

EXPLANATORY STATEMENT - HOTEL ORDER #53

Explanatory Statement and Findings of the Rent Guidelines Board in Relation to 2023-24 Lease Increase Allowances for Hotels under the Jurisdiction of the Rent Stabilization Law

Explanatory Statement and Findings of the Rent Guidelines Board Concerning Increase Allowances for Hotel Units Under the Jurisdiction of the Rent Stabilization Law, Pursuant to Hotel Order Number 53, Effective October 1, 2023 through and including September 30, 2024.¹

Pursuant to the authority vested in it by the Rent Stabilization Law of 1969 and the Emergency Tenant Protection Act of 1974, implemented by Resolution Number 276 of 1974 of the New York City Council, and extended by the Housing Stability and Tenant Protection Act of 2019, it is the responsibility of the Rent Guidelines Board to establish guidelines for hotel increases. Hotel Order Number 53, adopted on June 21, 2023, applies to stabilized hotel units occupied by non-transient tenants.

Hotel Order Number 53 provides for an allowable increase of **0%** over the lawful rent actually charged and paid on September 30, 2023 for rooming houses, lodging houses, Class B hotels, single room occupancy buildings, and Class A residential hotels. The Order does not limit rental levels for commercial space, non-rent stabilized residential units, or transient units in hotel stabilized buildings during the guideline period. The Order also provides that for any dwelling unit in a hotel stabilized building which is voluntarily vacated by the tenant thereof, the rent charged for a new tenancy may not exceed the rent charged on September 30, 2023.

DEFINITIONS

For the purpose of determining the appropriate classification of a hotel stabilized unit, the Board has set its definitions as follows:

- Residential hotels are “apartment hotels” which are designated as Class A multiple dwellings on the Certificate of Occupancy.
- Rooming houses are Class B multiple dwellings having fewer than thirty sleeping rooms as defined in Section 4(13) of the Multiple Dwelling Law.
- A single room occupancy building is a Class A multiple dwelling which is either used in whole or in part for single room occupancy or as a furnished room house, pursuant to Section 248 of the Multiple Dwelling Law.
- A Class B hotel is a hotel, which carries a Class B Certificate of Occupancy and contains units subject to rent stabilization.
- Lodging houses are those buildings designated as lodging houses on the Certificate of Occupancy.

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

BACKGROUND

Due to the COVID-19 health crisis, the Board held both virtual and in-person public meetings and hearings.² The Board issued Order No. 53 following **seven** in-person public meetings, **three** in-person public hearings, and **one** virtual public hearing, as well as the Board's review of written, oral and video submissions provided by the public and a review of research and memoranda prepared by the Board's staff.

Public meetings of the Board were held on March 30, April 13, 20 and 27, and May 25, 2023, following public notices. On May 2, the Board adopted proposed rent guidelines for hotels, apartments, and lofts.

A virtual public hearing was held on June 13, 2023, to hear comments on the proposed rent adjustments for rent stabilized hotels and apartments. Three in-person public hearings were held on June 5, June 8 and June 15, 2023. The hearings were held from 5:20 p.m. to 10:45 p.m. on June 5; 5:20 p.m. to 8:05 p.m. on June 8; 5:05 p.m. to 8:05 p.m. on June 13; and from 5:20 p.m. to 10:02 p.m. on June 15. The Board heard testimony from approximately three hotel tenants and tenant representatives, no hotel owners, and no public officials. In addition, the Board received approximately three written, oral and video submissions from tenants and tenant representatives, one hotel owner, and no public officials. On June 21, 2023, the Board adopted guidelines set forth in Hotel Order Number 53.

Selected Oral and Written Testimony from Tenants and Tenant Groups:

- “Unfortunately, the conditions that warranted last year’s 0% vote remain unchanged: SRO tenants continue to struggle while buildings designated for residential use by rent-stabilized tenants are increasingly used for other purposes which generate significant profits in these buildings. Furthermore, SRO tenants have been and will continue to be particularly affected, especially in light of the COVID-19 pandemic. This is further coupled by the recent inflation crisis, which heavily impacts people on fixed incomes. Considering that a disproportionate amount of people on fixed income live in SROs, SRO tenants are heavily impacted by high inflation. As a result, a 0% vote is even more justified.”
- “SROs are housing accommodations of the last resort. SRO tenants are low-income people living on the brink; their incomes are just barely enough to afford them the necessities of life. They are precisely the group of people who have been most impacted by the rising prices. Allowing landlords to increase rent prices in the midst of record inflation will result in pushing many SRO tenants over the brink into homelessness.”
- “These economic impacts, which may seem minimal to some, can be the difference between being housed and being homeless for many of our clients, as they’re already paying a substantial portion of their income towards rent and often are on fixed incomes, any increase to their rent, coupled with other increased expenses, can make them unable to afford to live or pay for the necessities.”

