EXPLANATORY STATEMENT - APARTMENT ORDER #42

Explanatory Statement and Findings of the Rent Guidelines Board In Relation to 2010-11 Lease Increase Allowances for Apartments and Lofts under the Jurisdiction of the Rent Stabilization Law[1]

Summary of Order No. 42

The Rent Guidelines Board (RGB) by Order No. 42 has set the following maximum rent increases for leases subject to renewal on or after October 1, 2010 and on or before September 30, 2011 for **apartments** under its jurisdiction:

For a **one**-year renewal lease commencing on or after October 1, 2010 and on or before September 30, 2011: **2.25%**

For a **two**-year renewal lease commencing on or after October 1, 2010 and on or before September 30, 2011: **4.5%**

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 82 of the Laws of 2003, 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, 2010 and on or before September 30, 2011 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, 2010 and on or before September 30, 2011. No vacancy allowance or low rent allowance is included for lofts.

1 Year	2 Years
2.25%	**4.5%**

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. 42.

[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 GUIDELINES

Leases for units subject to rent control on September 30, 2010 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. **50%** 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, 2010.

All rent adjustments lawfully implemented and maintained under previous apartment Orders and included in the base rent in effect on September 30, 2010 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. 42

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. 42 was issued by the Board following **two** public hearings, **seven** public meetings, its review of written submissions provided by the public, and a review of research and memoranda prepared by the Board's staff. A total of approximately 35 written submissions were received at the Board's offices from many individuals and organizations including public officials, owners and owner groups, and tenants and tenant groups. The Board members were provided with copies of public comments received by the **June 17, 2010** deadline. All of the above listed documents were available for public inspection.

Open meetings of the Board were held following public notice on March 23, April 16, April 27, April 30, and June 3, 2010. On **May 5, 2010**, the Board adopted proposed rent guidelines for apartments, lofts, and hotels.

Public hearings were held on **June 15, 2010** and **June 17, 2010** 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 **4:00 p.m. to 8:00 p.m. on June 15, 2010** and from **10:00 a.m. to 7:15 p.m. on June 17, 2010**. Testimony from members of the public speaking at these hearings was added to the public record. The Board heard testimony from **approximately** 58 apartment tenants and tenant representatives**,** 34 apartment owners and owner representatives**, and** 6 public officials. In addition, 8 speakers read into the record written testimony from various public officials. On **June 24, 2010** the guidelines set forth in Order No. 42 were adopted.

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

<u>PRESENTATIONS BY RGB STAFF AND HOUSING EXPERTS INVITED BY MEMBERS OF THE BOARD</u>

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

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

Meeting Date / Name	*Affiliation*
March 23, 2010:	Staff presentation, *2010 Mortgage Survey Report*
	<u>Guest Speaker</u>
1. Joseph Rosenberg	Deputy Commissioner, Intergovernmental Affairs, NYC Department of Housing Preservation and Development
April 16, 2010:	<u>Staff presentations</u>
	2010 Income and Affordability Study
	2010 Income & Expense Study
April 27, 2010:	Staff presentation, *2010 Price Index of Operating Costs*
	<u>Guest Speakers</u>
1. David Frankel	Commissioner, NYC Department of Finance
2. Gregory Kern	Director for Leased Housing, NYC Housing Authority
April 30, 2010:	
	<u>Apartment Owners group testimony:</u>
1. Jack Freund	Rent Stabilization Association (RSA)
2. Robert Knakal	Massey Knakal Realty Services
3. Pat Siconolfi	Community Housing Improvement Program (CHIP)
4. Matthew Engel	Langsam Property Services Corp.
5. Christopher Athineos	Small Property Owners of New York (SPONY)
6. Peter Petrov	Property Owner
7. Dennis Gittens	Property Owner
8. Albert Carrion	Property Owner
9. Constance Nugent-Miller	Property Owner
10. Oscar Perez	Property Owner
	<u>Apartment Tenants group testimony:</u>
1. Tim Collins	Collins, Dobkin & Miller LLP
2. Victor Bach	Community Service Society
3. Tom Waters	Community Service Society
4. Patrick Markee	Coalition for the Homeless
5. Ismene Speliotis	Mutual Housing NY/MHANY Management Inc.
	<u>Hotel Tenants group testimony:</u>
1. Susanna Blankley	Goddard Riverside SRO Law Project
2. Jonathan Burke	MFY Legal Services Inc.
3. Larry Wood	Goddard Riverside Family Council

June 3, 2010:	Staff presentations *2010 Housing Supply Report* *Changes to the Rent Stabilized Housing Stock in New York City in 2009*
	NYS Division of Housing and Community Renewal (DHCR) testimony
1. Michael Rosenblatt	Deputy Counsel, Office of Rent Administration
2. Guy Alba	Assistant Commissioner, Office of Rent Administration

SELECTED EXCERPTS FROM ORAL AND WRITTEN TESTIMONY FROM OWNERS AND OWNER GROUPS[2]

Comments from owners and owner groups included:

"The City's policy of dramatically increasing taxes on stabilized property, and the size of total tax liability make it essential that the RGB pass along at least the full value of the PIOC. The income from lower rent apartments does not equal the cost of providing those units of housing. Accordingly the RGB must issue a guideline that brings those rents closer to the actual cost if it is to prevent the deterioration of the housing stock. Apartments at higher rents already are experiencing vacancy rates in excess of 5%, meaning that for those apartments, no real housing emergency exists."

"It is the difficult assignment of this Board to approve a renewal lease rate for one and two year leases of rent stabilized apartments that will promote the health of our housing stock for the benefit of both owners and tenants. To that end, the Board must approve a renewal guideline increase that provides the owners with the financial ability to meet expenses and still reinvest in the improvement and betterment of the housing stock. This goal cannot be accomplished without a rate increase of at least 7-10% for one year and 10-15% for a two-year lease renewal. Any lower rate of increase will only serve to promote the continued demise of affordable rental housing stock which can create a serious housing crisis in New York."

"For the majority of tenants, moderate levels of rent increase do not pose a substantial burden. Let's remember that cops, firemen and sanitation workers, those that some Board members cite as the reason for lower guidelines, continue to receive salary increases averaging 4% per year. For the majority of property owners, moderate rent increases do not mean windfall profits but simply the ability to continue to maintain their affordable housing in a safe and decent condition while continuing to pay the taxes and fees that keep City services operating…For the benefit of the majority of tenants and owners, the RGB can fulfill its obligations this year by enacting rent guidelines of 5% for a one-year lease and 9% for a two-year lease that will at least cover last year's increase in building operating costs."

"Everyone is acutely aware that both owners and tenants are facing tough economic times. The rental housing market, from the owners' perspective, has experienced substantial rising expenses. From the tenants' perspective, the absence of meaningful increases in compensation from employment has reduced the effective buying power to meet their everyday expenses, which include the payment of monthly rent. However the owners of rental properties face even more serious financial hardships imposed due to substantial rises in operating costs (e.g., sky-rocketing increase expenses for water, increases in fuel oil cost and rising property taxes)."

"We are a small operation with one building located in the Bronx. There are many other small property owners in New York who are suffering as well. The same way that you are impacted each time you go to buy anything for your family or yourself, we are impacted even more. Looking after your immediate family is more expensive this year than last year. We look after 48 families, and the increase in real estate tax, water & sewer tax, insurance, fuel, repairs and supplies are un-imaginable."

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

Selected Excerpts from Oral and Written Testimony from Tenants and Tenant Groups[3]

Comments from tenants and tenant groups included:

"The indicators for post-2008 New York, since the last HVS, demonstrate that low-income working households continue to be hard hit by the economic recession with increasing unemployment and wage cuts. Whatever has happened at the high end of the rental market, there is little reason to assume that rent pressures at lower levels have decreased in apartments and neighborhoods where low-income New Yorkers live. Rent stresses have become even more dire as incomes shrink and rents rise…During the continuing economic crisis, our leaders called for 'shared sacrifice.' Low income New Yorkers are still bearing the heavy costs of economic losses in a resilient rental market. This is the right time for RGB to ask owners facing marginal increases in operating costs to lower their expectations."

