



Sherif Soliman, Commissioner

ANNUAL REPORT

The SCRIE and DRIE Ombudspersons
New York City Rent Freeze Program

The NYC Office of the Taxpayer Advocate
October 1, 2021

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New York City Office of the Taxpayer Advocate

The SCRIE and DRIE Ombudspersons

Fiscal Year 2021 Annual Report

(Reporting Period: July 1, 2020 – June 30, 2021)

Executive Summary

The Senior Citizen Rent Increase Exemption (SCRIE) ombudsperson and Disability Rent Increase Exemption (DRIE) ombudsperson positions were created by the New York City Council in 2015 to investigate and address issues concerning the Rent Freeze Program. As part of their duties, the ombudspersons provide data regarding their work at the end of each fiscal year and make annual recommendations to the Department of Finance (DOF) commissioner regarding Rent Freeze Program operations. In the following pages, the ombudspersons deliver their sixth annual report on the New York City Rent Freeze Program. This report covers the period beginning July 1, 2020, and ending June 30, 2021.¹

During this reporting period, the Rent Freeze Program faced unprecedented challenges posed by the COVID-19 pandemic. The effects of the pandemic on the Rent Freeze Program are apparent throughout this report, from the composition of the ombudspersons' casework to the emphasis on reaching out to new audiences and removing potential barriers so that more low-income households can access SCRIE and DRIE benefits.

The ombudspersons' recommendations to the DOF commissioner, detailed in Part II of this report, center around the following issues:

1. Interagency access to data required from Rent Freeze Program applicants enrolled in other City programs.
2. A change in DOF's approach to tenants who apply to take over a Rent Freeze Program benefit without having been identified as a household member by the prior tenant.
3. Outreach to landlords and management companies with information regarding the Rent Freeze Program's tax abatement credits and DOF resources created specifically for landlords.
4. Exploring solutions for the continuation of Rent Freeze Program benefits for surviving household members, tenants who experience long-term income loss, and tenants whose landlord is contractually bound to adhere to Rent Guidelines Board orders.

¹ The twelve-month period beginning July 1, 2020, and ending June 30, 2021, is both the ombudspersons' reporting period and DOF's fiscal year. This period may be referred to in this report as the "2020-21 reporting period," "fiscal year 2021," etc.

This report reflects DOF's substantial efforts—in key areas such as renewal timelines, online application submission, and the appeals process—to adapt to the exigencies of the pandemic while maintaining a sense of continuity for Rent Freeze Program participants.

As in previous reporting periods, the ombudspersons performed their duties with an eye toward DOF's larger mission to administer the tax and revenue laws of the City fairly, efficiently, and transparently to instill public confidence and encourage compliance while providing exceptional customer service.

Further information about the Rent Freeze Program is available at www.nyc.gov/rentfreeze. Information about the Office of the Taxpayer Advocate (OTA) is available at www.nyc.gov/taxpayeradvocate.

Part I: Introduction

A. Rent Freeze Program Overview

The Rent Freeze Program’s objective is to help senior citizens and people with disabilities remain in their homes by “freezing” the dollar amount of their monthly out-of-pocket rent. Any increases in rent beyond the “frozen” amount are covered by a tax credit that is applied as a reduction to the building’s property taxes.

In 2020, 53,871 households in New York City received SCRIE benefits and 11,803 households received DRIE benefits.² DOF’s *2018 Report on the New York City Rent Freeze Program*³ reported that the average age of SCRIE benefit recipients was 73.6 and the average household size was 1.5 persons. For the DRIE program, the average age of recipients was 57.5 and the average household size was 1.4 persons.

B. Establishment of Ombudsman Positions and Reporting Requirements

Section 11-137 of the New York City Administrative Code establishes the SCRIE and DRIE ombudsman positions within DOF. This section also states that the ombudsmen’s duties will include:

- (i) *establishing a system for such ombudsmen to receive complaints with respect to each such rent increase exemption program;*
- (ii) *investigating and responding to complaints received [pursuant to (i), above]; and*
- (iii) *making recommendations to the commissioner of finance regarding the administration of each such rent increase exemption program, which may include recommendations for training appropriate department of finance staff members.*⁴

Today, the ombudsman positions are within the Office of the Taxpayer Advocate, which reports directly to DOF Commissioner Sherif Soliman.

In addition to establishing the ombudsman positions, NYC Administrative Code Section 11-137 requires DOF to submit an annual report to the New York City Council:

No later than October first of each year, the department of finance shall submit a report to the council for the prior fiscal year, indicating:

- (i) *the number and nature of inquiries received by the department of finance and the 311 citizen service center regarding the rent increase exemption programs;*

² Preliminary numbers; final recipient count for 2020 to be reported in the next *Report on the New York City Rent Freeze Program*.

³ The *Report on the New York City Rent Freeze Program* is published every three years. The 2018 report is the most recent; the next *Report* will be published at the end of 2021.

⁴ New York City Administrative Code § 11-137 (a)(1).

- (ii) *the number, nature, and resolution of comments and complaints received by the ombudspersons designated pursuant to paragraph one of subdivision a of this section regarding the rent increase exemption programs; and*
- (iii) *any recommendations made by any such ombudsperson to the commissioner of finance regarding the administration of such rent increase exemption programs.*

C. Operations of the Rent Freeze Program Ombudspersons

The ombudspersons primarily assist tenants with applying for, maintaining, or reinstating Rent Freeze Program benefits when they have been unable to resolve their issues through regular DOF channels. As required by the New York City Administrative Code, the ombudspersons' contact information is included on certain SCRIE and DRIE forms and notices, including those related to the denial of an application or its ensuing appeal, the revocation or termination of benefits, and the denial of a tenant's application to take over an existing benefit.

The ombudspersons can resolve inquiries swiftly and will refer matters unrelated to SCRIE and DRIE to the responsible units within DOF. When necessary, the ombudspersons will open a formal *case* to resolve difficult situations.

The total estimated dollar impact of the ombudspersons' casework in fiscal year 2021 is \$1,020,572.⁵ The ombudspersons worked on cases involving tenants in 50 of the city's 51 council districts. More information is available in Part III and Appendix I of this report.

D. Recent Regulatory Changes

On June 13, 2021, DOF promulgated new rules for the Rent Freeze Program, repealing and replacing the previous rules.⁶ The new rules provide more comprehensive and detailed guidelines regarding eligibility, the application process, the calculation of frozen rent amounts and tax credits, and the benefit takeover and redetermination processes. Notable provisions include:

- additional guidance as to what constitutes "income" for Rent Freeze purposes;
- a change in the calculation of tax abatement credits for tenants who pay a preferential rent and whose benefits began before June 14, 2019;
- a waiver of the Benefit Takeover Application requirement for spouses and domestic partners who were listed as household members on the original tenant's Rent Freeze applications; and
- a list of circumstances constituting a permanent income loss in the context of redetermination applications.

⁵ See Appendix I.

⁶ Section 52-01 of Title 19 of the Rules of the City of New York was repealed and replaced by a new Section 52-01. A link to the full text of the new rules is available at <https://rules.cityofnewyork.us/rule/32141/>.

Part II: Recommendations from the Current Reporting Period, Fiscal Year 2021

A. Interagency Data on Benefit Programs

Approximately 4% of Rent Freeze Program applicants (17 of 450) who requested assistance from the ombudspersons during the 2020-21 reporting period were enrolled in CityFHEPS, a rental assistance program administered by the Department of Social Services that helps individuals and families find and keep housing.

