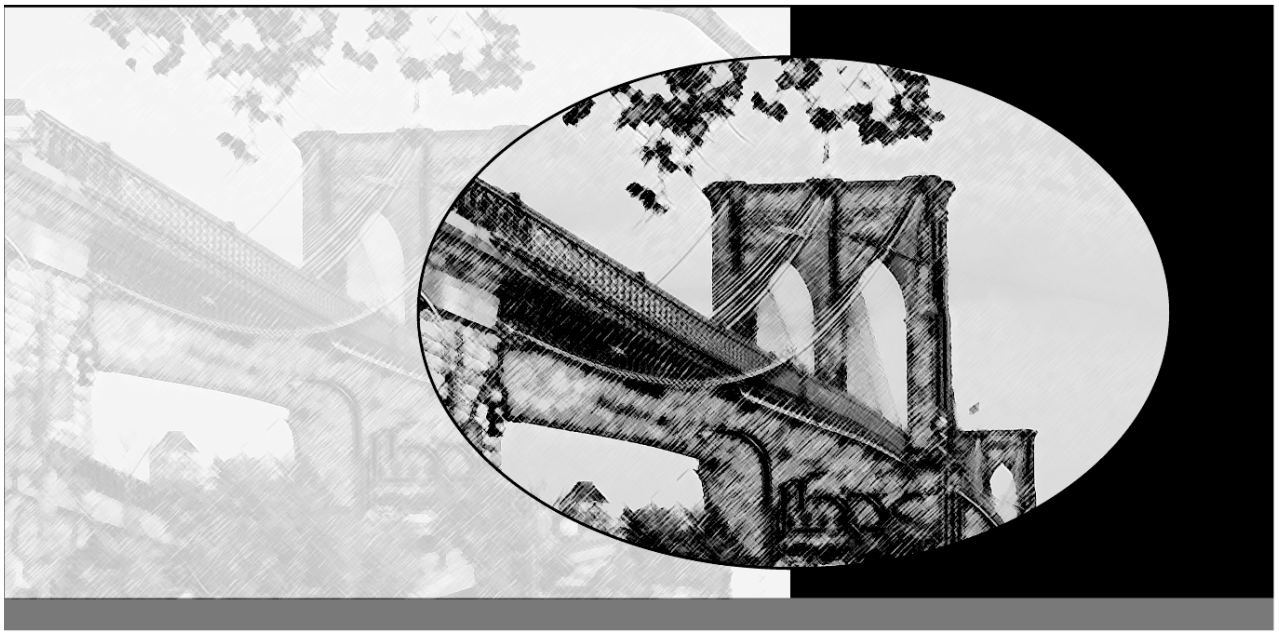


An Introduction to the

New York City Rent Guidelines Board

and the Rent Stabilization System

By Timothy L. Collins, and Updated by the Staff of the New York City Rent Guidelines Board

Revised Edition
November 2025

Appendix Update November 2025

New York City Rent Guidelines Board
1 Centre Street, Suite 2210
New York, NY 10007
212-669-7480

PREFACE TO THE 2025 EDITION

The last edition of *An Introduction to the New York City Rent Guidelines Board and the Rent Stabilization System* was published in 2020. This followed a more in depth and comprehensive overhaul of this publication in 2001 (See *Acknowledgements 2001 Edition*). In an effort to make this publication more current, and therefore more relevant, the RGB staff performed an update of relevant text and appendices contained herein. In addition, the staff has incorporated some new material. Additions include current Board orders and explanatory statements and new summary data from the *2023 Housing and Vacancy Survey*. Please note that the majority of the original text, analysis and commentary remain in its original form.

This introduction to the New York City Rent Guidelines Board covers the structure, function and history of the Board and its role in the rent stabilization system. Some attention has also been given to the broader regulatory environment affecting all residential landlord/tenant relations within the City.

The section entitled "Membership on the Board" (starting at page 5) covers the technical and legal requirements of Board membership. **Prospective members are asked to review this section carefully prior to finalizing their appointment to the Board.** Staff is also expected to be familiar with all aspects of these requirements.

An appendix has been provided for additional materials that are brief enough to be conveniently added. Other materials may be obtained through the sources noted in the text or in the list of "Other Noteworthy Materials" following the Table of Contents. Many excellent scholarly works and government publications are maintained in the staff library as are transcripts of prior meetings, past Board orders and related documents. These are available to Board members upon request.

This work is intended to acquaint the Board and its staff with many rent regulation and landlord/tenant issues in a general way. The analysis and commentary is that of the author/consultant. Nothing herein should be viewed as an official statement of the Rent Guidelines Board nor any of its individual members. It is not an authoritative legal document and should not be used as a primary reference for legal research. For those who have specific questions concerning landlord/tenant matters, the various laws, court decisions, regulations and government reports cited in this publication should be consulted directly. Professional assistance may be advised. Board members may, of course, consult directly with staff if further information or analysis is desired.

ACKNOWLEDGEMENTS (2001 EDITION)

This introduction to the work of the Rent Guidelines Board and the rent stabilization system has truly been a collaborative and evolving effort. In the early years of the Board's operation, newly appointed members were supplied with notes and memoranda on various aspects of their investigative and rulemaking functions. These briefing materials grew each year as the Board launched new studies and gained access to new sources of information. In 1989 the Board published the first of its well-received annual reports on New York City's housing market and demographic trends. In that same year, I prepared the first edition of this work while serving as the Board's executive director. The third and last edition was published in 1994.

In 1999 Anita Visser was appointed executive director and began a process of conducting a complete re-organization of all of the materials and resources used by staff to support the Board's work. The updating of this book fit well within this larger effort. Because of Anita's leadership, future Board members and staff will find an operation in top shape to face new challenges. Anita contributed extensively to this edition, adding most of the graphs and tables, reviewing and critiquing early drafts, and diplomatically nudging me along when the demands of my private law practice tugged in other directions. Largely as a result of Anita's input, this new edition is substantially revised and improved.

Three first-rate attorneys from the City's Office of Corporation Counsel reviewed and contributed extensively to this work. Spencer Fisher, Anthony Crowell and Ellen Schroeder meticulously examined the text and footnotes and suggested dozens of improvements. As a busy attorney myself, I know how demanding a careful review of an extensive document like this can be. I was highly impressed by the earnestness and care which they exhibited in their review, and I am deeply grateful for their time and input. I emphasize, however, that the final product and the opinions and views expressed herein, are my own and not an official statement of the Office of the Corporation Counsel.

Since the first edition of these materials in 1989, every member of the staff of the Rent Guidelines Board has provided some support and assistance. This latest edition benefited greatly from the assistance provided by Andrew McLaughlin, Susan Hayes, Brian Hoberman and Cecille Latty. It has always been a pleasure to work with Andrew who assisted in the layout and graphics. Susan deserves special recognition for taking primary responsibility for incorporating changes from each draft - a painfully tedious process which includes checking and re-checking each page and each note to ensure that the internal referencing is correct. Her patience is greatly appreciated. Brian Hoberman researched various information on tenant incomes and demand for subsidized housing. Cecille carefully compiled and collated several of the appendices.

I want to also thank the Board's chairman, Edward Hochman, who has been a steadfast supporter of updating and expanding these briefing materials. Throughout his tenure, Ed has insisted upon the highest quality and integrity in the research which underlies the guideline setting process. In this respect, his contribution to this work cannot be overstated.

As with any collaborative work, several individuals deserve credit for their contributions, but the author alone must take responsibility for the final content. To the extent that any errors or shortcomings remain, I accept that responsibility. To borrow a phrase from Yeats, I have tried to "cast a cold eye" on the complex and conflicted world in which the Board operates. If certain matters have escaped my attention, I encourage others to fill in the gaps. The primary goal of these materials is not to have the final word, but to contribute to a conversation with integrity.

Finally, I want to extend my warmest thanks to my wife Marilyn and children Danny and Emily. This is the last of several late evenings I have devoted to completing this project. It is 10:17 PM on a Sunday night. Time to go home.

Timothy L. Collins
New York, New York
March 11, 2001

TABLE OF CONTENTS

	page
Preface	iii
Acknowledgements	v
Table of Contents	vii
List of Tables and Charts	x
List of Appendices	xi
List of Other Noteworthy Materials	xii
Introduction	1
Membership on the Board	5
composition of the Board, terms of office, eligibility for appointment	5
vacancies and removal	6
conflicts of interest & financial disclosure	6
Board member compensation	8
bylaws of the Board	8
Rent Guidelines Board staff & use of consultants	9
Board's web site: nyc.gov/rgb	11
legal status of the Board	11
History of the Board and Rent Regulation	12
rent regulation prior to the establishment of the Board	14
post-World War I controls	19
the Great Depression	22
World War II Era controls	22
rent stabilization	27
Chapter 576	31
Omnibus Housing Act of 1983	32
Rent Regulation Reform act of 1993	33
Rent Regulation Reform Act of 1997	34
Rent Law of 2003	36
Rent Act of 2011	36

Rent Act of 2015 37
Housing Stability and Tenant Protection Act of 2019 38
2024 changes to Individual Apartment Improvements regulations 39
noteworthy aspects of selected court cases 40
the constitutionality of rent regulation 46
the U.S. Supreme Court's treatment of rent control laws 49
challenges to rent control laws before the NY Court of Appeals 52

Main Features of Rent Stabilization 55
The landlord/tenant context - objectives, enforcement and primary provisions of the RSL, ETPA, RS Code and related laws 55
affordability 56
habitability 67
security of tenure 69
fair returns 71
the commensurate rent formula 73
protection against tenant abuses (subletting, lease assignment, succession rights, primary residence, roommates) 75-77
Administration of rents under rent stabilization: the role of the Division of Housing and Community Renewal (DHCR) 78
Major Capital Improvements (MCI's) and individual apartment improvements 78
hardship rent increases 80
Fair Market Rent appeals 82
overcharge proceedings 83
other adjustments in rent (air conditioners, failure to maintain services, appliance surcharges, failure to register, vacancy and income deregulation) 84-85

Duties of the Rent Guidelines Board 86
establishment of the basic rent adjustments for renewal leases in apartments, hotels and lofts 86
special orders 88

sublet allowances 88
supplemental rent adjustments 88
special guidelines & decontrolled units 89
electrical inclusion adjustment 91
buildings with J-51 or 421-a tax abatements 91
stabilizers 92
other - fractional terms, escalator clauses 92
exemptions to orders 92
warehousing exemptions 92
registration exemption/hotels 93
resolutions 94
research & mandated considerations 94
economic condition of the residential real estate industry 95
Price Index of Operating Costs (PIOC) 95
Price Index Projections 97
RGB Rent Index 98
Income & Expense Study 98
the cost and availability of financing:
Mortgage Survey 101
overall supply of housing and overall vacancy rates:
Housing Supply Report 102
Changes to the Rent Stabilized Housing Stock Report 103
data from the cost of living indices:
Income and Affordability Study 103
other data 105
meetings, hearings and administrative procedures 105
meetings 105
hearings 106
administrative procedures 106
voting meetings - order of business 107
final orders and explanatory statements 108

LIST OF TABLES AND CHARTS

		page
Table I	New York City's Housing Emergency – Net Vacancy Rates	4
Table II	Highlights of Rent Regulation in New York	12
Chart I	Rent Regulation and Construction of New Housing	21
Chart II	The Overcrowding Problem Today	23
Table III	Percent of Gross Income Paid in Rent for all Renters and Stabilized Renters in New York City, 1970-2023	66
Table IV	Commensurate Rent Increases as reported to the RGB	74
Table V	Supplemental Rent Adjustments in RGB Orders, 1983-2025	89
Chart III	Ratio of O&M Costs to NOI for each Dollar of Income	101
Chart IV	Average Interest Rates for New and Refinanced Mortgages, 1981-2025	102
Table VI	NYC Median Stabilized Renter Household Income, 1974-2022	104
Chart V	Stabilized Median Rent Burdens, NYC, 1970-2023	105

APPENDICES

A. Rent Stabilization Law §26-510
A1. Local Law 11
B. Board members since 1969
B1. Executive Directors since 1980
C. Public Officers Law §3, §10 and §30
D. Oath of Office
D1. Board Member written statement of eligibility
D2. Sign-in sheet for Board Members
D3. Per Diem requisition form
E. NYC Charter §2604(b) & (c) Conflict of Interest
F. Bylaws of the Board
G. Payment History of the Price Index Contract
H. Board Resolution Delegating Contracting Authority to the Chair
I. RGB Employee Manual
J. The Commensurate Rent Index formula
K. History of Income/Expense issue (Table 14 memo)
K1. Income & Expense review 1993
L. Multiple Dwelling Law §286
M. Chart of previous Apartment Orders, 1969-2026
M1. Chart of previous Hotel Orders, 1971-2026
N. Apartment Order #57
N1. Explanatory Statement to Apartment Order #57
N2. Hotel Order #55
N3. Explanatory Statement to Hotel Order #55
O. Rent Stabilization Law §26-513
P. Excerpts from J-51 and 421-a regulations
Q. Hotel Study 1991
Q1. Hotel Study update 1992
R. 'What to do with the Price Index,' Dr. Blackburn, February 2000
S. "Calculating the *Price Index of Operating Costs (PIOC)* Using Component Weights from the RPIE data presented in the *Income and Expense Study,"* Andrew Mclaughlin, April 2014
T. RGB Staff price projections 1975-2026
U. Price Index changes and stabilized rent increases 1969-2025
V. The RGB Rent Index
W. Consumer Price Index and stabilized rent increases 1969-2025
W1. Consumer Price Index and PIOC Increases, 1969-2025
X. Open Meeting Law (selected sections)
Y. NYC Charter §§1041-45 (from City Administrative Procedure Act)
Z. Selected Initial Findings of the 2023 New York City Housing and Vacancy Survey

OTHER NOTEWORTHY MATERIALS

1. Triennial Housing and Vacancy Survey (all years)
2. Housing NYC: Rents Markets and Trends 1989-2025
3. Price Index of Operating Costs 1969-2025 Apartments, Hotels, Lofts
4. Rent Stabilization Code
5. Rent Stabilization Law of 1969
6. Emergency Tenant Protection Act of 1974, as amended.
7. Rent Guidelines Board Orders and Explanatory Statements 1969-2025
8. DHCR 'Fact Sheets' for Rent Regulated Housing

INTRODUCTION

The latent causes of faction are ... sown in the nature of man... A zeal for different opinions concerning religion, concerning government, and many other points ... have ... divided mankind into parties, inflamed them with mutual animosity, and rendered them much more disposed to vex and oppress each other than to co-operate for their common good. ...[T]he most common and durable source of factions has been the various and unequal distribution of property. Those who hold and those who are without property have ever formed distinct interests in society. Those who are creditors, and those who are debtors, fall under a like discrimination. A landed interest, a manufacturing interest, a mercantile interest, a moneyed interest, with many lesser interests, grow up of necessity in civilized nations, and divide themselves into different classes, actuated by different sentiments and views. The regulation of these various and interfering interests forms the principle task of modern legislation and involves the spirit of party and faction in the necessary and ordinary operations of government.

James Madison, 1787[1]

The work of the New York City Rent Guidelines Board falls squarely within the mediating traditions of democratic government described above by Madison. The Board was established midway through a legislatively recognized housing shortage which has persisted for over half a century. It operates under emergency laws regulating matters otherwise governed by the private contractual arrangements of owners and tenants. The Board's essential mission might best be described as an attempt to construct or simulate "normal" or "fair" rent levels in a market driven by chronic scarcity and instability. The housing emergency hinges on the statutory recognition that a vacancy rate of less than 5% creates abnormal market conditions. The City Council and State legislature have recognized that such conditions cause "severe hardship to tenants" and force the "uprooting [of] long-time city residents from their communities."[2] According to the *2023 New York City Housing and Vacancy Survey*, the citywide vacancy rate is currently 1.41%.[3]

In the late 1960's tenants residing in buildings constructed after World War II faced rising rents and a lack of affordable alternatives which threatened the balance in their bargaining relations with owners. It was this perceived imbalance that led to the development of the present *rent stabilization* system. In 1969, the Board's first year of operation, rent stabilization covered about 400,000 rental units. At the time, the vast majority

[1] Quoting the Federalist No. 10. The Federalist Papers were written by James Madison, Alexander Hamilton and John Jay in the months following the Constitutional Convention of 1787. They were published in the New York press under the pseudonym "Publius" urging voters to ratify the new Constitution. The papers remain classics of political philosophy and influential sources of American constitutional law.

[2] Quoting Rent Stabilization Law of 1969 (N.Y.C. Admin. Code 26-501) Findings and Declaration of Emergency. All of the provisions of local law governing rent stabilization are contained in chapter 4 of Title 26 of the New York City Administrative Code (referred to as the Rent Stabilization Law of 1969 - "RSL"). The provisions of State law governing rent stabilization are contained in sections 8601-8617 of the Unconsolidated Laws of New York (also referred to as the Local Emergency Housing Rent Control Act of 1962 – the enabling legislation for local rent control and stabilization) and sections 8621 through 8634 of the Unconsolidated Laws of New York (referred to as the Emergency Tenant Protection Act of 1974 - "ETPA"). The State regulations governing rent stabilization in New York City are contained in the Rent Stabilization Code (subchapter B of the Rent Stabilization Regulations, Parts 2520-2530; Also cited as 9 NYCRR Parts 2520-2530).

[3] See Selected Findings of the *2023 NYC Housing and Vacancy Survey* in Appendix Z.

of apartments were located in older (pre'47) buildings and fell under the long-established *rent control* system. Due to a series of legislative changes, rent control now covers less than 22,000 apartments, while the rent stabilization system has expanded to one million apartments which house over two million people – or about one in three City residents. This is the universe of apartments presently covered by the Board's rent orders.

The housing shortage has persisted unevenly over the years,[4] resulting in a continuation of rent regulations and prompting some of the most contentious legislative battles in modern times. The echoes of these larger debates have reverberated through the annual deliberations of the Rent Guidelines Board. A broad public consensus over the fairness and efficacy of rent regulation has never emerged and may well be unattainable.

Members of the rental housing industry and others have frequently charged that the rent adjustments authorized by the Board have been unfair to owners and harmful to the housing stock. The Rent Stabilization Association, representing some 25,000 rental properties, has claimed that "the Rent Guidelines Board has increasingly viewed New York City's stabilized housing stock as a specimen in isolation, minutely examining year to year economic variations but losing sight of the long term effects of 30 years of regulation…"[5] Owners have asserted that low rent guidelines lead to deferred maintenance, abandonment, a loss of tax revenues, and widely disparate rents for similar apartments.

Among tenant advocates and their supporters, a market (or quasi-market) solution to the housing shortage through increased rents has been viewed as an antidote that carries an unacceptably high mortality rate - by way of evictions, homelessness, gentrification or severe economic hardship. Moreover, they argue that the forces controlling housing quantity and quality are far more complex than the rent setting policies of the Rent Guidelines Board. Tenant representatives have charged that recent legislative changes and "unwarranted rent increases" have "pushed owners' profits to record levels, while operating costs are steady and financing costs are down."[6] These developments, they argue, "have a devastating impact on the city's housing affordability crisis and contribute to homelessness."[7]

The Rent Guidelines Board has never been able to resolve this housing dilemma to the satisfaction of both sides. Even a "normal" rental market will produce hardships for some owners and some tenants. The Rent Guidelines Board is mandated to establish fair rents but is not obligated to make every apartment affordable for tenants or every building profitable for owners. As the Board's Chairman observed in 1994:

---

[4] For a table of vacancy rates since 1960 in New York City, see New York City's Housing Emergency table on page 4.

[5] Submission by the Rent Stabilization Association - Relative to Rent Guidelines Board Order 31, May 1999.

[6] Quoting Testimony Before the New York City Rent Guidelines Board Hearing on Rents for Rent Stabilized Apartments, June 22, 1999, Legal Services for NYC and The Legal Aid Society.

[7] Id

> *[T]he RGB was meant to counteract the effects of what the state legislature determined was and is a continuing acute housing shortage. Such regulations, however, were never meant to either guarantee an owner a profit (i.e. thereby saving an incompetent owner from his own folly) or to serve as an adjunct to social welfare programs (i.e. protecting poor tenants from the economic forces that would be in effect, even if the housing shortage did not exist).*

Notwithstanding the volatility of these issues, experience has demonstrated that a guideline setting process with credibility, integrity and a measure of public respect is an attainable objective. Achievement of this objective requires sincere efforts to develop a full and accurate base of information on which to evaluate industry and tenant conditions, and fair hearings for the various individuals and groups who participate in the deliberative process.

In the years to come, the Rent Guidelines Board is likely to remain a key participant in the ongoing public conversation about the fairness and effectiveness of the rent stabilization system. Over the past decade the Board has made significant contributions to public understanding of housing issues by producing a wide range of empirical studies. We now know a good deal about the effects of New York's system of rent regulation on housing quantity, quality, profitability and affordability. While rent regulation will, no doubt, remain a contentious subject, speculation about its impact has gradually given way to carefully documented experience and analysis. In this briefing manual, we hope to share some of that experience, along with general information about the structure, function and history of the Board and the rent stabilization system.

Table I.

NEW YORK CITY'S HOUSING EMERGENCY

NET RENTAL VACANCY RATES IN NEW YORK CITY, 1960-2023

Year	Net Rental Vacancy Rate
2023	1.41%
2021	4.54%
2017	3.63%
2014	3.45%
2011	3.12%
2008	2.91%
2005	3.09%
2002	2.94%
1999	3.19%
1996	4.01%
1993	3.44%
1991	3.78%
1987	2.46%
1984	2.04%
1981	2.13%
1978	2.95%
1975	2.77%
1970	1.50%
1968	1.23%
1965	3.19%
1960	1.81%

The City's vacancy rate is determined by dividing the number of vacant and available units by the sum of all occupied and vacant units. The City's vacancy rate is calculated triennially in the *Housing and Vacancy Survey (HVS)* to determine if a housing emergency continues to exist. According to state law, a housing emergency may be declared when the citywide vacancy rate falls below 5%. According to the latest survey (2023), the vacancy rate (1.41%) still falls below the benchmark level of 5%, which if surpassed would result in an end to both the housing crisis and rent regulation, following appropriate legal process.

The *HVS* is performed in New York City by the U.S. Census Bureau. It contains comprehensive data on housing, neighborhoods and tenant demographics. Selected findings from the *2023 HVS* are contained in Appendix Z

MEMBERSHIP ON THE BOARD

The Rent Guidelines Board (also referred to herein as the "Board" or the "RGB") is a local body with a mandate in both state and local law to investigate conditions within the residential real estate industry and to establish fair rent adjustments for rent stabilized units. Under the Rent Stabilization Law (section 26-510) the Board is charged with establishing annual guidelines following a review of (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 (including insurance rates, governmental fees, cost of fuel and labor costs), (iii) costs and availability of financing (including effective rates of interest), (iv) over-all supply of housing accommodations and over-all vacancy rates, (2) relevant data from the current and projected cost of living indices for the affected area, and (3) such other data as may be made available to it.

Composition of the Board, Terms of Office, Eligibility for Appointment

The RGB consists of nine members, all of whom are appointed by the Mayor. Two members are appointed to represent tenant interests. One of these serves a two-year term, and the other a three-year term. Two members are appointed to represent owner interests. Like the tenant members, one serves a two-year term, and the other a three-year term. Five members (including the chairperson) are appointed to represent the general public. One of these serves a two-year term, another a three-year term and two serve four-year terms. The chairperson serves at the pleasure of the Mayor. The complete text of the law governing Board appointments, powers and duties is set forth in Appendix A. A complete listing of all members serving on the Rent Guidelines Board since 1969 and their terms of office is included in Appendix B.

All members are required to be residents of the City and must remain residents during their period of service. Each public member must have had at least five years experience in either finance, economics or housing. No member may be an employee or officer in any state or municipal rent regulation agency. Nor can any member own or manage rental property affected by the Board's orders or be an officer in any owner or tenant organization. The chairperson may hold no other public office. All members take an oath of office.[8] New members are expected to submit a written statement attesting to their compliance with the above eligibility requirements upon appointment. A sample copy of the oath and such

[8] All of the above requirements for Board membership are contained in section 26-510(a) of the New York City Administrative Code with the exception of the residency requirements, which can be found in sections 3 and 30 of the Public Officers Law, see Appendix C. The requirement of execution and filing of an oath of office is included in section 10 of the Public Officers Law. The failure to file such oath within 30 days will create a vacancy in the office as per section 30(1)(h) of the Public Officers Law.

statement is annexed hereto as Appendices D and D1 respectively. Each prospective member of the Board is also subject to a background investigation by the Department of Investigation prior to appointment.

Vacancies and Removal

A member may remain on the Board after the expiration of his or her term until a qualified new member is appointed. The Mayor is required to fill any vacancy which may occur by reason of death, resignation or otherwise, in a manner consistent with the original appointment. A member may be removed by the Mayor for cause, but not without an opportunity to be heard in person or by counsel. At least ten days notice to the member is required prior to such a hearing.

Conflicts of Interest & Financial Disclosure

All Board members and staff are required to comply with the ethics provisions contained in chapter 68 of the New York City Charter along with the rules and opinions of the New York City Conflicts of Interest Board. Under the conflicts of interest rules members of the Board and staff are prohibited from engaging in certain specified activities that generally concern misuse of authority for personal gain or practices that directly or indirectly conflict with official duties. The Charter also contains many post-employment restrictions.

Because Board members are "public servants" but not "regular employees" and because the agency they serve is the Rent Guidelines Board and not the executive branch of city government, the application of certain of the rules is limited. For example, a "regular employee" is prohibited from having a business interest in a firm that has business dealings with any agency of the City, while Board members may not have an interest in a firm that has business dealings with "the agency served by the public servant" – a less restrictive rule. To illustrate, an RGB employee may not have a business interest in a vendor that supplies and services copying machines to any city agency,[9] but this would not create a conflict for an RGB member so long as the RGB did not utilize that vendor's services. In any event, it is best to consult with the Executive Director if a "conflicts" question arises.

Unclear issues will be referred directly to the Conflicts of Interest Board. A copy of the relevant provisions of the City Charter dealing with conflicts of interest is contained in Appendix E. **All Board members and staff are expected to be familiar with these provisions.**

[9] There are exceptions to this restriction. For example, it may be permissible for an employee to own stock in a publicly traded business (e.g. Xerox, Canon or Sharp) which does business with the city.

Upon appointment and during each year of service, Board members are required to complete a financial disclosure statement. The general purpose of this statement is to ensure that Board members do not hold any interests which conflict with their duties as Board members or which would otherwise create an appearance of impropriety. All Financial Disclosure Forms are completed electronically.

Below are summary notes on some of the matters that may arise in connection with service as a Board member or employee:

- GIFTS: No public servant may accept a gift with a cumulative value of $50 or more in a 12-month period from a person or firm doing business with the City. There are exceptions to this rule such as gifts exchanged between co-workers or relatives, wedding gifts or meals given at a function where you represent the Board.

- MOONLIGHTING: This rule only applies to the Board's staff members who are "regular employees." RGB staff may not work for a company that has business with the City. In addition, any such outside work must be on the employee's own time and may not involve the use of city resources, confidential information or the use of the employee's official position.

- OWNERSHIP INTERESTS: The Rent Stabilization Law itself prohibits Board members from having an ownership interest in property subject to the Board's orders. Notably, there appears to be no restriction on continuing as a tenant in a rent stabilized apartment while serving on the Board.

- POLITICAL ACTIVITIES: All political activities must be performed on the member or employee's own time. Members and staff may not use a city letterhead, supplies, equipment or personnel while carrying out such activities. They may not coerce or induce fellow employees to participate in political activities. Managers may not even ask subordinates to participate in or contribute to a campaign.

- POST-EMPLOYMENT RESTRICTIONS: RGB staff and members may not appear before the RGB for a period of at least one year after leaving service. They may not divulge confidential information obtained while in the Board's employ. They may never work on a particular matter or project they were directly involved in while employed by the City. Notably, each new guideline is considered a separate and distinct matter, so it would be unusual for this latter conflict to arise.

Detailed advisory opinions and pamphlets on these topics and others are available to Board members on request. Again, if there is any uncertainty, it is always best to seek a ruling.

It may be useful to note that the Conflicts of Interest Board has the authority, upon the making of certain findings, to grant waivers and issue orders allowing public servants to hold positions, or maintain ownership interests, otherwise prohibited by the Charter.

Board Member Compensation

Members are compensated at a rate of one hundred dollars per day for up to twenty-five days per year. The chairperson receives one hundred twenty-five dollars per day for up to fifty days per year. This rate of compensation has remained unchanged since 1969.

Board members are compensated on a "per diem" basis although this term has never been precisely defined. By convention each Board meeting counts as at least one day of service. Board meetings that exceed seven hours (as the Board's public hearings often will) may qualify for additional per diem payments. For example, a twelve-hour meeting would qualify for two per diem payments.

To obtain compensation for attending a meeting of the Rent Guidelines Board, the member must sign the Rent Guidelines Board sign-in sheet circulated by the Office Manager at the meeting. The city will then issue a check to each member who attended the Board meeting. An example of the sign-in sheet is included herein as Appendix D2.

Under current practice, all other Board activities that cumulatively exceed five hours shall count as one per diem. These activities are compensated by what are known as "non-public" per diems. Such activities may include individual meetings with staff or attendance at briefings by government officials or housing experts, a review of staff reports or meetings with constituent groups (e.g. tenant or owner advocates).

If a Board member attends a briefing directly related to the Board's work (other than a Board meeting), or meets with a constituent group, or conferences with staff, a signed and dated form describing the date, duration, location and purpose of the qualifying activity should be forwarded to the Executive Director to ensure compensation. Board members may also list the time needed to review each of the many (often time consuming) reports issued in conjunction with Board meetings. A copy of an RGB per diem payment requisition form is included herein as Appendix D3. Note that non-public per diem requests are subject to review and approval by the RGB Chair, and the Department of Housing Preservation and Development.

Bylaws of the Board

In 1981 the Board adopted a brief set of bylaws that largely reflect the statutory provisions governing the Board's operations. The complete text of the bylaws is contained in Appendix F. The bylaws set forth the purpose and powers of the Board, qualifications of members,

role of the chairperson and compensation of members, all in accordance with the Rent Stabilization Law. In addition, the composition of the Board's staff is established and the chairperson is granted the authority to modify this composition if the financial resources of the Board permit such modification.

The bylaws also reflect the requirements for annual public meetings and hearings contained in the Rent Stabilization Law. In addition, the chairperson is granted authority to call special meetings for any purpose consistent with the Board's mandate. All meetings must take place within the City of New York.[10] At least five members must be present before a meeting may begin and five supporting votes are needed for the Board to exercise its guideline setting authority. Thus, if only seven members attend a meeting, a simple majority of four votes is inadequate for the Board to exercise its guideline setting authority. By convention, at least one tenant and one owner representative should be present before any meeting proceeds. The order of business at each meeting is determined by the chairperson, but the order of business may be changed by vote of a majority of the members present. Robert's Rules of Order govern the proceedings except as to those matters addressed directly in the bylaws.

The Rent Guidelines Board Staff & Use of Consultants

Prior to 1980 the Board relied upon staff provided by the New York City Department of Housing Preservation and Development ("HPD") for its administrative support. In that year the City Council adopted Local Law 11 (copy annexed in Appendix A1), designating the chairperson as chief administrative officer of the Board, and permitting him or her to "employ, assign and supervise the employees of the rent guidelines board and enter into contracts for consultant services". This legislation appears to have been, in part, in response to public criticism of the practice of borrowing staff from "other agencies to which staff members owe their primary obligations."[11]

In each succeeding year, the Board has received an allocation of funds through a contract with the Department of Housing Preservation and Development ("HPD") to hire staff and provide for office expenses. Thus, in terms of its funding, the Board's staff operates through negotiation by its Chair of annual terms agreed upon with HPD.

Throughout the 1980's the Board had not exercised its power under Local Law 11 to directly enter into consulting agreements itself. The annual price index studies and other projects had been procured for the Board through contracts let by the Department of Housing Preservation and Development. For a time (1972-1978) these studies were funded in whole or in part by the Rent Stabilization Association, an owners advocacy group. The funding

[10] A full discussion concerning the Board's meetings and hearings is provided on pages 107-109.
[11] Quoting Coalition against *Rent Increase Passalongs v. Rent Guidelines Board*, 422 N.Y.S. 2nd 660, n.1 (Sup. Ct. NY Co.1979), 104 Misc.2d 101, affd, 176 AD2d 1043 (1st Dept. 1980).

history of this important contract is contained in Appendix G. Since 1990 the Board has exercised full control over the scope of all consulting services as well as the choice of consultants.

Section 310(2) of the City Charter now requires a Board resolution when the Chairperson performs certain contract oversight functions. A resolution of this type, which authorizes the Chairperson to act on behalf of the Board in contract matters, was adopted on February 13, 1991.[12]

The Board's current full-time staff of four includes an executive director, two research directors, and an office manager. In addition to providing administrative support for the Board during its annual deliberations, the staff is engaged year-round in research efforts and in providing information to the public on housing questions. The staff fields hundreds of calls per month from tenants and owners with housing and rent related questions. The Office of Corporation Counsel presently serves the function of legal counsel.

The executive director coordinates meetings, maintains Board communications and media relations, administers contracts, oversees procurement, supervises the staff, and works with the City's Corporation Counsel to advise the Board on all matters concerning litigation, new legislation, and the Board's lawful functions. The executive director also oversees the development and production of the information and analysis necessary for the Board to conduct its annual review of the conditions of the residential real estate industry. Finally, the executive director advises other public agencies on Board related matters.

Although the staff often consults with the State Division of Housing and Community Renewal, the City Department of Housing Preservation and Development and the Office of the Corporation Counsel, it is an independent staff, directly responsible only to the chairperson and the Board itself. The Board is solely responsible for the staff's research projects and is fully accountable for the decisions it makes based on the staff's research findings.

Notably, Board members and staff are covered by section 50-k of the General Municipal Law. Consequently, they are entitled to be represented by the City's Corporation Counsel and to be indemnified for acts occurring within the scope of their public service.

A complete copy of the staff's RGB Employee Manual and office rules is included herein as Appendix I.

[12] The full text of the resolution is included in Appendix H.

The Board's Web Site: nyc.gov/rgb

In 1996 the Rent Guidelines Board launched the City's first web site. Although it received limited use at that time, by 2016, the site was receiving an average of over 1.5 million "hits" per month. In December of 2017 the RGB's website officially became a part of nyc.gov.

Currently the Board's site offers a variety of services. It includes all of the Board's major studies issued since 1995, along with data from the triennial Housing and Vacancy Surveys. The site also includes most of the Board's past rent orders. One highly popular feature is the "Apartment Guide" which offers advice and assistance to apartment hunters. Another widely used section is the section on frequently asked questions ("FAQ").

The site also includes links to and downloads of a variety of publication, such as the Attorney General's Landlord/Tenant Guide; the New York City Housing Maintenance Code; A Tenant's Guide to Housing Court; a variety of Fact Sheets from New York State Homes and Community Renewal; and the full text of the Rent Regulation Reform Act of 1997, the Rent Law of 2003, and a link to the Rent Act of 2011, the Rent Act of 2015 and the Housing Stability and Tenant Protection Act (HSTPA) of 2019.

Legal Status of the Board

As previously noted, the Board is a local body with a mandate in both state and local law to investigate the conditions of the residential real estate industry and establish rent adjustments for rent stabilized units. Because it is not a state agency, it is not subject to the provisions of the State Administrative Procedure Act. It is, however, subject to the City Administrative Procedure Act. It is also subject to the Open Meetings Law and other requirements governing the process by which it conducts its business. These procedural requirements are discussed on pages 107 through 109.

The Board is a quasi-legislative body without judicial or executive authority. Its authority to make rent adjustments after reviewing certain mandated considerations is very broad. But it has no power to enforce its orders or to penalize violators. Enforcement authority for exceeding the Board's orders rests with the Division of Housing and Community Renewal (part of NYS Homes and Community Renewal, or HCR) and the courts (usually the Housing Part of the Civil Court of the City of New York). There is no pro-active review of rental charges by the DHCR to achieve compliance with the Board's orders. Rent overcharge proceedings are initiated by individual tenants either by filing a complaint with the DHCR or by raising an overcharge claim in the courts.

The Board cannot act outside of its rent-setting jurisdiction, nor can it adopt rent orders that are unreasonable, arbitrary or capricious. The Board's orders must be justified in terms of the economic criteria set forth in the Rent Stabilization Law. That criteria is fully set forth

in the law itself which is contained in section 26-510(b) of the Rent Stabilization Law, contained in Appendix A.

The Board may not abdicate its regulatory authority over the rent stabilized housing stock nor any part of it; only the City Council may permit such deregulation, and then only after a public hearing in accordance with section 3(b) of the Emergency Tenant Protection Act of 1974 (hereafter "ETPA").

To support the Board's investigative functions, all City and State agencies are required to cooperate with the Board by responding to all reasonable requests for information and assistance.[13]

HISTORY OF THE BOARD AND THE RENT REGULATION SYSTEM

Table II.
Highlights of Rent Regulation in New York

1920	Emergency Rent Laws of 1920 adopted in the wake of sharp increases in dispossess proceedings and declining construction following World War I.
1927	Construction of new dwelling units reaches an all-time high of 107,185 for the year.
1929	Rent Laws of 1920 terminated as vacancy rates approached 8%.
1943	Federal rent controls first adopted as a wartime measure to address anticipated housing shortages.
1946	New York State adopts "stand-by" rent control legislation in the event federal controls expire.
1947	Federal law exempts new construction from rent controls as of February 1st.
1951	New York State takes over administration of rent control as federal controls expire.
1953	Vacant apartments in one- and two-family homes decontrolled. Across the board rent increases of 15% adopted for units not previously receiving increases under rent control.
1958	Apartments renting for more than $416.66 unfurnished or $500 furnished are decontrolled. This affected about 600 units.
1962	Administration of 1.8 million rent controlled apartments is transferred from the State to the City. Enabling legislation is adopted permitting local governments to enact rent regulations.
1964	City adopts luxury decontrol for certain high rent apartments, resulting in decontrol of about 5,000 rent controlled apts.
1968	City adopts luxury decontrol for certain high rent apartments, resulting in decontrol of about 7,000 rent controlled apts.
1969	Rent Stabilization Law enacted in response to plummeting vacancy rates. Buildings with six units or more constructed after 2/1/47 and previously decontrolled apartments in buildings with six units or more units are covered. Rent Guidelines Board is established. Real estate industry groups given power to promulgate a stabilization code subject to City review.
1971	Vacancy decontrol adopted for all units. City is prevented from adopting rent regulations more stringent than those already in effect.
1974	Decontrolled and destabilized units are re-regulated under the Emergency Tenant Protection Act of 1974.

[13] See ETPA, L. 1974, c.576, 4[13].

Table II. (continued)

Highlights of Rent Regulation in New York

1983	Omnibus Housing Act transfers administration of rent regulations from the City to the State Division of Housing and Community Renewal.
1985	Official involvement of the Rent Stabilization Association and the Metropolitan Hotel Industry Stabilization Association in promulgating codes governing rent stabilized units is terminated.
1993	Under the Rent Regulation Reform Act of 1993, the state begins deregulating high rent ($2,000+) apartments upon vacancy. Also adopted is a high-income deregulation provision for occupied units with rents of $2,000 or more as of October 1, 1993 with tenants whose household income exceeded $250,000 in two previous years.
1997	Under the Rent Regulation Reform Act of 1997, the state expands high-income decontrol to cover households with incomes of $175,000 or more. In addition, the state adopts a mandatory formula for rental increases upon vacancy.
2003	The Rent Law of 2003, in effect until 2011, limits the ability of NYC to pass laws concerning rent regulatory issues controlled by the State; allows for the deregulation of an apartment upon vacancy if the legal regulated rent may be raised above $2000, even if the new rent the tenant pays is not actually an amount above $2000; and permits an owner, upon renewal, to increase a rent stabilized tenant's rent to the maximum legal regulated rent, regardless of whether a tenant has been paying a preferential rent (but does not prohibit contractual agreements between owners and tenants to maintain the preferential rent after renewal).
2011	The Rent Act of 2011, in effect until 2015, limits the frequency of vacancy increases to one per calendar year; changes the formula for individual apartment improvements in buildings with more than 35 apartments to allow the landlord to increase the legal regulated rent by 1/60th of the cost of the improvements (was 1/40th under the prior Rent Law); raises the threshold for high-rent/vacancy deregulation to $2,500 (up from $2,000 under the prior Rent Law); and changes the threshold for high-rent/high-income deregulation to $2,500 in rent and a household income of more than $200,000 (up from $2,000 and $175,000 respectively).
2015	The Rent Act of 2015, in effect until 2019, raises the threshold for vacancy deregulation to $2,700 (up from $2,500 under the prior Rent Act); increases the threshold for vacancy deregulation each year per the one-year guidelines passed by the Rent Guidelines Board; changes the amortization period for Major Capital Improvements (MCIs) from 84 months to 96 months for buildings with 35 or fewer units and 108 months for buildings with more than 35 units; and alters the computation of the vacancy allowance for certain apartments where the previous tenant was paying a preferential rent.
2019	The Housing Stability and Tenant Protection Act (HSTPA) of 2019, passed by the New York State Legislature on June 14, 2019, promulgated many new provisions for rent regulated units. Among these changes, deregulation of rent stabilized units is no longer permitted, nor are vacancy allowances for vacant units. In addition, preferential rents are considered the base rent of the apartment until the unit is vacated; the formulas for IAIs, MCIs and rent controlled rent increases were reformed; and HCR will look back six years when processing overcharge complaints. The law does not have a sunset date.
2024	The “Good Cause Eviction Law” was enacted by New York State on April 20, 2024. The law provides certain tenants of unregulated apartments in New York City new protections from eviction and “unreasonable” rent increases. Owners of apartments covered by the new Good Cause Eviction requirements cannot end a tenancy without one of the “good cause” reasons provided in the statute and allows tenants to use this law as a defense in Housing Court. Tenants can also use the law to challenge “unreasonable” rent increases, which is defined as the lesser of 10% or the most recent annual Consumer Price Index plus 5%.

Rent Regulation Prior to the Establishment of the Board

Laws and social customs have promoted and regulated economic activities since ancient times. Rent regulation is one policy among countless others impacting on the economy and property interests. Royal charters establishing private corporations created a vehicle for massive capital formation and set the stage for the modern-day business enterprise. Old English common law rules and statutes established our concepts of real and personal property and channeled the ways in which property could be sold or transferred. By the end of the nineteenth century, bankruptcy and debtor/creditor laws controlled the creation and elimination of personal and business debt, antitrust measures reigned in anti-competitive practices, and health and building codes began eliminating dangerous conditions in urban areas. In the twentieth century, legislative reforms imposed health and safety protections in the workplace, land use restrictions, environmental protections, banking and securities regulations, and redefined the terms of private employment contracts.

Along with these legal developments, massive public investments in education, roads, transportation facilities, communication systems, and various types of public research and development, combined to create a physical and human infrastructure under which commerce and culture have generally flourished.

These varying public actions have had both positive and negative effects on the value of private property and the uses to which such property may be put. For example, a city's decision to place an airport in a particular location may double the profits of a neighboring motel, while slashing the value of homes adjacent to noisy runways. Likewise, the adoption of a zoning ordinance may be devastating to a developer who purchased a vacant lot in anticipation of putting up a (now prohibited) high rise building, while being highly beneficial to the owner of a neighboring brownstone threatened with congestion and obstruction of light from the new building.

In the City of New York, the supply of rental housing is drastically limited by a variety of public actions: zoning laws limit the size, use and location of residential housing; building codes restrict materials used in construction and design; historic preservation laws limit demolition or alteration of certain structures; wage and labor policies raise the expense of construction and maintenance; public ownership of parks, roads and other spaces limit the availability of building sites. These *public* actions - driven as they are by competing public values and concerns - indirectly raise the cost of new construction and site acquisition and thereby contribute to the housing shortage. While this is true in every city, in a highly congested area such as New York, the *costs and benefits* of public intervention are more pronounced. The enhanced value of residential buildings in New York is, thus, in large part, attributable to government intervention. To give a stark (if somewhat fanciful) illustration, if the City sold Central Park to private developers the value of residential units bordering the

park would plummet, housing would be more abundant, and Manhattan, in general, would be a more affordable but far less attractive place to live.

Beyond the obvious and massive effects of federal fiscal and monetary policy, almost every act of government impacts - in some fashion - on private property interests. And at some level, all economic activity is the product of some implicit or explicit public policy, whether that policy is one of open competition or involves some degree of interventionism. Hence, there is no neutral baseline or "natural" market from which to measure deviations from market-based allocations of goods and services. Government – past and present – is inextricably intertwined with the marketplace.

Both private markets and interventionist policies reflect a rough, evolving democratic consensus on how economic affairs should be conducted. We generally concern ourselves with "what works best." There are, however, constitutional limits, state laws, customs and traditions that restrict the degree to which government has been able or willing to interfere with markets and private property interests.[14] Among the innumerable government actions that impact on private property interests, rent regulation seems to tread most conspicuously.

Most interventionist measures and public sector activities have received widespread acceptance as necessary and proper to contain potentially destabilizing elements within our economy, to "promote the general welfare" or to foster salutary competitive practices. Generally, they spark little controversy.

Rent regulation has been an exception. Rent regulation involves direct government control of a key term in all contracts: price. Other contemporary examples of such overt intervention include minimum wage laws, milk price supports and rate setting for utilities and transportation services (e.g. yellow cabs). Yet these policies generate only a fraction of the passion witnessed during New York's periodic "rent wars."

Rent and price regulations are not new. After the first modern university was founded in Bologna, Italy around the beginning of the last millennium students flocked to the area creating a housing shortage. "Bolognese landlords threatened to raise scholars' rents" and "student protests led Emperor Frederick Barbarossa to award them protection from exploitation in 1158."[15] In England, medieval clerics developed the concept of a just price for the necessities of life and Parliament continued to pass laws regulating the price of various services and commodities long after the clergy ceased to exert a significant influence in the making of laws.[16] In revolutionary era America the colonies (and later the states) regularly restricted prices on staples and limited the amount innkeepers could charge for

[14] The constitutionality of rent regulation is discussed in detail at pp. 46 through 55.
[15] Quoting from The Life Millennium, A University Education, p. 89, Life Books 1998.
[16] William H. Dunbar, State Regulation of Prices and Rates, 9 Harv. Q.J. Econ. 1, 4 (1895).

food and lodging.[17] Notably, Trinity Church, owner of the "first large rural Manhattan estate to be organized for a town rental market," was subject to a ceiling on its annual income.[18]

Many ancient rules and customs operated not to shield consumers, tenants or laborers from market forces, but to protect vested interests such as landowners. A good example is New York's feudal land laws. Until the 1840's vast tracks of land populated by tenant farmers were controlled by a small number of large landlords. Feudal land tenures harnessed these farmers to leasehold estates, and prevented them from ever owning the land they worked. Violent uprisings erupted when the landlords attempted to enforce harsh lease conditions or sought evictions during periods of economic distress. These uprisings eventually led to state constitutional reforms in 1846, abolishing all feudal land tenures and promoting a conversion to freehold estates.

In some respects, these struggles revealed an endemic tension in landlord/tenant relations. As noted in the *1980 Report of the New York State Temporary Commission on Rental Housing*:

> *Simply substitute the years 1919-20, 1941-42, 1950-51, 1961-62, 1968-69, 1970-71, 1974 and 1979, for 1845, apartment house owners for landowners, and apartment house tenants for tenant-farmers and the conditions and remedial legislation action of over a century ago present a most striking parallel to the conditions and enactments of the later periods.*[19]

Residential leaseholders would never experience the dramatic changes secured by these early tenant farmers.[20] But changes in legal protections afforded residential tenants have been significant. Over the past century, lease terms governing tenure, habitability, evictions and rent adjustments have largely been supplanted or transformed by legislation and court rulings. Even in the absence of rent regulations, the common law lease of a century ago no longer exists. Leases once created independent covenants for delivery of possession and payment of rent. Tenants were thus obligated to pay rent even when possession was not delivered or services were not maintained. Leases now involve "mutually dependent" contractual obligations. If possession or services are not provided, rent may be withheld or abated.

A host of other lease terms have been altered by statute and court rulings. Lease provisions allowing "self-help" evictions are unlawful. Lease provisions waiving a landlord's obligation to maintain habitability are unlawful. Restrictions on roommates, subletting and pets are now governed by statute. Moreover, New York tenants now have affirmative rights to organize with other tenants, to receive protection against retaliatory evictions and to prevent landlords from engaging in various forms of discrimination

---

[17] See Ely, *The Guardian of Every other Right, A Constitutional History of Property Rights* at 19-20 (1992).
[18] Quoting Blackmar, Manhattan for Rent 1785-1850, 30 (1989).
[19] At p. I41-42.
[20] One might argue, however, that laws favoring conversion to co-operative and condominium ownership do, in fact, promote the gradual, albeit partial, elimination of traditional leasehold tenures in apartment buildings.

(including discrimination on the basis of age, race, creed, color, national origin, sex, age, disability, familial status, marital status, the presence of children, sexual orientation, lawful occupation, alienage or citizenship status.)

In a sense, all leasehold interests in residential apartments in New York have evolved into a new type of tenure – clearly not the kind of freehold estate held by homeowners, but certainly not the common law leasehold of a century ago.

If the vestiges of feudalism spawned tenant-farmer uprisings of the 1840's, the unregulated proliferation of substandard (but high rent) housing in New York City created an even greater source of public unrest in the mid-nineteenth century. Affordability issues began to appear as soon as New York became a major metropolis. Notably, as today, the affordability problem was largely the product of a dual economy. As Burrows and Wallace observed in *Gotham*:

> *The 1830's boom improved living conditions for many working people, notably the two-fifths of the City's artisans who worked in the building trades, erecting the thousand-plus structures going up each year… But the majority of the working class saw their living standards deteriorate, partly because of boom-fostered inflation -- especially the rapidly rising rents exacted by those the City Inspector (in 1835) called 'mercenary landlords' -- but primarily because constructing housing for poor people wasn't profitable.*[21]

One response to the City's low-income housing needs was the construction of multi-family "tenements" - the first of which was erected in 1833. Unfortunately this proved to be an imperfect solution. Overcrowded tenements soon became a breeding ground for a variety of health and social problems. A cholera epidemic in 1849 took approximately 5,000 lives.[22] In 1854, a second cholera outbreak took 2,509 lives.[23] Unemployment afflicted about one in five tenement families.[24] Poverty was widespread and severe. According to one account:

> *Conditions in the City were beginning to take their toll in terms of the general social order. Major riots in 1849 and 1857 pointed toward the increasing pathological state of the tenement population. The most traumatic civil disturbance, however, was the "draft riots" of 1863. On the surface they were a reaction to newly imposed involuntary conscription for military service in the Civil War. But the violence was also the product of the intolerable condition of the city's poor. The wretched and diseased population of the tenements, especially of the Sixth Ward, poured into the city streets. They demonstrated beyond question the connection between the housing problem and the threat of civil disturbance.*[25]

---

[21] Burrows & Wallace, *Gotham: A History of New York City to 1898*, p. 587.
[22] Plunz, Richard, *A History of Housing in New York City*, p. 21.
[23] Id.
[24] Id. In 1858 there were about 25,000 unemployed tenement dwellers with approximately 100,000 family members affected. Just over 480,000 people lived in tenement housing. Id at 22.
[25] Plunz, Richard, *A History of Housing In New York City* p. 21.

As Jacob Riis described in *How the Other Half Lives*:

> *The tenement-house population had swelled to half a million souls by [1855], and on the East Side, in what is still the most populated district in all the world … it was packed at a rate of 290,000 to the square mile … The death of a child in a tenement was registered in the Bureau of Vital Statistics as 'plainly due to suffocation of foul air of an unventilated apartment,' and the Senators, who had come down from Albany to find out what was the matter with New York, reported that 'there are annually cut off from the population by disease and death enough human beings to people a city, and enough human labor to sustain it.' And yet experts had testified that, as compared with uptown, rents were from twenty-five to thirty percent higher in the worst slums of the lower wards…*[26]

By 1865, nearly five in seven city residents (not including Brooklyn) lived in sub-standard tenement housing.[27] In 1867 the State adopted the nation's first comprehensive law addressing health and safety issues in tenements. The Tenement House Act of 1867 mandated such things as fire escapes for non-fireproof buildings and at least one water closet for every twenty tenants. The law also forbade occupation of cellars.

