

EXPLANATORY STATEMENT - APARTMENT ORDER #45

Explanatory Statement and Findings of the Rent Guidelines Board In Relation to 2013-14 Lease Increase Allowances for Apartments and Lofts under the Jurisdiction of the Rent Stabilization Law¹

Summary of Order No. 45

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

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

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

VACANCY ALLOWANCE

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

SUBLET ALLOWANCE

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

ADJUSTMENTS FOR LOFTS

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

| <u>1 Year</u> | <u>2 Years</u> |
|---------------|----------------|
| 4.0% | 7.75% |

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

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

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

SPECIAL GUIDELINE

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

1. **30%** above the maximum base rent, or
2. The Fair Market Rent for existing housing as established by the United States Department of Housing and Urban Development (HUD) for the New York City Primary Metropolitan Statistical Area pursuant to Section 8(c) (1) of the United States Housing Act of 1937 (42 U.S.C. section 1437f [c] [1]) and 24 C.F.R. Part 888, with such Fair Market Rents to be adjusted based upon whether the tenant pays his or her own gas and/or electric charges as part of his or her rent as such gas and/or electric charges are accounted for by the New York City Housing Authority.

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

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

BACKGROUND OF ORDER NO. 45

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

- (1) the economic condition of the residential real estate industry in the affected area including such factors as the prevailing and projected (i) real estate taxes and sewer and water rates, (ii) gross operating and maintenance costs (including insurance rates, governmental fees, cost of fuel and labor costs), (iii) costs and availability of financing (including effective rates of interest), (iv) overall supply of housing accommodations and overall vacancy rates;
- (2) relevant data from the current and projected cost of living indices for the affected area;
- (3) such other data as may be made available to it.

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

Material Considered by the Board

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

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

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

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

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

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

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

| <i>Meeting Date / Name</i> | <i>Affiliation</i> |
|----------------------------|---|
| March 14, 2013: | Staff presentation, <i>2013 Mortgage Survey Report</i> |
| | <u>NYC Department of Housing Preservation and Development (HPD) testimony</u> |
| 1. Christopher Gonzalez | Assistant Commissioner, Government Affairs and Research |
| April 4, 2013: | Staff presentation, <i>2013 Income and Affordability Study</i> |
| | <u>NYU Furman Center for Real Estate and Urban Policy Fact Brief Presentation – Sandy's Effects on Housing in NYC</u> |
| 1. Max Weselcouch | Data and Research Analyst |

April 18, 2013: Staff presentations
2013 Price Index of Operating Costs
2013 Income and Expense Study

April 25, 2013:

Apartment Tenants group testimony:
1. Barika Williams Association for Neighborhood and Housing Development
2. Greg Jost University Neighborhood Housing Program
3. Tomas J. Waters Community Service Society
4. Bobbie Sackman Council of Senior Centers and Services of NYC

Apartment Owners group testimony:
1. Jack Freund Rent Stabilization Association (RSA)
2. Patrick Siconolfi Community Housing Improvement Program (CHIP)
3. Jimmy Silber Small Property Owners of New York (SPONY)

Hotel Tenants group testimony:
1. Larry Wood Goddard Riverside Community Center
2. Daniel L. Parcerisas Goddard Riverside SRO Law Project
3. Brian Sullivan SRO Law Project at MFY Legal Services, Inc.

May 30, 2013:

Staff presentations
2013 Housing Supply Report
Changes to the Rent Stabilized Housing Stock
in New York City in 2012

NYS Division of Housing and Community Renewal (DHCR) testimony
1. Woody Pascal Deputy Commissioner for Rent Administration
2. Guy Alba Assistant Commissioner for Research and Analysis
3. Michael Rosenblatt Assistant Commissioner for Rent Administration
4. Michael Berrios Executive Assistant to the Deputy Commissioner

SELECTED EXCERPTS FROM ORAL AND WRITTEN TESTIMONY FROM TENANTS AND TENANT GROUPS²

Comments from tenants and tenant groups included:

