NEW YORK CITY RENT GUIDELINES BOARD

2013 Apartment & Loft Order #45

June 20, 2013

Order Number 45 - Apartments and Lofts, rent levels for leases commencing **October 1, 2013** through **September 30, 2014.**

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE NEW YORK CITY RENT GUIDELINES BOARD BY THE RENT STABILIZATION LAW OF 1969, as amended, and the Emergency Tenant Protection Act of 1974, as amended, implemented by Resolution No 276 of 1974 of the New York City Council and extended by Chapter 97 of the Laws of 2011, and in accordance with the requirements of Section 1043 of the New York City Charter, that the Rent Guidelines Board (RGB) hereby **adopts** the following levels of fair rent increases over lawful rents charged and paid on **September 30, 2013**. These rent adjustments will apply to rent stabilized apartments with leases commencing on or after **October 1, 2013** and through **September 30, 2014**. Rent guidelines for loft units subject to Section 286 subdivision 7 of the Multiple Dwelling Law are also included in this order.

<u>ADJUSTMENT FOR RENEWAL LEASES (APARTMENTS)</u>

Together with such further adjustments as may be authorized by law, the annual adjustment for renewal leases for apartments shall be:

For a **one**-year renewal lease commencing on or after **October 1, 2013** and on or before **September 30, 2014**: **4.0%**

For a **two**-year renewal lease commencing on or after **October 1, 2013** and on or before **September 30, 2014**: **7.75%**

These adjustments shall also apply to dwelling units in a structure subject to the partial tax exemption program under Section 421a of the Real Property Tax Law, or in a structure subject to Section 423 of the Real Property Tax Law as a Redevelopment Project.

<u>VACANCY ALLOWANCE FOR APARTMENTS</u>

No vacancy allowance is permitted except as provided by sections 19 and 20 of the Rent Regulation Reform Act of 1997.

<u>ADDITIONAL ADJUSTMENT FOR RENT STABILIZED APARTMENTS SUBLET UNDER SECTION 2525.6 OF THE RENT STABILIZATION CODE</u>

In the event of a sublease governed by subdivision (e) of section 2525.6 of the Rent Stabilization Code, the allowance authorized by such subdivision shall be **10%**.

ADJUSTMENTS FOR LOFTS (UNITS IN THE CATEGORY OF BUILDINGS COVERED BY ARTICLE 7-C OF THE MULTIPLE DWELLING LAW)

The Rent Guidelines Board **adopts** the following levels of rent increase above the "base rent," as defined in Section 286, subdivision 4, of the Multiple Dwelling Law, for units to which these guidelines are applicable in accordance with Article 7-C of the Multiple Dwelling Law:

For **one**-year increase periods commencing on or after **October 1, 2013** and on or before **September 30, 2014**: **4.0%**

For **two**-year increase periods commencing on or after **October 1, 2013** and on or before **September 30, 2014**: **7.75%**

VACANT LOFT UNITS

No Vacancy Allowance is permitted under this Order. Therefore, except as otherwise provided in Section 286, subdivision 6, of the Multiple Dwelling Law, the rent charged to any tenant for a vacancy tenancy commencing on or after **October 1, 2013** and on or before **September 30, 2014** may not exceed the "base rent" referenced above plus the level of adjustment permitted above for increase periods.

FRACTIONAL TERMS

For the purposes of these guidelines any lease or tenancy for a period up to and including one year shall be deemed a one-year lease or tenancy, and any lease or tenancy for a period of over one year and up to and including two years shall be deemed a two-year lease or tenancy.

ESCALATOR CLAUSES

Where a lease for a dwelling unit in effect on May 31, 1968 or where a lease in effect on June 30, 1974 for a dwelling unit which became subject to the Rent Stabilization Law of 1969, by virtue of the Emergency Tenant Protection Act of 1974 and Resolution Number 276 of the New York City Council, contained an escalator clause for the increased costs of operation and such clause is still in effect, the lawful rent on **September 30, 2013** over which the fair rent under this Order is computed shall include the increased rental, if any, due under such clause except those charges which accrued within one year of the commencement of the renewal lease. Moreover, where a lease contained an escalator clause that the owner may validly renew under the Code, unless the owner elects or has elected in writing to delete such clause, effective no later than **October 1, 2013** from the existing lease and all subsequent leases for such dwelling unit, the increased rental, if any, due under such escalator clause shall be offset against the amount of increase authorized under this Order.

SPECIAL ADJUSTMENTS UNDER PRIOR ORDERS

All rent adjustments lawfully implemented and maintained under previous apartment orders and included in the base rent in effect on **September 30, 2013** shall continue to be included in the base rent for the purpose of computing subsequent rents adjusted pursuant to this Order.

SPECIAL GUIDELINE

Under Section 26-513(b)(1) of the New York City Administrative Code, and Section 9(e) of the Emergency Tenant Protection Act of 1974, the Rent Guidelines Board is obligated to promulgate special guidelines to aid the State Division of Housing and Community Renewal in its determination of initial legal regulated rents for housing accommodations previously subject to the City Rent and Rehabilitation Law which are the subject of a tenant application for adjustment. The Rent Guidelines Board hereby **adopts** the following Special Guidelines:

For dwelling units subject to the Rent and Rehabilitation Law on **September 30, 2013**, which become vacant after **September 30, 2013**, the special guideline shall be the greater of:

(1) **30%** above the maximum base rent, or

(2) The Fair Market Rent for existing housing as established by the United States Department of Housing and Urban Development (HUD) for the New York City Primary Metropolitan Statistical Area pursuant to Section 8(c) (1) of the United States Housing Act of 1937 (42 U.S.C. section 1437f [c] [1]) and 24 C.F.R. Part 888, with such Fair Market Rents to be adjusted based upon whether the tenant pays his or her own gas and/or electric charges as part of his or her rent as such gas and/or electric charges are accounted for by the New York City Housing Authority.

Such HUD-determined Fair Market Rents will be published in the Federal Register, to take effect on **October 1, 2013**.

DECONTROLLED UNITS

The permissible increase for decontrolled units as referenced in Order 3a which become decontrolled after **September 30, 2013**, shall be the greater of:

(1) **30%** above the maximum base rent, or

(2) The Fair Market Rent for existing housing as established by the United States Department of Housing and Urban Development (HUD) for the New York City Primary Metropolitan Statistical Area pursuant to Section 8(c) (1) of the United States Housing Act of 1937 (42 U.S.C. section 1437f [c] [1]) and 24 C.F.R. Part 888, with such Fair Market Rents to be adjusted based upon whether the tenant pays his or her own gas and/or electric charges as part of his or her rent as such gas and/or electric charges are accounted for by the New York City Housing Authority.

Such HUD-determined Fair Market Rents will be published in the Federal Register, to take effect on **October 1, 2013**.

CREDITS

Rentals charged and paid in excess of the levels of rent increase established by this Order shall be fully credited against the next month's rent.

STATEMENT OF BASIS AND PURPOSE

The Rent Guidelines Board is authorized to promulgate rent guidelines governing apartment units subject to the Rent Stabilization Law of 1969, as amended, and the Emergency Tenant Protection Act of 1974, as amended. The purpose of these guidelines is to implement the public policy set forth in Findings and Declaration of Emergency of the Rent Stabilization Law of 1969 (§26-501 of the N.Y.C. Administrative Code) and in the Legislative Finding contained in the Emergency Tenant Protection Act of 1974 (L.1974 c. 576, §4 [§2]).

The Rent Guidelines Board is also authorized to promulgate rent guidelines for loft units subject to Section 286 subdivision 7 of the Multiple Dwelling Law. The purpose of the loft guidelines is to implement the public policy set forth in the Legislative Findings of Article 7-C of the Multiple Dwelling Law (Section 280).

Dated: June 20, 2013

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Jonathan L. Kimmel
Chair
New York City Rent Guidelines Board

EXPLANATORY STATEMENT - APARTMENT ORDER #45

Explanatory Statement and Findings of the Rent Guidelines Board
In Relation to 2013-14 Lease Increase Allowances for Apartments and Lofts
under the Jurisdiction of the Rent Stabilization Law[1]

Summary of Order No. 45

The Rent Guidelines Board (RGB) by Order No. 45 has set the following maximum rent increases for leases subject to renewal on or after October 1, 2013 and on or before September 30, 2014 for **apartments** under its jurisdiction:

For a **one**-year renewal lease commencing on or after October 1, 2013 and on or before September 30, 2014: **4.0%**

For a **two**-year renewal lease commencing on or after October 1, 2013 and on or before September 30, 2014: **7.75%**

VACANCY ALLOWANCE

The vacancy allowance is now determined by a formula set forth in the State Rent Regulation Reform Act of 1997 and in Chapter 97 of the Laws of 2011, not by the Orders of the Rent Guidelines Board.

SUBLET ALLOWANCE

[1] This Explanatory Statement explains the actions taken by the Board members on individual points and reflects the general views of those voting in the majority. It is not meant to summarize all the viewpoints expressed.

The increase landlords are allowed to charge when a rent stabilized apartment is sublet by the primary tenant to another tenant on or after October 1, 2013 and on or before September 30, 2014 shall be **10%**.

ADJUSTMENTS FOR LOFTS

For **Loft units** to which these guidelines are applicable in accordance with Article 7-C of the Multiple Dwelling Law, the Board established the following maximum rent increases for increase periods commencing on or after October 1, 2013 and on or before September 30, 2014. No vacancy allowance is included for lofts.

1 Year	2 Years
4.0%	**7.75%**

The guidelines do not apply to hotel, rooming house, and single room occupancy units that are covered by separate Hotel Orders.

Any increase for a renewal lease may be collected no more than once during the guideline period governed by Order No. 45.

SPECIAL GUIDELINE

Leases for units subject to rent control on September 30, 2013 that subsequently become vacant and then enter the stabilization system are not subject to the above adjustments. Such newly stabilized rents are subject to review by the State Division of Housing and Community Renewal (DHCR). In order to aid DHCR in this review the Rent Guidelines Board has set a special guideline of whichever is greater:

1. **30%** above the maximum base rent, or

2. The Fair Market Rent for existing housing as established by the United States Department of Housing and Urban Development (HUD) for the New York City Primary Metropolitan Statistical Area pursuant to Section 8(c) (1) of the United States Housing Act of 1937 (42 U.S.C. section 1437f [c] [1]) and 24 C.F.R. Part 888, with such Fair Market Rents to be adjusted based upon whether the tenant pays his or her own gas and/or electric charges as part of his or her rent as such gas and/or electric charges are accounted for by the New York City Housing Authority.

Such HUD-determined Fair Market Rents will be published in the Federal Register, to take effect on October 1, 2013.

All rent adjustments lawfully implemented and maintained under previous apartment Orders and included in the base rent in effect on **September 30, 2013** shall continue to be included in the base rent for the purpose of computing subsequent rents adjusted pursuant to this Order.

BACKGROUND OF ORDER NO. 45

The Rent Guidelines Board is mandated by the Rent Stabilization Law of 1969 (Section 26-510(b) of the NYC Administrative Code) to establish annual guidelines for rent adjustments for housing accommodations subject to that law and to the Emergency Tenant Protection Act of 1974. In order to establish guidelines the Board must consider, among other things:

(1) the economic condition of the residential real estate industry in the affected area including such factors as the prevailing and projected (i) real estate taxes and sewer and water rates, (ii) gross operating and maintenance costs (including insurance rates, governmental fees, cost of fuel and labor costs), (iii) costs and availability of financing (including effective rates of interest), (iv) overall supply of housing accommodations and overall vacancy rates;

(2) relevant data from the current and projected cost of living indices for the affected area;

(3) such other data as may be made available to it.

The Board gathered information on the above topics by means of public meetings and hearings, written submissions by the public, and written reports and memoranda prepared by the Board's staff. The Board calculates rent increase allowances on the basis of cost increases experienced in the past year, its forecasts of cost increases over the next year, its determination of the relevant operating and maintenance cost-to-rent ratio, and other relevant information concerning the state of the residential real estate industry.

Material Considered by the Board

Order No. 45 was issued by the Board following **seven** public meetings, **one** public hearing, its review of written submissions provided by the public, and a review of research and memoranda prepared by the Board's staff. Approximately 109 written submissions were received at the Board's offices from many individuals and organizations including public officials, tenants and tenant groups, and owners and owner groups. The Board members were provided with copies of public comments received by the **June 17, 2013** deadline. All of the above listed documents were available for public inspection.

Open meetings of the Board were held following public notice on March 14, April 4, April 18, April 25, and May 30, 2013. On **April 30, 2013**, the Board adopted proposed rent guidelines for apartments, lofts, and hotels.

A public hearing was held on **June 13, 2013** pursuant to Section 1043 of the New York City Charter and Section 26-510(h) of the New York City Administrative Code. Testimony on the proposed rent adjustments for rent-stabilized apartments and lofts was heard from **10:00 a.m. to 7:50 p.m.** The hearing ended when all those who were in attendance who wished to testify did so and there were no additional speakers. Testimony from members of the public speaking at these hearings was added to the public record. The Board heard testimony from **approximately** 47 apartment tenants and tenant representatives**,** 24 apartment owners and owner representatives**,** and 5 public officials. In addition, 6 speakers read into the record written testimony from various public officials. On **June 20, 2013** the guidelines set forth in Order No. 45 were adopted.

A written transcription and/or audio recording was made of all proceedings.

PRESENTATIONS BY RGB STAFF AND HOUSING EXPERTS INVITED BY MEMBERS OF THE BOARD

Each year the staff of the New York City Rent Guidelines Board is asked to prepare numerous reports containing various facts and figures relating to conditions within the residential real estate industry. The Board's analysis is supplemented by testimony from industry and tenant representatives, housing experts, and by various articles and reports gathered from professional publications.

Listed below are the other experts invited and the dates of the public meetings at which their testimony was presented:

Meeting Date / Name	*Affiliation*
March 14, 2013:	Staff presentation, *2013 Mortgage Survey Report*
	NYC Department of Housing Preservation and Development (HPD) testimony
1. Christopher Gonzalez	Assistant Commissioner, Government Affairs and Research
April 4, 2013:	Staff presentation, *2013 Income and Affordability Study*
	NYU Furman Center for Real Estate and Urban Policy Fact Brief Presentation – Sandy's Effects on Housing in NYC
1. Max Weselcouch	Data and Research Analyst
April 18, 2013:	Staff presentations *2013 Price Index of Operating Costs* *2013 Income and Expense Study*
April 25, 2013:	
	Apartment Tenants group testimony:
1. Barika Williams	Association for Neighborhood and Housing Development
2. Greg Jost	University Neighborhood Housing Program
3. Tomas J. Waters	Community Service Society
4. Bobbie Sackman	Council of Senior Centers and Services of NYC
	Apartment Owners group testimony:
1. Jack Freund	Rent Stabilization Association (RSA)
2. Patrick Siconolfi	Community Housing Improvement Program (CHIP)
3. Jimmy Silber	Small Property Owners of New York (SPONY)
	Hotel Tenants group testimony:
1. Larry Wood	Goddard Riverside Community Center
2. Daniel L. Parcerisas	Goddard Riverside SRO Law Project
3. Brian Sullivan	SRO Law Project at MFY Legal Services, Inc.
May 30, 2013:	Staff presentations *2013 Housing Supply Report* *Changes to the Rent Stabilized Housing Stock in New York City in 2012*
	NYS Division of Housing and Community Renewal (DHCR) testimony
1. Woody Pascal	Deputy Commissioner for Rent Administration
2. Guy Alba	Assistant Commissioner for Research and Analysis
3. Michael Rosenblatt	Assistant Commissioner for Rent Administration
4. Michael Berrios	Executive Assistant to the Deputy Commissioner

SELECTED EXCERPTS FROM ORAL AND WRITTEN TESTIMONY FROM TENANTS AND TENANT GROUPS[2]

Comments from tenants and tenant groups included:

[2] Sources: Submissions by tenant groups and testimony by tenants.