As the turn of the century approached, hundreds of thousands of new immigrants filtered into an already overcrowded housing stock. In 1884, Felix Adler, leader of the New York Society for Ethical Culture, observed, "[t]he evils of the tenement house section of this city are due to the estates which neglect the comfort of their tenants, and to the landlords who demand exorbitant rents."[28]

Neither the Tenement House Act, the market, nor philanthropic organizations proved sufficient to the task of ensuring healthful, safe and affordable housing. In 1894 a State legislative committee reported that while New York City ranked sixth in the world in population, it ranked first in density – with the Lower East Side surpassing a section of Bombay which contained the world's highest known population density.[29] Crowded, unsanitary housing again prompted legislative action. The Tenement House Act of 1901 mandated running water on each floor and a water closet in each apartment consisting of three rooms or more. Every room was required to have an exterior window and each apartment was required to have sufficient means of egress to limit the risk of death in a fire.[30]

Affordability remained an intractable problem. Protests and rent strikes involving thousands of apartments erupted in 1904 and 1908.[31] By the end of World War I conditions again worsened prompting widespread demands for greater protection.

---

[26] Riis, *How the Other Half Lives*, chap. 1, at 4.
[27] Plunz, at 22.
[28] Id. at p. 39.
[29] Id. at 37.
[30] Id. at 47.
[31] Lawson, *The Tenant Movement in New York City 1904-1984* p.39-50.

Post-World War I Controls

The Emergency Rent Laws of 1920 were adopted in the wake of dramatic increases in dispossess proceedings and a collapse in new construction caused by a diversion of resources to the war effort. In 1919, some 96,623 dispossess proceedings were docketed in municipal courts, with an increasing number being commenced in the Fall of that year.[32] In the first eight months of 1920 another 87,442 such proceedings were commenced.[33] Construction levels were equally bleak. In 1915, 1,365 tenements went up containing 23,617 units, but by 1919 only 89 tenements were built, containing 1,481 apartments.[34] A highly organized and politicized tenant movement launched a series of protests and rent strikes, demanding relief from spiraling rents resulting from the shortage.[35]

These events coincided with the period known as the "Red Scare." Five Socialists had been elected to the State Assembly. A debate ensued as to whether the Socialists should be allowed to take their seats. In March of 1920, New York City's Mayor John Hylan, traveled to Albany, urging adoption of a series of rent bills. There he told the legislators, "[y]ou gentlemen are trying to clear the Assembly of socialism. Let me tell you that you must first eradicate the causes of socialism, and one of the greatest of these is the speculating landlord."[36] The Assembly expelled its Socialist members – the most ardent advocates of rent and eviction protections. A few hours later, absent votes from the Socialists, it adopted New York's first rent control laws.[37]

The "April rent laws" were extended and strengthened in September of 1920. Under these laws the courts of New York State were effectively charged with the administration of rents. When challenged by tenants, rent increases were reviewed according to a standard of "reasonableness". Effectively, any increase over that of a prior year was presumed "unjust, unreasonable and oppressive" unless an owner could demonstrate otherwise. Landlords seeking to justify rent increases were generally required to submit a Bill of Particulars setting forth gross income and expense figures. As observed in the *1980 Report of the New York State Temporary Commission on Rental Housing*:

> *[The] definition of 'reasonableness' was subject to judicial interpretation. Conflicting opinions and an absence of uniform interpretation and ruling cannot be considered surprising in light of the fact that there were no statutory guidelines and the courts had to determine in the first instance such questions as: what was properly includable in income and operating expenses; or, the consideration to be given to extraordinary repairs, contemplated future repairs, vacancies, bad debts, depreciation, and interest on mortgages. Perhaps, most important, the courts were required to determine what constituted a proper or fair rate of*

[32] *1980 Report of the New York State Temporary Commission on Rental Housing*, I-42.
[33] Id.
[34] Id. at I-43.
[35] Lawson, pp. 51-93.
[36] Maeder, *Roofs, Revolt of the Tenants, March-April 1920*, NY Daily News 2/4/2000.
[37] Lawson, p. 72.

return to the landlord, and became thereby the 'administrative agency' administering the rent laws of 1920.[38]

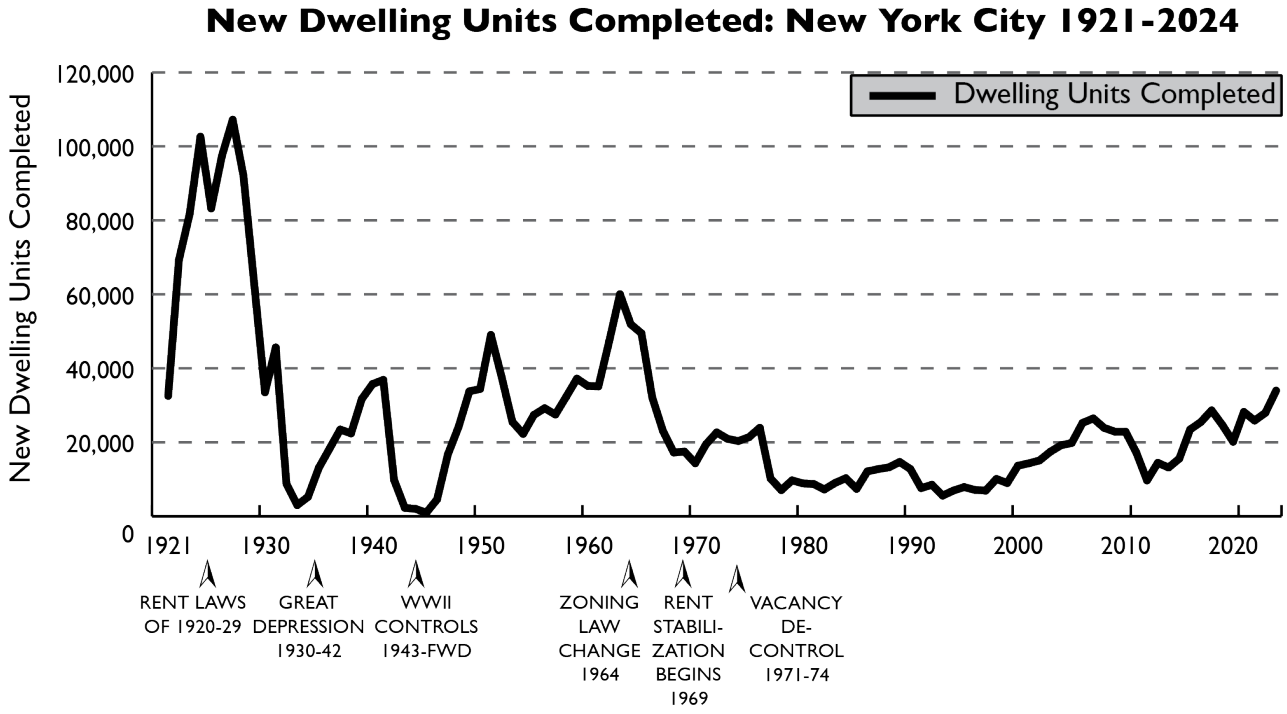
The housing shortage of the early 1920's was severe. Vacancy rates fell below 1% from 1920 through 1924. To induce new construction, the City exempted all properties built between 1920 to 1926 from property taxation until 1932. In addition, all units constructed after September 27, 1920 were exempt from the rent laws. Notwithstanding the presence of relatively strict rent protections for existing units, new construction proceeded at a record pace, with hundreds of thousands of new apartments being added to the stock before the decade ended. By 1928 the City's vacancy rate was approaching 8% and rent regulations were no longer needed. A phase out began in 1926 in the form of luxury decontrol – exempting units renting for more than $20 per room per month. After 1928 apartments renting for $10 or more, per room, per month were excluded. The Rent Laws of 1920 expired completely in June 1929, although limited protections against unjust evictions were continued.

[38] At p.1-45.

Chart I.

Rent Regulation and Construction of New Housing

What is notable about the experience of the 1920's is that a combination of property tax incentives, economic prosperity and the exemption of new construction from rent regulations all produced housing abundance. A second housing boom occurred in the two decades following World War II. Remarkably, as the graph below illustrates, New York's two great housing booms in the twentieth century occurred during periods when strict rent controls were imposed on existing units.



Despite the presence of similar policies and circumstances to those of the 1920's over the past four decades (i.e. tax abatements and exemptions from rent regulation for new construction and extended periods of economic growth), the City has been unable to achieve a normal vacancy rate (5%+). Among the many factors which might explain the difference between the experience of the 1920's and the present are the loss of relatively inexpensive building sites, the enactment of more restrictive zoning and building laws, and the gradual increase in the relative cost of housing in the suburban belt surrounding the City.

The Great Depression

The absence of rent controls during the Great Depression is instructive in one critical respect. Despite tragic levels of unemployment, widespread tenant unrest[39] and severe affordability problems, rent controls offered little as a policy option because rents were already depressed and vacancies remained high. As summarized by one housing historian:

> *In the early 1930s, a massive loss of income by all city residents threw housing markets into disarray; tenants could not pay their rents, landlords could not meet their mortgages, and courts received a flood of eviction and foreclosure cases they lacked the capacity to process or enforce.*[40]

With affordability problems on the rise, tenant households began doubling up. According to a 1946 Report of the Joint Legislative Committee to Recodify the Multiple Dwelling Law, the housing shortage began to re-appear as early as 1936 but the shortage was largely concealed because economic conditions had forced many families to double-up.

World War II Era Controls

In 1942, under the Emergency Price Control Act, the federal government established a price regulation system nationwide in response to the prospect of wartime shortages and inflation. The setting of rents under this system was left to the discretion of the Administrator of the Office of Price Administration ("OPA"), subject to review by a special court known as the Emergency Court of Appeals. Under the new system, the implementation of rent control in New York did not begin until 1943. According to one account:

> *With the advent of World War II and the imposition of federal rent control in selected defense areas elsewhere in the United States, the city's left and liberal housing groups lobbied Mayor Fiorella LaGuardia and President Roosevelt's [OPA] to freeze rents. Initially, OPA refused, claiming that the city's rental vacancy rate was too high to justify rent control. In the wake of an August 1943 Harlem riot and threatened rent strikes if landlords did not exercise voluntary restraints, however, OPA changed its mind and imposed a wartime rent freeze…*[41]

On November 1, 1943 rents were frozen for all rental units in New York City at rent levels that had existed on March 1, 1943. These rents were subsequently adjusted by the Administrator as conditions warranted and in accordance with federal legislative intent.

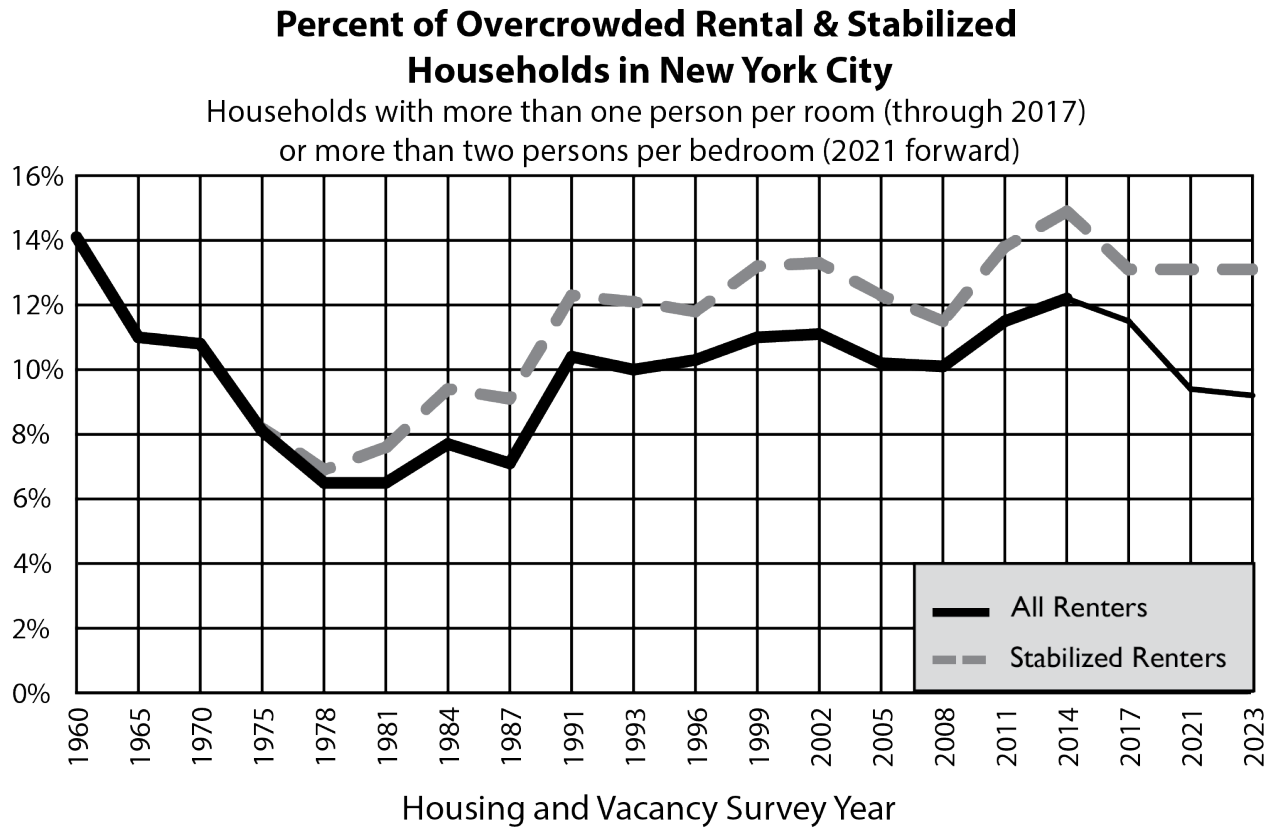
---

[39] See Lawson, pp. 95 - 127, (Chap. 3, From Eviction Resistance to Rent Control, Naison) analyzing the eruption of rent strikes and tenant activism in Harlem, the Bronx, Brooklyn and the Lower East Side in the 1930s.
[40] Id. at 96.
[41] Keating, Teitz & Skaburskis, *Rent Control - Regulation and The Rental Housing Market* 1998, p. 154.

Chart II.

The Overcrowding Problem Today

In recent decades the triennial Housing and Vacancy Survey (HVS) has tracked the level of overcrowding in rental housing (a measure of "doubling up"). Along with vacancy rates, the level of overcrowding is a key indicator of the severity of the housing shortage and concomitant affordability problems.



The chart above shows overcrowding (defined as more than one person per room) rates found in each HVS since 1960. Rent stabilized households show more severe overcrowding levels than in all renter households, except in 1975.

Following last minute extensions of the law in 1944 and 1945, and a belated extension in 1946 (described below), the Emergency Price Control Act expired in 1947. Prior to its expiration Congress adopted the Housing and Rent Act of 1947 which preserved rent controls into 1948. This Law did not regulate units which were certified for occupancy after

February 1, 1947.[42] Subsequent acts further extended these controls until the federal government's involvement with rent regulation in any city was fully terminated in 1953.

In 1946 the State of New York enacted "stand by" legislation to preserve rent controls in the event that federal controls expired. In 1950 this legislation was activated with a rent freeze and the establishment of a commission to review rent regulation. In 1951, in anticipation of the withdrawal of federal controls, the State adopted a system of rent regulation similar to the federal system, and the administration of rents for 2.1 million apartments was transferred to the State from the federal government.

Establishing a pattern that would continue for fifty years, the 1940's witnessed a series of "hair's breadth escapes for controls."[43] The first Extension Act [of federal controls] was approved on June 30, 1944, the very day initial controls were to have expired. The second Extension Act was adopted on June 30, 1945 - also the last day to act - extending controls to June 30, 1946. According to one account, "to pass this extension in time Congress went to considerable lengths. On June 30th the House of Representatives met at 10:00 A.M. (the Senate had already passed the extension), and at 1:25 P.M. the resolution was approved by the House, rushed to a waiting airplane and flown to Kansas City for President Truman's signature." One year later, on June 29th, 1946 Congress failed to override President Truman's veto of the 1946 Extension Act. By midnight on June 30th, 1946 the nation would be "without price or rent controls - except in New York State... On the afternoon of Sunday, June 30, 1946, Joseph D. McGoldrick, former New York City Comptroller, was attending the christening of his third daughter. He was rushed to a waiting State Commerce Department airplane, which flew him to Albany. When he arrived at 9:00 P.M., he was taken immediately to Governor Dewey's office, where he was sworn in as temporary State Housing Rent Commissioner. Just exactly two hours and thirty-seven minutes before the expiration of controls, he issued 'State Housing Regulation Number 1' which acted to continue federal controls wherever they had existed in New York under federal law." One month later, responding to President Truman's objections to the 1946 extension bill (objections largely concerning agricultural commodities), Congress adopted a revised bill that the President signed on July 25, 1946, thus re-establishing federal controls.

Under the State system made operational in 1951, owners who claimed hardship in meeting building expenses were permitted to apply for rent increases in addition to those

---

[42] February 1, 1947 is a critical date. Until 1969 all housing built after this date was exempt from any kind of rent regulation. Generally, references to "post-war" housing are references to buildings with certificates of occupancy issued after this date. Conversely, references to "pre-war" housing are to buildings built before this date. Virtually no housing was constructed between 1942 and 1947, so references to "pre" war housing are not entirely inaccurate.

[43] This series of events was described by Frederic Berman, former housing commissioner in the Lindsey administration, in a special 1968 report entitled A History of Rent Control in New York City. The quotes are taken from that report.

directly authorized by statute. A minimum fair net annual return of 4% on equalized assessed value was allowed.[44]

In 1953 an across the board rent adjustment of 15% over the rent levels which existed on March 1, 1943 was adopted. This applied to all rents that had not yet been increased by at least this much since 1943. In addition, the minimum fair net annual return was increased from 4% to 6%. The equalization rates of 1954 became the base rates for use in computing equalized assessed value in fair net annual return proceedings.

In 1958 some 600 units in NYC with rents exceeding $416.66 per month ($500 per month if furnished) and which met certain other criteria, were decontrolled as luxury units.

In 1961 the fair net annual return provisions were refined to prevent certain abuses. In addition, the use of 1954 equalization rates on assessed value as a base for reviewing fair net annual return applications was eliminated in favor of using current equalization rates. Since recognition of newer assessments and equalization rates, in effect, raised the recognized values of these properties, many owners now qualified for rent increases. Consequently, "hardship" applications were filed in record numbers.

According to the State Commission's 1980 report, the rent increases resulting from the recognition of new assessment and equalization rates were criticized by tenants as unfair, and this "issue soon spilled over into and became the principal issue in that year's mayoralty campaign". In order to prevent the State from engineering future rent increases of this sort, "the candidates of both parties pledged to demand self-determination and local administration of rent control within the City of New York".[45] Consequently, in 1962 the duty of administering rent control along with the power to enact local controls was transferred to the City. Post-1946 buildings, which had been exempted under federal and state controls, remained so under City controls.

Also, as noted in the Commission's report, "the maximum rents as they existed under state law, which, in effect, were the 1943 freeze date rents adjusted pursuant to intervening statutes, became the maximum rents under the City Act."[46]

Under City controls "[t]he fair net annual return (hardship) provision required the use of 'current assessed' instead of 'current equalized assessed' value as the valuation base for computing an owner's entitlement to a rent adjustment. Also, rent increases pursuant to the fair net annual return provision were limited to a maximum of 15 percent biennially. Local

[44] Equalization of property taxes involves the adjustment of real property assessments (valuations) within a taxing district in order to achieve a uniform proportion between assessed values and actual cash values of real estate so that all property tax owners are taxed at an equal rate. See Wurtzebach and Miles, Modern Real Estate, glossary p.742.

[45] Quoting the Commission's Report at 1-62.

[46] Quoting the Commission's Report at 1-64.

Law 30 of 1970 (which established the MBR [Maximum Base Rent] program) re-instituted the use of current equalized value in the fair net annual return provision."[47] The MBR system later linked the removal of certain housing code violations to eligibility for rent increases, a requirement that still applies for buildings with rent controlled units.

In 1971 the State adopted several new laws limiting the continuance of rent control. One of these provided for the decontrol of rental units vacated after June 30, 1971. This "vacancy decontrol" law remains in effect, although most decontrolled units now fall under rent stabilization. Another 1971 law, popularly known as the "Urstadt" law, prohibited the City from adopting new rent regulations more stringent than those already in existence. This law also remains in effect.

It should be added that the City adopted various forms of luxury decontrol for certain high rent units in both 1964 and 1968. It should also be noted that there was a brief return to federal rent regulation under the Nixon administration's wage and price program with a 90-day freeze in late 1971.

Rent Control Today

There are approximately 24,000 rent controlled units in the City, as of 2023. The remaining units are generally occupied by persons who have possessed their apartments since June 30, 1971, or by their surviving spouse, adult lifetime partner or other family member.

Effective with the passage of the "Housing Stability and Tenant Protection Act of 2019," the formula for the calculation of rent controlled apartment rent adjustments has been modified. As of passage of the law, on June 14, 2019, rent controlled tenants will receive rent adjustments equal to the lesser of 7.5% or the average of the last five one-year rent stabilized renewal lease adjustments. In addition, there is no longer the ability for owners to pass along a fuel-cost adjustment.

It is important to note that the Rent Guidelines Board has no direct role in the adjustment of rent controlled rents. Most rent-controlled units will fall under rent stabilization upon vacancy, however, and the Board does have a special role in helping to establish initial rents for these decontrolled units. This process is described at pages 82 through 83 under the discussion of Fair Market Rent Appeals and at pages 89 through 91 under the heading Special Guidelines and Decontrolled units.

[47] Id. at 1-64.

Rent Stabilization

In 1969 rapidly falling vacancy rates and an increases in complaints of rising rents in non-controlled units led Mayor Lindsay to call upon a group representing the owners of unregulated apartments to propose a self-regulation program. At the same time the Mayor appointed the first Rent Guidelines Board "to make an independent evaluation of the plan for self-regulation" to be submitted by the owner's group.

Following the owner's report and review by the Rent Guidelines Board, the City enacted the Rent Stabilization Law of 1969 ("RSL"). This law applied to some 325,000 apartments that had been completed after February 1, 1947. It also applied to some 75,000 formerly controlled apartments that had been decontrolled through subdivision, conversion or luxury decontrol laws. Unlike rent control, which applied to buildings with 3 or more units (and one- or two-unit buildings if continuously occupied since April 1, 1953), rent stabilization applied to buildings with 6 or more units. Consequently, decontrolled units in buildings with 3, 4 or 5 units remained decontrolled. Also, the law did not apply to new buildings that received a certificate of occupancy after March 10, 1969.[48]

Under the 1969 law, the Rent Guidelines Board continued in operation and was charged with the establishment of guidelines for rent increases within certain prescribed limitations. Any lease or rental agreement adopted after May 31, 1968 would be subject to the first guideline, which governed lease renewals and new leases occurring between June 1, 1968 and June 30, 1970.

For leases coming due under the first guideline the law prescribed no more than a 10% increase for 2-year leases, and a 15% increase for 3-year leases. Also, an additional 5% vacancy allowance was granted for two-year leases, and a 10% allowance was given for 3-year leases. The Board was thereafter charged with establishing annual guidelines following a review of (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 (including insurance rates, governmental fees [added in 1983], cost of fuel and labor costs), (iii) costs and availability of financing (including effective rates of interest), (iv) over-all supply of housing accommodations and over-all vacancy rates, (2) relevant data from the current and projected cost of living indices for the affected area, and (3) such other data as may be made available to it.

At the time no special Board positions for tenant or owner representation were designated. The designation of two owner and two tenant representatives was added in 1974.

---

[48] Later, this date would be changed to January 1, 1974, and newly constructed buildings may have become subject to rent stabilization if the owner/developer took part in the City's J-51, 421a or similar tax abatement programs. These programs are discussed at page 91-92.

The new law also placed the development of a code to regulate owner/tenant relations (with regard to appropriate supplemental charges, lease renewals, evictions etc.) in the hands of the Rent Stabilization Association ("RSA")—a private industry group—subject to approval by the City's housing agency. Also established was a "Conciliation and Appeals Board" consisting initially of owner and public members to review rent code violations. Tenant representation was added to this board in 1974. Under the Omnibus Housing Act of 1983, the Conciliation and Appeals Board was abolished. Two years later the State legislature also removed the RSA from its role in developing the rent code, along with its counterpart in the hotel sector—the Metropolitan Hotel Industry Stabilization Association. The powers of these bodies, along with the City's administration of rent regulation were transferred to the State Division of Housing and Community Renewal ("DHCR") where they remain today.[49]

In the mid-1980's this agency came under increasing attack from many sectors prompting a State legislative investigation of the agency's performance. The 1987 report following this review was entitled "Bleak House" and was highly critical of DHCR. It is worth noting that owner groups, while critical of DHCR, have often asserted that rent regulation in New York City is bureaucratically unmanageable. Tenant groups, on the other hand, have charged that a lack of government commitment to the proper functioning of the system is to blame for its failures. In more recent years the DHCR has implemented a number of administrative improvements addressing many of its earlier difficulties.

In 1971, under pressure from owners, the State legislature adopted vacancy decontrol (as previously mentioned) and vacancy destabilization. This allowed owners to set market rents upon vacancy and would have led to the phasing out of both rent control and rent stabilization had the measure remained in force. However, rapidly rising rents during the 1971-74 period led to the passage of the Emergency Tenant Protection Act (ETPA) of 1974. Together with the RSL and the Local Emergency Rent Control Act of 1962, this is the fundamental law now governing the rent stabilization system. A detailed review of the ETPA, excerpted from the 1980 report, is provided below.

[Note: Certain summarized sections of the ETPA contained in the 1980 report have been edited out of this excerpt.]

> Vacancy decontrol and destabilization soon became a political issue in much the same manner as the change by the State in the Fair Net Annual Return provision had been ten years earlier. The City of New York brought a court action to postpone the operation of the law but its application was denied. In 1973 Mayor-elect Beame charged that as a result of the State's mandated vacancy decontrol law many of the

[49] For an overview of the administrative history of rent regulation and a critique of the system as a failed attempt at owner self regulation, see Keating, *Landlord Self-Regulation: New York City's Rent Stabilization System 1969 - 1985*, 31 J. of Urb. & Contemp. L. 77 (1987).

City's poor, moderate and middle income families had been placed in an intolerable position by not only being forced to pay exorbitant rents but in also losing the assurance they previously had against the possibility of unconscionable future rent increases, and he further asserted that many City residents were being driven out of the City as a result of vacancy decontrol. Governor Rockefeller appointed a Committee under the Chairmanship of Assemblyman Andrew Stein to conduct hearings and make recommendations on the subject. The "Stein Committee" recommended abrogation of vacancy decontrol.

In 1974 the Legislature enacted the Emergency Tenant Protection Act of 1974 (ETPA) (Chapter 576, Laws of 1974) the objective of which was to prevent excessive rent increases in the decontrolled sector of the rental housing market due to low vacancy rates, the inadequate supply of standard rental housing and the increase in new household formations in New York City and the surrounding suburban counties of Nassau, Rockland and Westchester. Chapter 576 in substance provided for a State stabilization program (ETPA) and also amended the New York City Rent Stabilization law. The provisions of ETPA are declared by the statute to be applicable only to New York City, and any City Town or Village (at their respective option) in Nassau, Rockland and Westchester counties.

Chapter 576 is a complex statute. It substantially affected the State rent control program outside New York City, and all New York City rent control and rent stabilization regulation. However, it did not affect State and City pre-1947 rent controlled housing (which in New York City and the three counties remained controlled by the State and City rent control agencies) which remained under existing law and regulation so long as the same tenant in occupancy on June 30, 1971 remained in possession. Essentially ETPA amended the vacancy decontrol provision of Chapter 371 as applicable to the areas indicated above. Section 4 of Chapter 571 is the Emergency Tenant Protection Act of 1974 and significant provisions thereof are summarized by section.

Section 3(a) provides for the local determination of an emergency for all or any class or classes of housing where the vacancy rate is 5% or less (except State or City rent controlled housing accommodations) and describes the local determination of emergency as extending to housing accommodations:

- previously decontrolled
- decontrolled in the future
- previously destabilized
- presently exempt from State rent control
- presently exempt from City rent control
- presently exempt from the New York City rent stabilization law

Section 3(b) and (c) requires a declaration that the emergency is at an end when the vacancy rate exceeds 5%, and permits an earlier termination in whole or in part where the local governing body finds the emergency to be wholly or partially abated. Any existence or termination of an emergency must be preceded by a public hearing.

Section 4(c) provides that in New York City the Rent Guidelines Board shall be the Board established by the New York City rent stabilization law as amended.

Section 5 provides that a local emergency may be declared for all or any class of housing except:

(a) New York State or City rent controlled accommodations
(b) government-owned accommodations
(c) accommodations whose rents are fixed or subject to the supervision of the State Division of Housing and Community Renewal, the New York City Housing and Development Administration, or the New York State Urban Development Corporation or, to the extent regulation under ETPA is inconsistent therewith accommodations aided by insurance under any provision of the National Housing Act;
(d) accommodations in buildings containing less than six dwelling units unless part of a garden type maisonette dwelling complex containing six or more dwelling units notwithstanding the existence of "one- or two-family certificates of occupancy" for portions thereof;
(e) buildings completed or rehabilitated after January 1, 1974;
(f) accommodations owned by an eleemosynary institution and operated on a non-profit basis;
(g) hotel accommodations outside New York City;
(h) motor homes, trailer homes and tourist courts;
(i) non-housekeeping furnished accommodations where there are two or less boarders and the remaining portion of the housing accommodation is occupied by the owner or his immediate family;
(j) accommodations in buildings operated exclusively for charitable purposes on a non-profit basis;
(k) accommodations which are not occupied by the tenant in possession as his primary residence.

Section 11 declares void as contrary to public policy any lease provision or rental agreement which purports to waive a tenant's rights under ETPA.

Section 13 directs all state and local government agencies to cooperate with the State Division of Housing and Community Renewal, and any rent guidelines board in effectuating the purposes of ETPA. [emphasis added]

Chapter 576

The following sections of Chapter 576 also enacted significant changes as to the State's rent control and New York City's rent control and rent stabilization programs.

Section 2 amends Chapter 371 Laws of 1971 by repealing vacancy decontrol for New York City rent stabilized accommodations and by providing that all previously destabilized apartments and all decontrolled apartments - past and future - are to be subject to ETPA.

A provision which denied decontrol of rent controlled accommodations where a finding by the City Rent Agency that the vacatur of the accommodation had been achieved via tenant harassment was retained.

Section 7 amends section YY51-3.0 [now §26-504] of the Administrative Code of the City of New York by adding housing accommodations made subject to the provisions of the Rent Stabilization Law by ETPA. These are:

(a) Vacancy decontrolled accommodations (in buildings containing six or more accommodations) which were formerly subject to rent control;
(b) accommodations formerly subject to New York City rent stabilization which had been vacancy destabilized;
(c) accommodations in New York City created between 1969 and 1974 and had been exempt from both rent control and rent stabilization.

Section 9 amends section YY51-5.0 [now §26-510] with respect to the New York City Rent Guidelines Board by staggering the terms of the members, and prescribing criteria for guidelines orders.

Section 12(b) (1) repeats the language of section 9(b) of ETPA except that in addition to designating the Conciliation and Appeals Board as the agency for determining fair market rent applications,[50] it also requires that decisions by the Conciliation and Appeals Board on such applications consider, in addition to the special guidelines to be established by the City's Rent Guidelines Board, the "...rents generally

[50] Now a DHCR function.

prevailing in the same area for substantially similar housing accommodations." [Fair Market Rent Appeals are discussed at 76-78 and 84-86, *infra.*]

Section 15 provides that all rights, remedies and obligations created pursuant to the New York City Rent Stabilization Law, the Rent Stabilization Code, and the orders of the Conciliation and Appeals Board inure to the benefit of all owners and tenants made subject to the rent stabilization law by ETPA. It also declares that nothing in Chapter 576 is intended to diminish the powers of the Conciliation and Appeals Board, or the New York City Rent Guidelines Board to make, amend, or modify rules, regulations, or guidelines.

Section 17 declares the provisions of ETPA to be effective immediately subject to a declaration of a public emergency by the local legislative body. *** *end of edited excerpt from the 1980 report* ***[51]

Omnibus Housing Act of 1983

The next major revision of the rent regulation laws occurred in 1983 with the passage of the Omnibus Housing Act. This Act had only a limited impact on the operations of the Rent Guidelines Board, however, and its main features, including the transfer of administration of rent regulations from the City to the State and the abolition of the Conciliation and Appeals Board, have previously been mentioned. Three changes imposed by the new law did affect the Board's operations. Prior to this act the Board routinely adopted special rent adjustments or surcharges at different times within a single guideline period. The new law ended this practice by limiting the Board to one guideline package per year. In addition, the law eliminated the availability of three-year leases as an option for tenants faced with lease renewals. Finally, the law added "governmental fees" to the list of cost considerations that the Board is required to review.

Also worth note is the fact that the 1983 law significantly overhauled certain enforcement provisions of the rent stabilization laws. Treble damages were imposed for willful rent overcharges [limited to two years / straight damages for overcharges up to four years]. A four-year limitation period was established for filing overcharge claims.[52] In addition, for the first time owners of rent stabilized apartments were required to register rents on an annual basis.

[51] This edited excerpt was taken from pp. 1-84 through 1-94 of the 1980 report.

[52] Under this rule an overcharge was viewed as a continuing infraction. Thus, a tenant was allowed to challenge the last four years of any overcharge even if the unlawful increase began prior to the four-year period. Subsequent changes in 1993 and 1997 made the limitations period absolute. Thus, unlawful increases in rent that are more than four years old are now completely immunized from challenge.

As mentioned earlier, subsequent legislation in 1985 ended the official involvement of the Rent Stabilization Association and the Metropolitan Hotel Industry Stabilization Association in the stabilization system.

Rent Regulation Reform Act of 1993

Another major change in the rent regulation system came with the adoption of the Rent Regulation Reform Act of 1993. Following a pattern set decades earlier, there were four last minute extensions of the rent laws, including one in which Governor Cuomo entered the Senate chamber at 11:57 PM to sign a three-day extension before the midnight deadline. In the final bill State legislative leaders agreed to the first decontrol initiative in over twenty years. The key provisions of the 1993 law are briefly as follows:

- Apartments renting for $2,000 or more between July 7, 1993 and October 1, 1993, which were vacant on July 7, 1993 or thereafter, were exempted from rent regulation.[53]

- Apartments which 1) are occupied by persons who have a total annual income in excess of $250,000 per year for two succeeding years, and 2) that have legal rents in excess of $2,000 per month as of October 1, 1993, were exempted from rent regulation. The $250,000 threshold would be modified four years later with the adoption of the Rent Regulation Reform Act of 1997.

- The law established a system of income certification to be administered through the Division of Housing and Community Renewal with the cooperation of the Department of Taxation and Finance.

- The law established one-fortieth the cost of individual apartment improvements as the allowable monthly rent increase when such improvements are made. The DHCR had considered implementing a longer "amortization" period via administrative regulations. The establishment of one-fortieth as the appropriate amount by statute eliminated the possibility of such an administrative change.[54]

- The law limited the availability of damages in cases where stabilized tenants claim a rent overcharge because the owner failed to register the apartment with the Division of Housing and Community Renewal.[55]

---

[53] The July 7, 1993—October 1, 1993 time period was later extended by Act of the New York City Council so that an apartment reaching the $2,000 threshold AFTER October 1, 1993 was subject to vacancy decontrol.

[54] See pages 78-80 for a discussion of individual apartment improvements.

[55] See page 85 for a discussion of the consequences of a failure to register.

- The law provided that the chairperson of the Senate Committee on Housing and Community Development, jointly with the chairperson of the Assembly Housing Committee would establish a study group on rental housing which would produce a report for the Governor, the President Pro Tem of the Senate, and the Speaker of the Assembly no later than June 30, 1995. The study was to examine a number of issues relating to the impact and effectiveness of rent regulations and was to include, among other things, "recommendations regarding: (1) the methodology and criteria employed by rent guidelines boards in establishing guidelines for rent adjustments." This study and accompanying recommendations were apparently never completed.

- The law extended the ETPA until the fifteenth day of June 1997.

Rent Regulation Reform Act of 1997

The Rent Regulation Reform Act of 1997 followed one of the most bitter state legislative battles of the 20th century. Following a failed effort to work out a compromise between the Republican led Senate and the Democratic led Assembly, existing rent laws expired at midnight on June 15, 1997 – the first time in over fifty years that the state was without some kind of rent regulations. After four days of intense negotiations, the laws were renewed for six more years, with some major changes.

- The law imposed a complex statutory vacancy allowance which provides as follows:

    - If the incoming tenant selects a two-year lease, the increase shall be 20% over the prior legal regulated rent.

    - If the new tenant selects a one-year lease, the increase shall be 20% over the legal regulated rent, less the difference between (a) the RGB two-year renewal lease guideline applied to the prior legal regulated rent, and (b) the RGB one-year renewal lease guideline applied to the prior legal regulated rent. For example, if the one-year guideline is 4% and the two-year guideline is 7%, the vacancy allowance is 17% (i.e. 20-(7-4)=17).

    - In addition to the above, if an owner has not collected a vacancy allowance for the vacant apartment for at least 8 years, the owner is entitled to an additional six-tenths of one percent (.6%) for each year since the last vacancy allowance for the apartment was taken (or since the apartment fell under rent stabilization). For example, if the prior tenant was in occupancy for eleven years, and the new tenant takes a two-year lease, the vacancy allowance is 20% plus (.6% x 11) or a total of 26.6%.

- If the prior legal rent was less than $300, an additional $100 increase may be added. If the prior rent was above $300 but below $500, the owner is entitled to all increases allowed by law or a minimum increase of $100. These vacancy allowances are in lieu of RGB one or two-year renewal increases, but in addition to other increases authorized by statute, such as major capital improvement increases, individual apartment increases, and any additional vacancy increase adopted by the RGB.

- The RRRA of '97 also modified succession rights. It eliminated nieces, nephews, aunts and uncles from its definition of family members eligible to succeed departing tenants of record. These individuals still might qualify for succession rights if they can prove "emotional and financial commitment, and interdependence between [themselves] and the tenant." The new law also imposed a vacancy allowance on the second succeeding family member. Thus, if a parent passed away leaving an apartment to a son, the son would not have to pay a vacancy allowance. If, however, the son were to depart, leaving the apartment to a brother (a brother who meets the requisite two year co-occupancy requirement) the brother would have to pay all vacancy allowances in effect.

- The RRRA of '97 further modified the luxury decontrol provisions first adopted in 1993. Tenants residing in apartments renting for more than $2,000 per month earning more than $175,000 per year for two consecutive years (down from $250,000) are now subject to high income decontrol.

- An amendment to the Rent Stabilization Law adopted by the New York City Council in 1997 provided that the high rent vacancy decontrol adopted in 1993 only applied to apartments renting for $2,000 or more at the time they are vacated. The DHCR had taken a different view, and concluded that if the rent lawfully reached $2,000 (through the vacancy allowance, improvement allowances etc.) after the prior tenant vacated, it could be deregulated. The State adopted the DHCR's view and codified it in the RRRA of '97. Subsequently, the City Council adopted a local law requiring owners to disclose prior rent histories to new occupants of deregulated apartments.

- The RRRA of '97 restricted consideration of evidence to establish rent overcharge claims to events occurring within four years of the claim. Thus, if a tenant does not file an overcharge claim within four years of the rent registration filed with the DHCR claimed to include the excessive amount, the rent is final and the complaint will not be considered.

- To eliminate any fear developers may have of subsequent rent regulations, the RRRA of '97 allows the Commissioner of DHCR to enter into contracts with developers to exempt new construction from any form of rent regulation for a period of fifty years.

- The RRRA of ’97 also provides a mechanism to remove “hold-out” rent controlled tenants from buildings where the owner seeks to demolish and construct new units. If such tenants occupy less than ten percent of the units in a building (or one apartment in a building with 10 or fewer units), the owner may remove such tenants, but must provide relocation benefits established by the DHCR.

- The RRRA of ’97 imposes strict requirements that tenants engaged in Housing Court proceedings deposit rents into court on a second adjournment or if more than 30 days have passed following the party’s first appearance (unless the owner has requested the adjournments.)

- The RRRA of ’97 also stiffens criminal penalties for physical harm to tenants caused by landlords engaged in harassment, making such acts a Class E felony. The Legislature’s requirement of physical injury makes this particular enactment rather illusory. Under most circumstances, it is already a felony to deliberately injure someone.

Rent Law of 2003

The Rent Law of 2003 (Chapter 82 of the Laws of 2003), in effect until June 15, 2011, was enacted in June of 2003 and amended the 1997 rent laws in three major ways:

- Limits the ability of NYC to pass laws concerning rent regulation issues controlled by the State;

- Allows for the deregulation of an apartment upon vacancy if the legal regulated rent may be raised above $2000, even if the new tenant is not actually charged an amount above $2,000;

- And permits an owner, upon renewal, to increase a rent stabilized tenant's rent to the maximum legal regulated rent, regardless of whether a tenant has been paying a preferential rent (but does not prohibit contractual agreements between owners and tenants to maintain the preferential rent after renewal).

Rent Act of 2011

The following is a summary of the major changes to various rent laws, passed by the NYS Legislature and signed by the Governor on June 24, 2011. It will remain in effect until June 15, 2015. These major changes were put into effect with passage of this bill:

- **Frequency of vacancy increases:** Effective June 24, 2011, rent increases legally permitted upon vacancy may not be taken more than once in any calendar year (January 1 - December 31).
- **Individual Apartment Improvements:** Effective Sept. 24, 2011, individual apartment improvements completed in buildings with more than 35 apartments allow the landlord to permanently increase the legal regulated rent by 1/60th of the cost of the improvements (was 1/40th under the prior Rent Law). For improvements done in apartments located in buildings containing 35 or fewer units, passing along 1/40th of the cost of improvements remains unchanged.
- **High-Rent/Vacancy Deregulation:** Effective June 24, 2011, this provision allows for the deregulation of an apartment upon vacancy if the legal regulated rent reaches $2,500 (up from $2,000 under the prior Rent Law);
- **High-Rent/High-Income Deregulation:** Effective July 1, 2011, this provision permits, by order of DHCR, upon application by the building owner, the deregulation of an apartment with a monthly legal regulated rent of $2,500 or more (up from $2,000 under the prior Rent Law) if household income is in excess of $200,000 in each of the two preceding calendar years (up from $175,000 under the prior Rent Law). These new thresholds apply to proceedings commenced in the 2012 cycle, not to proceedings filed prior to July 1, 2011.

Rent Act of 2015

The following is a summary of the major changes to various rent laws, passed by the NYS Legislature and signed by the Governor on June 26, 2015. It will remain in effect until June 15, 2019. These major changes were put into effect with passage of this bill:

- **Vacancy Deregulation:** This provision allows for the deregulation of an apartment upon vacancy if the legal regulated rent reaches $2,700 (up from $2,500 under the prior Rent Law). It also provides that this deregulation threshold will increase each January by the amount that the Rent Guidelines Board has authorized for one-year renewal leases in the current guideline year.
- **Major Capital Improvement Increases:** Previously, increases permitted for Major Capital Improvements (MCIs) were amortized over a seven-year period. Per the Rent Act of 2015, the amortization period increases to eight years for buildings with 35 or fewer units, and nine years for buildings with more than 35 units.
- **Vacancy Increases:** For apartments where the vacating tenant was paying a preferential rent, the statutory vacancy increase of the apartment cannot exceed five percent of the previous legal regulated rent if the last vacancy lease commenced less than two years ago; ten percent of the previous legal regulated rent if the last vacancy lease commenced less than three years ago; or fifteen percent of the previous legal regulated rent if the last vacancy lease commenced less than four years ago.

Housing Stability and Tenant Protection Act of 2019

The following is a summary of the major changes to various rent laws, passed by the NYS Legislature and signed by the Governor on June 14, 2019. The law does not have a specific sunset date:

- **Extends and Makes Permanent Rent Regulation Laws**
- **Repeals High Rent Vacancy Deregulation & High Income Deregulation**
- **Repeals Vacancy & Longevity Bonuses:** Repeals the statutory vacancy bonus, and prohibits local Rent Guideline Boards (RGBs) from setting their own vacancy and longevity bonuses, and from adjusting rent increases for reasons not in the statute.
- **Reforms Preferential Rent:** Prohibits owners who offer tenants a "preferential rent," or rent below the legal regulated rent, from discontinuing the use of preferential rent or raising the rent to the full legal amount upon lease renewal; Landlords may charge any rent up to the full legal regulated rent once the tenant vacates the unit, as long as the tenant did not vacate due to an owner's failure to maintain the unit.
- **Extends Rent Overcharge Look-Back to Six Years**
- **Establishes Statewide Option for the ETPA:** Allows any municipality to opt-in to rent **stabilization** if there is a housing emergency in which the rental vacancy rate is five percent or less.
- **Reforms Rent Adjustment Formula for Rent-Controlled Tenants:** Limits rent-controlled rent increases to the lesser of 7.5 percent or a level equal to the average of the previous five RGB increases for one-year stabilized renewal leases and prohibits fuel adjustments or pass-along increases for rent-controlled tenants.
- **Reforms the Owner Use Exception:** Limits the "owner use" provision to the use of a single unit of rent regulated housing stock by the owner or their immediate family as their primary residence; Provides tenants with cause of action if they are evicted because the landlord makes a fraudulent claim about the intended use of the unit.
- **Keeps Stabilized Apartments Rented to Nonprofits in the Stabilization System:** Requires units to remain rent-stabilized if they are provided by nonprofits to individuals who are, were or are at risk of becoming homeless.
- **Reforms Major Capital Improvement (MCI) Increases:** Caps the annual MCI rent increase at two percent statewide, down from the current six percent in New York City and 15 percent in other counties currently covered by ETPA; Caps any MCI rent increases approved within the last seven years at the lower percentage beginning in September 2019; Removes MCI increases and RGB increases based on an MCI after 30 years, instead of allowing them to remain in effect permanently; Tightens the rules governing the spending that qualifies for an MCI increase; Strengthens enforcement by requiring that 25 percent of MCIs be inspected and audited by DHCR annually; Lowers rent increases by lengthening the MCI formula's amortization period.
- **Reforms Individual Apartment Improvement (IAI) Increases:** Caps the amount of reimbursable IAI spending at $15,000 over a 15 year period, for up to three separate

IAIs; Removes IAI increases and RGB increases based on the IAI after 30 years, instead of allowing them to remain permanent; Lowers increases by lengthening the IAI formula's amortization period; Strengthens enforcement by requiring DHCR to randomly audit and inspect at least 10 percent of IAIs annually.

- **Reforms Housing Security and Tenant Protections Statewide:** Strengthens the existing retaliatory eviction law by prohibiting retaliatory eviction by a landlord against a tenant who makes a good faith complaint to them alleging a violation of the warranty of habitability, and requiring the landlord to prove that an eviction is not retaliation if it occurs within one year, rather than only six months, of the tenant making a good faith complaint; Sets a standard period of time for a landlord to provide notice of refusal to renew or of a rent increase greater than five percent, depending on length of tenancy; Requires landlords to make a reasonable, good faith attempt at re-letting a unit if a tenant vacates before their lease expires; Protects tenants by prohibiting landlords from using databases of court information to blacklist tenants; Reforms the eviction process so tenants have more time to pay rent owed, fix lease violations or get a lawyer before losing their home, and also gives them more time to find a new home if necessary; Limits security deposits to one month's rent, gives the tenants the right to ask for a walkthrough inspection with the landlord before and at the end of occupancy, and requires the landlord to provide an itemized account of why any security deposit is retained and refund deposit within 14 days of occupancy's end; Expands the circumstances under which a judge may consider a hardship and stay an eviction proceeding.
- **Reform Condo and Co-Op Conversion:** Eliminates "eviction plans," which allow non-purchasing tenants to be evicted, and reforms non-eviction plans; Requires 51 percent of current tenants to approve a non-eviction plan, as opposed to 15 percent of tenants or outside purchasers under current law.

2024 Changes to Individual Apartment Improvements Regulations

In 2024, rent laws were changed with regarding Individual Apartment Improvements. Changes include increased IAI caps on reimbursable expenditures. Since 2019, IAIs have been limited to: a) no more than $15,000; and b) no more than three IAIs in any 15-year period. Effective October 17, 2024, changes to the law eliminated the limitation of three separate IAIs (subject to limitations described below for certain "Second Tier" IAIs) and establish a two-tier system for IAIs. These changes may allow increases recoverable for IAIs up to $30,000 (First Tier) and $50,000 (Second Tier) pursuant to requirements. See further details on page 78.

Noteworthy Aspects of Selected Court Cases

Along with the development of the state and local laws discussed in the preceding section, frequent litigation over the past 55 years has done much to shape the operation of the Rent Guidelines Board and the rent stabilization system. What follows is a list of court decisions and some notes on how these decisions may have reinforced or changed the system and the Board's role in it. Some of the cases involve Rent Guidelines Boards that operate outside of the City under a mandate similar to that of the N.Y.C. Rent Guidelines Board. The cases themselves should be directly consulted for further information on the facts and issues involved in each.

1. 8200 Realty Corporation v. Lindsay
   27 N.Y.2d 124, 313 N.Y.S.2d 733 (1970)
   - The New York Court of Appeals upheld the constitutionality of the real estate industry self-regulation system. Although noteworthy from a historical perspective, this case is no longer directly relevant to rent stabilization since the Rent Stabilization Association is no longer statutorily involved in administration of the rent regulations.

2. Associated Builders/CHIP v. N.Y.C. Rent Guidelines Board
   Supreme Court N.Y. Co., Special Term Part I (1974) Index No. 11928/74
   - The court rejected RGB guidelines on the grounds that they were not accompanied by a detailed explanatory statement.

3. Strausman v. Herman
   52 A.D. 2d 882, 383 N.Y.S.2d 59 (2d Dept.1976), aff'd 42 N.Y.2d 1053 (1977)
   - The Appellate Division found that an affidavit by the Chairman of the Nassau County RGB stating that a DHCR ruling was consistent with the intent of the rent guideline it was interpreting was sufficient to support the validity of the ruling. Thus, the annulment of that ruling by a lower court was reversed. Therefore, the courts will give the Board's interpretation of its own orders great weight.

4. Allyn Realty Corp. v. Herman
   56 A.D.2d 626, 391 N.Y.S.2d 685 (2d. Dept. 1977) [Involves Nassau County RGB]
   - The court ruled that the literal meaning of Board orders should be adhered to unless the literal interpretation of such meaning would lead to an absurd result.

5. Incorporated Village of Great Neck Plaza v. Nassau Co. Rent Guidelines Board
   60 A.D. 2d 593, 400 N.Y.S.2d 120 (2d Dept. 1977)
   - The Appellate Division ruled that the Nassau County RGB's failure to consider financing costs, vacancy rates and data reasonably available with respect to

owners' net incomes, as required by 4(b) of the Emergency Tenant Protection Act of 1974 (a provision corresponding to 26-510(c)) resulted in the invalidation of its guidelines.

6. Rent Stabilization Association v. N.Y.C. RGB
   98 Misc 2d 312, 413 N.Y.S.950 (1978)
   - The Supreme Court, New York County, ruled that the Open Meetings Law applies to RGB Meetings. Because of violations of this law, the court ordered that the RGB hold further meetings to promulgate new guidelines but refrained from establishing court ordered guidelines in the interim period.
7. Coalition Against Rent Increase Passalongs v. Rent Guidelines Board of N.Y.C.
   104 Misc 2d 101, 427 N.Y.S.2d 660 (Sup. Ct. N.Y. Cty. 1979) aff'd 176 A.D.2d 343 (1980)
   - The Supreme Court, New York County, ruled that reopening of RGB guidelines for adjustments after the July 1, annual adjustment was permitted. This, however, is no longer permissible under the Omnibus Housing Act of 1983.
   - Also, the court noted, "...all rent controls in the City of New York [citations omitted] have a twofold purpose: to limit profiteering in a market marked by housing shortage and to conserve and improve the housing stock of the City of New York."

8. Incorporated Village of Great Neck Plaza v. Nassau County RGB
   69 A.D. 2d. 528, 418 N.Y.S.2d 796 (1979)\
   - The court ruled that Nassau County RGB is not a state agency and therefore is not subject to the State Administrative Procedure Act (SAPA). Following the same rationale, the New York City RGB is also not subject to SAPA.