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

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

“Over the last several years, the Rent Guidelines Board has dramatically overestimated operating costs; this overestimation is the direct cause of both higher rents for tenants and higher incomes for landlords. The overestimation of operating costs is evidenced by a growing discrepancy between the two primary methods used to determine operating cost changes: the Price Index of Operating Costs (PIOC) and Department of Finance (DOF) expense data; the PIOC, when compared to DOF data, is far less

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

accurate. Since 2005, the disparity between the PIOC and DOF data has grown dramatically. On average the PIOC grew 5.4% per year, while DOF data show an average increase in operating costs of only 3.8% per year. The PIOC has overestimated operating cost changes by more than a third each year.”

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

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

SELECTED EXCERPTS FROM ORAL AND WRITTEN TESTIMONY FROM OWNERS AND OWNER GROUPS³

Comments from owners and owner groups included:

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

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

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

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

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

³ Sources: Submissions by owner groups and testimony by owners

Comments from public officials included:

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

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

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

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

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

FINDINGS OF THE RENT GUIDELINES BOARD

RENT GUIDELINES BOARD RESEARCH

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

- (1) *2013 Mortgage Survey Report*, March 2013, (An evaluation of recent underwriting practices, financial availability and terms, and lending criteria);
- (2) *2013 Income and Expense Study*, April 2013, (Based on income and expense data provided by the Finance Department, the *Income and Expense Study* measures rents, operating costs and net operating income in rent stabilized buildings);

⁴ Sources: Submissions by public officials.

- (3) *2013 Income and Affordability Study*, April 2013, (Includes employment trends, housing court actions, changes in eligibility requirements and public benefit levels in New York City);
- (4) *2013 Price Index of Operating Costs*, April 2013, (Measures the price change for a market basket of goods and services which are used in the operation and maintenance of stabilized buildings);
- (5) *2013 Housing Supply Report*, May 2013, (Includes new housing construction measured by certificates of occupancy in new buildings and units authorized by new building permits, tax abatement and exemption programs, and cooperative and condominium conversion and construction activities in New York City); and,
- (6) *Changes to the Rent Stabilized Housing Stock in NYC in 2012*, May 2013, (A report quantifying all the events that lead to additions to and subtractions from the rent stabilized housing stock).

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

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

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

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

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

Table 1

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

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

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

⁵ Totals may not add due to weighting and rounding.



New York City Rent Guidelines Board

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Chairman
Jonathan L. Kimmel, Esq.

Executive Director
Andrew McLaughlin

Memorandum

To: All Board Members
From: Andrew McLaughlin
Date: April 24, 2013
Re: 2013 PIOC Follow-up Memo

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

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

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

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

1. There were 45 buildings used in the Tax component calculations where the year built was listed as "Unknown".
2. The unit counts from the buildings registered with the NYC Department of Finance include both stabilized and unregulated units.
Sources: NYC Department of Finance and the US Census Bureau, *2011 Housing and Vacancy Survey (HVS)*

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

The sample of buildings used to compute the tax price relative (the ratio of current and prior year's prices or costs) for the PIOC is drawn by providing a list of rent stabilized properties registered with DHCR to the NYC Department of Finance. Finance then "matches" this list against its records to provide data on

assessed value, tax exemptions, and taxes. The sample size differs each year for two reasons. First, the DHCR list provided to the Department of Finance changes from year to year. Newly built buildings containing stabilized units are added each year and, similarly, buildings are subtracted if they no longer contain stabilized units. In addition, there are a number of inconsistent filers who may file one year and not the next. Second, the Department of Finance cannot always match the buildings registered with the DHCR to its tax data. If the borough, block and lot number (BBL) differs from list to list, a match cannot be made. The inability to match the BBLs is often due to data entry error.

