

EXPLANATORY STATEMENT - HOTEL ORDER #48

Explanatory Statement and Findings of the Rent Guidelines Board In Relation to 2018-19 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 48, Effective October 1, 2018 through and including September 30, 2019.¹

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 the Rent Act of 2015, it is the responsibility of the Rent Guidelines Board to establish guidelines for hotel increases. Hotel Order Number 48, adopted on June 26, 2018, applies to stabilized hotel units occupied by non-transient tenants.

Hotel Order Number 48 provides for an allowable increase of **0%** over the lawful rent actually charged and paid on September 30, 2018 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 48. In the 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:

¹ 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.

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.

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 8; April 5, 12 and 19; and May 24, 2018 following public notices. On April 26, the Board adopted proposed rent guidelines for hotels, apartments, and lofts.

Five public hearings were held on June 7, June 11, June 13, June 19, and June 21, 2018 to hear comments on the proposed rent adjustments for rent stabilized hotels and apartments. The hearings were held from 5:40 p.m. to 9:20 p.m. on June 7, 5:20 p.m. to 10:00 p.m. on June

11, 5:05 p.m. to 8:15 p.m. on June 13, 4:10 p.m. to 8:00 p.m. on June 19, and from 5.25 p.m. to 8:30 p.m. on June 21. The Board heard testimony from approximately six hotel tenants and tenant representatives, no hotel owners, and one public official. In addition, the Board's office received approximately five written statements from tenants and tenant representatives, no hotel owners, and one public official. On June 26, 2018, the guidelines set forth in Hotel Order Number 48 were adopted.

Selected Oral and Written Testimony from Tenants and Tenant Groups:

- “Last year the Board voted for a 0% rent increase for SROs. The basic economic realities of SRO tenants and owners have not changed in the last 12 months. Mobilization for Justice therefore supports the position that the Board should decline to approve a rent increase for 2018-2019.”
- “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. When we testified before this body last year, over 60,000 people in New York City were sleeping in homeless shelters each night. Unfortunately, this grim statistic remains unchanged. SRO tenants are amongst New York City's poorest residents, and a rent increase for SROs would likely push more of these tenants out of their homes and into the shelter system.”
- “The majority of SRO tenants live below the poverty line. They pay a disproportionate percentage of the little income they have toward rent. Since the mid-1990s, SRO tenants' rent burdens have actually increased as rent increases have far outstripped income growth. The average SRO tenant now pays around 50% of his/her income toward rent and approximately one-quarter to one-third pay in excess of 70%. This situation is largely a consequence of the fact that SRO tenants, already positioned at the bottom of the housing market, cannot relocate in response to rent increases, and can seldom afford to upgrade to a full studio or apartment.”
- “Tenants in my building have been through much over the years but we have endured. In part, this has been due to the RGB granting zero or modest increases with provisos, thereby keeping our rents affordable.”
- “I could talk to you about the beauty of the form of life, and a form of apartment living in New York that is fast diminishing and disappearing, but that we still call home. We recognize that our landlords are the owners of our buildings, but these are our homes and we are fighting for them. And, so I guess my point is to simply say, thank you for the years that you have voted for a zero percent increase and for proposing the same this year. We truly appreciate it.”

Selected Oral and Written Testimony from Owners and Owner Groups:

- “For whatever reason over the last years the Rent Guidelines Board has decided that, except for three specific years where there were increases permitted with the proviso that the tenant reps talked about, to give a zero percent increase. Now, from an owner perspective, I can tell you that if you have an SRO and year after year you're going to get a 0% increase, you should not be surprised that the result from the owner community is going to be warehousing,

looking for government contracts, looking for colleges. If you would have had the same policy towards the apartment, that sector of the market, you'd see the same thing.”

– “In prior years, the proviso that the tenant reps referred to was included whenever the Board granted an increase, and I think that’s not a bad idea. There should be an attempt, because of what’s going on in the market and the perceived abuses, for the Board to distinguish between SRO owners, hotel owners, that are operating legally and those that are not operating legally.”

– “With respect to any specific proposal, I think the Board should permit an increase to SRO unit owners on new leases. They should permit a vacancy increase. They should recognize the fact that they two types of housing we’re operating legally are basically the same, basically should be treated similarly, and the disparate treatment which has been the mark of the Board for so many years should stop.”

Selected Oral and Written Testimony from Public Officials:

– “Finally, I thank the Board for maintaining SRO rents at the level of 0% increase for another year, which extends protection to this particularly vulnerable population of rent-stabilized tenants.”