“I have worked for Con Edison for over twenty years. I live in Stuyvesant Town in a rent stabilized apartment. I need to live nearby because I work long, unpredictable shifts, ensuring that I am providing reliable services. This is common practice among many long-term renters with similar occupations (e.g., FDNY, NYPD, etc.). As of now, my rent has grown to 50% of my salary. The next proposed range of increases, to 9.5%, threatens to evict countless middle class renters.”

“Am I to understand that the City of New York is about to grant landlords yet another rent increase? …I have not had a salary increase in over seven years. Landlords also have inflation and maintenance costs as well, but they have been given increases whereas working people like myself have not seen any relief at all.”

“Over the last several years, the Rent Guidelines Board has dramatically overestimated operating costs; this overestimation is the direct cause of both higher rents for tenants and higher incomes for landlords. The overestimation of operating costs is evidenced by a growing discrepancy between the two primary methods used to determine operating cost changes: the Price Index of Operating Costs (PIOC) and Department of Finance (DOF) expense data; the PIOC, when compared to DOF data, is far less accurate. Since 2005, the disparity between the PIOC and DOF data has grown dramatically. On average the PIOC grew 5.4% per year, while DOF data show an average increase in operating costs of only 3.8% per year. The PIOC has overestimated operating cost changes by more than a third each year.”

“Rent stabilization exists in New York City for a reason—to keep acceptable and comfortable affordable living for the city’s people. Clearly, the system has a number of negative side-effects that inhibit the system’s intended goal, most prominently: poor management, bad conditions and rent overcharges.”

“I understand that landlords consider owning real estate property a business but they seem to forget that they are dealing with the lives of human beings and the way human beings live. My landlord owns several buildings, collects rents every month but does not invest any money to the properties they own.”

Selected Excerpts from Oral and Written Testimony from Owners and Owner Groups[3]

Comments from owners and owner groups included:

“This year, the RSA and other owner associations have called for the following rent adjustments: one-year guideline of 7% or $70, whichever is greater; two-year guideline of 11% or $110 whichever is greater; a 10% sublet allowance; a special guideline for vacated rent controlled apartments of 100% of the MBR plus fuel cost adjustments or the HUD Fair Markets as adjusted for utility costs, whichever is greater.”

“As a building manager I don’t understand how we are supposed to provide a good quality of living for our tenants and upkeep maintenance on our properties if water bills continue to spiral wildly out of control like this. Many of us are struggling to maintain the property we have.”

“Real estate assessment rises automatically, recession or no recession, oil prices peak and rise without a limit (tripling cost during the past two years), insurance and water and sewer costs rising with disregard to the real change in value of the building, court expenses rise, bringing expenses up by…over 30% per year, and income rises by a meager unrepresentative amount of few percents—rent is the only income of a building. Expenses are many and cumulative.”

[3] Sources: Submissions by owner groups and testimony by owners

"Owners need a low rent supplement. Outside core Manhattan legal rents often fail to cover expenses. The biggest expense is payments to New York City at 40% of the budget. Apartments with the lowest rents can't cover this and other mandated expenses. What the RGB may not recognize is that essentially all expenses are mandated and few if any are discretionary."

"The economic condition of the housing industry is mischaracterized in the RGB *Income and Expense Study*. By relying on broad measures of net operating income (NOI) and characterizing average NOI in a 'typical' rent stabilized building, these reports fail to capture the reality of a City that really has two housing markets. One market consists of high rent, luxury housing…which is quite distinct from the majority of stabilized housing with relatively low rents providing workforce housing primarily in the City's outer boroughs."

SELECTED EXCERPTS FROM ORAL AND WRITTEN TESTIMONY FROM PUBLIC OFFICIALS[4]

Comments from public officials included:

"Compelling justification exists for opposing any rental increase as our City's rental tenants continue to face very tough economic times. New York City's unemployment rate remains at an unacceptable level of nearly 9 percent. This fact is made worse because of an unprecedented loss of rent-regulated apartments…Since 1994, there has been a loss of more than 100,000 rent-regulated units in New York City."

"Given the continuing toll the recent economic recession has taken on average New Yorkers and the steady rent increases the RGB has annually approved, I am dismayed that the RGB is even considering rent increases of up to 6.25% for one year renewals and up to 9.5% for two year lease renewals for rent stabilized apartments. The statistics show that…in 2010, the median income of households in rent stabilized units as a whole was only $37,000. Moreover, housing costs constitute a huge percentage of these tenants' income. The RGB's own *2013 Income and Affordability Study* found that one third of renter households in the City (33.6%) paid 50 percent or more of their household income for gross rent in 2011, the highest ratio in the history of the study."

"While renters should not be given a free pass, it's important to note the widening disparity between renters and owners needs. For the most recent data from 2010-2011, Net Operating Income for building owners Citywide increased by 5.6% over the previous data, attributing to the seventh consecutive yearly increase in a row. I want to caution the Board from authorizing a severe increase that could make this disparity even worse."

"If reasons of tenant affordability are not enough to persuade the Rent Guidelines Board to freeze rents this year, I urge the Board to also consider New York City's dwindling affordable housing supply. Since 1994, an estimated 105,242 units of rent stabilized housing have been deregulated in New York City, with some 2,539 units lost in 2012 and an estimated 6,096 units lost in 2011…Other affordable housing programs have exhibited similar losses."

"The smaller landlords who serve as the public face of [their] arguments represent only a tiny fraction of an industry that is, in actuality, dominated by wealthy landlords and faceless corporations who control the vast majority of properties. Year after year, we're seeing landlords' profits skyrocketing even as their tenants are twisting themselves in knots, scrambling to pay all their bills."

[4] Sources: Submissions by public officials.

FINDINGS OF THE RENT GUIDELINES BOARD

RENT GUIDELINES BOARD RESEARCH

The Rent Guidelines Board based its determination on its consideration of the oral and written testimony noted above, as well as upon its consideration of statistical information prepared by the RGB staff set forth in these findings and the following reports:

(1) *2013 Mortgage Survey Report*, March 2013, (An evaluation of recent underwriting practices, financial availability and terms, and lending criteria);

(2) *2013 Income and Expense Study*, April 2013, (Based on income and expense data provided by the Finance Department, the *Income and Expense Study* measures rents, operating costs and net operating income in rent stabilized buildings);

(3) *2013 Income and Affordability Study,* April 2013, (Includes employment trends, housing court actions, changes in eligibility requirements and public benefit levels in New York City);

(4) *2013 Price Index of Operating Costs,* April 2013, (Measures the price change for a market basket of goods and services which are used in the operation and maintenance of stabilized buildings);

(5) *2013 Housing Supply Report*, May 2013, (Includes new housing construction measured by certificates of occupancy in new buildings and units authorized by new building permits, tax abatement and exemption programs, and cooperative and condominium conversion and construction activities in New York City); and,

(6) *Changes to the Rent Stabilized Housing Stock in NYC in 2012,* May 2013, (A report quantifying all the events that lead to additions to and subtractions from the rent stabilized housing stock).

The six reports listed above may be found in their entirety on the RGB's website, nycrgb.org, and are also available at the RGB offices, 51 Chambers St., Suite 202, New York, NY 10007 upon request.

2013 PRICE INDEX OF OPERATING COSTS FOR RENT STABILIZED APARTMENT HOUSES IN NEW YORK CITY

The *2013 Price Index of Operating Costs* for rent stabilized apartment houses in New York City found a 5.9% increase in costs for the period between March 2012 and March 2013.

This year, the PIOC for all rent stabilized apartment buildings increased by 5.9%, 3.1 percentage points more than the PIOC percentage change from the year before (2.8% in 2012). Increases occurred in all nine of the PIOC components. The PIOC was driven upward by significant increases in Fuel Oil (20.0%), Insurance Costs (7.1%) and Utilities (6.3%). More moderate increases were seen in Contractor Services (3.3%), Labor Costs (3.0%), Taxes (2.6%) and Administrative Costs (2.4%). The Parts and Supplies and Replacement Costs components, each of which carry very little weight in the PIOC, increased 4.7% and 2.0% respectively. The growth in the Consumer Price Index (CPI) during this same time period was lower than the PIOC, rising 1.9%.

The "core" PIOC, which excludes erratic changes in fuel oil, natural gas, and electricity costs, is useful for analyzing long-term inflationary trends. The core PIOC rose by 3.7% this year and was lower than the overall PIOC due to the exclusion of the costs for fuel oil, which rose 20.0%, and natural gas used for heating.

Table 1

2012-13 Percentage Changes in Components of *the Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City*[5]			
Item	Expenditure Weights	2012-13 Percentage Δ	2012-13 Weighted Percentage Δ
Taxes	29.63%	2.58%	0.76%
Labor Costs	12.88%	2.96%	0.38%
Fuel Oil	13.16%	20.00%	2.63%
Utilities	16.34%	6.33%	1.03%
Contractor Services	11.96%	3.27%	0.39%
Administrative Costs	7.16%	2.41%	0.17%
Insurance Costs	6.82%	7.11%	0.48%
Parts & Supplies	1.44%	4.68%	0.07%
Replacement Costs	0.61%	2.01%	0.01%
All Items	**100%**	**-**	**5.94%**

Source: *2013 Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City.*
Note: The Δ symbol means change.

On April 24, 2013 the staff of the Rent Guidelines Board released a memo to Board members with additional information concerning the *2013 Price Index of Operating Costs*. Below is the memo in its entirety:

At the April 18 meeting of the RGB, four questions regarding the *2013 Price Index of Operating Costs (PIOC)* were asked for which immediate answers could not be provided. Detailed answers follow.

Question 1: What is the breakdown of apartment buildings containing rent stabilized units that were built prior to 1947 (Pre-47) and those built in 1947 or later (Post-46)?

In order to get a break down of the number of buildings built prior to 1947 and those built in 1947 or later, we used data supplied by the NYC Department of Finance that was used to calculate the Taxes component for the 2013 PIOC. This provided us with a building count and a unit count, both of which are contained in the table below. For a comparative view, we have also provided the number of Pre-47 and Post-46 rent stabilized units reported in the *2011 Housing and Vacancy Survey (HVS).*

Age of Buildings	Buildings Containing Rent Stabilized Apartments[1]		Total Number of Units Contained in These Buildings[2]		Number of Rent Stabilized Units in the HVS	
	Number	Percentage	Number	Percentage	Number	Percentage
Pre-1947	31,472	87.4%	751,843	67.4%	743,528	75.3%
Post-1946	4,533	12.6%	363,225	32.6%	243,312	24.7%
Total	36,005	100.0%	1,115,068	100%	986,840	100%

1. There were 45 buildings used in the Tax component calculations where the year built was listed as "Unknown".

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5 Totals may not add due to weighting and rounding.

2. The unit counts from the buildings registered with the NYC Department of Finance include both stabilized and unregulated units.
Sources: NYC Department of Finance and the US Census Bureau, *2011 Housing and Vacancy Survey (HVS)*

Question 2: What was the sample size of buildings used to calculate the PIOC Tax component for the past 10 years?

The sample of buildings used to compute the tax price relative (the ratio of current and prior year's prices or costs) for the PIOC is drawn by providing a list of rent stabilized properties registered with DHCR to the NYC Department of Finance. Finance then "matches" this list against its records to provide data on assessed value, tax exemptions, and taxes. The sample size differs each year for two reasons. First, the DHCR list provided to the Department of Finance changes from year to year. Newly built buildings containing stabilized units are added each year and, similarly, buildings are subtracted if they no longer contain stabilized units. In addition, there are a number of inconsistent filers who may file one year and not the next. Second, the Department of Finance cannot always match the buildings registered with the DHCR to its tax data. If the borough, block and lot number (BBL) differs from list to list, a match cannot not be made. The inability to match the BBLs is often due to data entry error.

Below is a table containing the sample sizes used to compute the PIOC tax relative for the passed ten years:

Building Sample Sizes Used in Calculating the PIOC Tax Component, 2004-2013

Year	Sample Size
2013	36,050
2012	35,261
2011	38,208
2010	37,705
2009	34,122
2008	34,602
2007	37,419
2006	37,783
2005	36,015
2004	36,442

Source: NYC Rent Guidelines Board *Price Indices of Operating Costs, 2004-2013*

Question 3: Can you provide the component weights for the five apartment indices outlined in Appendix 3 of the 2013 PIOC?

The Price Index of Operating Costs (PIOC) measures the price change in a market basket of goods and services used in the operation and maintenance of rent stabilized apartment buildings in New York City. The relative importance, or weight, of the various goods and services in the market basket was determined by a survey that gathered information regarding the expenditure patterns of owners of rent stabilized apartment buildings. This survey concluded that expenditures varied by building age and by the heating system used in the building. As a result, in addition to the all-apartment PIOC, the 2013

PIOC report includes separate indices for buildings constructed before 1947 (pre-1947) and for buildings constructed in 1947 or later (post-1946) as well as gas-heated, oil-heated and master-metered buildings. Although the expenditure weights for all rent stabilized buildings and for each of the five subcategories of buildings differ, the price changes are the same for each of the six indices.

The PIOC is made up of nine price/cost components. The amount of importance, or weight, for each of these components differs by building category. For instance, in the Oil Heated Index, which rose 7.3%, the Fuel Oil component accounts for 22.5% of this entire index. Since the Fuel Oil relative was 19.8% in the Oil Heated Index, this significant rise in the Fuel Oil component had a large impact in the overall rise in the Oil Heated Index (7.3%). In contrast, the Fuel Oil component makes up only 1.5% of the Gas Heated Index. Therefore, the 21.0% rise in fuel oil costs witnessed in the Gas Heated Index had little impact in the overall rise in this index of 4.3%.

The table below contains the price weights and relatives by building type for the five subcategories of apartment indices.