"City and state rent regulation laws provide three major benefits: affordability, habitability, and security of tenure. This system has produced all of these benefits without reducing the quantity or quality of the rental housing stock. It has allowed owners to obtain a fair – indeed a growing – rate of return on their investments… It has not harmed newcomers or unregulated households, although strong arguments can be made that existing laws should be expanded to offer greater protection to newcomers and unregulated households."

"The number of homeless families in New York City has reached record numbers in the face of a low vacancy rate for apartments and the continuing decline in affordable rent stabilized units, as well as other sources of housing within the reach of low-income New Yorkers. While tenants struggle to find and maintain affordable housing and at the same time pay for other necessities, landlords continue to realize increased profits as rental income is exceeding costs by a great amount. Low-income tenants in rent stabilized apartments have and to shoulder the greatest burden of declining affordability in the New York City rental market, while the renal burden on moderate-income tenants is worsening."

"As regulators, it's important that you always keep in mind that you are making a decision that impacts about one million rent stabilized apartments. Two or four percent rent increases will have a bigger impact on them that a rent freeze will have on property owners, because property owners will still see their rental income grow through vacancies, MCIs, and apartment improvement increases."

"I'm here to call for a rent freeze this year. A rent freeze is justified for two fundamental reasons: 1) The recession is hitting rent stabilized tenants especially hard; and 2) the fact that our research of our community has found that very few landlords are financially distressed. Those that are shouldn't be bailed out because of their greed and bad decision-making… It is very clear that rent stabilized tenants are really hurting in our community and beyond. A significant percentage of tenants that we counsel are out of work, and some have taken in roommates to sleep in their living room so they can cover the rent. In this climate, a rent freeze is warranted. This year, more than ever, rent stabilized tenants need a bailout. Wall Street has gotten theirs; it's time for the streets of the Lower East Side, Uptown, and the outer boroughs to get their bailout. Income continues to be redistributed upward in our economy, a trend that has been underway since the 1980s."

Selected Excerpts from Oral and Written Testimony from Public Officials[4]

Comments from public officials included:

"The Board should no longer look at 'cost of living' increases as an adequate justification for rent increases. Landlords' costs have increased slightly, but between 2007-2008 (the years for which the

[3] Sources: Submissions by tenant groups and testimony by tenants.
[4] Sources: Submissions by public officials.

most data is available) landlords' net operating income in rent stabilized buildings grew by 5.8%. Landlords are still making a significant and comfortable profit above costs."

"While it is reasonable to expect tenants and landlords to share the burden of increased operating expenses, this burden must be shared equitably. It is unconscionable for building owners in one of the most profitable economic sectors of our economy to pass all of their expenses onto rent stabilized tenants who have a median household income of $36,000 and are facing an extremely difficult economic environment…Rent stabilized housing is the only affordable housing resource left to most low- and moderate-income tenants. However, once they have been priced out of their apartments, many rent stabilized tenants have few other options."

"In an economic recession, keeping people in their homes is essential. Without a safe and affordable home it is much harder to find a job, keep kids in school, and remain healthy. The rent stabilization system is New York City's largest affordable housing program and it is essential that, during these tough economic times, stabilized rents remain affordable for tenants. With high unemployment as well as numerous other negative factors, this is absolutely not the right time to impose higher rents on already struggling families."

"Building owner profit margins have been consistently positive for a period of years. In the last four years for which data is available, net operating incomes for rent stabilized buildings have increased by 5.8 percent, 9.3%, 8.8% and 1.6%, respectively…While New York's most vulnerable populations bear a continued and steady erosion of their earnings and incomes, their landlords are by and large enjoying a much different reality."

"We need more, not less, affordable housing in this City. Our vacancy rate is extremely low so tenants who are priced out of their apartments have very limited options. Rents are increasingly unaffordable in the outer boroughs as well as in lower Manhattan; so moving to another less expensive neighborhood is not an option. Moreover, as rents reach the threshold at which they can be taken out of rent stabilization and converted to market rate housing, we lose units of affordable housing this City desperately needs. Every rent increase brings apartments closer to that threshold."

"I ask the Board to reject the proposed increases and follow the lead of Westchester County – freeze our rents. As we all know, these are dire economic times. Every measurement attests to this; production is down, unemployment is up – over 10% in the early months of this year. Personal bankruptcy – up. Earnings of rent stabilized and rent controlled tenants – down, by roughly 1.5% and 2.4%, respectively."

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) *2010 Mortgage Survey Report*, March 2010, (An evaluation of recent underwriting practices, financial availability and terms, and lending criteria);

(2) *2010 Income and Expense Study*, April 2010, (Based on income and expense data provided by the Finance Department, the *Income and Expense Study* measures rents, operating costs and net operating income in rent stabilized buildings);

(3) *2010 Income and Affordability Study,* April 2010, (Includes employment trends, housing court actions, changes in eligibility requirements and public benefit levels in New York City);

(4) *2010 Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City,* April 2010, (Measures the price change for a market basket of goods and services which are used in the operation and maintenance of stabilized buildings);

(5) *2010 Housing Supply Report*, June 2010, (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 2009,* June 2010, (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, www.housingnyc.com, and are also available at the RGB offices, 51 Chambers St., Suite 202, New York, NY upon request.

2010 Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City

The *2010 Price Index of Operating Costs For Rent Stabilized Apartment Houses in New York City* found a 3.4% increase in costs for the period between May 2009 and March 2010.

This year, the PIOC for rent stabilized apartment buildings increased by 3.4%, 0.6 percentage points less than the PIOC percentage change from the year before (4.0% in 2009). The PIOC was driven upward by a significant increase in real estate taxes of 10.1%. More moderate increases were seen in Administrative Costs (4.1%), Labor Costs (3.1%), Contractor Services (2.3%), Parts and Supplies (1.7%) and Replacement Costs (0.9%). These increases were offset by declines in the Utilities (1.7%) and Insurance Costs (2.0%) components. The change in the cost of fuel oil was nearly flat, rising just 0.5%. The growth in the Consumer Price Index (CPI) of 0.53% was nearly three percentage points lower than the PIOC.

The PIOC Utilities component consists primarily of electricity, natural gas, and water and sewer charges. In fact, water and sewer costs account for more than half of the Utilities component. Telephone and steam costs are a small part of this component. In the case of most Utilities items, changes in costs are measured using the PIOC specifications (i.e. the quantity of electricity, steam, etc. being purchased) and the changes in rate schedules. Water and sewer costs are based on the rate established by the New York City Water Board.

This year Utilities decreased 1.7%, which is in contrast to last year's increase of 10.9%. Decreases in the costs for gas (22.4%), electricity (5.8%) and steam (8.4%) were offset by an increase in water and sewer costs of 12.9%.

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 6.0% this year and was higher than the overall PIOC primarily due to the exclusion of fuel oil costs that rose only 0.5%.

Table 1

2009-10 Percentage Changes in Components of *the Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City*[5]			
Item	Expenditure Weights	2009-10 Percentage Δ	2009-10 Weighted Percentage Δ
Taxes	27.28%	10.12%	2.76%
Labor Costs	13.39%	3.13%	0.42%
Fuel Costs	13.34%	0.46%	0.06%
Utility Costs	16.36%	-1.68%	-0.27%
Contractor Services	12.44%	2.32%	0.29%
Administrative Costs	7.35%	4.11%	0.30%
Insurance Costs	7.69%	-2.02%	-0.16%
Parts & Supplies	1.49%	1.72%	0.03%
Replacement Costs	0.65%	0.93%	0.01%
All Items	**100.00**	**-**	**3.43%**

Source: *2010 Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City*.
Note: The Δ symbol means change.

On April 30, 2010 the staff of the Rent Guidelines Board released a memo to Board members with additional information concerning the *2010 Price Index of Operating Costs*. An excerpt of that memo follows:

Question 1: Can you compare the tax relatives by borough and Community Districts from the 2010 PIOC to that of 2009?