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 *2018 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 19, 2018. Guest speakers representing hotel tenants included Lana L. Pelletier McCrea, from the Goddard-Riverside SRO Law Project, Brian Sullivan from Mobilization for Justice, Inc., and Larry Wood from the Goddard Riverside Law Project. Attorney Solomon Borg represented hotel owners 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. *2018 Mortgage Survey Report*, April 2018 (An evaluation of recent underwriting practices, financial availability and terms, and lending criteria);
2. *2018 Income and Affordability Study*, April 2018 (Includes employment trends, housing court actions, changes in eligibility requirements and public benefit levels in New York City);

3. *2018 Price Index of Operating Costs*, April 2018 (Measures the price change for a market basket of goods and services which are used in the operation and maintenance of stabilized hotels);
4. *2018 Housing Supply Report*, May 2018 (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 2017*, May 2018 (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.nyc.gov/rgb, and are also available at the RGB offices, 1 Centre St., Suite 2210, 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 rent stabilized Hotels. The three categories of hotels are: 1) "traditional" hotels — a multiple dwelling that 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 rent stabilized Hotels increased 3.9% this year, a 2.4 percentage point difference from the 6.3% rise in 2017. It is important to note that the Hotel PIOC was not reweighted using the most current Real Property Income and Expense (RPIE) data. However, in order to maintain symmetry between indices, the expense items were aligned to the seven components now used in the Apartment PIOC. The realignment of the hotel expenditure items had no impact on the change in the overall PIOC, which would have remained 3.9% if the old alignments were used.

This year there were increases in all seven of the PIOC Hotel components. The Fuel component witnessed the highest increase, rising 15.1%. The Fuel component accounts for nearly 14% of the entire Hotel Index. The remaining six components witnessed more moderate cost increases, with Labor Costs rising 4.0%, Maintenance 3.8%, Insurance Costs 3.3%, Taxes 1.3%, Utilities 1.2% and Administrative Costs 0.3%. See the table on the next page for changes in costs and prices for all rent stabilized hotels from 2017-2018.

Among the different categories of Hotels, the index for "traditional" hotels increased 1.9%, Rooming Houses by 6.0%, and SROs by 5.5%.

**Percent Change in the Components of the Price Index of Operating Costs
March 2017 to March 2018, By Hotel Type and All Hotels**

Item Description	All Hotels	Hotel	Rooming House	SRO
TAXES	1.3%	-1.4%	5.8%	3.9%
LABOR COSTS	4.0%	3.8%	4.0%	4.3%
FUEL	15.1%	14.5%	18.9%	14.9%
UTILITIES	1.2%	0.4%	2.8%	0.7%
MAINTENANCE	3.8%	3.8%	3.6%	3.3%
ADMINISTRATIVE COSTS	0.3%	-0.1%	1.5%	1.1%
INSURANCE COSTS	3.3%	3.3%	3.3%	3.3%
ALL ITEMS	3.9%	1.9%	6.0%	5.5%

Source: 2018 Price Index of Operating Costs

Changes in Housing Affordability

Preliminary results from the 2017 Housing and Vacancy Survey were released in February of 2018, and showed that the vacancy rate for New York City is 3.63%. Approximately 44% of renter households in NYC are rent stabilized, with a vacancy rate of 2.06%. The survey also shows that the median household income in 2016 was \$44,560 for rent stabilized tenants, versus \$47,200 for all renters. The median gross rent for rent stabilized tenants was also lower than that of all renters, at \$1,375 versus \$1,450 for all renters. And rent stabilized tenants saw a median gross rent-to-income ratio of 36.0% in 2017, compared to 33.7% for all renters.²

Looking at NYC's economy during 2017, it showed many strengths as compared with the preceding year. Positive indicators include growing employment levels, which rose for the eighth consecutive year, increasing 1.9% in 2017.³ The unemployment rate also fell, declining by 0.7 percentage points, to 4.5%, the lowest level recorded in at least the last 42 years.⁴ Gross City Product (GCP) also increased for the eighth consecutive year, rising in inflation-adjusted terms by 2.4% in 2017.⁵ The number of non-payment filings in Housing Court fell by 0.4%,⁶ and the evictions fell by 4.6%.⁷ There was also a decrease in cash assistance caseloads of 1.1%, while SNAP caseloads fell 1.5% and Medicaid enrollees fell 10.6%.⁸

Negative indicators include the ninth consecutive year of increase in homeless levels, which rose to an average of 59,467 persons a night, an increase of 1.2% over 2016 levels.⁹ Inflation is

² "Selected Initial Findings of the 2017 New York City Housing and Vacancy Survey." NYC Department of Housing Preservation and Development. February 9, 2018.

³ NYS Dept. of Labor; <http://www.labor.state.ny.us>; Data accessed March 2018. Data is revised annually and may not match data reported in prior years.