9. Liotta et. al. v. RGB
   547 F. Supp. 800 (S.D.N.Y. 1982)
   - Property owners argued in federal court that a loud and boisterous atmosphere at an RGB meeting precluded fair and rational deliberations and resulted low rent increases which constituted a denial of due process to the owners. The United States District Court for the Southern District found that in instances where state law provides an adequate remedy to initially seek redress of alleged due process violations, a plaintiff must seek state court review of the issue before it seeks review in federal court.

10. Matter of Muriel Towers Co.
    117 Misc. 2d 837 (Sup. Ct. N.Y. Co. 1983)
    - The Supreme Court, New York County, found that the "circus atmosphere" (created by the exercise of constitutional rights by a "vocal citizenry") at an RGB meeting did not prevent rational deliberations by the Board. The Court

also found that the Board's consideration of tenants' ability to pay in setting guidelines is proper.

11. METHISA v. RGB

Supreme Court N.Y. Co. Index No. 21444/84(1984)

- A 0% adjustment guideline for hotel rents following hearings in which evidence of extensive neglect and deprivation of services in these buildings was presented was upheld. According to the court, the RGB is permitted to consider the nature of the services provided as part of its examination of expenditures. Such consideration is not penal nor quasi-judicial in nature and thus does not exceed the RGB's jurisdiction.

12. Stein v. RGB

127 A.D. 2d 189, 514 N.Y.S.2d 222 (1st Dept. 1987)

- The Appellate Division, First Department ruled that supplementary Board orders or re-openers are permissable to protect the public from the impact of changed economic conditions in the housing market. [Reopening the guidelines in the same guideline period is no longer permissible since the passage of the Omnibus Housing Act of 1983. See #7]

13. RSA v. Dinkins, RGB / Gesmer

Sup. Ct., N.Y. Co., Index No. 11506/90; 167 A.D.2d. 179, 562 N.Y.S. 2d 411 (1st Dept. 1990), app. den. 77 N.Y.2d. affd. 809 (1990)

- The Supreme Court, New York County, ruled that absolute impartiality in landlord-tenant matters is not a prerequisite to appointment as a public member of the RGB. In addition, the court held that the qualifications of Ellen Gesmer, which included 11 years experience as an attorney handling housing related matters, met the statutatory requirement of "at least five years experience in either finance, economics or housing." (See note in next case)

14. RSA v. Dinkins, RGB / Friedheim

Sup. Ct., N.Y. Co. - N.Y.L.J. 4/3/91 p.22, col. 1

- The Rent Stabilization Association (RSA) sought to have Oda Friedheim, a tenant member of the RGB removed, alleging that she was an officer in a tenant organization in violation of the Rent Stabilization Law. The court ruled that a *Quo Warranto* action brought by the Attorney General was the exclusive means for contesting title to a public office in New York State. [Note: The exclusive right of the Attorney General to contest title to office was raised on appeal in the Gesmer case as well. The Appellate Division chose to follow the lower court's ruling on the merits - and never addressed this standing issue.]

15.23 Realty Associates v. Tiegman et al.

Sup. Ct., Co. of N.Y. Index No. 12465/91 App. Withd. 176 A.D.2d. 1251 (1st Dept. 1991)

- A rent stabilized hotel owner claimed that hotel guidelines from 1984 through 1990 were adopted without any lawfully required investigation, or proper consideration of all guideline components and criteria. The court ruled that the City had "marshaled considerable data to show that RGB enacted its guidelines after giving due consideration to the [required] criteria."
- The Court also ruled that all challenges except the challenge to the most recent guideline were time barred by a four-month statute of limitations.

RSA v. Dinkins / RGB

U.S. District Court, S.D.N.Y. (J. Stanton) 805 F.Supp. 159 (S.D.N.Y 1992), affd. 5 F.3d 591 (2d. Cir. 1993)

Note: Since this case directly concerns the RGB's methodology, a summary of the District Court's opinion is provided. This summary is for informational purposes only. The plaintiff dropped the challenge against the RGB methodology on appeal, and the Second Circuit Court of Appeals reviewed the case *de novo*. Therefore, the decision of the District Court is not binding precedent.

The District Court Opinion

- The RSA initiated a challenge in federal court alleging *inter alia* that the guidelines over several years failed to account for the effects of inflation on owners net operating income. They argued that this failure, along with an inadequate hardship mechanism, resulted in an unconstitutional taking of property because such adjustments were essential to maintaining a "reasonable return on the property as an investment." The court stated that "a 'reasonable return' is not protected by law in this circuit" (p.163). Instead, the court made clear that the relevant test at issue is whether or not economic viability is impaired. Citing a prior case the court noted, "the crucial inquiry...is not whether the regulation permits plaintiffs to use the property in a 'profitable' manner, but whether the property use allowed by the regulation is sufficiently desirable to permit property owners to sell the property to someone else for that use." Id. The court did not conclude that the RGB failed to provide owners with a reasonable return, but found that even if the RSA's allegations to that effect were true, an unconstitutional taking would not necessarily have occurred. The court also emphasized the difficulty of mounting a facial challenge to rent regulations, noting that unlike an "as applied" challenge where a concrete injury to an individual plaintiff is demonstrated, in facial challenges plaintiffs must "establish that no set of circumstances exists under which the act would be valid."

The Opinion of the Second Circuit Court of Appeals, 5F 3d 591(2d. Cir. 1993)

- On appeal to the Second Circuit, the plaintiff dropped the challenge against the RGB's methodology but pressed the claim that DHCR's hardship rent increase procedures (explained in detail at 74 to 76) were facially unconstitutional because such procedures did not guarantee an adequate return. The appeals court concluded that such claims could only be framed in an "as applied" challenge, and that "the proper recourse is for the aggrieved individuals themselves to bring suit" (p. 595). The court noted that although such an approach to a suit "may appear inefficient and burdensome, it is the only way to present a federal court with the type of live 'case or controversy' demanded by the Constitution. Moreover, it is the only realistic way to be able to resolve it fully and fairly." Finding that the RSA lacked proper standing to bring an as applied challenge, the Second Circuit unanimous affirmed the District Court's decision.

16. The Greystone Hotel v. City of New York, the Rent Guidelines Board et al.
98-9116 (2d. Cir 1999) (unpub. op.) affg. 13 F. Supp. 2d. 524 (S.D.N.Y. '98)

- The owner of a "Class B" hotel argued that the RGB violated its rights to due process and equal protection by granting lower rent increases than those given for apartments. The owner also argued that the rent stabilization law and code effected a physical and regulatory taking of its property. Because the property retained some economic value no regulatory taking was found. Because the owner initially chose to use the hotel as a rental property, no physical taking was found. With respect to the relatively lower rent adjustments given to hotel owners the owner claimed that it was being forced to address the affordability problems of lower income tenants. The court found that the "RGB considered tenant hardship in accordance with a statutory scheme that mandated this consideration in conjunction with a host of other factors that explicitly weigh landlord costs" (p.3). Because the RGB made "a rational attempt to accommodate the conflicting interests of protecting tenants from burdensome rent increases while at the same time ensuring that landlords are guaranteed a fair return on their investment" no due process or equal protection violation was found, citing Pennell v. City of San Jose, 485 U.S. 1, 13 (1988). Notably, the Court declined to permit this decision to be used as a precedent in subsequent proceedings. Thus, while it resolved the dispute between the parties, it may not be cited as precedential authority in future legal proceedings.

17. Benroal Realty LP v. Nassau County Rent Guidelines Board
Supreme Court, Nassau County, N.Y.L.J. 2/14/01 p.31, col. 6

- The Nassau County Rent Guidelines Board linked its rent adjustments to whether or not each affected community under its jurisdiction offered a Senior

Citizen Rent Increase Exemption (SCRIE). Tenants in communities without a SCRIE program received higher rent increases than tenants in communities with a SCRIE program. The Supreme Court, Nassau County, ruled that the Nassau County RGB had "no statutory or inherent authority to extend the state statutory benefits of SCRIE for eligible seniors to non-eligible tenants generally."

18. New York State Tenants & Neighbors Coalition, Inc. v New York State Division of Housing & Community Renewal
18 A.D.3d 875, 796 N.Y.S.2d 371 (2d Dep't 2005)
    - The New York State Tenants & Neighbors Coalition sued the New York State Division of Housing, attempting to invalidate the rent guidelines set in Nassau County for the guideline year 2003-2004. The Emergency Tenant Protection Act requires the RGB to submit, on or before July 1st of each year, with the DHCR its "findings for the preceding calendar year" and to "accompany such findings with a statement of the maximum rate or rates of rent adjustment authorized for leases or other rental agreements commencing during the next succeeding twelve months." Tenants & Neighbors argued that the Board failed to include, as part of the Guideline certified on September 25, 2003, any specific findings "for the preceding [i.e., 2002] calendar year" and contended that the failure to include such findings invalidates the Guideline. The RGB and DHCR argued that Part II of the Guideline contained "findings" sufficient to meet the requirements of ETPA, including a generic list of the types of data, materials, and other information reviewed and relied upon each year by the Board in determining whether a rent adjustment is warranted. The appellate court found that the Board's interpretation of the words "findings for the preceding calendar year" was neither rational nor reasonable, and criticized the Board's use of a "generic list of items so broad as to remain virtually unchanged over a period of several years." Although the court agreed with Tenants & Neighbors that the Board had not made required "findings," it would not overturn the Guideline because of the omission, and ordered the Nassau County RGB only to adopt findings in compliance with the ETPA.

19. Mercedes Casado, et al., v. Marvin Markus, et al.,
898 N.Y.S.2d 780 (Sup. Ct. 2010)
    - This case was filed by Mercedes Casado, et al., against RGB Chair Marvin Markus, challenging the validity of the fixed dollar provision of Apartment Order #40. This Order provided a 4.5% increase for one-year lease renewal and 8.5% increase for two-year lease renewal or *a fixed dollar amount of $45 for a one-year lease renewal or $85 for a two-year lease renewal for tenants in place for 6 years or more, whichever was greater*. The Supreme Court held in favor of the plaintiffs and found that

the RGB did not have the authority to create separate classes of housing accommodations under the Rent Stabilization Law. The Court reasoned that only the City Council had that authority. Therefore the Court voided the fixed dollar provisions of Order #40 and left the percentages as valid. On appeal by the RGB, the Appellate Division, First Department, affirmed the Supreme Court's decision. On appeal to the NYS Court of Appeals, the Court reversed and dismissed the petition challenging the minimum dollar increases. The Court held that the RGB does have the power to make distinctions between low-rent apartments in which there has been no recent vacancy and other apartments. It rejected petitioners' argument that the RGB may not permit any increases that are larger, in percentage terms, for some apartments than for others. Therefore, the originally passed guidelines were ruled valid and legal.

20. Rent Stabilization Association (RSA) of NYC, et al., v. NYC Rent Guidelines Board
Sup. Ct., Co. of N.Y., Civil Term - Part 59, Index No. 101079-2016
    - The petitioners brought an article 78 proceeding seeking to annul the 2016 Apartment and Loft Order #48. Specifically, the RSA, et al, challenged the consideration by the Rent Guidelines Board (RGB) of "tenant affordability" as a factor in setting renewal lease adjustment under Order #48 and affirmed that it was beyond the scope of the Board's authority under RSL statute §26-510 to do so. The respondent countered that "tenant affordability" has long been a consideration in its deliberations and is authorized by the statute. The RGB cross-moved to dismiss the petition and asked for a summary judgement. The court found that the Board acted with rational basis in taking into account "tenant affordability" and the cross-motion to dismiss the Petition was granted. (Opinion dated March 28, 2017.)

The Constitutionality of Rent Regulation

The constitutionality of rent regulation is an issue commonly raised in discussions about the RGB's orders. Because it is rarely analyzed, an extensive treatment of the issue is provided below.

The Takings Clause of the Fifth Amendment to the United States Constitution, made applicable to the states through the Fourteenth Amendment, provides that private property shall not be taken for public use without just compensation. The Takings Clause has been a source of great dispute and scholarly debate for over a century.

Generally speaking, constitutional scholars have all but given up arguing that rent regulations inevitably result in an unconstitutional taking of private property.[56] The few scholars who persist in such attacks often founder on definitional grounds. If even the smallest degree of price or rent regulation results in an unconstitutional taking because the "natural" order of the market is altered in a way which favors one party over another, every act of government which economically disadvantages someone to the benefit of another becomes suspect. Virtually every law has some burden shifting economic impact. Economic interests, as measured in pure market terms, are constantly being diminished or enhanced by governmental action. Only property rights, a limited subset of such interests, receive constitutional protection. As Harvard law professor Frank Michelman has explained, if every existing "legally sanctioned advantage is property" we are gradually "forced to recognize in every act of government a redefinition and adjustment of a property boundary [for which compensation must be paid]. The war between popular self-government and strongly constitutionalized property now comes to seem not containable but total."[57]

Constitutional norms shaped by settled precedent and adjusted by evolving practical concerns are precisely what prevent this "war" from spreading. Within our democratic system, property (and the power that attaches to it) is thus treated as a legal norm - informed but not controlled by economic analysis.[58] The reasonable expectations of property owners are supported by legal protections that operate outside of any abstract or purely economic definition of property. But expectations alone do not define property rights. As constitutional scholar Laurence Tribe
has observed:

> *Grounded in custom or necessity, these expectations achieve protected status not because the state is deigned to accord them protection, but because constitutional norms entitle them to protection. These norms, however, cannot be expressed entirely within the language of expectations; that path is a circular one inasmuch as expectations are themselves subject to governmental manipulation. Instead, the norms must reflect a mix of several concerns -- including regularity… autonomy …and equality. Without appeal to such concerns we are defenseless against the alluring but fatal argument that, since it is government that gives, government is free to take as well.*[59]

Some scholars have suggested that we should look back to the original intention of the Framers to determine what was meant by the term property at the time the Bill of Rights

---

[56] But see Epstein, *Rent Control and the Theory of Efficient Regulation*, 54 BROOKLYN L. REV. 741 (1989) and Responses by various authors in 54 BROOKLYN L. REV. 1215 (1989).

[57] Quoting Michelman, *Takings*, 1987, 88 COLUMBIA LAW REVIEW 1600, 1627-28 (1988).

[58] As Justice Holmes put it in his famous Lochner dissent, "... a constitution is not intended to embody a particular economic theory, whether of paternalism and the organic relation of the citizen to the State or of laissez faire. It is made for people of fundamentally differing views, and the accident of our finding certain opinions natural and familiar or novel and even shocking ought not to conclude our judgment upon the question of whether statutes embodying them conflict with the Constitution of the United States." 198 U.S. 45, 75 (1905).

[59] Tribe, American Constitutional Law, pp. 608-609.

was adopted. Even if the Fifth Amendment's prohibition against taking property terminated the conceptual development of what is meant by "property", thereby freezing what was included in the term in 1791, locked in with it would be the operative meaning property received under the common law - a meaning which, as previously discussed,[60] failed to immunize against price and rent regulations.

As with all language, what is meant by a legal term or phrase is inseparable from the experience of its users. A legal term which remains in use for centuries is subtly remolded by the evolving culture, manipulated by pressing interests, nuanced by changing contexts and animated by the unique frame of reference brought to bear by each new interpreter. No special exception exists for the term property. Thus, "property" may one day incorporate within its meaning an inviolable right to demand any price that a market might allow; or it may include fewer rights than are presently secured. In any reasonable construction of the term property and the rights it implies, the correct constitutional balance will hang somewhere between established understandings and emerging practical concerns. As Professor Michelman puts it, "balancing - or, better, the judicial practice of situated judgment or practical reason - is not the law's antithesis but a part of law's essence."[61]

Scholarly disputes about the nature of property and the extent of constitutional protections are likely to continue as long as scholars, property and the Constitution are around. There is, however, a rather large body of authoritative court decisions that deal with the "takings" issue, along with a number of other constitutional concerns raised by the regulation of rents.

While "takings" claims have presented the most notable challenge, rent regulations have also been attacked as violative of substantive and procedural due process, equal protection, the Contracts Clause, as exceeding Congressional war powers, violating the doctrine of separation of powers, imposing involuntary servitude, and as an unconstitutional quartering of troops.[62] Few such challenges have been successful.

In 2008 owners of a four-story residential building, James and Jeanne Harmon, commenced an action in federal court against the Chair of the Rent Guidelines Board (RGB) and the NYS Division of Housing and Community Renewal (DHCR) seeking a declaratory judgment and permanent injunction declaring the Rent Stabilization Law unconstitutional as applied to plaintiffs and plaintiffs' property and declaring certain apartment leases null and void. In Harmon v. Kimmel (originally referred to as Harmon v. Markus), plaintiffs raised a myriad of constitutional challenges, including a takings claim and claims that the law violates plaintiffs' due process rights, the contract clause, thirteenth amendment protection

[60] See text at page 14.
[61] Supra, note 57 at 1629.
[62] See Radford, *Regulatory Takings Law in the 1990's: The Death of Rent Control?,* 21 SOUTHWESTERN UNIVERSITY LAW REVIEW 1019 (1992) (internal citations omitted).

from involuntary servitude, and the equal protection clause. In March of 2010, the United States District Court, Southern District of New York, granted the RGB's motion to dismiss as well as that of the state defendants.

The Harmons then appealed to the United States Court of Appeals for the Second Circuit, in New York. In March of 2011, The US Court of Appeals denied this appeal. A three-judge panel of the appeals court said the couple was aware of the law when they acquired the building. The panel added that the couple retained important rights under the regulations: they could, in some circumstances, reclaim the apartments for their own use; they could demolish the building so long as they did not replace it with housing; and they could "evict an unsatisfactory tenant." All of that meant, the panel said, that the city's regulations did not amount to "permanent physical occupation of the Harmons' property."

Finally, the Harmons attempted a final appeal by petitioning the U.S. Supreme Court to consider their claim that the NYS rent stabilization law was unconstitutional. In March of 2012, the U.S. Supreme Court refused the Harmons' petition.

The U.S. Supreme Court's Treatment of Rent Control Laws

The first significant constitutional challenge to rent controls followed the adoption of post-World War I controls in Washington D.C. and New York City. These "due process" challenges were rejected in an opinion written by Justice Oliver Wendall Holmes in 1921.[63] Notably, Justice Holmes' recognition of the concept of what is now referred to as a "regulatory taking," postdated these decisions by one year.[64] The only instance where the United States Supreme Court has stricken a rent control statute came in 1924 when Justice Holmes found that the wartime justification of the rent controls had come to an end.[65] On two occasions World War II era rent controls were unsuccessfully challenged before the U. S. Supreme Court.[66]

In 1992 the U.S. Supreme Court addressed a physical takings claim in a rent control ordinance involving mobile home lots. In *Yee v. City of Escondido*,[67] the Court held that where owners of rent regulated mobile home lots or "pads" had opened their property to occupation by others (the initial pad renters), they could not "assert a per se right to compensation based on their inability to exclude particular individuals", including those who

---

[63] *Block v. Hirsh*, 256 U.S. 135 (1921) (dealing with Washington, D.C.'s rent control laws); See, also, *Marcus Brown Holding Co. v. Feldman* 256 U.S. 170 (1921) dealing with New York City's rent control laws.

[64] In *Pennsylvania Coal Co. v. Mahon*, 260 U.S. 393, 415 (1922), (Justice Holmes recognized that if a regulation goes "too far" it will be recognized as a taking).

[65] *Chaselton Corp. v. Sinclair* 264 U.S. 543 (1924).

[66] *Bowles v. Willingham*, 321 U.S. 503 (1944) and *Woods v. Cloyd W. Miller Co.,* 333 U.S. 138 (1948).

[67] 503 U. S. 519, (1992)

purchased mobile home units from prior tenants, and thus succeeded them in their right to a rent controlled pad. The court explicitly decided not to review a regulatory takings claim which had not been raised at trial.

In *Pennell v. San Jose*,[68] the court found no constitutional infirmity in a rent control ordinance which permitted the consideration of tenant hardship in a mechanism for special rent adjustments. Applying a rational basis standard of review, among other things, the court held that the hardship provision neither rendered the ordinance facially invalid under the Due Process clause, nor violated the Equal Protection Clause. The court recognized that "a legitimate and rational goal of price or rate regulation is the protection of consumer welfare."[69] Most notably, the Court declined to consider the appellant's claim that the hardship provision resulted in a regulatory taking. Finding that there was "no evidence that the 'tenant hardship clause' [had] in fact ever been relied upon by a hearing officer to reduce the rent below the figure it would have been set at on the basis of other factors set forth in the Ordinance"[70] the majority declared the regulatory taking claim premature. In a notable dissent, Justice Scalia, joined by Justice O'Connor reached the regulatory takings issue and concluded that, because the hardship provision forced some individuals (landlords) to bear a public burden alone (i.e. support low-income tenants), the hardship provision resulted in a regulatory taking.

The dissent in *Pennell* suggests that policy makers should be wary about the constitutionality of any measure that imposes a discrete regulatory burden on owners due to the fact that they may have low income or hardship tenants in their building. It implies that the elimination of abnormal rents through rent controls is clearly constitutional. However, imposing a public welfare burden on individual owners may not be.[71]

---

[68] 485 U.S. 1 (1987)

[69] Id. at 13.

[70] Id. at 11.

[71] Compare *Parrino v. Lindsay*, 29 N. Y. 2d 30 (1971). In *Parrino* the New York State Court of Appeals had occasion to consider whether a temporary local law, which generally froze rents for elderly persons with household incomes of less than $4,500, was unconstitutional. In citing the temporary nature of the measure and the fact that the rent levels paid had already been upheld as constitutionally valid, the Court of Appeals refused to find a denial of equal protection. The court also found that a regulatory taking had not occurred. This portion of the decision was criticized in a case that went before the Supreme Court of New Jersey a few years later. In *Property Owners Association of North Bergen v. North Bergen*, 378 A.2d 25 (1977) a North Bergen ordinance which provided that elderly tenants earning less that $5,000 annually would be immune from rent increases was found to result in an unconstitutional taking. There the Court held,

> *"A legislative category of economically needy senior citizens is sound, proper and sustainable as a rational classification. But compelled subsidization by landlords or by tenants who happen to live in an apartment building with senior citizens is an improper and unconstitutional method of solving the problem." 378 A.2d at 31.*

In *Greene v. Mirabel*[72] the court dismissed for want of a substantial federal question a takings claim challenging the 7 1/2% statutory limit on annual rent increases under New York's rent control law. While the statute in question permitted a higher increase if landlord's could prove that the return on their investment was less than 8 1/2%, the landlords asserted that they were denied "hardship" adjustments before the Division of Housing and Community Renewal and in state courts.

After avoiding a direct "regulatory takings" challenge to rent control for over sixty years, in *Lingle v. Chevron*[73] the U.S. Supreme Court finally addressed such a claim in 2005. *Lingle* involved the regulation of rents for commercial gas stations in the state of Hawaii.

Beginning in 1980 a growing body of case law suggested that the courts could declare laws regulating property unconstitutional if such laws failed to "substantially advance legitimate state interests" - leaving it to the courts to decide just what such "legitimate state interests" are. Legal advocates for property owners were hopeful that a determination of whether rent regulation laws served "legitimate state interests" could be removed from the legislative process and left to the judiciary. With this they foresaw the gradual restriction and possible demise of all rent regulations. Indeed, the New York Court of Appeals affirmed this perception when it exercised discretion under the "legitimate state interests" standard to strike down a law protecting the employees of not-for-profit hospitals who sublet rent stabilized apartments rented by such hospitals. In *Manocherian v. Lenox Hill Hospital*, the New York Court of Appeals held that protecting a non-occupying institutional consumer was not a "legitimate state interest" given the stated general goals of New York's rent laws. This case is discussed below at page 53.

In *Lingle v. Chevron*, involving a restriction imposed by the Hawaii Legislature upon rent charged by oil companies to dealers leasing service stations, Justice O'Connor held that the "legitimate state interests" test had absolutely no validity in the context of regulatory takings jurisprudence. In a clear and categorical decision without dissent, Justice O'Connor eliminated a quarter of a century of confusion surrounding regulatory takings. Noting that the "legitimate state interests" test was inappropriately borrowed from certain due process cases, Justice O'Connor declared that the finding of a regulatory taking rested upon other

---

Justice Scalia quoted this passage approvingly in his dissent in *Pennell* noting that the Supreme Court of New Jersey was dealing with "the same vice I find dispositive here" 485 U.S. at 23. Perhaps the *Parrino* case can be distinguished on the grounds that it dealt with a temporary measure and that the rent levels had already been found constitutional. The New Jersey Supreme Court was clear in its disagreement with *Parrino*, however, and passed over the opportunity to distinguish it from the North Bergen case. After noting that *Parrino's* "factual circumstances are not present here" the Court added, "and we do not find *Parrino* persuasive." 378 A.2d at 31

[72] 485 U.S. 983 (1988).

[73] Lingle v. Chevron USA, 125 S.Ct. 2074 (2005)

tests which are closer to a classic ouster of an owner from property - such as when a permanent physical invasion occurs, or an owner suffers the destruction of all economically beneficial uses, or a property is so heavily burdened that the regulation amounts to a taking.[74] None of these latter standards pose significant threats to rent regulations of the type currently in effect in New York and most other jurisdictions that have such protections.

In light of the Court's unanimous decision in *Lingle*, it is difficult to imagine how a constitutional claim to a conventional rent regulation statute could succeed at this time. *Yee* established that such laws do not constitute a physical taking. *Pennell* established that such laws do not violate due process or equal protection of the law. *Lingle* established that rent regulations cannot be scrutinized for their underlying public policy justifications in the context of constitutional takings analysis.

Challenges to Rent Regulation laws before the New York Court of Appeals

The New York Court of Appeals struck down two measures aimed at protecting rents or tenancies between 1989 and 1995, and upheld two others.

In *Federal Home Loan Mortgage Corporation v. New York State Division of Housing and Community Renewal*,[75] the New York Court of Appeals held that units in a formerly rent stabilized building which underwent cooperative conversion regain the protection of rent stabilization if the building loses its cooperative status upon foreclosure of an underlying mortgage. This result was particularly unwelcome in the banking community. The market value of properties foreclosed upon could be expected to vary significantly depending on whether the property experienced free market rents or regulated rents following foreclosure. Hence the Court's decision to recognize a reversion to rent regulated status effectively raised the incentive on the part of financial institutions to arrange for workouts - as an alternative to foreclosure in financially troubled cooperatives.

Although the court in *Federal Home Loan Mortgage Corp.* appeared to have responsibility for addressing the narrow question of whether the building reverted to rent stabilized status,[76] it also considered constitutional objections to the law which permitted

[74] Although Justice O'Connor acknowledged that a regulation may run afoul of the Due Process Clause if it is arbitrary or irrational, and Justice Kennedy took note of this possibility in a concurrence, it is unlikely, in light of *Pennell*, that a typical rent regulation requirement would be invalidated under such a deferential analysis.

[75] 87 N.Y. 2d 325 (1995).

[76] This question had been certified from the United States Court of Appeals for the Second Circuit where the case had been under consideration. Id.

this reversion.[77] First, it addressed the plaintiff's claim that the law effected a physical taking. Recognizing that "the essence of plaintiff's dispute is not that it is being forced to use the property in a new or undesirable manner, but that the rent it charges in terms of the rental leases should be market based and not subject to regulation under the [Rent Stabilization Law]" the court found that "no new use of the property had been forced upon plaintiff, and no unconstitutional physical taking has been effectuated."[78]

The court also rejected a regulatory takings claim. Notably, in addressing the regulatory takings claim the court reiterated its recognition of the legal framework for finding a regulatory taking used in *Manocherian v. Lenox Hill Hospital*,[79] and earlier in *Seawall Assocs. v. City of New York*[80], (a framework which, as discussed below, has now been brought into question by *Lingle*). Unlike the *Manocherian* case, however, [discussed below] the *Federal Home Loan Mortgage Corp.* decision found that extending the protection of the Rent Stabilization Law to the former cooperative shareholders would "serve the same legitimate State interest served by application of the RSL in a housing shortage - 'preventing eviction and resulting vulnerability to homelessness of the identified beneficiaries'". Having found the proper nexus, the court rejected the plaintiff's regulatory taking claim.

Manocherian v. Lenox Hill Hospital,[81] is a rather complex case which held that the extension of rent stabilization protections to leases held by not-for-profit hospitals for ultimate use by hospital employees (as subtenants) resulted in a regulatory taking.

With the adoption of the Omnibus Housing Act of 1983 the New York State Legislature tightened rules with regard to sublets by, among other things, limiting the right to sublet to tenants who intended to return and occupy their units at the termination of the subtenancy. Since not-for-profit hospitals could not be prime/occupying tenants, the effect of this law was to terminate the rent stabilized status of leases held by such entities. As a result, a number of hospital employee/subtenants faced eviction. To remedy this unintended consequence the New York State Legislature adopted Chapter 940 of the laws of 1984, which restored rent stabilized status to these leases.

This re-establishment of rent protection for a non-occupying corporate entity was challenged by the plaintiff as a regulatory taking. Relying upon the takings standard articulated in *Seawall* (discussed below), and finding that Chapter 940 did "not protect and benefit specific occupant subtenants, but rather erect[ed] a subsidized housing regime for

[77] Rent Stabilization Law, NYC Admin. Code Section 26-504.
[78] 87 N.Y.2d at 335.
[79] 84 N.Y.2d. 385 (1994).
[80] 74 N.Y. 2d 92 (1989). See also Lucas v. So. Carolina Coastal Council 505 U.S. 1003 (1992).
[81] 84 N.Y.2d 385 (1994), cert den., 514 U.S. 1109 (1995).

Lenox Hill Hospital's preferential allotment" the New York Court of Appeals held that Chapter 940 "suffers a fatal defect by not substantially advancing a closely and legitimately connected State interest."[82] The court thus drew a distinction between a non-occupant corporate entity and housing consumers who intended to occupy their apartments. The court appeared to be influenced to some degree by the perpetual status of the hospital as a corporate tenant and by the fact that the hospital employees could be evicted upon discharge from their employment. These facts, the court ruled, contravened two key goals of rent protection "occupant protection and eventual market redemption."[83]

Notwithstanding the various considerations which appeared to weigh in the court's finding, this was the first time that the New York Court of Appeals ruled that a rent law produced unconstitutional subsidies. The ruling appears to suggest that any legislative attempt to protect non-occupying consumers (e.g. business and not-for-profit entities) in a market where rents are affected by a legislatively recognized housing shortage, may be closely scrutinized by state courts. Nonetheless, is difficult to see how the ruling in *Manocherian* can survive the U.S. Supreme Court's decision in *Lingle*. The analytical framework utilized in *Manocherian* included the "legitimate state interest" test which was explicitly and unanimously rejected by the U.S. Supreme Court in *Lingle*.

In *Rent Stabilization Assn. v. Higgins*,[84] the New York Court of Appeals upheld an administrative regulation promulgated by the New York State Division of Housing and Community Renewal which granted unmarried partners of a permanent character succession rights of the same type enjoyed by surviving spouses. Among other claims raised by the appellants, the regulation was challenged as permitting a forced physical occupation of the property resulting in a *per se* taking. Relying upon *Yee*, the court concluded that "[b]ecause the challenged regulations may require the owner-lessor to accept a new occupant but not a new use of its rent-regulated property, we conclude that appellants have failed to establish their claim that, facially, a permanent physical occupation of appellant's property has been effected." The appellants also raised a regulatory taking claim. Dismissing the claim, the court found no deprivation of an economically viable use of the property and no failure to advance the legitimate state interest of protecting persons against the possible loss of their homes.

Decisions like *Higgins, Manocherian* and the *Federal Home Loan Mortgage* have been influenced to some degree by *Seawall Associates v. City of New York*, although the latter decision did not directly address a traditional rent regulation law in the same sense.[85]

---

[82] 84 N.Y.2d 385, 386 (1994).
[83] 84 N.Y. 2d at 394.
[84] 83 N.Y.2d 156(1994).
[85] 74 N.Y.2d 92 cert den. 493 U.S. 976 (1989).

Seawall involved an attempt to prevent the further decline and loss of single room occupancy housing by imposing a moratorium on the alteration, conversion or demolition of such housing. The law allowed an exemption for those who were willing to pay $45,000 dollars per unit into a low-income housing fund. In addition, the law mandated that unused units be repaired and rented out. Finding that the buy- out provision amounted to a form of "ransom" and that the rent up provision resulted in a forced physical occupation of the property, the New York Court of Appeals ruled that the law resulted in an unconstitutional physical and regulatory taking.

As indicated above, *Lingle* sets forth a clear standard for analyzing regulatory takings claims, and provides that an inquiry into whether a regulation "substantially advances legitimate state interests" is not a proper component of the regulatory takings analysis. Accordingly, *Lingle* calls into question the reliance of *Seawall* and other cases on such an analysis in deciding whether a measure amounts to a regulatory taking. However, *Lingle* does not directly address whether the physical taking component of *Seawall* was properly decided.

The foregoing developments suggest that long established, traditional rent control measures appear likely to survive judicial scrutiny against takings claims. On the other hand, new and novel extensions of such protections, particularly those may be found to constitute a physical occupation, could meet with mixed success.

MAIN FEATURES OF RENT STABILIZATION

The landlord/tenant context — objectives, enforcement & primary provisions of the Emergency Tenant Protection Act, Rent Stabilization Law, Rent Stabilization Code & related laws

As seen from the history of rent regulation, the rent stabilization system has evolved from a combination of State, City and administrative agency actions beginning in 1969. Under the Emergency Tenant Protection Act (ETPA) of 1974, the State established the broad legal parameters within which the City, its agencies, and now the State Division of Housing and Community Renewal must administer rent stabilization. Much of the ETPA, however, refers to and relies upon provisions of the local Rent Stabilization Law (RSL) of 1969 as governing the administration of rent stabilization within New York City. Both laws in turn prescribe the establishment of a code of regulations known as the Rent Stabilization Code (RSC) which implements the provisions of these laws in detail.

Although the provisions of the ETPA concerning rent setting and the role of the Rent Guidelines Board(s) were previously noted, it may be worthwhile to consider some of the

general themes of the rent stabilization laws and regulations before proceeding with a more detailed discussion of the administration of rents.

The rent stabilization system is structured to provide three interrelated protections to tenants while permitting a fair return to owners who invest in rental property. A prime concern of lawmakers in establishing the system was to preserve the basic **affordability** of rental housing. Yet, affordable rents would provide little protection for tenants who are at the same time vulnerable to arbitrary evictions or service reductions. Consequently, the rent regulation system goes far beyond the simple establishment of rents and addresses a whole range of landlord/tenant issues. These issues mainly concern **habitability** and **security of tenure**.

It is also important to consider whether rent regulation produces **fair returns** for affected owners. As previously discussed, the interests of owners are vested with certain protections based upon the constitutional guarantees of equal protection, due process and just compensation for the taking of private property for public use. Concern for these protections has been incorporated into the structure of the rent stabilization system through the allowance of "hardship" rent increases for owners and by the various constitutional limitations governing the Board's and the DHCR's general authority. Additionally, the system is designed to prevent tenants from unfairly abusing or profiting from their control over regulated units. Finally, mechanisms have been added to encourage owners to invest in major capital improvements and to develop new rental units or to improve existing units.

A general familiarity with all of these aspects of rent stabilization is helpful in understanding the regulatory framework within which the rent guidelines must be established and enforced.

Affordability

The findings of the City Council in enacting the Rent Stabilization Law of 1969, and the State legislature in adopting the Emergency Tenant Protection Act of 1974, clearly establish that fair and *generally* affordable rents are a primary objective of these laws. The intent is clearly not to guarantee an affordable rent for every tenant. Rather, it is to protect tenants against "abnormal" rents driven up by chronic housing shortages. A full reprint of the findings from the Rent Stabilization Law of 1969, as amended, is provided below:

Rent Stabilization Law of 1969 (as amended)
Findings and Declaration of Emergency

> *The council hereby finds that a serious public emergency continues to exist in the housing of a considerable number of persons within the city of New York and will continue to exist after April first, nineteen hundred seventy-four; that such emergency necessitated the intervention of federal, state and local government in*

order to prevent speculative, unwarranted and abnormal increases in rents; that there continues to exist an acute shortage of dwellings which creates a special hardship to persons and families occupying rental housing; that the legislation enacted in nineteen hundred seventy-one by the state of New York, removing controls on housing accommodations as they become vacant, has resulted in sharp increases in rent levels in many instances; that the existing and proposed cuts in federal assistance to housing programs threaten a virtual end to the creation of new housing, thus prolonging the present emergency; that unless residential rents and evictions continue to be regulated and controlled, disruptive practices and abnormal conditions will produce serious threats to the public health, safety and general welfare; that to prevent such perils to health, safety and welfare, preventive action by the council continues to be imperative; that such action is necessary in order to prevent exactions of unjust, unreasonable and oppressive rents and rental agreements and to forestall profiteering, speculation and other disruptive practices tending to produce threats to the public health, safety and general welfare; that the transition from regulation to a normal market of free bargaining between landlord and tenant, while still the objective of state and city policy, must be administered with due regard for such emergency; and that the policy herein expressed is now administered locally within the city of New York by an agency of the city itself, pursuant to the authority conferred by chapter twenty-one of the laws of nineteen hundred sixty-two.

The council further finds that, prior to the adoption of local laws sixteen and fifty-one of nineteen hundred sixty-nine, many owners of housing accommodations in multiple dwellings, not subject to the provisions of the city rent and rehabilitation law enacted pursuant to said enabling authority either because they were constructed after nineteen hundred forty-seven or because they were decontrolled due to monthly rental of two hundred fifty dollars or more or for other reasons, were demanding exorbitant and unconscionable rent increases as a result of the aforesaid emergency, which led to a continuing restriction of available housing as evidenced by the nineteen hundred sixty-eight vacancy survey by the United States bureau of the census; that prior to the enactment of said local laws, such increases were being exacted under stress of prevailing conditions of inflation and of an acute housing shortage resulting from a sharp decline in private residential construction brought about by a combination of local and national factors; that such increases and demands were causing severe hardship to tenants of such accommodations and were uprooting long-time city residents from their communities; that recent studies establish that the acute housing shortage continues to exist; that there has been a further decline in private residential construction due to existing and proposed cuts in federal assistance to housing programs; that unless such accommodations are subjected to reasonable rent and eviction limitations, disruptive practices and abnormal conditions will produce serious threats to the public health, safety and general welfare; and that such conditions constitute a grave emergency. (§26-502 of the RSL continues and re-affirms these findings.)

The question of how much weight to give to affordability is a controversial one. Two judicial pronouncements on the issue indicate that tenants' ability to pay is a permissible consideration in setting the guidelines.[86] Owner representatives have often asserted that affordability (as reflected in tenant incomes, unemployment statistics, shelter allowances, non-payment petitions, evictions etc.) should not be a factor in the Board's annual deliberations. They have argued that rent limits established by focusing on economic factors - such as operating costs, vacancy rates, mortgage rates and so on - preserve affordability to the extent intended by the system. In other words, guidelines that are exclusively concerned with the specific considerations prescribed by law[87] result in presumptively "fair" rents. Tenants counter that this focus on the mandated considerations neglects the intent of the legislation - described in the above Declaration of Emergency - and ignores the third section of the charge to the Board which permits it to consider "such other data as may be made available to it".

Regardless of who has the better of this argument there is an independent and quite plausible reason for continuing to review and factor affordability into the guidelines. In the purest economic sense, the object of the guidelines should be to eliminate the effects of the housing shortage on rent levels. All of the mandated criteria suggest that the Board should be making a rough attempt to simulate the kinds of rents that a competitive market with a vacancy rate in excess of 5% might provide. Such a market would be shaped by the same basic forces that control all unregulated markets: supply and demand. Demand would in turn be determined by a host of factors, the most significant of which is tenant affordability.

In an unregulated rental housing market, if incomes fall or unemployment rises the demand curve will gradually shift downward - more people will double up, move away, skip out on payments or negotiate more vigorously with owners - and rents will eventually fall or rent increases will be limited. This pattern was clearly in evidence in unregulated markets nationally where rents remained virtually flat throughout the recession of the early 1990's.[88] In New York's unregulated rental sector, rents fell by as much as 15% during this recession.[89] Vacancy rates are higher in other areas of the country, giving rise to more balanced bargaining relations and permitting the partial transfer of recessionary pressures from tenants

---

[86] See *Greystone Hotel Co. v. City of New York, Rent Guidelines Board* et al., case #17, supra at page 44. Note: This case was not published and may not be cited as precedent in any other case. See also Matter of *Muriel Towers Co.,* case #10, supra at page 41.

[87] Recall that the mandated considerations include:

(1) the economic condition of the residential real estate industry in N.Y.C. including such factors as the prevailing and projected (i) real estate taxes and sewer and water rates, (ii) gross operating 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) over-all supply of housing accommodations and over-all vacancy rates;

(2) relevant data from the current and projected cost of living indices for the affected area; and

(3) such other data as may be made available to it.

[88] See State of the Nation's Housing - 1992, Joint Center for Housing Studies of Harvard Univ., Exhibit 2a.

[89] N.Y. Times 2/7/93 Real Estate Section at 12, col. 1

to owners. Except in high rent sectors where market rents prevail, New York's housing shortage largely suppresses or masks these consequences. Housing options in middle and low-income markets are limited. Owners are commonly in a position to say, "take it or leave it" and tenants have little choice but to accept what is offered. The benefit to low and moderate-income tenants of a recession-induced deflation of rents is largely lost. In short, a genuine attempt to simulate a competitive equilibrium rental price will recognize that rents fall in a recession because incomes fall. From this perspective, ability to pay may be an important economic factor for the Board to consider.

The consideration of affordability does not necessarily compel lower rent adjustments. Those who are willing to factor affordability into the guidelines by limiting increases during a recession are bound to accept a logical corollary - when tenant incomes rise so should rents. Nothing in the Declaration of Emergency suggests that rent levels should be immunized against inflationary pressures brought on by rising incomes.

The RGB's main tool for studying affordability issues is the annual *Income and Affordability Study (I&A)*, published and presented each spring by RGB staff members. The full report can be found on our website or in the annual *Housing NYC: Rents Markets and Trends* book, also published by the RGB. This study attempts to capture the most recent reports and statistics regarding the affordability of New York City housing. Studies vary by year, but generally include data from the triennial *Housing and Vacancy Survey (HVS),* the most recent *American Community Survey* data, employment and economic statistics, as well as reports produced by policy institutes and advocacy groups. Selected affordability data follows.

According to the *2023 HVS*, which reflects household income for 2022, the median income for rental households was $70,000, an inflation-adjusted ("real") increase of 27.7% from 2020 and a nominal increase of 40.0%.[90] Owner households earned substantially higher income, which in 2022 was a median of $122,000, a "real" increase of 13.6% from 2020, and a nominal increase of 24.5%.

The *2023 HVS* found that renters in rent stabilized units made less than the average renter, with a median household income of $60,000 in 2022, a "real" increase of 16.5% from 2020 and a nominal increase of 27.7%. This includes a median of $60,000 for rent stabilized tenants in buildings built before 1974 (pre-74 buildings) and $50,000 for tenants in buildings built after 1973 (post-73 buildings). In contrast, those living in market rentals[91] made more than the average renter, a median of $90,800, a "real" increase of 31.6% from 2020, and a

[90] Unless otherwise noted, all following data is from the *2023 Housing and Vacancy Survey*, conducted by the Census Bureau. Total household income in the HVS includes wages, salaries, and tips; self-employment income; interest dividends; pensions; and other transfers and in-kind payments.

[91] Market rentals (referred to in prior NYCHVS cycles as "private unregulated rentals") consist of units that did not meet any of the criteria that would classify a unit as rent controlled, rent stabilized, public housing, or regulated in some other way.

nominal increase of 44.2%. In public housing, the median household income was $20,600, and in rent control or other regulated rentals, it was $36,020.

The *HVS* also examines rent levels, and it revealed that in 2023, the median monthly contract rent (i.e., the rent paid to the owner of the apartment by either a tenant or a subsidizing agency) for all rental units was $1,641, a "real" decrease of 0.7% from 2021, and a nominal increase of 9.4%. Rent stabilized tenants paid less, $1,500, in median contract rent than renters as a whole, a "real" decrease of 2.7% from 2021, and a nominal increase of 7.1%. For rent stabilized tenants in pre-74 buildings, the median was $1,471 (a real decrease of 4.6% and a nominal increase of 5.1%), and was $1,627 for tenants in post-73 buildings (a real decrease of 22.5% and a nominal decrease of 14.6%). Among the other categories of rental units, market rentals had a median contract rent of $2,000, a "real" decrease of 0.5% and a nominal increase of 9.4%; public housing, $560; rent control, $988; and in other regulated rentals, $1,367.

The median gross rent (i.e., the contract rent, plus additional payments for fuel and/or utilities) for all rental units was $1,695, a "real" decrease of 2.3% from 2021, and a nominal increase of 7.6%. Rent stabilized tenants paid $1,570 in median gross rent, less than renters as a whole, a "real" decrease of 4.3% from 2021, and a nominal increase of 5.4%. For rent stabilized tenants in pre-74 buildings, the median was $1,558 (a real decrease of 4.0% and a nominal increase of 5.8%) and was $1,694 for tenants in post-73 buildings (a real decrease of 10.2% and a nominal decrease of 1.1%). Among the other categories of rental units, market rentals had a median gross rent of $2,115, a "real" increase of 2.4% and a nominal increase of 12.8%; public housing, $588; rent control, $1,163; and in other regulated rentals, $1,367.

The *HVS* also breaks down the distribution of contract rent for different types of rental units. The *2023 HVS* found that 26% of rent stabilized units had a contract rent of less than $1,100 per month (as compared to 16% of market rentals); 34% rented for between $1,100 and $1,649 (as compared to 19% of market rentals); 25% rented for between $1,650 and $2,399 (as compared to 26% of market rentals); and 15% rented for $2,400 or more (as compared to 40% of market rentals). While just 9.9% of rent stabilized units in pre-74 buildings had a contract rent of $2,400 or more, 34.9% of those in post-73 buildings had contract rents of $2,400 or more.

Generally, housing is considered affordable when a household pays no more than 30% of its income in gross rent, as based on the U.S. Department of Housing and Urban Development (HUD) benchmark for housing affordability.[92] The *2023 HVS* reported that the median gross rent-to-income ratio was 29.5% for all renters, meaning that half of all

[92] The HUD benchmark for housing affordability is a 30% rent-to-income ratio. Source: Basic Laws on Housing and Community Development, Subcommittee on Housing and Community Development of the Committee on Banking Finance and Urban Affairs, revised through December 31, 1993, Section 3.(a)(2).

households residing in rental housing pay more than 29.5% of their income in gross rent, and half pay less. The median contract rent-to-income ratio was 27.6% in 2023, down from 32.6% in 2021.

Rent stabilized tenants are reported to have a median gross rent-to-income ratio of 30.5%, meaning a slight majority of rent stabilized tenants are not able to afford their apartments, based on the HUD benchmark for housing affordability of a 30% gross rent-to-income ratio. For rent stabilized tenants in pre-74 buildings, the median gross rent-to-income ratio was 29.4%, and for those in post-73 buildings, it was 34.0%. Rent stabilized tenants are reported to have a median contract rent-to-income ratio of 28.2% (a decline from 33.6% in 2021), including a median of 27.4% for tenants in pre-74 buildings, and a median of 31.7% for those in post-73 buildings.

For comparison, tenants in market rentals had a median gross rent-to-income ratio of 27.9% in 2023; tenants in public housing, 30.8%; rent controlled tenants, 33.4%; and other regulated tenants, 40.3%.

It is important to note that rent-to-income ratios in the *HVS* are affected by an anomaly in the way rents for tenants receiving Section 8 and other rental assistance programs are recorded by the *HVS*. Tens of thousands of tenants receiving rental assistance are recorded with rent-to-income ratios in excess of 100% because the contract rent of these apartments exceeds the monthly income of the tenants residing within them. However, because of rental assistance programs, these tenants generally pay no more than 30% of their income towards rent. Excluding those tenants who received vouchers or other rental assistance, the median gross rent-to-income ratio for rent stabilized tenants falls to 28.8%, 1.7 percentage points lower than the ratio for all rent stabilized tenants. It is likewise 1.1 percentage points lower for rent stabilized tenants in pre-74 buildings who do not receive rental assistance (28.3%) and 2.5 percentage points lower for those in post-73 buildings (31.5%). Similarly, the median contract rent-to-income ratios are lower for rent stabilized tenants who do not receive rental assistance, by 1.2 percentage points, including a difference of 1.1 percentage points for rent stabilized tenants in pre-74 buildings and 1.4 percentage points in post-73 buildings. The median contract rent-to-income ratio for rent stabilized tenants who do not receive rental assistance was 27.0% in 2023, a 5.0 percentage point decline from 2021.

Not including those tenants who receive rental assistance or live in public housing, 43.1% of tenants were considered rent burdened in 2023 (paying more than 30% of their income towards contract rent), including 18.1% of tenants who are moderately rent burdened (paying more than 30%, but not more than 50% of income towards contract rent) and 25.0% who are severely rent burdened (paying more than 50% of income towards contract rent).

As compared to tenants overall, a greater number of rent stabilized tenants who do not receive rental assistance were considered rent burdened (as based on contract rent), 45.5%.

This includes 18.3% considered moderately rent burdened and 27.2% considered severely rent burdened. Rent stabilized tenants in pre-74 buildings were less burdened, on average, than those in post-73 buildings, with ratios of 43.8% and 53.0%, respectively. While a similar proportion of tenants in pre-74 buildings and post-73 buildings were moderately rent burdened (18.2% and 18.8%, respectively), a greater proportion of rent stabilized tenants in post-73 buildings were severely rent burdened (34.2%) as compared to those in pre-74 buildings (25.6%). For comparison, 40.6% of tenants in market rentals were considered rent burdened in 2023, including 18.0% with moderate rent burden and 22.7% with severe rent burden.

The *2023 HVS* found that 13% of renters reported missing one or more rent payments in the last year because they did not have enough money at the time rent was due, the same proportion as in 2021. Missed or late rental payments varied by income level, with 18% of both renter households with incomes less than $25,000, as well as those with incomes of $25,000 to $49,999, reporting one or more missed rental payments. This proportion falls to 15% among those with incomes of $50,000 to $99,999, and falls to 7% among those with incomes of $100,000 or more. Of the 13% of renter households that reported being late or missing a rent payment in the past year, 34% reported still having rent arrears at the time of the survey, higher than the 29% share in 2021. Households who reported missing a rent payment and making less than $25,000 a year reported the highest prevalence of rental arrears (46%, up from 38% in 2021), followed by those earning between $25,000 and $49,999 (40%, up from 27% in 2021). Higher-income households reported a lower preponderance of rent arrears than lower-income households, with 28% of those earning between $50,000 and $99,999 currently in arrears (up from 26% in 2021), and 16% of those earning $100,000 or more currently in arrears.[93]

In 2023, 13% of all households (both renter- and owner-occupied) reported facing food insecurity over the prior 12 months, including those that met the definition of either insecure or very insecure. This is a higher share than in 2021, when 10% were food insecure. Food insecurity was more pronounced among renter-occupied households than owner-occupied households, with 17% of renter-occupied households experiencing some level of food insecurity (up from 11% in 2021), including 6% of renter households that were "very" food insecure (up from 3% in 2021). Rent stabilized tenants faced higher levels of food insecurity than the average renter, with 21% reporting some level of food insecurity (up from 13% in 2021), including 8% of rent stabilized tenants who were "very" food insecure. Food insecurity among rent stabilized tenants was also higher than that among market rate tenants, where 12% reported food insecurity in 2023 (essentially unchanged from 2021).

Per data from the Census Bureau's most recent annual nationwide survey, the *2023 American Community Survey (ACS)*,[94] median household income in NYC ($76,577)

[93] The equivalent figure for 2021 is not available, due to large sampling error.