	2010 PIOC Tax Relative	2009 PIOC Tax Relative
Manhattan		
1 (Civic Center, Wall St., Governors Isl., Liberty Isl., Ellis Isl., Tribeca)	12.33%	22.79%
2 (Greenwich Village, Noho, Soho, Little Italy)	14.59%	12.27%
3 (Lower East Side, Chinatown, Two Bridges)	16.43%	16.00%
4 (Chelsea, Clinton)	14.44%	10.71%
5 (Midtown, Times Square, Herald Square, Midtown South)	13.29%	10.24%
6 (Murray Hill, East Midtown, Stuyvesant Town)	12.48%	11.45%
7 (Lincoln Square, Upper West Side)	13.41%	13.50%
8 (Upper East Side, Lennox Hill, Yorkville, Roosevelt Island)	10.79%	11.21%
9 (West Harlem, Morningside Heights, Manhattanville, Hamilton Heights)	13.95%	17.03%
10 (Central Harlem)	19.37%	24.81%
11 (East Harlem)	16.58%	26.73%
12 (Washington Heights, Inwood)	8.77%	13.14%
Total	**12.65%**	**12.46%**

[5] Totals may not add due to weighting and rounding.

	2010 PIOC Tax Relative	2009 PIOC Tax Relative
Bronx		
1 (Mott Haven, Melrose, Port Morris)	-8.80%	13.09%
2 (Hunts Point, Longwood)	7.48%	10.00%
3 (Melrose, Morrisania, Claremont, Crotona Park E)	3.09%	39.44%
4 (Highbridge, Concourse)	2.34%	20.59%
5 (Morris Heights, University Heights, Fordham, Mt. Hope)	2.98%	16.39%
6 (East Tremont, Bathgate, Belmont, West Farms)	2.56%	14.88%
7 (Kingsbridge Heights, Bedford Park, Fordham, University Heights)	3.35%	14.07%
8 (Kingsbridge, Riverdale, Marble Hill, Fieldston)	5.10%	7.49%
9 (Soundview, Castle Hill, Union Port, Parkchester)	-1.61%	16.76%
10 (Throgs Neck, Pelham Bay, Co-op City, Westchester Sq., City Island	6.62%	11.34%
11 (Morris Park, Pelham Parkway, Bronxdale, Van Nest, Laconia)	2.92%	6.37%
12 (Williamsbridge, Baychester, Woodlawn, Wakefield, Eastchester)	4.89%	12.24%
Total	**3.14%**	**13.15%**

	2010 PIOC Tax Relative	2009 PIOC Tax Relative
Brooklyn		
1 (Greenpoint, Williamsburg)	13.91%	16.43%
2 (Downtown Brooklyn, Ft. Greene, Brooklyn Heights, Boerum Hill)	9.32%	12.74%
3 (Bedford Stuyvesant, Tompkins Park North, Stuyvesant Heights)	15.94%	13.78%
4 (Bushwick)	3.35%	11.48%
5 (East New York, New Lots, City Line, Starrett City)	9.26%	12.05%
6 (Red Hook, Park Slope, Gowanus, Carroll Gardens, Cobble Hill)	14.32%	14.98%
7 (Sunset Park, Windsor Terrace)	9.41%	13.24%
8 (Crown Heights, Prospect Heights, Weeksville)	11.33%	10.69%
9 (Crown Heights South, Prospect Lefferts Gardens, Wingate)	6.02%	13.23%
10 (Bay Ridge, Dyker Heights, Fort Hamilton)	9.88%	8.10%
11 (Bensonhurst, Mapleton, Bath Beach, Gravesend)	5.22%	8.24%
12 (Borough Park, Ocean Parkway, Kensington)	4.29%	6.89%
13 (Coney Island, Brighton Beach, Gravesend, Homecrest, Seagate)	10.27%	10.43%
14 (Flatbush, Ocean Parkway, Midwood)	4.13%	6.80%
15 (Sheepshead Bay, Manhattan Beach, Kings Highway, Gravesend)	5.80%	8.42%
16 (Ocean Hill, Brownsville)	6.25%	-31.25%
17 (Flatbush, Rugby, Farragut, Northeast Flatbush)	3.30%	10.31%
18 (Canarsie, Flatlands, Marine Park, Mill Basin, Bergen Beach)	3.93%	10.73%
Total	**7.38%**	**9.74%**

	2010 PIOC Tax Relative	2009 PIOC Tax Relative
Queens		
1 (Astoria, Long Island City)	6.78%	8.57%
2 (Sunnyside, Woodside)	7.59%	8.70%
3 (Jackson Heights, East Elmhurst, North Corona)	-0.73%	3.47%
4 (Elmhurst, Corona)	1.60%	11.53%
5 (Maspeth, Middle Village, Ridgewood, Glendale)	11.24%	12.92%
6 (Rego Park, Forest Hills)	6.46%	12.81%
7 (Flushing, Whitestone, College Point)	5.81%	9.13%
8 (Fresh Meadows, Kew Gardens Hills, Jamaica Hills)	8.58%	10.75%
9 (Woodhaven, Richmond Hill, Kew Gardens)	4.41%	6.64%
10 (Howard Beach, Ozone Park, South Ozone Park)	6.65%	-4.81%
11 (Bayside, Douglaston, Little Neck, Auburndale)	10.04%	8.77%
12 (Jamaica, South Jamaica, Hollis, St. Albans)	9.36%	9.18%
13 (Laurelton, Cambria Heights, Queens Village, Glen Oaks)	11.61%	11.60%
14 (The Rockaways, Broad Channel)	7.72%	14.41%
Total	**6.18%**	**9.86%**

	2010 PIOC Tax Relative	2009 PIOC Tax Relative
Staten Island		
1 (North Island)	15.55%	6.05%
2 (Mid Island)	6.25%	-2.93%
3 (South Island)	1.90%	15.41%
Total	**11.55%**	**7.27%**

	2010 PIOC Tax Relative	2009 PIOC Tax Relative
Citywide	**10.12%**	**11.72%**

Question 2: Can you give us data comparing the projected PIOC vs. the actual PIOC over the past five years?

Year	Projected PIOC	Actual PIOC	Percentage Point Difference from Projected to Actual
2010	2.2%	3.4%	+1.2
2009	7.3%	4.0%	-3.3
2008	8.5%	7.8%	-0.7
2007	6.2%	5.1%	-1.1
2006	6.7%	7.8%	+1.1

Local Law 63/ Income & Expense Review

The sample size for the *Income and Expense (I&E) Study* includes over 14,400 properties containing almost 660,000 units. This is the 18th 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 2009 Real Property Income and Expense (RPIE) statements for the year 2008:

Table 2

***2010 Income and Expense Study* Average Monthly Operating and Maintenance Costs Per Unit**			
	Pre '47	**Post '46**	**All Stabilized**
Total	**$759**	**$855**	**$790**

Source: *2010 Income and Expense Study*, from 2009 Real Property Income and Expense filings for 2008, 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 $725, rather than $790. As a result, the following relationship between operating costs and residential rental income was suggested by the Local Law 63 data:

Table 2(a)

2008 Operating Cost to Rent/Income Ratio Adjusted to 1992 Audit					
	O&M Costs[6]	Rent	O&M to Rent Ratio	Income	O&M to Income Ratio
All stabilized	$725	$1,012	0.717	$1,129	0.643
Stabilized Pre'47	$697	$947	0.736	$1,064	0.655
Stabilized Post'46	$786	$1,148	0.684	$1,266	0.620

Source: *2010 Income and Expense Study*, from 2009 Real Property Income and Expense filings for 2008, NYC Department of Finance.

