

**Hon'ble Justice R. J. Shah [Retd.] Fee/Admission (Medical) Committee,
Behind Polytechnic, Near Five Bungalow,
Gulbai Tekara, Ahmedabad-15**

No.JRJS/ 368 /2007

Date: 27/06/2007

To,
The Dean,
S.B.K.S. Medical College,
Waghodia,
Vadodara

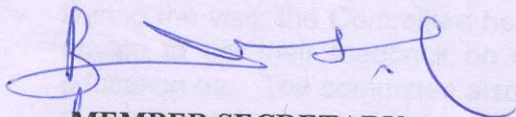
Sub :- Fee Fixation for the years 2006-07, 2007-08, 2008-09

Under the directions from the High Court of Gujarat in judgements passed by the Honourable Justice Shri D. A. Mehta on 7th December, 2006 while hearing various Special Civil Applications filed by the petitioner colleges as well as under similar order passed in the SCA No. 17856 and 17857, the Committee has considered your proposal for fee structure afresh.

The order passed by the Committee at its meeting held on 20th June, 2007 is enclosed herewith along with detailed working in support of the same.

In case you need any clarification or need to make any submission/provide further information, you may approach the Committee by Saturday, 7th July 2007.

For Justice R. J. Shah [Retd.] Fee committee (Medical)


MEMBER SECRETARY

College: SBKS Medical Institute and Research Centre.

As per directions of the Hon'ble Supreme Court in the case of Islamic Academic Education & another v/s State of Karnataka & Others on 14th August 2003, the Government of Gujarat has set up a Committee vide GR No. SCF/2003/CC-59/S dated 26th December 2003, under the Chairmanship of Justice (Retd.) Shri R.J. Shah (hereinafter called "The Committee") to give effect of the judgement in TMA Pai's case.

Background:

- As per the directions in the said judgement, each educational institution must place before this Committee well in advance of the academic year its proposed fee structure. Along with the proposed fee structure, all documents and Books of Accounts must also be produced before the Committee for their scrutiny. The Committee shall then decide whether the fees proposed by the institute are not profiteering or charging capitation fee. **The Committee will be at liberty to approve the submitted fee structure or to propose some other which can be charged by the institute.** The fee fixed by the Committee shall be binding for a period of 3 years, at the end of which the institute would be at liberty to apply for a revision.
- Accordingly the Committee had approved for the first time in June 2004, the fee structure of all the Medical Colleges within the State of Gujarat for the academic years 2003-04, 2004-05 and 2005-06. As per the directions in the said judgement, a revision in the fee structure is due for a further period of 3 years from 2006-07 to 2008-09.

Approach and Methodology:

In the month of December 2005, the Committee, has requested all the unaided institutions imparting professional education in medical and allied sciences in the State of Gujarat to submit their proposed fee structure for scrutiny of the Committee, along with the details as per the detailed questionnaire submitted to each of the institutes.

- The data was then analyzed to arrive at the broad view of the facilities, infra-structure, capital investments made by the college in last 3 years, plans for development on hand and for future, compliance of the requirements concerning the staff etc.
- This was followed by personal visit to all the colleges by the Committee consisting of the member of the fee committee, an eminent Doctor and a member of the team of Chartered Accountants, to verify the facilities and infra-structure, adequacy of staff and to have clarifications and further information on some of the issues arising out of the analysis of the data.
- During the visit, the Committee held discussions with a few of the students and staff in private to get their feedback on specific issues concerning fees, facilities, quality of education etc. The committee also visited the affiliated hospitals to check for the quality of service and care provided to the patients.
- The committee also gave a public hearing to the students, parents association as well as the management of the colleges on 11th and 12th May 2006.

Guiding principles:

In discharging its functions, the Committee has kept in mind following observations contained in the said judgement of Islamic Academy, which have been reaffirmed recently in the case of P.A. Inamdar & Others v/s State of Maharashtra & Others, on August 12, 2005.