There is some overlap between the CityFHEPS and Rent Freeze programs. Applicants who meet the income requirements for CityFHEPS generally meet the Rent Freeze Program's income requirements as well.⁷ In addition, CityFHEPS approval can be based upon an applicant's residing in a rent-controlled apartment, which is consistent with the Rent Freeze Program's rule that only rent-regulated apartments are eligible.

The number of Rent Freeze Program participants enrolled in CityFHEPS may rise as a result of the enactment of Local Law 71 on June 27, 2021, which will make CityFHEPS available to a larger number of households across the city. CityFHEPS monthly voucher amounts, directly paid to a landlord housing eligible tenants, will increase from \$1,580 to \$1,951, thus increasing the number of qualifying apartments that eligible tenants can afford.

CityFHEPS assistance is included in the calculation of an applicant's income for purposes of determining Rent Freeze eligibility, but DOF relies on applicants to self-report this information. Direct electronic access to basic information regarding enrollment in other City benefit programs would make Rent Freeze income calculations more accurate while simplifying the income verification process for applicants, who currently must obtain and submit documentation of the benefits they are receiving.

Recommendation: Establish a DOF task force to explore the feasibility of accessing other New York City agencies' public benefits databases in order to incorporate certain City benefits, such as CityFHEPS, into the Rent Freeze Program application process.

⁷ For CityFHEPS eligibility, gross income must be below 200% of the federal poverty level. For 2021, 200% of the federal poverty level is \$25,760 for a one-person household, \$34,380 for a two-person household, and \$43,920 for a three-person household, all of which fall below the Rent Freeze Program's \$50,000 income ceiling and correspond with the average Rent Freeze household size of 1.5 members. (Figures based on federal poverty guidelines available at <https://aspe.hhs.gov/topics/poverty-economic-mobility/poverty-guidelines/prior-hhs-poverty-guidelines-federal-register-references/2021-poverty-guidelines>.) For more information on CityFHEPS, see generally, Title 68, Chapter 10 of the Rules of the City of New York.

B. Prior Application Requirement for Benefit Takeovers

A surviving or remaining tenant can take over the Rent Freeze benefit of a previous tenant who has died or permanently relocated. To do so, the successor tenant must submit a Benefit Takeover Application.⁸

The Benefit Takeover Application's list of eligibility requirements indicates that the successor tenant must have been named a household member in the prior tenant's Rent Freeze applications. This requirement confirms the successor's membership in the SCRIE or DRIE tenant's household and may help document their period of residence prior to the death of the tenant named on the lease.

If a benefit takeover applicant was not listed on the prior tenant's applications, DOF's current practice is to send a denial letter citing the applicant's absence from prior applications. The recipient may be unaware that DOF may approve a Benefit Takeover Application without this requirement if the addition of the successor tenant's income would not have impacted the household's Rent Freeze eligibility.

Of 505 Benefit Takeover Applications received during the reporting period, 53 were denied. Thirty-two of the 53 denials (60.37% of all denials and 6.3% of all applications) occurred because the applicant was not listed on the previous tenant's applications.⁹ No applicants denied for this reason filed appeals, and informal reconsiderations were requested in only three cases, all by experienced attorneys.

Recommendation: To ensure that every benefit takeover applicant is given sufficient opportunity to continue the household's Rent Freeze Program, as well as uphold the purposes served by the prior application requirement, the ombudspersons recommend:

- a) Reminding tenants on renewal applications of the importance of updating their list of household members, particularly because benefit takeover applicants must be named on prior applications.
- b) In cases where a benefit takeover applicant is not listed on the prior tenant's Rent Freeze applications but is otherwise eligible, the initial response should not be a denial letter. Instead, the response should request, for example, additional documentation to establish that the addition of the applicant's income in past applications would not have made the household ineligible to receive benefits.
- c) Explore legislative action that would allow a Rent Freeze Program benefit to be assigned to spouses or domestic partners jointly, so that an eligible surviving spouse or domestic partner could continue to receive the benefit.

⁸ As of June 13, 2021, the new DOF Rules for SCRIE and DRIE created an exception for spouses and domestic partners, who will not be required to submit a Benefit Takeover Application in certain cases. (See § 52-07(b)(2)(i) of Title 19 of the Rules of the City of New York.)

⁹ The reasons for the other 21 application denials were: age ineligibility (11), failure to complete the application (5), income ineligibility (2), not qualifying under DRIE requirements for disability (2), and the prior tenant's benefit having already been revoked (1). These figures are based on a manual count of Benefit Takeover Applications and a review of the documented outcomes.

C. Management/Owner Outreach

During the 2019-20 reporting period, the ombudspersons handled 69 cases or inquiries involving landlords who claimed that their tenants' rents were in arrears based upon the landlords' not having received the correct tax credit amount from DOF. In the 2020-21 reporting period, that number more than doubled to 171. Upon review, all of these cases and inquiries resulted from landlords misunderstanding either the effect of recent legislation on the Rent Freeze Program or the basics of the program itself. DOF's outreach during the reporting periods was designed for tenant applicants, rather than landlords or building management.

Recommendation: Hold Rent Freeze Program information sessions tailored to management companies and property owners. These sessions should cover such topics as the Landlord Express Access Portal, the Rent Freeze forms created for landlords, and landlords' obligations under the Rent Freeze Program.

D. Exploration of Rent Freeze Program Benefit Continuation

The ombudspersons will explore, together with the relevant DOF divisions, possible solutions in the following areas of the Rent Freeze Program:

a) Delayed SCRIE Benefit Takeover Based on Age Eligibility

The number of Benefit Takeover Applications submitted to DOF has increased significantly over the past two years.

During the 2019-20 reporting period, DOF received 113 Benefit Takeover Applications for the Rent Freeze Program. For the first six months of that period, the agency received an average of 5.17 applications per month; for the second half of the period, the number increased to 17.67. In the current reporting period, the number of Benefit Takeover Applications rose to 505, a 345.13% increase over the previous reporting period.¹⁰

Although the Rent Freeze Program does not request information regarding the cause of a tenant's death, the marked increase in Benefit Takeover Applications may reflect the elderly population's heightened susceptibility to COVID-19.

The Rent Freeze Program benefit takeover rules state that successor applicants must meet the program's eligibility requirements at the time of application, which is generally required to be within six months of the prior tenant's death or relocation. In the case of SCRIE, this includes the requirement that recipients be at least 62 years old. As of this reporting period, 17% of the spouses and partners of current Rent Freeze program recipients do not meet the age eligibility requirement.

¹⁰ Benefit Takeover Applications can be based on either the death or the permanent relocation of the primary tenant. The vast majority of these applications, however, are submitted due to the death of the tenant. Of the 505 Benefit Takeover Applications received during the 2020-21 reporting period, 501 were submitted following the death of a SCRIE or DRIE tenant.

For the families of successor tenants who are not eligible for DRIE and are not yet old enough to qualify for SCRIE, this can mean a significant increase in rent immediately upon the death or permanent relocation of the primary tenant. The successor tenant may apply for SCRIE upon reaching the required age, but at that point, the new frozen rent amount may be significantly higher than the previous one. The ombudspersons will explore with relevant DOF divisions how successor tenants who are not yet age eligible might preserve the benefit of SCRIE for their households until they reach age eligibility.

b) Redetermination Based on Long-Term Income Loss

During this reporting period, the ombudspersons received inquiries as to whether a frozen rent amount can be lowered for people who have lost income and wish to return to work, but see no possibility of earning their former income level. Many report having worked in a sector, such as the arts or the food service industry, that has been especially hard hit by the COVID-19 pandemic.