Forecasts of Operating and Maintenance Price Increases for 2010-11

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 2010-11 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 2009-10 and Projected 2010-11		
	Price Index 2009-10	Projected Price Index 2010-11
Taxes	10.1%	8.3%
Labor Costs	3.1%	4.0%
Fuel Costs	0.5%	8.9%
Utility Costs	-1.7%	9.5%
Contractor Services	2.3%	3.2%
Administrative Costs	4.1%	4.5%
Insurance Costs	-2.0%	5.6%
Parts & Supplies	1.7%	1.8%
Replacement Costs	0.9%	1.7%
Total (Weighted)	**3.4%**	**6.7%**

Source: *2010 Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City*, which includes the 2011 PIOC Projection.

Overall, the PIOC is expected to grow by 6.7% from 2010 to 2011. Costs are predicted to rise in each component, with Utilities increasing the greatest proportion, by 9.5%. Fuel, the most volatile PIOC component, is expected to increase 8.9%. Taxes, the component that carries the most weight in the Index, is projected to increase 8.3% due to an increase in billable assessments, levy share and the tax rate for Class Two properties. Insurance Costs that have decreased over the past two years are projected to rise 5.6%. More moderate increases are projected in Administrative Costs (4.5%), Labor Costs (4.0%) and Contractor Services (3.2%). Table 3 shows predicted changes in PIOC components for 2011. The core PIOC is projected to rise 6.5%, slightly less than the overall PIOC.

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[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** ratios would be 0.781 (All), 0.801 (Pre-47), and 0.745 (Post-46), respectively. The unadjusted **O&M to Income** ratios would be 0.700 (All), 0.714 (Pre-47), and 0.675 (Post-46).

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 3.4% increase in the PIOC is 2.75% for a one-year lease and 5.5% for a two-year lease. Guidelines using this formula and adding assumptions for the impact of vacancy increases on revenues when apartments experience turnover are 1.25% for one-year leases and 2.25% 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 0.53% increase in the Consumer Price Index and the 3.4% increase in the PIOC is 3.0% for a one-year lease and 5.75% for a two-year lease. Guidelines using this formula and adding the estimated impact of vacancy increases are 1.5% for one-year leases and 2.5% 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 2.4% for a one-year lease and 4.8% for a two-year lease, given the increase in operating costs of 3.4% found in the 2010 PIOC and the projection of a 6.7% 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.

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[7] The following assumptions were used in the computation of the commensurates: (1) the required change in landlord revenue is 70.0% of the 2010 PIOC increase of 3.4%, or 2.4%. The 70.0% 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 30.0% times the latest 12-month increase in the CPI ending February 2010 (0.53%) or 0.16%; (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 2008 Housing and Vacancy Survey; (5) for the commensurate formulae, including a vacancy assumption, the 11.13% median increase in vacancy leases found in the rent stabilized apartments that reported a vacancy lease in the 2008 apartment registration file from the Division of Housing and Community Renewal was used; and (6) the collectability of these commensurate adjustments are assumed.

[8] The collectability of legally authorized adjustments is assumed. Calculating the "traditional" commensurate rent adjustment requires an assumption about next year's PIOC. In this case, the 6.7% PIOC projection for 2011 is used.

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 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 (3.4%). The traditional method differs from the other formulas in that it uses both the PIOCs actual change in costs as well as the projected change in costs (6.7%). 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 *Mortgage Survey 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 *2010 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.

[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.

Table 4

2010 Mortgage Survey[10] Average Interest Rates and Points for New and Refinanced Permanent Mortgage Loans 2002-2010									
New Financing of Permanent Mortgage Loans, Interest Rate and Points									
	2002	**2003**	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**
Avg. Rates	7.4%	6.2%	5.8%	5.5%	6.3%	6.3%	5.9%	6.5%	6.3%
Avg. Points	0.79	0.81	0.67	0.56	0.44	0.61	0.47	0.62	0.79
Refinancing of Permanent Mortgage Loans, Interest Rate and Points									
	2002	**2003**	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**	**2010**
Avg. Rates	7.4%	6.2%	5.7%	5.5%	6.3%	6.2%	5.8%	6.5%	6.3%
Avg. Points	0.83	0.78	0.60	0.56	0.44	0.61	0.44	0.62	0.83

Source: 2002–2010 Annual *Mortgage Surveys*, RGB.

On April 13, 2010 the staff of the Rent Guidelines Board released a memo to Board members with additional *Mortgage Survey* information. An excerpt from that memo follows:

In response to the request for the sales volume of the number of rent stabilized buildings that contain 100 or more units, a total of eleven buildings were sold in 2009 (5 in Brooklyn; 3 in Manhattan; 2 in Queens and 1 in the Bronx), while 36 were sold in 2008 (21 in Manhattan; 9 in Brooklyn; and 3 each in Queens and the Bronx).

CONDITION OF THE RENT STABILIZED HOUSING STOCK

The Board reviewed the number of buildings owned by the City following *in rem* actions and the number of units that are moving out of the rental market due to cooperative and condominium conversion.

Table 5

City-Owned Properties in Central Management Occupied and Vacant Building Counts, Fiscal Years 2001-2008								
	2001	**2002**	**2003**	**2004**	**2005**	**2006**	**2007**	**2008**
Occupied Bldgs.	1,203	919	610	373	235	175	133	115
Vacant Bldgs.	633	524	367	275	221	155	92	75

Source: NYC Department of Housing Preservation and Development, Office of Property Management. Data from 2009 is not available and is thus not included in this table.

[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.

Table 6

Number of Cooperative / Condominium Plans[11] Accepted for Filing, 2001-2009									
	2001	**2002**	**2003**	**2004**	**2005**	**2006**	**2007**	**2008**	**2009**
New Construction	145	136	190	268	361	644	573	454	335
Conversion Non-Eviction	12	14	10	16	24	53	66	50	29
Conversion Eviction	2	15	0	15	18	13	16	18	13
Rehabilitation	13	20	18	18	6	0	8	4	1
Total	**172**	**185**	**218**	**317**	**409**	**710**	**663**	**526**	**378**
Subtotal:									
HPD Sponsored Plans	2	15	0	15	18	13	16	18	13

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

On June 9, 2010 the staff of the Rent Guidelines Board released a memo to Board members with additional *Housing Supply Report* information. The text of that memo follows:

Question 1: Can you provide the change in the number of rent controlled units between 2005 and 2008?

According to data from the *2005* and *2008 Housing and Vacancy Surveys*, rent controlled units fell from 43,317 in 2005 to 39,901 in 2008, a decline of 3,416 units, or 7.9%. This is a slower decline than that seen between 2002 and 2005, when the number of rent controlled units declined by 16,007 units, or 27.0%.

Question 2: Can you provide historic vacancy rates for non-regulated housing?

Vacancy rates for non-regulated housing, as reported by the triennial *Housing and Vacancy Survey* follow. For comparison purposes, the rent stabilized vacancy rates and the overall vacancy rate for each year are also provided.

Year	*Non-Regulated Housing*	*Rent Stabilized Housing*	*Overall Rental Vacancy Rate*
2008	4.75%	2.15%	2.91%
2005	4.11%	2.68%	3.09%
2002	4.07%	2.52%	2.94%
1999	4.98%	2.46%	3.19%
1996	5.29%	3.57%	4.01%
1993	5.06%	3.36%	3.44%

[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.

Question 3: Can you provide First Quarter 2010 building permits by housing size?

Following are first quarter 2009 and 2010 building permits, and the change over the year, by housing size:

Housing Size	***1st Quarter 2009***	***1st Quarter 2010***	***% Change***
Single Family	78	104	33.3%
Two Family	198	218	10.1%
Three and Four Family	98	55	-43.9%
Five or More Family	703	628	-10.7%
Total	**1,077**	**1,005**	**-6.7%**

Question 4: Rates were presented for overcrowding and severe overcrowding in the Housing Supply Report. *Is there any data related to the underutilization of housing?*

As defined by the Census Bureau and reported in the *Housing Supply Report*, overcrowding is defined as an average of more than one person per room, while severe overcrowding is defined as more than 1.5 persons per room. A room is defined by the Census Bureau as: "…whole rooms used for living purposes, such as living rooms, dining rooms, bedrooms, kitchens, finished attic or basement rooms, recreation rooms, permanently enclosed porches that are suitable for year-round use, and lodger's rooms. Also included are rooms used for offices by a person living in the unit. A partially divided room, such as a dinette next to a kitchen or living room, is a separate room only if there is a partition from floor to ceiling, but not if the partition consists only of shelves or cabinets. Not included in the count of rooms are bathrooms, halls, foyers or vestibules, balconies, closets, alcoves, pantries, strip or Pullman kitchens, laundry or furnace rooms, unfinished attics or basements, other unfinished space used for storage, open porches, trailers used only as bedrooms, and offices used only by persons not living in the unit."