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

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

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

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

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

The Price Index of Operating Costs (PIOC) measures the price change in a market basket of goods and services used in the operation and maintenance of rent stabilized apartment buildings in New York City. The relative importance, or weight, of the various goods and services in the market basket was determined by a survey that gathered information regarding the expenditure patterns of owners of rent stabilized apartment buildings. This survey concluded that expenditures varied by building age and by the heating system used in the building. As a result, in addition to the all-apartment PIOC, the 2013 PIOC report includes separate indices for buildings constructed before 1947 (pre-1947) and for buildings constructed in 1947 or later (post-1946) as well as gas-heated, oil-heated and master-metered buildings. Although the expenditure weights for all rent stabilized buildings and for each of the five subcategories of buildings differ, the price changes are the same for each of the six indices.

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

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

Price Weights and Relatives by Building Type, Apartments, 2013

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

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

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

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

LOCAL LAW 63/ INCOME & EXPENSE REVIEW

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

Table 2

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

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

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

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

Table 2(a)

| 2011 Operating Cost to Rent/Income Ratio Adjusted to 1992 Audit | | | | | |
|--|----------------------------------|-------------|------------------------------|---------------|--------------------------------|
| | O&M Costs⁶ | Rent | O&M to Rent Ratio | Income | O&M to Income Ratio |
| All stabilized | \$746 | \$1,070 | 0.697 | \$1,208 | 0.618 |

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

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

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



New York City Rent Guidelines Board

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Chairman
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Executive Director
Andrew McLaughlin

Memo

To: Board Members
From: Andrew McLaughlin and Brian Hoberman
Date: May 29, 2013
Re: Cost-to-Income Ratios by Decile

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

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

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

Source: NYC Department of Finance, 2011 RPIE filings

(over)

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

FORECASTS OF OPERATING AND MAINTENANCE PRICE INCREASES FOR 2013-14

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

Table 3

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

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

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

COMMENSURATE RENT ADJUSTMENT

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

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

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

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

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

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

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

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

Finally, it is important to note that only the “traditional” commensurate formula uses the PIOC projection and that this projection is not used in conjunction with or as part of the “Net Revenue” and “CPI-Adjusted NOI” formulas. As stated previously, all three formulas attempt to compensate owners

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

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

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

for the adjustment in their operating and maintenance costs measured each year in the PIOC. The “Net Revenue” and the “CPI-Adjusted NOI” formulas attempt to compensate owners for the adjustment in O&M costs by using only the known PIOC change in costs (5.9%). The traditional method differs from the other formulas in that it uses both the PIOC’s actual change in costs as well as the projected change in costs (2.6%). If the change in projected costs, which may not be an accurate estimate of owner’s costs, is added to the “Net Revenue” and “CPI-Adjusted NOI” formulas, the resulting guidelines will likely over- or under- compensate for the change in costs.

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

Consideration of Other Factors

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

EFFECTIVE RATES OF INTEREST

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

Table 4

| 2013 Mortgage Survey¹⁰ | | | | | | | | | |
|--|------|------|------|------|------|------|------|------|------|
| Average Interest Rates and Points for New and Refinanced Permanent Mortgage Loans 2005-2013 | | | | | | | | | |
| New Financing of Permanent Mortgage Loans, Interest Rate and Points | | | | | | | | | |
| | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 |
| Avg. Rates | 5.5% | 6.3% | 6.3% | 5.9% | 6.5% | 6.3% | 5.8% | 4.6% | 4.4% |
| Avg. Points | 0.56 | 0.44 | 0.61 | 0.47 | 0.62 | 0.79 | 0.61 | 0.63 | 0.59 |
| Refinancing of Permanent Mortgage Loans, Interest Rate and Points | | | | | | | | | |
| | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 |
| Avg. Rates | 5.5% | 6.3% | 6.2% | 5.8% | 6.5% | 6.3% | 5.7% | 4.7% | 4.4% |
| Avg. Points | 0.56 | 0.44 | 0.61 | 0.44 | 0.62 | 0.83 | 0.61 | 0.63 | 0.40 |

