deciding whether to approve an application for a rent increase under subsection 2.1:
- (a) the rent payable for similar residential premises in the residential property immediately before the proposed increase is intended to come into effect;
 - (b) the rent history for the affected residential premises in the 3 years preceding the date of the application;
 - (c) a change in a service or facility that the landlord has provided for the residential property in which the residential premises is located in the 12 months preceding the date of the application;
 - (d) a change in operating expenses and capital expenditures in the 3 years preceding the date of the application that the arbitrator considers relevant and reasonable;
 - (e) the relationship between the change described in paragraph 2.3(d) and the rent increase applied for;
 - (f) a relevant submission from an affected tenant;
 - (g) a finding by the arbitrator that the landlord has contravened section 15. of the Law;
 - (h) whether, and to what extent, an increase in costs with respect to repair or maintenance of the residential property results from inadequate repair or maintenance in a previous year;
 - (i) a rent increase or a portion of a rent increase previously approved under this section that is reasonably attributable to the cost of performing a landlord's obligation that has not been fulfilled;

- (j) whether the arbitrator has set aside a notice to end a tenancy within the 6 months preceding the date of the application;
- (k) whether the arbitrator has found, in arbitration of disputes proceedings in relation to an application under this section, that the landlord has:
 - (i) submitted false or misleading evidence; or
 - (ii) failed to comply with an order of the arbitrator for the disclosure of documents.

2.4 In considering an application under section 2.1, the arbitrator may:

- (a) grant the order, in full or in part;
- (b) refuse to grant the order;
- (c) order that the increase granted under section 2.1 be phased in over a period of time; or
- (d) order that the effective date of an increase granted under section 2.3 is conditional on the landlord's compliance with an order of the arbitrator respecting the residential property.

2.5 If the total amount of the approved increase is not applied within 12 months of the date the increase comes into effect, the landlord must not carry forward the unused portion or add it to a future rent increase, unless the arbitrator orders otherwise under section 2.4.

3. WFN Housing Units

3.1 Notwithstanding any other provision of the Law, the WFN Housing Commission may from time to time and for any reason and at its sole discretion set the eligible rent for any WFN housing unit.