We are not aware of any definitions that exist for underutilization of an apartment. But presented below is information from the *2008 Housing and Vacancy Survey* for various apartment categories and various ratios of persons per room. As the table illustrates, for rent stabilized housing, 8.2% of apartments have less than 0.333 persons per room (i.e. less than one person per three rooms), while 19.8% have between 0.333 persons per room and 0.499 persons per room (i.e. at least one person per three rooms, but less than one person per two rooms), while 60.4% of rent stabilized apartments have between 0.5 and 1 persons per room (i.e. from one person per two rooms through one person per room) and 11.6% are considered overcrowded (more than one person per room).

Housing Category	*Less than 0.333 persons per room*	*0.333 persons per room to 0.499 persons per room*	*Between 0.5 and 1 persons per room*	*More than 1 person per room (overcrowded)*
Owner Occupied	20.9%	26.4%	49.1%	3.6%
Rent Stabilized	8.2%	19.8%	60.4%	11.6%
Rent Controlled	30.6%	24.1%	42.7%	2.7%
Mitchell Lama	12.3%	26.6%	56.4%	4.8%
Public Housing	16.9%	18.9%	57.3%	7.0%
Other Regulated	9.0%	27.7%	55.8%	7.5%
Non Regulated	9.2%	18.6%	62.2%	10.0%
Total	**13.5%**	**22.0%**	**56.5%**	**8.0%**

Apartments can also be analyzed by the number of persons per bedroom. Presented in the table below are the total number of apartment dwellers in both two-bedroom and three-bedroom apartments for various types of housing. As the table illustrates, 20.9% of rent stabilized two-bedroom apartments are occupied by one person, as are 13.0% of rent stabilized three-bedroom apartments. But 8.9% of rent stabilized two-bedroom apartments are occupied by five or more persons, as are 20.6% of three-bedroom rent stabilized apartments.

Housing Category	*# of Persons*	*2 bedroom apts.*		*3 bedroom apts.*	
		Units	*Percent*	*Units*	*Percent*
Owner Occupied	1	81,822	28.0%	59,413	15.4%
	2	109,681	37.6%	109,488	28.4%
	3	56,930	19.5%	73,231	19.0%
	4	30,988	10.6%	94,242	24.4%
	5 or more	12,656	4.4%	49,553	12.9%
	Total	***292,077***	***100.0%***	***385,927***	***100.0%***
Rent Stabilized	1	66,793	20.9%	9,574	13.0%
	2	101,160	31.6%	12,825	17.4%
	3	75,134	23.5%	17,594	23.9%
	4	48,267	15.1%	18,423	25.0%
	5 or more	28,464	8.9%	15,218	20.6%
	Total	***319,819***	***100.0%***	***73,634***	***100.0%***
Rent Controlled	1	7,457	50.0%	2,389	40.8%
	2	4,686	31.4%	1,464	25.0%
	3	1,596	10.7%	1,157	19.8%
	4	702	4.7%	448	7.6%
	5 or more	461	3.1%	396	6.8%
	Total	***14,901***	***100.0%***	***5,853***	***100.0%***
Mitchell Lama	1	5,230	25.6%	1,600	18.0%
	2	7,827	38.4%	799	9.0%
	3	4,584	22.5%	2,181	24.5%
	4	2,208	10.8%	1,824	20.5%
	5 or more	543	2.7%	2,496	28.1%
	Total	***20,393***	***100.0%***	***8,900***	***100.0%***
Public Housing	1	25,776	31.3%	5,825	16.0%
	2	26,876	32.6%	5,832	16.0%
	3	17,083	20.7%	6,962	19.1%
	4	8,655	10.5%	9,290	25.4%
	5 or more	4,086	4.9%	8,604	23.6%
	Total	***82,476***	***100.0%***	***36,513***	***100.0%***
Other Regulated	1	4,744	28.5%	1,167	14.6%
	2	4,997	30.1%	2,502	31.4%
	3	3,510	21.1%	1,044	13.1%
	4	2,059	12.4%	1,374	17.2%
	5 or more	1,307	7.8%	1,890	23.7%
	Total	***16,617***	***100.0%***	***7,977***	***100.0%***
Non Regulated	1	48,965	16.9%	8,353	6.5%
	2	110,520	38.2%	20,729	16.1%
	3	70,411	24.3%	38,744	30.1%
	4	39,238	13.6%	29,611	23.0%
	5 or more	20,172	7.0%	31,383	24.3%
	Total	***289,307***	***100.0%***	***128,820***	***100.0%***

Question 5: Can you provide data related to the level of tourism in New York City?

Data presented in the table below is from NYC & Company, the City's official tourism marketing agency:

Year	*Visitors*	*% Change from Previous Year*
2009	45.6 million	-3.0%
2008	47.0 million	2.2%
2007	46.0 million	5.0%
2006	43.8 million	2.8%
2005	42.6 million	6.8%
2004	39.9 million	5.6%
2003	37.8 million	7.1%
2002	35.3 million	0.3%
2001	35.2 million	-2.8%
2000	36.2 million	---

Question 6: How many rent stabilized units are located in co-op or condo buildings?

There are two sources for this data – DHCR apartment registration filings and the *2008 Housing and Vacancy Survey*. The files are different in that the total number of rent stabilized units reported Citywide differ significantly (the *2008 HVS* reports a total of 1,001,215 rent stabilized units Citywide, while only 833,298 units were registered with DHCR as of March, 2009) and that the HVS is a survey based on a statistically significant, but small, number of respondents, while the DHCR registrations rely on owners/managers of rent stabilized buildings to register their apartments and provide accurate and thorough information about the apartments they own and/or manage.

The 2008 DHCR registration file (released March, 2009) shows 2,382 self-identified co-op or condo buildings, containing a total of 23,029 rent stabilized units. The *2008 Housing and Vacancy Survey* identified 83,263 rent stabilized units in co-op or condo buildings (58,854 units in co-op buildings and 24,409 units in condo buildings).

These two files can be viewed together to estimate the true number of rent stabilized buildings in co-op and condo buildings, with the figure lying somewhere between a floor of 23,029 units and a ceiling of 83,263 units.

CONSUMER PRICE INDEX

The Board reviewed the Consumer Price Index. Table 7 shows the percentage change for the NY-Northeastern NJ Metropolitan area since 2003.

Table 7

Percentage Changes in the Consumer Price Index for the New York City - Northeastern New Jersey Metropolitan Area, 2003-2010 (For "All Urban Consumers")

	2003	2004	2005	2006	2007	2008	2009	2010
1st Quarter Avg.[12]	3.1%	2.8%	4.1%	3.4%	2.9%	3.7%	1.3%	2.1%
Yearly Avg.	3.1%	3.5%	3.9%	3.8%	2.8%	3.9%	0.4%	--

Source: U.S. Bureau of Labor Statistics. Some 1st Quarter numbers have been revised from prior years.

[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.

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.

Over the first two decades of rent stabilization, the change in the O&M to rent ratio contained in Table 8 (hereinafter, referred to as "Table 14" - its past designation) was updated each year to reflect the changes in operating costs as measured by the PIOC and changes in rents as measured by staff calculations derived from guideline increases. Over the years, some Board members and other housing experts have challenged the price index methodology and the soundness of the assumptions used in calculating the O&M to rent ratio in "Table 14". Several weaknesses in the table have been acknowledged for some time. However the board has decided to maintain Table 8 in this Explanatory Statement and Findings for historic comparison.

