

**LOPATCONG TOWNSHIP RENT LEVELING BOARD
REGULAR MEETING MINUTES
NOVEMBER 20, 2025**

CALL TO ORDER

Chairman Palitto called the meeting to order.

SILENT PRAYER

Chairman Palitto offered a moment of silent prayer.

PLEDGE OF ALLEGIANCE

Chairman Palitto requested everyone stand for the Pledge of Allegiance.

OPEN PUBLIC MEETINGS STATEMENT

Chairman Palitto stated “Adequate notice of this meeting has been provided indicating the time and place of the meeting in accordance with Chapter 231 of the Public Laws of 1975 by advertising a Notice in The Express Times and The Star Ledger and by posting a copy on the bulletin board in the Municipal Building.”

ROLL CALL

Present: Vice-Chairman Lou Belcaro and Chairman Jim Palitto

Absent: Member Rich McQuade

Also Present: Attorney Igor Bykov

Chairman Palitto continued the meeting with Old Business.

OLD BUSINESS:

- Minutes – Approve Regular Meeting Minutes from July 17, 2025
- Minutes – Approve Executive Session Minutes from July 17, 2025

Attorney Bykov advised Chairman Palitto that because Vice-Chairman Belcaro was not present at the last meeting, he is unable to vote to pass the minutes and therefore, approval of regular meeting minutes and executive session minutes for July 17, 2025 was tabled for the next meeting.

Chairman Palitto continued the meeting with New Business.

NEW BUSINESS:

Vacancy Decontrol Applications:

1. Warren Heights – Vacancy Decontrol Application – 321 Shannon Street
2. Warren Heights – Vacancy Decontrol Application – 327 Shannon Street
3. Warren Heights – Vacancy Decontrol Application – 404 Lenape Lane
4. Warren Heights – Vacancy Decontrol Application – 204 Horseshoe Court
5. Warren Heights – Vacancy Decontrol Application – 65 Limerick Lane
6. Warren Heights – Vacancy Decontrol Application – 191 Horseshoe Court
7. Warren Heights – Vacancy Decontrol Application – 173 Horseshoe Court
8. Warren Heights – Vacancy Decontrol Application – 414 Lenape Lane
9. Warren Heights – Vacancy Decontrol Application – 425 Lenape Lane
10. Warren Heights – Vacancy Decontrol Application – 443 Lenape Lane

Chairman Palitto confirmed with Attorney Baldwin that all Vacancy Decontrol Applications can be consolidated for one motion.

Chairman Palitto asked for a motion to approve Vacancy Decontrol Applications 1 through 10.

Vice-Chairman Belcaro made a motion to approve the Vacancy Decontrol Applications 1 through 10 and Chairman Palitto seconded the motion.

Motion by: Vice-Chairman Belcaro

Seconded by: Chairman Palitto

ROLL CALL

AYES: Vice-Chairman Belcaro and Chairman Palitto

NAYS: None

ABSTAIN: None

Chairman Palitto continued New Business with Hardship/Complaints.

Hardships/Complaints:

1. Brakeley Gardens – Tenant – Unit I-7
 - Hardship/Complaint dated March 11, 2024 resubmitted August 28, 2025 – Water and sewer fees
2. Brakeley Gardens – Tenant – Unit I-5
 - Hardship/Complaint dated July 6, 2025 – Water and sewer fees
3. Brakeley Gardens – Tenant – Unit D-8
 - Hardship/Complaint dated July 31, 2026 – Water and sewer fees
 - Hardship/Complaint dated July 9 2025 – Water and sewer fees

Chairman Palitto called Brakeley Gardens tenant Unit I-7 with no response.

Chairman Palitto called Brakeley Gardens tenant Unit I-5 and Linda Ferraro appeared.

Attorney Bykov stated his office has notified Brakeley Gardens and the Board has passed a Resolution informing the landlord that water and sewer fees are beyond permitted under the rent increase established by Chapter 173 of the town code. He stated that the biggest issue is getting them to terminate their practice and refund the wrongly charged fees. It is his understanding that the Board will be authorizing his office to file litigation to get those monies recouped before the next meeting. He stated that he believes that a motion will be authorized and as soon as a complaint is filed, and assuming the township prevails, the landlord will then be responsible for refunding those fees. Ms. Ferraro inquired if the township does prevail, can Brakeley Gardens continue to charge those fees for new tenants. She also asked if it is illegal for Brakeley Gardens to charge those fees. Mr. Ferraro stated she has rented her whole life and never had to pay water and sewer fees. Attorney Bykov stated that it all depends on how leases are set up. He stated that our ordinance prohibits an increase in rent beyond the 3% limitation. The way the landlord classifies water and sewer as additional rent and rent, regardless of additional or base, is still subject to the 3% limitation. While he believes it is illegal in a plain sense of the word, until there is a court order requiring them to stop, the township can issue resolutions, letters and notices but if they refuse to comply, which is ultimately what this is about, tenants may still continue to get charged. Ms. Ferraro stated that these charges are really hard because she is supporting her son and herself and the rent that she is paying is a lot more than she used to pay and the landlord is adding over \$60 and then in April when the lease renews, the rent will probably go up. She stated that the continued increases are very difficult for her and that it's just not fair.