Under current Rent Freeze Program rules, tenants who have suffered a “permanent” loss of at least 20% of their income can submit an Application for Redetermination to request a lower frozen rent amount. The requirement that the income loss be “permanent” means that only Rent Freeze Program participants who can show that the change in income is based on the death or permanent move of a family member, a permanent disability, or a formal retirement are eligible for redetermination. By this criterion, Rent Freeze Program participants who cannot find work, but wish to continue working, are excluded from redetermination because their income loss cannot be considered “permanent.” Of the 387 Redetermination Applications reviewed during this reporting period, 63 (16.27%) were denied on the basis that the stated income loss was not permanent.

For tenants who lose a significant part of their income for an extended period, however, even the frozen rent amount can be a financial hardship, regardless of whether the loss is permanent. The ombudspersons will explore with relevant DOF divisions how redetermination could be approved in cases of long-term income loss that extends through multiple benefit cycles.

c) Deeming Eligibility for Contract-Based “Regulation”

The statutes governing the Rent Freeze Program state that only certain rent-regulated apartments are eligible for benefits.¹¹ During the reporting period, the ombudspersons received inquiries from not-for-profit organizations as to whether renters might be eligible for the Rent Freeze Program while living in non-rent-regulated apartments whose landlords are legally obligated to limit rent increases as if the apartments were regulated. In such “contract-based” situations, which sometimes arise when the landlord enters a binding agreement to settle a dispute, Rent Freeze Program benefits may be available to the tenant even though the apartment does not technically fall into the traditional categories of eligibility.¹² Currently, requests to have rent frozen in a contract-based rent-regulated apartment must be reviewed on a case-by-case basis by DOF’s Legal

¹¹ NY Real Property Tax Law § 467-b(1)(a) defines dwelling units that are rent-regulated as units subject to the Emergency Housing Rent Control Law, the Rent and Rehabilitation Law of the City of New York, or the Emergency Tenant Protection Act of 1974.

¹² The categories of eligible apartment units are rent-stabilized units, rent-controlled units, rent-regulated hotel units, Housing Development Fund Corporation (HDFC) Cooperative Shareholder apartments, and Mitchell-Lama apartments.

Affairs Division. During the review process, tenants and landlords are uncertain if their arrangement will be sufficient to render the apartment in question eligible for the Rent Freeze Program, which in turn may cause delays or become an obstacle to reaching a final agreement.

The ombudspersons will explore with relevant DOF divisions how apartments that are treated as rent-regulated by agreement between landlord and tenant may fall within the meaning of “rent-regulated” for purposes of determining SCRIE/DRIE eligibility.

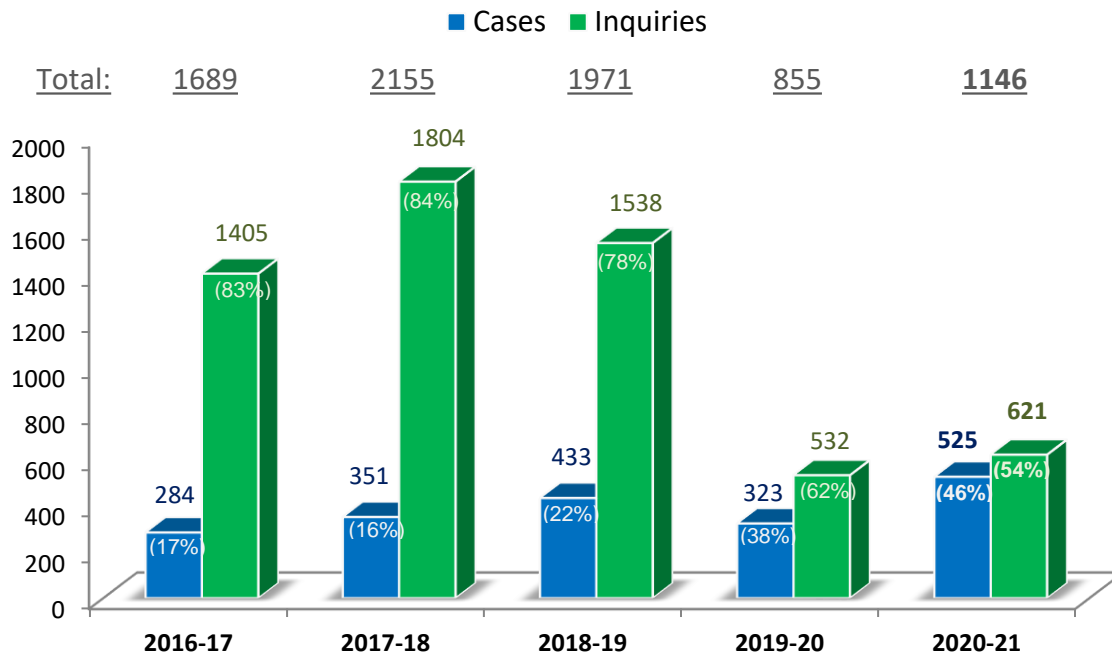
Part III. Rent Freeze Program Statistics for Fiscal Year 2021

a) Total Inventory of Cases and Inquiries

From July 1, 2020, through June 30, 2021, a total of 1,126 cases and inquiries were submitted to the ombudspersons, an increase of 34% from the previous year. SCRIE matters accounted for 73% of the ombudspersons’ workload this year, up slightly from 69% last year. Both cases and inquiries increased from last year, with cases at a five-year high. Cases comprised a larger share (46%) of the ombudspersons’ workload this year, an indication that the ombudspersons are reviewing more complex issues.

There is no single factor that provides a definitive explanation for the decrease in inquiries over the past two years compared to the previous three. The most likely factor was the DOF customer contact center, established in 2019, which serves as a frontline resource for Rent Freeze Program participants with simple questions who in previous years might have contacted the ombudspersons. The effects of COVID-19 and the corresponding public restrictions likely intensified this dynamic, as indicated by an additional 31% increase in the customer contact center’s volume.