The first problem with "Table 14" is that the calculation does not account for the changes in the housing stock and market factors, both of which have certainly affected the relationship between rents and operating costs to some degree. Next, for the purpose of measuring the relationship between legal regulated rents and operating cost changes, the usefulness of "Table 14" is also limited. The rent index contained in the table does not adjust for administrative rent increases (MCI's and Apartment Improvement increases) and rents charged below established guidelines (preferential).

The operating cost index contained in the table is more troublesome. The .55 base contained in the table reflects an estimate concerning nearly all post-war units. The vast majority of stabilized units (about 7 out of 10) are now in pre-war buildings, which had higher O&M ratios in 1970. The cost index was adjusted (departing from the PIOC) in the 1970's in an attempt to accommodate for this influx of pre-war buildings into the stabilized sector. This attempt was misguided. The rent index reflects changes in rents initially in the post-war sector - so adjustments to the cost index to reflect the influx of pre-war units' results in a one-sided distortion of the changing relationship between costs and rents.

Staff's research suggests that the PIOC may have overstated actual cost increases from 1970 to 1982. Similarly, from 1990 to 2008, the I&E rose 120.1% and the adjusted PIOC rose 123.2%. What remains clear, however, is that "Table 14," in its current form, presents a highly misleading picture of the changing relationship of operating costs to rents over time.

Table 8 (Formerly Table 14)[13]

Calculation of Operating and Maintenance Cost Ratio For Rent Stabilized Buildings from 1970 to 2010						
Period	Percent O&M[14] Increase	O&M Index	Period	Percent Rent[15] Increase	Rent Index	O&M/Rent Ratio
4/1/70-3/31/71	-	55	7/1/71-6/30/72	-	100	0.55
4/1/71-3/31/72	5.7	58.14	7/1/72-6/30/73	5.4	105.40	0.55
4/1/72-3/31/73	7.9	62.73	7/1/73-6/30/74	5.4	111.09	0.56
4/1/73-3/31/74	15.5	72.45	7/1/74-6/30/75	5.64	117.36	0.62
4/1/74-3/31/75	6.5	77.16	7/1/75-6/30/76	5.62	123.95	0.62
4/1/75-3/31/76	8.8	83.95	7/1/76-6/30/77	5.33	130.56	0.64
4/1/76-3/31/77	6.9	89.74	7/1/77-6/30/78	5.49	137.73	0.65
4/1/77-3/31/78	0.6	90.28	7/1/78-6/30/79	4.23	143.55	0.63
4/1/78-3/31/79	10.4	99.67	7/1/79-6/30/80	7.73	154.65	0.64
4/1/79-3/31/80	17.0	116.61	7/1/80-9/30/81	10.28	170.55	0.68
4/1/80-3/31/81	14.6	133.64	10/1/81-9/30/82	10.11	187.79	0.71
4/1/81-3/31/82	2.8	137.38	10/1/82-9/30/83	3.52	194.40	0.71
4/1/82-3/31/83	2.6	140.95	10/1/83-9/30/84	4.93	203.98	0.69
4/1/83-3/31/84	6.3	149.83	10/1/84-9/30/85	5.82	215.86	0.69
4/1/84-3/31/85	5.4	157.92	10/1/85-9/30/86	6.55	229.99	0.69
4/1/85-3/31/86	6.4	168.03	10/1/86-9/30/87	6.18	244.21	0.69
4/1/86-3/31/87	2.1	171.56	10/1/87-9/30/88	5.87	258.54	0.66
4/1/87-3/31/88	6.4	182.54	10/1/88-9/30/89	6.39	275.06	0.66
4/1/88-3/31/89	6.7	194.77	10/1/89-9/30/90	6.16	292.01	0.67
4/1/89-3/31/90	10.9	216.00	10/1/90-9/30/91	4.15	304.13	0.71
4/1/90-3/31/91	6.0	228.96	10/1/91-9/30/92	3.93	316.08	0.72
4/1/91-3/31/92	4.0	238.12	10/1/92-9/30/93	3.11	325.91	0.73
4/1/92-3/31/93	4.7	249.31	10/1/93-9/30/94	2.93	335.46	0.74
4/1/93-3/31/94	2.0	254.30	10/1/94-9/30/95	2.73	344.62	0.74
4/1/94-3/31/95	0.1	254.55	10/1/95-9/30/96	4.10	358.74	0.71

[13] Source: Price Index of Operating Costs 1970 – 2010, NYC Housing and Vacancy Surveys.

[14] Estimate of percentage increases are based on the Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City for the relevant year and adjustments made by the Rent Guidelines Board; detailed explanations are available in the individual Explanatory Statements of the Board.

[15] For explanation of the derivation of individual percentage rent increases see the Explanatory Statements of the Board's previous Orders.

Table 8 (Formerly Table 14) Continued

Calculation of Operating and Maintenance Cost Ratio For Rent Stabilized Buildings from 1970 to 2010						
Period	Percent O&M Increase	O&M Index	Period	Percent Rent Increase	Rent Index	O&M/Rent Ratio
4/1/95-3/31/96	6.0	269.82	10/1/96-9/30/97	5.72	379.26	0.71
4/1/96-3/31/97	2.4	276.30	10/1/97-9/30/98	3.66	393.16	0.70
4/1/97-3/31/98	0.1	276.58	10/1/98-9/30/99	3.71	407.75	0.68
4/1/98-3/31/99	0.03	276.65	10/1/99-9/30/00	3.91	423.70	0.65
4/1/99-3/31/00	7.8	298.23	10/1/00-9/30/01	5.04	445.04	0.67
4/1/00-3/31/01	8.7	324.18	10/1/01-9/30/02	4.78	466.29	0.70
4/1/01-3/31/02	-1.6	318.99	10/1/02-9/30/03	3.61	483.10	0.66
4/1/02-3/31/03	16.9	372.90	10/1/03-9/30/04	5.72	510.72	0.73
4/1/03-3/31/04	6.9	398.63	10/1/04-9/30/05	4.75	534.96	0.75
4/1/04-3/31/05	5.8	421.91	10/1/05-9/30/06	4.22	557.54	0.76
4/1/05-3/31/06	7.8	454.86	10/1/06-9/30/07	4.38	581.92	0.78
4/1/06-3/31/07	5.1	477.83	10/1/07-9/30/08	3.57	602.68	0.79
4/1/07-3/31/08	7.8	515.10	10/1/08-9/30/09	8.00	650.80	0.79
4/1/08-3/31/09	4.0	535.71	10/1/09-9/30/10	5.82[16]	688.78	0.78
4/1/09-3/31/10	3.4	553.92	10/1/10-9/30/11	3.40[17]	712.17	0.78

For years the staff has expressed serious reservations about the usefulness and accuracy of "Table 14". With current longitudinal income and expense data staff has constructed a new and far more reliable index, using 1989 as a base year. Except for the most recent year and the coming year, this new index measures changes in building income and operating expenses as reported in annual income and expense statements. The second to last year 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. The proposed new index is in Table 9.

While we believe this to be a more reliable index, it 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 the new table looks at the overall relationship between costs and income, it does not measure the specific impact of rent regulation on that relationship. This new table is listed as Table 9.

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[16] The **5.82%** increase in rent roll estimated for leases signed during the period 10/1/09-9/30/10 under Order 41 reflects the following: (1) Renewal guidelines are estimated to contribute a **1.75%** and **2.76%** increase in the rent roll with 34.8% of all units experiencing a one-year lease signing (3% or $30, whichever is higher) and 52.5% of all units experiencing two-year lease signings (6% or $60, whichever is higher). These figures are derived from the 2008 Housing and Vacancy Survey (HVS). "Less than one year" was assumed to be a one-year lease and "More than one year" and "More than two years" were assumed to be a two-year lease. These figures for renewal leases (39.8% of stabilized households have a one-year lease and 60.2% have two-year leases) were reduced by the turnover rate of 12.7%, derived from the average households who moved in the 2008 HVS (127,570 is the number of stabilized households that moved in 2007, the most recent full year for which HVS data is available) and taken as percentages of all stabilized lease signers (1,004,837); (2) the median vacancy increase of 11.13% found in the 2008 annual DHCR rent registration data for apartments is estimated to increase overall rent rolls by **1.32%** when multiplied by the HVS turnover rate (11.8%), which estimates the percentage of rent stabilized units that will enter into vacancy leases under Order 41.