[94] *2023 American Community Survey*, U.S. Census Bureau. http://data.census.gov.

increased nominally (by 2.5%), but decreased in real terms (by 1.3%), compared to 2022. Median household income for renters ($61,371) increased by 2.5% nominally, and decreased by 1.3% in real terms. Since the survey's inception in 2005, renter income has fluctuated in inflation-adjusted ("real") 2023 dollars, from a low of $49,253 in 2011 to a high of $63,388 in 2019. Median household income for owners ($117,502) increased by 2.7% nominally, and decreased by 1.1% in real terms, nearly equal to the growth in household income of renters. By borough, renter incomes increased by the largest proportion in Brooklyn, which increased by 1.6% in real terms in 2023. This was followed by the Bronx, which increased by 1.3%, and Manhattan, which increased by 0.7%. In contrast, inflationadjusted renter household income decreased by 3.1% in Queens, and by 11.7% in Staten Island.

Measuring income inequality, the survey also provides average household income for cities in quintiles. In NYC, the income of the top quintile (the average of the top 20% of household incomes) is 32.30 times greater than that of the lowest quintile (the average of the lowest 20%). This equates to the highest quintile earning, on average, more than $350,000 more annually than the lowest quintile. While the ratio between the highest and lowest quintiles for all of NYC was 32.30 in 2023, it was 48.22 in Manhattan, where the highest quintile earns, on average, more than $569,000 more annually than the lowest quintile. The ratio for NYC is the third highest ratio among large cities (those with populations of at least 250,000, of which there were 91 in 2023), but a decrease from the ratio of 32.90 in 2022. While NYC's income disparity ratio is among the highest in the nation, it is lower than Atlanta's ratio of 38.64, which is the highest among large cities. Other major cities, such as Los Angeles (23.82), Houston (22.62), Chicago (24.30), and Philadelphia (24.52), all have smaller differentials between income levels than NYC. Besides the aforementioned Atlanta, New Orleans (34.11) is the only other large city with greater income inequality than NYC. The smallest disparity among big cities is in Gilbert, Arizona, with a ratio of 8.60. For the U.S. as a whole, the ratio is 17.24, down from 17.57 in 2022.

Analyzing household income over time can also provide insight into the growth or decline of income within each quintile. While not consistently true year-to-year, over the period from 2006 to 2023 (the earliest and latest years available for analysis), income in NYC increased more rapidly for higher quintiles than for lower quintiles. Point-to-point comparisons show that household income for the lowest quintile (the bottom 20% of income levels), decreased by 7.6% in "real" terms, and increased by 34.9% in nominal terms, from 2006 to 2023. For households in the highest quintile (the top 20% of household incomes), household income increased by 24.7% in real terms and by 81.9% in nominal terms from 2006 to 2023. This point-to-point change represents an average annual inflationadjusted household income decrease of 0.5% for the lowest quintile and an increase of 1.4% for the highest quintile (see chart on the previous page). Examining the change from 2022 to 2023 (the two most recent years of data), household income in the lowest quintile increased by 2.0% in real terms compared to the previous year, while income in both the second and third quintiles decreased (by 1.0% and 1.2%, respectively); and income in both the fourth and

highest quintiles increased (by 0.2% and 0.1%, respectively. Specifically for renter households, household income increased by 1.5% in real terms for the lowest quintile from 2022 to 2023, while income in both the second and third quintiles decreased (by 0.2% and 1.0%, respectively); and income in both the fourth and highest quintiles increased (by 0.3% and 1.5%, respectively).

The *ACS* also publishes a summary measure of income inequality called the Gini Index. According to this index, a coefficient of 0.0 represents perfect equality in income distribution, where everyone receives an equal share, while a coefficient of 1.0 represents total inequality, where one household possesses all the income. In 2023, NYC's Gini index coefficient was 0.5546, virtually unchanged from 0.5547 in 2022, and the fourth-highest coefficient among large cities. By borough, the coefficients ranged from 0.4609 in Staten Island, to 0.4745 in Queens, 0.5200 in the Bronx, 0.5349 in Brooklyn, and 0.5929 in Manhattan. The U.S. Gini coefficient was 0.4828 in 2023, a decrease from 0.4863 in 2022.

The *2023 ACS* also reports that the median contract rent in NYC in 2023 was $1,624, and the median gross rent was $1,748 (see graph on this page). Between 2022 and 2023, median monthly contract rents for all apartments in NYC decreased by an inflation-adjusted 0.6%, and median gross rents decreased by 0.3%. In nominal terms, these rents increased by 3.2% and 3.6%, respectively. The ACS also reports contract rents at both the 25th and 75th percentiles. While 25% of NYC residents paid less than $1,034 in contract rent in 2023 (a "real" decrease of 2.8% from 2022, and a nominal increase of 0.9%), 25% paid more than $2,350 (a "real" increase of 3.1% from 2022, and a nominal increase of 7.0%). Therefore, the data indicates that higher rents (at the 75th percentile) increased more rapidly than lower rents (at the 25th percentile).

Median contract rents were highest in Manhattan ($2,061) and lowest in the Bronx ($1,187), with medians of $1,494 in Staten Island, $1,647 in Brooklyn, and $1,758 in Queens. From 2022 to 2023, inflation-adjusted median contract rents declined by 5.0% in the Bronx and 5.1% in Staten Island, while increasing by 0.5% in Brooklyn, 0.6% in Queens, and 2.9% in Manhattan. Median gross rents were highest in Manhattan ($2,169) and lowest in the Bronx ($1,352), with medians of $1,688 in Staten Island, $1,762 in Brooklyn, and $1,877 in Queens. From 2022 to 2023, inflation-adjusted median gross rents declined by 3.7% in the Bronx and 2.6% in Staten Island, while increasing by 0.5% in Brooklyn, 1.6% in Queens, and 3.1% in Manhattan.

Per *2023 ACS* data, NYC's median gross rent-to-income ratio ranks 55th highest among the 91 large cities, matching its 2022 ranking. At 31.1%, the median gross rent-to-income ratio in NYC decreased by 0.1 percentage point from 2022 levels (see graph on this page). By borough, ratios ranged from a low of 28.8% in Manhattan, to 29.8% in Brooklyn, 31.9% in Queens, 35.5% in Staten Island, and 36.6% in the Bronx. Compared to 2022, this ratio decreased in both Brooklyn and Manhattan, by 0.8 and 0.2 percentage points,

respectively. However, the ratio increased in the Bronx, by 0.5 percentage points; in Queens, by 0.8 percentage points; and in Staten Island, by 1.1 percentage points.

Citywide, the proportion of households paying 30% or more of their income toward gross rent decreased by 0.2 percentage points from 2022 to 2023, to 51.9% (see graph on this page). This included a 0.4 percentage point increase in households paying between 30% and 49.9% of their income toward rent and a 0.6 percentage point decrease in households paying 50% or more of their income toward rent. By borough, the proportion of households paying at least 50% of their income toward gross rent ranged from 25.4% in Manhattan, to 26.5% in Brooklyn, 28.9% in Queens, 36.3% in Staten Island, and 36.7% in the Bronx.

Also reported is the percentage of income spent on monthly housing costs for different household income categories. Approximately 95% of all renters reported both paying rent and receiving income. Of those renters, 19% earned less than $20,000 a year. For this lowest household income category, 87.8% spend at least 30% of their household income on housing costs, while 1.9% spend less than 20%. As income levels rise, the proportion of renters spending at least 30% of their household income on housing costs declines, while the proportion spending less than 20% increases (see chart on this page). At the highest income category provided by the ACS (households earning $75,000 or more, comprising 44% of all renters), 18.2% spend at least 30% of their income on housing costs, while 50.3% spend less than 20%.

One of the many prices tracked in the federal Consumer Price Index (CPI) is the cost of rental housing. While not specific to NYC (the local CPI area extends into the suburbs of the City), the CPI can provide a useful comparison of the rise of housing costs to those of other components of the price index.[95] Over the 56-year period since the inception of rent stabilization (from 1968 to 2024), the cost of rental housing in the NYC metro area increased by 1,017%, while overall prices rose more slowly, 826%. In this same time period, in the U.S. as a whole, rent and overall prices increased more proportionally, by 870% and 801%, respectively.

In 2024, average rent costs increased by 4.9% in the NYC metro area, 1.1 percentage points higher than the overall CPI increase of 3.8%. This is lower than the 2023 rent increase of 5.7%, but represents the second-highest proportional increase seen in the NYC metro area since 2008. In the U.S. as a whole, rental costs increased at a faster pace than in the NYC metro area, increasing by an average of 5.1% in 2024. Rental costs in the NYC metro area rose faster than four of the seven metro areas selected for comparison, including San Francisco, where rents increased by 1.9%, and Atlanta, where rents increased by 3.1%.

[95] Bureau of Labor Statistics; http://www.bls.gov.

However, rents in the NYC metro area increased slower than in Chicago, Philadelphia, and Boston, where they increased by 5.4% to 6.7%.[96]

Results from the *2023 HVS*[97] reveal that 3.8% of market rate renters receive Section 8 vouchers, while 11.0% of rent stabilized tenants do so. Among rent stabilized tenants, 19.3% live under the federal poverty level (versus 11.6% of market rate tenants), while 8.9% receive at least one form of public assistance (versus 4.5% of market rate renters). Rent stabilized tenants also live in more crowded conditions than other renters, with 13.1% of apartments considered overcrowded (more than two persons per bedroom), as compared with 6.7% of market rate apartments. They also live, on average, in smaller apartments than non-regulated tenants, with an average of 3.0 rooms per apartment versus 4.0 rooms in market rate apartments.

Rent regulation does, of course, play some role in limiting the rents paid by many households that receive limited or no assistance. Yet, in spite of the high number of rental households protected by rent regulation, the proportion of household income paid in rent rose steeply throughout the early period of stabilization. (This phenomenon also occurred - to a lesser extent - throughout the nation during the same period.) The median "rent to income ratio," or percent of gross income paid in rent, increased from 20% to 30% or more for all renters and from 22% to 31% or more for stabilized renters over the past 53 years.[98]

Table III.

Median Percent of Gross Income Paid in Rent for all Renters and Stabilized Renters in New York City 1970-2023		
Year	**All Renters**	**Stabilized Renters**
1970	20%	22%
1975	25%	27%
1978	28%	30%
1981	27%	29%
1984	29%	30%
1987	29%	29%
1991	29%	28%
1993	30%	31%
1996	30%	30%
1999	29%	30%
2002	28%	28%

[96] The seven cities selected by the RGB for comparison are Philadelphia, San Francisco, Boston, Chicago, Atlanta, Los Angeles, and Washington, D.C. Rent increases in these cities ranged from 1.9%-67%.

[97] All data in this paragraph is from the *2023 Housing and Vacancy Survey*. Percentages are based on those households that responded to the question and excludes any household that did not report an answer.

[98] *NYC Housing and Vacancy Surveys* 1970-2023

2005	31%	32%
2008	31%	31%
2011	34%	35%
2014	34%	36%
2017	34%	36%
2021	34.3%	36.2%
2023	29.5%	30.5%

Source: Housing and Vacancy Surveys 1970-2023, U.S. Bureau of the Census

Tenants currently residing in rent stabilized apartments (as distinguished from those searching for new apartments) receive the greatest level of protection under the existing system. The creators of rent stabilization were particularly concerned with community and household stability and sought to avoid the displacement of "long-time" residents. While existing tenants face guideline adjustments upon renewal of their leases, new tenants are charged vacancy increases (in accordance with the statutory formula). This approach has, however, resulted in widely "skewed" rents for comparable apartments. Notably, the RGB staff has found that "longevity discounts" exist in unregulated housing as well as in New York's regulated market.[99] Whether regulated or not, landlords favor long-term steady rent payers. The critical difference is that rent regulated tenants tend to stay in their units longer than their unregulated neighbors. As of 2023, the average rent stabilized tenant moved into their unit in 2010, while the average market rate tenant moved into their unit in 2015.[100] Thus, the longevity discounts accumulate over a longer period.

Habitability

Historically a tenant's obligation to pay rent was considered independent of an owner's obligation to provide a habitable apartment. Thus, tenants were required to pay rents even when services were unavailable or hazardous conditions existed. In 1939 the State began to depart from this tradition by permitting tenants to deposit rents into court when apartment conditions threatened life, health or safety. This process required a court proceeding, however, and did not provide the tenant with compensation for having to live with the dangerous conditions or for the loss of services. The court simply withheld the rents to induce the landlord to make the needed repairs or to restore services - or the court ordered that the

[99] See Rent Stabilized Housing in New York City, A Summary of RGB Research, 1994; Rent Skewing in Rent Stabilized Buildings, 1994, p. 62..

[100] *2023 NYC Housing and Vacancy Survey*.

problems be remedied directly with the deposited funds.[101] No abatement of rent was authorized for the period in which tenants were without full enjoyment of their apartments.[102]

In 1943, under federal rent controls, owners were required to provide essential services or face a downward adjustment of rents. These protections were continued when the State took over the administration of rent control in 1951. In 1971, amendments to the rent control laws establishing the MBR system expanded tenant protections by requiring owners to correct all "rent impairing" violations - a designation given to a select group of housing code violations by the City's housing agency - and at least 80% of all other violations, prior to receiving any rent increase. These protections for rent controlled tenants continue in effect today.

In adopting the Rent Stabilization Law of 1969, the City established protections against loss of services for the newly created class of rent stabilized tenants by requiring that such protections be included in the code of regulations to be established by the real estate industry.[103] The current Rent Stabilization Code [now promulgated by the DHCR] requires owners to certify annually that they are continuing to provide the same services as those provided at the time the apartment first became subject to stabilization.[104]

In 1975 the State reversed completely the policy of decoupling the obligation to pay rent from the obligation to supply fully habitable premises. Under the **warranty of habitability**[105] all residential leases are now "effectively deemed a sale of shelter and services by the landlord who impliedly warrants: first, that the premises are fit for human habitation; second, that the condition of the premises is in accord with the uses reasonably intended by the parties; and, third, that the tenants are not subjected to any conditions endangering or detrimental to their life, health or safety."[106] Consequently all tenants, regardless of rent regulation status, are now eligible to seek repairs and rent abatements for violations of this warranty.[107]

The right of rent stabilized tenants to seek compensation for lost services and to obtain the restoration of such services is still in some ways broader than the rights afforded by the warranty of habitability. The services protected by the warranty or otherwise required by

---

[101] Former Civil Practice Act, 1920, section 1446-a, added L. 1939, c. 661, and repealed by CPLR 10001. Now section 755 of the Real Property Actions and Proceedings Law.

[102] In 1965, §302-a was added to the Multiple Dwelling Law permitting, under certain circumstances, a complete abatement of rent if selected violations, designated as "rent impairing" remain uncorrected.

[103] See former RSL section YY51-6.0(c)(8), and current RSL section 26-514.

[104] See RSC sections 2523.2 through 2523.4

[105] Real Property Law section 235-b.

[106] Quoting Cooke, Ch. J., N.Y. Court of Appeals, *Park West Management Corp. v. Mitchell*, 1979, 47 N.Y. 2d at 319.

[107] See also §235 of the Real Property law, which makes willful refusals to provide essential services a misdemeanor.

law may not include all services furnished on certain applicable base dates, which the Rent Stabilization Code has categorized as "required services" and which rent stabilized tenants have a right to continue.[108] If a required service is not provided, the DHCR may reduce the rent to the amount in effect prior to the most recent guideline increase for the period in which the tenant is deprived of the service. The rent reduction commences on the first day of the month following the month in which the owner is served with a copy of the tenant's complaint. It is important to note that the warranty of habitability may provide greater relief for loss of those services covered by the warranty because rent abatements under the warranty may be retroactive and are not limited solely to the elimination of guideline increases.

It is also worth noting (although unconnected with habitability) that rent stabilized tenants have a right to a renewal lease on the same terms and conditions as the expiring lease. If a tenant received what the Code considers an "ancillary service" (e.g. garage space, swimming pool access, health club rights etc.) under an expiring apartment lease - even though such service was not provided on the applicable base dates for required services - the tenant may continue to demand such services at stabilized rents upon renewal of the lease. While the owner may not demand that the tenant rent the ancillary service (other than security) as a condition of renting the apartment, once the tenant has accepted the service, the owner may demand that the service (and special charges for it) be included in subsequent renewal leases. However, tenants have a right to sublet such services. These renewal rights and obligations are not protected under the Code if the service is not provided primarily for the tenants in the building and is governed by a separate agreement.

Security of Tenure

It has long been recognized that any "attempt to limit the landlord's demands" through rent regulation would fail "[I]f the tenant remained subject to the landlord's power to evict".[109] Therefore, under rent regulation the general power to evict is eliminated in favor of a limited power to remove tenants for specifically enumerated causes. Also, special protections have been added to protect tenants from illegal evictions and harassment.

- Under the **rent control** system tenants have permanent tenure and their rights and obligations are fully spelled out in the state Rent and Eviction Regulations.[110] Consequently they are referred to as statutory tenants and they do not face periodic lease renewals. Rent controlled tenancies may only be terminated on grounds set forth in the Rent and Eviction Regulations. Under the **rent stabilization** system tenants are

[108] See RSC 2520.6(r).
[109] Quoting O.W. Holmes, J., U.S. Supreme Court *Block v. Hirsh* 256 U.S. 135,157-58 (1921).
[110] NYCRR §2200 et. seq.

also granted permanent tenure, but their rights and obligations are defined by both the Rent Stabilization Code and their individual leases. Rent stabilized tenants have a general right to renew their leases as they expire. Under rent stabilization there are two means for ending a tenancy: First, there are a number of grounds to **evict** the tenant such as nonpayment of rent, maintaining a nuisance, illegal subletting or use of the apartment for unlawful purposes; Second, there are grounds for **refusing to renew the lease** such as recovery of the apartment for the owner's personal use or recovery when the tenant maintains a primary residence elsewhere. Per the Housing Stability and Tenant Protection Act of 2019, the law now limits the "owner use" provision to the use of a single unit of rent regulated housing stock by the owner or their immediate family as their primary residence and also provides tenants with cause of action if they are evicted because the landlord makes a fraudulent claim about the intended use of the unit.

If an owner attempts to remove the tenant unlawfully s/he will be subject to both civil and criminal penalties. The Rent Stabilization Code provides as follows:

> *It shall be unlawful for any owner or any person acting on his or her behalf, directly, or indirectly, to engage in any course of conduct (including, but not limited to, interruption or discontinuance of services, or unwarranted or baseless court proceedings) which interferes with, or disturbs, or is intended to interfere with or disturb the privacy, comfort peace, repose, or quiet enjoyment of the tenant in his or her occupancy of the housing accommodation, or is intended to cause the tenant to vacate such housing accommodation or waive any right afforded under this Code.*[111]

If a tenant was removed from a unit through harassment, the Division of Housing and Community Renewal may impose fines against the owner and future rent increases of any sort may be denied.[112] Further, criminal penalties may be sought through the Office of Corporation Counsel under the Unlawful Eviction Law.[113] Note that this latter law protects tenants in all rental units - not just rent regulated units.[114] In addition, treble damages for unlawful evictions may be imposed under section 853 of the Real Property Actions and Proceedings Law.

---

[111] R.S.C. §2525.5

[112] See RSC §2526.2(c)(3) & (d).

[113] N.Y.C. Admin. Code §26-521 et. seq.

[114] See also §235-d of the Real Property law granting all tenants the right to obtain injunctive relief against harassment; §286(6) of the Multiple Dwelling Law denying free market status to loft units held by owners found guilty of harassment; §26-412(d) & §26-403(e)(2)(i)(9) of the NYC Rent Control Law, making harassment a violation and forbidding decontrol of units vacated via harassment, respectively. Further, see §2.7(2)(a) of the City's 421-a regulations included in Appendix P - prohibiting deregulation in certain cases where harassment occurs, and §26-504.2 of the RSL prohibiting high rent vacancy decontrol in the case of harassment.

Fair Returns

The broad goal of the rent stabilization system is the establishment of "fair" rent levels for both owners and tenants. Fairness, of course, is a normative matter that is open to interpretation. Given the overall legal framework supporting the establishment of rent guidelines the term appears to connote a process that attempts to balance three objectives. One objective is the establishment of rent levels that are generally humane - in the sense that owners are not permitted to fully exploit demand for housing accommodations driven by situational scarcity. A corresponding objective is setting rents that reasonably support the reliance and expectation interests of good faith (non-speculative) investors. While the Board cannot guarantee a profit for every owner, it should attempt to preserve the kind of returns that a competitive market with a vacancy rate in excess of 5% might generate - given all the various and changing factors of supply and demand such as tenant incomes and costs of operation. Finally, fairness requires that the overall rent burden be allocated among tenants in an even- handed way - or that differentials in rent adjustments among similarly situated tenants bear some reasonable relationship to legitimate public policy.

Does rent stabilization produce "fair" returns? In order to consider this question logically it would be useful to have a common measure to determine whether the goal is being achieved. Unfortunately, much of the disagreement over the effectiveness of rent regulation is really disagreement over the objectives of rent regulation. Rent regulation may have many purposes:

- to keep rents generally affordable;
- to maintain a building's net operating income at stable levels; or
- to ensure a "reasonable return"

The closest thing to an authoritative measure for considering the success of the rent stabilization system is contained in the law itself, and, like many laws, the rent stabilization law contains some objectives and ideals that may not operate in complete harmony.

The rent stabilization law generally directs that the Rent Guidelines Board consider **cost-push** inflationary factors such as increases in heating fuel or labor costs before establishing rent adjustments. In addition, special rent increases administered by the DHCR are permitted to encourage major capital improvements, individual apartment improvements and to remedy economic hardship. Yet, the same laws appear to prescribe an end to the effects of **demand-pull** inflation on rents. This is the type of inflation that commonly results from a shortage or fixed supply of a needed good. As Justice Bellacosa summarized in the case of *Manocherian v. Lenox Hill Hospital*, "the State intended to protect dwellers who

could not compete in an overheated rental market, through no fault of their own… and to 'forestall profiteering, speculation and other disruptive practices.'"[115]

Notably, the Rent Stabilization Law does not speak about "profits." There is a good reason for this. Simply put, the Board does not control profit levels. Any such attempt would result in an intractable circularity problem: rents rise, property values climb, investors must spend more to purchase properties, rents must rise again to maintain the same relative return on investment.

Generally speaking, there are two investors in every rental property: the purchaser and the lending institution. The lender's profit is determined by the interest it charges and the percentage of defaults it copes with. The purchaser's profit is determined by the return it realizes on the amount of capital it has placed at risk. In a very real sense, virtually all owners of rent stabilized properties receive market rate profit levels.[116] That is because purchase prices are wholly unregulated and market driven.

The rent stream of any given building will determine its market value. Although the Board sets the rents, it cannot order an investor to pay more (or a seller to take less) than the building is worth in market terms. Thus, if the Board sets a rent below market, it will limit a building's appreciation and value. Any purchaser of that building will pay less for it in order to ensure that the investment is worthwhile. Whether the investment was a wise one will depend on how well the investor predicted future rent streams given the regulatory environment in which the building operates. The ultimate effect of rent stabilization is, therefore, to mute property values – not profits.[117] In the absence of rent regulation an investor would presumably pay more for the subject property, and, in a sense, gamble against what the market would bring in terms of changes in demand. Under rent regulation, the investor pays less and gambles against what regulatory authorities will do.

Of course, the Board may affect profit levels in unforeseen ways if it acts unpredictably or erratically. Thus, if the Board gave a far larger rent increase than its prior practices would have suggested, prudent investors would be awarded with an unexpected windfall. Conversely, if the Board adopted rent adjustments well below those suggested by

---

[115] 84 N.Y.2d 385 (1994) *cert denied*, 514 U.S. 1109 (1995).

[116] A notable exception to this generalization would be those owners who purchased buildings in an open market environment and were subsequently subjected to rent regulations. The precise proportion of such buildings in the stabilized stock is not known, but is thought to be relatively small.

[117] Notably, in empirical terms, the actions of the Rent Guidelines Board have not been shown to mute growth in the re-sale value of rent stabilized buildings. In a survey of real estate transactions for rental buildings in New York City covering the period from 1976 through 1993, median sales prices increased over 400% while the national inflation rate increased at less than half that rate. See *Sales Price Data, Rent Stabilized Housing in New York City: A Summary of Rent Guidelines Board Research*, 1993, p. 112. Although this increase may be affected by a variety of factors, such as the type and quantity of buildings being sold, this consistent trend does suggest that, in general, the RGB has not acted to frustrate the reasonable expectations of good faith investors.

its past actions, the reasonable expectations of owners who purchased stabilized buildings would be frustrated.

In sum, one factor in ensuring fair *profit* levels is steady and predictable behavior on the part of the Rent Guidelines Board. Stable behavior on the part of the Board allows new investors to make a rational assessment of whether or not the asking price of a particular building is competitive relative to other investments.

The Commensurate Rent Formula

Stability requires that the Board monitor the changing relationship between operating costs and rent levels. The general approach taken by the Rent Guidelines Board over the past three decades has been to "keep owners whole" for changes in operating costs, and to protect net operating incomes from the effects of inflation. This has been accomplished, with varying degrees of accuracy, through the use of an annual price index of operating costs, along with certain formulas falling under the heading of "the commensurate rent adjustment." The "traditional" commensurate formula simply attempted to ensure that net operating income was preserved in nominal terms – unadjusted for inflation.

The commensurate rent formula has evolved over the years to a rather precise mechanism that reflects actual lease renewal and vacancy patterns from year to year. In addition, an adjustment has been added to preserve net operating income against the effects of inflation. A complete discussion of the various formulae used to construct the commensurate adjustment is included in Appendix J.

The commensurate is neither a rent floor nor a ceiling. When the commensurate is relatively high, the Board tends to adopt guidelines somewhat lower than it suggests. When it is low, the guidelines typically exceed it. For example, in 1990, when a 21% spike in fuel and utility costs resulted in a commensurate rent adjustment of 7.3% for one-year leases and 9.5% for two-year leases (under the "traditional" formula), the Board adopted a 4.5% for one-year leases and a 7% for two-year leases. In 2000, the traditional formula suggested a 4.8% one-year guideline and a 6% two-year guideline; the CPI adjusted formula suggested a 6% one-year guideline and a 10% two-year guideline (largely due to fuel costs). The Board adopted a 4% one-year guideline and a 6% two-year guideline.

By comparison, in the low inflation years of 1995, 1998 and 1999, when the traditional commensurate was 0% for one-year leases and ranged from 1.1% to 1.8% for two-year leases, the Board adopted 2% increases for one-year leases and 4% increases for two-year leases. For further detail, see the chart of commensurate rent increase formulas as presented to the Rent Guidelines Board, the PIOC percent change and final rent guidelines.

Table IV.

Commensurate Rent Increase (as reported to RGB)

Year	PIOC Change	Traditional		Net Revenue w/ Vacancy		Net Revenue w/o Vacancy		CPI-Adjusted w/ Vacancy		CPI-Adjusted w/o Vacancy		Rent Guidelines	
		1-YR	2-YR	1-YR	2-YR	1-YR	2-YR	1-YR	2-YR	1-YR	2-YR	1-YR	2-YR
1994	**2.0%**	1.4%	2.6%	1.0%	1.75%	1.75%	2.5%	2.0%	3.0%	2.5%	4.0%	2.0%	4.00%
1995	**0.1%**	0.0%	1.1%	_	_	_	_	_	_	_	_	2.0%	4.00%
1996	**6.0%**	4.0%	5.0%	3.0%	4.0%	5.0%	7.0%	4.5%	6.0%	7.0%	8.0%	5.0%	7.00%
1997	**2.4%**	1.6%	2.2%	_	_	1.5%	3.0%	_	_	2.5%	4.5%	2.0%	4.00%
1998	**0.1%**	0.0%	1.1%	_	_	0.0%	0.0%	_	_	0.5%	1.5%	2.0%	4.00%
1999	**0.03%**	0.0%	1.8%	_	_	0.0%	0.0%	_	_	0.0%	1.5%	2.0%	4.00%
2000	**7.8%**	4.8%	6.0%	4.0%	7.5%	6.5%	9.5%	6.0%	10.0%	8.5%	12.0%	4.0%	6.00%
2001	**8.7%**	5.2%	5.9%	4.5%	8.0%	6.5%	11.0%	6.5%	10.5%	9.0%	13.0%	4.0%	6.00%
2002	**-1.6%**	0.0%	0.0%	-5%	-3.5%	-2.3%	-1.0%	-3.5%	-1.8%	0.0%	0.0%	2.0%	4.00%
2003	**16.9%**	10.4%	12.6%	12%	16%	15%	20%	13.5%	18%	16%	23%	4.5%	7.50%
2004	**6.9%**	4.3%	5.5%	2.5%	4.5%	5.5%	9.0%	4.0%	7.0%	7.0%	11.5%	3.5%*	6.5%*
2005	**5.8%**	3.6%	5.9%	2.5%	4.5%	4.25%	8.0%	4.0%	7.0%	6.5%	10.5%	2.75%*	5.5%**
2006	**7.8%**	5.3%	7.5%	5.0%	9.5%	6.5%	11.0%	6.5%	12.0%	8.0%	13.5%	4.25%*	7.25%
2007	**5.1%**	3.6%	6.8%	3.25%	5.75%	4.5%	7.5%	4.5%	8.0%	5.75%	9.75%	3.0%	5.75%
2008	**7.8%**	5.4%	8.1%	4.75%	9.5%	6.25%	11.5%	6.0%	11.25%	7.5%	13.25%	4.5%♦	8.5%♦
2009	**4.0%**	2.7%	3.5%	1.75%	2.5%	3.5%	5.5%	3.25%	5.0%	5.0%	8.0%	3.0%♦	6.0%♦
2010	**3.4%**	2.4%	4.8%	1.25%	2.25%	2.75%	5.5%	1.5%	2.5%	3.0%	5.75%	2.25%	4.5%
2011	**6.1%**	4.2%	6.9%	3.25%	6.5%	4.75%	9.5%	4.0%	7.5%	6.0%	10.0%	3.75%	7.25%
2012	**2.8%**	1.9%	4.3%	1.25%	2.0%	2.25%	4.0%	2.5%	4.0%	3.75%	6.0%	2.0%♦	4.0%♦
2013	**5.9%**	4.0%	4.9%	3.25%	6.25%	5.0%	9.0%	4.25%	7.25%	6.25%	9.75%	4.0%	7.75%
2014	**5.7%**	3.8%	4.4%	3.0%	5.75%	4.75%	8.5%	3.75%	6.75%	5.5%	9.5%	1.0%	2.75%
2015	**0.5%**	0.3%	1.7%	-2.0%	-1.0%	0.0%	1.5%	-1.5%	-0.5%	0.75%	2.0%	0.0%	2.0%
2016	**-1.2%**	-0.8%	1.0%	-4.0%	-2.0%	-1.9%	0.0%	-3.75%	-2.0%	-1.7%	0.0%	0.0%	2.0%
2017	**6.2%**	4.0%	5.5%	3.0%	6.0%	5.0%	8.0%	3.75%	6.75%	6.0%	8.5%	1.25%	2.0%
2018	**4.5%**	2.9%	4.0%	1.75%	3.0%	3.5%	6.25%	2.5%	4.5%	4.5%	7.25%	1.5%	2.5%
2019	**5.5%**	3.6%	4.7%	3.0%	5.25%	4.0%	8.0%	3.75%	6.75%	4.75%	9.25%	1.5%	2.5%
2020	**3.7%**	2.5%	3.3%	2.5%	4.25%	2.75%	5.5%	3.0%	6.0%	3.5%	6.75%	0.0%	0/1%⌖
2021	**3.0%**	2.0%	2.4%	2.0%	3.25%	2.25%	4.5%	2.5%	4.5%	2.75%	5.75%	0/1.5%⌖	2.5%
2022	**4.2%**	2.7%	4.3%	3.0%	6.0%	3.0%	6.0%	4.5%	9.0%	4.5%	9.0%	3.25%	5.0%
2023	**8.1%**	5.3%	6.6%	5.75%	11.0%	6.0%	11.5%	8.25%	15.75%	8.5%	16.0%	3.0%⌖	2.75/3.2%⌖
2024♦	**3.9%**	2.5%	4.0%	--	--	2.75%	4.75%	--	--	4.0%	7.0%	2.75%	5.25%
2025	**6.3%**	4.1%	5.8%	--	--	4.5%	7.75%	--	--	6.25%	9.75%	3.0%	4.5%

Source: Price Index of Operating Costs reports 1994-2025; RGB Orders #26-57. *Guidelines are 0.5% lower for tenants that pay for their own heat. **Guideline is 1% lower for tenants who pay their own heat. ♦Minimum" guidelines for these years were also passed by the RGB. See the specific orders for more details. ⌖Guidelines change within the lease term. See the specific orders for more details. ♦In a change from prior years, staff is calculating a single formula for this commensurate, which assumes that, after a vacancy owners will be able to collect the applicable RGB guidelines for renewal leases, as authorized under current NYS law.

The practice of "smoothing" out year-to-year adjustments to obtain a steady pattern of increases, although not without its critics, has been a consistent feature in past RGB orders. This may, in part, be due to the fact that approximately one third of tenants do not experience renewals in any given year. Those tenants in the second year of a two-year lease, signed under a prior guideline, may either miss, or be consistently hit by periodic jumps in

the guidelines. Consequently, the Board has leaned against mechanical application of the commensurate rent formula.

Historically, the Board has managed to maintain a very stable relationship between building incomes and expenses. Indeed, the best evidence available to the Board's staff suggests that pre-war buildings, which include more than two out of three stabilized units, have witnessed a substantial increase in relative net operating income since 1970 and through 1997. This resulted from a decline in the proportion of each rent dollar devoted to operating expenses (the "O&M to Rent Ratio"). This occurred despite the fact that aging buildings usually tend to see a rise in the O&M to Rent Ratio over time. Relative returns in post-war buildings are more difficult to track, but appear to be stable. Overall, the RGB staff has estimated that in 1967 about 62% of rent was devoted to operating expenses. By 1997, in essentially the same group of buildings, only 59% of rent went to operating costs. As a result, average net operating income rose from 38% to 41% of rent over the period of stabilization. A detailed analysis of this issue was set forth in a May 13, 1999 memo to the Board, and is included herein at Appendix K. The usefulness of this memo cannot be overstated. It provides the best evidence available to the Board of the effects of rent stabilization on operating returns since the rent stabilization system began till 1997. The original income and expense review from 1993 is also included herein in Appendix K1.

The *Income and Expense Study* continued to examine data based on whether a building was built pre- or post-war (i.e., before 1947 or after 1946) through RPIE data for 2020. In a methodological change that began with data from 2021, *the I&E Study* began examining RPIE data from buildings based on whether they were constructed prior to 1974, or on or after January 1, 1974. With passage of the Emergency Tenant Protection Act (ETPA) of 1974, buildings containing six or more residential units constructed prior to 1974 are rent stabilized. However, generally speaking, buildings constructed or extensively renovated after 1973 are subject to rent stabilization only because the owner has agreed to receive tax benefits in exchange for entering the rent stabilization program.

Protection Against Tenant Abuses

In attempting to equalize bargaining relations between owners and tenants the rent regulation laws conferred special benefits on tenants that were generally intended to protect their welfare. If such benefits are exchanged for the personal enrichment of the tenant, or if put to frivolous use, the objective of the laws would be undermined. Consequently, the rent stabilization laws prohibit or limit tenants from engaging in such practices as subletting or assigning apartment leases at a profit; assigning leases without the owner's consent; passing lease renewal rights on to occupants who have no legally recognized relationship with the tenant; or claiming the protection of rent regulation when the apartment is not used as a primary residence. In addition to these prohibitions, the rent laws continue to permit the remedy of eviction for practices that are

generally recognized as abuses. These practices include non-payment of rent, maintaining a nuisance, use of the unit for illegal or immoral purposes or refusal to provide access for repairs.[118]

Subletting

Subletting rent stabilized apartments is permissible under limited circumstances. Apartments may be sublet for two years in any four-year period if the owner has agreed to the sublet. The tenant must, however, be able to establish that the apartment will be maintained for his or her primary residence and that s/he intends to return to it upon the expiration of the sublease.[119] An owner may not unreasonably refuse to grant permission to sublet, and a failure to respond within 30 days to a request from the tenant for permission to sublet is considered an approval of the request. This procedure is described in detail in the Real Property Law §226-b, which governs all sublets in buildings with four or more units. In rent stabilized apartments subtenants may not be charged any rent in addition to the stabilized rent except for the following:

- Ten percent may be added by the prime tenant for furnishings - the 10% **furniture allowance** is a constant statutory percentage and is not affected by actions of the Rent Guidelines Board. This fee is paid by the subtenant to the prime tenant; and
- The **sublet allowance** under the rent guideline in effect at the commencement of the prime lease may be added by the owner *if authorized by the Rent Guidelines Board*. The sublet allowance is paid by the subtenant to the prime tenant, who in turn pays it to the owner.[120]

Lease Assignment

A rent stabilized tenant may not freely assign his or her lease (i.e. transfer to another all rights under the lease). According to §226-b of the Real Property Law, written permission of the owner is required unless a right to assign is already contained in the lease. If the owner unreasonably withholds such permission, the tenant's only remedy is to gain release from the lease after 30 days notice to the owner. If permission to assign is granted, the owner is entitled to increase the rent by the vacancy allowance in effect at the time the departing tenant last renewed his or her lease.

- Tenants are generally obligated to honor their lease obligations throughout the lease period. Tenants who vacate before their leases expire may be held liable for rent due through the remaining period. However, per the Housing Stability and Tenant

[118] Procedures used in eviction proceedings are generally governed by Article 7 of the Real Property Actions and Proceedings Law.

[119] See RSC §2525.6.

[120] However, with passage of the Housing Stability and Tenant Protection Act of 2019, the Board is no longer authorized to promulgate a vacancy allowance. Under Order #50, the Board authorized a 10% sublet allowance, but no allowance has been authorized since.

Protection Act of 2019, landlords are now required to make a reasonable, good faith attempt at re-letting a unit if a tenant vacates before their lease expires.

The limitations on assignments should not be confused with the "succession rights" of occupants of the apartment who are family members as defined in §2520.6(o) of the Rent Stabilization Code. These occupants may have the right to renew the lease in their own name upon the death or departure of the tenant of record.[121]

Succession Rights

Spouses or family members[122] who have resided in the apartment for the qualifying periods provided in the Rent Stabilization Code may remain in the apartment as fully protected rent stabilized tenants. The inclusion of adult lifetime partners within the definition of spouse or family member is recognized by the Division of Housing and Community Renewal and has been upheld by the courts.[123]

Primary Residence

Under §2524.4 of the Rent Stabilization Code an owner may refuse to renew the lease of any tenant who does not occupy his/her apartment as a primary resident. The evidence necessary to establish non-primary residence is left to the discretion of "a court of competent jurisdiction". Often tax filings, voter registration records, utility bills, drivers licenses and other evidence of a regular presence in the unit are reviewed.

Finally, tenants who refuse to execute properly offered leases are subject to eviction.[124]

Roommates

A rent stabilized tenant's right to have a roommate is secured by Section 235-F of the Real Property Law, which governs additional occupants in all types of housing. Prior to the last revision of the Rent Stabilization Code, a tenant's right to charge rent to an additional occupant was unlimited. Under § 2525.7 of the new code, rent stabilized tenants may charge roommates no more than a proportionate share of the rent. A proportionate share of the rent is determined by dividing the legal rent by the total number of tenants named on the lease

---

[121] See RSC §2523.5(b).

[122] "Family member" is defined as a husband, wife, son, daughter, stepson, stepdaughter, father, mother, stepfather, stepmother, brother, sister, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law or daughter-in-law of the tenant or permanent tenant. See also page 35 for a discussion of changes to the definition of family member under the Rent Regulation Reform Act of 1997.

[123] This regulation was upheld by the N.Y. State Court of Appeals. See *Lease Succession Regulations Upheld*, N.Y.L.J., 12/22/93, page 1, col. 3, describing the court's ruling in *RSA v. Higgins*, 164 AD 2d 283 (1st Dept. 1990), Affirmed, 83 N.Y. 2d 156 (1993), *cert denied*, 512 U.S. 1213 (1994).

[124] See RSC §2524.3(f).

and the total number of occupants in the apartment. However, a tenant's spouse and family, or an occupant's dependent child, are not included in the total.

THE ADMINISTRATION OF RENTS UNDER RENT STABILIZATION: THE ROLE OF THE DIVISION OF HOUSING AND COMMUNITY RENEWAL

As discussed in the section dealing with the history of rent stabilization, the State Division of Housing and Community Renewal ("DHCR", part of NYS Homes and Community Renewal, or "HCR"), through its Office of Rent Administration ("ORA"), is responsible for administering rent stabilization (along with rent control). The DHCR has three major roles within the rent stabilization system: It has the quasi-legislative role of promulgating the Rent Stabilization Code. It has the executive role of administering the various filing, registration and special rent adjustment provisions of the Code, and in prosecuting those who violate any part of it. And finally, it has the quasi-judicial role of judging the merits of claims brought pursuant to the Code between tenants and owners in accordance with the standards applicable to administrative tribunals. If appealed, such determinations are subject to review by the state courts. What follows is a brief discussion of those areas where the decisions of the DHCR may affect rent levels.

Major Capital Improvements and Individual Apartment Improvements

The introductory paragraphs of a June 1989 report entitled Review of the Major Capital Improvement Program prepared for the DHCR by Ernst & Whinney and Speedwell, Inc., outline the issues and objectives related to this program:

> *In an attempt to maintain and improve the condition of rent regulated housing in New York, owners who undertake building-wide major capital improvements (MCI's) have historically been allowed increases in base rents over and above annual rent guidelines and MBR rent increases to compensate them for such investments. These increases are allowed without the consent of tenants if the improvements are for "the operation, preservation and maintenance of the structure" and are approved by the Division of Housing and Community Renewal (DHCR). In addition, one-fortieth of the cost of improvements made to individual apartments can be added to the monthly base rent with the tenant's consent or if the apartment is vacant.*
>
> *The concept of rewarding owners by increasing their internal rate of return has always been controversial, since the increase is basically financed by the tenants who occupy the building and do not have a significant role in approving the improvements. Representatives of tenant interests argue that the potential for MCI*

increases encourages owners to delay maintenance activity, for which no incentive is provided, in order to qualify for the MCI program and its investment incentives. In addition, increases to base rents impact tenant affordability. Representatives of owner interests argue that a rent regulated system removes their ability to recapture replacement costs without special consideration, and that the current incentive levels are not sufficient to attract needed improvements (p.1).

Basically, the major capital improvement program allows owners to increase monthly rents on a temporary basis by amortizing the cost of the eligible improvements over a period of either 12 years (for buildings with 35 or fewer units) or 11 ½ years (for buildings with more than 35 units). Increases cannot exceed 2% of the tenant's rent each year. MCI increases are prohibited for buildings with 35% or fewer rent regulated units and are prohibited if there are hazardous violations on file with the local municipality in addition to immediately hazardous violations. MCI increases are temporary and must be removed from the rent 30 years after the date the increase became effective inclusive of any increases granted by the local rent guidelines board. MCI increases must be approved by the DHCR before they may be collected. Tenants are notified of the MCI application and given an opportunity to object. Prior to the Rent Laws of 2019, rent increases became a part of the base rent even after the amortization period ended, with increases capped at 6% per year.

HCR regulations regarding Individual Apartment Improvements (IAIs) were amended with the Rent Laws of 2019 (effective between June 14, 2019 and October 16, 2024). Per that law, where new appliances or improvements to individual apartments are concerned, 1/168th of the cost was added to the apartment's base rent in buildings with 35 or fewer units and 1/180th the cost in buildings with more than 35 units. The owner was required to obtain permission from the tenant who occupies the unit to qualify for this type of rent increase. If the apartment was vacant, the rent of the subsequent tenant is simply adjusted, and no approval is necessary. No more than three IAI increases were allowed to be collected in a 15-year period and the total cost of the improvements eligible for a rent increase calculation could not exceed $15,000. The IAI rent increase for improvements under the Rent Laws of 2019 were temporary and must be removed from the rent in 30 years, and the legal rent must be adjusted at that time for guideline increases that were previously compounded on a rent that included the IAI.

However, in April 2024, the NYS Legislature approved further amendments to the IAI program, effective October 17, 2024. For apartments that were timely registered as vacant in 2022, 2023, and 2024, or a vacant apartment that was continuously occupied for at least 25 years prior to the commencement of the IAI, the cost of improvements up to $50,000 is permitted. In a building that contains 35 or fewer apartments the permitted increase in the legal regulated rent is 1/144th of the total cost of the improvement. In a building with more than 35 apartments, the permitted increase in the legal regulated rent is 1/156th of the total cost of the improvements. For all other apartments, the IAI cap of $15,000 is increased to

$30,000, but the amortization rate remains the same as those of the Rent Laws of 2019 (see prior paragraph). For all apartments, these increases are permanent.

Hardship Rent Increases

A rent regulation system that required owners to maintain artificially reduced rents in the face of chronic operating losses would be viewed as confiscatory. Nearly every rent regulation system allows for some type of rent adjustment to remedy such situations.

Under rent stabilization in New York City there are two formulas for determining whether a rent increase is appropriate in hardship cases: the **comparative** method and the **alternative** method. Under the comparative method a rent increase may be granted if the owner has not maintained the same average net income in the current three-year period as was maintained for the years 1968-70 (marking the beginning of rent stabilization). If records are unavailable, a more recent three-year period may be substituted, under certain conditions.

The hardship application will not be approved unless the owner can demonstrate that:

- the present rate of return on the owner's equity (fair market value minus the unpaid principal amount of the mortgage indebtedness) is less than 8.5%;
- s/he has owned the building for at least three years;
- no previous hardship application has been granted in the past three years;
- real estate taxes and water and sewer charges have been paid or have been lawfully challenged; and
- all services are being maintained and immediately hazardous violations have been corrected or restoration and correction has been made a condition of granting the increase.

In calculating the rate of return the Code establishes six times the rent roll as the fair market value. Operating expenses, an allowance for management services and "actual annual mortgage debt service" are subtracted from gross rents to determine if the remaining balance falls short of 8.5% of the owners equity in the building. If it does, and all other conditions are satisfied, the owner may obtain rent increases equal to the difference between the average annual net income for the three-year base period and the average annual net income for the current period. Rents may be raised no more than 6% in any one-year period, however, and tenants may cancel their leases if they wish to leave and avoid the increases.[125]

[125] See RSC §2522.4(b) and RSL 26-511(c)(6).

Under the **Alternative Hardship** formula established by the Omnibus Housing Act of 1983, owners are permitted to receive a rent increase when the building's annual operating expenses (including mortgage interest) are greater than 95% of the gross rent. To qualify for a hardship increase the owner must:

- have owned the property for at least three years;
- have at least a 5% equity position;
- not have received a hardship increase within the previous three years;
- have paid or have lawfully challenged real estate taxes and water and sewer charges; and
- have maintained all services and corrected all immediately hazardous violations or restoration and correction has been made a condition of granting the increase.

Like comparative hardship, rents may be increased no more than 6% per year until the hardship has been remedied and the tenant may avoid the increase by canceling the lease.[126]

According to a 1989 report on hardship increases prepared by the Policy and Research Bureau of DHCR, "from 1984-1988 inclusive, 128 alternative hardship applications were reviewed. Of these, 92 were denied, 1 was approved, 33 were pending and 2 were withdrawn." Eleven comparative hardship applications were reviewed. Ten were reported as "denied for being incomplete" and one was pending.

The report went on to suggest some of the most likely reasons for the limited number of applications and the extremely low approval rate:

- "Owners are not losing money".
- Because of tenant affordability problems "owners...are not interested in a complicated filing for a rent increase they cannot collect".
- "The hardship application suffers from 'bad press'".
- Many small owners cannot afford the services of an accountant, may not keep good records and may "face language barriers and other handicaps in dealing with the rent regulation structure".
- "The hardship application process is too complex".
- Economic conditions including length of ownership, mortgage costs and purchase price have operated to help limit the prevalence of true hardship cases. Yet, "the current low level of applications received, may change radically with the slowdown of New York City's economic expansion."

Little has changed in the past 36 years. The approval rate of hardship applications remains almost non-existent, and the number of applications received annually continues to be very low. According to testimony from HCR before the RGB in April of 2025, there

[126] See RSC §2522.4(c) and RSL 26-511(c)(6-a).

were no hardship applications granted in either 2023 or 2024 and there were three cases filed in 2024. This is an area of consistent concern to the RGB and the focus of possible legislative reform by HCR. The return guaranteed by the hardship program was the subject of an unsuccessful constitutional challenge in the U.S. 2d Circuit Court of Appeals.[127]

Fair Market Rent Appeals: (Apartments moving from Rent Control to Rent Stabilization)

As noted in the section concerning the history of rent regulation, most apartments under rent control will become rent stabilized upon vacancy. Over 700,000 formerly rent controlled units have fallen under rent stabilization this way, although only a small fraction of newly stabilized tenants will challenge their rents. Because the relationship of rents in rent controlled units to prevailing market rents varies dramatically from unit to unit, a standard increase upon becoming rent stabilized would result in stabilized rents which themselves are erratic and inconsistent in their relationship to market rents. To avoid this the authors of the ETPA wanted to provide a large degree of flexibility in the setting of rents when rent controlled units become stabilized. They did not, however, want to deprive tenants in newly stabilized units of an opportunity to protest rents that bear no reasonable relationship to a "fair" market amount. Consequently, a system was adopted which allows tenants to challenge newly stabilized rents in formerly rent controlled units through what is known as a "Fair Market Rent Appeal".

This process begins with the vacancy of a rent controlled tenant. Recall that rent controlled units may be found in any building constructed prior to February 1, 1947, with three or more legal units and occupied by the same tenant since June 30, 1971 or occupied by the tenant's lawful successor (a spouse, adult lifetime partner or other family member). Rent controlled units that are in 3, 4 or 5 unit buildings do not become stabilized upon vacancy and, consequently, no process for appealing rent levels is available. If the vacated apartment is in a building with 6 or more units, although stabilized, the owner is initially free to advertise the apartment for any amount. The owner must, however, notify any new tenant of his/her right to challenge the rent within 90 days by providing the tenant with an "Initial Legal Regulated Rent Notice". If the tenant decides to challenge the rent, the tenant "need only allege that [the Initial Legal Regulated Rent] is in excess of the fair market rent and ... present such facts which, to the best of his or her information and belief, support such allegation".[128]

Once the appeal is filed, two methods are employed in attempting to determine if the new rent is legally "fair". The DHCR will look to a special guideline promulgated by the Rent Guidelines Board [more will be said about how this guideline is established on pages 89-91].

[127] See case #16, supra at 43-44.
[128] See RSL §26-513(b), included in Appendix O.

The DHCR will also consider "rents generally prevailing in the same area for substantially similar housing accommodations". This is known as the "comparability" standard. The owner may submit evidence of rents for comparable units rented to tenants up to four years prior to or one year subsequent to the commencement of the complaining tenant's initial lease. Leases ending more than one year prior to the commencement of the complaining tenant's lease are updated by guideline amounts. Alternatively, "[a]t the owner's option, market rents in effect for other comparable housing accommodations on the date the tenant filing the appeal took occupancy" may be considered.[129]

The Office of Rent Administration will average the rent adjusted pursuant to the Special Guideline with any qualified comparable rents in reaching a final rent determination in a Fair Market Rent Appeal. Thus, the comparability standard does not operate in a manner that is wholly independent of the Special Guideline. Notably, unlike other rent overcharges, rents paid in excess of the Fair Market Rent determined by the DHCR are not subject to treble damages.

It is critical to note that rent controlled apartments transitioning to rent stabilization on or after June 14, 2019 can no longer be deregulated, in accordance with the Housing Stability and Tenant Protection Act of 2019.

Overcharge Proceedings

The Rent Stabilization Code clearly prohibits charging rent in excess of the legal regulated rent and this includes a prohibition against demanding "key money" or any other special charge not specifically authorized by the Code.[130] The amount of the security deposit and the distribution of interest from such deposits is also regulated by the Code.[131] Willful rent overcharges may result in a penalty to be paid to the tenant equal to three times the overcharge. Treble damages for willful overcharge claims may be collected for up to six years prior to the filing of the complaint. An overcharge which the owner demonstrates not to have been willful will result in a straight repayment of the overcharge to the tenant plus interest. Damages for non-willful overcharge claims may be had for up to six years prior to filing the overcharge claim.[132] Both the Rent Stabilization Code and Section 213-a of the State's Civil Practice Law and Rules prohibit consideration of evidence of a rent overcharge occurring more than six years prior to the filing of the complaint. It is important to note that certain courts (most notably the Housing part of the Civil Court of the City of New York) have concurrent jurisdiction with the DHCR over rent overcharge claims.