Price Weights and Relatives by Building Type, Apartments, 2013

PIOC Components	Pre-1947		Post-1946		Gas Heated		Oil Heated		Master Metered Bldgs.	
	Weight	Relative	Weight	Relative	Weight	Relative	Weight	Relative	Weight	Relative
Taxes	0.2142	3.0%	0.3650	1.9%	0.2608	2.6%	0.2688	2.6%	0.3667	2.6%
Labor Costs	0.1126	2.8%	0.1601	3.1%	0.1215	3.0%	0.1288	2.9%	0.1302	3.0%
Fuel Oil	0.1705	20.1%	0.0981	19.4%	0.0145	21.0%	0.2248	19.8%	0.0832	21.0%
Utilities	0.1761	6.1%	0.1445	6.6%	0.2324	6.1%	0.1073	6.1%	0.1867	10.8%
Contractor Services	0.1461	3.2%	0.0828	3.4%	0.1628	3.2%	0.1126	3.3%	0.1059	3.1%
Administrative Costs	0.0644	2.4%	0.0847	2.4%	0.0848	2.5%	0.0680	2.4%	0.0537	2.2%
Insurance Costs	0.0899	7.1%	0.0480	7.1%	0.0872	7.1%	0.0704	7.1%	0.0597	7.1%
Parts and Supplies	0.0169	4.7%	0.0119	4.7%	0.0236	4.9%	0.0136	4.6%	0.0097	4.3%
Replacement Costs	0.0094	2.2%	0.0050	1.6%	0.0125	2.0%	0.0055	2.0%	0.0041	2.5%
All Items	**1.000**	**6.8%**	**1.000**	**4.9%**	**1.000**	**4.3%**	**1.000**	**7.3%**	**1.000**	**6.0%**

Source: NYC Rent Guidelines Board, *2013 Price Index of Operating Costs*

Question 4: What was the sample size of lofts used in the 2013 PIOC Taxes component relative?

There were 45 loft buildings included in the list used to calculate the PIOC Taxes component.

LOCAL LAW 63/ INCOME & EXPENSE REVIEW

The sample size for the *Income and Expense (I&E) Study* includes almost 14,700 properties containing nearly 672,900 units. This is the 21st year that staff has been able to obtain longitudinal data in addition to cross-sectional data. The RGB staff found the following average monthly (per unit) operating and maintenance (O&M) costs in 2012 Real Property Income and Expense (RPIE) statements for the year 2011:

Table 2

2013 Income and Expense Study Average Monthly Operating and Maintenance Costs Per Unit			
	Pre '47	**Post '46**	**All Stabilized**
Total	**$786**	**$884**	**$812**

Source: *2013 Income and Expense Study*, from 2012 Real Property Income and Expense filings for 2011, NYC Department of Finance.

In 1992, the Board benefited from the results of audits conducted on a stratified sample of 46 rent stabilized buildings by the Department of Finance. Audited income and expense (I&E) figures were compared to statements filed by owners. On average the audits showed an 8% over reporting of expenses. The categories, which accounted for nearly all of the expense over reporting, were maintenance, administration, and "miscellaneous." The largest over-reporting was in miscellaneous expenses.

If we assume that an audit of this year's I&E data would yield similar findings to the 1992 audit, one would expect the average O&M cost for stabilized buildings to be $746, rather than $812. As a result, the following relationship between operating costs and residential rental income was suggested by the Local Law 63 data:

Table 2(a)

2011 Operating Cost to Rent/Income Ratio Adjusted to 1992 Audit					
	O&M Costs[6]	**Rent**	**O&M to Rent Ratio**	**Income**	**O&M to Income Ratio**
All stabilized	$746	$1,070	0.697	$1,208	0.618

Source: 2013 Income and Expense Study, from 2012 Real Property Income and Expense filings for 2011, NYC Department of Finance.

On May 29, 2013 the staff of the Rent Guidelines Board released a memo to Board members with additional information concerning RPIE cost-to-income ratios by decile. Below is the memo in its entirety. (The memo referenced below from last year can be found in the 2012 Apartment Explanatory Statement.)

As a follow-up to last year's memo on the same subject, below is the distribution of operating costs in relation to total income in buildings containing rent stabilized units by deciles, This data is broken out by borough and citywide. The data was provided by the NYC Department of Finance and derived from cross-sectional 2011 RPIE data, as referenced in the 2013 *Income and Expense Study*.

[6] Overall O&M expenses were adjusted according to the findings of an income and expenses audit conducted by the Department of Finance in 1992. The unadjusted **O&M to Rent** ratio would be 0.761. The unadjusted **O&M to Income** ratio would be 0.675.

The figures for each of the deciles represent the percentage of buildings with cost-to-income ratios at or below those figures. For instance, looking at the 70% decile Queens cell below (highlight 1) means 70% of stabilized buildings in Queens have cost-to-income ratios at or below 0.73. Another example: Looking at the 80% decile in Brooklyn (highlight 2) shows that 80% of stabilized buildings in Brooklyn have cost-to-income ratios at or below 0.81. A final example: Looking at the 50% decile Citywide (highlight 3), half of all stabilized buildings Citywide have cost-to-income ratios of 0.68 or less.

Cost-to-Income Ratios						
Deciles	**Manh**	**Bronx**	**Brooklyn**	**Queens**	**SI**	**Citywide**
# Bldgs	**6,099**	**3,190**	**3,407**	**1,895**	**78**	**14,669**
10%	0.49	0.57	0.51	0.51	0.51	**0.51**
20%	0.53	0.63	0.56	0.55	0.56	**0.56**
30%	0.57	0.68	0.60	0.59	0.61	**0.60**
40%	0.61	0.71	0.64	0.63	0.64	**0.64**
50%	0.65	0.75	0.67	0.66	0.68	**0.68**
60%	0.69	0.79	0.71	0.69	0.72	**0.72**
70%	0.75	0.83	0.75	0.73	0.74	**0.77**
80%	0.83	0.89	0.81	0.79	0.79	**0.84**
90%	0.96	0.99	0.90	0.87	0.86	**0.95**
100%	9.04	2.22	2.35	3.37	1.23	**9.04**

Source: NYC Department of Finance, 2011 RPIE filings

The findings this year are similar to those found last year (last year's memo is attached). While the data used both last year and this year are cross-sectional, meaning the exact same set of buildings are not compared in both years, we can see that in many decile categories, the findings are the same or very similar. For instance, Citywide deciles are exactly the same in both years among all decile categories except at the 100% level. There is more variation among deciles when examining them on a borough level: For instance, in Manhattan, except for the 100% decile category, no other decile level sees a difference of more than 0.01 between the two years, with ratios generally lower in 2011. Similarly, in the Bronx, except for the 100% decile, there is no greater difference than 0.02 in a decile category, although the cost-to-income ratios are generally higher in 2011 than in 2010. The largest difference between any decile categories, except the 100% decile, in any of the boroughs, is no greater than 0.03.

FORECASTS OF OPERATING AND MAINTENANCE PRICE INCREASES FOR 2013-14

In order to decide upon the allowable rent increases for two-year leases, the RGB considers price changes for operating costs likely to occur over the next year. In making its forecasts the Board relies on expert assessments of likely price trends for the individual components, the history of changes in prices for the individual components and general economic trends. The Board's projections for 2013-14 are set forth in Table 3, which shows the Board's forecasts for price increases for the various categories of operating and maintenance costs.

Table 3

Year-to-Year Percentage Changes in Components of the Price Index of Operating Costs: Actual 2012-13 and Projected 2013-14		
	Price Index 2012-13	**Projected Price Index 2013-14**
Taxes	2.6%	2.2%
Labor Costs	3.0%	4.0%
Fuel Oil	20.0%	-6.6%
Utilities	6.3%	6.1%
Contractor Services	3.3%	3.1%
Administrative Costs	2.4%	2.6%
Insurance Costs	7.1%	10.4%
Parts & Supplies	4.7%	2.1%
Replacement Costs	2.0%	1.8%
Total (Weighted)	**5.9%**	**2.6%**

Source: *2013 Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City*, which includes the 2014 PIOC Projection.

Overall, the PIOC is expected to grow by 2.6% from 2013 to 2014. Costs are predicted to rise in each component except Fuel Oil, where costs are anticipated to decline 6.6%. The largest growth, of 10.4%, is projected to be in the Insurance Costs component. The Utilities component is anticipated to increase 6.1%, while more moderate increases are projected in Labor (4.0%), Administrative Costs (2.6%) and Contractor Services (3.1%). Taxes, the component that carries the most weight in the Index, is projected to increase 2.2%. The Parts and Supplies and Replacement Costs components are expected to rise 2.1% and 1.8%, respectively. The table on this page shows predicted changes in PIOC components for 2014. The core PIOC is projected to rise 3.8%, more than the overall projected Apartment PIOC.

COMMENSURATE RENT ADJUSTMENT

Throughout its history, the Rent Guidelines Board has used a formula, known as the commensurate rent adjustment, to help determine annual rent guidelines for rent stabilized apartments. In essence, the “commensurate” combines various data concerning operating costs, revenues, and inflation into a single measure indicating how much rents would have to change for net operating income (NOI) in stabilized buildings to remain constant. The different types of “commensurate” adjustments described below are primarily meant to provide a foundation for discussion concerning prospective guidelines.

In its simplest form, the commensurate rent adjustment is the amount of rent change needed to maintain landlords’ current dollar NOI at a constant level. In other words, the formula provides a set of one- and two-year renewal rent increases or guidelines that will compensate owners for the change in prices measured by the PIOC and keep net operating income “whole.”

The first commensurate method is called the "Net Revenue" approach. While this formula takes into consideration the types of leases actually signed by tenants, it does not adjust landlords' NOI for inflation. The "Net Revenue" formula is presented in two ways: First, adjusting for the mix of lease terms; and Second, adding an assumption for stabilized apartment turnover and the impact of revenue from vacancy increases. Under the "Net Revenue" formula, a guideline that would preserve NOI in the face of this year's 5.9% increase in the PIOC is 5.0% for a one-year lease and 9.0% for a two-year lease. Using this formula and adding assumptions for the impact of vacancy increases on revenues when apartments experience turnover result in guidelines of 3.25% for one- year leases and 6.25% for two-year leases.

The second commensurate method considers the mix of lease terms while adjusting NOI upward to reflect general inflation, keeping both operating and maintenance (O&M) costs and NOI constant. This is commonly called the "CPI-Adjusted NOI" formula. A guideline that would preserve NOI in the face of the 1.9% increase in the Consumer Price Index and the 5.9% increase in the PIOC is 6.25% for a one-year lease and 9.75% for a two-year lease. Guidelines using this formula and adding the estimated impact of vacancy increases are 4.25% for one-year leases and 7.25% for two-year leases.[7]

The "traditional" commensurate adjustment is the formula that has been in use since the inception of the Rent Guidelines Board. The "traditional" commensurate yields 4.0% for a one-year lease and 4.9% for a two-year lease. This reflects the increase in operating costs of 5.9% found in the 2013 PIOC and the projection of a 2.6% increase next year.[8]

As a means of compensating for cost changes, this "traditional" commensurate rent adjustment has two major flaws. First, although the formula is supposed to keep landlords' current dollar income constant, the formula does not consider the mix of one- and two-year lease renewals. Since only about three-fifths of leases are renewed in any given year, with a preponderance of leases having a two-year duration, the formula does not necessarily accurately estimate the amount of income needed to compensate landlords for O&M cost changes.

A second flaw of the "traditional" commensurate formula is that it does not consider the erosion of landlords' income by inflation. By maintaining current dollar NOI at a constant level, adherence to the formula may cause profitability to decline over time. However, such degradation is not an inevitable consequence of using the "traditional" commensurate formula.[9]

All of these methods have their limitations. The "traditional" commensurate formula is artificial and does not consider the impact of lease terms or inflation on landlords' income. The "Net Revenue" formula does not attempt to adjust NOI based on changes in interest rates or deflation of landlord profits. The "CPI- Adjusted NOI" formula inflates the debt service portion of NOI, even though interest rates have been generally falling, rather than rising, over recent years. Including a consideration of the amount of income owners receive on vacancy assumes that turnover rates are constant across the City.

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7 The following assumptions were used in the computation of commensurates: (1) the required change in landlord revenue is 67.2% of the 2013 PIOC increase of 5.9%, or 4.0%. The 67.2% figure is the most recent ratio of average operating costs to average income in stabilized buildings; (2) for the "CPI-Adjusted NOI" commensurate, the increase in revenue due to the impact of inflation on NOI is 32.8% times the latest 12-month increase in the CPI ending February 2013 (1.9%) or 0.62%; (3) these lease terms are only illustrative—other combinations of one- and two-year guidelines could produce the adjustment in revenue; (4) assumptions regarding lease renewals and turnover were derived from the 2011 Housing and Vacancy Survey; (5) for the commensurate formulae, including a vacancy assumption, the 8.33% median increase in vacancy leases found in the rent stabilized apartments that reported a vacancy lease in the 2012 apartment registration file from the Division of Housing and Community Renewal was used; and (6) the collectability of these commensurate adjustments are assumed.

8 Calculating the "traditional" commensurate rent adjustment requires an assumption about next year's PIOC. In this case, the 2.6% PIOC projection for 2014 is used.

9 Whether profits will actually decline depends on the level of inflation, the composition of NOI (i.e., how much is debt service and how much is profit), and changes in tax law and interest rates.

Finally, it is important to note that only the "traditional" commensurate formula uses the PIOC projection and that this projection is not used in conjunction with or as part of the "Net Revenue" and "CPI-Adjusted NOI" formulas. As stated previously, all three formulas attempt to compensate owners for the adjustment in their operating and maintenance costs measured each year in the PIOC. The "Net Revenue" and the "CPI-Adjusted NOI" formulas attempt to compensate owners for the adjustment in O&M costs by using only the known PIOC change in costs (5.9%). The traditional method differs from the other formulas in that it uses both the PIOC's actual change in costs as well as the projected change in costs (2.6%). If the change in projected costs, which may not be an accurate estimate of owner's costs, is added to the "Net Revenue" and "CPI-Adjusted NOI" formulas, the resulting guidelines will likely over- or under- compensate for the change in costs.

Each of these formulae may be best thought of as a starting point for deliberations. The other Rent Guidelines Board annual research reports (e.g., the Income and Affordability Report and the Income and Expense Study) and testimony to the Board can be used to modify the various estimates depending on these other considerations.

Consideration of Other Factors

Before determining the guideline, the Board considered other factors affecting the rent stabilized housing stock and the economics of rental housing.

EFFECTIVE RATES OF INTEREST

The Board took into account current mortgage interest rates and the availability of financing and refinancing. It reviewed the staff's *2013 Mortgage Survey Report* of lending institutions. Table 4 gives the reported rate and points for the past nine years as reported by the mortgage survey.