² The City of New York was under a state of emergency to address the threat and impacts of COVID-19 declared in Emergency Executive Order No. 98, dated March 12, 2020, and most recently extended for an additional 30 days by Emergency Executive Order No. 411, dated May 20, 2023. Pursuant to the Open Meetings Law, public bodies are authorized to meet remotely during a state of emergency that affects the Board's ability to meet in person, provided that the public has the ability to view such proceeding and that such meetings are recorded. Pursuant to that authority, the Board's June 13 public hearing was held virtually.

– “Rent increases for tenants cannot be justified in SRO buildings that are not fully occupied by permanent rent-stabilized tenants or where the building’s income is dependent primarily on sources other than its rent rolls. Many SRO buildings earn the vast majority of their income from sources other than renting to permanent rent-stabilized tenants. Rental income from permanent tenants pales in comparison to income from lucrative contracts with City agencies to house the homeless, illegally-operated tourist hotels and the student dormitory operations that are present in many SROs. In the instances where there are no such operations, rental income could be increased by simply returning to the market all the warehoused units that currently sit vacant.”

– “SRO tenants are amongst New York City’s poorest residents, and a rent increase for SROs would likely push more of these tenants out of their permanent homes and into the shelter system. Many SRO residents survive on low-wage jobs or fixed incomes, and they cannot afford rent increases. As the number of New Yorkers staying in shelters steadily climbs above 60,000 people each night and homeless encampments become an increasingly common sight in the city, it would be a grave mistake to increase rents in SROs. Even a small increase in SRO rents would drive many of the City’s poorest tenants out of their homes.”

– “SRO owners, on the other hand, continue to thrive. They exploit profitable operating strategies, such as renting to transient guests and institutional tenants that will not be affected by the rent increases set by the Rent Guidelines Board. Furthermore, while a slight increase to SRO rents would be insignificant to owners’ bottom lines, it would push SRO tenants from their long-term homes. A rent increase would drive thousands of poor New Yorkers into homelessness while vacating buildings for real estate speculators.”

Selected Oral and Written Testimony from Owners and Owner Groups:

– “The cost structure for operating fully stabilized SROs closely corresponds to the cost structure for operating pre-1947 multi-family apartment buildings as is seen on the attached schedule. Operating costs for pre-1947 apartment buildings between 2004 and 2022 increased 59.81% while over the same period operating costs for SROs increased 50.61% (without including results for the anomalous 2015/16 year) or 41.11% including the anomalous results). Because of the discrimination against SRO’s, operating costs in SRO’s increased four to five times more than permitted rent increases.”

– “There is no justification to treat owners of stabilized SRO/rooming house properties any differently than the owners of ordinary rent stabilized apartment buildings. The Rent Guidelines Board should recognize this fact and adopt an order making up for prior discrimination as well as putting predominantly stabilized SRO properties on equal footing with ordinary rent stabilized apartment buildings.”

– “I specifically propose that the 2023/2024 Hotel Order covering renewal leases in SROs and rooming houses with stabilized tenancies that do not have transient tenancies permit rent increases similar to those allowed in stabilized apartment buildings. This will be only a small step in restoring fairness in the regulatory scheme governing SRO and rooming house properties.”

Selected Oral and Written Testimony from Public Officials:

- None submitted.

MATERIAL CONSIDERED BY THE BOARD

In addition to oral and written testimony presented at its public meetings and hearings, the Board's decision is based upon material gathered from the 2023 Price Index of Operating Costs and 2023 Hotel Report, prepared by the staff of the Rent Guidelines Board, reports and testimony submitted by owner and tenant groups relating to the hotel sector, and reports submitted by public agencies. The Board heard and received written testimony from invited guest speakers on April 27, 2023. Guest speakers representing hotel tenants included Bleys La Pierre from the Goddard Riverside Law Project and Brian J. Sullivan from MYF Legal Services.