- (a) So far as the question of fee fixation is concerned, the judgement has categorically emphasized that there can be no fixing of rigid fee structure by the Government. Each institute must have the freedom to fix its own fee structure taking into consideration the need to generate funds to run the institution and to provide facilities necessary for the benefit of the students.
- (b) They must be able to generate surplus which must be used for the betterment and growth of the educational institution. Similar observations in the TMA Pai case provides for reasonable surplus for furtherance of education. (Para 69).
- (c) The decision on the fee to be charged must necessarily be left to the private educational institutions who are not depending on the funds from the Government.
- (d) Each institute will be entitled to have its own fee structure. The fee structure for each institute must be fixed keeping in mind the infra-structure and facilities available, investments made, salary paid to the teaching and other staff, future plans for expansion and/or betterment of the institute etc.
- (e) There can be no profiteering and capitation fee cannot be charged.

Issues arising and responses:

During the exercise for revision of the fees, two major issues came up for consideration before the committee:

- (a) Whether the proposed fee structure should be applicable to all the students on roll as of the applicable date or should be applicable to new batch of students to be enrolled from the year 2006-07 ?
- (b) Application of accepted accounting and costing principles and practices for treatment of cost of running a free bed hospital and provision for reasonable surplus for betterment and growth.

The Committee's views are as under :

(a) Application of revision in the fee structure.

- Since the judgment in Islamic Academy provides for revision of fee every 3 years, it implies that the fees can be revised based on the cost escalation and provision of additional facilities and infrastructure at regular interval of course not earlier than 3 years, if the concerned institution has applied for a revision.
- In any exercise of price fixation which is based on cost, the revision is applicable to all the beneficiaries for whom the cost is being incurred. In the case of Medical colleges, for instance the fees are fixed based on normal recurring cost of revenue nature which is directly related to education. Since this cost is subject to inflation, a periodic revision becomes necessary, and when the cost is revised, it should be applicable to all the beneficiaries on a given date.

- In case a contrary view is taken to apply the revised fee structure only to the new batch, the fee structure would be enormously high as only one batch of the students will be subjected to bear the additional cost that is being incurred for 4½ batches at any given point of time. This will put the new students in a disadvantageous position.
- As such the Committee thought it just and fair to apply the proposed fee structure to all the students on roll during the period of 3 years from 2006-07 to 2008-09 irrespective of the year in which they were enrolled. In addition, the Committee has also borne in mind the directive of the Supreme Court in T.M.A. Pai's case that there cannot be any cross subsidization of fee in any institution.

(b) Treatment of Hospital Cost:

- In the matter of treatment of hospital cost, the Committee has appreciated the need to have a teaching hospital as prescribed by MCI as a precondition to set up a Medical college. However, in the views of the Committee, it is unfair to recover the entire deficit of running the hospital from the students only. In the earlier exercise also, the Committee has suggested sharing of hospital cost between medical care and medical education.
- This year one of the private medical colleges has undertaken a costing exercise from a reputed firm, namely S.B. Billimoria & Company, Chartered Accountants, in support of their proposal for the revision in the fee structure. The said report contains analysis of total cost of medical education which has been overseen by Shri Y.H. Malegam.
- Shri Malegam is one of the most respected and most experienced Chartered Accountant in the country today and a celebrity of international repute. Past President of the Institute of Chartered Accountants of India, Shri Malegam is a Director on the Board of Reserve Bank of India and has chaired several high level committees appointed by the Central Government, SEBI, RBI, ICAI and other bodies in the field of accounts, finance, taxation and corporate governance.
- The Committee has studied the said Billimoria report in detail and found merit in the treatment of some of the costs related to education in general and treatment of hospital cost in particular. As such the Committee has followed the same rationale for all the medical colleges so far as treatment of hospital cost is concerned, which is summarized as under :
 - Excluding the cost of medicine, the expenses related to treatment and blood bank expenses which can be considered as variable expenses specific to patients, the remaining items can be considered as fixed expenses arising from the maintenance of the teaching hospital.
 - For the purposes of this exercise, we have assumed that this fixed cost may fairly be allocated in equal proportion between the cost of medical care and the cost of medical education.
 - Since on an average students spend almost 50% of their time in the hospital, only 50% of hospital expenditure is allocated to medical education.

- Like wise, since the teaching staff spent almost 50% time in the hospital, we have considered that 50% of the cost of manpower (teaching) can be treated as part of cost of medical care.
- The cost of medical education may therefore be considered as the direct cost of medical education (as reduced by manpower (teaching) cost allocated to medical care) plus the share of medical care allocated to medical education.
- The sharing of hospital cost does not arise where the educational institution has a tie up with any other hospital to take their services at a fixed price per student. In such case, the committee has allowed actual amount paid per student to such hospital in determination of the fee structure.