SCRIE and DRIE Ombudsperson Total Workload by Fiscal Year

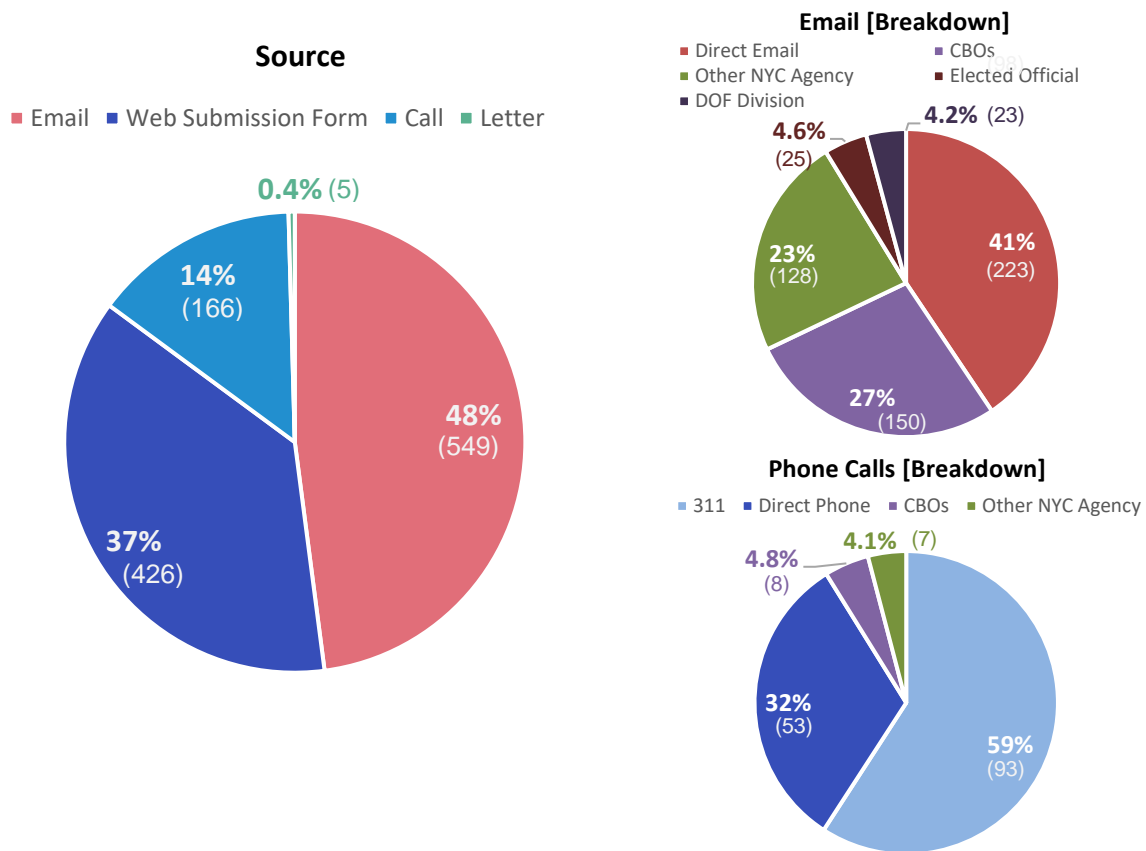


b) Cases and Inquiries by Source

The ombudspersons receive referrals through emails, online submissions (via the Rent Freeze website),¹³ phone calls, and letters, with email accounting for nearly half of all referrals in 2021. For this reporting year, the ombudspersons have begun tracking referrals by community-based organizations (CBOs).

The smaller charts on the right further detail the source of referrals received via emails and phone calls. Applicants are more likely to be redirected to the ombudspersons via a third party, rather than via direct contact. Nearly 60% of emailed inquiries and cases came from another DOF division or unit, a CBO, an elected official, or another City entity, particularly the Mayor’s Public Engagement Unit. Similarly, nearly 60% of calls were redirected from the customer contact center via 311.¹⁴ Less than one-third of inquiries and cases came via direct phone calls to the ombudspersons.

Total Cases and Inquiries by Source for Fiscal Year 2021



¹³ The ombudspersons began separately tracking submissions via the “contact us” pages at www.nyc.gov/finance in early 2020 and intend to disaggregate the web/email matter count in future annual reports.

¹⁴ The “311” category indicates calls directed to the ombudspersons by 311, which were, with very few exceptions, initiated by tenants and landlords. Likewise, the “Direct Phone” and “Direct Email” categories generally correspond to contact by Rent Freeze participants (both landlords and tenants). Calls or emails from CBOs on behalf of tenants were counted in the “CBOs” subcategory.

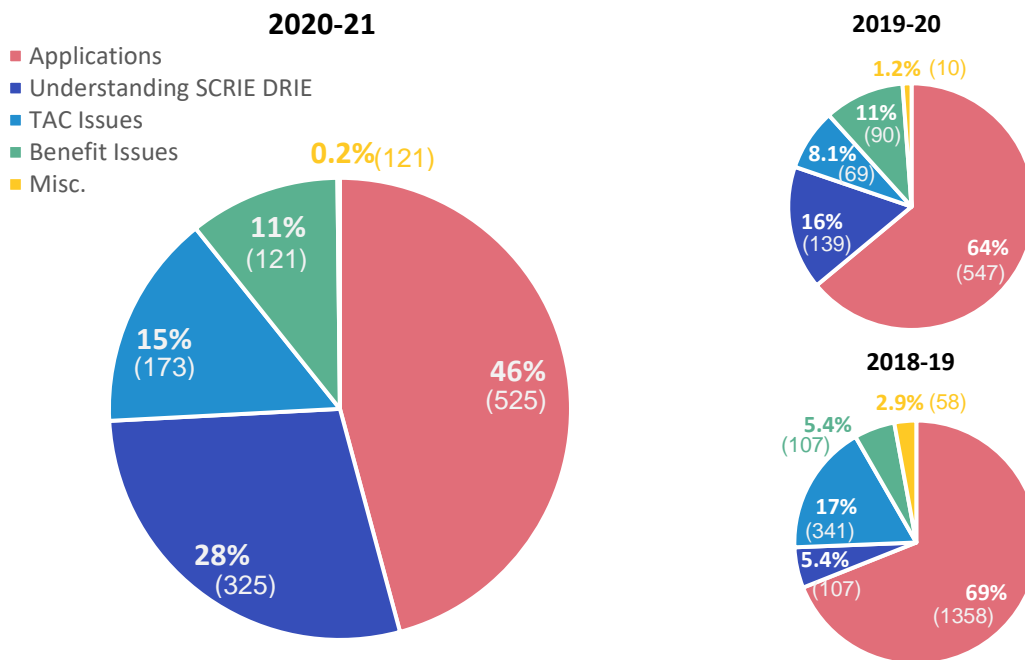
c) Cases and Inquiries by Subject Matter

The ombudspersons’ workload falls into five general categories: application procedures and processing, understanding the SCRIE and DRIE benefits, tax abatement credit (TAC) issues, benefit issues, and miscellaneous inquiries.¹⁵

Application processing questions remain the primary reason customers contact the ombudspersons each year, though this category has shrunk in proportion to the others. Among the cases and inquiries in the application processing category, more than 70% (368) required the ombudspersons to guide applicants through the application process, often by tracing documents or identifying and submitting the necessary documents to complete their applications, and explaining the process to the tenant. Approximately 70 other cases and inquiries required the ombudspersons to determine the current status of the customers’ initial, renewal, or appeal applications. The remaining cases and inquiries covered a range of more minor tenant requests, such as asking for materials to be mailed to them or resending a TAC report to their landlords.

The greatest change has been in the “Understanding SCRIE DRIE” category, which has increased nearly fivefold over the past three years. The increase is at least partly due to questions regarding changes in the Rent Freeze Program’s treatment of preferential rent under the New York State Housing Stability and Tenant Protection Act of 2019 (HSTPA), and how the Rent Guidelines Board’s June 17, 2020, rent increase order might affect SCRIE/DRIE benefits. Queries regarding the modification of renewal deadlines due to COVID-19 also increased in this reporting period.