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. *2023 Mortgage Survey Report*, April 2023 (an evaluation of recent underwriting practices, financial availability and terms, and lending criteria);
2. *2023 Income and Affordability Study*, April 2023 (including employment trends, housing court actions, changes in eligibility requirements and public benefit levels in New York City);
3. *2023 Price Index of Operating Costs*, April 2023 (measuring the price change for a market basket of goods and services which are used in the operation and maintenance of stabilized hotels);
4. *2023 Hotel Report*, May 2023 (including data on rent stabilized hotels derived from NYS Homes and Community Renewal registration files, illegal hotel violations, and the number of Certifications of No Harassment);
5. *2023 Housing Supply Report*, May 2023 (including information 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 2022*, May 2023 (quantifying 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.nyc.gov/rgb, and are also available at the RGB offices, 1 Centre St., Suite 2210, New York, NY upon request.

Price Index of Operating Costs for Rent Stabilized Hotel Units

The Hotel Price Index includes separate indices for each of three categories of hotels that contain rent stabilized units (due to their dissimilar operating cost profiles) and a general index for all Hotels that includes all three. The three categories of hotels are: 1) “Traditional” Hotels — Class A multiple dwellings that have amenities such as a front desk, maid or linen services; 2) Rooming Houses — Class B multiple dwellings other than a hotel with thirty or fewer sleeping rooms; and 3) Single Room Occupancy (SROs) hotels — Class A multiple dwellings which are either used in whole or in part for single room occupancy or as a furnished room house.

The Hotel Price Index for all hotels that contain rent stabilized units increased 8.3% this year, compared to a decline of 1.3% in 2022. There were increases in all of the Hotel PIOC components. The Fuel component witnessed the highest proportional increase, rising 21.0%, and accounts for 15.2% of the index. Insurance Costs rose by the second greatest proportion, 12.9%, and account for 6.9% of the index. The remaining five components all rose by lesser proportions, including Utilities, which rose 9.9%; Maintenance, 9.3%; Taxes, 5.1%; Labor Costs, 3.0%; and Administrative Costs, 2.8%. See the table on this page for changes in costs and prices for all hotels that contain rent stabilized units from 2022-2023.

Among the different categories of Hotels, the index for “Traditional” Hotels increased 7.3%, Rooming Houses by 9.9%, and SROs by 8.9%.

**Percent Change in the Components of the Price Index of Operating Costs
April 2022 to March 2023, By Hotel Type and All Hotels**

| Item Description | All Hotels | Hotel | Rooming House | SRO |
|----------------------|-------------|-------------|---------------|-------------|
| TAXES | 5.1% | 4.9% | 5.2% | 5.3% |
| LABOR COSTS | 3.0% | 2.9% | 3.4% | 3.1% |
| FUEL | 21.0% | 20.5% | 25.1% | 19.8% |
| UTILITIES | 9.9% | 7.6% | 13.6% | 9.3% |
| MAINTENANCE | 9.3% | 9.7% | 9.0% | 8.3% |
| ADMINISTRATIVE COSTS | 2.8% | 2.7% | 3.6% | 2.9% |
| INSURANCE COSTS | 12.9% | 12.9% | 12.9% | 12.9% |
| ALL ITEMS | 8.3% | 7.3% | 9.9% | 8.9% |

Source: 2023 Price Index of Operating Costs

Changes in Housing Affordability

Per the 2023 *Income and Affordability Study*, NYC’s economy in 2022 showed many strengths as compared with the preceding year. Positive indicators include rising employment levels, which increased by 7.0%. Gross City Product (GCP) is also forecasted to increase, rising in inflation-adjusted terms by 3.3% in 2022. The unemployment rate fell, decreasing by 4.3 percentage points, to 5.7%. Both average wages and total wages increased in nominal terms in the most recent 12-month period, rising by 3.6% and 10.9%, respectively. Personal bankruptcy filings also fell in 2022, dropping 11.9%, to their lowest level since at least 2000. Medicaid enrollees also fell, declining by 4.9% in 2022.

However, negative indicators include an increase in caseloads for cash assistance of 14.2% and the Supplemental Nutrition Assistance Program (SNAP, formerly known as food stamps) of 1.3%. Following eviction moratoriums in place for most of 2020 and all of 2021, non-payment filings and non-payment calendared cases in Housing Court both rose sharply (by 167.8% and 228.6%, respectively). The number of residential evictions also rose, increasing from 136 in 2021 to 4,109 in 2022. While sheltered homeless levels (as reported by the NYC Department of Homeless Services (DHS)) dropped in the first half of 2022, due to a rise in asylum seekers entering NYC, rates rose by an average of 8.0% in 2022 as a whole. Inflation was also at its highest level in the NYC metro area since 1981, rising 6.1%. As previously noted, while average wages rose a nominal 3.6% in NYC over the past year, because of high inflation, “real” wages dropped by 2.1%.