[17] The **3.40%** increase in rent roll estimated for leases signed during the period 10/1/10-9/30/11 under Order 42 reflects the following: (1) Renewal guidelines are estimated to contribute a **1.31%** and **0.85%** increase in the rent roll with 34.8% of all units experiencing a one-year lease signing (2.25%) and 52.5% of all units experiencing two-year lease signings (4.5%). These figures are derived from the 2008 Housing and Vacancy Survey (HVS). "Less than one year" was assumed to be a one-year lease and "More than one year" and "More than two years" were assumed to be a two-year lease. These figures for renewal leases (39.8% of stabilized households have a one-year lease and 60.2% have two-year leases) were reduced by the turnover rate of 12.7%, derived from the average households who moved in the 2008 HVS (127,570 is the number of stabilized households that moved in 2007, the most recent full year for which HVS data is available) and taken as percentages of all stabilized lease signers (1,004,837); (2) the median vacancy increase of 11.13% found in the 2008 annual DHCR rent registration data for apartments is estimated to increase overall rent rolls by **1.41%** when multiplied by the HVS turnover rate in 2007 (12.7%), which estimates the percentage of rent stabilized units that will enter into vacancy leases under Order 42.

Table 9

Revised Calculation of Operating and Maintenance Cost Ratio for Rent Stabilized Buildings from 1989 to 2011			
	Average Monthly O & M Per d.u.[18]	**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	$730 ($671)	$1,052	.69 (.64)
2008	$787 ($723)	$1,095	.72 (.66)
2009[19]	$819 ($752)	$1,154	.71 (.65)
2010[20]	$847 ($778)	$1,236	.69 (.63)
2011[21]	$903 ($830)	$1,295	.70 (.64)

Source: RGB *Income and Expense Studies*, 1989-2010, *Price Index of Operating Costs* 1992 - 2010, RGB Rent Index for 1992 - 2011 (see Table 8).

[18] 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.

[19] Estimated expense figure includes 2008 expense estimate updated by the PIOC for the period from 4/1/08 through 3/31/09 (4.0%). Income includes the income estimate for 2008 updated by staff estimate based upon renewal guidelines and choice of lease terms for a period from 4/1/08 through 3/31/09 (5.41% - i.e., the 10/1/07 to 9/30/08 rent projection (3.57) times (.583), plus the 10/1/08 to 9/30/09 rent projection (8.00) times (.417)).

[20] Estimated expense figure includes 2009 expense estimate updated by the staff PIOC for the period from 5/1/09 through 3/31/10 (3.4%). Income includes the income estimate for 2009 updated by staff estimate based upon renewal guidelines and choice of lease terms for a period from 4/1/09 through 3/31/10 (**7.09**% - i.e., the 10/1/08 to 9/30/09 rent projection (8.00) times (.583), plus the 10/1/09 to 9/30/10 rent projection (**5.82**) times (.417)).

[21] Estimated expense figure includes 2010 expense estimate updated by the staff PIOC projection for the period from 4/1/10 through 3/31/11 (6.7%). Income includes the income estimate for 2010 updated by staff estimate based upon renewal guidelines and choice of lease terms for a period from 4/1/10 through 3/31/11 (**4.81**% - i.e., the 10/1/09 to 9/30/10 rent projection (5.82) times (.583), plus the 10/1/10 to 9/30/11 rent projection (**3.40%**) times (.417)).

CHANGES IN HOUSING AFFORDABILITY

For the third consecutive year, New York City's economy did not generally improve as compared with the preceding year, with mostly negative economic indicators, including rising unemployment rates and homeless levels, and falling Gross City Product and employment levels. Citywide unemployment rates (on an annual basis) increased to 9.5% during 2009, a 4.1 percentage point increase from the prior year. And the annual measure of Gross City Product fell for the first time since 2003, declining by 3.0%, despite growth in the fourth quarter. In addition, cash assistance levels increased for only the second time since 1995, increasing by 1.5% between 2008 and 2009. The number of food stamp recipients is also on the rise, with rates increasing 20.0% in 2009. There was also a 7.5% increase in evictions, the largest proportional rise since 2002, and both non-payment filings in Housing Court and cases "calendered" both rose 2.3%. Homeless levels also rose, increasing to an average of almost 36,000 persons a night, a 7.0% increase. In addition, employment levels fell, decreasing 2.8% in 2009, and real wages in 2008 (the latest available annual data) fell 3.4%, and fell 2.3% during the third quarter of 2009 (the latest quarterly data).

As the economy struggled, inflation remained at historically low levels in New York. Costs rose on average just 0.4% in 2009, the lowest rate of inflation since the deflation of 1955. Gross City Product also increased during the fourth quarter of 2009, rising 0.9%, the first quarterly increase in real terms since the fourth quarter of 2007. Homeless levels also decreased slightly in both November and December of 2009 as compared to the prior month. And non-payment filings in Housing Court dropped 4.5% in the fourth quarter of 2009 as compared with the same quarter in 2008.

On April 26, 2010 the staff of the Rent Guidelines Board released a memo to Board members with additional information concerning the *2010 Income and Affordability Study*. The text of that memo follows:

Question 1: Can you provide vacancy rates by housing type?

Following are vacancy rates for the most common types of housing in New York City, provided by the *2008 New York City Housing and Vacancy Survey*. Per New York State Rent Stabilization laws, a "housing emergency" is defined as an overall vacancy rate of less than 5%.

- Total Renter Occupied: 2.91% (62,499 vacant apartments of 2,144,452 rentals)
- Total Rent Stabilized: 2.15% (22,032 vacant apartments of 1,023,247 rentals)
  - Pre-47 Rent Stabilized: 2.36% (16,917 vacant apartments of 717,471 rentals)
  - Post-46 Rent Stabilized: 1.67% (5,115 vacant apartments of 305,775 rental)
- Mitchell-Lama Rentals: 2.32% (1,398 vacant apartments of 60,376 rentals)
- Public Housing: 0.83% (1,530 vacant apartments of 185,339 rentals)
- Non-Regulated (Market-Rate) Housing: 4.75% (36,709 vacant apartments of 772,651 rentals)
- All Other Rental Housing (Article 4/5, HUD Regulated, Loft Board Regulated, In Rem): 1.32% (829 vacant apartments of 62,938 rentals)

Question 2: Can the unemployment rate be provided for just those 21 and older?
The local unemployment rate for New York City (9.5% annually in 2009) cannot be disaggregated by age or any other factors. However, the U.S. unemployment rate can be provided for those 16 and up (9.3% annually in 2009), as well as for those 20 years and up. Generally speaking, the unemployment rate for those 20 years and older is 0.5 to 0.6 percentage points lower than that for ages 16 and up.

On April 30, 2010 the staff of the Rent Guidelines Board released a memo to Board members with additional information concerning the *2010 Income and Affordability Study*. The text of that memo follows:

How much are vacant apartments being offered for, by borough?

Data from the 2008 HVS is organized into two separate files – one with all occupied units, and one with vacant units. To determine how much vacant apartments are being rented for, both files were utilized. As with all surveys, the HVS samples a small number of respondents and extrapolates this data for the City as a whole. The larger the sample size, the more accurate the data will be. For instance, the sample size of household income for all renters in New York City is a large number and would be a much more accurate representation than, for instance, the household income of people living in 7-story buildings in Brooklyn, which would be a much smaller sample size. Similarly, the sample size of vacant apartments is very small, with 398 vacant units actually sampled in 2008 and 335 in 2005. This extrapolates to approximately 60,00-65,000 units of housing across all five boroughs. Because of questions about the reliability of the data, we decided to present data for the "asking rent" of vacant apartments only on a Citywide level.