Chairman Palitto called Brakeley Gardens tenant D-8 with no response.

Chairman Palitto continued with Correspondence.

Correspondence:

1. Warren Heights – Warren Heights Renters Club
 - Email dated August 7, 2025 – Storage fees
2. Warren Heights – Tenant Chris Mengle
 - Email dated August 8, 2025 – Storage fees
3. Brakeley Gardens – Tenant Pamela Nissen
 - Email dated August 11, 2025 – Water and sewer fees
4. Warren Heights/Sela Realty
 - Letter dated August 27, 2025 – Attorney Bykov to Attorney Patel – Storage fees
5. Brakeley Gardens – Tenant – Unit M-2
 - Correspondence dated August 24, 2025 from Brakeley Gardens Apartments to tenant – Notification of the changing of water meters by Aqua Water Company
 - Correspondence dated September 10, 2025 evidencing renters' insurance increase and proof of renters insurance
6. Brakeley Gardens – Tenant – Unit Y-14
 - Email dated October 3, 2025 providing email from Brakeley Gardens dated October 1, 2025 to residents as to heat schedule

7. Brakeley Gardens – Tenant – Unit H-7

- Water and sewer fees – Provided lease information, monthly tenant invoices and court case information

Chairman Palitto acknowledged Correspondence 1, 2 and 4 from Warren Heights tenants addressing the issue of storage fee.

Attorney Bykov stated that on August 27, 2025 a letter was sent by electronic and regular mail to Attorney Parita Patel informing her of the fact that Chapter 173, Section 7 prohibits the landlord from demanding or receiving any fees for any services that were previously provided without fees. Counsel for Warren Heights acknowledge receipt of that letter but Attorney Bykov is unsure if the practice has stopped.

Attorney Bykov inquired if there was anyone from the public from Warren Heights and Marilyn Ilvento raised her hand. Attorney Bykov inquired if she has received a storage unit fee. Ms. Ilvento stated that in May she had a rent increase and the increase did not include a storage rental. She said that she is hearing in the development that new tenants are being charged for the storage units. She asked Attorney Bykov if Warren Heights can add the storage unit charge to her lease when her lease gets renewed in May. Attorney Bykov stated that they cannot legally because that would constitute additional rent which is limited to 3% per year so the fees per month over the course of 12 months is in excess of the 3%. Practically speaking, he further stated that unfortunately they can continue until someone tells them that they can't and that is why court intervention may be sought. Attorney Bykov encouraged Ms. Ilvento to let the Board Secretary know if there is an addendum to the lease concerning storage fees. Ms. Ilvento stated that she will make other tenants aware and asked if a new tenant could be charged for the storage unit. Attorney Bykov advised that the ordinance language states that no landlord may demand or receive any fees for any new service or any service previously provided without a fee. The ordinance does not differentiate between a new tenant and an old tenant. Ms. Ilvento inquired if tenant Mengle listed on the agenda was charged storage fees and Chairman Palitto confirmed receipt of correspondence to that affect. Ms. Ilvento stated that she will reach out to Mr. Mengle. Chairman Palitto again confirmed that a letter was sent to the landlord's counsel on the subject.

Chairman Palitto called Brakeley Gardens tenant Pamela Nissen with no response.

Chairman Palitto called Brakeley Gardens tenant M-2 and Brian Alcrim appeared. He provided correspondence from Brakeley Gardens that Aqua will be replacing water meters. He stated that Brakeley Gardens has 16 apartments per building and that they take the water fee and just divide it by 16 regardless of usage per unit. Mr. Alcrim stated that his water bill is over \$100 every month. He stated that last month the water fee was \$106 and seems to be increasing monthly.

Vice-Chairman Belcaro asked Mr. Alcrim how many people are in his unit and he stated that there are three.