Table 4

2013 Mortgage Survey[10] **Average Interest Rates and Points for New and Refinanced Permanent Mortgage Loans 2005-2013**									
New Financing of Permanent Mortgage Loans, Interest Rate and Points									
	2005	**2006**	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**
Avg. Rates	5.5%	6.3%	6.3%	5.9%	6.5%	6.3%	5.8%	4.6%	4.4%
Avg. Points	0.56	0.44	0.61	0.47	0.62	0.79	0.61	0.63	0.59
Refinancing of Permanent Mortgage Loans, Interest Rate and Points									
	2005	**2006**	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**
Avg. Rates	5.5%	6.3%	6.2%	5.8%	6.5%	6.3%	5.7%	4.7%	4.4%
Avg. Points	0.56	0.44	0.61	0.44	0.62	0.83	0.61	0.63	0.40

Source: 2005–2013 Annual *Mortgage Survey Reports*, RGB.

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[10] Institutions were asked to provide information on their "typical" loan to rent stabilized buildings. Data for each variable in any particular year and from year to year may be based upon responses from a different number of institutions.

CONDITION OF THE RENT STABILIZED HOUSING STOCK

The Board reviewed the number of units that are moving out of the rental market due to cooperative and condominium conversion.

Table 5

Number of Cooperative / Condominium Plans[11] Accepted for Filing, 2004-2012

	2004	2005	2006	2007	2008	2009	2010	2011	2012
New Construction	268	361	644	573	454	335	235	185	121
Conversion Non-Eviction	16	24	53	66	50	29	20	22	36
Conversion Eviction	15	18	13	16	18	13	4	9	3
Rehabilitation	18	6	0	8	4	1	0	0	0
Total	**317**	**409**	**710**	**663**	**526**	**378**	**259**	**216**	**160**
Subtotal:									
HPD Sponsored Plans	15	18	13	16	18	13	4	9	3

Source: New York State Attorney General's Office, Real Estate Financing.

On June 11, 2013 the staff of the Rent Guidelines Board released a memo to Board members with additional information concerning the *2013 Housing Supply Report*. Below is the memo in its entirety:

At the May 30, 2013 *Housing Supply Report* presentation, two questions were asked for which immediate answers could not be provided. Detailed answers follow.

Question 1: Of the units newly approved for J-51 benefits in 2012, how many were rental units and how many were owner units?

Per the NYC Department of Housing Preservation of Development, of the 45,886 units newly approved for J-51 benefits in 2012, 16,766 (36.5%) were rental units and 29,120 (63.5%) were owner units. Per data from the Department of Finance "Annual Report on Tax Expenditures," in FY 2013, approximately 60% of units currently receiving J-51 benefits (almost 550,000 units) are rentals, and 40% are owner.

Question 2: Of the units that were reported as being "completed" in 2012, how many are in 5-unit or more buildings?

Per the NYC Department of City Planning, which bases their completions data on Temporary and Final Certificates of Occupancy issued by the Department of Buildings, of the 9,455 units that were completed during 2012, 7,195 (76.1%) were in buildings with 5 units or more. Buildings with 5 or more units represent 17.9% of all buildings completed in 2012 (254 of 1,420 buildings), with an

[11] The figures given above for eviction and non-eviction plans include those that are abandoned because an insufficient percentage of units were sold within the 15-month deadline. In addition, some of the eviction plans accepted for filing may have subsequently been amended or resubmitted as non-eviction plans and therefore may be reflected in both categories. HPD sponsored plans are a subset of the total plans. Some numbers revised from prior years.

average size of 28.3 units for the City as a whole and 51.1 units in Manhattan. For a breakdown of units by borough, refer to the table below. For comparison purposes, 2011 data is also presented.

	Units in Bldgs. with Less than 5 Units		Units in Bldgs. with 5 Units or More		% of Units in Bldgs. With 5 Units or More		Total Units	
Borough	**2011**	**2012**	**2011**	**2012**	**2011**	**2012**	**2011**	**2012**
Bronx	401	337	2,986	1,076	88.2%	76.2%	3,387	1,413
Brooklyn	532	597	3,999	3,014	88.3%	83.5%	4,531	3,611
Manhattan	1	35	2,129	1,124	100.0%	97.0%	2,130	1,159
Queens	1,065	754	1,689	1,878	61.3%	71.4%	2,754	2,632
Staten Is.	897	537	112	103	11.1%	16.1%	1,009	640
Citywide	***2,896***	***2,260***	***10,915***	***7,195***	***79.0%***	***76.1%***	***13,811***	***9,455***

Source: NYC Department of City Planning

CONSUMER PRICE INDEX

The Board reviewed the Consumer Price Index. Table 6 shows the percentage change for the NY-Northeastern NJ Metropolitan area since 2006.

Table 6

Percentage Changes in the Consumer Price Index for the New York City - Northeastern New Jersey Metropolitan Area, 2006-2013 (For "All Urban Consumers")

	2006	2007	2008	2009	2010	2011	2012	2013
1st Quarter Avg.[12]	2.7%	2.9%	3.8%	0.8%	2.1%	2.3%	2.6%	1.9%
Yearly Avg.	3.8%	2.8%	3.9%	0.4%	1.7%	2.8%	2.0%	--

Source: U.S. Bureau of Labor Statistics.

CALCULATING OF THE CURRENT OPERATING AND MAINTENANCE EXPENSE TO RENT RATIO

Each year the Board estimates the current average proportion of the rent roll which owners spend on operating and maintenance costs. This figure is used to ensure that the rent increases granted by the Board compensate owners for the increases in operating and maintenance expenses. This is commonly referred to as the O&M to rent ratio.

With current longitudinal income and expense data, staff has constructed an index, using 1989 as a base year. Except for the last three years, this index measures changes in building income and operating expenses as reported in annual income and expense statements. The second and third to last years in the table will reflect actual PIOC increases and projected rent changes. The last year in the table - projecting into the future - will include staff projections for both expenses and rents. This index is labeled as Table 7.

[12] 1st Quarter Average refers to the change of the CPI average of the first three months of one year to the average of the first three months of the following year. Some numbers revised from prior years.

However, this index is not without limitations. First, as noted, for the past and coming year the index will continue to rely upon the price index and staff rent and cost projections. Second, while this table looks at the overall relationship between costs and income, it does not measure the specific impact of rent regulation on that relationship.

Table 7

Revised Calculation of Operating and Maintenance Cost Ratio for Rent Stabilized Buildings from 1989 to 2014			
Year[13]	Average Monthly O & M Per d.u.[14]	Average Monthly Income Per d.u.	Average O & M to Income Ratio
1989	$370 ($340)	$567	.65 (.60)
1990	$382 ($351)	$564	.68 (.62)
1991	$382 ($351)	$559	.68 (.63)
1992	$395 ($363)	$576	.69 (.63)
1993	$409 ($376)	$601	.68 (.63)
1994	$415 ($381)	$628	.66 (.61)
1995	$425 ($391)	$657	.65 (.59)
1996	$444 ($408)	$679	.65 (.60)
1997	$458 ($421)	$724	.63 (.58)
1998	$459 ($422)	$755	.61 (.56)
1999	$464 ($426)	$778	.60 (.55)
2000	$503 ($462)	$822	.61 (.56)
2001	$531 ($488)	$868	.61 (.56)
2002	$570 ($524)	$912	.63 (.57)
2003	$618 ($567)	$912	.68 (.62)
2004	$654 ($601)	$969	.67 (.62)
2005	$679 ($624)	$961	.71 (.65)
2006	$695 ($638)	$1,009	.69 (.63)
2007	$738 ($678)	$1,088	.68 (.62)
2008	$790 ($726)	$1,129	.70 (.64)
2009	$781 ($717)	$1,142	.68 (.63)
2010	$790 ($726)	$1,171	.67 (.62)
2011	$812 ($746)	$1,208	.67 (.62)
2012[15]	$835 ($767)	$1,255	.67 (.61)
2013[16]	$884 ($812)	$1,309	.68 (.62)
2014[17]	$907 ($833)	$1,364	.66 (.61)

Source: RGB *Income and Expense Studies*, 1989-2013, *Price Index of Operating Costs* 2010 - 2013, RGB Rent Index for 2010 - 2013.

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13 The O&M and income data from 2007 to 2010 has been revised from that reported in previous explanatory statements to reflect actual, rather than estimated, expense and income data.

14 Operating and expense data listed is based upon unaudited filings with the Department of Finance. Audits of 46 buildings conducted in 1992 suggest that expenses may be overstated by 8% on average. See *Rent Stabilized Housing in New York City, A Summary of Rent Guidelines Board Research 1992*, pages 40-44. Figures in parentheses are adjusted to reflect these findings.

15 Estimated expense figure includes 2011 expense updated by the PIOC for the period from 3/1/11 through 2/29/12 (2.8%). Income includes the income estimate for 2011 updated by staff estimate based upon renewal guidelines and choice of lease terms for a period from 3/1/11 through 2/29/12 (**3.87**% - i.e., the 10/1/10 to 9/30/11 rent projection (3.40%) times (.583), plus the 10/1/11 to 9/30/12 rent projection (4.53%) times (.417)).

16 Estimated expense figure includes 2012 expense updated by the PIOC for the period from 3/1/12 through 2/28/13 (5.9%). Income includes the income estimate for 2012 updated by staff estimate based upon renewal guidelines and choice of lease terms for a period from 3/1/12 through 2/28/13 (**4.29**% - i.e., the 10/1/11 to 9/30/12 rent projection (4.53%) times (.583), plus the 10/1/12 to 9/30/13 rent projection (3.95%) times (.417)).

17 Estimated expense figure includes 2013 expense estimate updated by the staff PIOC projection for the period from 3/1/13 through 2/28/14 (2.6%). Income includes the income estimate for 2013 updated by staff estimate based upon renewal guidelines and choice of lease terms for a period from 3/1/13 through 2/28/14 (**4.23**% - i.e., the 10/1/12 to 9/30/13 rent projection (3.95%) times (.583), plus the 10/1/13 to 9/30/14 rent projection (4.62%) times (.417)).

<u>CHANGES IN HOUSING AFFORDABILITY</u>

Results from the *2011 Housing and Vacancy Survey* were released last year, and showed that the vacancy rate for New York City is 3.12%. Approximately 45% of renter households in NYC are rent stabilized, with a vacancy rate of 2.63%. The survey also shows that the median household income in 2010 was $37,000 for rent stabilized tenants, versus $38,447 for all renters. The median gross rent for rent stabilized tenants was also lower than that of all renters, at $1,160 versus $1,204 for all renters. And rent stabilized tenants saw a median gross rent-to-income ratio of 34.9% in 2011, compared to 33.6% for all renters.

Looking at New York City's economy during 2012, it showed both strengths and weaknesses as compared with the preceding year. Positive indicators include growing employment levels, which rose for the third consecutive year, increasing 2.1% in 2012. Gross City Product also increased for the third consecutive year, rising in real terms by 2.2% in 2012. In addition, the rate of inflation also slowed, down to 2.0% from 2.8% in 2011, and housing court non-payment filings fell 1.5%.

Negative indicators included a 4.0% increase in evictions, despite the number of non-payment filings in Housing Court declining. In addition, cash assistance levels increased for the fourth consecutive year, increasing by 0.9% between 2011 and 2012. The number of Supplemental Nutrition Assistance Program (SNAP) recipients also rose, increasing for the tenth consecutive year, by 0.7% in 2012. In addition, homelessness rose over 2011 levels, increasing to an average of more than 43,000 persons a night, a 14.6% increase. Inflation- adjusted wages also decreased 4.5% during the most recent 12-month period (the fourth quarter of 2011 through the third quarter of 2012). And the unemployment rate rose slightly, following a decrease in the prior year, rising 0.2 percentage points, to 9.2%.

The most recent numbers, from the fourth quarter of 2012 (as compared to the fourth quarter of 2011), show that homeless levels were up 19.0%, SNAP recipients were up 2.3%, and cash assistance levels were up 1.6%. However, both non-payment housing court filings and calendared court cases fell, by 4.8% and 2.7% respectively, employment levels were up 1.6%, unemployment rates fell by 0.43 percentage points, and real GCP rose by 2.8%.

On April 17, 2013 the staff of the Rent Guidelines Board released a memo to Board members with additional information concerning the *2013 Income and Affordability Study*. Below is the memo in its entirety:

At the April 4, 2013 *Income & Affordability Study* (I&A) presentation, seven questions were asked for which immediate answers could not be provided. Detailed answers follow.

Question 1: What is the sample size of the U.S. Census Bureau's American Community Survey?

The number of housing units surveyed in New York City for the *2011 American Community Survey* was 46,201. For context, the sample sizes of the *2011 Housing and Vacancy Survey* and the 2000 decennial Census, both also conducted by the U.S. Census Bureau, were 19,077 and 377,035 housing units, respectively.

Question 2: What is the vacancy rate, by asking rent, for rent stabilized apartments and unregulated apartments? What is the overall vacancy rate for unregulated apartments?

The table below shows the vacancy rates of rent stabilized, unregulated, and all apartments by various asking rent levels. It also provides the overall vacancy rate for each category of housing.

Vacancy Rates by Monthly Asking Rents

Monthly Asking Rent (HVS)	Rent Stabilized	Unregulated	All Apartments
$2,500 or more	--*	6.0%	**5.3%**
$2,000 to $2,499	--*	4.0%	**3.8%**
$1,500 to $1,999	3.2%	5.1%	**4.1%**
$1,250 to $1,499	3.3%	6.1%	**4.3%**
$1,000 to $1,249	3.7%	3.6%	**3.6%**
$800 to $999	2.1%	4.1%	**2.6%**
Less than $800	1.0%	2.2%	**1.1%**
Overall Vacancy Rate	*2.6%*	*4.4%*	***3.1%***

Source: *2011 Housing & Vacancy Survey*
* Number of vacant units is too small to report an accurate figure

Question 3: Can you provide median rents by borough and type of rental apartment?

Tables 1 and 2 (below) show median contract and gross rents as reported in the *2011 Housing and Vacancy Survey*. Table 3, which highlights data from the 2011 American Community Survey, cannot be broken out by type of rental unit, but does show the breakdown of both contract and gross rents, by borough. All tables represent nominal rents from 2011.