Total Cases and Inquiries by Subject Matter by Fiscal Year

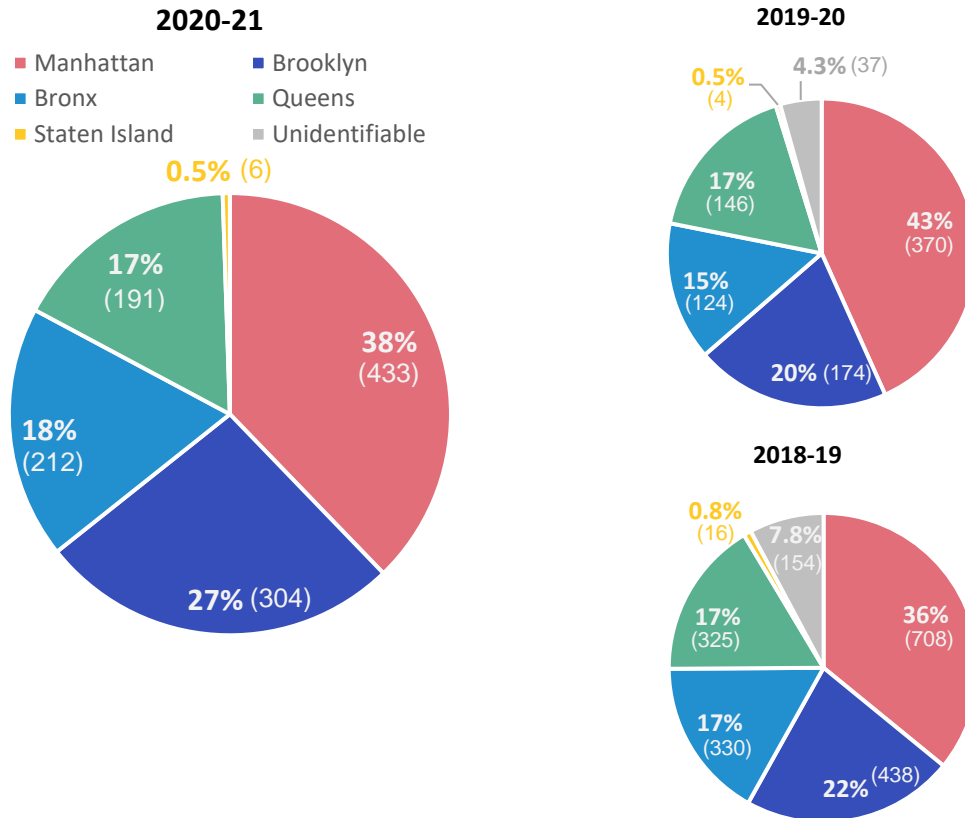


¹⁵ Miscellaneous inquiries generally involve matters outside the scope of the ombudspersons’ duties, or instances in which the tenant or tenant’s representative was unreachable after initial contact and the matter was closed without sufficient information to categorize the inquiry.

d) Cases and Inquiries by Borough

The chart below shows the percentage of the SCRIE and DRIE ombudspersons’ inquiries and cases by borough.¹⁶ The ombudspersons’ caseload was fairly consistent with the distribution of rent-regulated units in New York City’s five boroughs.¹⁷ Manhattan accounted for the most cases and inquiries, followed by Brooklyn, the Bronx, and Queens. The relative scarcity of rent-regulated units in Staten Island is likely reflected in the low volume of cases and inquiries from that borough.

Total Cases and Inquiries by Borough by Fiscal Year



¹⁶ Inquiries from persons outside of the five boroughs or where the tenant’s address was not provided were categorized as “unidentifiable” for purposes of this chart.

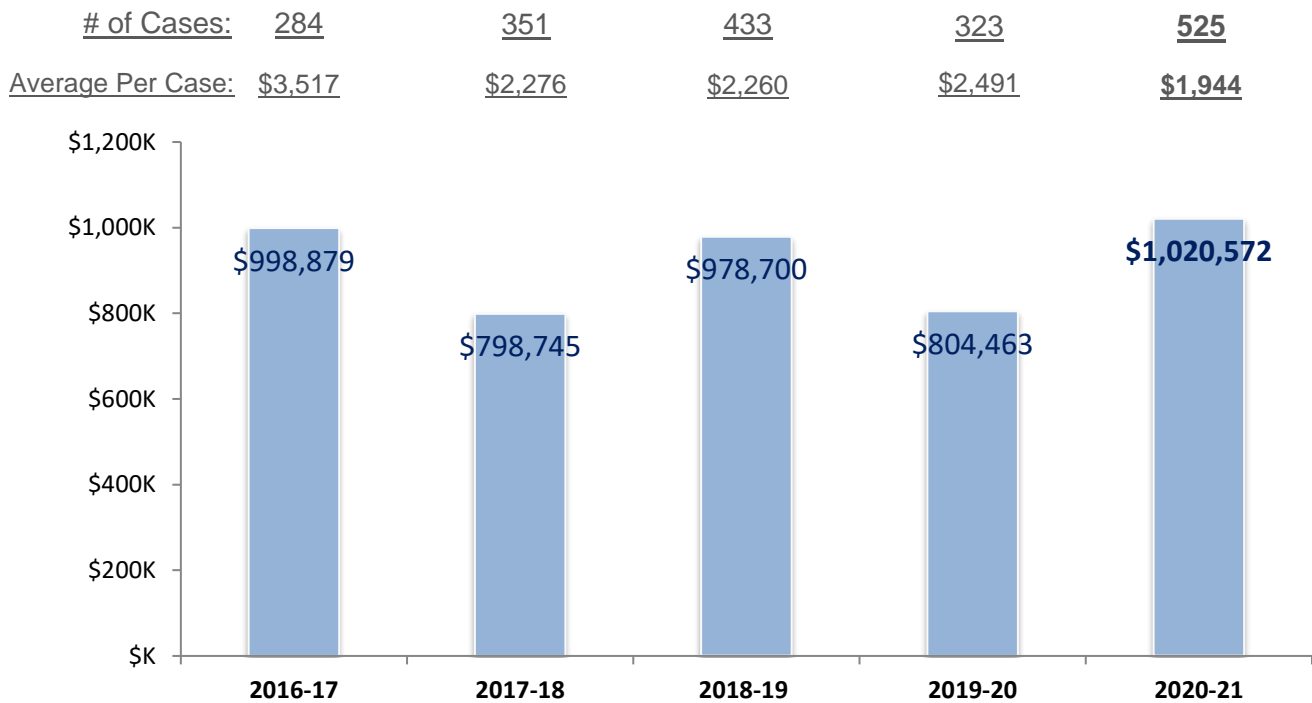
¹⁷ *2018 Report on the New York City Rent Freeze Program*: https://www1.nyc.gov/assets/rentfreeze/downloads/pdf/2018-scrie_drie_report.pdf

e) **Dollar Impact of Ombudspersons' Work**

The dollar impact of the ombudspersons' work can be measured by the increase in tax abatement credits (TAC) issued in connection with a SCRIE or DRIE matter resolved with the ombudspersons' intervention. The City provides landlords a TAC to offset the difference between the frozen rent and the legal rent; impact can thus be measured after cases are resolved. In the 2020-21 reporting period, the ombudspersons' dollar impact exceeded \$1 million for the first time.

This year, while the ombudspersons resolved the highest number of cases (525) since their positions were created, the average dollar impact per case (\$1,944) was lower than in previous years. This was due to an increase in cases that generated low or no TAC amounts, such as pre-submission cases or pending initial applications that would previously have been delivered in person to DOF business centers.¹⁸

Ombudspersons' Dollar Impact for Last Five Full Years



¹⁸ From July to December 2020, to alleviate the effects of the COVID-19 pandemic, the ombudspersons broadened the types of issues for which they provided assistance, to ensure any SCRIE/DRIE applicant who contacted the office would receive help.

Part IV. Ongoing Developments in the Rent Freeze Program

A. Late Renewals

In early 2020, DOF recognized that enforcement of the usual deadline for SCRIE/DRIE benefit renewal (within six months of the end of the existing benefit) could lead to widespread revocations, given the additional challenges brought about by the COVID-19 pandemic. DOF therefore placed a temporary moratorium on revocations based solely on failure to renew on time and, under guidance from the agency's Legal Affairs Division, granted recipients an additional six months to renew, beyond the initial six-month grace period. The additional six months, given on the basis of COVID-19 constituting "good cause," applied to benefits ending in December 2020 or later.¹⁹ The extension was granted automatically; eligible recipients were not required to request it.

As New York City emerges from the pandemic, the ombudspersons will continue discussions with OTA and DOF's Property, External Affairs, and Legal Affairs divisions regarding the processing of late renewals.