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

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

CONDITION OF THE RENT STABILIZED HOUSING STOCK

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

Table 5

| Number of Cooperative / Condominium Plans¹¹ Accepted for Filing, 2004-2012 | | | | | | | | | |
|--|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| | 2004 | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 |
| New Construction | 268 | 361 | 644 | 573 | 454 | 335 | 235 | 185 | 121 |
| Conversion Non-Eviction | 16 | 24 | 53 | 66 | 50 | 29 | 20 | 22 | 36 |
| Conversion Eviction | 15 | 18 | 13 | 16 | 18 | 13 | 4 | 9 | 3 |
| Rehabilitation | 18 | 6 | 0 | 8 | 4 | 1 | 0 | 0 | 0 |
| Total | 317 | 409 | 710 | 663 | 526 | 378 | 259 | 216 | 160 |
| Subtotal: | | | | | | | | | |
| HPD Sponsored Plans | 15 | 18 | 13 | 16 | 18 | 13 | 4 | 9 | 3 |

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

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

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



New York City Rent Guidelines Board

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Chairman
Jonathan L. Kimmel, Esq.

Executive Director
Andrew McLaughlin

Memorandum

To: All Board Members
From: Danielle Burger
Date: June 11, 2013
Re: 2013 Housing Supply Report Follow-up Memo

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

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

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

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

Per the NYC Department of City Planning, which bases their completions data on Temporary and Final Certificates of Occupancy issued by the Department of Buildings, of the 9,455 units that were completed during 2012, 7,195 (76.1%) were in buildings with 5 units or more. Buildings with 5 or more units represent 17.9% of all buildings completed in 2012 (254 of 1,420 buildings), with an average size of 28.3 units for the City as a whole and 51.1 units in Manhattan. For a breakdown of units by borough, refer to the table below. For comparison purposes, 2011 data is also presented.

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

Source: NYC Department of City Planning

CONSUMER PRICE INDEX

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

Table 6

| Percentage Changes in the Consumer Price Index for the New York City - Northeastern New Jersey Metropolitan Area, 2006-2013 (For "All Urban Consumers") | | | | | | | | |
|--|-------------|-------------|-------------|-------------|-------------|-------------|-------------|-------------|
| | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 |
| Ist Quarter Avg. ¹² | 2.7% | 2.9% | 3.8% | 0.8% | 2.1% | 2.3% | 2.6% | 1.9% |
| Yearly Avg. | 3.8% | 2.8% | 3.9% | 0.4% | 1.7% | 2.8% | 2.0% | -- |

Source: U.S. Bureau of Labor Statistics.

CALCULATING OF THE CURRENT OPERATING AND MAINTENANCE EXPENSE TO RENT RATIO

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

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

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

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

Table 7

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

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

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

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

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

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

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

CHANGES IN HOUSING AFFORDABILITY

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

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

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

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

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



New York City Rent Guidelines Board

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Chairman
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Executive Director
Andrew McLaughlin

Memorandum

To: All Board Members
From: Danielle Burger
Date: April 17, 2013
Re: 2013 Income & Affordability Study Follow-up Memo