Table 1 – Monthly Median Contract Rents, 2011 Housing and Vacancy Survey

Monthly Median Contract Rents (HVS)	Bronx	Brooklyn	Manhattan	Queens	Staten Island	NYC
Rent Stabilized	$950	$1,010	$1,200	$1,148	--*	**$1,050**
Rent Controlled	$750	$750	$800	$1,047	--*	**$800**
Mitchell Lama	$926	$1,160	$1,000	$900	--*	**$1,000**
Public Housing	$443	$425	$467	$549	--*	**$450**
Other Regulated	$933	$591	$910	$955	--*	**$910**
Non Regulated	$1,176	$1,200	$2,500	$1,300	$1,000	**$1,369**
All Apartments	*$942*	*$1,020*	*$1,500*	*$1,200*	*$1,000*	***$1,100***

Source: *2011 Housing & Vacancy Survey*
* Sample size is too small to report an accurate figure

Table 2 – Monthly Median Gross Rents, 2011 Housing and Vacancy Survey

Monthly Median Gross Rents (HVS)	Bronx	Brooklyn	Manhattan	Queens	Staten Island	NYC
Rent Stabilized	$1,060	$1,129	$1,305	$1,223	--*	**$1,160**
Rent Controlled	$895	$820	$863	$1,180	--*	**$895**
Mitchell Lama	$980	$1,200	$1,000	$900	--*	**$1,021**
Public Housing	$455	$452	$481	$550	--*	**$480**
Other Regulated	$1,000	$670	$1,113	$955	--*	**$1,000**
Non Regulated	$1,320	$1,330	$2,600	$1,400	$1,262	**$1,510**
All Apartments	*$1,050*	*$1,143*	*$1,580*	*$1,265*	*$1,130*	***$1,204***

Source: *2011 Housing & Vacancy Survey*
* Sample size is too small to report an accurate figure

Table 3 – Monthly Median Contract and Gross Rents, 2011 American Community Survey

Monthly Median Contract and Gross Rents (ACS)	Bronx	Brooklyn	Manhattan	Queens	Staten Island	NYC
Contract Rent	$895	$1,020	$1,305	$1,162	$991	**$1,063**
Gross Rent	$1,012	$1,113	$1,403	$1,276	$1,112	**$1,168**

Source: *2011 American Community Survey*

Question 4: The presentation showed a chart of median gross rents, inflation-adjusted, from the 2005-2011 American Community Surveys. Can this same information be provided for contract rents?

A graph showing inflation-adjusted contract rents from the 2005-2011 ACS surveys (for NYC as a whole) is attached (see Attachment 1). Both inflation-adjusted contact (Table 1) and gross (Table 2) rents are also presented below (by borough and Citywide), in "real" 2011 dollars.

Table 1 – Inflation Adjusted Contract Rents, 2005-2011 American Community Survey

Monthly Median Contract Rents (ACS, $2011)	Bronx	Brooklyn	Manhattan	Queens	Staten Island	NYC
2005	$806	$918	$1,105	$1,097	$1,006	**$962**
2006	$817	$917	$1,134	$1,103	$987	**$965**
2007	$834	$934	$1,152	$1,099	$1,013	**$980**
2008	$847	$941	$1,168	$1,109	$985	**$987**
2009	$865	$977	$1,278	$1,158	$1,002	**$1,032**
2010	$886	$1,006	$1,243	$1,169	$1,044	**$1,051**
2011	$895	$1,020	$1,305	$1,162	$991	**$1,063**

Source: *2011 American Community Survey*

Table 2 – Inflation Adjusted Gross Rents, 2005-2011 American Community Survey

Monthly Median Gross Rents (ACS, $2011)	Bronx	Brooklyn	Manhattan	Queens	Staten Island	NYC
2005	$906	$1,012	$1,197	$1,183	$1,130	**$1,059**
2006	$927	$1,008	$1,213	$1,195	$1,113	**$1,061**
2007	$939	$1,030	$1,238	$1,205	$1,171	**$1,075**
2008	$957	$1,042	$1,259	$1,203	$1,136	**$1,097**
2009	$969	$1,068	$1,367	$1,248	$1,154	**$1,136**
2010	$1,002	$1,110	$1,342	$1,277	$1,173	**$1,161**
2011	$1,012	$1,113	$1,403	$1,276	$1,112	**$1,168**

Source: *2011 American Community Survey*

Question 5: Can you provide the number of rent stabilized households paying more than 50% of their income towards gross rent, and detail how much more than 50% they are paying?

The table below details the number of all rent stabilized households, rent stabilized households not utilizing Section 8, and all rental apartments who are paying more than 50%, 60%, 70%, 80%, 90%, and 100% of their household income towards gross rent.

Percentage of Income Spent on Gross Rent, 2011 Housing and Vacancy Survey

% of Income Towards Gross Rent* (HVS)	Rent Stabilized	Rent Stabilized (Excluding Section 8)	All Apartments
50 Percent or More	35.0%	30.4%	**32.7%**
60 Percent or More	29.1%	24.3%	**26.5%**
70 Percent or More	24.4%	19.6%	**21.7%**
80 Percent or More	20.4%	15.9%	**18.2%**
90 Percent or More	17.3%	13.2%	**15.4%**
100 Percent or More	15.0%	11.3%	**13.3%**

Source: *2011 Housing and Vacancy Survey*
* Note that these figures are derived from the raw data provided by the U.S. Census Bureau for the *2011 Housing and Vacancy Survey*, because it is not available via pre-configured tables released directly from the Census Bureau, as published on their website. Raw data excludes "top coded" records, which are deemed a privacy concern by the Census Bureau. Because only the Census Bureau has complete access to the full data set, statistics derived from the raw data can sometimes differ slightly from the data they provide through the tables on their website. For instance, this table shows that 32.7% of all households pay more than 50% of their income towards rent, while the number provided directly from the HVS tables (on their website) is 32.5%. Figures presented here should generally be considered 0.1 to 0.2 percentage points higher than actual figures.

Question 6: Can you provide homeless rates by borough and by type of housing last being resided in?

The Department of Homeless Services does not have data on the type of housing being resided in prior to homelessness. They have been able to provide some data on homeless rates by borough. They cannot provide the total number of individuals sheltered in each borough, but can provide both the total number of families, and the number of single adults. The table below shows shelter censuses, by borough, for April 15 of 2012 and April 15 of 2013.

NYC Dept. of Homeless Services Shelter Censuses, by Borough

	Single Adults		Families	
	April 15, 2012	**April 15, 2013**	**April 15, 2012**	**April 15, 2013**
Bronx	1,122	1,214	3,972	4,969
Brooklyn	3,420	3,998	2,867	3,140
Manhattan	3,790	4,123	2,153	2,527
Queens	321	537	1,106	1,179
Staten Island	10	11	45	43

Source: NYC Dept. of Homeless Services

Question 7: Can you provide copies of the ACS Gross Rent and CPI slides from the PowerPoint presentation?

The two slides in question are attached, as Attachments 2 and 3.

After the presentation, an additional question related to the *I&A* was asked by Board member Harvey Epstein. That question is presented here.

Can the number of evictions/possessions be broken down by borough and Community District, with the corresponding number of rent stabilized apartments?

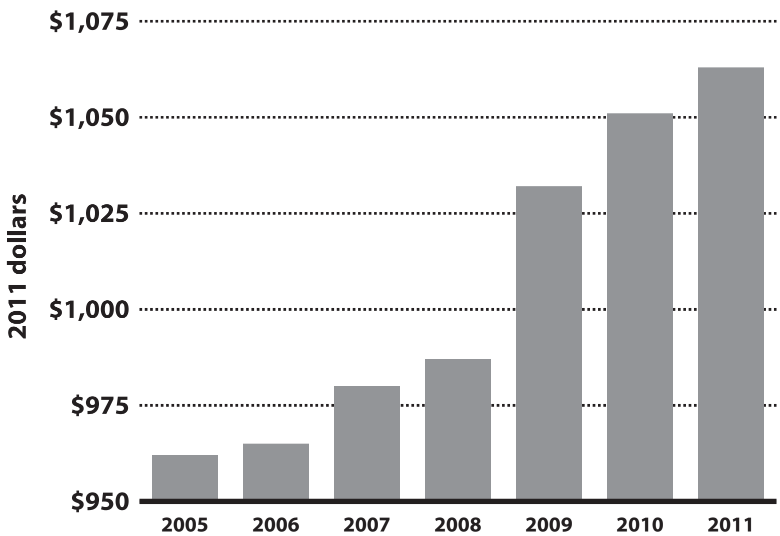
We have not been able to obtain data for evictions/possessions by Community District, but the table below presents this data at the borough level. The column entitled "Evictions/Possessions" shows the number of evictions and possessions in each borough in 2012, and the share of evictions/possessions of the Citywide total. The column entitled "Total Apts." shows the number of rental apartments in each borough per the *2011 Housing and Vacancy Survey*, and the share of apartments of the Citywide total. The column entitled "Rent Stabilized Apts." shows the number rent stabilized apartments in each borough, and both their share of rent stabilized apartments Citywide, and share of total rental apartments within each borough (i.e., 23.2% of all rent stabilized apartments are in the Bronx, and 59.1% of apartments within the Bronx are rent stabilized).

2012	**Evictions/ Possessions**		**Total Rental Apts.**		**Rent Stabilized Apts.**		
	Number	Percent	Number	Percent	Number	Percent of Citywide RS	Percent of All Apts. in Borough
Bronx	10,956	38.1%	388,022	17.9%	229,361	23.2%	59.1%
Brooklyn	8,514	29.6%	691,177	31.8%	295,631	30.0%	42.8%
Manhattan	3,775	13.1%	587,313	27.0%	264,365	26.8%	45.0%
Queens	4,605	16.0%	449,108	20.7%	189,021	19.2%	42.1%
Staten Island	893	3.1%	57,013	2.6%	8,461	0.9%	14.8%
NYC	**28,743**	**100.0%**	**2,172,633**	**100.0%**	**986,839**	**100.0%**	**45.4%**

Source: NYC Dept. of Investigation and the *2011 Housing and Vacancy Survey*

Attachment 1

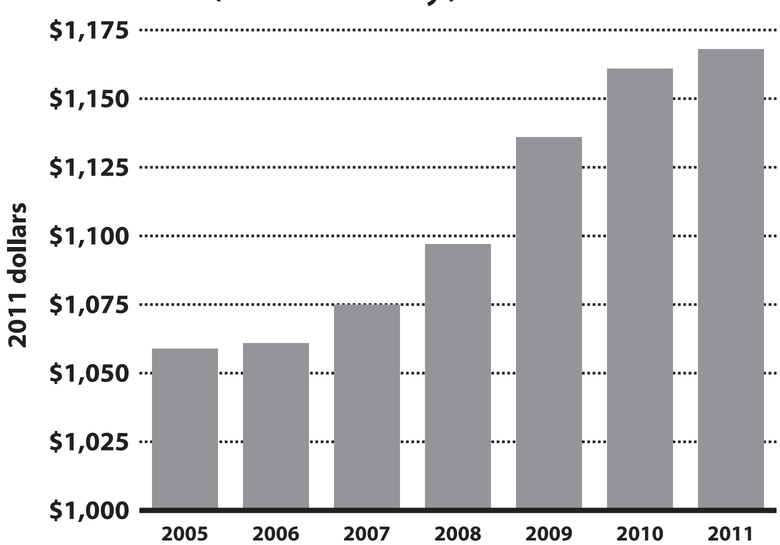
Monthly Contract Rent in Real 2011 Dollars (ACS Survey)



Source: 2005-2011 American Community Surveys

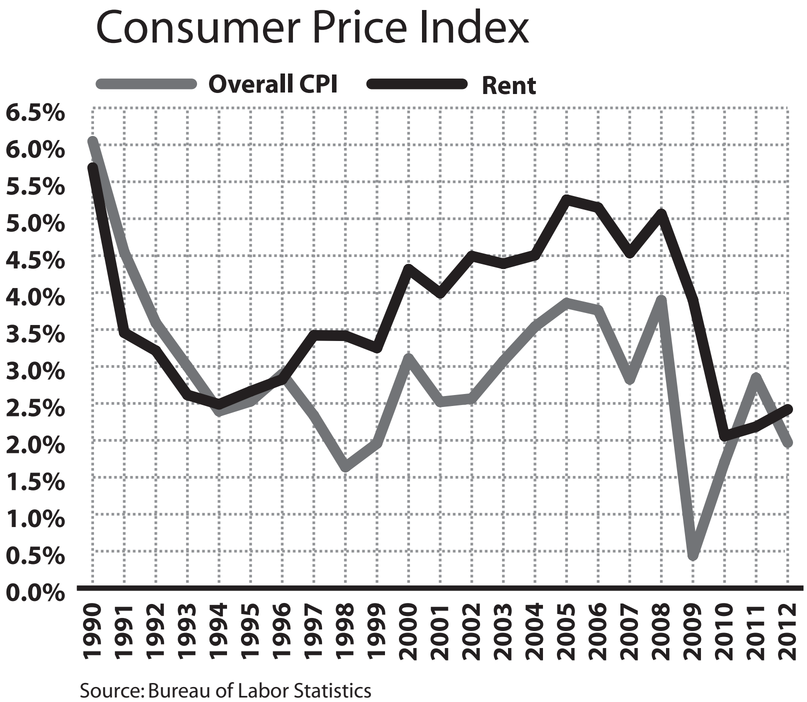
Attachment 2

Monthly Gross Rent in Real 2011 Dollars (ACS Survey)



Source: 2005-2011 American Community Surveys

Attachment 3



BUILDINGS WITH DIFFERENT FUEL AND UTILITY ARRANGEMENTS

The Board was also informed of the circumstances of buildings with different fuel and utility arrangements including buildings that are master-metered for electricity and that are heated with gas versus oil (see Table 8). Under some of the Board's Orders in the past, separate adjustments have been established for buildings in certain of these categories where there were indications of drastically different changes in costs in comparison to the generally prevailing fuel and utility arrangements. This year the Board did **not** make a distinction between guidelines for buildings with different fuel and utility arrangements under Order 45.

Table 8

Changes in Price Index of Operating Costs for Apartments in Buildings with Various Heating Arrangements, 2012-13, and Commensurate Rent Adjustment

Index Type	2012-13 Price Index Change	One-Year Rent Adjustment Commensurate With O&M to Income Ratio of .672
All Dwelling Units	5.9%	3.96%
Pre 1947	6.8%	4.57%
Post 1946	4.9%	3.29%
Oil Used for Heating	7.3%	4.91%
Gas Used for Heating	4.3%	2.89%
Master Metered for Electricity	6.0%	4.03%

Note: The O&M to Income ratio is from the *2013 Income and Expense Study*.
Source: RGB's *2013 Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City*.

Adjustments for Units in the Category of Buildings Covered by Article 7-C of The Multiple Dwelling Law (Lofts)

Section 286 sub-division 7 of the Multiple Dwelling Law states that the Rent Guidelines Board "shall annually establish guidelines for rent adjustments for the category of buildings covered by this article." In addition, the law specifically requires that the Board, "consider the necessity of a separate category for such buildings, and a separately determined guideline for rent adjustments for those units in which heat is not required to be provided by the owner, and may establish such separate category and guideline."

In 1986, Abt Associates Inc. conducted an expenditure study of loft owners to construct weights for the Loft Board's index of operating costs and to determine year-to-year price changes. In subsequent years, data from the PIOC for stabilized apartments was used to compute changes in costs and to update the loft expenditure weights. This is the procedure used this year.