---

[129] RSC 2522.3(e)(2).
[130] See RSC §2525.1 et seq.
[131] See RSC §2525.4; see also General Obligations Law, Article 7 - The security deposit laws are enforced by the State Attorney General's Office.
[132] See generally RSC §2526.1.

Other Adjustments in Rent: air conditioners, failure to maintain services, failure to register

Air Conditioners

In buildings where the owner provides electricity to individual tenants as part of the services covered by the base rent [approximately 15% of stabilized units[133]], the owner may add a special separate charge for air conditioner usage. If the air conditioner is installed by the tenant, the owner may charge the monthly amount permitted by the DHCR in accordance with its most recent operational bulletin update on air conditioner rates. (See DHCR's 40th annual update of section B of supplement No. 1 to operational bulletin 84-4. For the period from 10/1/25 through 9/30/26 - permitting a $36.12 per month charge per air conditioner if electricity costs are included in the rent). If installed by the owner with the tenant's permission, the same amount may be collected and, in addition, the owner may collect 1/168th or 1/180th (depending on building size) of the cost of the air conditioner as permitted by §2522.4(a)(1) of the Code. Prior to the rent laws being updated by Chapter 619 of the Laws of 2022, a five dollar ($5.00) per air conditioner per month surcharge was lawful for tenants who pay their own electricity costs. Effective November 21, 2022, in rent stabilized and rent controlled apartments, owners are prohibited from the continued collection and from the prospective imposition of a surcharge on a tenant for the use of a tenant-installed air conditioning unit if the tenant pays for the electric utility service.

Failure to Maintain Services

As noted in the discussion concerning habitability (*supra*, at pages 67-68), failure to maintain the services required under §2520.6(r) of the Rent Stabilization Code could result in a rent reduction equal to the last guideline increase. The DHCR is responsible for reviewing these applications.[134] Most of the services covered are protected by the warranty of habitability, however, and it is often the case that tenants will resolve service complaints in a housing court proceeding - most typically in response to an owner's action for non-payment of rent. Notably, new amendments to the Rent Stabilization Code have classified a number of service reductions as *de minimis* and therefore not substantial enough to result in a DHCR ordered rent reduction (RSC 2523.4(e)).

Appliance Surcharges (Dishwasher, Washing Machine, Dryer)

Effective with Operational Bulletin 2005-1, in March of 2005, the DHCR began allowing landlords to charge a surcharge to tenants with tenant-installed dishwashers, washing machines, and dryers. While landlords are not required to allow tenants to install their own dishwashers, washing machines, or dryers, where the landlord does consent the surcharge compensates the landlord for the extra water and electricity used by such appliances. Rates

[133] *2023 NYC Housing and Vacancy Survey*
[134] See RSC §2523.4

differ based on whether electricity is or is not included in the rent of the apartment. As of March 20, 2019, for washing machines, in electrical exclusion buildings the monthly surcharge is $16.08 per month, and is $17.23 for electrical inclusion buildings. For dryers, the rates are $0.00 per month for exclusion buildings and $6.92 for inclusion buildings ($4.24 for gas powered dryers in electrical inclusion buildings). For dishwashers the rates are $5.91 and $8.99 respectively. The surcharge is not part of the permanent rent and can be reviewed annually by DHCR.

Failure to Register

The Rent Stabilization Code requires owners to register all rent stabilized units.[135] Failure to register will bar an owner from collecting any rent increase for the period during which the apartment was required to be registered but was not. Once a late registration is properly filed the owner may collect these increases on a prospective basis only. Thus, the tenant is not obligated to pay any rent increase until the unit is properly registered and the owner may not recoup his/her losses by registering late. The Rent Regulation Reform Act of 1993 added that if rents collected on unregistered units "were lawful except for the failure to file a timely registration, the owner, upon the service and filing of a late registration, shall not be found to have collected an overcharge at any time prior to the filing of a late registration. If such late registration is filed subsequent to the filing of an overcharge complaint, the owner shall be assessed a late filing surcharge for each late registration in an amount equal to fifty percent of the timely rent registration fee."[136] In 2023, the NYS Legislature passed additional legislation regarding registration of rent stabilized units with HCR.[137] The new law subjects the owner of rent regulated premises to a fine of $500 per unregistered unit for each month registrations are delinquent (defined as an initial registration that is not submitted within 90 days of such premises becoming subject to rent stabilization or an annual registration submitted after July 31 of the registration year).

High Rent Vacancy Deregulation

Between July 7, 1993 and June 13, 2019, rent stabilized apartments could be deregulated once the monthly rent of a vacant apartment surpassed a specified limit (this limit varied depending on the various Rent Acts in effect at the time of deregulation). Such deregulation is now prohibited, effective with the passage of the Housing Stability and Tenant Protection Act of 2019 on June 14, 2019.

High Income Deregulation

Between July 7, 1993 and June 13, 2019, rent stabilized apartments could be deregulated once both the monthly rent of an occupied apartment, as well as the household income of the current tenant, surpassed a specified limit (this limit varied depending on the various Rent

[135] See RSC §2528.
[136] Rent Stabilization Law §26-517(e).
[137] Chapter 760 of the Laws of 2023

Acts in effect at the time of deregulation). Such deregulation is now prohibited, effective with the passage of the Housing Stability and Tenant Protection Act of 2019 on June 14, 2019.

DUTIES OF THE RENT GUIDELINES BOARD

Establishment of basic rent adjustments for renewal leases: Apartments, Hotels and Lofts

The one decision of the Rent Guidelines Board that has, by far, the greatest impact on owners and tenants is the annual establishment of lease renewal guidelines. These guidelines traditionally include a percentage increase in the monthly contract rent. For example a 2% increase in the monthly rent for a one-year lease renewal. In some years, the Board has also included a minimum rent increase in the form of a fixed dollar adjustment. For example, a 2% increase or $20, whichever is greater, for a one-year lease renewal. Historically, past boards have included other forms of increase, i.e. a supplemental rental adjustment and minimum rents. These increases are discussed in detail below.

Since 1983 tenants have had the option of choosing between one- and two-year renewal leases.[138] An estimated 90% of all stabilized tenants have a renewal lease, and 10% move or 'turn over,' each year.[139] Approximately 40% of all stabilized tenants with leases regularly sign one-year leases, leaving approximately 60% of tenants who sign two-year leases.[140] Approximately half of those choosing two-year leases remain unaffected by any given guideline - being in the second year of a two-year lease signed under the previous guideline. Consequently, about 70% of the approximately one million rent stabilized households are directly affected by the adoption of any single set of annual renewal guidelines (excluding vacant apartments).

The economic impact of these guidelines on the City's housing stock is significant. Given 2023 rent levels (as estimated by the last *HVS* survey), any 1% increase in average rents raises aggregate rent rolls by about $190 million dollars per year. The estimated impact of RGB renewal lease guidelines in the time period since the *HVS* was conducted (RGB Guidelines Order #55) amounted to approximately $406 million in cumulative added rent – an average of about $423 per year in total added rent per rent stabilized household.[141]

---

[138] Prior to the enactment of the Omnibus Housing Act of 1983 tenants were given the additional option of choosing three year leases.

[139] *2023 NYC Housing and Vacancy Survey*

[140] Per 2024 HCR registration data for those units that record a lease term.

[141] Estimated rent increases were not applied to the estimated number of apartments (per the *2023 HVS*) that are vacant or do not have a cash rent.

Two major caveats are in order. First, not all of the increases authorized by the Board are collectible. Increases in renewal guidelines may not be passed on to tenants who occupy one of the growing number of units renting at market – particularly outside of Manhattan. The second major caveat (which may more than countervail the first) is that the impact of administrative rent adjustments authorized by the Division of Housing and Community Renewal is largely unknown. The effect of thousands of major capital improvement and individual apartment improvement rent increases is not and cannot presently be measured in the rent index prepared by the RGB staff each year. Therefore, these increases are not reflected in the above estimates.

The vast majority (about one million) of tenant households affected by these guidelines are **apartment** dwellers. A small number of rent stabilized tenants (this figure is difficult to estimate) fall within the hotel stabilized group. The number of stabilized hotel units has declined dramatically in recent years as a result of building demolitions and conversions and from an increase in transient (and thus unregulated) hotel rentals.

The Board reviews the economics of hotel buildings separately from apartments pursuant to §26-510(e) of the RSL (included as part of Appendix A). It also holds hearings for hotels and adopts separate hotel orders. These orders have historically differed significantly from those given for apartments and lofts. For instance, while one-year renewal increases for apartments and lofts averaged around 3% between 1996-2000, increases for hotel units averaged about 1% over the same period. Since October 2010 (through September 2026), one-year renewal leases for apartments and lofts have averaged around 1.8% and there have been no increases authorized for hotels.

A sound estimate of the number of **loft** units currently affected by the Board's loft guidelines pursuant to §286 of the Multiple Dwelling Law is difficult to calculate.[142] As these units are "legalized" and move from interim multiple dwelling status to class "A" multiple dwellings some may be deregulated while others may fall under apartment rent stabilization.

While the Rent Guidelines Board does conduct an independent review of the economics of loft buildings, because of significant similarities with apartments in operating cost changes over the years the Board's loft orders have generally paralleled its apartment orders. Since 2009, loft orders have equaled apartment orders, while in 2008 they were a percentage point lower for one-year leases, and two percentage points lower for two-year leases.

[142] A copy of §286 of the Multiple Dwelling Law is contained in Appendix L.

Useful Appendices for Reference:

- A complete **summary of apartment and hotel increases** adopted over the years is contained in Appendices M and M1, respectively.
- A copy of the most recent **apartment guideline order** (also covering lofts) is attached in Appendix N.
- The **explanatory statement** for this order follows in Appendix N1.
- A copy of the most recent **hotel guideline** order is contained in Appendix N2 followed by the order's **explanatory statement** in Appendix N3.

Special Orders

Sublet Allowances

In previous RGB orders, dating back to 1998, the Board has promulgated a special vacancy adjustment for apartments occupied by subtenants, known as the 'sublet allowance.' Section 2525.6(e) of the Rent Stabilization Code provides that "the legal regulated rent payable to the owner effective upon the date of subletting may be increased by the vacancy allowance, if any, provided by the Rent Guidelines Board Order in effect at the commencement of the date of the lease, provided the lease is a renewal lease." However, with passage of the Housing Stability and Tenant Protection Act of 2019, the Board is no longer authorized to promulgate a vacancy allowance. Under Order #50, the Board authorized a 10% sublet allowance, but no allowance has been authorized since.

Supplemental Rent Adjustment

The supplemental rent adjustment is a fixed dollar amount in addition to renewal and vacancy increases which is added to rents the Board has regarded as exceptionally low. This adjustment has been one of the most controversial components of the Board's past rent orders. Owners have strongly urged the continuance of the adjustment to remedy what is viewed as unfairly low rents. Tenant advocates, on the other hand, have regarded it as a "poor tax" upon the hardest hit class of tenants and a cause of homelessness.

As shown in the following chart, the first supplemental adjustment was adopted in 1983 as part of order #15. From 1990 through 1993 no supplemental adjustment was added. In 1994 the Board reinstituted the allowance and in 1999 a minimum rent of $215 was imposed. In 2000 the Board added $15 for rents under $500 and continued the minimum rent provision. There have been no supplemental rent adjustments since Order #32 in 2000.

Table V.

Supplemental Rent Adjustments in RGB Orders 1983-2025

Order Number	Guideline Year	Rent Cut-Off	Supplement	Minimum Rent
15	10/1/83 to 9/30/84	< $200 per month	$10	
16	10/1/84 to 9/30/85	< $250 per month	$10	
17	10/1/85 to 9/30/86	< $300 per month	$15	
18	10/1/86 to 9/30/87	< $350 per month	$15	
19	10/1/87 to 9/30/88	< $325 per month	$10	
20	10/1/88 to 9/30/89	< $325 per month	$5	
21	10/1/89 to 9/30/90	< $325 per month	$5	
26*	10/1/94 to 9/30/95	< $400 per month	$15	
27	10/1/95 to 9/30/96	< $400 per month	$20	
28	10/1/96 to 9/30/97	< $400 per month	$20	
29	10/1/97 to 9/30 98	< $400 per month	$15	
30	10/1/98 to 9/30/99	< $450 per month	$15	
31	10/1/99 to 9/30/00	< $500 per month	$15	$215
32	10/1/00 to 9/30/01	< $500 per month	$15	$215

*Note: There were no supplements in RGB Orders 22 through 25 and 33-57. Source: RGB Orders # 15-57.

However, with passage of the Housing Stability and Tenant Protection Act of 2019, local Rent Guideline Boards cannot establish annual guidelines for rent adjustments based on the current rental cost of a unit or on the amount of time that has elapsed since another rent increase was authorized. Therefore, the Board is now restricted from setting a supplemental rental adjustment.

Special Guidelines and Decontrolled Units

As discussed in the section concerning fair market rent appeals (*supra*, at page 82-83) apartments in buildings with six or more units vacated by a rent controlled tenant will fall under rent stabilization. If the first stabilized tenant chooses to challenge the rent, the DHCR will consider the special guidelines adopted by the Board pursuant to §26-513 of the RSL (See Appendix O) in making its determination as to whether the new rent is "fair". As noted previously, in addition to this advisory guideline the DHCR will permit the owner to submit information on "rents generally prevailing in the same area for substantially similar housing accommodations." If presented with such information, the current DHCR practice is to average the rent calculated in accordance with the special guideline with the average rent for qualified comparable units.

In establishing the special guidelines, at one time the Board's policy was generally to close the gap between rent controlled rents and rent stabilized rents, the latter often being much higher. From 1974 through 1986 the Board adopted special guidelines that ranged between 15% to 20% above the maximum base rent ("MBR") established under the rent control system.

In 1987 the Board took notice of information provided by the most recent *Housing and Vacancy Survey* which indicated that median rent stabilized rents in pre '47 buildings were approximately 35% above median rent controlled rents. Consequently, the Board increased the special guideline to 35% above the MBR in its 1987 rent orders. The following year tenant representatives argued that since the Board's stated aim for the special guideline was to close the gap between rent controlled and rent stabilized rents, and since the gap reflected in the *HVS* figures is really a gap between Maximum Collectible Rents[143] and stabilized rents, the special guideline should be added to the MCR and not the MBR. Acknowledging some value in retaining the MBR as the minimally desired rent, the Board's 1988 and 1989 special guidelines consisted of a 45% increase above the MCR or a 25% increase above the MBR - whichever increase was greater. In 1990 the Board moved to a fixed increase of 35% above the MCR. In 1991, responding to arguments that the MBR is a minimally sufficient rent to run a building, the Board returned to the MBR as an appropriate base from which to calculate adjustments by simply adding 15% to the MBR. This approach was continued in 1992. In 1993 the Board once again returned to the "closing the gap" approach by adding 40% to the MCR.

In later years the Board again added a minimum increase above both the MBR and the MCR. Thus, in 1995 the special guideline consisted of the greater of 35% above the MBR or 45% above the MCR. In 1996 and 1997 the numbers were 40% and 50% respectively. In 1998 the Board increased the special guideline to the greater of 80% above the MBR or a minimum of $650. In 1999, 2000, and 2001 the Board adopted a complex special guideline consisting of the greater of 150% above the MBR plus the fuel cost adjustment, or the Fair Market Rent for existing housing established by the U.S. Department of Housing and Urban Development. This percentage was lowered to 50% in 2002 (without fuel adjustments), where it remained until 2011, when it was lowered to 30%.

As of Apartment Order #56, it is 49%, with no provisions for using the Fair Market Rent in this calculation. Notably, according to the *2023 Housing and Vacancy Survey*, the median rent controlled rent (the "MCR") is $988, while the median rent stabilized rent for pre-1974 units is $1,471 – a 49% difference.[144] Because the MBR is always equal to or greater than the MCR, the Board's most recent minimum adjustment of 49% above the MBR would raise a typical decontrolled unit to at least $1,471 per month, equal to the median stabilized rent.

It should be added that the Board's special guideline orders also affect buildings which have been decontrolled pursuant to section 2(f)(15)(c)&(d) [now §2200.2(f)(15)(iii)&(iv)] of the New York City Rent and Eviction Regulations. These sections concern apartments with past rent levels that made them high rent or "luxury" apartments in the mid-1960's. These units

[143] "MCR" = the amount rent controlled tenants are actually required to pay which may increase by no more than 7.5% per year. The MBR is a rent ceiling which reflects the amount theoretically required to maintain the unit and produce a fair return. The MCR never exceeds the MBR.

[144] *2023 NYC Housing and Vacancy Survey*

may still be decontrolled on a case by case basis pursuant to a court order. While this type of decontrol rarely occurs today, the Board's orders continue to provide protection for newly stabilized tenants who move into one of these previously controlled units. These decontrol guidelines have historically been identical to the special guidelines for rent controlled units which are voluntarily vacated.

Electrical Inclusion Adjustment

Approximately 85% of stabilized tenants pay for their own electricity while some 15% have the cost of electricity included in their rent.[145] If the cost of electricity rises at a faster rate than the average increase in operating and maintenance costs and the Board does not compensate owners for this difference in its rent orders, owners who supply electricity would be at a disadvantage. Similarly, if the price of electricity were falling relative to other expenses, owners who supply electricity would reap a windfall unless the Board adjusted rents accordingly. Recognizing this, the Board has included special adjustments - both up and down - where the rate of increase for electricity costs has not paralleled changes in other costs. These "electrical inclusion adjustments" were common in the mid-1970's to the early-1980's but have not been added to any rent order since 1983 when a one percent reduction for master metered buildings was included in order #15. Master metered buildings are still analyzed separately in the Board's annual review of operating cost changes, however, and there is no indication that electrical inclusion adjustments will not be included in future rent orders.

Buildings with J-51 or 421-a Tax Abatements

As mentioned previously, owners of property completed or substantially rehabilitated after January 1, 1974 have historically been able to avail themselves of 421-a (new construction) or J-51 (rehabilitation) tax abatements or similar abatements. A condition of entering these programs is acceptance of rent stabilized status for a prescribed period. The period of stabilized status and conditions for deregulation vary by program. Relevant portions of these regulations are attached as Appendix P.[146] Note that both the J-51 the 421-a programs expired in June of 2022 (but 421-a was replaced with the similar 485-x program in April 2024[147]). While each of these programs are now expired, rent stabilized units that were constructed or rehabilitated under these programs may be subject to rent stabilization guidelines for decades to come.

---

[145] *2023 NYC Housing and Vacancy Survey*
[146] See also RSC 2520.11 (o) &(p).
[147] See the *2024 Housing Supply Report* for more information on the 485-x program.

Owners of buildings receiving 421-a benefits may charge initial rents according to a formula that accounts for development costs and operating expenses, and, during the period of gradual diminution of their 421-a tax exemption, may only charge guideline rent increases plus 2.2% of the original rent per annum.[148] Owners of buildings with J-51 tax benefits do not receive this additional 2.2% increase.

Stabilizers

Stabilizers, according to a 1982 staff review, "have been authorized to take into account the yield of rent stabilized buildings relative to other investments and increases in capital costs for such buildings". They have consisted of separate additional rent increases ranging from 1% to 1/2% in orders 2, 3, 4 & 6c. They have also been explicitly "included" in the standard increases in orders 5,7,8,9,10 & 11. While the stabilizers enacted in these years are incorporated into base rents in accordance with subsequent rent orders, no additional stabilizers have been added in recent years.

Other - Fractional Terms, Escalator Clauses

Although the RSC §2522.5 provides that rent stabilized tenants have a right to choose only a one or two-year renewal lease, under certain rare circumstances a lease term may be a fraction of these periods. If that is the case, the Board's orders provide that lease terms of up to one year shall be deemed a one-year lease for the purposes of determining the appropriate rent adjustment. Similarly, a lease term of more than one year and up to two years in length is deemed a two-year lease.

Escalator clauses are provisions in lease agreements permitting periodic rent adjustments that are generally fixed or pegged to some economic indicator. Under the RSC §2522.5(e) most escalator clauses are no longer permitted in stabilized leases. According to the Board's orders, where escalator clauses continue to be permitted, the amount of any increase due under such clause must be offset against the guideline increases.

Exemptions to Orders

Warehousing Exemptions

As far back as 1972, under **hotel** order #3, the Board began adopting orders denying rent increases to owners of hotel buildings that contain a large number of units deliberately withheld from the market. It has long been argued that owners who deliberately deprive themselves of additional rents by withholding units from the market should not be heard to complain that existing rents for the remaining tenants are inadequate to produce a fair return on their investment. This view may be distinguished from attempts to eliminate warehousing

[148] See RSC 2522.5(e)(2).

on public policy grounds through the imposition of fines or other penalties. The anti-warehousing provisions of recent Board orders are an attempt to distinguish between buildings in economic terms and to adopt guidelines accordingly - not to penalize owners who choose to utilize their properties in a manner that some might find offensive.

In 1985, an anti-warehousing provision was added to an **apartment** order for the first time. Order #17 deprived owners of vacancy allowances in buildings of 50 units or more in which more than 10% of units were deliberately withheld from the market. Anti-warehousing provisions have not been retained in the Board's recent apartment orders.

Registration Exemption/Hotels

The stabilization provisions governing hotels are distinct from those governing apartments in one fundamental respect: vacant hotel units may be rented to transient tenants who are generally not protected by the rent stabilization laws.[149] Prior to 1983, rents in hotel units that became vacant were allowed to go to market. They were thereafter re-stabilized if the unit became occupied by a permanent tenant. In 1983 the language permitting market rents upon vacancy was deleted. New tenants were not automatically given rent stabilized status under this legislation, however, and are still required to request a lease or reside in the unit for six months before becoming "permanent" (and thus stabilized) tenants. Upon becoming a permanent tenant, the DHCR will require that the rent be rolled back to the level that existed under the last stabilized tenancy, plus any renewal increase. Consequently, the hotel stabilization laws continue to permit several classes of tenants within a single building: those who are long term stabilized tenants, those who are transient tenants and as such pay open market rents, those who reside units with rents which exceeded $350 per month or $80 per week on 5/31/68 and thus were never stabilized,[150] and those new tenants who request leases or reside in their unit for six months and thereby become rent stabilized.[151] It is easy to see that owners have significant incentives to rent only to transient tenants and the Board has received testimony that such practices are commonplace.

Recognizing that owners who reap market rentals from transient tenants may have less of a need for rent increases from other tenants, the Board, in many recent hotel orders, adopted special exemptions for buildings which show limited occupation by rent regulated tenants. Because rent registration data compiled by the DHCR indicates the number of stabilized units and those not stabilized in a given hotel or SRO, the Board uses this ratio to establish the criteria for implementing its "registration exemption". For instance, the provision (under Hotel Order #41) allowed for no rent increase if fewer than 85% of the

[149] Such tenants may have the right to become permanent and thus rent stabilized tenants pursuant to §2522.5(a)(2) of the RSC, as well a right to be notified of the protections afforded by rent stabilization [RSC §2522.5(c)(2)], but these protections may have been thwarted to some extent by the use of "short-stay" agreements and by other actions designed to deprive tenants of legal process (required under NY Admin. Code § 26-521) prior to being locked out.
[150] See RSL §26-506.
[151] See RSL §26-510(e).

residential units in a building are occupied by permanent rent stabilized or rent controlled tenants paying no more than the legal regulated rent.

In 1991 the RGB staff compiled data on operating expenses and registration levels in the stabilized hotel sector. As the report indicated, it appeared that at least 40% of the hotel stabilized universe of buildings had never been registered with DHCR. The most severe non-registration problem appears to be with rooming houses in the outer boroughs. In 1992 the staff added to the report by compiling data which indicated, among other things, that the transient problem is largely confined to Class B hotels - where [in hotels registered with the DHCR] an average of only 57% of units were registered as stabilized. Copies of these two staff reports on hotels are included in Appendix Q and Q1.

In addition to the registration exemption, the RGB has refused rent increases to owners who fail to provide new hotel occupants with a copy of the "Rights and Duties of Hotel Owners and Tenants, pursuant to Section 2522.5(c)(2) of the Rent Stabilization Code." Thus, while hotel owners received a 3.0% rent increase under Order #41 (the last such increase), they received a 0% adjustment if they failed to provide this required notice. Among other things, this notice apprises incoming tenants of their right to the protections of rent stabilization.

Resolutions

The Board is often called upon to adopt advisory resolutions with respect to the legislative design or administration of the rent stabilization laws, and has, on occasion adopted such resolutions. In 1992 the Board adopted a resolution calling upon the DHCR to look in to possible violations of the Board's hotel orders. In 1988 the Board adopted two resolutions, one requesting an examination of the process by which hardship increases are granted and a second requesting an examination of a proposal from City Council President Andrew Stein to deny rent increases to owners who have outstanding uncollected judgments for housing code violations. (Corporation Counsel later advised that this latter policy, or any policy linking rent increases to code compliance or energy conservation efforts, may not be within the Board's discretion.) In the summer of 1993 the Board adopted an extensive resolution on distressed properties.

Research and Mandated Considerations

The Rent Stabilization Law sets forth the factors that must be considered by the Board prior to the adoption of rent guidelines. These include:

(1) the economic condition of the residential real estate industry in N.Y.C. including such factors as the prevailing and projected (i) real estate taxes and sewer and water rates, (ii) gross operating 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) over-all supply of housing accommodations and over-all vacancy rates,
(2) relevant data from the current and projected cost of living indices for the affected area, and
(3) such other data as may be made available to it.

Economic Condition of the Residential Real Estate Industry

Price Index of Operating Costs Survey

Each year since 1969 the Board has been provided with a Price Index of Operating Costs (also known as the price index or "PIOC") which approximates the actual changes in gross operating costs for apartment buildings. The PIOC also provides information on actual changes in real estate taxes and sewer and water rates.[152] These price changes are incorporated into a single figure that often becomes a point of departure for consideration of other economic and policy issues relating to the guidelines. Although not controlling, the PIOC is perhaps the most influential figure affecting the final guidelines.

The price index is a relatively complex instrument for estimating the actual costs of operating a rental building. In 1970 the federal Bureau of Labor Statistics constructed a "market basket" of goods that a typical owner is expected to purchase in a given year. The basic components of that market basket include taxes, labor, fuel, utilities, insurance, maintenance and administrative costs. Each item is given a "weight" to gauge its relative importance in the overall basket. Price changes in the various components are gathered through a series of surveys of vendors and reviews of such things as labor and insurance contracts. In the case of taxes, actual changes in tax bills are derived from tax data received from the City's Department of Finance. The price of heating fuel is adjusted to reflect the relative warmth of the year under review, by adjusting for degree-day variation. Each year the weights in the market basket are adjusted to reflect the relative changes in the price of each component. Thus, for example, if labor costs outpace insurance costs, the weight given to labor will be increased before the next survey.

[152] From 1969 through 1981 this index was prepared by the Bureau of Labor Statistics. Between 1982 and 1987 the index was prepared by Urban Systems Research and Engineering and in 1988 and 1989 by Abt Associates. In 1990 it was prepared by Speedwell Inc. Since 1991 the index has been prepared by the RGB staff with the assistance of Speedwell Inc. A payment history of the contract is included in Appendix G. Separate price indices are also provided for hotels and lofts.

With the exception of taxes, fuel and insurance, the price index is not a measure of **cost** changes.[153] Rather it is a measure of **price** changes. Thus, if an owner experiences fuel savings due to conservation measures such as the installation of thermopane windows, or labor savings by switching from manual to automatic elevators, such gains are not captured in the index. Similarly, if an owner is saddled with new costs such as new permit or filing fees, or regulatory obligations such as lead paint removal, these burdens are not captured in the index.

In addition to these limitations, any mechanism for measuring prices may run askew over long periods of time. Thus, periodic "reality checks" through alternative data sources or through a wholesale updating of the weights or the market basket may be needed. In 2000 the Board undertook a review of these various issues by contracting with Dr. Anthony Blackburn, who authored many of the price index reports in the 1980's, to examine the need for updating the index. Dr. Blackburn found that "[t]he PIOC appears to have provided quite accurate estimates of changes in operating costs over the last 17 years, in part because its errors have been offsetting. It also appears that, because of a drift in the expenditure weights, there is now a potential for the PIOC to misestimate future changes in operating costs." For this reason, Dr. Blackburn recommended various adjustments utilizing alternative income and expense data. A complete copy of his report is annexed hereto in Appendix R.

This "drift in the expenditure weights" predicted by Dr. Blackburn came to fruition in the first decade of the new millennium. Although the PIOC expenditure weights were revised each year, and there had been some changes to expenditure items since 1983, the PIOC no longer represented expenditure patterns that are prevalent today. In fact, the RGB report that measures recent owner-reported expenses, the *Income and Expense Study (I&E)*, shows that increases in overall operating costs had been smaller than those shown by the PIOC in recent years.

In the fall of 2013, the RGB commissioned Dr. James Hudson to study this issue and to offer suggestions on how to use the NYC Department of Finance Real Property Income and Expense (RPIE) data presented in the *RGB Income and Expense Studies* to update the expenditure patterns in the PIOC. The results of Dr. Hudson's analysis were released in his paper entitled *Comparing the Price Index of Operating Costs (PIOC) and the RGB Income and Expense Study* and were presented to the Board on March 27 of that year and can be found in Appendix S. Dr. Hudson concluded that the main cause of the differences between the PIOC and the I&E is "how owners change their spending in response to changes in prices and the goods and services that are available." These changes are not captured in the PIOC. He proposed two approaches to address the divergence between these indices:

[153] The prices changes in the fuel component and some fuel-related items are 'cost-weighted,' to account for seasonal usage.

- Use the most recent I&E to create the component weights for each year's PIOC. This will connect the PIOC much more closely to what owners have actually been buying so that we can better estimate the overall effect of price changes.
- Annually survey owners about their costs for various items within a single component, to update the item weights and allow development of improved items and specifications. Since this is not necessary for taxes and insurance (which have one item each in their components), it should allow updates of items weights across the PIOC every 5-6 years.

In 2015 Dr. Hudson, with the assistance of the RGB staff, used the expenditure patterns presented in the *2015 Income and Expense (I&E) Study* to update the component weights for the apartment *2015 PIOC*. The I&E provides an analysis of expenses as reported by owners in the Real Property Income and Expense (RPIE) statements (as required by Local Law 63, enacted in 1986). These statements are submitted annually to the NYC Department of Finance and represent reported expenses by building owners with stabilized units, based on the most recent completed calendar year at the time of filing. Going forward, RGB staff will use this annual data to update the PIOC expenditure weights each year, ensuring that future indices will contain current expenditure patterns.

As a result of updating the owners' expenditure patterns, it is important to note that the PIOC now contains seven expense components, instead of the traditional nine components presented in previous PIOCs. However, the individual items priced in the PIOC are the same items that were included in previous price indices. Where appropriate, they have simply been allocated to new components. Taxes, Labor Costs and Insurance Costs are the only components that contain the same items as in previous PIOCs, and therefore the only components that can be directly compared to previous price indices.

It is also important to note that the update to expenditure patterns is only for the Apartment PIOC. Since staff was unable to obtain sufficient I&E data to update either the PIOC for Lofts or the PIOC for Hotels, the methodology used to calculate the loft and hotel indices is the same as in previous PIOCs. However, in order to maintain symmetry between indices, the expense items were aligned to the seven components now used in the Apartments PIOC.

Price Index Projections

In addition to the price index, each year the staff produces a set of price projections for the coming year. These projections are particularly helpful with respect to the renewal guidelines for two-year leases. A complete summary of the projections from 1975 through 2026 including actual changes in the price indices with which to gauge the accuracy of the projections is included in Appendix T.

RGB Rent Index

The price changes measured by the PIOC are also compared to projected changes in rent levels to produce an estimate of the average operating cost to rent ratio ("O&M to rent ratio") in rent stabilized buildings. The staff uses a measure called the RGB Rent Index to estimate the overall impact of the Board's guidelines and the statutory vacancy allowance on rent rolls each year. The one and two-year guideline increases, the mix of lease terms, the supplemental adjustment, the statutory vacancy allowance and the minimum rent are combined to produce the aggregate change in rent levels. A chart of the changes in operating costs from 1969 through 2025 as estimated by the price index, along with the RGB Rent Index over the same period is contained in Appendix U.

A table of the history of the RGB Rent Index, along with a brief explanation, is included in Appendix V.

Income and Expense Study

Much has been said about the accuracy and general value of the annual price index. Owners have charged that it fails to reflect true operating costs and other obligations of ownership while tenants claim that the index methodology is unsound and misleading in the sense that it does not provide data on actual expenditures and profits. While no study of profits has ever been undertaken, access to income and expense statements on file with the New York City Department of Finance has greatly enhanced the Board's understanding of the financial condition of rent stabilized properties. For over two decades, the Board has received detailed summaries of operating costs as well as rental incomes. The Real Property Income and Expense (RPIE) data is analyzed by RGB staff in its annual *Income and Expense Study*. In addition, in the Spring of 1992 the Department of Finance conducted audits on some 46 rent stabilized properties in order to gauge the accuracy of the I&E filings.

The changing relationship between incomes and expenses is an extraordinarily complex matter that draws upon a variety of data sources. A complete history of the income and expense issue was prepared in the spring of 1993 and was published in the 1993 Summary of Research. The full text of the 1993 report is contained in Appendix K1. An update of that memo, analyzing historic changes in the relationship between operating costs and rents is contained in Appendix K. These memos provide a summary of the methodology used to compute O&M costs prior to the inception of the RPIE.

In previous editions of the **Introduction to the NYC Rent Guidelines Board** book, there has been an analysis of the difference between costs and income among both pre- and post-war buildings, that is, buildings constructed before 1947 ("pre-war") and after 1946 ("post-war"). The sources of this data are annual apartment registrations filed with the NYS Division of Housing and Community Renewal (DHCR) as well as RPIE (Real Property Income and Expense) filings with the NYC Department of Finance. Unfortunately, the

growing disparities between these two data sources makes a comparison among post-war buildings incompatible.

Historically, the post-war analysis compared the cost-to-rent ratio for expenses and **contract** rent from 1969 to a current cost-to-income ratio derived from expense and **collected** rent data from RPIE filings for buildings built after 1946. Because one data source relies on contract rents, and the other collected rents, and we need to make a like comparison, monthly I&E rent (which includes vacancy and collection losses) must be adjusted to estimate contract rents. To equate these two numbers, a methodology, which was developed by the RGB staff in 1999, adjusted the collected rent by the gap between the monthly mean RPIE rent and the monthly mean registered DHCR rent. Although this methodology was sound when first implemented, changes to the recent data since then have made it problematic for us to continue making this comparison. (See Appendix K for a full discussion of this methodology.)

Perhaps the most significant problem is how the rent is reported to DHCR. Owners are now required to report legal rents, actual rents and preferential rents separately. Each of these rents present problems for staff in determining which can be used in the post-war methodology as a proxy for contract rent. While DHCR legal rents are the maximum rent that an owner can charge the tenant, it does not necessarily reflect the actual rent paid by the tenant. The legal rent may be significantly higher than the contract or actual rents paid. Recent owner registration data indicated that approximately 30% of apartment rents registered with DHCR were receiving preferential rents, which by definition is less than the legal amount.[154] This was not the case in 1999. As with legal reported rents, using the actual rent data creates issues as well. The actual rent paid as reported to DHCR represents what the tenant actually **pays**, not what the owner actually **receives** in rent. Therefore, actual rents reported by owners includes those tenants whose rent is partially paid by the government, e.g. a section 8 subsidy. Finally, the reported preferential rent field does not include those tenants who are paying the legal amount. To further complicate the issue, DHCR does not document the year the building was built as a part of the registration requirement, making it impossible to focus solely on rents for buildings built after 1946.

While DHCR rent only includes rent stabilized apartment rents, RPIE rent includes rents from units that have been deregulated that are commanding free market rents. Since 1993, the year owners were allowed to start deregulating apartments under certain situations (until the repeal of deregulation in 2019, with passage of the Housing Stability and Tenant Protection Act), a significant number of units were deregulated. Once deregulated, owners can charge market rents. These market rents are included in the RPIE rent because buildings

[154] Per testimony from HCR to the RGB in April 2025, 30.1% of 2024 rent registration filings indicated a preferential rent. Some of the disparity between legal and preferential rents is due to the 421a tax abatement program, where initial legal rents are often set at market, and if market rents decline, the legal rent can become substantially higher than the preferential rent.

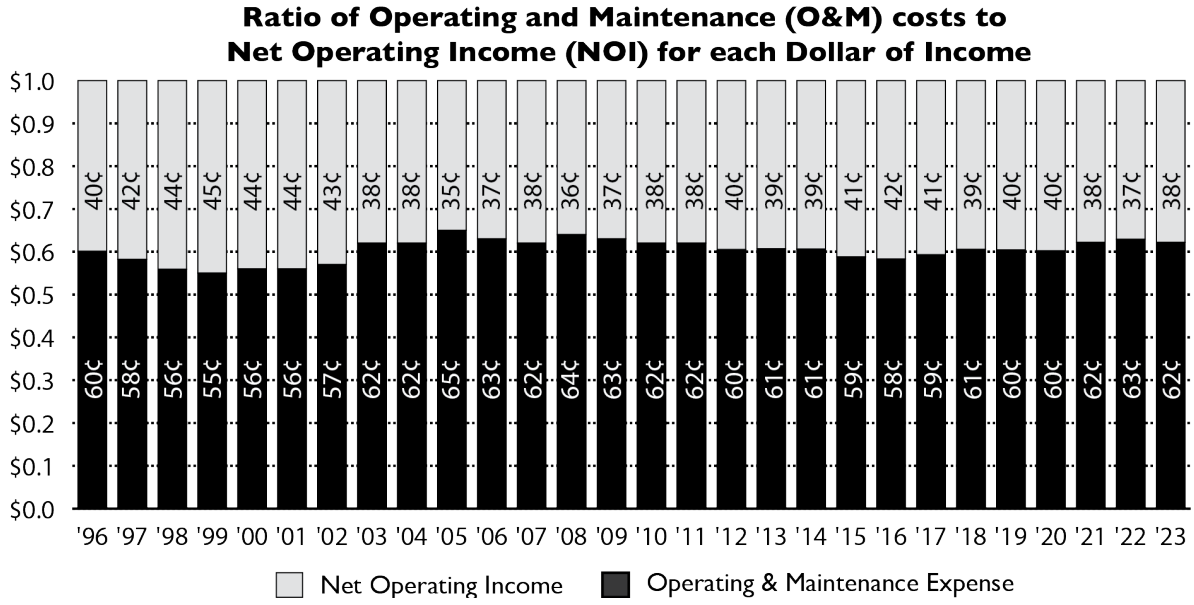
containing both stabilized units and free market units are included in the calculation of this rent figure. In addition, the RPIE data also includes rents from rent controlled apartments. Finally, unlike the DHCR rental data, the RPIE rent does not include data from buildings with 10 units or less because owners of buildings with fewer than 11 units are not required to file under the law.

Although staff can no longer calculate a Post-War cost-to-rent ratio, we can still calculate the Pre-War cost-to-income ratio because the methodology does not include the use of DHCR rents. In the Pre-War stock, the audited cost-to-income ratio decreased by three percentage points from .65 in 1967 to .62 in 2019. In other words, owners of these units (which were subject to rent control at the time) spent 65 cents of each rent dollar on operating costs in 1967. By 2022 they spent an average of 63 cents of each rent dollar on operating costs.

These are complex issues and many caveats are in order. Board members are advised to consult the complete text of the memo (see Appendix K). When applying the methodology outlined in the memo, the cost of operating a rental building relative to rental income has fallen over four decades of rent stabilization for buildings built prior to 1947. This means that the average net operating incomes for this set of buildings have grown relative to operating costs.

As previously stated, the RGB has had access to owner-reported income and expense data from the Department of Finance RPIE filings for over 25 years. From this data, the RGB staff calculates a cost-to-income ratio. Chart III that follows is derived directly from annual income and expense filings and represents both post-war and pre-war buildings. It shows, for every dollar of stabilized owner income, the average amount spent on expenses in a building and the amount left over for net operating income. In 2023, the cost-to-income ratio for the entire stock of rent stabilized housing was .622, meaning that owners were spending 62.2 cents of every dollar earned on expenses.

Chart III.



Source: RGB Income and Expense Studies, 1994-2025.

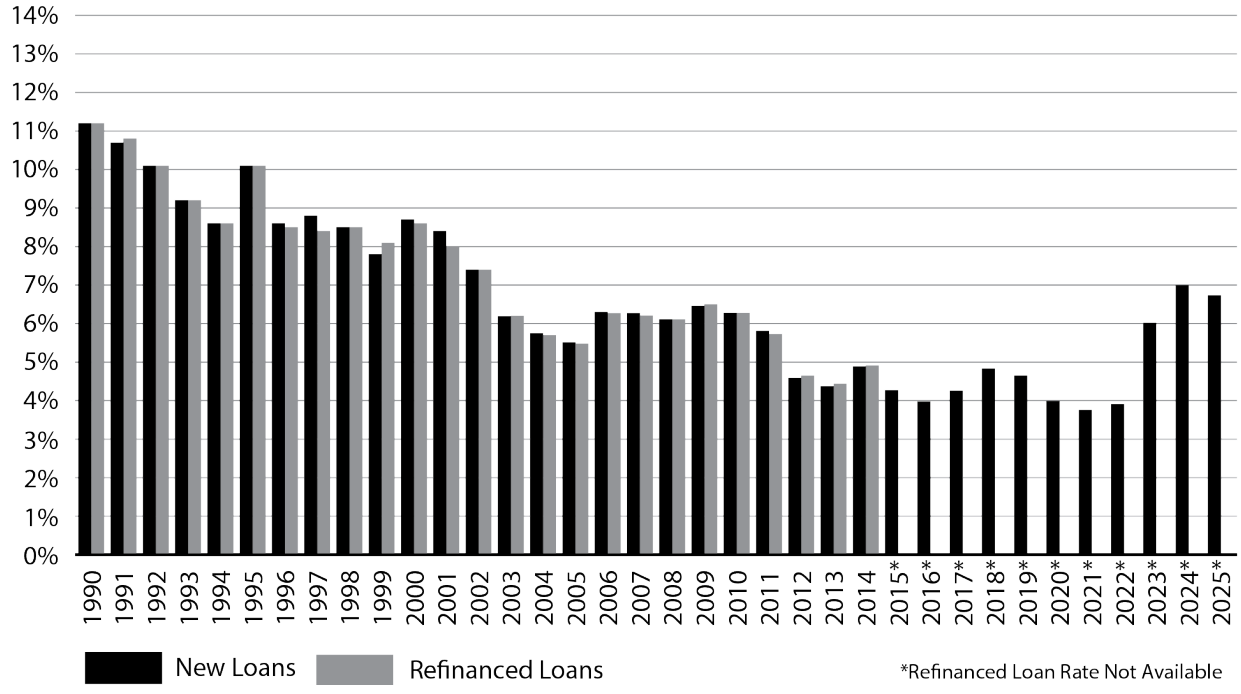
The price index, along with the O&M to rent/income ratios and the projections, are used to generate two figures known as the commensurate rent adjustment. This adjustment was discussed on pages 73 to 75. A memorandum describing the various commensurate formulae is included herein at Appendix J.

The Cost and Availability of Financing

The Mortgage Survey

Each year the Board's research staff conducts a survey of area lending institutions. This survey includes questions on financing terms, financial characteristics of "typical mortgages," factors influencing mortgage decisions, and the number and dollar value of loans made to owners of stabilized buildings. The results of the survey are reported to the Board annually in the *Mortgage Survey Report*. In addition, experts in banking and finance are often invited to testify at Board meetings. The chart on the next page shows average interest rates for new and refinanced multi-family mortgages for rent stabilized properties from 1990-2025.

Chart IV.
Average Interest Rates for New and Refinanced Mortgages, 1990-2025



Source: RGB Mortgage Surveys, 1990-2025.

Overall Supply of Housing and Overall Vacancy Rates

The Housing Supply Report

The local emergency housing rent control act mandates the production of a housing survey every three years specifically to determine if the declared housing emergency continues to exist justifying a continuation of the rent control law.[155] This survey commonly known as the triennial *Housing and Vacancy Survey* (or the "*HVS*"), has evolved over the years into a highly detailed picture of the City's rental housing stock along with demographics on the tenant population. Although originally concerned only with rent control, the survey now provides a wealth of data on all housing sectors. Consequently, the Board is provided with a comprehensive base of information regarding the overall supply of housing and vacancy rates every three years.

In addition to the *HVS* data, the Board updates its information on the City's housing supply by reviewing new construction levels and rehabilitation efforts through information provided by the Department of Buildings and the Department of Housing Preservation and Development. Data provided by the State Attorney General's Office on the number of

[155] See Unconsolidated Laws of N.Y. §8603.

buildings converted to cooperatives is also reviewed. This data is summarized annually for the Board in the *Housing Supply Report*. See also the chart of New Dwelling Units Completed: New York City, 1921-2024 on Page 21.

Changes to the Rent Stabilized Housing Stock in NYC

Rent regulation has been a fixture in New York City's housing market for the last 60 years. The rent laws that govern rent regulated housing have been substantially changed and/or modified over time. Specifically, the Rent Regulation Reform Act of 1993 allowed for high rent/vacancy decontrol of stabilized units. In addition to legislative changes, the existing laws allow for dynamic changes in the regulatory status of a significant portion of the rent regulated housing stock in any given year. Units enter the regulatory system, leave the system, or change status within the system.

In 2003, the RGB started to track the units entering and leaving the rent regulatory system. The findings of the staff were released in a report entitled *Changes in the Rent Stabilized Housing Stock in NYC, 1994-2002*. This report outlined the changes in the rent stabilized housing stock in New York City from 1994 to 2002 by quantifying the events that lead to additions to and subtractions from this category of housing. From 1994 through 2002, approximately 105,000 housing units left rent stabilization, while approximately 62,000 units initially entered the stabilization system. The built-in fluidity of the system resulted in a net loss of an estimated 43,000 regulated stabilized units to the rent stabilized housing stock. Subsequent reports have been done in each year since 2002, resulting in a total net loss of units since 1994 of approximately 138,500.[156]

However, it is important to note that these totals do not represent every unit that has been added or subtracted from the rent stabilized stock since 1994, but rather those that have been recorded or registered by various city and state agencies. They represent a 'floor', or minimum count, of the actual number of newly regulated and deregulated units in these years.

Data from the Cost of Living Indices

The Income and Affordability Study

Each year the Board is provided with data from the regional cost of living index. This information may be compared to the data provided by the annual price index to gauge changes in a landlord's cost of maintaining rental housing relative to the overall cost of other goods and services. It is also helpful in comparing relative changes in rent to the cost of other goods and services. A comparison of changes in rent stabilized rents to changes in the

[156] Through 2024, per the *Changes to the Rent Stabilized Housing Stock in 2024* report by the RGB.

regional consumer price index is contained in Appendix W. The cost of living data is reported to the Board annually in the *Income and Affordability Study*.

One of the most important indices, stabilized tenant income, is only available in the triennial *Housing and Vacancy Survey*. The table on this page details median stabilized household income from 1974 through 2022, in nominal rates as well as real 2022 dollars.

Table VI.

New York City Median Stabilized Renter Household Income 1974-2022

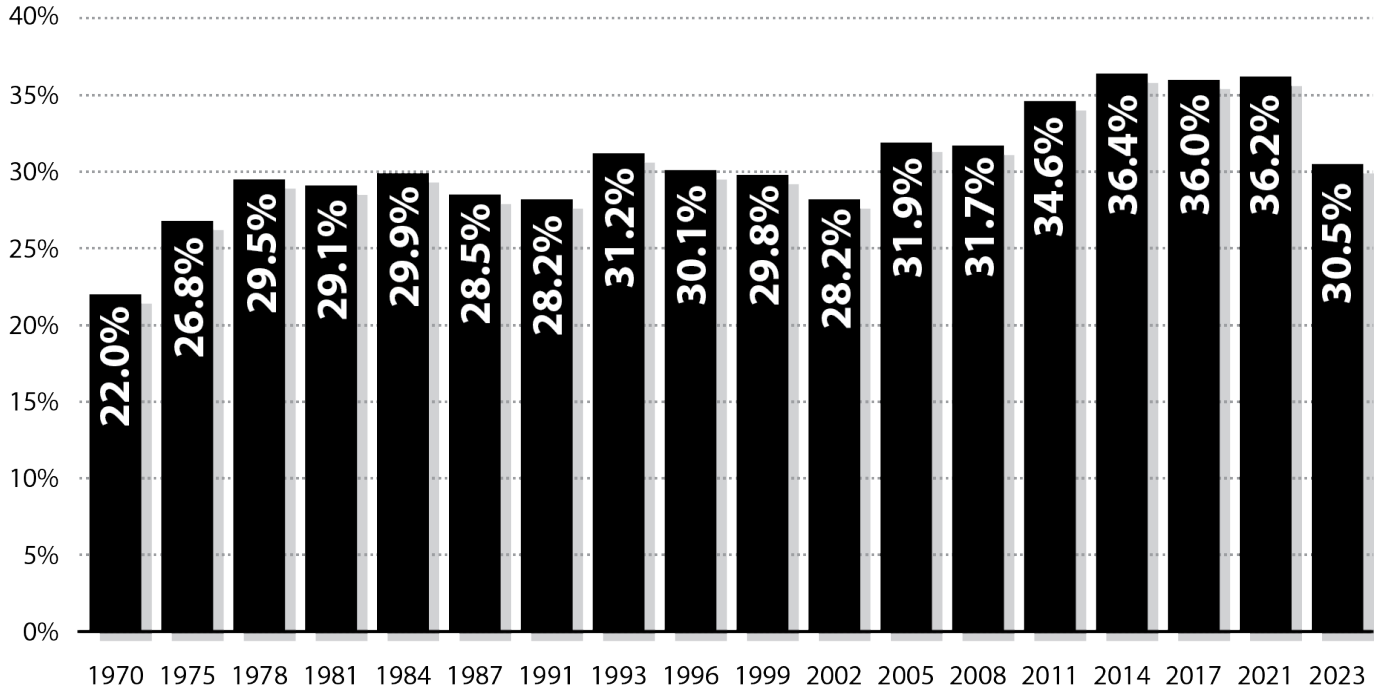
Year	Nominal	Real 2022 Dollars
2022	$70,000	$70,000
2020	$50,000	$54,811
2016	$44,560	$52,474
2013	$40,600	$49,027
2010	$37,000	$47,642
2007	$36,000	$49,198
2004	$32,000	$48,460
2001	$32,000	$53,044
1998	$27,000	$48,236
1995	$25,300	$48,376
1992	$20,160	$41,683
1990	$21,000	$47,025
1986	$18,547	$51,222
1983	$14,483	$45,008
1980	$11,976	$45,268
1977	$9,980	$48,237
1974	$9,908	$57,392

Source: *1975–2023 Housing and Vacancy Surveys*, U.S. Bureau of the Census

Another important figure derived from the *HVS* is the share of income paid in rent, or rent burden for *rent stabilized* tenants. The chart on the next page shows the median rent burden for rent stabilized households from 1970-2023. As discussed earlier in the Affordability section on pages 56 through 67, the rent burden for both stabilized households and all renter households has risen sharply, especially in the initial stages of stabilization.

Chart V.

***Rent Stabilized* Median Rent Burden, New York City 1970-2023**
(Gross Rent as a Share of Household Income)



Source: *1970–2023 Housing and Vacancy Surveys*, U.S. Bureau of the Census

Other Data

Along with the large variety of facts and figures provided by those who testify at the Board's annual meetings and hearings, the Board frequently requests additional research in a number of areas related to the economic condition of the rental housing industry and to the circumstances faced by rent stabilized tenants. Staff responds to these data requests in the form of research memos. Due to the large volume of these memos, they are not contained in this publication but are published in the Board's annual explanatory statements which can be downloaded from our website, nyc.gov/rgb, by navigating to the Rent Guidelines tab. Furthermore, additional RGB research can be found in the Special Reports and Briefs Archive on our website in the RGB Research section.

Meetings, Hearings and Administrative Procedures

Meetings

The Board typically holds eight to ten meetings per year to discuss its research agenda, review staff reports and to hear testimony from invited guests including public officials, housing experts and industry and tenant representatives. In accordance with the Open

Meetings Law every meeting of the Board must be open to the public, except when circumstances warrant executive sessions.[157] Public notice of any meeting scheduled at least one week in advance must be provided to the press and conspicuously posted in a public location at least 72 hours before the meeting. Notice of meetings scheduled less than one week in advance must be given, to the extent practicable, to the press, and publicly posted at a reasonable time before the meeting. The schedule of Board meetings is usually discussed and resolved in the early spring and is published in the City Record.