⁴ NYS Dept. of Labor; <http://www.labor.state.ny.us>; Data accessed March 2018. Data is revised annually and may not match data reported in prior years.

⁵ Data from the NYC Comptroller's Office as of March, 2018. GCP figures are adjusted annually by the New York City Comptroller's Office. The figures in this report are the latest available estimate from that office, based on inflation adjusted 2009 chained dollars.

⁶ Civil Court of the City of New York data.

⁷ NYC Department of Investigation, Bureau of Auditors data.

⁸ New York City Human Resources Administration. HRA Charts: <http://www.nyc.gov/html/hra/html/facts/charts.shtml>

⁹ Data from the Policy & Planning Office of the NYC Dept. of Homeless Services (DHS), DHS daily reports, and monthly Citywide Performance Reporting reports. Note that the NYC Department of Housing Preservation and Development, the NYC

growing at a faster pace, with a 2.0% increase during 2017, compared to 1.1% during 2016.¹⁰ The number of calendared cases in Housing Court also rose, increasing 9.0%, while personal bankruptcy filings rose 12.4%.¹¹

In addition, inflation-adjusted wages remained flat during the most recent 12-month period for which data is available (the fourth quarter of 2016 through the third quarter of 2017), rising just 0.03% over the corresponding time period of the prior year, although rising 2.0% in current dollars.¹²

The most recent numbers, from the fourth quarter of 2017 (as compared to the fourth quarter of 2016), show many positive indicators, including cash assistance levels down 2.6%; SNAP recipients down 3.5%; employment levels up 1.7%, the unemployment rate down 0.7 percentage points; homeless rates down 0.01%; and GCP rising, by 1.2% in real terms. At the same time, the number of cases heard in Housing Court were up 0.3%¹³ and the number of non-payment filings in Housing Court were up 0.4%.¹⁴

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 2010.

Percentage Changes in the Consumer Price Index for the New York City - Northeastern New Jersey Metropolitan Area, 2010-2018 (For "All Urban Consumers")									
	2010	2011	2012	2013	2014	2015	2016	2017	2018
1st Quarter Avg. ¹⁵	2.1%	2.0%	2.7%	2.1%	1.4%	-0.2%	0.7%	2.5%	1.6%
Yearly Avg.	1.7%	2.8%	2.0%	1.7%	1.3%	0.1%	1.1%	2.0%	NA

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 *2018 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*.

Department of Youth and Community Development, and the NYC Human Resources Administration also operate emergency shelters, which house approximately 5,000 persons per night.

¹⁰ Bureau of Labor Statistics; <http://www.bls.gov>; Data accessed March, 2018.

¹¹ Civil Court of the City of New York data.

¹² NYS Dept. of Labor; <http://www.labor.state.ny.us>; Data accessed March 2018. Data is revised annually and may not match data reported in prior years.

¹³ This data is obtained from the Civil Court of the City of New York, which cannot provide exact "quarterly" data. The Court has 13 terms in a year, each a little less than a month long. This data is for terms 10-13, which is from approximately the middle of September through the end of the year. It is compared to the same period of the prior year.

¹⁴ See Endnote 13.

¹⁵ 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.

2018 Mortgage Survey¹⁶
Average Interest Rates and Points for
New and Refinanced Permanent Mortgage Loans 2009-2018

New Financing of Permanent Mortgage Loans, Interest Rate and Points										
	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Avg. Rates	6.5%	6.3%	5.8%	4.6%	4.4%	4.9%	4.3%	4.0%	4.3%	4.8%
Avg. Points	0.62	0.79	0.61	0.63	0.59	0.54	0.70	0.42	0.44	0.44
Refinancing of Permanent Mortgage Loans, Interest Rate and Points										
	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Avg. Rates	6.5%	6.3%	5.7%	4.7%	4.4%	4.9%	--*	--*	--*	--*
Avg. Points	0.62	0.83	0.61	0.63	0.40	0.50	--*	--*	--*	--*

Source: 2009–2018 *Annual Mortgage Surveys*, RGB.

* Questions specific to refinancing are no longer asked on the survey.

SRO Housing and Airbnb Rentals

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” from HPD. Following a small decrease of 1.8% in 2016, the number of approved certificates fell again in 2017, from 162 in 2016 to 92 in 2017, a decrease of 43.2%.¹⁷

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 fewer than 30 days.¹⁸ Governor Cuomo signed a bill in October of 2016 that further increased the fine for illegally advertising short-term rentals to as much as \$7,500.¹⁹

Between May of 2011 and April of 2018, 13,087 violations were issued to illegal hotel operators (including private apartments, hostels, and SROs). This includes 3,550 violations issued between May, 2017 and April, 2018), an increase of 99.2% over the same time period of the prior year.²⁰

The effect of Airbnb, a company which facilitates short-term and vacation rentals worldwide, continues to be studied by various City agencies and interest groups. A study published in January of 2018 analyzed Airbnb activity in the New York City metro region for the time period of September 2014 through August 2017. Among that report’s key finding, the researchers found that just over half of all listings (accounting for two-thirds of all revenue) were likely from

¹⁶ 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.