The increase in the Loft Index this year was 5.8%, nearly the same increase seen in apartments (5.9%). Although the increases in the components for these indices were similar, there were disparities in the importance that the components hold in each index. Insurance Costs rose 7.1% in both indices but this rise in costs carried more weight in the Lofts Index, making up 17% of this index versus 7% for the Apartment Index. In contrast, the similar increases in Utilities, 6.3% for apartments versus 6.4% for lofts, carried more weight in the Apartment Index (16%) as compared to the Lofts Index (8%). These disparities in the weights for components that make up these two indices resulted in a Loft Index that was just 0.1 percentage points lower than the PIOC for Apartments.

This year's guidelines for lofts are: **4.0%** for a one-year lease and **7.75%** for a two-year lease.

Table 9

Changes in the Price Index of Operating Costs for Lofts from 2012-2013	
	Loft O & M Price Index Change
All Buildings	5.8%

Source: *2013 Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City.*

Special Guidelines for Vacancy Decontrolled Units Entering the Stabilized Stock

Pursuant to Section 26-513(b) of the New York City Administrative Code, as amended, the Rent Guidelines Board establishes a special guideline in order to aid the State Division of Housing and Community Renewal in determining fair market rents for housing accommodations that enter the stabilization system. This year, the Board set the guidelines at the greater of the following:

(1) 30% above the Maximum Base Rent, or

(2) The Fair Market Rent for existing housing as established by the United States Department of Housing and Urban Development (HUD) for the New York City Primary Metropolitan Statistical Area pursuant to Section 8(c) (1) of the United States Housing Act of 1937 (42 U.S.C. section 1437f [c] [1]) and 24 C.F.R. Part 888, with such Fair Market Rents to be adjusted based upon whether the tenant pays his or her own gas and/or electric charges as part of his or her rent as such gas and/or electric charges are accounted for by the New York City Housing Authority.

The Board concluded that for units formerly subject to rent control, either an increase to rent levels reflecting the Fair Market Rent guidelines established by the U.S. Department of Housing and Urban Development (HUD), or 30% above the maximum base rent was a desirable minimum increase. Notably, the HUD guidelines differentiate minimum rents on the basis of bedroom count.

INCREASE FOR UNITS RECEIVING PARTIAL TAX EXEMPTION PURSUANT TO SECTION 421 AND 423 OF THE REAL PROPERTY TAX LAW

The guideline percentages for 421-A and 423 buildings were set at the same levels as for leases in other categories of stabilized apartments.

This Order does not prohibit the inclusion of the lease provision for an annual or other periodic rent increase over the initial rent at an average rate of not more than 2.2 per cent per annum where the dwelling unit is receiving partial tax exemption pursuant to Section 421-A of the Real Property Tax Law. The cumulative but not compound charge of up to 2.2 per cent per annum as provided by Section 421-A or the rate provided by Section 423 is in addition to the amount permitted by this Order.

VACANCY ALLOWANCE

As of June 15, 1997, Vacancy Allowances are now determined by a formula set forth in the State Rent Regulation Reform Act of 1997 and in Chapter 97 of the Laws of 2011.

SUBLET ALLOWANCE

The increase landlords are allowed to charge under Order #45 when a rent stabilized apartment is sublet by the primary tenant to another tenant on or after October 1, 2013 and on or before September 30, 2014 shall be **10%**.

VOTES

The votes of the Board on the adopted motion pertaining to the provisions of Order #45 were as follows:

	Yes	No	Abstentions
Guidelines for Apartment Order #45	5	4	-

Dated: June 21, 2013
Filed with the City Clerk: June 25, 2013

Jonathan L. Kimmel
Chair
NYC Rent Guidelines Board

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Chapter 234 of the Laws of 1980.
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NEW YORK CITY RENT GUIDELINES BOARD

2013 Hotel Order #43

June 20, 2013

Order Number 43 - Hotels, Rooming Houses, Single Room Occupancy Buildings and Lodging Houses. Rent levels to be effective for leases commencing **October 1, 2013** through **September 30, 2014**.

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE NEW YORK CITY RENT GUIDELINES BOARD BY THE RENT STABILIZATION LAW OF 1969, as amended, and the Emergency Tenant Protection Act of 1974, as amended, implemented by Resolution No. 276 of 1974 of the New York City Council and extended by Chapter 97 of the Laws of 2011, and in accordance with the requirements of Section 1043 of the New York City Charter, that the Rent Guidelines Board hereby **adopts** the following levels of fair rent increases over lawful rents charged and paid on **September 30, 2013**.

APPLICABILITY

This order shall apply to units in buildings subject to the Hotel Section of the Rent Stabilization Law (Sections 26-504(c) and 26-506 of the N.Y.C. Administrative Code), as amended, or the Emergency Tenant Protection Act of 1974 (L.1974, c. 576 §4[§5(a)(7)]). With respect to any tenant who has no lease or rental agreement, the level of rent increase established herein shall be effective as of one year from the date of the tenant's commencing occupancy, or as of one year from the date of the last rent adjustment charged to the tenant, or as of **October 1, 2013**, whichever is later. This anniversary date will also serve as the effective date for all subsequent Rent Guidelines Board Hotel Orders, unless the Board shall specifically provide otherwise in the Order. Where a lease or rental agreement is in effect, this Order shall govern the rent increase applicable on or after **October 1, 2013** upon expiration of such lease or rental agreement, but in no event prior to one year from the commencement date of the expiring lease, unless the parties have contracted to be bound by the effective date of this Order.

RENT GUIDELINES FOR HOTELS, ROOMING HOUSES, SINGLE ROOM OCCUPANCY BUILDINGS AND LODGING HOUSES

Pursuant to its mandate to promulgate rent adjustments for hotel units subject to the Rent Stabilization Law of 1969, as amended, (§26-510(e) of the N.Y.C Administrative Code) the Rent Guidelines Board hereby **adopts** the following rent adjustments:

The allowable level of rent adjustment over the lawful rent actually charged and paid on **September 30, 2013** shall be:

1) Residential Class A (apartment) hotels -	**0%**
2) Lodging houses -	**0%**
3) Rooming houses (Class B buildings containing less than 30 units) -	**0%**
4) Class B hotels -	**0%**
5) Single Room Occupancy buildings (MDL section 248 SRO's) -	**0%**

NEW TENANCIES

No "vacancy allowance" is permitted under this order. Therefore, the rents charged for tenancies commencing on or after **October 1, 2013** and on or before **September 30, 2014** may not exceed the levels over rentals charged on **September 30, 2013** permitted under the applicable rent adjustment provided above.

ADDITIONAL CHARGES

It is expressly understood that the rents collectible under the terms of this Order are intended to compensate in full for all services provided without extra charge on the statutory date for the particular hotel dwelling unit or at the commencement of the tenancy if subsequent thereto. No additional charges may be made to a tenant for such services, however such charges may be called or identified.

STATEMENT OF BASIS AND PURPOSE

The Rent Guidelines Board is authorized to promulgate rent guidelines governing hotel units subject to the Rent Stabilization Law of 1969, as amended, and the Emergency Tenant Protection Act of 1974, as amended. The purpose of these guidelines is to implement the public policy set forth in Findings and Declaration of Emergency of the Rent Stabilization Law of 1969 (§26-501 of the N.Y.C. Administrative Code) and in the Legislative Finding contained in the Emergency Tenant Protection Act of 1974 (L.1974 c. 576, §4 [§2]).

Dated: June 20, 2013

____
Jonathan L. Kimmel
Chair
New York City Rent Guidelines Board

EXPLANATORY STATEMENT - HOTEL ORDER #43

Explanatory Statement and Findings of the Rent Guidelines Board In Relation to 2013-14 Lease Increase Allowances for Hotels Under the Jurisdiction of the Rent Stabilization Law

Explanatory Statement and Findings of the Rent Guidelines Board Concerning Increase Allowances for Hotel Units Under the Jurisdiction of the Rent Stabilization Law, Pursuant to Hotel Order Number 43, Effective October 1, 2013 through and including September 30, 2014.[18]

Pursuant to the authority vested in it by the Rent Stabilization Law of 1969 and the Emergency Tenant Protection Act of 1974, implemented by Resolution Number 276 of 1974 of the New York City Council, and extended by Chapter 97 of the Laws of 2011, it is the responsibility of the Rent Guidelines Board to establish guidelines for hotel increases. Hotel Order Number 43, adopted on June 20, 2013, applies to stabilized hotel units occupied by non-transient tenants.

Hotel Order Number 43 provides for an allowable increase of **0%** over the lawful rent actually charged and paid on September 30, 2013 for rooming houses, lodging houses, Class B hotels, single room occupancy buildings, and Class A residential hotels. The Order does not limit rental levels for commercial space, non-rent stabilized residential units, or transient units in hotel stabilized buildings during the guideline period. The Order also provides that for any dwelling unit in a hotel stabilized building which is voluntarily vacated by the tenant thereof, the level of rent increase governing a new tenancy shall be the same as the guideline for rent increases set forth above.

SPECIAL NOTE

In the past the Board has adopted rent increases to the rent stabilized hotel universe. In recent years, when increases were granted, the Board adopted a proviso that was designed to deny owners from taking these increases under certain conditions. Since the Board voted a 0% increase for all classifications of rent stabilized hotels, this proviso is not included in Hotel Order 43. In event that increases are considered for subsequent Hotel Orders, at such time the current members of the Rent Guidelines Board urge future Boards to consider reinstating this proviso or some form thereof. Below is the proviso and explanatory language previously adopted in Hotel Order 41:

> Rooming house, lodging house, Class B hotel, single room occupancy building, and Class A residential hotel owners shall not be entitled to any of the above rent adjustments, and shall receive a **0% percent adjustment** if permanent rent stabilized or rent controlled tenants paying no more than the legal regulated rent, at the time that any rent increase in this Order would otherwise be authorized, constitute fewer than **85%** of all units in a building that are used or occupied, or intended, arranged or designed to be used or occupied in whole or in part as the home, residence or sleeping place of one or more human beings.
>
> The following outlines the Rent Guidelines Board's intent of the above proviso:
>
> The Board's intention for the meaning of this proviso is that ALL dwelling units in the hotel, whether occupied, vacant, rented to tourists, transients, contract clients, students or other non-permanent tenants, or to permanent rent stabilized tenants, be counted in the denominator of the calculation. The only type of units in the hotel that may be excluded from the denominator are units that are used as stores or for similar business purposes such as a doctor's office. The numerator of the calculation is the number of units occupied by permanent rent stabilized or rent controlled tenants.

[18] This Explanatory Statement explains the actions taken by the Board on individual points and reflects the general views of those voting in the majority. It is not meant to summarize all viewpoints expressed.

Here are two examples. One: a hotel has 100 units and 2 stores. 32 units are rented to permanent rent stabilized tenants, 10 are vacant and 58 are rented to transients and tourists. The calculation is as follows, the denominator is 100 and the numerator is 32. This calculation results in an occupancy percentage of LESS than 85% under the formula (32%) and an increase CANNOT be taken for the permanent stabilized tenants.

Two: a hotel has 150 units, 2 of which are used by a dentist and a doctor for their businesses, 8 are rented to tourists, 5 are vacant and 135 are occupied by permanent rent stabilized tenants. The denominator would be 148 and the numerator would be 135. This calculation results in an occupancy percentage of GREATER than 85% under the formula (91%) and an increase CAN be taken for the permanent stabilized tenants.

DEFINITIONS

For the purpose of determining the appropriate classification of a hotel stabilized unit, the Board has set its definitions as follows:

- Residential hotels are "apartment hotels" which are designated as Class A multiple dwellings on the Certificate of Occupancy.

- Rooming houses are Class B multiple dwellings having fewer than thirty sleeping rooms as defined in Section 4(13) of the multiple dwelling law.

- A single room occupancy building is a Class A multiple dwelling which is either used in whole or in part for single room occupancy or as a furnished room house, pursuant to Section 248 of the multiple dwelling law.

- A Class B hotel is a hotel, which carries a Class B Certificate of Occupancy and contains units subject to rent stabilization.

- Lodging houses are those buildings designated as lodging houses on the Certificate of Occupancy.

BACKGROUND

Public meetings of the Board were held on March 14, April 4, 18 and 25, and May 30, 2013 following public notices. On April 30, the Board adopted proposed rent guidelines for hotels, apartments, and lofts.

A public hearing was held on June 13, 2013 to hear comments on the proposed rent adjustments for rent stabilized hotels and apartments. The hearing was held from 10:00 a.m. to 7:50 p.m. The Board heard testimony from approximately 15 hotel tenants and tenant representatives, one hotel owner, and one public official. One speaker read into the record written testimony from a public official. In addition, the Board's office received approximately 10 written statements from eight tenants and two public officials. On June 20, 2013, the guidelines set forth in Hotel Order Number 43 were adopted.

Selected Oral and Written Testimony from Tenants and Tenant Groups:

– “The conditions that warranted last year’s 0% vote remain essentially unchanged: SRO tenants continue to struggle while buildings designated for residential use by rent-stabilized tenants are increasingly used for other purposes.”

– “SROs are housing of last resort for low-income people who would otherwise be homeless. Thousands of hard-working people as well as a disproportionate number of elderly and disabled people call an SRO their home. If the economic situation is difficult for low-income New Yorkers, it is dire for most residents of SROs. Many rely on SSI, disability pensions, food stamps and other similar resources as their sole source of income. Tenants routinely report incomes as low as $10,000 per year. For many, the affordability of their SRO home means the difference between having a roof over their head and being homeless. With vacancy rates in apartments costing below $800 at just 1.1% and homelessness already at a nightly average of over 43,295 persons per night – a 14.6% increase over last year – the City cannot afford to increase rents on what is one of the last sources of truly affordable housing for low-income New Yorkers.”

– “As the Board knows, SROs are housing of last resort for poor New Yorkers. They are the safety net at the bottom of the market that keeps thousands of people off the street and out of shelters. Unfortunately, this safety net is steadily fraying. Homeless rates continue to climb and the City continues to suffer a poverty rate higher than the national average. A rental increase for SRO tenants would only exacerbate these problems. SRO owners, on the other hand, continue to find profitable operating strategies, such as renting to transient guests and institutional tenants that will not be affected by a rental increase.”

– “We respectfully request that the Rent Guidelines Board decline to approve a rent increases for SRO units. SRO owners are not dependent upon the rents paid by the dwindling permanent tenant population to cover their overhead and make a profit. However, even the smallest rent increase will have a devastating impact upon tenants and will further exacerbate the City’s homelessness crisis.”

– “Today, we are seeking relief from any more rent increases, the horrors becoming homeless through the owners utilization of tactic described, by taking tenants to housing court unwarrantedly. We are seeking a justifiable end to warehousing SRO units, and also from the burden as economical outcasts from owners who profit handsomely as recipients of financial housing subsidies from Human Resources and from financial tax breaks.”