Executive sessions are permissible for the limited purposes set forth in §105 of the Public Officers Law and to consult with legal counsel.

Hearings

The Rent Stabilization Law §26-510(h) (contained in Appendix A) along with the City Charter [discussed below] mandates annual hearings prior to the adoption of rent guidelines. Notice of the hearings, as well as the language of the proposed orders, is provided in the City Record for eight days and at least once in a newspaper of general circulation at least eight days before the hearing. At the same time that the proposed guidelines are published in the City Record, they must be posted on the NYC website, nyc.gov, in the NYC Rules section. The language of the public notice of comment, along with that of the proposed guidelines, must be approved by Corporation Counsel and the Mayor's Office of Operations. The hearings are usually held in mid-June just prior to the Board's July 1 deadline for promulgating new guidelines. Any person who wishes to testify has a legal right to do so, and the Board has traditionally allowed two to three minutes for each speaker, alternating between owner and tenant representatives. Speakers have also been permitted to register in advance of the hearings and pre-registered speakers are given priority in the order of speakers.

Administrative Procedures

Prior to the adoption, in 1988, of Chapter 45 of the New York City Charter, also known as the City Administrative Procedure Act, or "CAPA", the Board operated exclusively under the limited procedures prescribed by the Rent Stabilization Law. CAPA is a uniform set of rulemaking and adjudication procedures that applies to City agencies. Since the Board does not perform any adjudicative functions it is only affected by CAPA's rulemaking procedures. These procedures added the requirement that proposed guidelines be published at least thirty days prior to the public hearings on the final guidelines. Consequently, the Board's procedures have remained largely unchanged except to the extent that proposed guidelines are now adopted at a public meeting that takes place in May. The hearings that are conducted in June, pursuant to §26-510(h) of the Rent Stabilization Law, also function as CAPA hearings on the proposed guidelines. A copy of CAPA is included in Appendix Y.

[157] A copy of the relevant portions of the Open Meetings Law is contained in Appendix X.

As stated above, the RGB is required to follow CAPA when determining preliminary and final adjustments on renewal leases for rent stabilized apartments, lofts and hotels in New York City. Local Law No. 134 of 2013 (LL 134), enacted by the City Council, amended CAPA in Charter section 1043(e), by adding the following provisions:

> [O]ther than a rule adopted pursuant to subdivision i of this section, no final rule shall be adopted by [a] board or commission unless its final language is posted in a prominent location on such agency's website and electronically transmitted to each member of such board or commission at least three calendar days, exclusive of Sundays, prior to such rule's adoption; provided, however, that revisions may be made to a final rule posted online and sent electronically in conformity with this subdivision at any time prior to the vote on such rule if such revisions are approved by all members of such board or commission by unanimous consent. … This paragraph shall not be construed to create a private right of action to enforce its provisions. Inadvertent failure to comply with this paragraph shall not result in the invalidation of any rule.

As a result of these new provisions, the RGB staff is required to email the language of the Apartment and Loft Order and the Hotel Order that will be voted on (consistent with the preliminary adjustment that the RGB will propose in May) to the members of the Board at least three calendar days (excluding Sunday) before the meeting at which the vote on these final guidelines are taken. In addition, staff is also required to prominently post this language on the RGB website, nyc.gov/rgb, at least three calendar days prior to the meeting in which the final Orders are adopted.

Furthermore, LL 134's provision requires that revisions made to the final rule *less* than three days prior to the meeting must be approved by *unanimous* consent of all RGB members present at the meeting. Barring unanimous consent, any adopted motion that was not previously e-mailed to RGB members and posted in conformance with LL 134 and that seeks to change the one- and/or two-year renewal lease adjustment or any other component of the annual guideline at the final voting meeting would *not* be final. Adoption of such a change would be contingent on compliance with LL 134's notice requirements and a second vote necessitating that the Board reconvene at least three calendar days (excluding Sunday) later. When the Board does reconvene, it could then adopt the change by a vote of five members; there would *not* need to be a unanimous vote at the reconvened meeting.

Voting Meetings – Order of Business

Two meetings are held each year for a vote on rent adjustments: the meeting to adopt proposed guidelines discussed above, and the meeting to adopt the final guidelines. While

the Chair and the Board establish the order of business, a typical voting meeting will proceed as follows:

- Board members attention will be called to drafts of the apartment (and loft) orders in their folders. At the meeting on the proposed guidelines, these drafts will consist of the prior year's order with blank spaces where rent adjustments will be entered. At the meeting to consider the "final" guidelines, members will have copies of the proposed orders.
- Prior to the meeting members will receive drafts of the Apartment and Loft Explanatory Statement and Findings and the Hotel Explanatory Statement and Findings. These documents will be adopted by the Board at this meeting, subject to being modified after the voting meeting per the Board's actions and instructions.
- The floor will be opened to proposals on apartment guidelines for one and two year leases as well as the Special Guideline for units leaving rent control and becoming stabilized (see pages 89 to 91 for a discussion of this guideline.) Votes are taken on each proposal in accordance with Roberts Rules, until at least five "yes" votes can be mustered for an apartment order. Generally, the language of the Order and the language for the Explanatory Statement and Findings are adopted within the same motion.
- Loft guidelines can be bundled with the apartment motion or considered separately in a like fashion.
- The next order of business is usually the "hotel" orders. Board members attention will then be called to the hotel orders. There are five groups of hotel stabilized units: Class A and Class B hotels, rooming houses, SRO's and lodging houses. These groups may be addressed separately or together. Voting proceeds in the same fashion as for apartments. Once again, the language of the Hotel Order and the language for the Explanatory Statement and Findings are adopted within the same motion.
- Any special or new items of business may be introduced at any time, but any material change in the order of business will require a majority vote.
- A motion to adjourn will be taken.

Final Orders and Explanatory Statements

Usually about one week after the final vote, the Board's orders and related explanatory statements are filed with the City Clerk and published in the City Record. The Rent Stabilization Law directs that the *filing* of the Board's orders and its findings—i.e. the explanatory statements — must be completed not later than July 1 of each year. Once the language of the orders is reviewed and approved by Corporation Counsel and the Mayor's Office of Operations, the orders and explanatory statements should be published in the City Record as soon as is practicable. The final orders and explanatory statements should be forwarded to City Council for its information and published at least 30 days (by August 31) before the first effective date of the orders (October 1). In addition, the final orders and

explanatory statements must be posted on NYC Rules, which is a part of the City's website, nyc.gov, at least 30 days before the rules go into effect.

The guidelines themselves go into effect for leases being renewed and vacancies occurring on or after October 1 of the same year, and on or before September 30 of the following year. Most hotel/SRO tenants do not have leases and pay the new rent immediately upon the effective date of the hotel guidelines–which is also October 1.

The orders of the Board are final unless found to be unlawful by a court of competent jurisdiction. A 1991 court ruling indicates that any legal challenge to the Board's orders must be initiated within four months.[158]

[158] See case #15, supra at page 42.

Appendix A

Rent Stabilization Law

§ 26-510. Rent guidelines board

a. There shall be a rent guidelines board to consist of nine members, appointed by the mayor. Two members shall be representative of tenants, two shall be representative of owners of property, and five shall be public members each of whom shall have had at least five years experience in either finance, economics or housing. One public member shall be designated by the mayor to serve as chairman and shall hold no other public office. No member, officer or employee of any municipal rent regulation agency or the state division of housing and community renewal and no person who owns or manages real estate covered by this law or who is an officer of any owner or tenant organization shall serve on a rent guidelines board. One public member, one member representative of tenants and one member representative of owners shall serve for a term ending two years from January first next succeeding the date of their appointment; one public member, one member representative of tenants and one member representative of owners shall serve for terms ending three years from the January first next succeeding the date of their appointment and two public members shall serve for terms ending four years from January first next succeeding the dates of their appointment. The chairman shall serve at the pleasure of the mayor. Thereafter, all members shall continue in office until their successors have been appointed and qualified. The mayor shall fill any vacancy which may occur by reason of death, resignation or otherwise in a manner consistent with the original appointment. A member may be removed by the mayor for cause, but not without an opportunity to be heard in person or by counsel, in his or her defense, upon not less than ten days notice.

b. The rent guidelines board shall establish annually guidelines for rent adjustments, and in determining whether rents for housing accommodations subject to the emergency tenant protection act of nineteen seventy-four[159] or this law shall be adjusted shall 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 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) over-all supply of housing accommodations and over all 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. Not later than July first of each year, the rent guidelines board shall file with the city clerk its findings for the preceding calendar year, and shall accompany such findings with a statement of the maximum rate or rates of rent adjustment, if any, for one or more classes of accommodations subject to this law, authorized for leases or other rental agreements commencing on the next succeeding October first or within the twelve months thereafter. Such findings and statement shall be published in the City record.

c. Such members shall be compensated on a per diem basis of one hundred dollars per day for no more than twenty-five days a year except that the chairman shall be compensated at one hundred twenty-five dollars a day for no more than fifty days a year. The chairman shall be chief administrative officer of the rent guidelines board and among his or her powers and duties he or she shall have the authority to employ, assign and supervise the employees of the rent guidelines board and enter into contracts for consultant services. The department of housing preservation and development shall cooperate with the rent guidelines board and may assign personnel and perform such services in connection with the duties of the rent guidelines board as may reasonably be required by the chairman.

[159] Section 8261 et seq., post.

d. Any housing accommodation covered by this law owned by a member in good standing of an association registered with the department of housing preservation and development pursuant to section 26-511 of this chapter[160] which becomes vacant for any reason, other than harassment of the prior tenant, may be offered for rental at any price notwithstanding any guideline level established by the guidelines board for renewal leases, provided the offering price does not exceed the rental then authorized by the guidelines board for such dwelling unit plus five percent for a new lease not exceeding two years and a further five percent for a new lease having a minimum term of three years, until July first, nineteen hundred seventy, at which time the guidelines board shall determine what the rental for a vacancy shall be.

e. With respect to hotel dwelling units, covered by this law pursuant to section 26-506 of this chapter, the council, after receipt of a study from the rent guidelines board, shall establish a guideline for rent increases, irrespective of the limitations on amount of increase in subdivision d hereof, which guideline shall apply only to permanent tenants. A permanent tenant is an individual or family who at any time since May thirty-first, nineteen hundred sixty-eight, or hereafter, has continuously resided in the same hotel as a principal residence for a period of at least six months. On January first. nineteen hundred seventy-one and once annually each succeeding year the rent guidelines board shall cause a review to be made of the levels of fair rent increases provided under this subdivision and may establish different levels of fair rent increases for hotel dwelling units renting within different rental ranges based upon the board's consideration of conditions in the market for hotel accommodations and the economics of hotel real estate. Any hotel dwelling unit which is voluntarily vacated by the tenant thereof may be offered for rental at the guideline level for vacancies established by the rent guidelines board. If a hotel dwelling unit becomes vacant because the prior tenant was evicted therefrom, there shall be no increase in the rental thereof except for such increases in rental that the prior tenant would have had to pay had he or she continued in occupancy.

g.[161] From September twenty-fifth, nineteen hundred sixty-nine until the rate of permissible increase is established by the council pursuant to subdivision e of this section, there shall not be collected from any permanent hotel tenant any rent increase in excess of ten percent over the rent payable for his or her dwelling unit on May thirty-first, nineteen hundred sixty-eight. except for hardship increases authorized by the conciliation and appeals board. Any owner who collects or permits any rent to be collected in excess of the amount authorized by this subdivision shall not be eligible to be a member in good standing of a hotel industry stabilization association.

h. The rent guidelines board prior to the annual adjustment of the level of fair rents provided for under subdivision b of this section for dwelling units and hotel dwelling units covered by this law, shall hold a public hearing or hearings for the purpose of collecting information relating to all factors set forth in subdivision b of this section. Notice of the date, time, location and summary of subject matter for the public hearing or hearings shall be published in the City Record daily for a period of not less than eight days and at least once in one or more newspapers of general circulation at least eight days immediately preceding each hearing date, at the expense of the city of New York, and the hearing shall be open for testimony from any individual, group, association or representative thereof who wants to testify.

i. Maximum rates of rent adjustment shall not be established more than once annually for any housing accommodation within the board's jurisdiction. Once established, no such rate shall, within the one-year period, be adjusted by any surcharge, supplementary adjustment or other modification. (L.1985, c. 907, § 1,)

---

[160] Chapter 4 of Title 26 of the Administrative Code of the City of New York.
[161] No par. f has been enacted.

THE CITY RECORD-2/29/80

Local Law No. 11

Introduced by Council Member Manton (by request of the Mayor)—
A LOCAL LAW to amend the administrative Code of the city of New York in relation to the rent guidelines board and its staff.

Be it enacted by the Council as follows:

Section l. Subdivision c of section YY51-5.0 of title YY of chapter fifty-one of the administrative code of the city of New York is hereby amended to read as follows:
c. Such members shall be compensated on a per diem basis of one hundred dollars per day for no more than twenty-five days a year except that the chairman shall be compensated at one hundred twenty-five dollars a day for no more than fifty days a year The chairman shall be chief administrative officer of the rent guidelines board and among his or her powers and duties he or she shall have the authority to employ, assign and supervise the employees of the rent guidelines board and enter into contracts for consultant services. The department of housing preservation and development shall cooperate with the rent guidelines board and may assign personnel and perform such services in connection with the duties of the rent guidelines board as may reasonably be required by the chairman.

§2 This local law shall take effect immediately.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, S.S.:
I hereby certify that the foregoing is a true copy of a local law of The City o New York passed by the Council on February 5 1980 and approved by the Mayor on February 21 1980.

DAVID N. DINKINS, City Clerk, Clerk of the Council

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW SECTION 27
Pursuant to the provisions of Municipal Home Rule Law Section 27, 1 hereby certify that the enclosed local law (Local Law No 11 Council Int. No. 759-A), contains the correct text and received the following vote at the meeting of the New York City Council on February 5, 1980: 35 for; 5 against; 1 not voting

Was approved by the Mayor on February 21, 1980.
Was returned to the City Clerk on February 21 1980

ALLEN G SCHWARTZ, Corporation Counsel

RENT GUIDELINES BOARD MEMBERS

	Representation	Appointed	Length of Term	Expiration of Term§	Termination of service
Chairpersons					
Roger Starr	Public	6/15/69		Pleasure of Mayor	N/A
Prof. Emanuel Tobier	Public	6/08/74		Pleasure of Mayor	N/A
Dr. Jacob B. Ukeles	Public	6/28/75		Pleasure of Mayor	N/A
Frances Levenson	Public	4/20/78		Pleasure of Mayor	7/01/79
Marvin Markus	Public	11/26/79		Pleasure of Mayor	N/A
Amalia V. Betanzos	Public	11/30/84		Pleasure of Mayor	8/31/86
William J. Mulrow	Public	4/20/87		Pleasure of Mayor	4/05/88
Arthur B. Spector	Public	4/05/88		Pleasure of Mayor	12/27/89
Aston L. Glaves	Public	4/17/90		Pleasure of Mayor	12/31/93
Edward Hochman, Esq.	Public	5/03/94		Pleasure of Mayor	4/30/01
Steven Sinacori, Esq.	Public	5/07/01		Pleasure of Mayor	12/1/01
Marvin Markus	Public	3/21/02		Pleasure of Mayor	2/1/10
Jonathan L. Kimmel, Esq.	Public	2/05/10		Pleasure of Mayor	12/23/13
Rachel D. Godsil	Public	4/23/14		Pleasure of Mayor	12/2/2015
Hon. Kathleen A. Roberts (Ret.)	Public	3/29/16		Pleasure of Mayor	1/1/2019
David Reiss	Public	3/7/19		Pleasure of Mayor	3/10/23
Nestor Davidson	Public	3/10/23		Pleasure of Mayor	2/20/25
Douglas Apple	Public	2/21/25		Pleasure of Mayor	presently serves
Board Members					
Anthony H. Atlas	Public*	6/15/69			N/A
Edward J. Cleary	Public*	6/15/69			N/A
Gladys Jones	Public*	6/15/69			see below
Dr. Frank Kristof	Public*	6/15/69			see below
William A. Lyon	Public*	6/15/69			see below
Joseph P. McMurray	Public*	6/15/69			see below
Thomas B. Shortman	Public*	6/15/69			N/A
John Trubin	Public*	6/15/69			see below
William Brennen	Owners	6/10/74	3 Years	12/31/77	N/A
Bruce Gould	Tenants	6/10/74	3 Years	12/31/77	N/A
Gladys Jones	Public	6/10/74	3 Years	12/31/80	6/28/80
Dr. Frank Kristof	Public	6/10/74	2 Years	12/31/76	see below
William A. Lyon	Owners	6/10/74	2 Years	12/31/76	N/A
Joseph P. McMurray	Public	6/10/74	4 Years	12/31/78	N/A
Norman Samnick	Public	6/10/74	4 Years	12/31/78	8/30/78
John Trubin	Tenants	6/10/74	2 Years	12/31/76	12/29/77
Ralph W. Morhard	Owners	9/15/76	2 Years	12/31/76	N/A
Sid Davidoff	Tenants	12/31/77	2 Years	12/31/80	N/A
Monsignor Harry J. Byrne	Public	12/22/78	2 Years	12/31/80	5/4/82
Barbara Chocky	Tenants	12/22/78	3 Years	12/31/83	N/A
Scott Mollen	Public	3/27/79	4 Years	12/31/82	N/A
Carolyn Odell	Public	3/27/79	4 Years	12/31/82	N/A
Hyman Sardy	Owners	6/8/79	2 Years	12/31/80	3/12/82
Carl O. Callender	Tenants	5/20/81	2 Years	12/31/82	7/1/86
David Castro-Blanco	Public	5/20/81	3 Years	12/31/83	2/25/86
Karen M. Eisenstadt	Public	5/20/81	4 Years	12/31/86	N/A
Dr. Frank Kristof	Owners	3/12/82	2 Years	12/31/82	5/21/84
W. Philip Johnson	Public	5/13/82	2 Years	12/31/86	6/30/86
Eugene J. Morris, Esq.	Owners	4/15/83	3 Years	12/31/83	12/3/84

(continued)

	Representation	Appointed	Length of Term	Expiration of Term§	Termination of service
Joseph L. Forstadt, Esq.	Owners	5/18/84	3 Years	12/31/93	5/1/97
Darryl Greene, Esq.	Public	5/18/84	4 Years	12/31/86	10/30/86
Cynthia H. Reiss, Esq.	Tenants	5/18/84	3 Years	12/31/86	8/4/86
Harold Lubell	Owners	5/17/85	2 Years	12/31/06	9/7/06
Harriet Cohen	Tenants	4/24/87	3 Years	12/31/90	5/10/89
John Durant Cooke	Public	4/24/87	2 Years	12/31/89	6/26/89
Stephen Dobkin	Tenants	4/24/87	2 Years	12/31/89	5/10/89
Kent C. Hiteshew	Public	4/24/87	4 Years	12/31/91	8/5/88
Nancy A. Paulson	Public	4/24/87	4 Years	12/31/91	10/2/89
Augustin Rivera	Public	4/24/87	3 Years	12/31/97	2/26/03
William R. Howell	Public	2/27/89	4 Years	12/31/90	3/28/90
Oda Friedheim	Tenants	4/17/90	3 Years	12/31/93	6/22/92
Galen Kirkland	Tenants	4/17/90	2 Years	12/31/92	6/22/92
Victor Marrero	Public	4/17/90	4 Years	12/31/91	1/8/93
Janice Robinson	Public	4/17/90	2 Years	12/31/92	10/17/91
Ellen Gesmer, Esq.	Public	5/8/90	4 Years	12/31/91	1/4/93
Hilda Blanco	Public	6/25/92	2 Years	12/31/92	2/7/95
Barbara Gordon-Espejo	Public	12/23/92	4 Years	12/31/95	3/12/96
Jane Stanicki	Public	1/8/93	4 Years	12/31/95	1/23/96
Leslie Holmes, Esq.	Tenants	3/16/93	2 Years	12/31/94	died 7/96
Kenneth Rosenfeld, Esq.	Tenants	4/1/93	3 Years	12/31/93	3/31/99
Paul Atanasio, Esq	Public	2/1/95	2 Years	12/31/96	1/26/98
Earl Andrews	Public	4/11/96	4 Years	12/31/99	1/13/97
Elissa Fitzig	Public	1/16/96	4 Years	12/31/99	3/23/98
Paula Dagen	Public	3/18/97	4 Years	12/31/99	3/13/98
David Pagan	Tenants	3/21/97	2 Years	12/31/06	12/31/06
Bartholomew Carmody	Public	4/27/98	4 Years	12/31/99	7/19/02
Vincent Castellano	Owners	4/27/98	3 Years	12/31/99	2/26/03
Edward Weinstein	Public	4/27/98	2 Years	12/31/98	12/7/00
Justin Macedonia, Esq.	Public	6/18/98	4 Years	12/31/99	3/6/01
Jeffrey Coleman, Esq.	Tenants	3/31/99	3 Years	12/31/99	12/28/01
Mort Starobin	Public	4/30/01	2 Years	12/31/02	2/26/03
David Rubenstein	Public	5/8/01	4 Years	12/31/03	9/1/03
Adriene L. Holder, Esq.	Tenants	5/7/02	3 Years	12/31/07	3/11/13
Steven J. Schleider, MAI	Owners	4/10/03	3 Years	12/31/13	3/26/14
Betty Philips Adams	Public	4/14/03	4 Years	12/31/06	2/25/13
Gale D. Kaufman	Public	4/10/03	4 Years	12/31/06	12/31/06
Elizabeth Lusskin	Public	4/10/03	3 Years	12/31/04	12/31/05
Martin A. Zelnik	Public	4/14/03	2 Years	12/31/04	3/22/06
Jonathan L. Kimmel, Esq.	Public	2/27/06	3 Years	12/31/10	2/05/10
Leslie Wright, Esq.	Public	3/22/06	2 Years	12/31/06	9/30/07
Risa A. Levine, Esq.	Public	3/21/07	4 Years	12/31/10	12/31/10
Ronald S Languedoc, Esq.	Tenants	3/21/07	2 Years	12/31/10	12/31/10
Magda L. Cruz, Esq.	Owners	3/21/07	2 Years	12/31/14	3/11/15
David H. Wenk	Public	3/20/08	2 Years	12/31/14	6/24/14
Ronald Scheinberg, Esq.	Public	3/22/10	3 Years	12/31/10	2/25/13
Courtney Moore	Public	2/15/11	4 years	12/31/14	11/18/13
Brian Cheigh	Tenants	4/26/11	2 years	12/31/12	1/08/14
Carol J. Shine, Esq.	Public	2/26/13	3 years	12/31/13	11/19/13
Tanya F. Levy-Odom	Public	2/26/13	4 years	12/31/14	3/25/14
Harvey Epstein	Tenants	4/1/13	3 years	12/31/16	2/26/18
Carol J. Shine, Esq.	Public	11/20/13	4 years	12/31/14	3/11/15
Steven Flax	Public	3/26/14	3 years	12/31/16	12/31/16
Cecilia Joza	Public	3/26/14	4 years	12/31/14	3/29/22

(continued)	Representation	Appointed	Length of Term	Expiration of Term§	Termination of service
Sara Williams Willard	Owners	3/26/14	3 years	12/31/16	7/2/15
Sheila Garcia	Tenants	3/26/14	2 years	12/31/14	4/10/23
K. Sabeel Rahman	Public	3/12/15	2 years	12/31/16	3/29/17
Helen Schaub	Public	3/12/15	4 years	12/31/18	12/13/17
J. Scott Walsh	Owners	3/12/15	2 years	12/31/16	3/29/22
Mary Serafy	Owners	3/29/16	3 years	12/31/16	12/31/17
Hilary Botein	Public	3/29/17	2 years	12/31/18	1/01/19
David Reiss	Public	3/29/17	3 years	12/31/19	3/7/19
Leah Goodridge	Tenants	4/4/18	3 years	12/31/19	1/3/22
Rodrigo Camarena	Public	4/4/18	4 years	12/31/18	4/2/19
Angela Pinsky	Owners	4/23/18	3 years	12/31/19	12/21/18
May Yu	Public	4/3/19	4 years	12/31/22	11/4/19
German Tejeda	Public	4/3/19	3 years	12/31/19	3/12/20
Alex Schwartz	Public	4/3/19	2 years	12/31/20	presently serves
Patti Stone	Owners	4/24/19	3 years	12/31/19	1/4/21
Christina DeRose	Public	3/13/20	4 years	12/31/22	10/11/24
Christian Gonzalez-Rivera	Public	3/13/20	3 years	12/31/22	4/30/23
Robert Ehrlich	Owners	5/3/21	3 years	12/31/22	presently serves
Arpit Gupta	Public	3/29/22	4 years	12/31/22	presently serves
Christina Smyth	Owners	3/29/22	2 years	12/31/22	presently serves
Adan Soltren	Tenants	4/14/22	3 years	12/31/22	presently serves
Doug Apple	Public	4/10/23	3 years	12/31/25	2/21/25
Genesis Aquino	Tenants	4/10/23	2 years	12/31/24	presently serves
Reed Jordan	Public	2/21/25	3 years	12/31/25	presently serves
Alexander Armlovich	Public	2/21/25	4 years	12/31/26	presently serves

§ Expiration of Term refers to the last day of a member's appointed or reappointed term as delineated by the Mayor's Office.

* Prior to 1974, there were no separate designations for public, owner and tenant members.

Note: Some Board Members resigned prior to or following the expiration date of their term as 'holdovers'. Continuation in office after expiration of the term is permitted by §26-510(a) of the RSL. Also, a number of new appointments are made to fill out the unexpired terms of members who have resigned.

RENT GUIDELINES BOARD EXECUTIVE DIRECTORS

	Period of Service	
Executive Directors	**From**	**To**
Maria Patterson	March, 1980	1982
Andrea Kremen	1982	1984
Kenneth Zeichner	1984	September, 1985
Eric Weinstock	September, 1985	October, 1988
Tim Collins	October, 1988	November, 1994
Doug Hillstrom	November, 1994	March, 1999
Anita Visser	March, 1999	December, 2003
Andrew McLaughlin	January, 2004	Presently serves

Public Officers Law §§§ 3, 10 & 30 (current as of 11/2025)

§ 3. Qualifications for holding office

1. No person shall be capable of holding a civil office who shall not, at the time he or she shall be chosen thereto, have attained the age of eighteen years, except that in the case of youth boards, youth commissions, recreation commissions, or community boards in the city of New York only, members of such boards or commissions may be under the age of eighteen years, but must have attained the age of sixteen years on or before appointment to such youth board, youth commission, recreation commission, or community board in the city of New York, be a citizen of the United States, a resident of the state, and if it be a local office, a resident of the political subdivision or municipal corporation of the state for which he or she shall be chosen, or within which the electors electing him or her reside, or within which his or her official functions are required to be exercised, or who shall have been or shall be convicted of a violation of the selective draft act of the United States, enacted May eighteenth, nineteen hundred seventeen, or the acts amendatory or supplemental thereto, or of the federal selective training and service act of nineteen hundred forty or the acts amendatory thereof or supplemental thereto.

§ 10. Official Oaths

Every officer shall take and file the oath of office required by law, and every judicial officer of the unified court system, in addition, shall file a copy of said oath in the office of court administration, before he shall be entitled to enter upon the discharge of any of his official duties. An oath of office may be administered by a judge of the court of appeals, the attorney general, or by any officer authorized to take, within the state, the acknowledgment of the execution of a deed of real property, or by an officer in whose office the oath is required to be filed or by his duly designated assistant, or may be administered to any member of a body of officers, by a presiding officer or clerk, thereof, who shall have taken an oath of office. An oath of office may be administered to any state or local officer who is a member of the armed forces of the United States by any commissioned officer, in active service, of the armed forces of the United States. In addition to the requirements of any other law, the certificate of the officer in the armed forces administering the oath of office under this section shall state (a) the rank of the officer administering the oath, and (b) that the person taking the oath was at the time, enlisted, inducted, ordered or commissioned in or serving with, attached to or accompanying the armed forces of the United States. The fact that the officer administering the oath was at the time duly commissioned and in active service with the armed forces, shall be certified by the secretary of the army, secretary of the air force or by the secretary of the navy, as the case may be, of the United States, or by a person designated by him to make such certifications, but the place where such oath was administered need not be disclosed. The oath of office of a notary public or commissioner of deeds shall be filed in the office of the clerk of the county in which he shall reside. The oath of office of every state officer shall be filed in the office of the secretary of state; of every officer of a municipal corporation, including a school district, with the clerk thereof; and of every other officer, including the trustees and officers of a public library and the officers of boards of cooperative educational services, in the office of the clerk of the county in which he shall reside, if no place be otherwise provided by law for the filing thereof.

§ 30. Creation of vacancies

1. Every office shall be vacant upon the happening of one of the following events before the expiration of the term thereof:

d. His ceasing to be an inhabitant of the state, or if he be a local officer, of the political subdivision, or municipal corporation of which he is required to be a resident when chosen;

h. His refusal or neglect to file his official oath or undertaking, if one is required, before or within thirty days after the commencement of the term of office for which he is chosen, if an elective office, or if an appointive office, within thirty days after notice of his appointment, or within thirty days after the commencement of such term; or to file a renewal undertaking within the time required by law, or if no time be so specified, within thirty days after notice to him in pursuance of law, that such renewal undertaking is required. The neglect or failure of any state or local officer to execute and file his oath of office and official undertaking within the time limited therefor by law, shall not create a vacancy in the office if such officer was on active duty in the armed forces of the United States and absent from the county of his residence at the time of his election or appointment, and shall take his oath of office and execute his official undertaking within thirty days after receipt of notice of his election or appointment, and provided such oath of office and official undertaking be filed within ninety days following the date it has been taken and subscribed, any inconsistent provision of law, general, special, or local to the contrary, notwithstanding.

* * * * * * * *

Oath of Office example

I, _____

do solemnly swear, that I will support the Constitution of the United States and the Constitution of

the State of New York, and that I will faithfully discharge the duties of the office of

MEMBER

of the Rent Guidelines Board

of The City of New York*, according to the best of my ability.*

Subscribed and sworn before me, this _____day of _____, A. D. 20_____

_____
(Member signature)

_____
(Notary Public signature and stamp)

and filed in the office of the City Clerk, this _____ day of _____, A. D. 20____.

_____*City Clerk*
(signature)

Written Statement of Eligibility (sample form)

A letter for the Rent Guidelines Board files is traditionally supplied to the Executive Director following appointment, affirming compliance with the eligibility requirements. Here is an example of a typical format for this letter:

Dear _____,
(Executive Director)

In connection with my appointment to the Rent Guidelines Board, I, _____, affirm that I am not a member, officer or employee of any municipal rent regulation agency or the state division of housing and community renewal; I do not own or manage real estate covered by the Rent Stabilization Law; I am not an officer of any owner or tenant organization; and I am a resident of New York City.

For Chairs only:

In addition, I hold no other public office.

_____
(Signature)

_____
(Date)

Sign-in sheet for Board members (sample)

New York City Rent Guidelines Board
1 Centre Street, Suite 2210 • New York, NY 10007
(212) 669-7480 • Web: nyc.gov/rgb

Chair
Doug Apple

Executive Director
Andrew McLaughlin

RENT GUIDELINES BOARD SIGN IN SHEET

Date of Meeting Place of Meeting

Board Members Name Signature

REED JORDEN

DOUG APPLE

GENESIS AQUINO

ALEX ARMLOVICH

ROBERT EHRLICH

ARPIT GUPTA

ALEX SCHWARTZ

CHRISTINA SMYTH

ADÁN SOLTREN

Per Diem requisition form (sample)

New York City Rent Guidelines Board
1 Centre Street, Suite 2210 • New York, NY 10007 • (212) 669-7480
Fax: (212) 669-7488 • Web: nyc.gov/rgb

Chair
Doug Apple

Executive Director
Andrew McLaughlin

RENT GUIDELINES BOARD
PER DIEM PAYMENT REQUISITION
(for performance of RGB activities)

FOR: _____

PERIOD COVERED: / / **TO** / /

Chairperson	
Member	

DATE	DURATION	LOCATION	ACTIVITY

Total official meeting/hearing days:	
Total hours on other days:	
Number of Diem Payments Requested:	

Date = Date the chairperson/member performed the RGB activity.
Duration = Length of time the chairperson/member performed the RGB activity.
Location = Place the chairperson/member performed the RGB activity (RGB office, other office, home, etc.)
Activity = Type of RGB activity (e.g. - official meetings, informal meetings, research, telephone calls, etc.). For telephone calls, name of other participant must be listed.

CERTIFICATION:

I certify that all information set forth in this requisition is true, correct and complete and that all the activities described herein for which payment has been requested have been performed in pursuit of the business and operation of the New York City Rent Guidelines Board ("RGB") and in compliance with the requirements of the Rent Stabilization Law and the contract between the RGB and the New York City Department of Housing Preservation and Development. Falsification of any statement made herein is an offense punishable by a fine or imprisonment or both (New York City Administrative Code Section 10-154).

_____
Signature of chairperson/member Date

HPD USE ONLY - DO NOT ENTER DATA IN THIS BOX

Total hours approved: _____
Total amount approved: _____
Approved by: _____
HPD Representative Title Date

Appendix E

New York City Charter §2600-2606

Chapter 68

Conflicts of Interest (Current as of 11/2025)

§2600. Preamble.
Public service is a public trust. These prohibitions on the conduct of public servants are enacted to preserve the trust placed in the public servants of the city, to promote public confidence in government, to protect the integrity of government decision-making and to enhance government efficiency.

§2601. **Definitions**. As used in this chapter,

1. "Advisory committee" means a committee, council, board or similar entity constituted to provide advice or recommendations to the city and having no authority to take a final action on behalf of the city or take any action which would have the effect of conditioning, limiting or requiring any final action by any other agency, or to take any action which is authorized by law.

2. "Agency" means a city, county, borough or other office, position, administration, department, division, bureau, board, commission, authority, corporation, advisory committee or other agency of government, the expenses of which are paid in whole or in part from the city treasury, and shall include but not be limited to, the council, the offices of each elected official, the board of education, community school boards, community boards, the financial services corporation, the health and hospitals corporation, the public development corporation, and the New York city housing authority, but shall not include any court or any corporation or institution maintaining or operating a public library, museum, botanical garden, arboretum, tomb, memorial building, aquarium, zoological garden or similar facility.

3. "Agency served by a public servant" means (a) in the case of a paid public servant, the agency employing such public servant or (b) in the case of an unpaid public servant, the agency employing the official who has appointed such unpaid public servant unless the body to which the unpaid public servant has been appointed does not report to, or is not under the control of, the official or the agency of the official that has appointed the unpaid public servant, in which case the agency served by the unpaid public servant is the body to which the unpaid public servant has been appointed.

4. "Appear" means to make any communication, for compensation, other than those involving ministerial matters.

5. A person or firm "associated" with a public servant includes a spouse, domestic partner, child, parent or sibling; a person with whom the public servant has a business or other financial relationship; and each firm in which the public servant has a present or potential interest.

6. "Blind trust" means a trust in which a public servant, or the public servant's spouse, domestic partner, or unemancipated child, has a beneficial interest, the holdings and sources of income of which the public servant, the public servant's spouse, domestic partner, and unemancipated child have no knowledge, and which meets requirements established by rules of the board, which shall include provisions regarding the independent authority and discretion of the trustee, and the trustee's confidential treatment of information regarding the holdings and sources of income of the trust.

7. "Board" means the conflicts of interest board established by this chapter.

8. "Business dealings with the city" means any transaction with the city involving the sale, purchase, rental, disposition or exchange of any goods, services, or property, any license, permit, grant or benefit, and any performance of or litigation with respect to any of the foregoing, but shall not include any transaction involving a public servant's residence or any ministerial matter.

9. "City" means the city of New York and includes an agency of the city.

10. "Elected official" means a person holding office as mayor, comptroller, public advocate, borough president or member of the council.

11. "Firm" means sole proprietorship, joint venture, partnership, corporation and any other form of enterprise, but shall not include a public benefit corporation, local development corporation or other similar entity as defined by rule of the board.

12. "Interest" means an ownership interest in a firm or a position with a firm.

13. "Law" means state and local law, this charter, and rules issued pursuant thereto.

14. "Member" means a member of the board.

15. "Ministerial matter" means an administrative act, including the issuance of a license, permit or other permission by the city, which is carried out in a prescribed manner and which does not involve substantial personal discretion.

16. "Ownership interest" means an interest in a firm held by a public servant, or the public servant's spouse, domestic partner, or unemancipated child, which exceeds five percent of the firm or an investment of twenty-five thousand dollars in cash or other form of commitment, whichever is less, or five percent or twenty-five thousand dollars of the firm's indebtedness, whichever is less, and any lesser interest in a firm when the public servant, or the public servant's spouse, domestic partner, or unemancipated child exercises managerial control or responsibility regarding any such firm, but shall not include interests held in any pension plan, deferred compensation plan or mutual fund, the investments of which are not controlled by the public servant, the public servant's spouse, domestic partner, or unemancipated child, or in any blind trust which holds or acquires an ownership interest. The amount of twenty-five thousand dollars specified herein shall be modified by the board pursuant to subdivision a of section twenty-six hundred three.

17. "Particular matter" means any case, proceeding, application, request for a ruling or benefit, determination, contract limited to the duration of the contract as specified therein, investigation, charge, accusation, arrest, or other similar action which involves a specific party or parties, including actions leading up to the particular matter; provided that a particular matter shall not be construed to include the proposal, consideration, or enactment of local laws or resolutions by the council, or any action on the budget or text of the zoning resolution.

18. "Position" means a position in a firm, such as an officer, director, trustee, employee, or any management position, or as an attorney, agent, broker, or consultant to the firm, which does not constitute an ownership interest in the firm.

19. "Public servant" means all officials, officers and employees of the city, including members of community boards and members of advisory committees, except unpaid members of advisory committees shall not be public servants.

20. "Regular employee" means all elected officials and public servants whose primary employment, as defined by rule of the board, is with the city, but shall not include members of advisory committees or community boards.

21. a. "Spouse" means a husband or wife of a public servant who is not legally separated from such public servant.

b. “Domestic partner” means persons who have a registered domestic partnership pursuant to section 3-240 of the administrative code, a domestic partnership registered in accordance with executive order number 123, dated August 7, 1989, or a domestic partnership registered in accordance with executive order number 48, dated January 7, 1993.

22. "Supervisory official" means any person having the authority to control or direct the work of a public servant.

23. "Unemancipated child" means any son, daughter, step-son or step-daughter who is under the age of eighteen, unmarried and living in the household of the public servant.

§2602. Conflicts of interest board.

a. There shall be a conflicts of interest board consisting of five members. Three members shall be appointed by the mayor, one member shall be appointed by the public advocate, and one member shall be appointed by the comptroller. All members shall be appointed with the advice and consent of the council. The mayor shall designate a chair.

b. Members shall be chosen for their independence, integrity, civic commitment and high ethical standards. No person while a member shall hold any public office, seek election to any public office, be a public employee in any jurisdiction, hold any political party office, be a lobbyist as that term is defined in section 3-211 of the administrative code, or participate in any capacity in a campaign by a candidate for nomination for election, or election, to the office of mayor, public advocate, comptroller, borough president or member of the city council. The restrictions on contributions by natural persons who have business dealings with the city set forth in subdivision 1-a of section 3-703 of the administrative code, or a successor law, shall apply to contributions by members. Each member shall agree not to make contributions in excess of such restrictions.

c. Each member shall serve for a term of six years. Provided, however, that one member appointed by the mayor shall be appointed for a term to expire on March 31, 2020; two members appointed by the mayor shall be appointed for terms to expire on March 31, 2024; and the members first appointed by the public advocate and comptroller shall be appointed for terms to expire on March 31, 2028, replacing two mayoral appointees whose terms expire on March 31, 2022. For all members, if the appointing authority has not submitted to the council a nomination for appointment of a successor at least 60 days prior to the expiration of the term of the member whose term is expiring, the term of the member in office shall be extended for an additional year and the term of the successor to such member shall be shortened by an equal amount of time.

If the council fails to act within 45 days of receipt of such nomination from the appointing authority, the nomination shall be deemed to be confirmed. No member shall serve for more than two consecutive six-year terms.

d. Members shall receive a per diem compensation, no less than the highest amount paid to an official appointed to a board or commission with the advice and consent of the council and compensated on a per diem basis, for each calendar day when performing the work of the board.

e. Members of the board shall serve until their successors have been confirmed. Any vacancy occurring other than by expiration of a term shall be filled by nomination by the appropriate appointing authority made to the council within 60 days of the creation of the vacancy, for the unexpired portion of the term of the member succeeded. If the council fails to act within 45 days of receipt of such nomination from the appointing authority, the nomination shall be deemed to be confirmed.

f. Members may be removed by their respective appointing authority for substantial neglect of duty, gross misconduct in office, inability to discharge the powers or duties of office or violation of this section, after written notice and opportunity for a reply.

g. The board shall appoint a counsel to serve at its pleasure and shall employ or retain such other officers, employees and consultants as are necessary to exercise its powers and fulfill its obligations. The authority of the counsel shall be defined in writing, provided that neither the counsel, nor any other officer, employee or consultant of the board shall be authorized to issue advisory opinions, promulgate rules, issue subpoenas, issue final determinations of violations of this chapter, or make final recommendations of or impose penalties. The board may delegate its authority to issue advisory opinions to the chair.

h. The board shall meet at least once a month and at such other times as the chair may deem necessary. Three members of the board shall constitute a quorum and all acts of the board shall be by the affirmative vote of at least three members of the board.

§2603. Powers and obligations.

a. Rules. The board shall promulgate rules as are necessary to implement and interpret the provisions of this chapter, consistent with the goal of providing clear guidance regarding prohibited conduct. The board, by rule, shall once every four years adjust the dollar amount established in subdivision sixteen of section twenty-six hundred one of this chapter to reflect changes in the consumer price index for the metropolitan New York-New Jersey region published by the United States bureau of labor statistics.

b. Training and education.

1. The board shall have the responsibility of informing public servants and assisting their understanding of the conflicts of interest provisions of this chapter. In fulfilling this responsibility, the board shall develop educational materials regarding the conflicts of interest provisions and related interpretive rules and shall develop and administer an on-going program for the education of public servants regarding the provisions of this chapter.

2. (a) The board shall make information concerning this chapter available and known to all public servants. On or before the tenth day after an individual becomes a public servant, such public servant shall be provided with a copy of this chapter and shall sign a written statement, which shall be maintained in his or her personnel file, that such public servant has received and read and shall conform with the provisions of this chapter.

(b) Each public servant shall undergo training provided by the board in the provisions of this chapter on or before the sixtieth day after he or she becomes a public servant, and periodically as appropriate during the course of his or her city service. Every two years, each agency shall develop and implement an appropriate agency training plan in consultation with the board and the mayor's office of operations. Each agency shall cooperate with the board in order to ensure that all public servants in the agency receive the training required by this subdivision and shall maintain records documenting such training and the dates thereof. The training required by this subdivision may be in person, provided either by the board itself or by agency personnel working in conjunction with the board, or through an automated or online training program developed by the board.

(c) The failure of a public servant to receive the training required by this paragraph, to receive a copy of this chapter, or to sign the statement required by this paragraph, or the failure of the agency to maintain the required statement on file or record of training completed, shall have no effect on the duty of such public servant to comply with this chapter or on the enforcement of the provisions thereof.

c. Advisory opinions.

1. The board shall render advisory opinions with respect to all matters covered by this chapter. An advisory opinion shall be rendered on the request of a public servant or a supervisory official of a public servant and shall apply only to such public servant. The request shall be in such form as the board may require and shall

be signed by the person making the request. The opinion of the board shall be based on such facts as are presented in the request or subsequently submitted in a written, signed document.

2. Advisory opinions shall be issued only with respect to proposed future conduct or action by a public servant. A public servant whose conduct or action is the subject of an advisory opinion shall not be subject to penalties or sanctions by virtue of acting or failing to act due to a reasonable reliance on the opinion, unless material facts were omitted or misstated in the request for an opinion. The board may amend a previously issued advisory opinion after giving reasonable notice to the public servant that it is reconsidering its opinion; provided that such amended advisory opinion shall apply only to future conduct or action of the public servant.

3. The board shall make public its advisory opinions with such deletions as may be necessary to prevent disclosure of the identity of any public servant or other involved party.

The advisory opinions of the board shall be indexed by subject matter and cross-indexed by charter section and rule number and such index shall be maintained on an annual and cumulative basis.

4. All advisory opinions of the board shall include a statement that the opinion applies only to the requesting public servant or public servants, and any citation to a previously issued advisory opinion shall be accompanied by a statement that such previously issued advisory opinion applies only to the public servant or public servants on whose request it was originally rendered. Not later than the first day of May annually, the board shall determine whether any advisory opinion issued in the prior calendar year has interpretive value in construing the provisions of this chapter and either (a) establishes a test, standard or criterion; or (b) the board anticipates will be the subject of future advisory opinion requests from multiple persons. The board shall make that determination public in its annual report that is required pursuant to subdivision i of section 2603 of this chapter. The board shall initiate a rulemaking to adopt any such opinion, or part of an opinion, so determined. Not later than May 1, 2020, the conflicts of interest board shall initiate a rulemaking to adopt, as interpretive of the provisions of this chapter, any advisory opinion of the board issued after the year 1990 and before the enactment date of this local law which the board determines to be consistent with and to have interpretive value in construing the provisions of this chapter and which either (a) establishes a test, standard or criterion; or (b) is anticipated by the board to be the subject of future advisory opinion requests from multiple persons. This section shall not be construed as prohibiting the adoption of any rule after May 1, 2020, the subject of which was addressed in an advisory opinion considered pursuant to this section.

d. Financial disclosure.

1. All financial disclosure statements required to be completed and filed by public servants pursuant to state or local law shall be filed by such public servants with the board.

2. The board shall cause each statement filed with it to be examined to determine if there has been compliance with the applicable law concerning financial disclosure and to determine if there has been compliance with or violations of the provisions of this chapter.

3. The board shall issue rules concerning the filing of financial disclosure statements for the purpose of ensuring compliance by the city and all public servants with the applicable provisions of financial disclosure law.

e. Complaints.

1. The board shall receive complaints alleging violations of this chapter.

2. Whenever a written complaint is received by the board, it shall:

(a) dismiss the complaint if it determines that no further action is required by the board; or

(b) refer the complaint to the commissioner of investigation if further investigation is required for the board to determine what action is appropriate; or

(c) make an initial determination that there is probable cause to believe that a public servant has violated a provision of this chapter; or

(d) refer an alleged violation of this chapter to the head of the agency served by the public servant, if the board deems the violation to be minor or if related disciplinary charges are pending against the public servant.

3. For the purposes of this subdivision, a public servant includes a former public servant.

f. Investigations.

1. The board shall have the power to direct the department of investigation to conduct an investigation of any matter related to the board's responsibilities under this chapter. The commissioner of investigation shall, within a reasonable time, investigate any such matter and submit a confidential written report of factual findings to the board.

2. The commissioner of investigation shall make a confidential report to the board concerning the results of all investigations which involve or may involve violations of the provisions of this chapter, whether or not such investigations were made at the request of the board.

g. Referral of matters within the board's jurisdiction.

1. A public servant or supervisory official of such public servant may request the board to review and make a determination regarding a past or ongoing action of such public servant. Such request shall be reviewed

and acted upon by the board in the same manner as a complaint received by the board under subdivision e of this section.

2. Whenever an agency receives a complaint alleging a violation of this chapter or determines that a violation of this chapter may have occurred, it shall refer such matter to the board. Such referral shall be reviewed and acted upon by the board in the same manner as a complaint received by the board under subdivision e of this section.

3. For the purposes of this subdivision, public servant includes a former public servant, and a supervisory official includes a supervisory official who supervised a former public servant.

h. Hearings.

1. If the board makes an initial determination, based on a complaint, investigation or other information available to the board, that there is probable cause to believe that the public servant has violated a provision of this chapter, the board shall notify the public servant of its determination in writing. The notice shall contain a statement of the facts upon which the board relied for its determination of probable cause and a statement of the provisions of law allegedly violated. The board shall also inform the public servant of the board's procedural rules. Such public servant shall have a reasonable time to respond, either orally or in writing, and shall have the right to be represented by counsel or any other person.

2. If, after receipt of the public servant's response, the board determines that there is no probable cause to believe that a violation has occurred, the board shall dismiss the matter and inform the public servant in writing of its decision. If, after the consideration of the response by the public servant, the board determines there remains probable cause to believe that a violation of the provisions of this chapter has occurred, the board shall hold or direct a hearing to be held on the record to determine whether such violation has occurred, or shall refer the matter to the appropriate agency if the public servant is subject to the jurisdiction of any state law or collective bargaining agreement which provides for the conduct of disciplinary proceedings, provided that when such a matter is referred to an agency, the agency shall consult with the board before issuing a final decision.

3. If the board determines, after a hearing or the opportunity for a hearing, that a public servant has violated provisions of this chapter, it shall, after consultation with the head of the agency served or formerly served by the public servant, or in the case of an agency head, with the mayor, issue an order either imposing such penalties provided for by this chapter as it deems appropriate, or recommending such penalties to the head of the agency served or formerly served by the public servant, or in the case of an agency head, to the mayor; provided, however, that the board shall not impose penalties against members of the council, or public servants employed by the council or by members of the council, but may recommend to the council such penalties as it deems appropriate. The order shall include findings of fact and conclusions of law. When a penalty is recommended, the head of the agency or the council shall report to the board what action was taken.

4. Hearings of the board shall not be public unless requested by the public servant. The order and the board's findings and conclusions shall be made public.

5. The board shall maintain an index of all persons found to be in violation of this chapter, by name, office and date of order. The index and the determinations of probable cause and orders in such cases shall be made available for public inspection and copying.

6. Nothing contained in this section shall prohibit the appointing officer of a public servant from terminating or otherwise disciplining such public servant, where such appointing officer is otherwise authorized to do so; provided, however, that such action by the appointing officer shall not preclude the board from exercising its powers and duties under this chapter with respect to the actions of any such public servant.

7. For the purposes of this subdivision, the term public servant shall include a former public servant.

i. Annual report.

The board shall submit an annual report to the mayor and the council in accordance with section eleven hundred and six of this charter. The report shall include a summary of the proceedings and activities of the board, a description of the education and training conducted pursuant to the requirements of this chapter, a statistical summary and evaluation of complaints and referrals received and their disposition, such legislative and administrative recommendations as the board deems appropriate, the rules of the board, and the index of opinions and orders of that year. The report, which shall be made available to the public, shall not contain information, which, if disclosed, would constitute an unwarranted invasion of the privacy of a public servant.

j. Revision.

The board shall review the provisions of this chapter and shall recommend to the council from time to time such changes or additions as it may consider appropriate or desirable. Such review and recommendation shall be made at least once every five years.

k. Except as otherwise provided in this chapter, the records, reports, memoranda and files of the board shall be confidential and shall not be subject to public scrutiny.

§2604. Prohibited interests and conduct.

a. Prohibited interests in firms engaged in business dealings with the city.

1. Except as provided in paragraph three below,

(a) no public servant shall have an interest in a firm which such public servant knows is engaged in business dealings with the agency served by such public servant; provided, however, that, subject to paragraph one of subdivision b of this section, an appointed member of a community board shall not be prohibited from having an interest in a firm which may be affected by an action on a matter before the community or borough board, and

(b) no regular employee shall have an interest in a firm which such regular employee knows is engaged in business dealings with the city, except if such interest is in a firm whose shares are publicly traded, as defined by rule of the board.

2. Prior to acquiring or accepting an interest in a firm whose shares are publicly traded, a public servant may submit a written request to the head of the agency served by the public servant for a determination of whether such firm is engaged in business dealings with such agency. Such determination shall be in writing, shall be rendered expeditiously and shall be binding on the city and the public servant with respect to the prohibition of subparagraph a of paragraph one of this subdivision.

3. An individual who, prior to becoming a public servant, has an ownership interest which would be prohibited by paragraph one above; or a public servant who has an ownership interest and did not know of a business dealing which would cause the interest to be one prohibited by paragraph one above, but has subsequently gained knowledge of such business dealing; or a public servant who holds an ownership interest which, subsequent to the public servant's acquisition of the interest, enters into a business dealing which would cause the ownership interest to be one prohibited by paragraph one above; or a public servant who, by operation of law, obtains an ownership interest which would be prohibited by paragraph one above shall, prior to becoming a public servant or, if already a public servant, within ten days of knowing of the business dealing, either:

(a) divest the ownership interest; or

(b) disclose to the board such ownership interest and comply with its order.