¹⁷ NYC Department of Housing Preservation and Development.

¹⁸ 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.

¹⁹ “Cuomo signs bill that deals huge blow to Airbnb,” New York Post, October 21, 2016.

²⁰ Office of the Criminal Justice Coordinator, Mayor’s Office of Special Enforcement. Inclusive of data through April 30, 2018.

illegal listings. The report also found that between 7,000 and 13,500 units of housing have been removed from the New York City permanent rental market and by reducing the housing supply, the median rent in New York City increased by 1.4% more over three years than it would have absent the effect of Airbnb.²¹

An April 2018 report from the NYC Comptroller’s Office analyzed rent data from the Census Bureau’s annual American Community Survey from 2009 through 2016 and used a regression analysis to estimate the effect that Airbnb had on rents. While there were Airbnb listings in every neighborhood of NYC, half the listings in 2016 were concentrated in just seven neighborhoods of Manhattan and Brooklyn. In these seven neighborhoods, the average monthly rent rose from between 21.4% and 62.6% between 2009 and 2016, and anywhere from 10.7% to 21.6% of this increase was attributed to the effect of Airbnb removing units from the permanent rental housing stock. On the whole, the report found that for each one percent of housing units listed on Airbnb, rents in the neighborhood rose 1.58%. The report attributes 9.2% of the citywide increase in rental costs between 2009 and 2016 to Airbnb, or an additional \$616 million in rent.²²

OTHER RELEVANT INFORMATION

The NYS Division of Housing and Community Renewal released a memo to the Board dated April 11, 2018 in which they outline information from their registration database relating to Hotels/SROs/Rooming Houses. The following is an excerpt from that memo (Pages 3-4):

10. What is the total number of SRO/Hotel units registered with the DHCR in 2017? How many of these units are rent stabilized? How many are temporarily and permanently exempt? How many are registered as transient? How many as vacant?

Rent Stabilized Units	10,872
Vacant Units	1,113
Temporary Exempts Units	4,171
*of these 2,778 are Transient Units	
Permanent Exempt Units	313
Total Number of Units	16,469

11. What is the total number of SRO/Hotel units registered with the DHCR on an annual basis from 2009-2017?

- **In 2009 the total number of units registered was 22,250**
- **In 2010 the total number of units registered was 22,587**
- **In 2011 the total number of units registered was 22,254**
- **In 2012 the total number of units registered was 21,473**
- **In 2013 the total number of units registered was 17,792**
- **In 2014 the total number of units registered was 18,787**
- **In 2015 the total number of units registered was 18,322**

²¹ “The High Cost of Short-Term Rentals in New York City.” McGill University, January 30, 2018.

²² “The Impact of Airbnb on NYC Rents.” NYC Comptroller’s Office, April 2018.

- **In 2016 the total number of units registered was 13,175 and**
- **In 2017 the total number of units registered was 11,846**

12. What is the average and median rent for rent stabilized SRO/Hotel units in 2017?

- **The average rent stabilized rent in buildings due to SRO/Hotel is \$1,793; the median rent is \$1,158.**

On May 31, 2018, staff released a memo to the Board analyzing hotel data contained in the NYS Division of Housing and Community Renewal’s 2016 and 2017 apartment and building registration databases. Below is the memo in its entirety.

Since 2007, Rent Guidelines Board staff has periodically²³ analyzed registration data²⁴ filed with New York State Homes and Community Renewal (HCR) by owners of hotels and rooming houses.²⁵ This memorandum sets forth staff’s most recent analysis, which includes data on rent levels for rent stabilized units in hotels and rooming houses identified from HCR registration filings for 2016 and 2017.²⁶

This analysis incorporates and applies a methodology for identifying hotels and rooming houses set forth in the staff memorandum dated June 12, 2017 (copy attached). The 2017 analysis attempted to identify registration errors in the HCR records with respect to the type of the building reported by owners in order to compile a more accurate list of hotels and rooming houses.²⁷ At that time staff identified and reported data on 174 rooming houses and 83 hotels based upon an examination of 2015 and 2016 HCR registration filings. This analysis updates the June 12 memorandum by examining data from the 2016 and 2017 HCR registration files. Staff searched the 2017 HCR registration files for the same group of buildings identified in the June 12 memorandum; if a building could not be found it was searched for in the 2016 HCR registration files. This analysis identified 148 rooming houses and 74 hotels for which information, including available rent data, is provided below.²⁸

²³ Previous memos are from June 4, 2007; June 4, 2009; June 12, 2012; June 4, 2013; May 22, 2015; and June 12, 2017 which analyzed hotel registration data filed with the NYS Homes and Community Renewal (HCR) in 2005, 2008, 2011, 2012, 2014, and 2015/2016 respectively.