Chairman Palitto asked how many units are in his building and if they are all occupied. Mr. Alcrim stated that there are 16 and that one unit is not occupied. Vice-Chairman Belcaro inquired if Mr. Alcrim has spoken to any of his neighbors about the issue. Mr. Alcrim is unaware what everyone else is being charged but assumes that people who lived there since Salem Management managed the property are not be charged. Mr. Alcrim asked Attorney Bykov to confirm if the Board would try and get litigation started by the next meeting. Attorney Bykov advised that if authorized, his office will be filing a complaint and that this matter has to go through the legal process to get resolved. If a complaint is filed to get monies back for the tenants affected, which would be in Superior Court rather than Municipal Court, it is intended that the paperwork be filed by January. Mr. Alcrim asked how long the process would take and Attorney Bykov stated that it is hard to determine.

Chairman Palitto called Brakeley Gardens tenant John Betz. Mr. Betz appeared to discuss correspondence he submitted to the Board about heat. He stated that the cold weather has started and a few tenants were without heat the first week of October. Vice-Chairman Belcaro inquired when the heat is generally turned on and Mr. Betz stated that is it usually from October 1st through October 15th. Chairman Palitto asked if the heat is on now and Mr. Betz confirmed that it is. Mr. Betz stated that the maintenance man said that once the outside temperature reaches 55 degrees, the thermostats will automatically turn on.

Attorney Bykov stated that he has communicated with Secretary Patty on this issue and unfortunately, heat is not within the jurisdiction of the Rent Control Board. Heat and habitability issues are matters for Warren County Health Department as well as the New Jersey Department of Community Affairs. Mr. Betz stated that County inspectors and State inspectors can also be contacted for issues of heat.

Chairman Palitto called Brakeley Gardens tenant Unit H-7 and Elliott Godwin appeared.

Mr. Godwin stated that he is disappointed that the minutes from the last meeting were unable to be approved. He stated that he is here to provide further comment to add to the record from his previous appearance at the last meeting. He stated that he recently received and accepted the renewal of his lease for another year. He stated that he has a base rent on his current lease of \$1,460 a month but that his new lease has his rent at \$1,503 which is exactly 2.94% increase. He stated that is the 3% they are allowed to take but when the actual statement comes, the utility charges are separate. Mr. Godwin feels that by Brakeley Garden's understanding of it, the utility charges aren't rent because that would be subject to rent control limitations. He stated that he found a New Jersey Superior Court case opinion "Opex Realty v. Taylor" decided in 2019 which involved very similar fees being charged in Newark. Mr. Godwin stated that our ordinance 173 is very clear in that they are not allowed anything that was previously offered without fees. In the Newark case, the court ruled, even without that clear cut language, that these types of fees must be considered as additional rent if you are going to be able to evict someone over them. He continued by stating how Brakeley Gardens seems to think that it is not additional rent unless someone doesn't pay it and then they will treat it as if it were rent for purposes of clearing out the apartment.

Attorney Bykov advised Mr. Godwin that he is very familiar with that case. He stated that the case was brought to the Board's attention in the past as well as referenced by the attorney for Brakeley Gardens Matt Bradley. The idea is that the landlord cannot in one breathe say that additional rent is not subject to rent control while simultaneously using that very mechanism for the purposes of an eviction. Attorney Bykov advised Mr. Godwin that the Board appreciates the ledger he prepared that outlines fees charged to date. Mr. Godwin stated that there are people that are not even paying \$60 a quarter for water and sewers fees yet he is charged that per month.

Attorney Bykov stated that he is interested to see what impact the newly installed water meters will have on utility costs. Vice-Chairman Belcaro stated that the fees will probably increase with the new meters.

Chairman Palitto made a motion for the Rent Leveling Board's counsel to pursue action against the landlord of Brakeley Gardens.

Motion by: Chairman Palitto

Seconded by: Vice-Chairman Belcaro

ROLL CALL

AYES: Vice-Chairman Belcaro and Chairman Palitto

NAYS: None

ABSTAIN: None

PUBLIC COMMENT – 3 Minutes

Chairman Palitto continued the meeting with Public Comment. Chairman Palitto stated that each person is allowed three minutes and can only come to the podium once with no time deferred to another person. He also asked for everyone to be respectful to the person speaking at the podium.