Economic indicators in 2022, as compared to 2019 (the last full year preceding the pandemic), are mixed. As compared to 2019, in 2022 the unemployment rate is 1.8 percentage points higher, and overall employment levels are 2.1% lower. Cash assistance caseloads are 27.0% higher, and SNAP caseloads are 12.1% higher. But GCP is 4.1% higher in inflation-adjusted terms, and both inflation-adjusted average and total wages are higher, by 10.8% and 6.4%, respectively. DHS sheltered homeless levels are 12.9% lower, and Medicaid enrollees are 5.7% lower. In Housing Court, non-payment filings are 39.0% lower, and non-payment calendared cases are 43.8% lower. Residential evictions are also 75.8% lower.

The most recent quarter for which there is comprehensive data is the fourth quarter of 2022. As compared to the fourth quarter of 2021, the fourth quarter of 2022 shows both positive and negative indicators. Positive indicators include the unemployment rate, down 2.7 percentage points as compared to 2021; employment levels, up 4.9%; and Medicaid enrollees, down 4.0%. Negative indicators include DHS sheltered homeless levels, up 39.3%; cash assistance caseloads, up 17.5%; SNAP caseloads, up 2.3%; and in Housing Court, following the end of the eviction moratorium, the number of non-payment filings up 231.5%, and the number of non-payment cases heard (calendared), up 448.5%.

Fourth quarter data can also be analyzed in relation to the third quarter of 2022, to illustrate more recent trends. Based on seasonally adjusted employment data, there was an increase of 0.4 percentage points in the NYC unemployment rate in the fourth quarter of 2022 as compared to the third, and an increase of 0.1% in total employment. There was also an increase of 22.2% in DHS sheltered homeless levels; 2.5% in cash assistance caseloads; 1.2% in Medicaid enrollees, and in Housing Court, a 47.6% increase in non-payment cases and 41.1% in non-payment calendared cases. However, SNAP caseloads fell by 1.2%.

Consumer Price Index

The Board reviewed the Consumer Price Index. The table that follows shows the percentage change for the NY-Northeastern NJ Metropolitan area since 2015.

**Percentage Changes in the Consumer Price Index
for the New York City - Northeastern New Jersey Metropolitan Area, 2015-2023
(For "All Urban Consumers")**

| | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 |
|-------------------------------|-------|------|------|------|------|------|------|------|------|
| 1st Quarter Avg. ³ | -0.2% | 0.7% | 2.5% | 1.6% | 1.5% | 2.3% | 1.5% | 5.5% | 5.5% |
| Yearly Avg. | 0.1% | 1.1% | 2.0% | 1.9% | 1.7% | 1.7% | 3.3% | 6.1% | N/A |

Source: U.S. Bureau of Labor Statistics.

Effective Rates of Interest

The Board took into account current mortgage interest rates and the availability of financing and refinancing. It reviewed the staff's *2023 Mortgage Survey Report* of lending institutions. The table below gives the reported rate and points for the past ten years as reported by the *Mortgage Survey*.

**2023 Mortgage Survey⁴
Average Interest Rates and Points for
New and Refinanced Permanent Mortgage Loans 2014-2023**

| New Financing of Permanent Mortgage Loans, Interest Rate and Points | | | | | | | | | | |
|--|------|------|------|------|------|------|------|------|------|------|
| | 2014 | 2015 | 2016 | 2017 | 2018 | 2019 | 2020 | 2021 | 2022 | 2023 |
| Avg. Rates | 4.9% | 4.3% | 4.0% | 4.3% | 4.8% | 4.7% | 4.0% | 3.8% | 3.9% | 6.0% |
| Avg. Points | 0.54 | 0.70 | 0.42 | 0.44 | 0.44 | 0.38 | 0.22 | 0.38 | 0.32 | 0.29 |

Source: 2014–2023 Annual Mortgage Surveys, RGB.