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

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

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

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

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

Vacancy Rates by Monthly Asking Rents

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

Source: *2011 Housing & Vacancy Survey*

* Number of vacant units is too small to report an accurate figure

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

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

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

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

Source: *2011 Housing & Vacancy Survey*

* Sample size is too small to report an accurate figure

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

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

Source: *2011 Housing & Vacancy Survey*

* Sample size is too small to report an accurate figure

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

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

Source: *2011 American Community Survey*

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

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

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

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

Source: 2011 American Community Survey

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

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

Source: 2011 American Community Survey

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

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

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

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

Source: 2011 Housing and Vacancy Survey

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

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

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

NYC Dept. of Homeless Services Shelter Censuses, by Borough

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

Source: NYC Dept. of Homeless Services

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

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

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

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

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

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

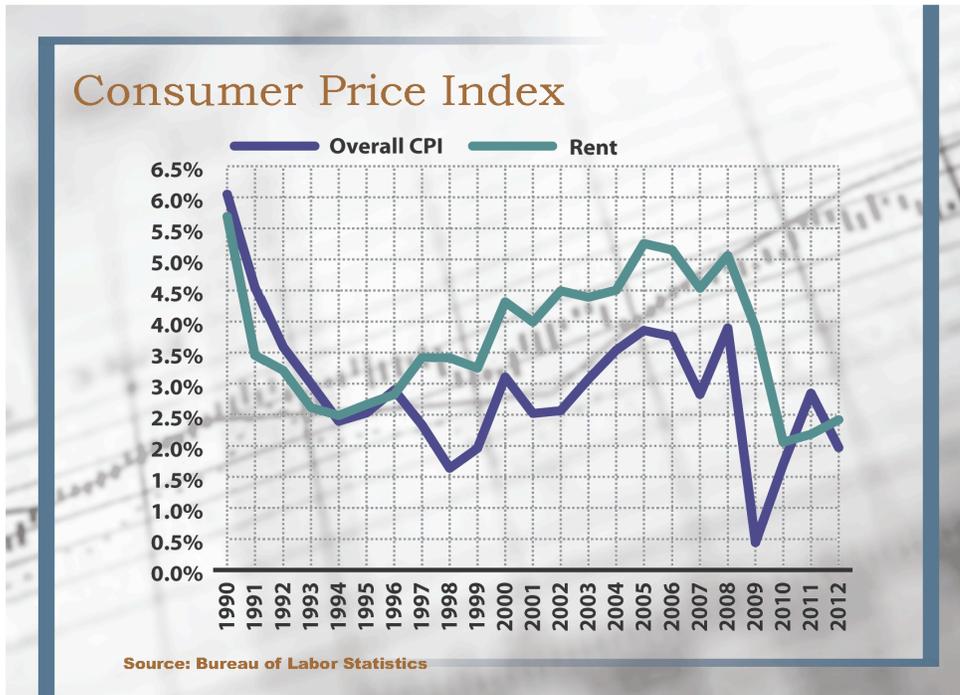
Source: NYC Dept. of Investigation and the 2011 Housing and Vacancy Survey



Attachment 1 – American Community Survey Contract Rents, NYC, 2005-2011 (in “Year” 2011 dollars)



Attachment 2 – American Community Survey Gross Rents, NYC, 2005-2011 (in “Year” 2011 dollars)



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BUILDINGS WITH DIFFERENT FUEL AND UTILITY ARRANGEMENTS

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

Table 8

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

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

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

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

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

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

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

Table 9

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

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

SPECIAL GUIDELINES FOR VACANCY DECONTROLLED UNITS ENTERING THE STABILIZED STOCK

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

- (1) 30% above the Maximum Base Rent, or
- (2) The Fair Market Rent for existing housing as established by the United States Department of Housing and Urban Development (HUD) for the New York City Primary Metropolitan Statistical Area pursuant to Section 8(c) (1) of the United States Housing Act of 1937 (42 U.S.C. section 1437f [c] [1]) and 24 C.F.R. Part 888, with such Fair Market Rents to be adjusted based upon whether the tenant pays his or her own gas and/or electric charges as part of his or her rent as such gas and/or electric charges are accounted for by the New York City Housing Authority.

The Board concluded that for units formerly subject to rent control, either an increase to rent levels reflecting the Fair Market Rent guidelines established by the U.S. Department of Housing and Urban

Development (HUD), or 30% above the maximum base rent was a desirable minimum increase. Notably, the HUD guidelines differentiate minimum rents on the basis of bedroom count.

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

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

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

VACANCY ALLOWANCE

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

SUBLET ALLOWANCE

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

VOTES

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

| | <u>Yes</u> | <u>No</u> | <u>Abstentions</u> |
|------------------------------------|------------|-----------|--------------------|
| Guidelines for Apartment Order #45 | 5 | 4 | - |

Dated: June 21, 2013

Filed with the City Clerk: June 25, 2013

Jonathan L. Kimmel
Chair
NYC Rent Guidelines Board

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