(c) Reasonable Surplus:

- So far as the provision for development and reasonable surplus is concerned, the Committee has appreciated the need for the same. The committee has allowed the same through depreciation allowance and development allowance.
- Though the initial investments are made through donations, the committee is seized of the fact that the replacement of the facilities over a period need to happen through collection of fees. As such the committee has considered economic depreciation as part of education cost even though it is a non cash item.
- In addition, the Committee has allowed reasonable allowance for growth and betterment in the form of development allowance based on the history of capital investments made by the institute during past 3 years and definite investment plans for growth and development projected by it for next 3 years.

Review consequent upon the order passed by the High Court of Gujarat

1. In accordance with the principles and processes as detailed above, the Fee Committee had announced the fee structure for 43 Private Unaided Medical, Dental, Physiotherapy and Para Medical Colleges vide its order dated 20th June 2006. Aggrieved by the order on reduction of the fees proposed by the colleges, 10 colleges (**Annexure A**) approached Gujarat High Court for appropriate relief. HONOURABLE MR.JUSTICE D.A.MEHTA of THE HIGH COURT OF GUJARAT AT AHMEDABAD in SPECIAL CIVIL APPLICATION No. 13887 of 2006, had vide order dated 7th December 2007, quashed the fee structure and referred the matter to the Committee for taking a decision afresh. The order also provided for inviting the students of the petitioner institute at the hearing to be fixed for the petitioner.
2. Accordingly, the Fee Committee has given hearing to all the petitioner institutes as well as to the students of the concerned institutes in the month of January 2007.
3. While the Committee received number of representations, both oral and written, the issues raised were limited in number and similar in nature. The Colleges also gave their submissions in person and through their lawyers. A summary thereof has been given in **Annexure B**.
4. As indicated in the summary of the hearing given to the colleges, none of the colleges has resubmitted proposal for reconsideration and each one has maintained that the fee

structure as originally proposed should be reconsidered. As such the Committee has reviewed the proposals in light of hearing given to the colleges as well as the students along with its earlier findings and observations.

5. The Committee observes that colleges while challenging the earlier order have following major grievances.
 1. The order of the fee committee has not given adequate and convincing reasons in disapproving the proposed fee structure.
 2. The Committee did not give them opportunity for personal hearing to justify the fee structure proposed by the college.
 3. The fee structure once fixed should be valid for three years and the college should not be asked to approach the committee every year.
6. The Committee has reviewed all the papers, documents, cost estimates, past performance and future projections. Based on the review, findings from the personal visits, submissions made by the students and inter college comparison, the Committee has noted as under.
 - a. All the medical and dental colleges challenging the earlier order of the Committee have proposed a steep increase in the range of 150% to 400% based merely on the projections for next three years. It is evident from the individual analysis reported to the concerned college by a separate annexure, there is a wide difference between the latest audited numbers and the cost estimates in support of the proposed fee scale.
 - b. The students have complained about deficiency in the staff strength, infrastructure, other facilities, levy of fees in different forms etc. While this is a general observation, college specific issues are listed in the individual annexure.
 - c. The Committee had visited all the colleges and had met the students and faculties independently and was made aware of such irregularities / deficiencies.
 - d. The deficiency related to the required infrastructure and staff strength has been reported in media time and again and the latest one has appeared on 15th of this month where in the MCI has cancelled medical seats in two colleges.
 - e. In light of what is stated above, the Committee has felt it proper to continue to discount the projections made by the colleges that were not based on facts and ground realities. Some of the expenses claimed by the colleges like finance cost, legal expenses, rent paid to parent trust, electricity and transport for common facilities have been excluded in full or part as explained in a separate annexure for each college referred to in paragraph (f) herein below.
 - f. In its earlier order quashed by the Court, the Committee had briefly explained the findings and observations in support of the reduced fee structure. After the review, the Committee finds it necessary to provide full analysis of the accounts, other relevant information and rationale for not accepting the proposed fee structure. Detailed reasoning for your college for working out the base fees has been given in **Annexure C**.