B. Short-Form Eligibility

Rent Freeze recipients who have been approved for benefits for at least five consecutive application periods are eligible to renew with a simple short-form application. Their eligibility to use the short-form application is confirmed via an automatic count performed by the Rent Freeze Program's database. The ombudspersons requested an examination of whether the automated count would include applicants who have had multiple revocations and reinstatements, as well as those who have submitted new initial applications while awaiting responses to an appeal. DOF's Finance Information Technology Division is reviewing the database's operation to ensure that the count operates as intended and does not exclude customers under the scenarios described above.

C. Landlord's Claims of Tenant Ineligibility

Under current Rent Freeze Program rules, a landlord can challenge a tenant's SCRIE or DRIE approval by claiming that the tenant is not eligible for benefits. The Rent Freeze Program notifies the tenant of the landlord's challenge by mail. The failure of the tenant to respond within a certain timeframe may cause the household's benefits to be terminated. Tenants who are traveling or hospitalized may not be able to respond in time to keep their benefits.

The ombudspersons believe that landlords should be required to provide convincing evidence of their tenants' ineligibility. Absent such evidence, they should be required to provide a notarized affidavit in order for their claim to move forward.²⁰ Tenants should have six months from the date of the mailed appeals notice to respond, subject to the usual bases for extensions of time. In addition, copies of all notices should be sent automatically to any tenant representatives on file.

¹⁹ Section 52-02(d)(1)(iv) of the new rules establishes that COVID-19 is "good cause" for delay, and therefore a sufficient basis for being granted an additional six months beyond the renewal grace period.

²⁰ Rent Freeze application processors already make such assessments when reviewing a tenant's evidence—for example, that a member of the household has relocated.

The Property Division regularly revises the Rent Freeze Program documents and is in the process of revising the landlord forms. The Property Division and the ombudspersons continue to discuss whether and how the principles described above might be incorporated into the form revisions.

D. Outreach by the Ombudspersons

At the direction of the Taxpayer Advocate, the ombudspersons have intensified their outreach efforts, both directly and through other organizations, with particular emphasis on reaching Rent Freeze Program participants whose access to information about the program has been limited due to COVID-19 restrictions.

The ombudspersons have been especially focused on developing partnerships with organizations that have a broad constituency and already provide housing assistance to their members. For example, the ombudspersons connected with the legal services group at a large public labor union that provides free housing assistance. As the union's housing program staff were already familiar with the Rent Freeze Program, the ombudspersons created a presentation that addressed more complex issues. Upon request, the ombudspersons followed the practitioners' event with a broader presentation open to all of the union's members. This presentation, intended for current and prospective Rent Freeze Program beneficiaries, provided information about the Rent Freeze Program and DOF while also highlighting the resources available through the union.

The ombudspersons intend to continue with this successful "two-tier" approach whenever possible: providing guidance on more complex and substantive Rent Freeze issues to those familiar with the program while presenting general information to current and prospective beneficiaries.

Part V: Success Stories

The following are some examples of the matters brought to a successful conclusion by the ombudspersons during the reporting period.

A. Reinstating a Lapsed SCRIE Benefit

A tenant had become increasingly unable to conduct her own affairs and failed to renew her SCRIE benefit. The landlord contacted the tenant's daughter to inform her that the tenant was in danger of being evicted because she had not been paying the entire rent amount. The tenant had been paying only her frozen rent (\$493.31) even after her SCRIE benefit had been revoked in 2018. The daughter submitted a new initial application on her mother's behalf, only to discover that the frozen rent based on the current lease was \$870.78, an amount which exceeded her mother's entire monthly income.

Only after contacting the ombudspersons did the daughter understand that her mother's benefit had been revoked for failure to renew. The daughter explained that as her mother lived alone, the gradual diminishment of her physical and mental capacities had gone unnoticed. The ombudsperson described the process of requesting an extension based on a physical or mental disability and contacted the landlord to explain the circumstances. The process of gathering medical documentation and Social Security benefit letters while offices were still mostly closed due to COVID-19 proved to be an additional challenge for the tenant.

The tenant was approved for an extension and submitted retroactive renewal applications. At that point, ten months had passed since the daughter had first contacted the ombudspersons. SCRIE retroactively reinstated the benefit and the original frozen rent of \$493.31 starting in 2018 and continuing through the tenant's current lease. Based on the retroactive reinstatement, the landlord was issued a total of \$19,487.76 in tax abatement credits, representing the total amount that SCRIE would have issued had the benefit not been revoked.

B. Retroactive Application and Benefit Takeover

A married couple had received SCRIE under the wife's name for several years, until she passed away. The husband, who suffered from several chronic illnesses, had difficulty submitting the necessary documentation to continue the SCRIE benefit under his own name. Two years after his wife's death, the applicant, now in his 80s, finally became the tenant of record (as required to take over his wife's benefit), but by then he had far exceeded the time allotted to submit a Benefit Takeover Application. His application was considered a new initial application and the frozen rent amount was reset.

The applicant's poor health, advanced age, and lack of computer access, in addition to COVID-19 restrictions, meant that compiling the application required an enormous effort. The ombudsperson advised the applicant to file a request for an extension to complete the Benefit Takeover Application. Fortunately, the request was approved. The applicant was able to photograph his documents on his mobile phone and forward them to the ombudsperson, who then compiled and reformatted each page and worked with DOF's Equal Employment Opportunity (EEO) Office

(which handles all requests for reasonable accommodations from Rent Freeze Program participants) and the Senior and Disabled Programs (SDP) Unit to ensure that the applicant met all Rent Freeze Program requirements. After nine months of this collaborative effort, the benefit takeover was retroactively approved from 2012, resulting in a total tax abatement credit of \$50,768.08.

C. Adjusting Credit Issue

A SCRIE tenant's son contacted the ombudspersons because the tenant's landlord claimed that the SCRIE credit had been miscalculated and that the tenant was responsible for paying the difference. The ombudsperson investigated and found that when the tenant renewed his SCRIE benefit the previous year, the landlord had not provided him with a copy of the lease. The tenant had submitted a Certification of No Renewal Lease with the renewal application, and DOF approved the renewal without a TAC amount. Unfortunately, neither the tenant nor the landlord updated DOF after finally signing the completed lease. This simple misstep resulted in the calculation of a new TAC amount and tension between the two parties. The ombudsperson communicated frequently with the tenant representative to obtain the proper paperwork and provided the documents to the SDP Unit's processing team. DOF approved the adjustment, resulting in a tax abatement credit of \$750.60.

D. Reconstructing a SCRIE Benefit

An attorney contacted the ombudsperson on behalf of her client, a former Rent Freeze tenant. The attorney was representing the tenant's spouse in a housing court proceeding against the tenant's landlord. A few years prior, the tenant and his spouse were displaced from their apartment when the landlord failed to make the repairs necessary to lift a vacate order by the New York City Department of Housing Preservation and Development.

Amidst the confusion of being displaced, conducting a lengthy court case against the landlord, and coping with ongoing medical issues, the couple could not locate their SCRIE documentation. Their attorney contacted the ombudsperson to request any information regarding the former benefit. The ombudsperson provided the attorney with a benefit history report and noted that the benefit had been revoked in 2019 due to failure to renew. The ombudsperson also informed the attorney of the possibility of a time extension based on medical reasons or other "good cause."

The attorney obtained a signed application and other documentation from her client and added a letter explaining the circumstances. After review by the EEO Office, an extension was granted. The SDP Unit then informed the tenant of the documents necessary for the reinstatement of the benefit. In the end, thanks to the efforts of the ombudsperson, the tenants' attorney, the EEO team, and the SDP Unit, the revocation was lifted and the benefit was reinstated as of 2019, with approval through the tenant's current lease. Based on the retroactive approval at the original frozen rent amount, the landlord was issued a total tax abatement credit of \$1,453.44 for the reinstated benefit period.

