

Appendix O

Rent Stabilization Law of 1969

§ 26-513 Application for adjustment of initial rent

a. The tenant or owner of a housing accommodation made subject to this law by the emergency tenant protection act of nineteen seventy-four¹ may, within sixty days of the local effective date of this section or the commencement of the first tenancy thereafter. Whichever is later, file with the commissioner an application for adjustment of the initial legal regulated rent for such housing accommodation. The commissioner may adjust such initial legal regulated rent upon a finding that the presence of unique or peculiar circumstances materially affecting the initial legal regulated rent has resulted in a rent which is substantially different from the rents generally prevailing in the same area for substantially similar housing accommodations.

b. 1. The tenant of a housing accommodation that was regulated pursuant to the city rent and rehabilitation law² or this law prior to July first, nineteen hundred seventy-one and that became vacant on or after January first, nineteen hundred seventy-four may file with the commissioner within ninety days after notice has been received pursuant to subdivision d of this section, an application for adjustment of the initial legal regulated rent for such housing accommodation. Such tenant need only allege that such-rent is in excess of the fair market rent and shall present such facts which, to the best of his or her information and belief, support such allegation. The rent guidelines board shall promulgate as soon as practicable after the local effective date of the emergency tenant protection act of nineteen seventy-four guidelines for the determination of fair market rents for housing accommodations as to which any application may be made pursuant to this subdivision. In rendering a determination on an application filed pursuant to this subdivision b the commissioner shall be guided by such guidelines and by the rents generally prevailing in the same area for substantially similar housing accommodations. Where the commissioner has determined that the rent charged is in excess of the fair market rent he or she shall, in addition to NY other penalties or remedies permitted by law, order a refund of any excess paid since January first, nineteen hundred seventy-four or the date of the commencement of the tenancy, whichever is later. Such refund shall be made by the landlord in cash or a credit against future rents over a period not in excess of six months.

2. The provisions of paragraph m^{ph} one of this subdivision shall not apply to a tenant of a housing accommodation for which the initial legal regulated rent is no greater than the maximum rent that would have been in effect under this law on December thirty-first, nineteen hundred seventy-three, or for the period commencing January first, nineteen hundred seventy-four and ending December thirty-first, nineteen hundred seventy-five as calculated pursuant to the city rent and rehabilitation law (if no such maximum rent has been calculated for a particular unit for the period commencing January first, nineteen hundred seventy-four and ending December thirty-first, nineteen hundred seventy-five, he division of housing and community renewal shall calculate such a rent), as the case may be, if such apartment had not become vacant on or after January first, nineteen hundred seventy-four, plus the amount of any adjustment which would have been authorized under

¹ Section 8621 et seq., post.

² Section 26-01 et seq., ante.

this law for renewal leases or other rental agreement, whether or not such housing accommodation was subject to this law, for leases or other rental agreement commencing on or after July first, nineteen hundred seventy-four.

c. Upon receipt of any application filed pursuant to this section, the commissioner shall notify the owner or tenant as the case may be and provide a copy to him or her of such application. Such owner or tenant shall be afforded a reasonable opportunity to respond to the application. A hearing may be held upon the request of either party, or the commissioner may hold a hearing on his or her own motion. The commissioner shall issue a written opinion to both the tenant and the owner upon rendering his or her determination.

d. Within thirty days after the local effective date of the emergency tenant protection act of nineteen seventy-four the owner of housing accommodations as to which an application for adjustment of the initial legal regulated rent may be made pursuant to subdivision b of this section shall give notice in writing by certified mail to the tenant of each such housing accommodation on a form prescribed by the commissioner of the initial legal regulated rent for such housing accommodation and of such tenant's right to file an application for adjustment of the initial legal regulated rent of such housing accommodation.

e. Notwithstanding any contrary provision in this law an application for an adjustment pursuant to this section must be filed within ninety days from the initial registration this subdivision shall not extend any other time limitations imposed by this law.

(L.1985, c. 907, § 1.)