- g. The Committee had fixed the fees on yearly basis purely on the ground of fairness to the students. The Committee has seen that not many colleges have proven track record of meeting the investment projections when compared with actual investments. In view of this fact, any attempt to fix the fees for three years based solely on projections would do injustice to the students in as much as they would pay for projections that lack certainty and commitment. This approach has been challenged on the ground that the fee structure approved should be valid for the period of three years. As such the Committee now recommends a revised fee structure that is valid for the years 2006-07, 2007-08 and 2008-09. The college is now not expected to approach the Committee on year to year basis. The students would also know the amount of fees they have to pay for next three years.
- h. In fixing the fees for the period of three years as indicated above, the Committee has considered moderate increase for inflation as well as development based on norms framed in light of past history of the college, compliance with statutory requirements as to staff and other infrastructure, growth plans on hand etc. Accordingly, the Committee has fixed the fees for each year separately instead of a common fee for all the three years.
- i. To ensure that the colleges do spend for the growth and development to keep pace with new and emerging trends and technologies, the Committee has thought it proper to include reasonable allowance for development as suggested above. The final fees approved include the same. This is conditional upon the assurance that college will deposit at least 5% of the approved fees in a separate account to be utilized for the development of the infrastructure, deployment of new and emerging technology, modernization and up-gradation of the facilities etc. Any unused amount at the end of the year would be utilized as scholarship for the benefit of the students based on merit and economic conditions of the students.
- j. So far as the applicability of the revised fee structure to the students enrolled during 2003-04, 2004-05 and 2005-06 is concerned, the Committee has made its view clear that the revised fees are applicable to all the students on roll as on date. This stand has been upheld by the High Court in its interim order dated 20th September 2006. Paragraph 14.3 of the said order reads as under.
- i. Prima facie I am however, unable to accept the contention of learned advocate for the petitioners that the revised fee should be made applicable only to new students and students who are already studying should be spared such revision. Accepting for such a contention would put additional burden on fresh students. All students, therefore, will bear equal burden of revised fee.
- k. Other issues raised during the hearing pertain to treatment of hospital cost, collection of fees and charges in different forms, demand for bank guarantee etc. The rationale behind consideration of the hospital cost has been explained in full here in above. In the matter of other issues, necessary instructions are given hereunder in the concluding part of the order.

I. In final analysis, the Committee recommends following fee structure.

i. Year 2006-07 Rs. 1,60,000

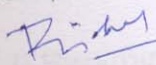
ii. Year 2007-08 Rs. 1,70,000

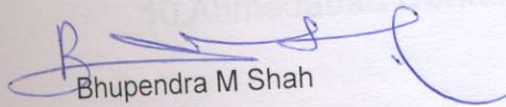
iii. Year 2008-09 Rs. 1,80,000

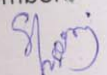
Other conditions to apply:

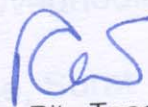
- The college will not take fees for the full course at the time of admission. The fees should be collected per semester.
- The college will not ask for any bank guarantee or security of any kind from students or their parents.
- The college will not take any other fee, deposit, charge or advance in the name of gymkhana, computer center, internet facility laboratory, library, sports, recreation, self development etc.
- The college will be free to fix fees for NRI students up to 15% of the intake capacity subject to intimation of the same to the Fee Committee. All additional fees from NRI students in whatever form will be utilized for the benefit of students such as from economically weaker section of the society as per the directions given by the Supreme Court in its judgment in the case of P. A. Inamdar and Others v/s State of Maharashtra and Others.

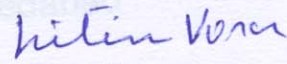
20th June, 2007.


Hon'ble Justice R. J. Shah (Retd)
Chairman


Bhupendra M Shah
Member


Suresh Soni
Member


Smt. Rita Teatia, IAS
Member Secretary


Dr. Nitin Vora
Member

Annexure A

List of colleges for which the Gujarat High Court had issued orders for review of the fees structure for the years 2006-07, 2007-08 and 2008-09.

- 1.S.B.B. Physiotherapy College, Ahmedabad
- 2.Sarvajenik Physiotherapy College, Surat
- 3.Kesarsal Medical College, Ahmedabad
- 4.Physiotherapy College, Anand
- 5.Karnavati School of Dentistry, Uvarsad
- 6.S.B.K.S. Medical College, Waghodia
- 7.K. M. Shah Dental College, Waghodia
- 8.K.J. Pandya Physiotherapy College, Waghodia
- 9.Swaminarayan Physiotherapy College, Surat
- 10.Ahmedabad Dental College, Ahmedabad

Annexure B.