Part VI: DOF Actions on 2020 Recommendations

In their 2020 annual report, the ombudspersons made seven recommendations. The status of each recommendation is described below.

Recommendation 1: Coronavirus Aid and Its Effect on 2021 SCRIE/DRIE Recipients

DOF should make it clear to Rent Freeze applicants that Economic Impact Payments from the CARES Act and other special public benefits expressly given as temporary measures to combat the economic effects of COVID-19 will not be included in Rent Freeze household income calculations.

DOF Action:

After reviewing the legislation, IRS publications, and congressional guidance, DOF's Legal Affairs Division concluded that the CARES Act stimulus payment is not income for SCRIE/DRIE eligibility purposes because it is a credit against tax. Legal Affairs also concluded that unemployment benefits, including supplemental federal unemployment benefits, would be included as income for Rent Freeze Program purposes. Legal Affairs' findings regarding stimulus payments and unemployment benefits were provided as guidance to application processors in calculating applicant income.

Recommendation 2: Proof of Existing Preferential Rent

In conjunction with DOF's Legal Affairs Division, the Property Division should create a new formulation for calculating a tenant's frozen rent as it applies to the Rent Increase Exemption, if:

- *changes to the frozen rent amount based on HSTPA's provisions regarding preferential rent have led (or would lead) to an increase in the monthly rent currently charged by the landlord versus the rent paid immediately prior to HSTPA's effective date; and*
- *verifiable documentation provided to DOF confirms a regular lower monthly rent in existence prior to HSTPA but not recorded in a lease.*

DOF Action:

Section 52-12 of the recently promulgated Rules of the City of New York includes a provision stating that tenants with preferential rent and benefits that began prior to the HSTPA effective date could request that their TAC be calculated going forward as the difference between the preferential rent amount and the legal regulated rent amount. The efficacy of this provision is yet to be determined, given the short time that the new rules have been in effect.

Recommendation 3: Visual Guides

With any notice of missing income documents, DOF should send, electronically or by mail, images of sample documents to give tenants guidance as to what is required to complete the application.

DOF Action:

Together with DOF's External Affairs Division and Senior and Disabled Programs Unit, the ombudspersons produced a sample documents guide that will be accessible directly on the Rent Freeze website and via a QR code that will be provided on SCRIE and DRIE correspondence to tenants.

Recommendation 4: Application Receipt Confirmations

The current system of application confirmation should be reviewed. Applicants who mail in applications should be able to confirm receipt by DOF within a reasonable amount of time of delivery to the processing center. Online applications should generate an automatic email that says a file of a certain size or a certain number of pages has been received and will be placed in a queue for review by DOF. If possible, the confirmations should also state the average processing time on the date that the letter/email is sent.

DOF Action:

For mailed documents, the Property Division's current system sends the applicant one of three automated notices: an approval letter, a denial letter, or a request for additional documents. For submissions other than renewal applications, the response workflow is not automated, but applicants typically receive an initial determination within 10 business days, per the Property Division's service level agreement. For adjustments, there is no automatic acknowledgement process, as these are requests for amendment to an already processed application; however, these applications are also typically processed within 10 business days.

For emailed documents, the application processors currently acknowledge receipt via email. The Property Division is working to revise this response to clarify that applications and documents will need to be reviewed and processed before a determination can be made.

Recommendation 5: Notification of Missing Documents

DOF should explore ways for application processors to insert details into the autogenerated "missing documents" letter. If this is not practicable, DOF should create a means for applicants to easily access the specific information required to complete the application.

DOF Action:

This enhancement has been included in the Property Division's requests to the Finance Information Technology Division for future upgrades to the Rent Increase Exemption (RIE) database.

Recommendation 6: Automatic Income Verification

DOF should establish a Task Force to explore the feasibility, capacity, and potential costs of incorporating automatic income verification system (AIVS) technology into the Rent Freeze Program application process.

DOF Action:

A task force comprising representatives from multiple DOF divisions has convened to perform a comprehensive review of the issues surrounding the incorporation of AIVS into Rent Freeze application processing. The review will prioritize federal and state regulation of personal income tax information and compatibility with Rent Freeze Program rules and processes.

Recommendation 7: "Know Your Rights" Information Sessions for Tenants

DOF should include with their Rent Freeze materials a list of basic tenants' references to relevant City resources, such as the Tenant Hotline accessible through 311 and the Rent Freeze webpage.

DOF Action:

Over the past year, the ombudspersons have noticed a greater awareness of tenants' rights resources, particularly due to efforts by the Mayor's Office. The ombudspersons are exploring ways to connect Rent Freeze applicants to resources available via the Mayor's Office and other tenant support resources. The ombudspersons are also working with DOF's webmaster to include relevant tenant resource links on the Rent Freeze website.

APPENDIX I

Ombudspersons' Case and Inquiry Dollar Impact by City Council District

District/ Council Member		Number of Inquiries				Number of Cases					\$ Impact				
		2017-18	2018-19	2019-20	2020-21	2016-17	2017-18	2018-19	2019-20	2020-21	2016-17	2017-18	2018-19	2019-20	2020-21
1	M. Chin	29	25	14	11	5	12	11	6	14	\$6,646	\$34,646	\$454	\$13,558	\$52,219
2	C. Rivera	51	41	24	21	12	13	19	11	20	\$45,147	\$63,058	\$18,604	\$9,610	\$12,333
3	C. Johnson	47	49	32	37	12	10	23	18	32	\$22,194	\$1,316	\$53,583	\$98,304	\$45,105
4	K. Powers	40	43	24	19	9	8	7	14	21	\$14,694	\$14,786	\$25,908	\$32,662	\$16,737
5	B. Kallos	68	58	35	20	15	15	17	13	18	\$47,194	\$25,300	\$26,074	\$14,278	\$37,265
6	H. Rosenthal	62	56	20	26	15	13	18	10	18	\$61,619	\$15,581	\$49,291	\$20,210	\$54,240
7	M. Levine	84	62	16	23	6	21	22	18	14	\$61,463	\$12,761	\$86,218	\$43,037	\$79,107
8	D. Ayala	17	18	6	9	6	4	3	4	7	\$5,279	\$2,577	\$26,357	\$2,415	\$11,016
9	B. Perkins	62	50	15	15	10	9	10	15	14	\$39,075	\$20,250	\$17,561	\$11,523	\$26,082
10	Y. Rodriguez	144	129	44	57	31	29	46	24	45	\$128,988	\$119,052	\$172,294	\$104,985	\$108,004
11	E. Dinowitz	51	53	9	19	7	7	12	10	6	\$24,223	\$13,407	\$3,095	\$31,271	\$3,382
12	K. Riley	14	15	8	12	3	0	6	7	5	\$0	\$0	\$7,577	\$4,179	\$26,591
13	M. Gjonaj	11	22	7	10	0	2	5	3	10	\$0	\$9,175	\$5,826	\$10,951	\$22,933
14	F. Cabrera	56	47	18	31	8	10	12	10	20	\$24,036	\$12,938	\$8,866	\$38,883	\$32,551
15	O. Feliz	43	47	5	11	11	9	9	8	11	\$36,980	\$6,054	\$32,697	\$31,575	\$7,319
16	V. Gibson	38	32	12	18	9	10	18	8	13	\$24,295	\$8,061	\$43,317	\$11,695	\$30,776
17	R. Salamanca Jr.	18	13	3	6	3	4	4	4	10	\$6,272	\$39,094	\$6,338	\$3,675	\$6,180
18	R. Diaz, Sr.	24	30	6	8	2	6	7	2	8	\$862	\$872	\$11,922	\$22,314	\$7,342
19	P. Vallone	7	9	1	5	2	0	3	2	3	\$20,917	\$0	\$0	\$0	\$5,010
20	P. Koo	38	30	7	9	1	7	17	11	13	\$7,036	\$15,298	\$25,014	\$34,181	\$10,728
21	F. Moya	28	19	6	6	7	6	9	8	4	\$26,058	\$1,770	\$22,040	\$10,411	\$21,577
22	[Vacant]	13	10	4	6	2	3	4	8	5	\$22,880	\$0	\$1,447	\$6,737	\$24,641
23	B. Grodenchik	16	5	9	6	4	6	3	6	10	\$2,269	\$4,339	\$39,261	\$28,439	\$22,297