NYS Homes and Community Renewal (HCR) Registration Data for Rent Stabilized Hotels

An analysis of 2021/2022 HCR registration data identified registration records for 83 hotels and 239 rooming houses (a total of 322 buildings). These 322 buildings contained 6,245 hotel units and 4,806 rooming house units (a total of 11,051 units). Slightly fewer than half of these units (5,382) were registered as “rent stabilized,” with most units including corresponding rent data. The balance of the units (5,669) were registered as either vacant or exempt. For those units where rent data is reported, the median legal rent is \$867 for hotels and \$1,189 for rooming houses (with an overall median of \$1,018). The average legal rent is \$1,046 for hotels and \$1,099 for rooming houses (with an overall average of \$1,075). The median “rent received” (the legal rent, except in cases where there is a preferential rent provided) is \$745 for hotels and \$1,010 for rooming houses (with an overall median of \$864). The average “rent received” is \$881 for hotels and \$1,006 for rooming houses (with an overall average of \$948). In addition, a longitudinal analysis of the change in rent in the same set of units in both 2021 and 2022 shows that the median legal rent rose 14.1% in hotels, was unchanged in rooming houses, and

³ 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.

⁴ 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.

rose 8.8% overall. The average legal rent in the longitudinal sample rose by 5.1% in hotels, 1.2% in rooming houses, and 2.7% overall. For the “rent received” by owners in the longitudinal sample, the median rose by 0.7% in both hotels and rooming houses, and 5.2% overall. The average “rent received” in the longitudinal sample rose by 3.5% in hotels, 1.9% in rooming houses, and 2.5% overall.⁵

SRO Housing and Airbnb Rentals

SRO owners may convert SRO housing to other uses after obtaining a “Certification of No Harassment” (CONH) from the NYC Department of Housing Preservation and Development (HPD). For the second consecutive year, the number of CONHs granted by HPD rose, by 46.0% (to 92) in 2022.⁶

Efforts are also underway to ensure that units meant to provide permanent housing are not used as transient hotels. As of May 1, 2011, a law was passed clarifying that Class A multiple dwellings were only to be used for occupancy of 30 consecutive days or more,⁷ and on October 2, 2012, a companion law was passed strengthening the City’s ability to crack down on housing being used illegally for transient occupancy.⁸ In addition, a bill in October of 2016 authorized fines up to \$7,500 for illegally advertising short-term rentals in Class A Multiple Dwellings.⁹ On January 3, 2021, New York City’s Booking Service data reporting law took effect. All transactions for listings that have five or more nights booked per quarter will be reported to the Mayor’s Office of Special Enforcement (OSE) if the listings offer entire home rentals or home rentals to three or more individuals at the same time.¹⁰ In January 2022, another law (Local Law 18) was enacted to help curb the use of permanent housing for short-term rentals. The law, which took effect on March 6, 2023 and will be enforced as of July 2023, requires anyone wishing to operate as a host of a short-term rental (a rental of less than 30 days) to register with OSE and receive a registration number. Violations of Local Law 18 can lead to fines of up to \$5,000.¹¹

In 2022, 1,801 violations were issued by OSE relating to the illegal short-term rental of units (including apartments, private homes, and SROs). Note that the proportion of B263 violations (which are issued for a failure to comply with an order to file a certification of correction with DOB) is generally no higher than approximately a quarter of all total violations and averaged just under 15% from 2017-2022 (excluding 2021). However, in 2021 they comprised approximately three-quarters of all violations, as a result of OSE conducting compliance checks on properties with uncorrected immediately hazardous violations. The proportion of B263 violations fell to only 8% in 2022, and so while the total number of violations fell 34.7% in 2022 as compared to 2021, the number of substantive violations rose 134.0%. Almost half of the violations in 2022, 857 (47.6% of the total) were for dwelling units in Brooklyn, with 452 violations in Queens (25.1% of the total); 432 violations in Manhattan (24.0% of the total); 49 violations in the Bronx (2.7% of the total); and 11 in Staten Island (0.6% of the total). Between

⁵ 2021 and 2022 NYS Homes and Community Development apartment registration files.

⁶ NYC Department of Housing Preservation and Development.

⁷ Press Release, Mayor’s Office. “Mayor Bloomberg Announces Results of City’s Efforts to Curb Dangerous Illegal Hotels in New York City After State Legislation Enhances Enforcement Abilities.” April 27, 2012.

⁸ Local Law No. 45 of 2012 (Council Int No. 404-Aof 2010).

⁹ “Cuomo Signs Bill That Deals Huge Blow to Airbnb.” New York Post. October 21, 2016.