– “As a tenant, I want to share with you the importance of preserving **the hotel proviso** so that you do not someday forget about us….Rent stabilized tenants get their repairs done last and we have observed our services significantly decrease over the years. As our numbers dwindle in the remaining hotels throughout the city, our voices weaken….As the number of homeless families rise, our city cannot begin to recover from this economic depression. The elimination of affordable housing by annual rent increases displaces families and counteracts whatever small progress we have made in reducing the unemployment rate. The expression, one step forward and two steps back, comes to mind.”

Selected Oral and Written Testimony from Owners and Owner Groups:

– “These units are subject to SRO rent guidelines. This has created a severe hardship in that alternate years there is a zero percent increase allowed for these SROS, and on alternate years for these units there is also a zero percent rent increase allowed for units in this building because of the stipulation in the rent guidelines that if permanent rent stabilized or rent controlled tenants constitute fewer than 85% of all units in the building used as a home, residential sleeping place, there will also be a zero percent rent increase. Therefore, for these four apartments, there are presently no rent increases ever allowed, on any of them, for existing tenants.”

– “There is no other situation in housing where rent can be frozen like this while expenses continue to increase based upon market conditions. The present SRO guidelines were not primarily established for small, residential buildings like this, but for much larger hotel buildings, and rooming houses. We’re asking that small units like this, buildings consisting of eight units, that you consider that these units… be granted the same type of rent stabilization increases as the general rent stabilized units on the market and further that the stipulation prohibiting any rent increase on these apartments, based upon the rent regulated makeup of the building be eliminated, again, for small buildings like this.”

Selected Oral and Written Testimony from Public Officials:

– “The average SRO tenant now pays 50% or more of his/her income towards rent, and they have very little left over for basic necessities. Yet this kind of housing, sometimes using shared facilities, is desperately needed in our city. Most of these buildings have a mixture of regulated and “other” uses – such as hotel, city referrals (DHS) and many more – on the premises, and I respectfully urge the RGB to decline to approve any rent increase for these units, as you have done in the past.”

– “Unless the Rent Guidelines Board significantly reduces or eliminates these increases they will have a devastating impact on the lives of millions of low- and middle-income residents who are struggling in this slow-growth economy. I am here today to request that the Board freeze rent increases for all regulated rental units, including Class A Hotels, Single Room Occupancy Buildings, and Rooming Houses. ”

– “Therefore I urge the RGB impose a freeze on rents for all rent regulated apartments as well as for lofts, hotels, rooming houses, single room occupancy buildings and lodging houses.”

MATERIAL CONSIDERED BY THE BOARD

In addition to oral and written testimony presented at its public hearing, the Board’s decision is based upon material gathered from the *2013 Price Index of Operating Costs*, prepared by the staff of the Rent Guidelines Board, reports and testimony submitted by owner and tenant groups relating to the hotel sector, and reports submitted by public agencies. The Board heard and received written testimony from invited guest speakers on April 25, 2013. Guest speakers representing hotel tenants included Daniel L. Parcerisas, from the Goddard-Riverside SRO Law Project, Brian Sullivan from the SRO Law Project at MFY Legal Services, and Larry Wood from the Goddard Riverside Community Center. There were no guest speakers representing hotel landlords at this meeting.

FINDINGS OF THE RENT GUIDELINES BOARD

RENT GUIDELINES BOARD RESEARCH

The Rent Guidelines Board based its determination on its consideration of the oral and written testimony noted above, as well as upon its consideration of statistical information prepared by the RGB staff set forth in these findings and the following reports:

(1) *2013 Mortgage Survey Report*, March 2013 (An evaluation of recent underwriting practices, financial availability and terms, and lending criteria);

(2) *2013 Income and Affordability Study,* April 2013 (Includes employment trends, housing court actions, changes in eligibility requirements and public benefit levels in New York City);

(3) *2013 Price Index of Operating Costs,* April 2013 (Measures the price change for a market basket of goods and services which are used in the operation and maintenance of stabilized hotels);

(4) *2013 Housing Supply Report*, May 2013 (Includes information on the conversion of Hotels to luxury apartments and transient use, new housing construction measured by certificates of occupancy in new buildings and units authorized by new building permits, tax abatement and exemption programs, and cooperative and condominium conversion and construction activities in New York City); and,

(5) *Changes to the Rent Stabilized Housing Stock in NYC in 2012,* May 2013 (A report quantifying all the events that lead to additions to and subtractions from the rent stabilized housing stock).

The five reports listed above may be found in their entirety on the RGB's website, www.nycrgb.org, and are also available at the RGB offices, 51 Chambers St., Suite 202, New York, NY upon request.

PRICE INDEX OF OPERATING COSTS FOR RENT STABILIZED HOTEL UNITS

The Hotel Price Index includes separate indices for each of three categories of rent stabilized hotels (due to their dissimilar operating cost profiles) and a general index for all stabilized Hotels. The three categories of hotels are: 1) "traditional" hotels — a multiple dwelling which has amenities such as a front desk, maid or linen services; 2) Rooming Houses — a multiple dwelling other than a hotel with thirty or fewer sleeping rooms; and 3) single room occupancy hotels (SROs) — a multiple dwelling in which one or two persons reside separately and independently of other occupants in a single room.

The Price Index for all stabilized Hotels rose 7.4% this year, a significantly higher increase than the 3.7% rise in 2012. The Price Index for Hotels was 1.5 percentage points higher than the increase in costs measured in the Apartment Price Index. Significant disparities between the Hotel Index and the Apartment Index were seen in the Taxes and Utilities components. Taxes for Hotels increased at a higher pace (5.8%) than the increase for apartments (2.6%). Furthermore, the increase in Utilities for all types of Hotels was 7.9%, versus the 6.3% rise for apartment buildings.

In addition to the changes in costs in Taxes and Utilities mentioned above, increases were seen in the remaining Hotel cost components. The highest increase was seen in Fuel Oil costs, which make up 16% of the PIOC for hotels, rising 19.8%. Insurance also witnessed a significant increase, with costs growing 7.1%. More moderate increases were seen in the remaining components. Contactor Services increased 3.5%, Labor by 3.1% and Administrative Costs rose 2.4%. Parts and Supplies and Replacement Costs, which carry very little weight in the Hotel Index, rose 4.1% and 0.1%, respectively.

Among the different categories of Hotels, the index for "traditional" hotels increased 7.5%, Rooming Houses (RH) by 6.1% and SROs by 7.7%.

Percent Change in the Components of the Price Index of Operating Costs
March 2012 to March 2013, By Hotel Type and All Hotels

Spec #	Item Description	Hotel	RH	SRO	All Hotels
101	TAXES, FEES, & PERMITS	6.7%	1.8%	6.4%	5.8%
205-206, 208-216	LABOR COSTS	3.1%	3.0%	3.0%	3.1%
301-303	FUEL	19.9%	21.0%	18.6%	19.8%
401-407, 409-410	UTILITIES	9.1%	2.9%	7.8%	7.9%
501-509, 511-516, 518	CONTRACTOR SERVICES	3.5%	2.8%	3.8%	3.5%
601-608	ADMINISTRATIVE COSTS	2.5%	2.3%	2.4%	2.4%
701	INSURANCE COSTS	7.1%	7.1%	7.1%	7.1%
801-816	PARTS AND SUPPLIES	3.6%	5.5%	4.4%	4.1%
901-904, 907-911	REPLACEMENT COSTS	-0.1%	0.5%	0.7%	0.1%
	ALL ITEMS	**7.5%**	**6.1%**	**7.7%**	**7.4%**

SOURCE: *2013 PRICE INDEX OF OPERATING COSTS*

Changes in Housing Affordability

Results from the 2011 Housing and Vacancy Survey were released last year, and showed that the vacancy rate for New York City is 3.12%. Approximately 45% of renter households in NYC are rent stabilized, with a vacancy rate of 2.63%. The survey also shows that the median household income in 2010 was $37,000 for rent stabilized tenants, versus $38,447 for all renters. The median gross rent for rent stabilized tenants was also lower than that of all renters, at $1,160 versus $1,204 for all renters. And rent stabilized tenants saw a median gross rent-to-income ratio of 34.9% in 2011, compared to 33.6% for all renters.

Looking at New York City's economy during 2012, it showed both strengths and weaknesses as compared with the preceding year. Positive indicators include growing employment levels, which rose for the third consecutive year, increasing 2.1% in 2012. Gross City Product also increased for the third consecutive year, rising in real terms by 2.2% in 2012. In addition, the rate of inflation also slowed, down to 2.0% from 2.8% in 2011, and housing court non-payment filings fell 1.5%.

Negative indicators included a 4.0% increase in evictions, despite the number of non-payment filings in Housing Court declining. In addition, cash assistance levels increased for the fourth consecutive year, increasing by 0.9% between 2011 and 2012. The number of Supplemental Nutrition Assistance Program (SNAP) recipients also rose, increasing for the tenth consecutive year, by 0.7% in 2012. In addition, homelessness rose over 2011 levels, increasing to an average of more than 43,000 persons a night, a 14.6% increase. Inflation- adjusted wages also decreased 4.5% during the most recent 12-month period (the fourth quarter of 2011 through the third quarter of 2012). And the unemployment rate rose slightly, following a decrease in the prior year, rising 0.2 percentage points, to 9.2%.

The most recent numbers, from the fourth quarter of 2012 (as compared to the fourth quarter of 2011), show that homeless levels were up 19.0%, SNAP recipients were up 2.3%, and cash assistance levels were up 1.6%. However, both non-payment housing court filings and calendared court cases1 fell, by 4.8% and 2.7% respectively, employment levels were up 1.6%, unemployment rates fell by 0.43 percentage points, and real GCP rose by 2.8%.

CONSUMER PRICE INDEX

The Board reviewed the Consumer Price Index. The table that follows shows the percentage change for the NY-Northeastern NJ Metropolitan area since 2005.

Percentage Changes in the Consumer Price Index for the New York City - Northeastern New Jersey Metropolitan Area, 2005-2013 (For "All Urban Consumers")									
	2005	**2006**	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**
1st Quarter Avg.[19]	4.1%	3.4%	2.9%	3.7%	1.3%	2.1%	2.0%	2.7%	2.1%
Yearly Avg.	3.9%	3.8%	2.8%	3.9%	0.4%	1.7%	2.8%	2.0%	-

Source: U.S. Bureau of Labor Statistics.

Effective Rates of Interest

The Board took into account current mortgage interest rates and the availability of financing and refinancing. It reviewed the staff's *2013 Mortgage Survey Report* of lending institutions. The table below gives the reported rate and points for the past ten years as reported by the *Mortgage Survey*.

2013 Mortgage Survey[20] Average Interest Rates and Points for New and Refinanced Permanent Mortgage Loans 2004-2013										
New Financing of Permanent Mortgage Loans, Interest Rate and Points										
	2004	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**
Avg. Rates	5.8%	5.5%	6.3%	6.3%	5.8%	6.5%	6.3%	5.8%	4.6%	4.4%
Avg. Points	0.67	0.56	0.44	0.61	0.47	0.62	0.79	0.61	0.63	0.59
Refinancing of Permanent Mortgage Loans, Interest Rate and Points										
	2004	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**	**2011**	**2012**	**2013**
Avg. Rates	5.7%	5.5%	6.3%	6.2%	5.8%	6.5%	6.3%	5.7%	4.7%	4.4%
Avg. Points	0.60	0.56	0.44	0.61	0.44	0.62	0.83	0.61	0.63	0.40

Source: 2004–2013 *Annual Mortgage Surveys*, RGB.

Hotel Conversion

Conversion of single room occupancy (SRO) buildings also continued over the past year. SRO owners may convert SRO housing to other uses after obtaining a "Certificate of No Harassment" (CONH) from HPD. After seven consecutive years of decline, approved CONH applications rose in 2012, up 23.0% from 100 CONH in 2011 to 123 in 2012.[21] Efforts are also underway to ensure that SROs are used for permanent housing rather than as transient hotels. As of May 1, 2011, laws were newly passed strengthening the City's ability to crack down on housing being used illegally for transient occupancy. Transient occupancy is now clearly defined as stays of less than 30 days, and between May of 2011 and April of 2012 1,820 violations (ranging from \$800 to \$2,000) were issued to illegal hotel

19 1st Quarter Average refers to the change of the CPI average of the first three months of one year to the average of the first three months of the following year.

20 Institutions were asked to provide information on their "typical" loan to rent stabilized buildings. Data for each variable in any particular year and from year to year may be based upon responses from a different number of institutions.

21 NYC Department of Housing Preservation and Development.

operators.[22] Approximately 2,415 violations have been issued since,[23] and late last year, the City Council strengthened this law even further, increasing fines to up to $25,000 for repeat offenders.[24] Among the illegal hotel operators that the City has targeted is a company that it accused of offering short-term stays in permanent residential apartments in nearly 50 different locations in Manhattan and Brooklyn.[25] While the lawsuit continues, in February of 2013 the Supreme Court of New York County preliminarily ruled in favor of the City and issued an injunction against the company, barring it from operating or advertising hotel units.[26]

OTHER RELEVANT INFORMATION

On June 4, 2013, staff released a memo to the Board analyzing hotel data contained in the NYS Division of Housing and Community Renewal's 2012 apartment and building registration databases. Below is the memo in its entirety.

This memo is an update to staff memos released June 4, 2007, June 4, 2009, and June 12, 2012, which analyzed hotel registration data filed with the NYS Division of Housing and Community Renewal (DHCR) in 2005, 2008, and 2011, respectively. Staff members recently analyzed the 2012 DHCR registration database for data related to hotels, SROs, and rooming houses (hereafter referred to only as "hotels").

Note that when staff was analyzing this data, they found some irregularities in the way certain large buildings were being registered. These buildings were registered as "rooming houses" by the owner, but upon a detailed inspection were found by staff to be rent stabilized apartment buildings, and not rooming houses. A minimum of two owners, registering a total of 2,389 units in 13 buildings (12 in Manhattan, and one in Brooklyn), were found to be incorrectly registering their buildings as rooming houses with DHCR.27 The same 13 buildings were incorrectly registered with DHCR in 2011, and data from these buildings was included in the memo released on June 12, 2012. Data from these 13 buildings will not be included in this memo, and therefore data from this year cannot be compared to data from last year's memo. Please see Appendix 1, attached at the end of this memo, for updated 2011 data, which can be used for comparison purposes.

In 2012, 521 buildings, which were identified by owners as hotels, registered units with DHCR, 15 less than in 2011.28 Within these 521 buildings, 16,263 individual apartment registrations were filed (999 more than in 2011). Owners identified a total of 10,483 of the registered units as being "rent stabilized" and the balance (5,780 units) were identified as being either "permanently exempt," "temporarily exempt," or "vacant." Of these 521 buildings, 46 (8.8% of the total) consisted entirely of exempt and/or vacant units. In addition, 207 buildings (39.7% of the total buildings) contain less than 85% permanently stabilized units.