4. When an individual or public servant discloses an interest to the board pursuant to paragraph three of this subdivision, the board shall issue an order setting forth its determination as to whether or not such interest, if maintained, would be in conflict with the proper discharge of the public servant's official duties. In making such determination, the board shall take into account the nature of the public servant's official duties, the manner in which the interest may be affected by any action of the city, and the appearance of conflict to the public. If the board determines a conflict exists, the board's order shall require divestiture or such other action as it deems appropriate which may mitigate such a conflict, taking into account the financial burden of any decision on the public servant.

5. For the purposes of this subdivision, the agency served by

(a) an elected official, other than a member of the council, shall be the executive branch of the city government,

(b) a public servant who is a deputy mayor, the director to the office of management and budget, commissioner of citywide administrative services, corporation counsel, commissioner of finance, commissioner of investigation or chair of the city planning commission, or who serves in the executive branch of city government and is charged with substantial policy discretion involving city-wide policy as determined by the board, shall be the executive branch of the city government,

(c) a public servant designated by a member of the board of estimate to act in the place of such member as a member of the board of estimate, shall include the board of estimate, and

(d) a member of the council shall be the legislative branch of the city government

6. For the purposes of subdivisions a and b of section twenty-six hundred six, a public servant shall be deemed to know of a business dealing with the city if such public servant should have known of such business dealing with the city.

b. Prohibited conduct.

1. A public servant who has an interest in a firm which is not prohibited by subdivision a of this section, shall not take any action as a public servant particularly affecting that interest, except that

(a) in the case of an elected official, such action shall not be prohibited, but the elected official shall disclose the interest to the conflicts of interest board, and on the official records of the council or the board of estimate in the case of matters before those bodies,

(b) in the case of an appointed community board member, such action shall not be prohibited, but no member may vote on any matter before the community or borough board which may result in a personal and direct economic gain to the member or any person with whom the member is associated, and

(c) in the case of all other public servants, if the interest is less than ten thousand dollars, such action shall not be prohibited, but the public servant shall disclose the interest to the board.

2. No public servant shall engage in any business, transaction or private employment, or have any financial or other private interest, direct or indirect, which is in conflict with the proper discharge of his or her official duties.

3. No public servant shall use or attempt to use his or her position as a public servant to obtain any financial gain, contract, license, privilege or other private or personal advantage, direct or indirect, for the public servant or any person or firm associated with the public servant.

4. No public servant shall disclose any confidential information concerning the property, affairs or government of the city which is obtained as a result of the official duties of such public servant and which is not otherwise available to the public, or use any such information to advance any direct or indirect financial or other private interest of the public servant or of any other person or firm associated with the public servant; provided, however, that this shall not prohibit any public servant from disclosing any information concerning conduct which the public servant knows or reasonably believes to involve waste, inefficiency, corruption, criminal activity or conflict of interest.

5. No public servant shall accept any valuable gift, as defined by rule of the board, from any person or firm which such public servant knows is or intends to become engaged

in business dealings with the city, except that nothing contained herein shall prohibit a public servant from accepting a gift which is customary on family and social occasions.

6. No public servant shall, for compensation, represent private interests before any city agency or appear directly or indirectly on behalf of private interests in matters involving the city. For a public servant who is not a regular employee, this prohibition shall apply only to the agency served by the public servant.

7. No public servant shall appear as attorney or counsel against the interests of the city in any litigation to which the city is a party, or in any action or proceeding in which the city, or any public servant of the city, acting in the course of official duties, is a complainant, provided that this paragraph shall not apply to a public servant employed by an elected official who appears as attorney or counsel for that elected official in any litigation, action or proceeding in which the elected official has standing and authority to participate by virtue of his or her capacity as an elected official, including any part of a litigation, action or proceeding prior to or at which standing or authority to participate is determined. This paragraph shall not in any way be construed to expand or limit the standing or authority of any elected official to participate in any litigation, action or proceeding, nor shall it in any way affect the powers and duties of the corporation counsel. For a public servant who is not a regular employee, this prohibition shall apply only to the agency served by the public servant.

8. No public servant shall give opinion evidence as a paid expert against the interests of the city in any civil litigation brought by or against the city. For a public servant who is not a regular employee, this prohibition shall apply only to the agency served by the public servant.

9. No public servant shall,

(a) coerce or attempt to coerce, by intimidation, threats or otherwise, any public servant to engage in political activities, or

(b) request any subordinate public servant to participate in a political campaign. For purposes of this subparagraph, participation in a political campaign shall include managing or aiding in the management of a campaign, soliciting votes or canvassing voters for a particular candidate or performing any similar acts which are unrelated to the public servant's duties or responsibilities. Nothing contained herein shall prohibit a public servant from requesting a subordinate public servant to speak on behalf of a candidate, or provide information or perform other similar acts, if such acts are related to matters within the public servant's duties or responsibilities.

10. No public servant shall give or promise to give any portion of the public servant's compensation, or any money, or valuable thing to any person in consideration of having been or being nominated, appointed, elected or employed as a public servant.

11. No public servant shall, directly or indirectly,

(a) compel, induce or request any person to pay any political assessment, subscription or contribution, under threat of prejudice to or promise of or to secure advantage in rank, compensation or other job-related status or function.

(b) pay or promise to pay any political assessment, subscription or contribution in consideration of having been or being nominated, elected or employed as such public servant or to secure advantage in rank, compensation or other job-related status or function, or

(c) compel, induce or request any subordinate public servant to pay any political assessment, subscription or contribution.

12. No public servant, other than an elected official, who is a deputy mayor, or head of an agency or who is charged with substantial policy discretion as defined by rule of the board, shall directly or indirectly request any person to make or pay any political assessment, subscription or contribution for any candidate for an elective office of the city or for any elected official who is a candidate for any elective office; provided that nothing contained in this paragraph shall be construed to prohibit such public servant from speaking on behalf

of any such candidate or elected official at an occasion where a request for a political assessment, subscription or contribution may be made by others.

13. No public servant shall receive compensation except from the city for performing any official duty or accept or receive any gratuity from any person whose interests may be affected by the public servant's official action.

14. No public servant shall enter into any business or financial relationship with another public servant who is a superior or subordinate of such public servant.

15. No elected official, deputy mayor, deputy to a citywide or boroughwide elected official, head of an agency, or other public servant who is charged with substantial policy discretion as defined by rule of the board may be a member of the national or state committee of a political party, serve as an assembly district leader of a political party or serve as the chair or as an officer of the county committee or county executive committee of a political party, except that a member of the council may serve as an assembly district leader or hold any lesser political office as defined by rule of the board.

c. This section shall not prohibit:

1. an elected official from appearing without compensation before any city agency on behalf of constituents or in the performance of public official or civic obligations;

2. a public servant from accepting or receiving any benefit or facility which is provided for or made available to citizens or residents, or classes of citizens or residents, under housing or other general welfare legislation or in the exercise of the police power;

3. a public servant from obtaining a loan from any financial institution upon terms and conditions available to members of the public;

4. any physician, dentist, optometrist, podiatrist, pharmacist, chiropractor or other person who is eligible to provide services or supplies under title eleven of article five of the social services law and is receiving any salary or other compensation from the city treasury, from providing professional services and supplies to persons who are entitled to benefits under such title, provided that, in the case of services or supplies provided by those who perform audit, review or other administrative functions pursuant to the provisions of such title, the New York state department of health reviews and approves payment for such services or supplies and provided further that there is no conflict with their official duties; nothing in this paragraph shall be construed to authorize payment to such persons under such title for services or supplies furnished in the course of their employment by the city;

5. any member of the uniformed force of the police department from being employed in the private security field, provided that such member has received approval from the police commissioner therefor and has complied with all rules and regulations promulgated by the police commissioner relating to such employment;

6. a public servant from acting as attorney, agent, broker, employee, officer, director or consultant for any not-for-profit corporation, or association, or other such entity which operates on a not-for-profit basis, interested in business dealings with the city, provided that:

(a) such public servant takes no direct or indirect part in such business dealings;

(b) such not-for-profit entity has no direct or indirect interest in any business dealings with the city agency in which the public servant is employed and is not subject to supervision, control or regulation by such agency, except where it is determined by the head of an agency, or by the mayor where the public servant is an agency head, that such activity is in furtherance of the purposes and interests of the city;

(c) all such activities by such public servant shall be performed at times during which the public servant is not required to perform services for the city; and

(d) such public servant receives no salary or other compensation in connection with such activities;

7. a public servant, other than elected officials, employees in the office of property management of the department of housing preservation and development, employees in the department of citywide administrative services who are designated by the commissioner of such department pursuant to this paragraph, and the commissioners, deputy commissioners, assistant commissioners and others of equivalent ranks in such departments, or the successors to such departments, from bidding on and purchasing any city-owned real property at public auction or sealed bid sale, or from purchasing any city-owned residential building containing six or less dwelling units through negotiated sale, provided that such public servant, in the course of city employment, did not participate in decisions or matters affecting the disposition of the city property to be purchased and has no such matters under active consideration. The commissioner of citywide administrative services shall designate all employees of the department of citywide administrative services whose functions relate to citywide real property matters to be subject to this paragraph; or

8. a public servant from participating in collective bargaining or from paying union or shop fees or dues or, if such public servant is a union member, from requesting a subordinate public servant who is a member of such union to contribute to union political action committees or other similar entities.

d. Post-employment restrictions.

1. No public servant shall solicit, negotiate for or accept any position (a) from which, after leaving city service, the public servant would be disqualified under this subdivision, or (b) with any person or firm who or which is involved in a particular matter with the city, while such public servant is actively considering, or is directly concerned or personally participating in such particular matter on behalf of the city.

2. (a) No former public servant, other than those public servants listed in subparagraphs (b) and (c) of this paragraph, shall, within a period of one year after termination of such person's service with the city, appear before the city agency served by such public servant.

(b) The following former public servants shall not, within a period of two years after termination of their service with the city, appear before the city agency they served:

(1) any head of an agency that is not a board or commission, other than the agency heads listed in subparagraph (c) of this paragraph;
(2) the executive director or the highest ranking public servant employed by a board or commission; and
(3) any paid member of a board or commission.

(c) The following former public servants shall not, within a period of two years after termination of their service with the city, appear before any agency in the branch of city government they served:

(1) any elected official; and
(2) the holder of the position of deputy mayor, director of the office of management and budget, commissioner of citywide administrative services, corporation counsel, commissioner of finance, commissioner of investigation and chair of the city planning commission.

For the purposes of this subparagraph (c), the legislative branch of the city consists of the council and the offices of the council, and the executive branch of the city consists of all other agencies of the city, including the office of the public advocate.

3. The prohibitions set forth in subparagraphs (a), (b) and (c) of paragraph 2 of this subdivision shall not be deemed to prohibit a former public servant from making communications with the agency served by the public servant, or with any agency in the branch of city government served by the public servant, as applicable, which are incidental to an otherwise permitted appearance in an adjudicative proceeding before another agency or body, or a court, unless the proceeding was pending in the agency served during the period of the public servant's service with such agency or in any agency in the branch of city government served during the period of the public servant's service, as applicable.

4. No person who has served as a public servant shall appear, whether paid or unpaid, before the city, or receive compensation for any services rendered, in relation to any particular matter involving the same party or parties with respect to which particular matter such person had participated personally and substantially as a public servant through decision, approval, recommendation, investigation or other similar activities.

5. No public servant shall, after leaving city service, disclose or use for private advantage any confidential information gained from public service which is not otherwise made available to the public; provided, however, that this shall not prohibit any public servant from disclosing any information concerning conduct which the public servant knows or reasonably believes to involve waste, inefficiency, corruption, criminal activity or conflict of interest.

6. The prohibitions on negotiating for and having certain positions after leaving city service, shall not apply to positions with or representation on behalf of any local, state or federal agency.

7. Nothing contained in this subdivision shall prohibit a former public servant from being associated with or having a position in a firm which appears before a city agency or from acting in a ministerial matter regarding business dealings with the city.

e. Allowed positions.

A public servant or former public servant may hold or negotiate for a position otherwise prohibited by this section, where the holding of the position would not be in conflict with the purposes and interests of the city, if, after written approval by the head of the agency or agencies involved, the board determines that the position involves no such conflict. Such findings shall be in writing and made public by the board.

§2605. Reporting.
No public servant shall attempt to influence the course of any proposed legislation in the legislative body of the city without publicly disclosing on the official records of the legislative body the nature and extent of any direct or indirect financial or other private interest the public servant may have in such legislation.

§2606. Penalties.
a. Upon a determination by the board that a violation of section twenty-six hundred four or twenty-six hundred five of this chapter, involving a contract work, business, sale or transaction, has occurred, the board shall have the power, after consultation with the head of the agency involved, or in the case of an agency head, with the mayor, to render forfeit and void the transaction in question.

b. Upon a determination by the board that a violation of section twenty-six hundred four or twenty-six hundred five of this chapter has occurred, the board, after consultation with the head of the agency involved, or in the case of an agency head, with the mayor, shall have the power to impose fines of up to twenty-five thousand dollars, and to recommend to the appointing authority, or person or body charged by law with responsibility for imposing such penalties, suspension or removal from office or employment.

b-1. In addition to the penalties set forth in subdivisions a and b of this section, the board shall have the power to order payment to the city of the value of any gain or benefit obtained by the respondent as a result of the violation in accordance with rules consistent with subdivision h of section twenty-six hundred three.

c. Any person who violates section twenty-six hundred four or twenty-six hundred five of this chapter shall be guilty of a misdemeanor and, on conviction thereof, shall forfeit his or her public office or employment. Any person who violates paragraph ten of subdivision b of section twenty-six hundred four, on conviction thereof, shall additionally be forever disqualified from being elected, appointed or employed in the service of the city. A public servant must be found to have had actual knowledge of a business dealing with the city in order to be found guilty under this subdivision, of a violation of subdivision a of section twenty-six hundred four of this chapter.

d. Notwithstanding the provisions of subdivisions a, b and c of this section, no penalties shall be imposed for a violation of paragraph two of subdivision b of section twenty-six hundred four unless such violation involved conduct identified by rule of the board as prohibited by such paragraph.

§2607. Gifts by lobbyists.
Complaints made pursuant to subchapter three of chapter two of title three of the administrative code shall be made, received, investigated and adjudicated in a manner consistent with investigation and adjudication of conflicts of interest pursuant to this chapter and chapter thirty-four.

Appendix F

Bylaws of the New York City Rent Guidelines Board

Article One

Organization

Name: The name of this organization shall be NEW YORK CITY RENT GUIDELINES BOARD (herein referred to as the "Board").

Article Two

Purpose and Powers

The Board shall establish annually guidelines for rent adjustments for rent stabilized housing accommodations in New York City which are subject to the New York City Rent Stabilization Law of 1969 (hereinafter referred to as the "RSL") and the New York State Emergency Tenant Protection Act of 1974 (hereinafter referred to as the "ETPA"), including any extensions, amendments of renewals thereof.

The Board shall have the power to do any and all acts consistent with the provisions of the RSL and consistent with any and all enabling state and federal legislation, such as but not limited to, the ETPA.

In setting these guidelines, the Board shall 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 maintenance costs (including insurance rates, cost of fuel and labor costs), (iii) costs and availability of financing (including effective rates of interest), (iv) over-all supply of housing accommodations and over-all 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.

Article Three

Membership

The Board shall consist of 9 members. Appointment, removal and qualifications of Board members shall be in accord with the RSL.

Article Four

Officers

One public member shall be designated by the Mayor to serve as Chairman and shall hold no other public office.

The Chairman shall be chief administrative officer of the Board and among his or her powers and duties he or she shall have the authority to employ, assign and supervise the employees of the Board and enter into contracts for consultant services.

Article Five

Compensation of Members

Board members shall be compensated in accordance with the provisions of the RSL.

Article Six

Staff

The Board shall have a permanent staff to assist it in carrying out its mandate. The staff may consist of an Executive Director/Research Director, Research Associate, Counsel, Office Manager and Secretary. Notwithstanding anything herein to the contrary, the Chairman may modify the composition of the staff by adding of subtracting employees or by changing their responsibilities, provided such modifications are consistent with the overall financial resources of the Board.

Article Seven

Hearings and Meetings

1. Annual Hearings. Prior to the annual adjustments of the level of fair rents for dwelling units and hotel units covered by the RSL the Board shall hold a public hearing, or hearings for the purpose of collecting information.

2. Annual Meetings. Pursuant to the RSL, the Board shall hold public meetings sufficient in number to enable it to fulfill its statutory mandate of issuing annual guidelines for units covered under the RSL.

3. Special Meetings and Hearings. The Chairman may hold hearings and/or meetings in addition to those above mentioned for any purpose consistent with the Board's mandate.

4. Notice of Meetings and Hearings. Notice of all meetings and hearings shall meet the requirements of law.

5. Place of Meeting and Hearings. Every hearing and meeting of the Board shall take place within the City and State of New York.

6. Quorum Requirements. At all meetings of the Board, the Attendance of five members thereof shall constitute a quorum for the transaction of business.

Once a quorum is attained the meeting may continue thereafter, even though a member (or members) whose presence was necessary to constitute the quorum leaves the meeting prior to its adjournment, but no purported action of the Board shall be valid unless the vote thereon is in accord with the voting requirements as specified herein below.

7. Order of Business. The order of business at all meetings shall be determined by the Chairman, but such order may be changed by a majority of those members present. If the Chairman is unavailable to preside over a meeting, he or she shall appoint another public Board member to preside over and to determine the order of business for such meeting by orally notifying the Board's staff of such appointment.

8. Rules of Order. All meetings and hearings win be conducted in accordance with Robert's Rules of Order unless such rules are in conflict with anything stated herein, in which case these Bylaws shall control.

9. Voting. Each Board member, including the Chairman, shall be entitled to vote when he or she is present at a meeting. A member will not be entitled to vote by proxy.

The vote of at least five members of the board shall constitute an act of the Board, except as otherwise required by law or by these Bylaws.

The amendment of repeal of these Bylaws shall require the vote of at least six Board members.

Article Eight

Promulgation of Guideline Orders

Not later than July first of each year, the Board shall file with the City Clerk its findings for the preceding year, and shall accompany such findings with a statement of the maximum rate or rates of rent adjustment, if any, for one or more classes of accommodations subject to the RSL for leases or other rental agreements commencing during the twelve month period beginning October first of that year.

On or about May first of each year, but not later than July first of that year, the Board shall issue its guidelines, as described in the above paragraph, for hotel dwelling units subject to the RSL.

Article Nine

Bylaws

The decision of the Board shall be conclusive on all questions of construction of these Bylaws.

Adopted May 18, 1981

Appendix G

Payment History of PIOC: BLS Contract, consultants, RGB Staff

YEAR	CONTRACT AMOUNT	BLS/Consultant∞	RSA
1970	$150,000	$150,000	
1971	$122,000	$122,000	
1972	$150,000	$ 50,000	$100,000
1973	$155,000	$ 55,000	$100,000
1974	$160,000	$ 55,000	$105,000
1975	$175,000	$ 60,000	$115,000
1976	$183,000		$183,000
1977	$190,000		$190,000
1978	$196,000	$ 35,000	$161,000
1979	$207,000	$207,000	
1980	$224,000	$224,000	
1981	$242,000	$242,000	
1982	$292,000	$292,000	
1983	$300,000	$300,000	
1984	$250,000	$250,000	
1985	$287,384	$287,384	
1986	$235,000	$235,000	
1987	$1.00*	$1.00*	
1988	$191,178	$191,178	
1989	$195,053	$195,053	
1990	$174,858	$174,858	
1991	$120,907	$120,907 (RGB Staff)**	
1992	n/a	$ 58,542 (RGB Staff)***	
1993	n/a	$ 54,637 (RGB Staff)***	
1994	n/a	$ 52,173 (RGB Staff)	
1995	n/a	$ 38,630 (RGB Staff)	
1996	n/a	$ 20,139 (RGB Staff)	
1997	n/a	$ 21,726 (RGB Staff)	
1998	n/a	$ 24,668 (RGB Staff)	
1999	n/a	$ 33,384 (RGB Staff)***	

∞The Department of Housing Preservation and Development (HPD) issued the PIOC contract from 1970 to 1981 to the Bureau of Labor Statistics. Private consulting groups performed the PIOC from 1982 to 1990. The PIOC was brought "in-house" in 1991.
* PIOC contract rejected by NYC Board of Estimate; Performed gratis by USR&E.
** Consultant supplied survey workers and prepared tax relative.
*** Consultant prepared tax relative only.
Note: Costs for 1992-99 include printing and mailing costs, temporary workers salaries, consultants contracts and PIOC supervisor salary February to April.

R E S O L U T I O N

NEW YORK CITY RENT GUIDELINES BOARD
FEBRUARY 13, 1991

Whereas, §310(2) of the New York City Charter provides as follows:

Sec. 310. Scope. Except as otherwise provided in this charter or by statute,

> 2. all goods, services or construction to be procured by an entity, the majority of the members of whose board are city officials or are individuals appointed directly or indirectly by city officials shall be procured as prescribed in this chapter; provided, however, that where the provisions of this chapter require action by the mayor or an appointee of the mayor in regard to a particular procurement except for mayoral action pursuant to subdivision c of section three hundred thirty-four, such action shall not be taken by the mayor or such appointee of the mayor, but shall be taken by the governing board of such entity or by the chair of the board or chief executive officer of such entity pursuant to a resolution adopted by such board delegating such authority to such officer;

and

Whereas, the Chair of the Rent Guidelines Board is its chief administrative officer and has the authority to enter into consulting contracts pursuant to §26-510 of the Rent Stabilization Law and Article Four of the Bylaws of the Rent Guidelines Board; and

Whereas, by resolution adopted on December 4, 1990, the Rent Guidelines Board has directed its staff to produce a price index of operating costs for 1991, comparable in scope and methodology to price indices produced in prior years, and has further authorized the hiring of a consultant and other necessary personnel to assist the staff in this effort; and

Whereas, the need to purchase goods and services to support the Board's research needs may arise from time to time and may require the involvement of the Chair of the Rent Guidelines Board to act as Mayor under the procurement system Established pursuant to Chapter 13, of the New York City Charter,

NOW THEREFORE BE IT RESOLVED, that the New York City Rent Guidelines Board thereby delegates to its Chair full authority to act as, and on behalf of, the Board in all matters involving the procurement of goods and services governed by Chapter 13 of the New York City Charter. This resolution shall remain in effect until such time-- as it is specifically revoked by a majority of total members of the Rent Guidelines Board or is otherwise terminated by operation of law.

RENT GUIDELINES BOARD
EMPLOYEE
OFFICE MANUAL

FOR THE EMPLOYEES OF THE
NEW YORK CITY RENT GUIDELINES BOARD

November 2006

TABLE OF CONTENTS

Subject		Page
I.	Workday	4
II.	Time Records	5
III.	Annual Leave	5
IV.	Sick Leave Allowance	7
V.	Compensatory Time	7
VI.	Information On Time Balances	8
VII.	Meal Allowance	8
VIII.	Holidays	8
IX.	Work Habits	9

PREFACE

PURPOSE OF MANUAL

This manual summarizes the rules and regulations which govern the Rent Guidelines Board employees. It is to be used as an authoritative guide by all RGB employees.

When the staff office was established in 1980 it was with the understanding that staff employees would be treated like City employees with respect to matters such as compensatory time, annual leave, fringe benefits and that annual salary adjustments would track those for municipal employees in the prior years. Some adjustments have been made to accommodate the unique obligations of the office.

I. THE WORKDAY

A. The workday is eight hours long. All employees are to work 7 hours per day, 35 hours per week, and are required to take a one hour lunch period each day. The normal workday is from 9 a.m. to 5 p.m. unless prior arrangements have been made with the Executive Director. Flex time may be arranged so that thc workday may begin as early as 7:30 a.m. or as late as 10:00 a.m., and as early as 3:30 p.m. or as late as 6:00 p.m. with the prior approval of thc Executive Director. The workweek is five days long, beginning Monday and ending on Friday.

During the period from February 15th through June 30th staff may be requested to work weekend hours. All staff members are expected to be reasonably flexible with these work demands.

Compensatory or weekend hours must be requested by or otherwise pre-approved by the Executive Director or Director of Research.

B. Lunch Period

Employees are allowed to take one hour for lunch at a set time unless approval is received for other arrangements by the Executive Director or Director of Research. Employees are not supposed to work for more than five hours before taking their lunch break. Employees responsible for phones wishing to take lunch at a different time should make arrangements to switch hours with another employee.

The lunch hour cannot be shortened to provide for late arrival or early departure. If employees are requested to shorten their lunch period, or remain in the office and work through lunch, they may receive credit at the end of the day for each quarter hour of lunch time lost. Such credit must be authorized by either the Executive Director or Director of Research **in advance.**

Employees are expected to return from their lunch periods promptly.

C. Lateness

Employees should arrive at work on time and be ready to begin their work at the start of their work schedule. It is important that every employee report to work on time every day. If you are unable to report to work for whatever reason, or expect to be more than 15 minutes late, you should call the Executive Director or the Director of Research. If they are unavailable when you call, leave a message with whomever answers the phone.
Lateness without good reason is not acceptable in this office.

D. Management Hours

The Director of Research and Executive Director will arrange to assure that at least one Director is generally present in the office between the hours of 8:00 a.m. and 6:00 p.m. If necessary, either Director may be contacted at home during these business hours.

E. Public Meeting and Hearing Days

All employees are expected to report to work at least 1 hour prior to scheduled time of Public Meetings or Hearings in order to prepare any last minute materials needed by the Board members.

All employees are expected to help in setting up the meeting rooms prior to the start of the meetings or hearings. The set up involves arranging tables and chairs, recording equipment, coffee/tea, placing material in the Board Members' folders, etc.

II. TIME RECORD

A. Weekly Attendance Sheets

Time sheets must be filled out promptly with each arrival and departure.

III. ANNUAL LEAVE

Annual leave is a combined vacation, personal business, and religious holiday leave allowance.

A. Accrual of Time – All Employees other than Executive and Research Directors

Employees are credited with the monthly accrual of annual leave after being in full pay status for at least fifteen (15) calendar days that month.

Annual leave for employees hired **FROM 2/2/92 TO 6/30/04** is as follows:

Completed Years of Service	Yearly (Days)	Monthly (Hrs:Mins
1	18 work days	10:30
4	19	11:05
5	20	11:40
8	25	14:35
15+	27	15:45

Annual leave for employees hired **ON OR AFTER 7/1/04** is as follows:

Completed Years of Service	Yearly (Days)	Monthly (Hrs:Mins
1	17 work days	9:55
2	18	10:30
6	19	11:05
9	20	11:40
10	21	12:15
11	22	12:50
12	23	13:25
15	25	14:35
17+	27	15:45

Employees requesting annual leave in any amount must notify and receive prior approval from the Executive Director.

B. Accrual of Time – Executive and Research Directors

Employees are credited with the monthly accrual of annual leave after being in full pay status for at least fifteen (15) calendar days that month.

Annual leave for directors hired **PRIOR TO 7/1/2004** is as follows:

Completed Years of Service	Yearly (Days)	Monthly (Hrs:Mins
1	20 work days	13:20
8	25	14:35
15+	27	15:45

Annual leave for directors hired **ON OR AFTER 7/1/04** is as follows:

Completed Years of Service	Yearly (Days)	Monthly (Hrs:Mins
1	18	10:30
5	19	11:05
7	20	11:40
10	21	12:15
11	22	12:50
12	23	13:25
13	24	14:00
14	25	14:35
17+	27	15:45

The Research Director requesting annual leave in any amount must notify and receive prior approval from the Executive Director.

IV. SICK LEAVE ALLOWACE

Sick leave is to be used only for the employee's personal medical purposes.

A. Accrual of Time

Sick leave allowance is one day per month. There is no limit on the amount of sick leave an employee may accrue. There are no restrictions on the use of sick leave based on length of service.

During the period from March l5-June 30, sick leave will only be granted for illnesses which require a visit to thc doctor or thc hospital. The requirement of a doctor's note may be waived by the Executive Director or Director of Research if a full explanation as to why a doctor's visit is not necessary is given by noon of the day in which sick leave commences. Any absence of more than

three (3) days will require a doctor's note at any time without exception. Employees taking sick leave at any time of year are obligated to notify the office as soon as sick leave commences.

Death in the family: Up to four (4) days paid leave will be granted to any employee who suffers the loss of an immediate family member. This includes spouse, registered domestic partner, child, parent, sister, brother, father-in-law, mother-in-law, grandchild or any relative residing in the employee's household. This leave is NOT deducted from annual, sick or compensatory leave and is considered Bereavement Leave.

V. COMPENSATORY TIME

Authorized voluntary overtime beyond the normal work week is compensated by time off at the rate of straight time. An employee receives credit for overtime only when the overtime exceeds one (1) hour in a work week.

Compensatory time may be used in units of one-half (1/2) hour except when reporting to work. In this case, the minimum charge is one (1) hour. The use of compensatory time must have the prior approval of the Executive Director or Director Research.

Although compensatory time should be used within three months of its accrual, the Board's schedule may make this impossible for individual staff members. Therefore, staff members with large overtime balances should consult with the Executive Director regarding its use.

During the period from February l5th-June 30th compensatory time can be used only with the permission of the Executive Director. Leave will be granted during this period only for compelling circumstances.

VI. INFORMATION ON TME BALANCES

All questions relating to your time balances should be directed to the Executive Director or Director of Research.

At the end of each month all employees will be given a summary attendance sheet, which will show the amount of overtime, sick leave and annual leave you have earned and how much you have used for the prior month.

VII. MEAL ALLOWANCE

If employees are required to work overtime and if dinner is not provided for them, they will be entitled to a monetary allowance for meals.

The allowance is provided according to the following schedule:

For two continuous hours of overtime $8.25
For five continuous hours of overtime $8.75

An employee should apply for a meal allowance immediately after earning it by notifying the Executive Director or Director of Research. This will be reimbursed in cash after the next pay period.

VIII. HOLIDAYS

A. Our regular holidays with pay are:

1. New Year's Day
2. Martin Luther King's Birthday
3. Washington's Birthday
4. Memorial Day
5. Independence Day
6. Labor Day
7. Columbus Day
8. Election Day
9. Veteran's Day
10. Thanksgiving Day
11. Christmas Day

When a holiday falls on Saturday, it shall be observed on the preceding Friday. When a holiday falls on Sunday, it shall be observed on the following Monday.

Employees hired prior to July 1, 2004 are entitled to one floating holiday in each calendar year during which the employee is in active pay status with the employer prior to Lincoln's Birthday of such calendar year. The floating holiday shall be taken at the employee's discretion, subject to the needs of the RGB. The floating holiday must be used in the calendar year in which it is earned and may not be carried over to a succeeding year or cashed out upon separation of service. If the agency head calls upon an employee not to take the floating holiday by the end of the calendar year, the floating holiday shall be carried over to the following calendar year only.

X. WORK HABIT

All staff members are expected to complete their work in a timely fashion. Anyone who has completed their assignments should inform the Executive Director or Director of Research as soon as possible.

Staff members will meet with the Executive Director and Director of Research every three months on a formal basis for a briefing on their work and, of course, on an as needed basis in between.

All staff members are responsible for proofreading their own work. No correspondence, table, chart, etc. should be circulated unless it has been proofread twice. Staff members are expected to cooperate in proofreading each other's work. Correspondence from the Executive Director or Director of Research will be proofread by the person who typed it and at least once by another Director or staff member.

All employees (with the exception of the Executive Director and the Director of Research) will be expected to answer the phone if, for whatever reason, the Public Information Assistant and Office Manager are unavailable to handle the phones.

RGB Staff Library - The library is located in the conference room. There are copies of various reports and other documents from various other agencies. When you have finished with any item taken from the library return it to the bin located in the library area so that it can be placed on the proper shelf.

Dress Code - As general rule employees of the Rent Guidelines Board may dress informally except for the following times:

a. If you have to attend a meeting outside the office or:
b. If there is a public meeting or hearing of the Board, then in both instances employees are required to dress appropriately.

All employees are expected to be generally neat and clean.

The City of New York

Rent Guidelines Board
51 Chambers Street, Room 202
New York, NY 10007
212-349-2262

Chairman: Aston L. Glaves

Public Members: Hilda Blanco, Barbara Gordon-Espejo. Agustin Rivera, Jane Stanicki
Owner Members: Joseph L. Forstadt, Harold A. Lubell
Tenant Members: Leslie Holmes, Kenneth Rosenfeld
Executive Director: Timothy Collins
Director of Research: Douglas Hillstrom

April 27, 1993

To: Members of the Board
From: D. Hillstrom
Subject: Commensurate Rent Increase

The commensurate rent increase is a formula which the RGB has used throughout its history. The commensurate rent increase has been explained as the percentage rent increase needed to maintain landlords' current dollar net operating income (NOI) at a constant level. The commensurate rent increase for this year is[162]:

One Year Lease	Two year Lease
3.3%	4.0%

As a means of compensating landlords for cost increases, the commensurate rent increase formula has two major drawbacks. First, although the formula is supposed to keep landlords' current dollar income at a fixed level, the formula doesn't consider the mix of one and two year lease renewals. Since only two-thirds of leases are renewed in any given year, and a preponderance of leases are for two years, the formula does not necessarily accurately estimate the amount of income needed to compensate landlords for past O&M increases.

A second possible flaw of the commensurate formula is that it does not consider the erosion of landlords' income by inflation. By maintaining current dollar net operating income at a constant level, adherence to the formula may cause profitability to decline

[162] The accuracy of the PIOC is assumed as is the collectability of legally authorized increases. Calculating the Commensurate Rent Increase requires an assumption about next year's PIOC. In this case we use 1.8%, staff's PIOC projection for 1994.

over time, although this is not an inevitable consequence of using the commensurate.[163] Of course other factors (e.g. individual apartment improvement and MCI increases) may mitigate these impacts.

An alternative to the commensurate rent increase would consider the mix of lease terms and sources of landlord revenue allowed by the RGB other than lease renewals (e.g. vacancy renewals). We will call this the "Net Revenue" rent increase. This formula takes into consideration the mix of leases actually signed by tenants but does NOT adjust NOI for inflation. Depending on whether revenue from a 5% vacancy allowance is included in these calculations, the **"Net Revenue"** increase is[164]::

One Year Lease	Two year Lease
3%	5.5% (Vacancy allowance income included)
4%	6 % (Vacancy allowance income NOT included)

An alternative to this "Net Revenue" formula would be to consider lease terms and to adjust NOI upward to reflect inflation so that BOTH O&M and NOI remain constant. We will call this the "Adjusted NOI" increase, which would result in the following figures[165]:

One Year Lease	Two year Lease
4%	7.5% (Vacancy allowance income included)
5.5%	8% (Vacancy allowance income NOT included)

[163] Whether profits will actually decline depends on the level of inflation, the composition of net operating income (i.e. how much is debt service and how much is profit), changes in tax laws, and interest rates.

[164] The following assumptions were used in the computations: (1) The required increase in landlord revenue is 3.3%, or 70% of the 1993 PIOC increase of 4.72%; (2) These lease terms are only illustrative. Other combinations of one and two year lease increases could also result in a 3.3% revenue increase. (3) Lease terms were derived from the 1991 NYC Housing and Vacancy Survey. According to the HVS, 24.9% of all tenants have a one-year lease and the remainder have two-year leases. As a result, 62.5% of tenants renew their leases in a given year. The increase in landlords' revenue reflects this lease distribution. (4) The 1991 HVS showed a turnover rate of 9.7%. As a result of turnover, landlords can expect an increase in revenue of about one-half percent, given the 5% vacancy allowance. This assumes that the vacancy allowance is collectible in all cases.

[165] NOI was adjusted upward by the most recent yearly increase in the Consumer Price Index, March 1992 to March 1993. This figure was 3.4%.

These “Adjusted NOI” figures have a major drawback - we are adjusting the debt service portion of NOI UPWARD by the inflation rate when in fact, interest rates have been falling in recent years.[166]

All of these methods have their limitations. The commensurate increase is artificial and doesn't 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 “Adjusted NOI” formula inflates the debt service portion of NOI, even though interest rates have been falling, rather than rising. Finally, none of the formulas consider the impact of the MCI program or individual apartment improvement increases on landlord profitability.

Each of these formulas may be best thought of as a starting point for deliberations. The staff's other research (e.g. the mortgage survey or the I&E study) and testimony to the board can be used to modify the various estimates depending on these other considerations.

[166] An alternative would be to adjust only the portion of NOI which is “profit” upwards. In fact, we do not know what average “profits” are, but if we assume a figure of 10% of rent, the respective lease adjustments would be 4% for a one year lease and 5.75% for a two year lease if vacancy allowance income is included.

New York City Rent Guidelines Board
51 Chambers Street, Suite 202 • New York, NY 10007 • (212) 385-2934
Fax (212) 385-2554 • www.housingnyc.com

Chairman
Edward S. Hochman

Executive Director
Anita Visser

Memo

To: Jeffrey Coleman
From: Anita Visser
CC: Edward Hochman
All Board Members
Date: May 13th, 1999
Re: Table 14's reliability; and
Comparing the Economic Condition of the Stabilized Stock, 1967 to 1997

Further to your request following the May 6th meeting, regarding, Part One: the history and validity of Table 14, and, Part Two: a comparison of the economic condition of the stabilized stock from 1967-97, this memo updates a staff report on these subjects from 1993.

PART ONE: Table 14's History and Reliability

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. These are outlined below, followed by description.

Several Weaknesses have been Identified in Table 14:

- Does not account for huge shifts in housing stock of units of different ages that fell under stabilization;
- Rent Index does not account for administrative rent increases: MCI's or Apartment Improvement increases;
- O&M Cost index base of .55 reflects only Post-War units;

- The first stabilized units were mostly Post-War—today about 7 out of 10 stabilized units are Pre-War;
- Faulty adjustments were made to the O&M index in the 1970s to account for the influx of Pre-War buildings-a one-sided adjustment;
- The PIOC may overstate actual cost increases as it outpaces Longitudinal I&E cost increases; and
- Any reliable longitudinal comparison cannot take place where there have been massive shifts in the universe being measured.

The first problem with Table 14 is that the calculation does not account for the changes in the housing stock and market factors 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 overstate actual cost increases. While most of this bias occurred in the 1970 - 1982 period, recent comparative evidence from the Income and Expense studies suggests that a gradual overstatement of operating costs may still occur under the PIOC. Expenditures examined in the most recent I&E study suggest that from 1991 to 1997 actual costs rose by some 24% while the adjusted PIOC indicated a 26% rise, showing there is only a negligible difference between the two indices over the last seven years. However, from 1990 to 1997, the gap between the two indices is larger. From 1990 to 1997, the I&E rose 33% while the adjusted PIOC rose 38%, a difference of 5 percentage points. Since this longitudinal analysis covers only an eight-year period, a conclusive statement on this pattern cannot be made at this time. 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.

PART TWO: Comparing the Economic Condition of the Stabilized Stock: an update of Changes in Income and Expenses, 1967-97

To compare the economic condition of the stabilized stock over the thirty-year history of rent regulation, Table 14 has proven to be an insufficient measure. Using the best data that exists from the beginning of stabilization, however, it is possible to make point-to-point comparisons of O&M/Rent or Income ratios from 1967 to 1997. Because stabilization began in 1969 with primarily Post-War units, we will perform the following:

- Separate point-to-point comparisons of O&M Ratios for Post-War and Pre-War units from 1967-97 (Sections I & II);

- Examine the overall point-to-point O&M Ratio comparison from 1967-97 (Section III); and
- Compare inflation-adjusted NOI point-to-point from 1970 to 1997 for the Post-War stock to determine if NOI has increased or decreased in real terms for the units that have been stabilized the longest (Section IV). (The absence of actual dollar NOI at the outset of stabilization in the Pre-War stock prevents a similar comparison)

MAIN FINDINGS

Making like point-to-point comparisons:

- In the Post-War stock, the O&M to Rent (contract) ratio increased by 2.1 percentage points from .55 to .571 from 1969-97;
- In the Pre-War stock, the O&M to Income ratio decreased by 5.4 percentage points from .65 to .596 from 1967-97;
- The overall (Pre-War and Post-War) O&M to Rent/Income ratio declined by 3.4 percentage points from .623 to .589 from 1967-97; and
- Adjusting NOI for inflation in the Post-War stock, (the only stock for which comparative data is available), shows that from 1969-70 to 1997 average monthly NOI fell slightly from $386 to $378 (by $8 or 2%).

I. Post-War units O&M to Rent (contract rent) ratios: Point-to-Point comparison

a) 1969-70 Post-War O&M to Rent (contract) ratio: .55

The data for the most reliable O&M Ratio for Post-War units comes from two sources. The average monthly O&M cost figure comes from a 1969 study of Stabilized Apartment Houses performed by the Bureau of Labor Statistics—$110. The average monthly rent figure was calculated from the 1970 decennial Census data on contract rents, (not collected rents)—$203.

A figure for average monthly gross income for 1969 in the stabilized stock is not available so to make a like-to-like comparison, the ratio we will use is O&M to Rent for Post-War units only. Furthermore, the rent in the Census data is a contract rent, not a collected rent, so to make a like-to-like comparison, we will use contract rents throughout. The $110 cost and $203 contract rent averages yield a O&M to Rent ratio of .54. Since the cost figure is from 1969 and the rent figure is from 1970, adjustment to bring the cost figure to 1970 levels could yield a ratio as high as .58. However, the "Table 14" O&M to Rent ratio of .55 for Post-War units in 1970 falls in this range and is a reasonable estimate.

b) 1997 Post-War O&M to Rent (contract) ratio: .571

Using the latest Income and Expense data from the NYC Department of Finance (1997 RPIE filings), we make a like-to-like comparison to the B.L.S/Census data ratio detailed above by dividing average monthly audited O&M Post-War costs: $503.78, into average monthly Post-War rents. Because we need to make a like comparison monthly I&E rent (collected) must be adjusted to estimate contract rents. To do this, we increase the rent figure $820.12 by the current gap between the mean RPIE (collected) and the mean DHCR (contract) rents—7.5%, yielding $881.63. The resulting O&M to Rent ratio is .571.

$503.78	audited Post-War O&M costs	O&M to Rent ratio
$881.63	collected Post-War rent increased to contract	= .571

c) The Post-War O&M to Rent ratio increased by 2.1 percentage points from 1969-97

Using a like point-to-point comparison, the O&M to Rent ratio in Post-War units increased by 2.1 percentage points from an estimated .55 in 1969-70 to .571 in 1997. This means that a slightly greater amount of contract rent was being consumed by O&M costs in Post-War units in 1997. This may be influenced, inpart, by the following factors which are unrelated to rent regulation:

(1) the departure of more profitable units to co-op and condo conversion—there were 325,000 Post-War stabilized units in 1969, there were 288,000 in 1996;
(2) the Post-War stock is 30 years older and rising O&M costs are a natural occurrence.

Notably, since the RGB Rent Index increase was higher than the increase in operating costs in 1998 by approximately 3.6%, (See Table 14 annexed attached—O&M increased by 0.1% and the RGB Rent index increased by 3.7%), the 2.1% increase in the O&M to Rent ratio from 1970-97 may have been eliminated in 1998.

II. Pre-War units O&M to Income ratios: Point-to-Point comparison

a) 1967 Pre-War O&M to Income ratio: .65
Based on a 1993 staff study, which constructed an estimate of a mean O&M to Rent/Income ratio for the Pre-War stock derived from extensive work by George Sternlieb in 1967, the true O&M to Income ratio estimate (Sternlieb combined rent and income) fell into a range from .65 to .70. We will accept the more conservative figure of .65

b) 1997 Pre-War O&M to Income ratio: .596
Using the latest Income and Expense data from the NYC Department of Finance (1997 RPIE filings), we make a like-to-like comparison to the Sternlieb ratio by dividing average monthly audited O&M Pre-War costs: $389.08, into average monthly Pre-War income—$652.79. The resulting O&M to Income ratio is .596.

$398.08 audited Pre-War O&M costs	O&M to Rent ratio
$652.79 Pre-War income	= .596

c) The Pre-War O&M to Income ratio decreased by 5.4 percentage points from 1967-97
Using a like point-to-point comparison, the O&M to Income ratio in Pre-War units decreased by 5.4 percentage points from an estimated .65 in 1967 to .596 in 1997. This means that less income is being consumed by O&M costs in Pre-War units from 1967-97. This may be explained by the fact that as rent controlled units gradually transitioned into stabilization, they experienced substantial increases in income. As a result, their O&M to Income ratios fell.

III. How have conditions changed for the stabilized stock as a whole?— Overall O&M ratio Point-to-Point comparison 1967-97

To make a like comparison of the economic condition of the overall universe of stabilized units, the ratios detailed above will be weighted by the proportion of Pre- and Post-War units found in the 1996 HVS. Note however, that the ratio for the Pre-War stock is O&M to Income and the ratio for the

Post-War stock is O&M to contract Rent. While these two ratios measure slightly different things, we can still derive reasonable evidence of changes in the stabilized stock as a whole.

a) 1996 HVS proportion of stabilized units by age:

# of Units	Proportion	
Post-War	288,344	27.4%
Pre-War	763,956	72.6%
Total	1,052,300	100%

b) Point-to-Point Comparison 1967-97

Calculating the 1967-70 Overall ratio:

Ratio *	Proportion =	Product	
Post-War	.55	27.4%	0.1507 (O&M to Rent ratio)
Pre-War	.65	72.6%	0.4719 (O&M to Income Ratio)
	Overall 1967 Ratio:	0.6226	= .623

Calculating the 1997 Overall ratio:

Ratio *	Proportion =	Product	
Post-War	.571	27.4%	0.1565 (O&M to Rent ratio)
Pre-War	.596	72.6%	0.4327 (O&M to Income Ratio)
	Overall 1997 Ratio:	0.5892	= .589

c) Overall the O&M to Rent/Income ratio has declined 3.4 percentage points from 1967-97
Using a like point-to-point comparison, the overall O&M to Rent/Income ratio for stabilized units decreased by 3.4 percentage points from an estimated .623 in 1967-70 to .589 in 1997. This estimate means that less rent and income is being consumed by operating expenses in 1997 than in 1967-70. As a whole, this analysis suggests that owners of stabilized units experienced relative gains in NOI over the thirty-year period of rent stabilization.

IV. Is NOI being kept whole for inflation?—a Comparison of inflation-adjusted NOI point-to-point from 1970 to 1997 for the Post-War stock

Finally, we will compare inflation-adjusted NOI in the Post-War stock, the units that have fallen under stabilization the longest, to determine if owners are being kept "whole" for inflation, and to use another measure to assess the general economic condition of stabilized units.

Post-War NOI Calculation

	1970	1997	
Rent	$203	$881.63 ($820.12*1.075 inflates collected to contract)	
O&M Expenses	$110	$503.78 (audited O&M costs)	
NOI	$ 93	$377.85	
CPI Urban NY-NJ	41.2	170.8	= 4.1456 inflation factor*
Real Term NOI	$385.54	$377.85	difference = -$7.69

This analysis shows that by making a like comparison and adjusting 1970 NOI for inflation, NOI in Post-War units declined slightly by 2% from 1967-97. The estimated drop in NOI in the Post-War stock may be attributed, in part, to non-regulatory factors such as co-op conversions and the natural rise in maintenance costs due to aging. Moreover, rent increases authorized in 1998 may have had the effect of eliminating this 2.1% decline in NOI.

Notably, the 1999 I&E Study, found that inflation-adjusted NOI in stabilized buildings of all ages has remained roughly constant from 1989-97, growing by 3% in real terms since 1989.

It should be noted that NOI is not the sole criteria for profitability as leveraging, interest rates, mortgage terms and rates of income tax all play a role in determining the ultimate profitability of a stabilized housing investment.

*Inflating 1970 NOI to 1997 dollars: $93 * 4.1456 = $385.54

Attached are the following:
1) Copy of Table 14 from the Explanatory Statement plus additional guidelines tables;
2) Copy of 1993 RGB staff report:
A Review of Changes in Income and Expenses, 1967-91.

Appendix K1

A Review of Changes in Income and Expenses, 1967-91

Introduction

The changing relationship between rents, operating and maintenance expenses, and owner income lies at the very heart of rent regulation. Other things being equal,[167]1 rents which generally preserve the inflation adjusted value of net operating returns over time accomplish one of the central goals of the stabilization system: fairness to good faith investors. In New York City measuring the effects of stabilization on net operating incomes is a matter of exceptional complexity. Massive shifts in the regulated stock over twenty four years make point to point comparisons of income and expense profiles impossible to develop with any precision. Since 1969 over 700,000 units have moved from rent control to stabilization. Some 60,000 stabilized units in post-war buildings have moved from rentals to co-ops. About 90,000 stabilized units are now in converted buildings and will be decontrolled upon vacancy. In addition, thousands of units left regulation via abandonment or foreclosure by the City. Only about one in five currently stabilized units were subject to stabilization in 1969.

The difficulty of making such measurements is, nevertheless, clearly outweighed by the need to develop some working understanding of the impact of stabilization on relative industry returns. The last report on this issue was issued by the RGB staff in 1989. Since that time a variety of new data sources have been made available to the Board. In 1990, for the first time, the staff was provided with information on rents and operating expenses from income and expense ("I&E") statements on file with the Department of Finance. In 1992, to test whether the I&E statements were generally reliable, forty-six properties were carefully audited. In addition, aggregate data on changing market values of multi-family buildings from 1975 through 1992 has been provided. Data on tax arrearages has been made available from the Department of City Planning. Finally, the State Division of Housing and Community Renewal has contributed data on registered rents. These considerable efforts have allowed us to examine long term trends with an eye towards changes in net operating incomes. In light of these information advances we have prepared an update of the 1989 report. While a few questions will require more time before conclusions may safely be drawn, many of the questions which troubled the Board over the past decade have been answered.

History of the Income and Expense Issue

Nineteen ninety-three marks the fiftieth year that New York City has been subject to some form of rent regulation. The long term impact of rent

[167] "Other things" of relevance here might include population trends, tenant incomes, the average age of the regulated housing stock and the return on investments of comparable risk and liquidity. To preserve the value of net operating incomes in the face of a declining population, sagging incomes, aging properties and declining returns on comparable investments would be to implement a form of profit insurance never intended by the system. On the other hand, modest gains in average net operating income might be expected in the face of a rising population, higher incomes, a decline in the average age of regulated buildings (reflecting new construction) and rising returns on comparable investments. Of course, "other things" are rarely equal - except perhaps on economics exams.

regulation on the quality and availability of housing is, therefore, an issue which has been a subject of public concern for some time. In his well known study, *The Urban Housing Dilemma: The Dynamics of New York City's Rent Controlled Housing*, George Sternlieb asked property owners in 1967 many of the questions that continue to occupy center stage in the debates over rent regulation. The focus of these questions is summarized in his introduction:

"The rent control formula, as presently implemented in the city, has provision for a number of ways of securing rent increases, both in return for additional investment and in order to prevent undue owner hardship; but the formula raises numerous questions. How well have these increase methods kept pace with increased costs? To what degree has maintenance suffered as a function of rent control? What elements of the Rent Control Law are being utilized and are there variations in the knowledge and utilization of these formulas? Are there significant variations between operational patterns of rent controlled and non-rent controlled structures of which the city should be aware? What is the influence of tenant ethnic origins and welfare recipiency upon landlord attitudes? For that matter, who are the landlords and what are the factors which enter into their decision making, particularly in relationship to maintenance and other forms of investment procedure?

New York City's housing policies and rent control must be considered as one element in the broad matrix whose function is to provide, both now and in the future, a satisfactory environment for the city's inhabitants. Currently, most social concern is with the tenant's needs. In the long run there is the question of whether these can be satisfied without a reasonable degree of assured return to the landlord.

The mere age of the city's housing stock requires continual reinvestment. Within the context of our time, most of the funds must be secured from the private market. How competitive, given the variety of outlets for private capital, is New York City's housing?"

In short, Sternlieb's inquiry concerned the broad social and economic environment affecting investment in rental housing. An isolated examination of the relationship between rental income and operating costs without a careful look at how these other matters might affect (dis)investment patterns provides an incomplete basis for policy analysis. Yet, a full update on the wide variety of matters covered in his study would be very costly and time consuming (Sternlieb's field work began in 1967; his report was issued in 1972). For our immediate purposes, we will only examine Sternlieb's findings on the relationship between rents and operating costs in pre-war buildings.

