New York City Rent Guidelines Board

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Statement by Nestor Davidson, Chair of the New York City Rent Guidelines Board
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The New York City Rent Stabilization Law of 1969 (RSL) and the New York State Emergency Tenant Protection Act of 1974 (ETPA) each made findings of "a serious public emergency" in housing, an emergency that unfortunately continues to this day. The law accordingly charged this Board with "prevent[ing] speculative, unwarranted and abnormal increases in rents," "prevent[ing] exaction of unjust, unreasonable and oppressive rents and rental agreements," and "forestall[ing] profiteering, speculation and other disruptive practices." ETPA § 2; RSL § 26-501.

To achieve these goals, the law tasks the Board with setting guidelines for "the annual adjustment of the level of fair rents," RSL § 26-510(h). In doing so, the law directs the Board to review and consider:

> (1) the economic condition of the residential real estate industry in New York City including such factors as the prevailing and projected (i) real estate taxes and sewer and water rates, (ii) gross operating maintenance costs, (iii) cost and availability of financing and interest rates and (iv) supply of housing and vacancy rates;
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> (2) relevant data from the current and projected cost of living indices for New York City; and
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> (3) such other data as has been made available to us.

Importantly, among the "other data" that the Board has long considered is affordability for tenants.

As past Chairs have noted, there is no simple formula or algorithm for determining fair rent adjustments. As we approach this year's guidelines, New York City is still recovering from the Covid-19 pandemic, with some important data before the Board capturing information from the height of the crisis and more recent data still reflecting its on-going aftermath. And unusually high (although moderating) inflation has impacted tenants and owners. The Board must evaluate these challenging conditions in light of long-term trends, careful not to overreact to disruptions, true to the Board's long-standing commitment to incremental change and stability.

As I have considered this year's guidelines, I am mindful of the deep affordability challenges facing tenants in rent-stabilized housing. The data before the Board certainly reflect some elements of New York City's general recovery from the pandemic. The RGB's *2023 Income and Affordability Study* (*I&A Study*), for example, noted that NYC's Gross City Product was forecasted to increase by 3.3% in inflation-adjusted ("real") terms in 2022 and the city's overall unemployment rate fell from 10% to 5.7%, although it remained materially higher than the 3.9% rate the city had in 2019, before the pandemic, and the recovery has been uneven.

However, the *I&A Study* also highlighted persistent and growing challenges for tenants. With inflation rising 6.1%, its highest level in the NYC metro area since 1981, average "real" wages dropped by 2.1%—the first such decline in over a decade. And the rent burden tenants face continues to be significant. The 2021 *Housing and Vacancy Survey* (*HVS*) reported that the median gross rent for rent-stabilized tenants was 36.2% of household income in 2021. The *HVS* also reported that the proportion of tenants spending more than 30% of their income reached 60.6% in 2021 and the proportion of rent stabilized tenants who are severely rent burdened—paying over 50% of their income on rent—reached an all-time high of nearly 40%. While some of these figures are lower when factoring in rental assistance (for instance, the median gross rent-to-income ratio for rent-stabilized tenants excluding those receiving rental assistance is 32.2%), regardless, the data indicate a steep rent burden for many rent-stabilized tenants.

The supply of housing available to rent remains tight, with a citywide vacancy rate of 4.57% for rent stabilized apartments in 2021. The vacancy rate was especially tight for rent-stabilized units providing more affordable rents, with a vacancy rate under 1% for units renting for less than $1,500, with the number of units renting at this level declining in significant numbers. Relief from the housing shortage is unlikely in the near future. Although the RGB's *2023 Housing Supply Report* reported a 7.9% increase in the number of newly issued housing permits, the city experienced an 8.1% decline in housing completions this past year. In addition, the RGB's *Changes to the Rent Stabilized Housing Stock in NYC in 2022* report showed a net loss of over 2,500 units from the rent stabilized stock.

At the same time, it is important to recognize that owners face significant challenges maintaining the quality of rent-stabilized housing and preserving this vital stock for tenants in the long run. As measured by the RGB's *2023 Price Index of Operating Costs Report (PIOC Report)*, prices facing owners rose 8.1% from April 2022 through March 2023, exacerbated by inflation. It is likely that elements of these recent trends, including rising insurance costs and property taxes, will persist in the immediate future even as inflation may abate, with RGB staff projecting that the rise in prices will drop to 3.7% next year.

Moreover, the RGB's *2023 Income and Expense Study* (*I&E Study*) showed evidence that owners are having trouble mitigating rising costs with available revenue. From 2020 to 2021, the most recent data available to the Board and reflecting conditions at the height of the pandemic, average net operating income (NOI) in buildings with rent-stabilized units citywide decreased by 9.1% (with a 5.1% decline outside of Core Manhattan), following a 7.8% decline from 2019 to 2020.

Reflecting recent Fed policies, the *2023 Mortgage Survey Report* (*Mortgage Report*) showed that interest rates for new-financing loans for buildings with rent-stabilized units increased by an average of 212 basis points, from 3.91% last year to 6.02% this year, posing potential constraints on financing. Empirical evidence underscores that financing constraints are correlated to a decline in housing quality. *See* Lee Seltzer, *Financing Constraints and Maintenance Investments: Evidence from Apartments*, Federal Reserve Bank of New York Staff Reports, no. 1000 (December 2021; revised February 2023).

In evaluating these concerns, it bears noting that data before the Board also reflects some signs of the resilience of the portfolio through the disruptions of the pandemic and changes in the rent stabilization system from the 2019 Housing Stability and Tenant Protection Act. For example, an important metric of the ability of owners to maintain their buildings is the ratio between operating and maintenance (O&M) costs and income. The *I&E Study* reported that the citywide adjusted O&M cost-to-income ratio (a figure that excludes any consideration of debt service) was 62.2% in 2021. While that was a 2% increase from 2020, the figure was well in line with historic levels, which have ranged from roughly 55% to 65% since 1990, averaging 60.5% over that period. To add perspective, the *I&E Study* noted that from 1990 to 2021, adjusting for inflation, NOI across the entire stock of rent-stabilized housing saw a cumulative increase of 49.9% while owner costs increased cumulatively by 35.3%, indicating that revenues outpaced expenses across that timeframe.

Moreover, as to valuations of buildings with rent-stabilized units, the assessed value of such buildings rose 7.8% over the prior year, according to recent property tax data reported in the *PIOC Report*. Sales of such buildings have increased since the height of the pandemic, with a total of 889 sold citywide in 2022, up 14% from the prior year, with average sales prices per residential unit in buildings containing stabilized units rising 7.4% in 2021 and 5.6% in 2022 in inflation-adjusted "real" terms according to the *Mortgage Report*. And it appears that underwriting for buildings with rent-stabilized units is continuing under relatively normal conditions according to the *Mortgage Report* as well as testimony before the Board.

In sum, the data noted above as well as additional data presented to the Board underscore that tenants in rent-stabilized housing are facing genuine precarity, owner costs are continuing to rise, and there is reason to be concerned about the long-term health of the stock of rent-stabilized housing. In evaluating that data, I return to the necessity of considering both current conditions and long-term trends. Some stakeholders have urged us to prioritize one side of this balance over the other. Some have argued that we should set guidelines that respond primarily (in whichever direction) to immediate challenges. Others have argued, conversely, that we should primarily center the long term, discounting recent disruptions. Rather than take either of those approaches, our long-standing practice as a Board reflects that we balance both, seeking to ensure the stability of the rent stabilization system for tenants and owners and preserving this truly foundational aspect of housing in our city.