Issues raised by the colleges are summarized as under.

1. The Committee has not given any written reasons hits disagreement with the fee structure proposed by the college.
2. The Committee must consider full cost of running the teaching bed hospital instead of allowing only part of the cost of running the hospital. The arguments advanced for the claim is that the hospital is set up and run only to comply with the requirements prescribed by the Medical Council of India for Medical Colleges and Dental Council of India for Dental Colleges.
3. The Colleges have maintained that the fees structure proposed at the beginning of the exercise stands and the same should be considered by the Committee. None of the concerned institutes have preferred to give a fresh proposal.
4. Almost all the colleges have submitted that the college will have to be closed if the fee structure as proposed is not approved by the Committee.

Issues raised by the students are summarized as under.

1. The fee approved by the Committee is too high and unreasonable in light of the facilities and infrastructure provided by the College.
2. The fees for the old students must remain the same for the entire duration of the concerned course and no change should be made for them.
3. The students also raised their demands for reduction of fees in light of some published figures of Rs.90,000 as cost of medical education per student.
4. Students have resubmitted their presentation made earlier during public hearing since in their views most of the issues raised there at remain unaddressed.
5. Majority of the students complained about harassment and vengeance by the college authorities for non payment of fees and other unauthorized charges and fees.
6. The students also complained about levy of additional fees in the name of College Deposit, Caution Deposit, Fees for use Internet, Fees for Indian Dental Association (IDA) Membership, laboratory instruments and dental materials, higher charges for issue of identity cards etc.
7. The colleges force to pay fees in advance for the succeeding year before enrolment for the University Examination.

8. Almost in each college, the students complained about the insufficiency of teaching staff, absence of regular and permanent staff, predominance of visiting faculties, and presence of ghost staff whom they have never seen on the campus or in the class rooms.
9. Many students voiced their concerns about charging higher fees in the name of air-conditioned class rooms, land beautification, unrelated expenses like legal fees and advertisements etc.

Annexure C: SBKS Medical Institute and Research Centre.

The college has proposed a fee of Rs 5,00,000 per student per year as against the current fee of Rs.1,30,000. This fee is proposed to be collected from all the students on roll as on the commencement of the academic year 2006-07.

As explained in the order, the Committee has analyzed the information received from the colleges as requested, visited the colleges and the hospital and had given hearing to the management.

Observations and the recommendations:

1. The committee has gone through the actual costing exercise together with the projections for inflation and development surplus. Based on the actual cost for the year ended, the Committee finds that the hike the college has proposed as indicated above is too high. If compared with the cost and fee structure of the best of college in Gujarat, the proposed fee structure is more than double.
2. The Committee notes that most of the expenses projected for the future are abnormally high and lack justification. To cite an example, the salary cost of the teaching staff which was Rs. 876 lac in 2004-05, has been projected to be Rs.1750 lac for the year 2006-07 and Rs. 1850 lac for the year 2007-08. While we appreciate the need to augment the teaching strength for the additional intake, we have been informed by the students that most of the faculty members are not regular, they are not in full time teaching and that many of them are seen very randomly. This observation of the Committee is confirmed by the MCI as reported in the local newspapers on 15th June 2007.
3. Based on the list provided by the college, there are 311 faculty members for 322 students. In addition, there are 311 technicians and nursing staff members making a total of 622 for 322 students. Even the salary cost of each of them which is shown in round figures raises doubts about the credibility and correctness of the information provided by the college.
4. Going through the long list of the staff members, the Committee observed that majority of them are attached to the Hospital and their entire expenditure has been claimed to be part of education. As explained in the note, the Committee has relied on the observations and recommendations made by M/s. S.B. Billimoria & Co., in their report for the treatment of cost of medical care and accordingly, the Committee has considered only 50% of the medical care cost for the purpose of education.
5. The college has not given separate accounts of hospital and college. All the expenses related to the hospital are shown to be part of medical education only. However, the Committee has allowed only part of such expenses for the medical education and disallowed all other expenses directly related to the medical care.
6. The College has also included finance cost and bank charges as part of the cost of education. This is evident from the data for the year 2004-05 and 2005-06 where in the finance cost has been shown at Rs. 96 lac and Rs. 168 lac respectively. As per the Guidelines given by the Committee and as per Generally Accepted Accounting and Costing Principles, the same has not been allowed being the finance cost.
7. The projection for inflation and development has an element of uncertainty and contingency. While it is true that the fee fixed now is valid for a period of three years, it is not fair to accept the projections in its entirety at the beginning of the period of 3 years and work out the fees accordingly. **The matching principle of accounting expects that the cost either precedes revenue or co-exists with revenue. Revenue cannot precede cost and as such fees should not be permitted to be recovered solely on cost projections.** A balance of timing needs to be struck. As such the Committee recommends charging for inflation and development at the end of each year.