However, using the occupied data file, contract and gross rent levels from the 2008 HVS were analyzed according to the year the tenant moved in to see how much more recent movers are paying to rent apartments than tenants who moved in earlier. Rent levels from 2005 are organized into two groups – by tenants who moved between 2006 and 2008, and tenants who moved between 2002 and 2005. The median rent levels of the group from 2002-2005 were then compared to the median rent levels of those tenants who moved between 2006 and 2008. For instance, Citywide, rent stabilized tenants who moved into their present apartments between 2003 and 2005 are paying 5.2% less in contract rent than rent stabilized tenants who moved into their apartments between 2006 and 2008. Because the sample sizes of this grouping are much larger, data can be presented both by borough and for the whole Cty.

Asking Rents, Change Between 2005 and 2008

Asking Rent (vacant apts.)	All Apartments			Rent Stabilized Apartments			Market Rate Apartments		
	2005 Median Asking Rent	*2008 Median Asking Rent*	*% Increase*	*2005 Median Asking Rent*	*2008 Median Asking Rent*	*% Increase*	*2005 Median Asking Rent*	*2008 Median Asking Rent*	*% Increase*
Citywide	**$980**	**$1,200**	**22.4%**	**$925**	**$1,100**	**18.9%**	**$1,300**	**$1,500**	**15.4%**

Median Contract and Gross Rents, 2008 HVS Rents by Move-In Date

2008 HVS Rents, Move-In Date: 2006-2008

	All Apartments				Rent Stabilized Apartments				Market Rate Apartment			
	Median Rents (Move-In Date 2006-2008)		***% Difference from Rents for Move-In Date 2006-2008***		*Median Rents (Move-In Date 2006-2008)*		***% Difference from Rents for Move-In Date 2006-2008***		*Median Rents (Move-In Date 2006-2008)*		***% Difference from Rents for Move-In Date 2006-2008***	
Borough	***2008 Contract Rent***	***2008 Gross Rent***	***2008 Contract Rent***	***2008 Gross Rent***	***2008 Contract Rent***	***2008 Gross Rent***	***2008 Contract Rent***	***2008 Gross Rent***	***2008 Contract Rent***	***2008 Gross Rent***	***2008 Contract Rent***	***2008 Gross Rent***
Bronx	$935	$1,020	---	---	$900	$1,003	---	---	$1,100	$1,200	---	---
Brooklyn	$1,050	$1,170	---	---	$995	$1,084	---	---	$1,200	$1,330	---	---
Manhattan	$1,900	$2,000	---	---	$1,450	$1,519	---	---	$2,500	$2,625	---	---
Queens	$1,200	$1,280	---	---	$1,106	$1,202	---	---	$1,250	$1,370	---	---
Staten Island	$900	$1,070	---	---	*	*	---	---	$900	$1,100	---	---
Citywide	**$1,200**	**$1,275**	**---**	**---**	**$1,055**	**$1,160**	**---**	**---**	**$1,400**	**$1,505**	**---**	**---**

* Categories with less than 10,000 units were not analyzed due to possible inaccuracies with small sample sizes.

2008 HVS Rents, Move-In Date: 2003-2005

	All Apartments				Rent Stabilized Apartments				Market Rate Apartment			
	Median Rents (Move-In Date 2003-2005)		***% Difference from Rents for Move-In Date 2006-2008***		*Median Rents (Move-In Date 2003-2005)*		***% Difference from Rents for Move-In Date 2006-2008***		*Median Rents (Move-In Date 2003-2005)*		***% Difference from Rents for Move-In Date 2006-2008***	
Borough	***2008 Contract Rent***	***2008 Gross Rent***	***2008 Contract Rent***	***2008 Gross Rent***	***2008 Contract Rent***	***2008 Gross Rent***	***2008 Contract Rent***	***2008 Gross Rent***	***2008 Contract Rent***	***2008 Gross Rent***	***2008 Contract Rent***	***2008 Gross Rent***
Bronx	$900	$1,016	-3.7%	-0.4%	$900	$1,004	0.0%	0.1%	$1,200	$1,310	9.1%	9.2%
Brooklyn	$1,000	$1,100	-4.8%	-6.0%	$980	$1,085	-1.5%	0.1%	$1,167	$1,290	-2.8%	-3.0%
Manhattan	$1,700	$1,760	-10.5%	-12.0%	$1,300	$1,380	-10.3%	-9.2%	$2,625	$2,685	5.0%	2.3%
Queens	$1,100	$1,207	-8.3%	-5.7%	$1,100	$1,163	-0.5%	-3.2%	$1,200	$1,305	-4.0%	-4.7%
Staten Island	$900	$1,100	0.0%	2.8%	*	*	*	*	$1,000	$1,150	11.1%	4.5%
Citywide	**$1,050**	**$1,165**	**-12.5%**	**-8.6%**	**$1,000**	**$1,100**	**-5.2%**	**-5.2%**	**$1,300**	**$1,405**	**-7.1%**	**-6.6%**

* Categories with less than 10,000 units were not analyzed due to possible inaccuracies with small sample sizes.

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 10). 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 made no distinction between guidelines for buildings with different fuel and utility arrangements under Order 42.

Table 10

Changes in Price Index of Operating Costs for Apartments in Buildings with Various Heating Arrangements, 2009-10, and Commensurate Rent Adjustment

Index Type	2009-10 Price Index Change	One-Year Rent Adjustment Commensurate With O&M to Income Ratio of .70
All Dwelling Units	3.43%	2.40%
Pre 1947	1.88%	1.32%
Post 1946	4.72%	3.30%
Oil Used for Heating	4.43%	3.10%
Gas Used for Heating	-0.43%	-0.30%
Master Metered for Electricity	2.06%	1.44%

Note: The O&M to Income ratio is from the *2010 Income and Expense Study*.
Source: RGB's *2010 Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City*.

On June 9, 2010 the staff of the Rent Guidelines Board released a memo to Board members with additional information concerning the *Changes to the Rent Stabilized Housing Stock in New York City in 2009* study. The text of this memo follows:

1) In response to the request for data on rents charged in non-regulated apartments, according to the *2008 NYC Housing and Vacancy Survey*, the median asking rent for a market-rate apartment citywide was $1,500. (By comparison, it was $1,100 for a rent stabilized apartment).

Examining actual rents paid by tenants who recently moved into their market-rate apartments (that is, tenants whose move-in date was 2006-2008), the median rent paid was $1,400. (By comparison, for those who recently moved in to rent stabilized apartments, the median was $1,106.) Specific data on rents charged solely in apartments previously regulated is unavailable.

2) In response to the request for the number of formerly Mitchell-Lama apartments that became rent stabilized or unregulated rentals or owner-occupied units: the total number of units that left the Mitchell-Lama program, including rentals and co-ops, equals 42,224. Of these, 36,446 were rental units, and 18,956 of these units became rent stabilized.

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 3.8%, 0.4 percentage points higher than the increase for apartments. This difference is explained by the fact that Fuel rose 4.1% for lofts versus 0.5% for apartments. This higher increase in the Fuel component placed more upward pressure on the Loft Index.

This year's guidelines for lofts are: **2.25%** for a one-year lease and **4.5%** for a two-year lease.

Table 11

Changes in the Price Index of Operating Costs for Lofts from 2009-2010

	Loft O & M Price Index Change
All Buildings	3.8%

Source: *2010 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) 50% 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 50% 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 82 of the Laws of 2003.

Sublet Allowance

The increase landlords are allowed to charge under Order #42 when a rent stabilized apartment is sublet by the primary tenant to another tenant on or after October 1, 2010 and on or before September 30, 2011 shall be **10%**.

Votes

The votes of the Board on the adopted motion pertaining to the provisions of Order #42 were as follows:

	Yes	No	Abstentions
Guidelines for Apartment Order #42	7	2	-

Dated: June 24, 2010
Filed with the City Clerk: June 30, 2010

Jonathan L. Kimmel
Chair
NYC Rent Guidelines Board

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