

**VERSION #3 - Mosbrucker Amendments (11/4/19)**

1 NOTE: Unchanged text is in plain Arial font.  
2 Additions to Regulations are in single-underline plain Arial font.

3 **Section 6.10 Operating and Maintenance Expenses**

4 (Subsection (a) amended effective February 28, 1989; Subsections (b), (c) and  
5 (d) amended February 21, 1989; Subsections (e) and (g) amended February 28,  
6 1989; Subsection (f) renumbered February 28, 1989; Subsections (a) and (b)  
7 amended and Subsection (h) added May 24, 1994; Subsection (i) added January  
8 31, 1995; amended March 14, 1995; repealed and adopted April 25, 1995,  
9 effective February 1, 1995; entire Section renumbered and/or amended in its  
10 entirety effective June 6, 1995; Section 6.10(b)(5) amended effective  
11 June 20, 1995; entire Section renumbered and/or amended in its entirety effective  
12 June 18, 1996; Subsection(e) amended effective March 19, 2002; entire Section  
13 renumbered and/or amended in its entirety effective September 11, 2018;  
14 Subsection (e)(4) added [date]

15 Except in extraordinary circumstances, the following guidelines shall apply to increases  
16 based upon Operating and Maintenance Expenses:

17 \* \* \* \*

18 **(4) Evidence of Reasonable Reliance.**

19 (A) For the purpose of establishing reasonable reliance as referenced in  
20 subsections 6.10(e)(1)(B) and 6.10(e)(2)(B), a landlord must demonstrate through documentary  
21 evidence that it relied financially on the ability to file an Operating and Maintenance Expense  
22 petition based on increased debt service and/or property taxes at the time of purchase, that such  
23 reliance was reasonable (e.g. informed by actual knowledge of the prior owner's Operating and  
24 Maintenance Expenses in Year 1 and an estimate of the expected Year 2 costs), and that one of  
25 the following two circumstances apply:

26 (i) without the proposed rent increase for Operating and  
27 Maintenance Expenses, the landlord's rate of return is less than 5%. To determine the rate of  
28 return, the total Operating and Maintenance Expenses in Year 2 (excluding debt service) shall  
be deducted from the gross income for the same period, and the resulting number shall then be  
divided by the landlord's out of pocket costs of purchase. Gross income is defined as the total of  
the gross rents collectible from the property at 100% occupancy, plus any other consideration  
received for, or in connection with, the use or occupancy of rental units and all housing services

1 (including consideration from laundry, parking, commercial leases, or any other facilities or fees),  
2 and including any rent increases that could have been imposed. Gross rents collectible shall  
3 include the market rental value of any vacant and/or owner-occupied units; or

4 (ii) due to extraordinary circumstances, an additional rent increase  
5 for Operating and Maintenance Expenses is necessary to relieve the landlord from financial  
6 hardship.

7 (B) Notwithstanding the provisions of (4)(A), the landlord's failure to file the  
8 Operating and Maintenance Expense petition within two years of the date of its purchase of the  
9 property shall raise a conclusive presumption that the landlord did not reasonably rely on the  
10 ability to pass through the increase in debt service and/or property taxes to the tenants at the  
11 time of purchase.

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