²⁴ Each year owners are required to provide HCR with listings of every rent stabilized unit in their buildings, including the rent level and whether the unit is currently rent stabilized, vacant, or permanently or temporarily exempt.

²⁵ Single Room Occupancy (SRO) residence is not a category available for registration. SRO residences would most commonly be registered as a hotel.

²⁶ Because the 2017 registration data is not final, two years of registration data were examined to capture buildings that may not appear in the 2017 data due to late registration. Note also that HCR registration filings may not reflect a complete count of hotels and rooming houses, as not all owners register their buildings, may register late, or may fail to correctly identify a building as a hotel or rooming house.

²⁷ It is important to note that prior to 2017, staff had relied on owners to provide correct information regarding the type of building being registered. In some cases, staff individually examined selected records with especially high rent levels to determine if the building was in fact a hotel or rooming house, and then omitted these records from the analysis if it was found to be incorrectly registered. However, as a general rule, staff used the building type information reported by owners without any secondary checks.

²⁸ Rent data was used from 2017 registration files where available, and from 2016 only if the building was not registered in 2017.

Rooming Houses

As noted above, staff identified 148 rooming house buildings in the 2016 and 2017 HCR registration files, a decrease from the 174 identified in the 2017 memo.²⁹ These 148 buildings contained a total of 3,646 housing units.³⁰ By category, 2,657 (72.9%) of these units were registered as “rent stabilized” (indicating that they were occupied by a rent stabilized tenant at the time of registration). HCR files contain rent information for 2,655 of these units. With respect to the remaining units, 500 units (13.7%) are reported as “temporarily exempt;” 460 units (12.6%) as “vacant;” and 29 units (0.8%) as “permanently exempt.” Among the temporarily exempt units, the most common reason given for the exemption is “Hotel/SRO (Transient)” (39.8% of temporarily exempt units). The second most common reason is “Not Prime Residence” (36.0% of temporarily exempt units), followed by “Owner/Employee Occupied” (22.6% of temporarily exempt units). Of the 148 buildings identified for this analysis, 21 (14.2%) consist entirely of exempt and/or vacant units (349 units or 9.6% of total units). In addition, 75 of these 148 buildings (50.7%) contain less than 85%³¹ permanently stabilized units. These 75 buildings contain 1,320 units (36.2% of total units).

Table 1 shows the number of rent stabilized rooming house units and buildings that registered legal rents with HCR in 2016/2017. Legal rents are the maximum amount that an owner can charge to tenants (or potentially to government agencies subsidizing tenants), but do not necessarily reflect what a tenant is actually paying. Table 1 also provides the median and average legal rents for these units, Citywide.

Table 1: 2016/2017³² Median and Average “Legal” Rents for Rooming House Units Identified as Rent Stabilized (excludes exempt and vacant units)

	<i># of Stabilized Units</i>	<i># of Stabilized Buildings</i>	<i>Median Legal Rent</i>	<i>Average Legal Rent</i>
Citywide	2,655	127	\$1,000	\$1,032

Source: 2016 and 2017 HCR Building and Apartment Registration filings

Table 2 presents information with respect to median and average “preferential” rents reported for 28% of rent stabilized rooming house units. Preferential rents are rents that owners voluntarily choose to charge to tenants, which are lower than legal rents.

²⁹ Using the list of buildings identified in 2017 as a starting point, staff searched the most recent HCR registration records, from 2017 (as released to the RGB in February of 2018), for the 174 buildings identified in the 2017 memo. A total of 120 buildings that were previously identified as rooming houses were contained in the most recent registration filings available to staff. Another 28 buildings were matched with 2016 registration data. A total of 26 buildings could not be located in either registration file. Staff did not research whether any new rooming house buildings may have been registered in 2017.

³⁰ Registration records were not checked against other sources in regard to the number of housing units. Note that while some owners may register all their units, regardless of regulation status, others may register only those that are rent stabilized.

³¹ The proviso in RGB Hotel Order 41, the last time the Board granted a renewal lease increase, limited permitted increases to rooming houses with at least 85% permanently rent stabilized occupancy. Note that if the owner has not registered every unit in the building with HCR (as they may not with unregulated units), the percentage of buildings that are 85% or more rent stabilized could be inflated.