Building owners/managers were asked to identify which of their units were temporarily or permanently exempt from rent stabilization laws. In 2012, 45 units were reported as being permanently exempt (0.3% of the total number of registered hotel units), while 3,777 units were reported as temporarily

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22 Mayor Bloomberg Announces Results of City's Efforts to Curb Dangerous Illegal Hotels in New York City After State Legislation Enhances Enforcement Abilities." *Mayor's Office Press Release 157-12.* April 27, 2012.

23 Office of the Criminal Justice Coordinator, Mayor's Office of Special Enforcement. Inclusive of data through April 30, 2013.

24 "Illegal Hotel Fines Could Skyrocket," The Real Deal. September 12, 2012.

25 "Mayor Bloomberg Announces Suit Against Major Operator of Illegal Hotels as Part of the City's Crackdown on Unsafe and Illegal Tourist Accommodations in New York City," Mayor's Office Press Release. October 23, 2012.

26 http://law.justia.com/cases/new-york/other-courts/2013/2013-ny-slip- op-23054.html. February 13, 2013.

27 Note that there are a minimum of 13 buildings incorrectly registered by owners as hotels in the 2012 DHCR database. Staff cannot check every record for discrepancies, but are fairly confident that due to the size of these buildings (comprising 13% of all owner-identified hotel units), that any additional incorrect data will not significantly skew the analysis. Staff also intends to report these discrepancies to DHCR for their review.

28 All data in this memo is based on owner-reported information as reported to DHCR in their 2012 registration database.

exempt (23.2% of the total number of registered hotel units). The most commonly reported reason for being temporarily exempt is "Hotel/SRO (Transient)" status, as was the classification given to 3,034 (80.3%) of the temporarily exempt units. Less common was "Not Prime Residence" (244 units, or 6.5%) and "Owner Occupancy/Employee" (232 units, or 6.1%). Among permanently exempt units, 16 (35.6% of these units) were reported as being deregulated due to High Rent/Vacancy or High Rent/High Income Decontrol, with the rest reported as being deregulated due to owner occupancy, "hotel room renting," substantial rehabilitation, rent control and a few other isolated reasons. In general, units that are temporarily exempt are either rented at what the market will bear, for as little as one night, or rented to government agencies, not-for-profit organizations, or universities as temporary housing. In addition, 1,958 units (12.0% of total units) were registered with DHCR as "Vacant."

The analysis starts by looking at the reported legal rents of those units identified as "rent stabilized" by building owners. The legal rents are the maximum amount that a landlord is able to charge to tenants (or government agencies subsidizing tenants), but do not necessarily reflect what a tenant is actually paying. Owners can choose to charge tenants a lower rent than legally allowed (known as a "preferential rent") and owners are also asked to provide DHCR with data for subsidized tenants, whose "actual" rents are the rents actually paid out of pocket by tenants, with the balance being made up by various government agencies and programs. See the tables below for detailed information on legal, preferential, and actual rents paid by rent stabilized hotel tenants.

Table 1 shows the number of rent stabilized units and buildings that registered legal rents with DHCR in 2012. It also provides the median and mean legal rents for these units, by borough, and Citywide. These rents reflect the maximum amount that owners could charge for their units, as of April 2012.

Table 1: 2012 median and mean "legal" rents for units identified as rent stabilized (excludes exempt and vacant units)

Borough	*# of Stabilized Units*	*# of Stabilized Buildings*	***Median** Legal Rent*	***Mean** Legal Rent*
Bronx	771	40	$1,123	$1,082
Brooklyn	2,947	155	$1,081	$1,216
Manhattan[29]	5,779	210	$993	$1,409
Queens	898	66	$1,298	$1,511
Staten Island	66	4	$812	$837
Citywide[30]	**10,461**	**475**	**$1,065**	**$1,336**

Source: 2012 DHCR Building and Apartment Registration filings

[29] Note that there was one large building in Manhattan (more than 200 units) in which 81% of units were registered as "rent stabilized" with DHCR, all but six of which had legal rents in excess of $4,000 a month (up to as much as $7,500 a month). This particular building registered all of their units as "temporarily exempt" in 2011, which means that rent figures from these units were not reported or analyzed in data from last year's memo (see Appendix 1). For comparison purposes, had this building been left out of the 2012 analysis, the median legal rent in Manhattan would be $958, and the mean legal rent would be $1,293. Note that staff cannot investigate every record, and this may or may not be the only building with such a discrepancy.

[30] Excluding the Manhattan building noted in footnote #12, the median Citywide legal rent would be $1,050 and the mean legal rent would be $1,271.

Table 2 illustrates the median and mean "preferential" rents for the over one-quarter (31.5%) of rent stabilized units that reported charging one. Also shown is the percentage difference from the median and mean legal rents of just those units with reported preferential rents. The median Citywide legal rent for these units is $1,359 and the mean legal rent is $1,535.

Table 2: 2012 Median and Mean "Preferential" 31 Rents for Units Identified as Rent Stabilized (excludes exempt and vacant units)*

Borough	*# of Stabilized Units*	***Median***		***Mean***	
		Preferential Rent	*% Difference from Legal Rent***	*Preferential Rent*	*% Difference from Legal Rent***
Bronx	286	$988	-27%	$940	-38%
Brooklyn	1,220	$1,085	-26%	$1,051	-28%
Manhattan	1,473	$807	-31%	$840	-42%
Queens	312	$1,208	-49%	$1,287	-42%
Staten Island	2	$654	-46%	$654	-46%
Citywide	**3,293**	**$998**	**-27%**	**$969**	**-37%**

Source: 2012 DHCR Building and Apartment Registration filings
*Excludes units where the "preferential" rent reported is equal to, or more than, the reported "legal" rent.
**Refers to the legal rents of just those units that reported preferential rents.

[31] Upon a close examination of the DHCR apartment registration file, 208 units in five buildings (one in Brooklyn, two in Manhattan, and two in Queens) were found to have erroneously registered all the "preferential" rents in their buildings as "actual" rents. In these 208 cases, the "actual" rent that they registered was either $1,129, $1,166, or $1,183 (which were the HUD Fair Market Rent levels for studio apartments in 2010-2013, respectively. These building owners identified their tenants as receiving subsidies from a variety of government programs, including principally Shelter Plus and Section 8. By knowing that these tenants were part of government subsidy programs, we can infer that they actually paid significantly less than the HUD Fair Market Rent a month (although the owner did receive this amount through a combination of payments from the tenant and the government). As such, the records of these 203 units were altered to make the relevant HUD FMR the "preferential" rent, while the "actual" rent field was modified to be blank, as we do not know the true out of pocket rents for these tenants. Absent these modifications, the means and medians reported in Tables 2-4 would be somewhat different. Note that the balance of units in the DHCR registration files may or may not have been registered correctly. DHCR registration files are submitted by owners, and staff cannot verify the accuracy of every record. For the purposes of this memo, we are assuming that all other registrations were accurate.

Table 3 shows the median and mean "actual" rents paid by a reported 27.9% of rent stabilized hotel tenants. These are the rents that are paid by tenants out of pocket, with the balance being paid by government programs such as Section 8, Shelter Plus or SCRIE. Also included are the mean and median legal rents of just those apartments reporting "actual" rents. Theoretically, the owners of the 2,921 units reporting actual rents can receive the difference between the actual and legal rents from government programs, and in fact, 74% of these units do not report any "preferential" rents, implying that in most cases owners do receive the full legal rent for these units. Not reported here are detailed statistics for the 755 units that report both actual and preferential rents (which would indicate that these units do not receive the full legal rent). The Citywide median preferential rent for these 755 units is $814 and the mean preferential rent is $895.

Table 3: 2012 Median and Mean "Actual" 32 Rents for Units Identified as Rent Stabilized (excludes exempt and vacant units)*

Borough	*# of Stabilized Units*	***Median***		***Mean***	
		Actual Rent Paid	*Legal Rent***	*Actual Rent Paid*	*Legal Rent***
Bronx	221	$228	$1,440	$357	$1,605
Brooklyn	392	$292	$975	$424	$993
Manhattan	2,234	$255	$1,171	$479	$1,612
Queens	74	$587	$1,480	$688	$1,407
Staten Island	0	--	--	--	--
Citywide	**2,921**	**$262**	**$1,166**	**$468**	**$1,523**

Source: 2012 DHCR Building and Apartment Registration filings
* Excludes units where the "actual" rent reported is equal to, or more than, the reported "legal" rent.
**Refers to the legal rents of just those units that reported actual rents.

[32] See footnote #14.

Finally, to show rents that landlords are actually receiving for rent stabilized hotel units, Table 4 shows median and mean "rent received," which uses a combination of preferential and legal rents to identify the rent actually being collected. For the purposes of this table, "rent received" is defined as the legal rent, unless a preferential rent is registered, in which case the preferential rent is used.

Table 4: 2012 Median and Mean "Rent Received" 33 for Units Identified as Rent Stabilized (excludes exempt and vacant units)

Borough	*# of Stabilized Units*	***Median** "Rent Received"**	***Mean** "Rent Received"**
Bronx	771	$902	$868
Brooklyn	2,947	$1,004	$1,044
Manhattan[34]	5,779	$875	$1,253
Queens	898	$1,200	$1,191
Staten Island	66	$812	$820
Citywide[35]	**10,461**	**$957**	**$1,158**

Source: 2012 DHCR Building and Apartment Registration filings
*"Rent Received" refers to the preferential rent (if one is provided), or the legal rent (if a preferential rent is not provided)

Appendix 1 – Updated 2011 DHCR Hotel Registration Data

Table 1 shows the number of rent stabilized units and buildings that registered legal rents with DHCR in 2011. It also provides the median and mean legal rents for these units, by borough, and Citywide. These rents reflect the maximum amount that owners could charge for their units, as of April 2011.

Table 1: 2011 Median and Mean "Legal" Rents for Units Identified as Rent Stabilized (excludes exempt and vacant units)

Borough	*# of Stabilized Units*	*# of Stabilized Buildings*	***Median** Legal Rent*	***Mean** Legal Rent*
Bronx	1,023	48	$1,063	$1,094
Brooklyn	3,068	161	$1,026	$1,143
Manhattan	4,896	201	$895	$1,019
Queens	718	65	$1,200	$1,195
Staten Island	102	7	$831	$817
Citywide	**9,807**	**482**	**$983**	**$1,076**

Source: 2011 DHCR Building and Apartment Registration filings

Table 2 illustrates the median and mean "preferential" rents for the over one-quarter (27.6%) of rent stabilized units that reported charging one. Also shown is the percentage difference from the median and mean legal rents of just those units with reported preferential rents. The Citywide median legal rent for these units is $1,291 and the mean legal rent is $1,335.

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[33] See footnote #14.

[34] Excluding the large building in Manhattan that registered all their apartments as temporarily exempt in 2011 (See footnote #12), the median rent received in Manhattan would have been $852 and the mean rent received would have been $1,132.

[35] Excluding the Manhattan building noted in footnote #12, the median Citywide rent received would be $950 and the mean rent received would be $1,090.

Table 2: 2011 Median and Mean "Preferential" Rents for Units Identified as Rent Stabilized (excludes exempt and vacant units)*

Borough	*# of Stabilized Units*	***Median***		***Mean***	
		Preferential Rent	*% Difference from Legal Rent***	*Preferential Rent*	*% Difference from Legal Rent***
Bronx	353	$809	-38%	$834	-43%
Brooklyn	1,045	$1,075	-23%	$986	-28%
Manhattan	1,117	$769	-36%	$804	-35%
Queens	175	$1,129	-29%	$1,110	-28%
Staten Island	17	$950	-1%	$928	-6%
Citywide	**2,707**	**$916**	**-29%**	**$899**	**-33%**

Source: 2011 DHCR Building and Apartment Registration filings
*Excludes units where the "preferential" rent reported is equal to, or more than, the reported "legal" rent.
**Refers to the legal rents of just those units that reported preferential rents.

Table 3 shows the median and mean "actual" rents paid by a reported 27.4% of rent stabilized hotel tenants. These are the rents that are paid by tenants out of pocket, with the balance being paid by government programs such as Section 8, Shelter Plus or SCRIE. Also included are the mean and median legal rents of just those apartments reporting "actual" rents. Theoretically, the owners of the 2,686 units reporting actual rents can receive the difference between the actual and legal rents from government programs, and in fact, 77% of these units do not report any "preferential" rents, implying that in most cases owners do receive the full legal rent for these units. Not reported here are detailed statistics for the 631 units that report both actual and preferential rents (which would indicate that these units do not receive the full legal rent). The Citywide median preferential rent for these 631 units is $809 and the mean preferential rent is $857.

Table 3: 2011 Median and Mean "Actual" Rents for Units Identified as Rent Stabilized (excludes exempt and vacant units)*

Borough	*# of Stabilized Units*	***Median***		***Mean***	
		Actual Rent Paid	*Legal Rent***	*Actual Rent Paid*	*Legal Rent***
Bronx	260	$228	$1,394	$356	$1,534
Brooklyn	464	$238	$919	$370	$988
Manhattan	1,878	$224	$964	$365	$1,042
Queens	83	$606	$1,350	$630	$1,254
Staten Island	1	$689	$1,179	$689	$1,179
Citywide	**2,686**	**$228**	**$1,035**	**$374**	**$1,087**

Source: 2011 DHCR Building and Apartment Registration filings
*Excludes units where the "actual" rent reported is equal to, or more than, the reported "legal" rent.
**Refers to the legal rents of just those units that reported actual rents.

Finally, to show rents that landlords are actually receiving for rent stabilized hotel units, Table 4 shows median and mean "rent received," which uses a combination of preferential and legal rents to identify the rent actually being collected. For the purposes of this table, "rent received" is defined as the legal rent, unless a preferential rent is registered, in which case the preferential rent is used.

Table 4: 2011 Median and Mean "Rent Received" for Units Identified as Rent Stabilized (excludes exempt and vacant units)

Borough	*# of Stabilized Units*	***Median** "Rent Received"**	***Mean** "Rent Received"**
Bronx	1,023	$813	$881
Brooklyn	3,069	$950	$1,013
Manhattan	4,896	$821	$920
Queens	718	$1,129	$1,092
Staten Island	102	$825	$806
Citywide	**9,808**	**$900**	**$957**

Source: 2011 DHCR Building and Apartment Registration filings
*"Rent Received" refers to the preferential rent (if one is provided), or the legal rent (if a preferential rent is not provided)

VOTE

The vote of the Rent Guidelines Board on the adopted motion pertaining to the provisions of Order Number 43 was as follows:

	Yes	No	Abstentions
Guidelines for Hotels	7	2	-

Dated: June 21, 2013
Filed with the City Clerk: June 25, 2013

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Jonathan L. Kimmel
Chair
NYC Rent Guidelines Board

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