District/ Council Member	Number of Inquiries				Number of Cases					\$ Impact					
	2017-18	2018-19	2019-20	2020-21	2016-17	2017-18	2018-19	2019-20	2020-21	2016-17	2017-18	2018-19	2019-20	2020-21	
24	J. Gennaro	25	24	6	12	3	7	6	5	3	\$507	\$28,230	\$2,413	\$21,018	\$2,629
25	D. Dromm	60	27	6	10	6	14	12	5	6	\$21,799	\$37,295	\$32,935	\$3,678	\$13,675
26	J. Van Bramer	35	23	7	11	8	3	11	9	8	\$16,645	\$146	\$4,163	\$21,956	\$13,298
27	I. D. Miller	13	4	1	4	2	0	1	3	6	\$519	\$0	\$5,539	\$528	\$7,322
28	A. Adams	3	0	1	1	3	3	0	0	0	\$10,267	\$0	\$0	\$0	\$0
29	K. Koslowitz	56	56	21	18	5	9	19	9	17	\$11,834	\$20,874	\$46,583	\$39,642	\$28,303
30	R. Holden	7	14	2	2	3	5	1	0	2	\$6,886	\$3,525	\$0	\$0	\$3,584
31	S. Brooks-Powers	9	4	2	6	0	1	1	2	6	\$0	\$0	\$0	\$1,300	\$6,088
32	E. Ulrich	7	12	1	5	0	2	2	1	2	\$0	\$0	\$2,730	\$1,170	\$2,038
33	S. Levin	27	16	6	6	1	6	3	4	8	\$1,591	\$8,543	\$1,068	\$21,244	\$7,801
34	A. Reynoso	13	30	6	10	4	3	6	5	9	\$0	\$9,262	\$9,980	\$13,614	\$6,377
35	L. Cumbo	32	24	15	11	9	16	2	6	12	\$25,720	\$37,308	\$0	\$10,859	\$11,259
36	R. Cornegy Jr.	17	9	2	3	5	1	2	5	10	\$1,340	\$0	\$0	\$2,763	\$18,062
37	D. V. Diaz	6	13	3	6	1	3	3	3	9	\$327	\$512	\$2,419	\$965	\$4,853
38	C. Menchaca	18	13	5	3	1	4	6	0	4	\$1,692	\$449	\$12,686	\$0	\$1,773
39	B. Lander	21	19	8	12	5	2	3	3	18	\$3,010	\$0	\$0	\$1,247	\$26,921
40	M. Eugene	126	52	17	25	6	17	8	12	24	\$24,177	\$87,422	\$19,297	\$27,185	\$43,688
41	A. Ampry-Samuel	31	25	8	14	5	5	10	5	10	\$26,787	\$1,310	\$19,685	\$16,339	\$2,581
42	I. Barron	13	12	5	4	0	5	3	3	2	\$0	\$7,140	\$13,259	\$4,824	\$1,291
43	J. Brannan	23	31	10	7	5	3	4	4	5	\$27,430	\$1,030	\$448	\$2,345	\$3,640
44	K. Yeger	22	26	3	8	4	4	10	1	6	\$28,873	\$7,345	\$45,029	\$1,382	\$22,255
45	F. Louis	35	23	6	18	3	5	8	2	15	\$13,290	\$134	\$10,383	\$912	\$49,989
46	A. Maisel	1	0	2	4	1	0	0	0	5	\$0	\$0	\$0	\$0	\$21,329
47	M. Treyger	27	16	4	8	6	13	7	2	3	\$31,019	\$56,575	\$45,768	\$8,763	\$17,075
48	[Vacant]	53	42	11	20	14	14	11	9	9	\$94,253	\$51,184	\$15,814	\$17,836	\$36,580
49	D. Rose	6	4	0	0	0	0	1	0	1	\$0	\$0	\$0	\$0	\$407

District/ Council Member		Number of Inquiries				Number of Cases					\$ Impact				
		2017-18	2018-19	2019-20	2020-21	2016-17	2017-18	2018-19	2019-20	2020-21	2016-17	2017-18	2018-19	2019-20	2020-21
50	S. Matteo	7	9	4	1	4	2	2	0	3	\$22,787	\$20,124	\$4,757	\$0	\$4,320
51	J. Borelli	1	0	0	0	0	0	0	0	0	\$0	\$0	\$0	\$0	\$0
	N/A*	149	147	45	7	0	0	6	5	1	\$0	\$0	\$0	\$0	\$0
	Total	1804	1538	532	621	284	351	433	323	525	\$998,880	\$798,745	\$978,700	\$804,463	\$1,020,572

*Inquiries from persons outside of the five boroughs or where the tenant's address was not provided were categorized as "N/A" for purposes of this chart.

APPENDIX II

Glossary of Terms

Appeal: A request, submitted on the DOF Application for Appeal, for reconsideration of a DOF determination. Most often, appeals ask for reexamination of denied Rent Freeze applications or revoked Rent Freeze benefits.

Benefit Takeover Application: An application to take over the benefit of a Rent Freeze Program beneficiary who has died or permanently vacated the apartment.

DOF: The New York City Department of Finance.

Frozen Rent: The amount of reduced rent, set in accordance with the applicable Rent Freeze Program laws, that the tenant must pay to the landlord.

HSTPA: The New York State Housing Stability and Tenant Protection Act of 2019.

Legal Rent: The maximum rent that a landlord can charge a tenant for a rent-regulated unit.

MCI: Major capital improvement, an increase authorized by DHCR to compensate a landlord for the cost of building-wide renovations.

Preferential Rent: The New York State Division of Homes & Community Renewal defines “preferential rent” as a rent that an owner agrees to charge that is lower than the legal regulated rent the owner could lawfully collect.

Property Tax Credit: A payment for a property owner that covers part of the previous year’s real-property taxes.

Reasonable Accommodation: Applicants who need a reasonable accommodation in order to access benefits available under the Rent Freeze Program. Such applications are referred to the Department of Finance’s disability service facilitator.

Redetermination: An application for a redetermination of the tenant’s frozen rent amount after a permanent loss of 20% or more of the tenant’s combined household income as compared to the income reported in the tenant’s last approved application.

RIE: The processing database of record for SCRIE and DRIE applications.

SDP Unit: The Senior and Disabled Programs Unit is responsible for administering the Rent Freeze Program.

TAC: Tax abatement credit; the amount credited on a landlord’s property tax bill in accordance with the SCRIE or DRIE program.

Tenant Representative: A person designated by a tenant to receive copies of all SCRIE or DRIE notices sent to the tenant. A tenant representative can assist the tenant with the application process.