³² 2017 data used whenever available.

Table 2: 2016/2017³³ Median and Average “Preferential” Rents for Rooming House Units Identified as Rent Stabilized (excludes exempt and vacant units)*

	# of Stabilized Units	Median		Average	
		Preferential Rent*	% Difference from Legal Rent**	Preferential Rent*	% Difference from Legal Rent**
Citywide	742	\$872	-38%	\$846	-35%

Source: 2016 and 2017 HCR Building and Apartment Registration filings

*Only for those units reporting a preferential rent.

**Refers to the legal rents of just those units that reported preferential rents.

Table 3 presents the median and average “actual” rents reported for 42% of rent stabilized rooming house units. 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 shown is the percentage difference from the median and average legal rents of just those units with reported actual rents. Theoretically, the owners of the 1,103 units reporting actual rents can receive the difference between the actual and legal rents from government programs, and in fact, 75% of these units do not report any “preferential” rents, suggesting that in most cases owners do receive the full legal rent for these units. The median Citywide legal rent for these units is \$1,250 and the average legal rent is \$1,165. Not reported here are detailed statistics for the 276 units that report both actual and preferential rents (which would indicate that the owners of these units do not receive the full legal rent). The Citywide median preferential rent for these 276 units is \$909 and the average preferential rent is \$938.

Table 3: 2016/2017³⁴ Median and Average “Actual” Rents for Rooming House Units Identified as Rent Stabilized (excludes exempt and vacant units)*

	# of Stabilized Units	Median		Average	
		Actual Rent*	% Difference from Legal Rent**	Actual Rent*	% Difference from Legal Rent**
Citywide	1,103	\$242	-81%	\$421	-64%

Source: 2016 and 2017 HCR Building and Apartment Registration filings

*Only for those units reporting an actual rent.

**Refers to the legal rents of just those units that reported actual rents.

Table 4 shows median and average “rent received,” which uses a combination of preferential and legal rents to identify the rent actually being collected by owners of rent stabilized rooming houses. 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.

³³ 2017 data used whenever available.

³⁴ 2017 data used whenever available.

Table 4: 2016/2017³⁵ Median and Average “Rent Received” Rents for Rooming House Units Identified as Rent Stabilized (excludes exempt and vacant units)*

	<i># of Stabilized Units</i>	<i>Median “Rent Received”*</i>	<i>Average “Rent Received”*</i>
Citywide	2,655	\$870	\$903

Source: 2016 and 2017 HCR 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)

Table 5 provides a longitudinal analysis³⁶ of 118 buildings registered in both 2017 and 2016. The median and average rents of this group of buildings in both years are presented below.

Table 5: 2017 Longitudinal Citywide Rent Data for Rooming House Units Identified as Rent Stabilized (excludes exempt and vacant units)*

	<i>Legal Rent</i>	<i>Preferential Rent</i>	<i>Actual Rent</i>	<i>“Rent Received”*</i>
# of Units	2,382	531	966	2,382
Median 2016	\$1,156.51	\$872.00	\$242.00	\$872.00
Median 2017	\$1,156.51	\$872.00	\$242.00	\$872.00
% Change (Median)	0.0%	0.0%	0.0%	0.0%
Average 2016	\$1,055.38	\$852.07	\$475.20	\$946.98
Average 2017	\$1,045.67	\$866.54	\$419.27	\$924.80
% Change (Average)	-0.9%	1.7%	-11.8%	-2.3%

Source: 2016 and 2017 HCR 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)

Hotels

As noted above, the 2016 and 2017 HCR registration files contained 74³⁷ buildings that could be identified as hotels, a decrease from the 83 identified in the 2017 memo.³⁸ According to HCR records, these buildings contained a total of 5,569 units of housing.³⁹ Of the units registered with HCR, 2,261 (40.6%) were registered as “rent stabilized.” Rent information was provided for 2,258 of these units. Of the remaining units, 2,905 (52.2%) were registered as “temporarily exempt”; 390 (7.0%) as “vacant;” and 13 (0.2%) as “permanently exempt.” With respect to temporarily exempt units, the most common reason given for this status is

³⁵ 2017 data used whenever available.

³⁶ Note that unlike Tables 1-4, which rely on a combination of two years’ worth of data to report a single median or average rent figure, the longitudinal analysis relies solely on comparing 2017 data to 2016 data. All but two of the rooming houses registered in 2017 were also registered in 2016.

³⁷ Five of these “buildings” filed more than one registration with HCR, for adjacent addresses (a total of 11 records, treated here as five records). They are generally considered to be a single building, and are treated as such in this analysis.