¹⁰ <https://www.nyc.gov/site/specialeenforcement/reporting-law/reporting-law.page>

¹¹ <https://www.nyc.gov/site/specialeenforcement/registration-law/registration.page>

May 2011 and December 2022, approximately 24,500 violations have been issued by OSE as part of its efforts to address illegal short-term rentals.¹²

OTHER RELEVANT INFORMATION

The NYS Division of Housing and Community Renewal released a memo to the Board dated May 23, 2023 in which they outline information from their registration database relating to Hotels/SROs/Rooming Houses. The following is an excerpt from that memo (Pages 2-3):

9. What is the total number of SRO/Hotel units registered with the DHCR in 2022? How many of these units are rent stabilized? How many are temporarily and permanently exempt? How many are registered as transient? How many as vacant?

| | |
|--------------------------------|---------------|
| Rent Stabilized Units | 10,002 |
| Vacant Units | 1,534 |
| Temporary Exempts Units | 5,209 |
| Permanent Exempt Units | 31 |
| Total Number of Units | 16,776 |

10. What is the total number of SRO/Hotel units registered with the DHCR on an annual basis from 2009-2022?

- **In 2009 the total number of units registered was 25,343**
- **In 2010 the total number of units registered was 26,340**
- **In 2011 the total number of units registered was 25,763**
- **In 2012 the total number of units registered was 25,156**
- **In 2013 the total number of units registered was 23,547**
- **In 2014 the total number of units registered was 23,581**
- **In 2015 the total number of units registered was 23,075**
- **In 2016 the total number of units registered was 21,698**
- **In 2017 the total number of units registered was 21,396**
- **In 2018 the total number of units registered was 21,239**
- **In 2019 the total number of units registered was 20,454**
- **In 2020 the total number of units registered was 19,112**
- **In 2021 the total number of units registered was 17,012**
- **In 2022 the total number of units registered was 16,776**

11. What is the average and median rent for rent stabilized SRO/Hotel units in 2022?

- **The average rent stabilized rent for SRO/Hotel units in 2022 is \$1,518; the median rent is \$1,308.**

[END OF MEMO]

¹² Office of the Criminal Justice Coordinator, Mayor’s Office of Special Enforcement.

NOTE

In the past, the Board has adopted rent increases to the rent stabilized hotel universe. In the most recent years in which the Board adopted rent increases, the Board adopted a proviso designed to provide preconditions for owners seeking to take the increases. Since the Board has voted a 0% increase for all classifications of rent stabilized hotels this year, this proviso is not included in Hotel Order 53. If the Board grants increases in future Hotel Orders, the current members of the Board suggest that future Boards consider reinstating this proviso or some form thereof. Below is the proviso and explanatory language previously adopted in Hotel Order 41:

Rooming house, lodging house, Class B hotel, single room occupancy building, and Class A residential hotel owners shall not be entitled to any of the above rent adjustments, and shall receive a **0% percent adjustment**, if permanent rent stabilized or rent controlled tenants paying no more than the legal regulated rent, at the time that any rent increase in this Order would otherwise be authorized, constitute fewer than **85%** of all units in a building that are used or occupied, or intended, arranged or designed to be used or occupied in whole or in part as the home, residence or sleeping place of one or more human beings.

The following outlines the Board's intent for the proviso:

The Board's intention for the meaning of this proviso is that ALL dwelling units in the hotel, whether occupied, vacant, rented to tourists, transients, contract clients, students, or other non-permanent tenants, or to permanent rent stabilized tenants, be counted in the denominator of the calculation. The only type of units in the hotel that may be excluded from the denominator are units that are used as stores or for similar business purposes such as a doctor's office. The numerator of the calculation is the number of units occupied by permanent rent stabilized or rent controlled tenants.

Here are two examples. One: a hotel has 100 units and 2 stores. 32 units are rented to permanent rent stabilized tenants, 10 are vacant and 58 are rented to transients and tourists. The calculation is as follows, the denominator is 100 and the numerator is 32. This calculation results in an occupancy percentage of LESS than 85% under the formula (32%) and an increase CANNOT be taken for the permanent stabilized tenants.

Two: a hotel has 150 units, 2 of which are used by a dentist and a doctor for their businesses, 8 are rented to tourists, 5 are vacant and 135 are occupied by permanent rent stabilized tenants. The denominator would be 148 and the numerator would be 135. This calculation results in an occupancy percentage of GREATER than 85% under the formula (91%) and an increase CAN be taken for the permanent stabilized tenants.

VOTE

The vote of the Rent Guidelines Board on the adopted motion pertaining to the provisions of Order Number 53 was as follows:

| | <u>Yes</u> | <u>No</u> | <u>Abstentions</u> |
|------------------------------|------------|-----------|--------------------|
| Guidelines for Hotels | 6 | 3 | - |

Dated: June 21, 2023
Filed with the City Clerk: June 27, 2023



Nestor Davidson
Chair
NYC Rent Guidelines Board

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