John Betz, Brakeley Gardens, Apartment Y-14 appeared. He asked if once the water and sewer situation is decided in the courts, would that pertain to everyone in Brakeley Gardens. Attorney Bykov advised that the complaint would be filed on behalf of the Board in the legal sense and not the hardship complaints that the tenants have brought to the Board's attention. The idea is that once a ruling is made for one tenant, it would apply unilaterally. The Board's goal is to have the matter uniformly enforced.

Mr. Betz advised that he did some research on the water situation with each individual building with meters and dividing the number of people in each unit and then charging according to a ratio calculation. He stated that putting in new meters should not affect the tenants because there should be no new fees charged. Attorney Bykov stated that there is no present law that requires the landlord to have individualized meters. Attorney Bykov stated that he will do more research on the subject. Mr. Betz asked if the landlord has one meter per building and divides the fees among the number of units, can they charge new fees that were not charged before if they put in

new meters? Attorney Bykov stated that when it comes to utilities, specifically water and sewer, it all depends on how the landlord designates them. As it is now from all the leases that he has reviewed, those charges are considered additional rent. If the Board prevails in its legal action, the landlord can build those charges into the base rent and therefore, it would not be additional rent, it would just be the standard rent. Mr. Betz confirmed that after that they would only be allowed to increase the 3% and Attorney Bykov agreed.

Mr. Betz asked if Brakeley Gardens or Harbor Group has ever filed for vacancy decontrol. Secretary Segeda confirmed that Brakeley Garden has never submitted any vacancy decontrol applications since she has been the Board Secretary. Mr. Betz asked if there is anything he can do to get them to do that. Attorney Bykov stated that he is not aware of anyone that has moved in or out of any units. Mr. Betz stated that he knows of people that have moved out and moved in. Attorney Bykov stated that a reminder can be sent as they are required to file vacancy decontrol applications. Mr. Betz informed the Board that since rent rolls are due each January, they can be compared from the previous year to see the difference in rent.

Attorney Bykov explained Chapter 173, Section 7 that prohibits the landlord from demanding or receiving any fees for any services that were previously provided without fees. Mr. Betz confirmed that the landlord can raise the rent to the point of covering the water and sewer fees when a tenant vacates and the new tenant moves in but if that person stays there 15 years, the landlord cannot raise the rent each year except for the 3% under the Rent Control Ordinance and Attorney Bykov agreed. Mr. Betz thanked the Board.

Linda Ferraro spoke and asked if she is one of the new people at Brakeley Gardens, does that mean she is paying for the fees of other tenants? Attorney Bykov and Chairman Palitto advised Mr. Ferraro that is something that will be addressed in the legal paperwork.

Marilyn Ilvento of 346 Shannon Court in Warren Heights appeared and stated that she pays for her individual water. In addition, she stated that she pays individual sewer every three months. She is amazed that her sewer bill is the same price every month at \$45 but her water bill goes up and down. She never receives a sewer bill from the municipality but receives a charge that Sela sends her every three months. Ms. Ilvento stated that she never knows if the sewer bill is more than \$45 or less than \$45. She stated that Warren Heights never produces a copy of the bill that the township sends to Warren Heights. She stated that she does not know what everyone else pays but she finds it odd that her sewer bill is the same every three months.

Vice-Chairman Belcaro advised Mr. Ilvento that Phillipsburg is going to raise the rates and she may see an increase in the future. He further stated that tenants should only be charged based on their water usage.

Ms. Ilvento asked about storage fees and Attorney Bykov again stated that the way the ordinance is written, it prohibits the landlord from imposing fees for a service that previously provided free of charge. Attorney Bykov explained the ordinance and provided scenarios as examples. Ms. Ilvento asked if Attorney Bykov sent a letter to Sela about the storage fees and Attorney Bykov confirmed that he sent a letter to Parita Patel, the attorney for Warren Heights.

Ms. Ilvento stated that the attorney for Warren Heights mentioned after the last meeting had closed that they will be refileing for a rent increase and asked if Warren Heights refiled yet. Secretary Segeda confirmed that they have not refiled. Attorney Bykov informed Ms. Ilvento that the law office representing Warren Heights had a change of personnel and the matter will now be handled by Sam Han who is a named partner of the firm. Attorney Bykov confirmed that he has not received anything further as to the rent increase but that the landlord is well within their right to refile.

Chairman Palitto asks the public if there are any other comments. Chairman Palitto seeing and hearing none asked for a motion to adjourn.

ADJOURNMENT

Motion by: Vice-Chairman Belcaro

Seconded by: Chairman Palitto

ALL IN FAVOR: Ayes

NAYS: None

Respectfully submitted by:

Patricia A. Segeda
Rent Leveling Board Secretary