³⁸ Using the list of buildings identified in 2017 as a starting point, staff searched the most recent HCR registration records available to staff, from 2017 (as released to the RGB in February of 2018), for the 83 buildings identified in the 2017 memo. A total of 67 buildings that were previously identified as rooming houses were contained in the most recent registration filings available to staff. Another seven buildings were matched with 2016 registration data. A total of nine buildings could not be located in either registration file. Staff did not research whether any new hotel buildings may have been registered in 2017.

³⁹ Note that while some owners may register all their units, regardless of regulation status, others may register only those that are rent stabilized.

“Hotel/SRO (Transient)” (73.8%). The second most common reason provided for temporarily exempt status is “Not Prime Residence” (20.0%). With respect to the remaining temporarily exempt units, the reasons for exemption are almost entirely “other” or “owner- or employee-occupied.” Of these 74 buildings, 10 (13.5%) consist entirely of exempt and/or vacant units (488 units or 8.8% of total units). In addition, 42 buildings (56.8%) contain less than 85% permanently stabilized units.⁴⁰ These 42 buildings contain 4,021 units, or 72.2% of the total units registered with HCR.

HCR registration files provided to the RGB provide information only for hotel units that owners register, which may or may not accurately reflect the total number of units in the building. Staff therefore researched two additional sources of information to determine the number of units in registered hotels.⁴¹ For each hotel building, staff researched both registration records from the Department of Housing and Preservation Development (HPD), as well as internet sites, such as Expedia and Hotels.com, and the individual websites of the hotels, where available. In many cases, the unit count data from these different sources was inconsistent. For purposes of this analysis, staff has generally used the highest of the figures (whether HCR, HPD, or the travel or hotel websites) to estimate an actual unit count in these buildings. Taking this approach, staff found that these 74 buildings contained an estimated total of 16,434 units of housing. As a proportion of this higher number of units, units registered as “rent stabilized” are 13.8% of the total (versus 40.6% of the registered HCR units). As a proportion of the higher number of units, 69 buildings (93.2% of the total buildings) contain less than 85% permanently stabilized units.⁴² These 69 buildings contain 15,578 units, or 94.8% of the total units.

Table 6 shows the number of rent stabilized units and buildings that registered legal rents with HCR in 2016/2017. Legal rents are the maximum amount that an owner can charge to tenants (or to government agencies subsidizing tenants), but do not necessarily reflect what a tenant is actually paying. The table also provides the median and average legal rents for these units, Citywide.

Table 6: 2016/2017⁴³ Median and Average “Legal” Rents for Hotel Units Identified as Rent Stabilized (excludes exempt and vacant units)

	<i># of Stabilized Units</i>	<i># of Stabilized Buildings</i>	<i>Median Legal Rent</i>	<i>Average Legal Rent</i>
Citywide	2,258	68	\$745	\$1,077

Source: 2016 and 2017 HCR Building and Apartment Registration filings

Table 7 presents the median and average “preferential” rents reported for 13% of rent stabilized units. Preferential rents are rents that owners voluntarily choose to charge to tenants, which are lower than legal rents.

⁴⁰ The proviso in RGB Hotel Order 41, the last time the Board granted a renewal lease increase, limited permitted increases to hotels with at least 85% permanently rent stabilized occupancy. If the owner has not registered every unit in the building with HCR (as they may not with unregulated units), the percentage of buildings that are 85% or more rent stabilized could be inflated.

⁴¹ Note that this analysis was not undertaken for rooming houses.

⁴² See footnote 40.

⁴³ 2017 data used whenever available.

Table 7: 2016/2017⁴⁴ Median and Average “Preferential” Rents for Hotel Units Identified as Rent Stabilized (excludes exempt and vacant units)*

	# of Stabilized Units	Median		Average	
		Preferential Rent*	% Difference from Legal Rent**	Preferential Rent*	% Difference from Legal Rent**
Citywide	298	\$525	-61%	\$611	-74%

Source: 2016 and 2017 HCR Building and Apartment Registration filings

*Only for those units reporting a preferential rent.

**Refers to the legal rents of just those units that reported preferential rents.

Table 8 shows the median and average “actual” rents reported for 21% of rent stabilized hotel units. 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 shown is the percentage difference from the median and average legal rents of just those units with reported actual rents. Theoretically, the owners of the 484 units reporting actual rents can receive the difference between the actual and legal rents from government programs, and in fact, 87% of these units do not report any “preferential” rents, suggesting that in most cases owners do receive the full legal rent for these units. The median Citywide legal rent for these units is \$745 and the average legal rent is \$856. Not reported here are detailed statistics for a small subset of units that report both actual and preferential rents (which would indicate that the owners of these units do not receive the full legal rent). Both the Citywide median and average preferential rent for those units is \$897.