K.S. MEDICAL INSTITUTE & RESEARCH CENTRE, VAGHODIYA

COST OF MEDICAL EDUCATION

Sr. No.	Particulars	2004-05		2005-06		2006-07		2007-08	
		Amount	Rs.	Amount	Rs.	Amount	Rs.	Amount	Rs.
1	Salary to staff	87647002		1500.00		1750.00		1850.00	
*	Less : 40%- of salary cost as per Note 1.	35058801		600.00		700.00		740.00	
*	Less : 50% of recast salary considered for hospital	52588201		900.00		1050.00		1110.00	
		26294101	26294101	450.00	450.00	525.00	525.00	555.00	555.00
2	Inspection Fees		200000		2.00		2.00		2.00
3	University Affiliation Fees		8169		0.15		0.30		0.45
4	Electricity Charges		3391800		40.00		50.00		60.00
5	Students Welfare Exp.		107000		1.50		2.00		2.50
6	Misc Exp.		282346		4.00		6.00		8.00
7	Stationery Printing		132948		2.00		3.00		4.00
8	Telephone Exp.		59056		0.75		1.00		1.50
9	Travelling Exp.		133454		2.00		3.00		4.00
10	Hospital fees (Refer Note 2)		2580000		52.50		90.00		130.00
11	Security Exp.		62687		1.00		2.00		3.00
13	Advertisement Exp.		232692		3.00		4.00		5.00
14	Depreciation(Refer Working note)		5333662		63.12		69.37		72.50
15	Repairs & Maintenance Exp.		780723		10.00		15.00		20.00
16	Insurance Exp.		132043		2.00		3.00		4.00
	Total cost of education		39730681		634.02		775.67		871.95
	No. of students		200		350		500		650
	Cost per student		198653		1.81		1.55		1.34
	Average for 2005-06 to 2007-08				1.57				

Note: Refer Notes as per attached statement.

S. MEDICAL INSTITUTE & RESEARCH CENTRE, VAGHODIYA

Notes on Recast calculations

40% of the salary cost is excluded since it has come to our notice by various representations by the students & parents that most of the staff shown by the college is not actually working with the college and they are full time practising doctors and not full time faculties as declared by the management.

50% of net salary as adjusted on account of the above reason is allocated to Hospital exp. as 50% of the time is considered as devoted for hospital services. However charge for hospital usage is allowed based at Rs.15,000, 18000, and Rs. 20,000 on the basis of rate worked out for the year 2004-05

3 Expenses directly incurred towards the treatment of patients are excluded from the cost as the same has to be recovered from the patients.

4 Finance cost like Bank Interest and Guarantee Commission as well as and Legal Exp. are excluded as per the guidelines.

5 In view of fixed service charge for use of hospital, no other cost on hospital is allowed.

6 50% of building depreciation has been treated as for hospital and hence excluded.

Basis and assumption for recast of various cost shown by college in cost sheet submitted for determination of cost

7.1 Since the college has projected abnormally high cost of most of the expenses for 2005-06, 2006-07 & 2007-03, we have recast the same on reasonability ground. See the following table where the projected figures appear very high as compared to actual exp. incurred during 2004-05 as per the audited financial statements.

Sr. No.	Particulars	2004-05	2005-06	2006-07	2006-07
		Actual	Projected	Projected	Projected
			Rs. In lacs		
1	Salary	876.46	1500.00	1750.00	1850.00
2	Power & Electricity	33.92	55.00	95.00	110.00
3	Post & Telegram	0.72	1.50	1.65	1.80
4	Repairs & Maintenance	7.80	15.00	35.00	45.00
5	Administrative exp.	118.49	250.00	320.00	365.00
6	Rent Taxes	1.94	5.00	7.50	9.00