Table 8: 2016/2017⁴⁵ Median and Average “Actual” Rents for Hotel Units Identified as Rent Stabilized (excludes exempt and vacant units)*

	# of Stabilized Units	Median		Average	
		Actual Rent	% Difference from Legal Rent**	Actual Rent	% Difference from Legal Rent**
Citywide	484	\$363*	-51%	\$508*	-41%

Source: 2016 and 2017 HCR Building and Apartment Registration filings

*Only for those units reporting an actual rent.

**Refers to the legal rents of just those units that reported actual rents.

Table 9 shows median and average “rent received,” which uses a combination of preferential and legal rents to identify the rent actually being collected by owners of rent stabilized hotels. 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 9: 2016/2017⁴⁶ Median and Average “Rent Received” Rents for Hotel Units Identified as Rent Stabilized (excludes exempt and vacant units)*

	# of Stabilized Units	Median “Rent Received”**	Average “Rent Received”**
Citywide	2,258	\$700	\$844

Source: 2016 and 2017 HCR Building and Apartment Registration filings

⁴⁴ 2017 data used whenever available.

⁴⁵ 2017 data used whenever available.

⁴⁶ 2017 data used whenever available.

*“Rent Received” refers to the preferential rent (if one is provided), or the legal rent (if a preferential rent is not provided)

Table 10 provides a longitudinal analysis⁴⁷ of 65 hotel buildings registered in both 2016 and 2017. The median and average rents for this group of buildings are presented below.

Table 10: 2017 Longitudinal Citywide Rent Data for Hotel Units Identified as Rent Stabilized (excludes exempt and vacant units)*

	<i>Legal Rent</i>	<i>Preferential Rent</i>	<i>Actual Rent</i>	<i>“Rent Received”*</i>
# of Units	2,088	267	446	2,088
Median 2016	\$744.83	\$508.82	\$345.00	\$700
Median 2017	\$744.83	\$520.00	\$352.50	\$700
% Change (Median)	0.0%	2.2%	2.2%	0.0%
Average 2016	\$1,065.98	\$585.97	\$508.76	\$812.97
Average 2017	\$1,083.57	\$590.21	\$507.69	\$831.52
% Change (Average)	1.7%	0.7%	-0.2%	2.3%

Source: 2016 and 2017 HCR 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)

Summary

In summary, while this memo cannot capture every rent stabilized hotel or rooming house in New York City, it provides information on the universe of registered units that are likely to be rent stabilized. Tables 11 and 12 summarize some of the data presented above.

Table 11 summarizes data on the regulatory status of rooming house and hotel units registered with HCR in 2016/2017.

Table 11: 2016/2017⁴⁸ Rent Regulation Status of Registered Rooming Houses and Hotels

	<i># of Units*</i>	<i>Occupied Rent Stabilized</i>	<i>Vacant</i>	<i>Temporarily Exempt</i>	<i>Permanently Exempt</i>
Rooming Houses	3,646	2,657	460	500	29
Hotels	5,569	2,261	390	2,905	13
Rooming Houses and Hotels (combined)	9,215	4,918	850	3,405	42

Source: 2016 and 2017 HCR Building and Apartment Registration filings

*Includes only those units registered with HCR

Table 12 provides a summary of the legal and received rents for rooming houses and hotels, as well as the average and median rents of rooming houses and hotels combined.

⁴⁷ Note that unlike Tables 6-9, which rely on a combination of two years’ worth of data to report a single median or average rent figure, the longitudinal analysis relies solely on comparing 2017 data to 2016 data. All but two of the Hotels registered in 2017 were also registered in 2016.

⁴⁸ 2017 data used whenever available.

Table 12: 2016/2017⁴⁹ Median and Average Legal Rent and “Rent Received” Rents for Rooming House and Hotel Units Identified as Rent Stabilized (excludes exempt and vacant units)

	<i># of Stabilized Units</i>	<i>Median Legal Rent</i>	<i>Average Legal Rent</i>	<i>Median “Rent Received”*</i>	<i>Average “Rent Received”*</i>
Rooming Houses	2,655	\$1,000	\$1,032	\$870	\$903
Hotels	2,258	\$745	\$1,077	\$700	\$844
Rooming Houses and Hotels (combined)	4,913	\$801	\$1,053	\$745	\$876

Source: 2016 and 2017 HCR 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 48 was as follows:

	<u>Yes</u>	<u>No</u>	<u>Abstentions</u>
Guidelines for Hotels	7	2	--

Dated: June 27, 2018

Filed with the City Clerk: June 28, 2018

 Hon. Kathleen A. Roberts (Ret.)
 Chair
 NYC Rent Guidelines Board

⁴⁹ 2017 data used whenever available.

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