The Pre-War Stock in 1967

Since "expenses" and "repair and maintenance costs" were separated in Sternlieb's analysis, and since these are combined in more recent data, we have combined them here for the purpose of later comparisons.

Mean operating cost to rent ratios[168] are reported in exhibits 3-1 and 3-5 in Sternlieb's report. Again, Sternlieb did not combine "expenses" and "repairs" as a percent of net rent received [see text accompanying exhibit 3-1]. The samples for expenses and repairs as a percent of rent received appear to be virtually identical - with only 6 of 664 buildings missing in the repairs table

168 The O&M to rent ratio is the proportion of all rent that landlords spend on operating and maintenance expenses. A declining O&M ratio over time generally indicates that landlords are in a better position while a growing O&M ratio indicates that operating expenses are taking a larger portion of landlords' revenues, thereby leaving less net operating income.

because of the "lack of baseline data." Consequently, combining the two tables to get expenses and repairs as a percent of net rent received is not too risky. Doing so provides the mean O&M to rent ratios for the pre-war universe in 1967 as shown in the table above.

O&M Ratios in Pre-war Structures in 1967

	Expenses	Repairs	Total
Old Law Structures			
5-19 units	66.05%	16.9%	82.95%
20 units or more	57.47%	12.6%	70.07%
New Law Structures			
5-19 units	60.15%	16.2%	76.35%
20-49 units	56.03%	13.0%	69.03%
50 units or more	52.54%	10.9%	63.44%
Structures Built After 1929			
10-49 units	54.04%	9.3%	63.34%
50 units or more	52.24%	8.9%	61.14%
Small Structures			
3 and 4 units	67.31%	19.5%	86.81%

Note that "net rent received is a residual of gross potential residential rents, including imputed rents for superintendent and other resident employees and/or owners, and commercial rents; less vacancies and bad debts and other gross income elements" (p. 22, emphasis added). This observation is critical in making comparisons with more recent data on O&M to rent ratios which will be examined further on. Note also the affect of age and size upon the O&M ratios.

The universe of buildings examined by Sternlieb in 1967 included some 881,312 units in rent controlled (pre-war) buildings (Exhibit AII-8).[169] Tens of thousands of these properties were, no doubt, lost to abandonment since that time. Today some 707,000 pre-war apartments fall under rent stabilization while about 120,000 remain under rent control. Rent controlled properties with fewer than six units do not, as a matter of law, fall under rent stabilization upon vacancy. Since smaller properties have undergone vacancy decontrol and many marginal properties have been abandoned, one would expect that only a fraction of the buildings with very high O&M to rent ratios would have fallen under stabilization. Consequently, the average O&M ratios for buildings examined by Sternlieb may be affected somewhat if all properties which did not eventually fall under stabilization were removed from the sample. Those that made it into stabilization probably had slightly lower than average O&M ratios in 1967.

Examining the proportion of units in each class and the relative mean O&M ratios, and eliminating the 3-4 unit category, it appears that pre-war properties combined had a mean O&M to rent ratio of about .70.[170] Assuming a loss of the most distressed of these properties to abandonment and a slight loss (of five unit buildings) to decontrol, it appears that the properties which eventually fell under rent stabilization had O&M ratios in the mid to high 60s. Keep in mind that this estimate includes commercial income in the denominator of "net rent received". While not a precise estimate, this is the only figure available with which to compare with the current O&M ratios of pre-war buildings. As will be shown further on, it appears that O&M ratios in the

[169] The largest category was the New Law structures with 20-49 units which included 296,460 units.

[170] This figure is derived by multiplying the mean O&M ratios listed above by the number of units in each respective class (See Sternlieb, Exhibit AII-8), summing and then dividing by the total number of units in all classes (excluding 3-4 unit properties as noted).

pre-war stabilized stock were not demonstrably different in 1967 from the O&M ratios found in our recent study of 1991 income and expenses.

The failure to achieve lower O&M ratios may have been affected, in part, by non-regulatory influences: aging buildings, relative declines in tenant income, vacancy losses etc. It is important to recall that owners of rent controlled units have been entitled to market rents upon vacancy except when newly stabilized tenants have initiated and prevailed in Fair Market Rent Appeals. Such appeals occur only in a fraction of eligible cases. Also, once stabilized, rents in pre-war buildings are increased periodically in accordance with established rent guidelines. Finally, rents may increase as a result of major capital or individual apartment improvements.

Perhaps a better measure of changes in O&M to rent ratios is found in the post-war universe to which we will later turn our attention.

Information Development After the Urban Housing Dilemma

Moving beyond 1967 allows us to focus on the workings of the Rent Guidelines Board and the impact of its decisions on the changing relationship between rents and operating costs. In order to put our newest information in perspective it is important to recall the history of Board practices and policies relating to this issue.

In 1969, in response to an extremely tight rental market with a vacancy rate at 1.23%, the newly enacted Rent Stabilization Law limited the rents of some 325,000 previously unregulated post-war units and about 75,000 decontrolled units. Specified increases above levels that had existed on May 31, 1968 were established by the City Council. Thereafter, the Rent Guidelines Board was given responsibility for further annual adjustments.

In the early days of stabilization (1970 to 1974) the RGB focused primarily on changes in operating and maintenance expenses (i.e. the Price Index of Operating Costs) to determine its rent guidelines. Dennis Keating, in his comprehensive review of the rent stabilization system *(Landlord Self-Regulation: New York City's Rent Regulation System 1969-1985*, Journal of Urban & Contemporary Law, Vol. 31:77) found that

> "Beginning in 1970, the RGB relied heavily, but not exclusively, on the BLS operating cost price index for its determination of rent increases. Initially, the absence of tenant representation on the RGB, the use of the operating cost price index, the RGB's secrecy, and its consideration of additional factors to justify rent increases occasioned little controversy. These issues, however, would later become much debated in a public forum. During this early era, the RGB convened annually, held no public hearings, and quietly issued annual rent increase orders."

Following a period of vacancy decontrol, in 1974 the State Legislature passed the Emergency Tenant Protection Act (ETPA). The act extended rent stabilization to hundreds of thousands of units previously subject to rent control. At the same time, the RGB was required to include designated seats for tenant and owner representatives.

Shortly after passage of the ETPA, in a letter of August 6, 1974 to Roger Starr (Administrator of the Housing Development Administration), Emmanuel Tobier (Chairperson of the Rent Guidelines Board) seems to have foreseen the probability that the RGB would need better information to reconcile the conflicting demands of tenants and landlords.

". . . we must re-examine the current relationship between operating and maintenance costs and building income in the rent stabilized sector . . . building owners might be willing to provide this

data. Perhaps the easiest route might be to look at the relationship between operating costs and revenue, by examining a representative sample of buildings, and incorporate this information into our guidelines."

By looking to voluntary disclosure of income and expense information from owners, Professor Tobier may have been attempting to catch a brief moment in time before the landlord-tenant relationship worsened beyond compromise. In fact, the last half of 1974 and the first months of 1975 were an unusually troubled period for the RGB. Lawsuits were filed challenging the legitimacy of the Board's orders. As a result, one rent guideline was invalidated on the procedural ground that the Board had failed to adequately explain the factual basis for its order and its methodology. This court decision led to the development of detailed explanatory statements which now accompany each new set of rent guidelines.

Dennis Keating sums up the atmosphere of the mid-70's -

> "The protracted and acrimonious public conflict, in which the RGB's credibility, conclusions, and procedures were politically and legally challenged was a turning point in the history of the rent stabilization system. No longer would the rent-adjustment process under self-regulation be shielded from public scrutiny . . . Henceforth, the RSA and tenant groups would become increasingly combative . . ."

Although the RGB was sued by both landlord and tenant groups in the late 70's, the courts refused to invalidate the Board's methodology. The RGB continued to rely to a great extent on the Bureau of Labor Statistics' Price Index of Operating Costs (PIOC).

In addition to the studies produced by the RGB, tenant and landlord groups attempted to examine the income and expense issue from their different perspectives. Landlords argued that the net operating income of rent stabilized buildings was declining due to large increases in operating costs and insufficient rent increases. Tenants, on the other hand, believed that rents were rising faster than tenant incomes. During this period of stagnant income growth and high inflation in New York City it is possible that both groups were correct in their assertions.

It was not until 1982 that the issue of profitability of rent stabilized housing was raised once again by the RGB. In that year Urban Systems Research and Engineering (USR&E) replaced the Bureau of Labor Statistics as the contractor for the PIOC. In addition to the price index, the RGB also commissioned USR&E to undertake research on six so-called "special topics" including:

1. Operating cost to rent ratios
2. Mortgage financing and refinancing characteristics
3. Rates of return
4. Tenant turnover patterns and the distribution of lease terms
5. Tenant income characteristics
6. Use of city tax abatement programs and the use of energy conservation programs

In a publication of June 1, 1982 entitled "Research Design on Special Topics" USR&E broadly outlined a "rate of return" (i.e. landlord profit) study. The authors examined several different definitions of "rate of return" and the sources of data which would be required to examine actual landlord profits. They concluded that:

". . . it will be impossible to secure all the information necessary to calculate the actual rates of return on any significant or usable set of buildings. Such a data base would include owners' annual tax returns, annual financial statements on the buildings, financing arrangements and purchase/sale prices. This is evidently impossible to acquire."

It is unclear why the consultants concluded at that time that sources of data for a study of actual landlord profits were "evidently impossible to acquire." USR&E did propose an alternative study of rates of return, using "a set of prototypical buildings, intended to be representative of the stabilized inventory." However, this study was never undertaken.

In 1982 USR&E was also commissioned to produce a landlord expenditure study. A sample was selected to be representative of all stabilized buildings in the city. In the fall of 1982 a survey questionnaire was mailed to over 2400 owners of stabilized buildings. In essence, the questionnaire asked owners to provide a detailed breakdown of operating and maintenance expenses for 1982. Approximately 400 landlords returned fully completed questionnaires.

The primary purpose of the 1982 Expenditure Study was to update the expenditure weights in the Price Index of Operating Costs. An expenditure weight is the percentage of landlord operating and maintenance (O&M) cost attributable to a given type of O&M expenditure (e.g. in 1982 the Price Index of Operating Costs assumed that fuel costs were 37% of all landlord expenditures in pre-'47 buildings. However, the 1982 Expenditure Survey found that owners of pre-'47 buildings spent only 29% of O&M on fuel in 1982. As a result, the expenditure weight for fuel was revised from .37 to .29 the following year). Precise expenditure weights are needed if year-to-year changes in overall O&M costs are to be accurately measured.

For reasons that remain unclear, Table 14 of the RGB's annual explanatory statement, which details the history of changes in the O&M to rent ratio, was NOT updated following completion of the 1982 Expenditure Study, even though the information to do so was available. Although tentative plans for a "operating cost to rent ratio" study were made in 1984, plans for the study were discontinued in 1985.

In the mid-80's criticism of the Price Index of Operating Costs continued to build. For instance, in 1985 the New York State Tenant and Neighborhood Coalition issued the following statement:

> "The Price Index is not only conceptually flawed, but yields no information whatever about actual landlord incomes, expenditures, or profits - the true measures of the economic condition of the industry. In contrast to the practices of every other body charged with the responsibility of regulating prices in the public interest, the Rent Guidelines Board neglects all questions of income and profitability when considering the need for rent adjustments."

At least some of these sentiments were apparently shared by the Board of Estimate, which, in a unanimous vote in 1985, passed a resolution supporting an examination of owners' books and records. The city administration did support legislative initiatives to allow such an examination. However, none of the proposals to require owners to "open the books" ever passed the State Senate. In the fall of 1985 members of the RGB asked the staff

> ". . . to prepare a report, in consultation with New York City's Department of Housing, Preservation and Development (HPD) and the New York State Division of Housing and Community Renewal (DHCR), regarding how the Board could obtain a representative sample of owners books and records and how such a sample and examination could be of use to the Board . . ."

After contacting both DHCR and HPD regarding the feasibility of obtaining a sample of owners' books it was concluded that

> ". . . Since both HPD and DCHR [sic] have stated that such a study could not take place without a legislative change which would either grant DHCR jurisdiction to conduct the

study or grant subpoena power to the New York City Rent Guidelines Board, such a study could not be undertaken . . ." (Research Report Regarding the Feasibility of Auditing a Representative Sample of Owners Books and Records dated January 31, 1986)

The situation that the RGB found itself in in 1986 was best summarized by an article in the New York Times entitled "Dissatisfaction with Stabilization's Cost Index Grows, but No Consensus has Emerged on Alternate System" (*New York Times*, July 6, 1986) . The article found that the two RGB tenant representatives had resigned "citing personal reasons but also dissatisfaction with this year's increases and the way they were determined."

In 1987, reflecting a continued dissatisfaction with the price index methodology, the Board of Estimate rejected the price index contract. The consultant selected for the study (USR&E) performed it gratis at the request of the Commissioner of the Department of Housing, Preservation and Development. Later that year the consultant filed a voluntary petition for bankruptcy protection. In 1988 and 1989 the price index was procured through the City University Research Foundation and, therefore, did not require Board of Estimate approval. Until 1991, the Rent Guidelines Board did not com-mission or fund the price index - procurement and payment were handled directly by the Department of Housing Preservation and Development (except in 1988 and 1989 as noted).

By 1987 it appeared that the debate over landlord "profits" had reached a standstill. However, in 1986 the City Council enacted Local Law 63, which mandated that owners of income-producing properties file income and expense statements with the City's Department of Finance. The law was passed in order to aid the city in determining assessed values of properties.

Local Law 63 filings were, of course, of much interest to the RGB, since a representative sample of these properties' income and expense statements could be used to calculate and update operating and maintenance cost to rent ratio. In addition, if the filings were obtained by the RGB on a regular basis they could be used to calculate year-to-year changes in landlord operating and maintenance costs and income to examine the accuracy of the Price Index of Operating Costs. However, Local Law 63 filings by themselves are not sufficient to calculate landlord "profits" since they do not contain any information on mortgage expense, changes in building resale values, and so on. In addition, these filings cannot by themselves replace the price index because the time periods reflected in the filings are at least one year old at the time of aggregation. The Board's mandate calls for more recent cost data which only the price index supplies.

Not long after Local Law 63 was enacted, litigation concerning various aspects of the law made it impossible for the RGB to obtain any of the new information. A temporary restraining order was imposed prohibiting the City's Finance Department from releasing any Local Law 63 data. On March 9, 1988 the RGB requested the city's Corporation Counsel to seek a lifting of the temporary restraining order. Although the attempt to lift the order was unsuccessful, the court order did eventually expire in March of 1989. Unfortunately, the RGB was still unable to obtain any Local Law 63 data. In a letter dated April 22, 1989, Anthony Shorris, Commissioner of the Department of Finance explained that until the case was fully settled the data would be reserved for Department of Finance purposes only. In addition, key entry of the data had not yet been implemented and would take some time.

In April 1989 Harriet Cohen, a tenant member of the RGB, requested that staff review "Table 14" of the Board's annual explanatory statement. "Table 14" contains a calculation of the operating

and maintenance cost ratio for rent stabilized buildings from 1972 to the present (see Appendix C, Table C.3). After thoroughly reviewing the history and methodology of "Table 14" staff concluded that "between 1970 and 1982 the "Table 14" O&M ratio seems to have diverged from the actual cost and rent data which can be obtained by using HVS and operating cost studies." The staff review did not conclusively show that the "Table 14" O&M to rent ratio was mistaken. However, it did show that "a lack of sufficient new survey data over the last 20 years has resulted in a present inability to supply valid corroborating evidence for the statistical and economic assumptions underlying "Table 14"." **The staff review suggested that the problem with "Table 14" most likely was a result of the inaccuracy of the Price Index of Operating Costs in measuring actual landlord expenditures between 1970 and 1982. It was strongly suggested that new studies be undertaken to:**

> ". . . provide a new O&M to rent ratio in both mean and median terms. Perhaps more importantly, a new study of rents and expenses could analyze the distribution of buildings in terms of varying O&M to rent ratios. This would help inform the Board as to the number of rent stabilized buildings operating at the margin, and the proportion of those with adequate net operating income. Finally . . . the PIOC (Price Index of Operating Costs) probably needs to be updated (to make it) . . . a more reliable indicator of cost increases in rent stabilized housing."

The events of the summer of 1986 were repeated in May of 1989 when the two tenant representatives resigned from the Board. In their letters of resignation Harriet Cohen and Stephen Dobkin stated that the city administration had "conspired to make it impossible . . . to obtain any data on owner profits or the steadily rising value of residential real estate" and that the City University Research Foundation had "once again been misused to produce the Price Index...which reflects only the owners' concerns." In addition, both called on the RGB to expand research efforts.

In the spring of 1990 the new city administration actively supported the RGB's efforts to obtain summary data from owner local law 63 income & expense filings. RGB and Finance staff worked together to produce the first I&E (income & expense) study. The methodology of the study is contained in *Rent Stabilized Housing in New York City: A Summary of Rent Guidelines Board Research, 1990*. Subsequent Income and Expense studies were produced in 1991, 1992 and 1993.

The Post War Stock in 1970

Before moving to the major findings of these studies we will need to revisit our analysis of the relationship between rents and operating costs in post-war buildings at the beginning of rent stabilization. This analysis was included in RGB's 1990 Research Summary (pages 26-30):

> "Using an estimate of the mean rent for stabilized post '46 apartments ($203) derived from a special tabulation of the 1970 decennial census and comparing it to the mean operating cost in 1969 ($110) found by the Bureau of Labor Statistics in its 1970 study of stabilized apartment houses yields a mean O&M ratio of .54. However, since the operating cost study measured 1969 costs and the census measured 1970 rents, it is possible that the true O&M ratio for 1970 may have been as high as .58 (adjusting for subsequent price increases). As far as we can tell, the "true" O&M ratio probably ranged between a low of .54 and a high of .58. The O&M ratio for 1970 in "Table 14" [the RGB index of rents and operating costs] was .55 and falls into this range."

An examination of these data sources in 1989 led to a conclusion that the .55 estimated O&M

ratio for post-war buildings in 1970 appeared to be reasonable. This continues to be the best available estimate.

It is important to note, however, that this is an estimate of the ratio between operating costs and residential contract rents. The rents used here do not reflect vacancy or collection losses or commercial income. The 1967 O&M ratio for pre-war properties previously discussed is a ratio of operating costs to net rent received which adjusts for such losses and includes commercial income.

* * *

In short, we have concluded that the best estimates of the relationship between operating costs and rental income in the rent stabilized sector - at the outset of rent stabilization - are as follows:

- **In pre-war buildings which eventually fell under stabilization approximately 65¢ to 70¢ of each rent dollar actually collected was spent on operating costs in 1967.[171]**
- **In post-war buildings which first fell under rent stabilization in 1969, approximately 55¢ of each rent dollar contracted for in residential units was spent on operating costs.**

Today's Income and Expense Issues

The Pre-War Stock Today

Now, turning to the more recent data we find further complexities. The pre-war stock continues to include a significant number of rent controlled units. While contract rents for stabilized units in the pre-war stock were $512 according to the 1991 HVS, residential rents actually collected were much lower at $451 according to statements reflecting 1991 incomes and expenses filed with the Department of Finance. The effect of rent controlled units along with vacancy and collection losses and preferential rents thus becomes quite clear. These factors have a large impact on revenues in pre-war buildings independent of the influences of rent stabilization. The best we can do in terms of a comparative O&M ratio for the pre-war stock is a straightforward comparison of operating expenses with total building income (which appears comparable to Sternlieb's "net rent received"). This results in a ratio of .70. If we adjust the operating expenses downward by 8% (reflecting an estimate of over-reporting of expenses derived from our 1992 audits) the ratio is .64. Consequently, **the relationship of operating expenses with total building income in the pre-war stock in 1991 appears to be in the same range (.64 to .70) as it was in 1967.**

A few more qualifying observations are in order. First, pre-war buildings have aged some 26 years since 1967 and thus could be expected to have experienced rising O&M ratios - in the absence of regulatory changes. Second, collection and vacancy losses are probably quite a bit higher now than in 1967.[172] The gap between rents registered with DHCR and rent collections rose sharply in 1991 reflecting, in part, the effects of the current recession on collection and vacancy losses. In a related development, there has been a sharp decline in tenant incomes relative to rents. In 1970 the median gross rent as a percent of income was 19% for rent controlled households.[173] In 1991 the median gross rent to income ratio for stabilized pre-war buildings was over 29%.[174]

---

171 See supra p. 34-36.

172 Sternlieb found vacancy losses for most buildings ranging from .4% to 2.4%. Similarly, collection losses for most buildings ranged from a negligible .1% to 2.3% (see Sternlieb exhibits 2-2 and 2-3 and accompanying text). With over 4% of units in pre-war buildings vacant and available for rent in 1991, vacancy losses have clearly risen. We suspect that collection losses have also risen significantly.

173 Sternlieb, Housing and People in New York City, Exhibit 5-12. Sternlieb's analysis was based upon a special tabulation of the 1970 decennial census.

174 1991 Housing and Vacancy Survey, Series IA- Table 36.

The Post-War Stock Today

Turning now to the post-war stock further complexities appear. One would expect that, as in the pre-war stock, residential rents collected would be below the contract rents reported in the 1991 HVS. This, however, is not the case. The I&E data for 1991 indicates that, on average, $653 in rent was collected for each apartment in post-war buildings. The HVS data indicates that the average contract rent for these units [excluding stabilized units in co-ops] was actually $652. While collection and vacancy losses are much smaller in post-war buildings (and rents received are not affected by the presence of rent controlled units) one would expect rent collections to be a bit less than contract rents. The staff's Table 14 rent index (updating a $203 average rent for 1970) suggests that the rent guidelines alone should have resulted in an average rent of some $662 - and that would not include administrative increases authorized for major capital improvements and individual apartment improvements. However, at least some of the increases authorized by the RGB and the DHCR are not charged at the high end of the market and this may partly explain why the $652 is lower than expected. Rents reported to surveyors are rents actually paid - including preferential rents. In short, the $652 figure for contract rents, while lower than actual rent collections would suggest, is still reasonable enough to be explained by sampling differences between the HVS and the I&E data.

Comparing the $652 HVS figure to average operating costs of $470 reported in the I&E data results in a ratio of operating costs to contract rents of .72. Adjusting the $470 figure by the 8% suggested by our audit findings produces a ratio of .66. Thus**, it appears that ratio of expenses to contract rents for post-war stabilized buildings has risen (from .55 in 1970) to at least .66.**

Again, a few qualifying observations are in order. Although some post-war stabilized units were newly constructed after 1970 (fewer than 10%), the average age of post-war buildings has obviously risen over 23 years. This alone would have resulted in some rise in O&M ratios. Second, less than two out of three of the original stabilized post-war units remain in unconverted buildings. Our operating cost and rent figures reflect only the approximately 200,000 units remaining in unconverted post-war properties. If conversions typically occurred in better and newer buildings this would leave behind properties with higher O&M ratios resulting in a misleading rise in the average. Finally, we suspect that preferential rents are a more common occurrence in post-war buildings today than in 1970. The contract rents reported to HVS surveyors are rents agreed to by tenants and owners - not necessarily the highest rents authorized by law. Contract rents in 1970 may have been much closer to legal limits. If the market has taken over the higher end of this stock, the rise in the O&M ratio may reflect a relative decline in demand for luxury units. That is, in the tight market of 1970 owners may have been less likely to rent below legal limits and their relative returns would have been higher. A loss of demand at the high end is the consequence of a changing market - not rent regulation. We cannot gauge the precise effect of any of these factors on the current O&M ratio. Nonetheless, it would certainly be misleading to suggest that this rise in the O&M ratio is wholly a function of rent stabilization.

Revisiting "Table 14"

As previously noted, much of the staff's past work focused on the accuracy and usefulness of a table which compares changes in operating costs (as measured by the PIOC) with changes in rents (as measured by staff calculations derived from guideline increases). "Table 14" (see Appendix C.3) depicts O&M ratios rising from .55 in 1970 to .74 in 1993. Several weaknesses in the table have

been acknowledged for some time. Changes in the housing stock and market factors noted above have certainly affected the relationship between rents and operating costs to some degree. Yet, if these were the only weaknesses the table might remain useful as a simple measure of the relationship between legal regulated rents and operating cost changes. Even for this limited purpose, however, the table is misleading in several categorical respects. First, the rent index contained in the table fails to account for administrative rent increases (MCI's and Apartment Improvement increases) and does not adjust for rents charged below established guidelines (preferentials). Coincidentally, however, the rent index appears to have tracked contract rents in post-war buildings quite effectively. If rents in post-war buildings were $203 in 1970 as we have suggested, the rent index projects a rise to $662 by 1991. The 1991 HVS reported mean contract rents at $663 for the post-war stock [not excluding stabilized units in co-ops].

The operating cost index contained in the table is more troublesome. The .55 base contained in the table reflects an estimate concerning only post-war units. As we have noted the vast majority of stabilized units (about 7 out of 10) are now in pre-war buildings which had higher O&M ratios. 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. As noted, 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. If PIOC changes for post-war buildings had been left unadjusted the index would have risen from .55 in 1971 to 222.78 in 1991 (as adjusted the index rose even higher - to 228.96). From 1969 to 1971 average operating costs in post-war buildings had risen to about $128 per month. Updating this figure by the unadjusted index (i.e. by the PIOC for post-war buildings) to 1991 results in an average operating cost of $519 per month - fully 10.4% higher than the $470 figure for 1991 expenses reported by owners of post-war buildings on I&E forms, and 20.1% above the $432 staff estimate when an adjustment for estimated over-reporting is factored in.

We believe that this difference in cost estimates reflects a tendency on the part of the PIOC to overstate actual cost increases. We continue to suspect, however, that most of this bias occurred in the 1970 - 1982 period. When USR&E conducted its operating cost survey in 1982, an average monthly cost of $262 per unit was found in the post-war stock. Updating that figure by the PIOC for post-war buildings through 1991 results in an average cost of $441 per month - a figure much closer to our $432 estimate of actual costs. Note, however, that much of this period witnessed increasing investment and improvement in the city's housing stock - a time when we would not expect owners to limit maintenance and operating costs. Expenditures examined in our most recent I&E study suggest that from 1989 to 1991 actual costs rose by some 11% while the PIOC indicated a 16% rise (see page 31) - perhaps reflecting recession induced cost cutting. Since this longitudinal analysis covers only a two year period a conclusive statement on this pattern cannot be made at this time. 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.**

Conclusions and Recommendations

A long effort to measure the impact of rent stabilization on the relationship between operating expenses and rents has resulted in some notable findings in recent years. Intricate and complex questions remain, however, and it is now evident that a clear picture may never emerge.

According to our best evidence, it presently appears that the ratio of operating costs to rent collections in the pre-war stabilized stock is about where it was twenty-five years ago. Given the passage of time and the probability of rising vacancy and collection losses, the pre-war stock seems to have achieved modest benefits transitioning to rent stabilization. Substantial evidence indicates that the ratio between operating costs and contract rents has risen in the post-war stock. The aging of that stock along with co-operative conversions and slack demand at the high end may explain much of this rise. Whatever deterioration may have occurred is clearly not as dramatic as is often charged. Recognizing the long period in which it was handicapped by inadequate information, it appears that the Rent Guidelines Board has done a remarkably effective job of immunizing owners from the effects of cost push inflationary factors while protecting tenants from demand driven rent increases. In this respect, the rent stabilization system has lived up to its mandate and continues to fulfill its purpose.

We note, however, that this analysis reflects industry averages and cannot capture the effects of stabilization on individual properties. In addition, although the impact of rent regulation on changes in the relationship between rents and operating costs may have been limited, that does not suggest that market influences on that relationship should be ignored by regulators. In the overall attempt to establish fair rents, market influences on housing viability are as critical a concern as market influences on tenants' ability to pay. Unfortunately, the current economic environment poses an equal threat to both.

We close with one recommendation. For over four years the staff has expressed serious reservations about the usefulness and accuracy of "Table 14". Nonetheless, we remained cautious about discontinuing the table for lack of a substitute. With current longitudinal income and expense data we have 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. A copy of the proposed new index is attached.

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. Commercial income - accounting for some 11% of average owner income - will continue to be an independent variable on the rent side. While this figure will be corrected with actual income data each year, changes for the most recent and coming year will be estimated to follow residential rents. Because of the relatively small portion of income derived from commercial units, this should not throw the projections off by any significant amount - unless, of course, the commercial market undergoes abrupt changes. Second, while the new table attempts to measure industry conditions by looking at the overall relationship between costs and income, it does not measure the specific impact of rent regulation on that relationship. Because we cannot anticipate the effects of preferential rents, MCI and individual

apartment improvements for the past and coming year, such a specific measure is impossible to develop. More importantly, the continued presence of operating costs for commercial units in the I&E data[9], impairs our ability to precisely measure the relationship of residential rents to purely residential operating costs. If, however, the goal of the table is to broadly monitor the health of the housing stock over time, the inclusion of all building income and operating costs is a preferred indicator in any event.

Before closing we would like to note the special nature of this report. We have attempted to objectively analyze income and expense trends in stabilized housing along with the history of policy development in this area. We also have suggested a new way of measuring future changes. These are not, however, simple administrative or ministerial matters. The ultimate determination of the relative state of the housing industry and the manner in which conditions are monitored are clearly matters which call for a legislative judgment. We hope that this report will assist the Board in making that judgment.

❑

Calculation of Operating and Maintenance Cost Ratio for Rent Stabilized Buildings, 1989-93

	Average Monthly O&M Per d.u.*	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**	$400 ($368)	$576	.69 (.64)
1993***	$412 ($379)	$592	.70 (.64)

* 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.

** Expense figure includes expenses for 1991 (average expenses reported on income and expense statements filed with the Department of Finance) updated by the increase in Price Index of Operating Costs for the 4/1/92 -4/1/93 period (4.7%). Income figure includes income for 1991 (average income reported on income and expense statements filed with the Department of Finance) updated by a staff estimate based upon renewal and vacancy guidelines, choice of lease terms and estimated annual turnover rates (3.11%).

*** Expense figure includes 1992 expense estimate updated by staff projections for the period from 4/1/93 through 4/1/94 (3.1%) (Note: The projection was revised to 3.1% from 1.8% after the initial publication of this report.). Income includes income estimate for 1992 updated by staff estimate based upon renewal guidelines and choice of lease terms (2.8%).

[9] Residential rents are reported separately from commercial income, but expenses relating to commercial and residential space are not separated.

Editor's Note: On June 11, 1993 the Board voted to continue reporting "Table 14" along with the new table.

Multiple Dwelling Law

Article 7-C. Legalization of Interim Multiple Dwellings (Current as of 11/25)

§ 286. Tenant Protection

1. It shall not be a ground for an action or proceeding to recover possession of a unit occupied by a residential occupant qualified for the protection of this article that the occupancy of the unit is illegal or in violation of provisions of the tenant's lease or rental agreement because a residential certificate of occupancy has not been issued for the building, or because residential occupancy is not permitted by the lease or rental agreement.

2. (i) Prior to compliance with safety and fire protection standards of article seven-B of this chapter,[175], residential occupants qualified for protection pursuant to this article shall be entitled to continued occupancy, provided that the unit is their primary residence, and shall pay the same rent, including escalations, specified in their lease or rental agreement to the extent to which such lease or rental agreement remains in effect or, in the absence of a lease or rental agreement, the same rent most recently paid and accepted by the owner; if there is no lease or other rental agreement in effect, rent adjustments prior to article seven-B compliance shall be in conformity with guidelines to be set by the loft board for such residential occupants within six months from the effective date of this article.

(ii) In addition to any rent adjustment pursuant to paragraph (i) of this subdivision, on or after June twenty-first, nineteen hundred ninety-two, the rent for residential units in interim multiple dwellings that are not yet in compliance with the requirements of subdivision one of section two hundred eighty-four of this article shall be adjusted as follows:

(A) Upon the owners' filing of an alteration application, as required by paragraphs (ii), (iii), (iv), (v), (vi), and (vii) of subdivision one of section two hundred eighty-four of this article, an adjustment equal to three percent of the rent in effect at the time the owner files the alteration application.

(B) Upon obtaining an alteration permit, as required by paragraphs (ii), (iii), (iv), (v), (vi), and (vii) of subdivision one of section two hundred eighty- four of this article, an adjustment equal to three percent of the rent in effect at the time the owner obtains the alteration permit.

(C) Upon achieving compliance with the standards of safety and fire protection set forth in article seven-B of this chapter for the residential portions of the building, an adjustment equal to four percent of the rent in effect at the time the owner achieves such compliance.

(D) Owners who filed an alteration application prior to the effective date of this subparagraph shall be entitled to a prospective adjustment equal to six percent of the rent on the effective date of this subparagraph.

(E) Owners who obtained an alteration permit prior to June twenty- first, nineteen hundred ninety-two shall be entitled to a prospective adjustment equal to fourteen percent of the rent on June twenty-first, nineteen hundred ninety-two.

(F) Owners who achieved compliance with the standards of safety and fire protection set forth in article seven-B of this chapter for the residential portions of the building prior to June

[175] Multiple Dwelling Law §275 et. seq.

twenty-first, nineteen hundred ninety-two shall be entitled to a prospective adjustment equal to twenty percent of the rent on June twenty-first, nineteen hundred ninety-two.

(iii) Any rent adjustments pursuant to paragraph (ii) of this subdivision shall not apply to units which were rented at market value after June twenty-first, nineteen hundred eighty-two and prior to June twenty-first, nineteen hundred ninety-two. This paragraph shall not apply to units made subject to this article by subdivision five of section two hundred eighty-one of this article.

(iv) Payment of any rent adjustments pursuant to paragraph (ii) of this subdivision shall commence the month immediately following the month in which the act entitling the owner to the adjustment occurred.

3. Upon or after compliance with the safety and fire protection standards of article seven-B of this chapter, an owner may apply to the loft board for an adjustment of rent based upon the cost of such compliance. Upon approval by the loft board of such compliance, the loft board shall set the initial legal regulated rent, and each residential occupant qualified for protection pursuant to this article shall be offered a residential lease subject to the provisions regarding evictions and regulation of rent set forth in the emergency tenant protection act of nineteen seventy-four, except to the extent the provisions of this article are inconsistent with such act.

4. The initial legal regulated rent established by the loft board shall be equal to (i) the rent in effect, including escalations, as of the date of application for adjustment ("base rent"), plus, (ii) the maximum annual amount of any increase allocable to compliance as provided herein; and (iii) the percentage increase then applicable to one, two or three year leases, as elected by the tenant, as established by the local rent guidelines board, and applied to the base rent, provided, however, such percentage increases may be adjusted downward by the loft board if prior increases based on loft board guidelines cover part of the same time period to be covered by the rent guidelines board adjustments.

5. An owner may apply to the loft board for rent adjustments once based upon the cost of compliance with article seven-B of this chapter and once based upon the obtaining of a residential certificate of occupancy. If the initial legal regulated rent has been set based only upon article seven-B compliance, a further adjustment may be obtained upon the obtaining of a residential certificate of occupancy. Upon receipt of such records as the loft board shall require, the loft board shall determine the costs necessarily and reasonably incurred, including financing, in obtaining compliance with this article pursuant to a schedule of reasonable costs to be promulgated by it. The adjustment in maximum rents for compliance with this article shall be determined either (i) by dividing the amount of the cash cost of such improvements exclusive of interest and service charges over a ten year period of amortization, or (ii) by dividing the amount of the cash cost of such improvements exclusive of interest and service charges over a fifteen year period of amortization, plus the actual annual mortgage debt service attributable to interest and service charges in each year of indebtedness to an institutional lender, or other lender approved by the loft board, incurred by the owner to pay the cash cost of the improvements, provided that the maximum amount of interest charged includable in rent shall reflect an annual amortization factor of one-fifteenth of the outstanding principal balance. Rental adjustments to each residential unit shall be determined on a basis approved by the loft board. An owner may elect that the loft board shall deem the total cost of compliance with this article to be the amounts certified by the local department of housing preservation and development of such municipality in any certificate of eligibility issued in connection with an application for tax exemption or tax

abatement to the extent such certificate reflects categories of costs approved by the loft board as reasonable and necessary for such compliance. Rental adjustments attributable to the cost of compliance with this article shall not become part of the base rent for purposes of calculating rents adjusted pursuant to rent guidelines board increases.

6. Notwithstanding any provision of law to the contrary, a residential tenant qualified for protection pursuant to this chapter may sell any improvements to the unit made or purchased by him to an incoming tenant provided, however, that the tenant shall first offer the improvements to the owner for an amount equal to their fair market value. Upon purchase of such improvements by the owner, any unit subject to rent regulation solely by reason of this article and not receiving any benefits of real estate tax exemption or tax abatement, shall be exempted from the provisions of this article requiring rent regulation if such building had fewer than six residential units as of the effective date of the act which added this article, or rented at market value subject to subsequent rent regulation if such building had six or more residential units at such time. The loft board shall establish rules and regulations regarding such sale of improvements which shall include provisions that such right to sell improvements may be exercised only once for each unit subject to this article, and that the opportunity for decontrol or market rentals shall not be available to an owner found guilty by the loft board of harassment of tenants.

7. The local rent guidelines board shall annually establish guidelines for rent adjustments for the category of buildings covered by this article in accordance with the standards established pursuant to the emergency tenant protection act of nineteen seventy-four. The local rent guidelines board shall 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. The loft board shall annually commission a study by an independent consultant to assist the rent guidelines board in determining the economics of loft housing.

8. Cooperative and condominium units occupied by owners or tenant-shareholders shall not be subject to rent regulation pursuant to this article.

9. No eviction plan for conversion to cooperative or condominium ownership for a building which is, or a portion of which is an interim multiple dwelling shall be submitted for filing to the department of law pursuant to the general business law until a residential certificate of occupancy is obtained as required by this article, and the residential occupants qualified for protection pursuant to this article are offered one, two or three year leases, as elected by such persons, in accordance with the provisions for establishment of initial legal regulated rent contained herein. Non-eviction plans for such buildings may be submitted for filing only if the sponsor remains responsible for compliance with article seven-B and for all work in common areas required to obtain a residential certificate of occupancy. Cooperative conversion shall be fully in accordance with section three hundred fifty-two-eeee of the general business law, the requirements of the code of the local real estate industry stabilization association, and with the rules and regulations promulgated by the attorney general.

10. The functions of the local conciliation and appeals board of such municipality regarding owners and tenants subject to rent regulation pursuant to this article shall be carried out by the loft board until such time as provided otherwise by local law.

11. Residential occupants qualified for protection pursuant to this article shall be afforded the protections available to residential tenants pursuant to the real property law and the real property actions and proceedings law.

12. No waiver of rights pursuant to this article by a residential occupant qualified for protection pursuant to this article made prior to the effective date of the act which added this article shall be accorded any force or effect; however, subsequent to the effective date an owner and a residential occupant may agree to the purchase by the owner of such person's rights in a unit.

13. The applicability of the emergency tenant protection act of nineteen seventy-four to buildings occupied by residential tenants qualified for protection pursuant to this article shall be subject to a declaration of emergency by the local legislative body. In the event such act expires prior to the expiration of this article, tenants in interim multiple dwellings shall be included in coverage of the rent stabilization law of nineteen hundred sixty-nine of the city of New York.

Appendix M

Apartment Guidelines

1969-2026

New York City Rent Guidelines Board
1 Centre Street, Suite 2210 • New York, NY 10007
email: ask@rgb.nyc.gov • nyc.gov/rgb

Chair: Doug Apple
Executive Director: Andrew McLaughlin

Rent Guidelines Board Apartment Orders #1 through #57*

Order Number	Rent Stabilized Leases Starting Between	One-Year Renewal Lease	Two-Year Renewal Lease	Three-Year Renewal Lease	Vacancy Lease	Electrical Inclusion	Fair Market Rent Guidelines for Previously Controlled Units
57	10/1/25 to 9/30/26	3.0%	4.5%	--	See Renewal Lease Guidelines [1, 2]	None	MBR + 49%
56	10/1/24 to 9/30/25	2.75%	5.25%	--	See Renewal Lease Guidelines [1, 2]	None	MBR + 49%
55	10/1/23 to 9/30/24	3.0%	2.75% (1st yr) 3.2% (2nd yr) [3]	--	See Renewal Lease Guidelines [1, 2]	None	MBR + 27%
54	10/1/22 to 9/30/23	3.25%	5.0%	--	See Renewal Lease Guidelines [1, 2]	None	MBR + 27%
53	10/1/21 to 9/30/22	0.0% (1st 6 mos) 1.5% (last 6 mos)	2.5%	--	See Renewal Lease Guidelines [1, 2]	None	MBR + 39%
52	10/1/20 to 9/30/21	0.0%	0.0% (1st yr) 1.0% (2nd yr)	--	See Renewal Lease Guidelines [1, 2]	None	MBR + 39%
51	10/1/19 to 9/30/20	1.5%	2.5%	--	--[1]	None	MBR + 39%
50	10/1/18 to 9/30/19	1.5%	2.5%	--	--[4, 5]	None	MBR + 39%
49	10/1/17 to 9/30/18	1.25%	2.0%	--	--[4, 5]	None	MBR + 33%
48	10/1/16 to 9/30/17	0.0%	2.0%	--	--[4, 5]	None	MBR + 33%
47	10/1/15 to 9/30/16	0.0%	2.0%	--	--[4, 5]	None	Greater of MBR + 33% or H.U.D.'s Fair Market Rent [6]
46	10/1/14 to 9/30/15	1.0%	2.75%	--	--[4, 5]	None	Greater of MBR + 30% or H.U.D.'s Fair Market Rent [6]
45	10/1/13 to 9/30/14	4.0%	7.75%	--	--[4, 5]	None	Greater of MBR + 30% or H.U.D.'s Fair Market Rent [6]

[1] A separate vacancy allowance is not permitted under the Housing Stability and Tenant Protection Act of 2019.

[2] Consistent with guidance from New York State Homes and Community Renewal (HCR), lease adjustments for one- and two-year renewal leases also apply to vacant apartments that become occupied during the term of the Order. No more than one guideline adjustment may be added during the guideline year governed by this order.

[3] For the second year of the lease, adjustement above the amount lawfully charged in the first year, excluding any increases other than the first-year guideline increase.

[4] No vacancy allowance is permitted except as provided by the Rent Regulation Reform Act of 1997 (and the Rent Act of 2015 for Orders 47-50 only).

[5] In the event of a sublease, governed by subdivision (e) of Section 2525.6 of the Rent Stabilization Code, there is a 10% allowable increase.

[6] The fair market rent for existing housing as established by the U.S. Dept. of Housing and Urban Development (HUD) for the NY Primary Metropolitan Statistical Area pursuant to Section 8c (1) of the U.S. Housing Act of 1937, as found at 42 U.S. Code Section 1437f and 24 C.F.R. Part 888, with such Fair Market Rents to be adjusted accordingly whether the tenant pays his own gas and/or electric charges as part of his rent as such gas and/or electric charges are determined by the NYC Housing Authority.

*This chart summarizes apartment guidelines and should not be construed as a substitute for full orders. Orders can be found on the RGB's website or by emailing ask@rgb.nyc.gov. Loft guidelines can be obtained from individual orders.

New York City Rent Guidelines Board
1 Centre Street, Suite 2210 • New York, NY 10007
email: ask@rgb.nyc.gov • nyc.gov/rgb

Chair: Doug Apple
Executive Director: Andrew McLaughlin

Rent Guidelines Board Apartment Orders #1 through #57*

Order Number	Rent Stabilized Leases Starting Between	One-Year Renewal Lease	Two-Year Renewal Lease	Three-Year Renewal Lease	Vacancy Lease	Electrical Inclusion	Fair Market Rent Guidelines for Previously Controlled Units
44	10/1/12 to 9/30/13	2% or $20, whichever is greater	4% or $40, whichever is greater	--	--[4, 5]	None	Greater of MBR + 30% or H.U.D.'s Fair Market Rent[6]
43	10/1/11 to 9/30/12	3.75%	7.25%	--	--[4, 5]	None	Greater of MBR + 30% or H.U.D.'s Fair Market Rent[6]
42	10/1/10 to 9/30/11	2.25%	4.5%	--	--[4, 5]	None	Greater of MBR + 50% or H.U.D.'s Fair Market Rent[6]
41	10/1/09 to 9/30/10	3.0%[7] 2.5%[8]	6.0%[7] 5.0%[8]	--	--[4, 5]	None	Greater of MBR + 50% or H.U.D.'s Fair Market Rent[6]
	Where the most recent vacancy lease was executed six years or more prior to the date of the renewal lease under this Order, a minimum of 3.0% or $30, whichever is greater, for a one year lease (2.5% or $25, whichever is greater, where the tenant pays for heat) or 6.0% or $60, whichever is greater, for a two-year lease (5% or $50, whichever is greater, where the tenant pays for heat) shall apply.						
	[7] If the owner provides heat at no charge to tenant. [8] If the tenant pays own heat.						
40	10/1/08 to 9/30/09	4.5%[7] 4.0%[8]	8.5%[7] 8.0%[8]	--	--[4, 5]	None	Greater of MBR + 50% or H.U.D.'s Fair Market Rent[6]
	Where the most recent vacancy lease was executed six years or more prior to the date of the renewal lease under this Order, a minimum of 4.5% or $45, whichever is greater, for a one year lease (4% or $40, whichever is greater, where the tenant pays for heat) or 8.5% or $85, whichever is greater, for a two-year lease (8% or $80, whichever is greater, where the tenant pays for heat) shall apply.						
39	10/1/07 to 9/30/08	3%	5.75%	--	--[4, 5]	None	Greater of MBR + 50% or H.U.D.'s Fair Market Rent[6]
38	10/1/06 to 9/30/07	4.25%[7] 3.75%[8]	7.25%[7] 6.75%[8]	--	--[4, 5]	None	Greater of MBR + 50% or H.U.D.'s Fair Market Rent[6]
37	10/1/05 to 9/30/06	2.75%[7] 2.25%[8]	5.5%[7] 4.5%[8]	--	--[4, 5]	None	Greater of MBR + 50% or H.U.D.'s Fair Market Rent[6]
36	10/1/04 to 9/30/05	3.5%[7] 3%[8]	6.5%[7] 6%[8]	--	--[4, 5]	None	Greater of MBR + 50% or H.U.D.'s Fair Market Rent[6]
35	10/1/03 to 9/30/04	4.5%	7.5%	--	--[4, 5]	None	Greater of MBR + 50% or H.U.D.'s Fair Market Rent[6]
34	10/1/02 to 9/30/03	2%	4%	--	--[4, 5]	None	Greater of MBR + 50% or H.U.D.'s Fair Market Rent[6]

*This chart summarizes apartment guidelines and should not be construed as a substitute for full orders. Orders can be found on the RGB's website or by emailing ask@rgb.nyc.gov. Loft guidelines can be obtained from individual orders.

New York City Rent Guidelines Board
1 Centre Street, Suite 2210 • New York, NY 10007
email: ask@rgb.nyc.gov • nyc.gov/rgb

Chair: Doug Apple
Executive Director: Andrew McLaughlin

Rent Guidelines Board Apartment Orders #1 through #57*

Order Number	Rent Stabilized Leases Starting Between	One-Year Renewal Lease	Two-Year Renewal Lease	Three-Year Renewal Lease	Vacancy Lease	Electrical Inclusion	Fair Market Rent Guidelines for Previously Controlled Units
33	10/1/01 to 9/30/02	4%	6%	--	--[4, 5]	None	Greater of MBR + 150% + Fuel Adjustments or H.U.D's Fair Market Rent[6]
32	10/1/00 to 9/30/01	4%	6%	--	--[4, 5]	None	Greater of MBR + 150% + Fuel Adjustments or H.U.D.'s Fair Market Rent[6]
	(Rent ≤$500, add $15) (Rent <$215 after appropriate increases in this order have been applied, will be $215)						
31	10/1/99 to 9/30/00	2%	4%	--	--[4, 9]	None	Greater of MBR + 150%+ Fuel Adjustments or H.U.D.'s Fair Market Rent[6]
	(Rent ≤$500, add $15) (Rent <$215 after appropriate increases in this order have been applied, will be $215)						
30	10/1/98 to 9/30/99	2% (Rent <$450, add $15)[11]	4%	--	--[4, 10]	None	Greater of MBR + 80% + Fuel Adjustments or $650
29	10/1/97 to 9/30/98	2% (Rent ≤$400, add $15)[12]	4%	--	--[4, 10]	None	Greater of MBR + 40% + Fuel adjustment or MCR + 50% + Fuel Adjustment
28	10/1/96 to 9/30/97 (Rent ≤$400, add $20)	5%	7%	--	9%[13]	None	Greater of MBR + 40% + Fuel adjustment or MCR + 50% + Fuel Adjustment
27	10/1/95 to 9/30/96	2% (Rent ≤$400, add $20)	4%	--	8.5%[13]	None	Greater of 35% above MBR or 45% above the MCR
26	10/1/94 to 9/30/95	2% (Rent<$400, add $15)[15]	4%	--	10% or 5%[13, 14]	None	Greater of 35% above MBR or 40% above the MCR
25	10/1/93 to 9/30/94	3%	5%	--	5, 3, or 0%[13, 16]	None	MCR + 40%
24	10/1/92 to 9/30/93	3%	5%	--	5%[13]	None	MBR +15% + Fuel Adjustment
23	10/1/91 to 9/30/92	4%	6.5%	--	5%[13]	None	MBR + 15% + Fuel Adjustment

[9] In the event of a sublease, governed by subdivision (e) of Section 2525.6 of the Rent Stabilization Code, there is a 0% allowable increase.

[10] In the event of a sublease, governed by subdivision (e) of Section 2525.6 of the Rent Stabilization Code, there is a 5% allowable increase.

[11] Provided the monthly rent resulting from application of this level of increase or any portion thereof does not exceed $465.

[12] Provided the monthly rent resulting from application of this level of increase or any portion thereof does not exceed $415.

[13] If no other Vacancy Allowance was taken within the same guideline year.

[14] 10% for rents < $400 in buildings with 30 or fewer units, 5% for all other buildings with rents <$1000

[15] Applicable for apartments located in buildings with thirty or fewer dwelling units.

[16] 5% for rents < $500, 3% for rents ≥ $500 <$1000, 0% for rents ≥ $1000.

*This chart summarizes apartment guidelines and should not be construed as a substitute for full orders. Orders can be found on the RGB's website or by emailing ask@rgb.nyc.gov. Loft guidelines can be obtained from individual orders.

New York City Rent Guidelines Board
1 Centre Street, Suite 2210 • New York, NY 10007
email: ask@rgb.nyc.gov • nyc.gov/rgb

Chair: Doug Apple
Executive Director: Andrew McLaughlin

Rent Guidelines Board Apartment Orders #1 through #57*

Order Number	Rent Stabilized Leases Starting Between	One-Year Renewal Lease	Two-Year Renewal Lease	Three-Year Renewal Lease	Vacancy Lease	Electrical Inclusion	Fair Market Rent Guidelines for Previously Controlled Units
22	10/1/90 to 9/30/91	4.5%	7%	--	5%[13]	None	MCR + 35% + Fuel Adjustment
21	10/1/89 to 9/30/90	5.5% (Rent < $325, add $5)[17]	9%	--	12%[13]	None	Greater of 25% above MBR or 45% above MCR + Fuel Adjustment
	[17] Caps: Renewal Lease - $342.88 one year, $354.25 two years; Vacancy Lease - $381.88 one year, $393.25 two years.						
20	10/1/88 to 9/30/89	6% (Rent < $325, add $5)[18]	9%	--	12%[13]	None	Greater of 25% above MBR or 45% above MCR + Fuel Adjustment
	[18] Caps: Renewal Lease - $344.50 one year, $354.25 two years; Vacancy Lease - $383.50 one year, $393.25 two years.						
19	10/1/87 to 9/30/88	3% (Rent < $325, add $10)[20]	6.5%	--	10%[19]	None	1986 MBR + Fuel Adjustment + 35%
	[20] Caps: Renewal Lease - $334.75 for one year lease, $346.13 for two year lease; Vacancy Lease - $367.25 for one year lease, $378.63 for two year lease.				[19] If no vacancy allowance was taken under the previou		
18	10/1/86 to 9/30/87	6% (Rent < $350, add $15)[21]	9%	--	7.5%[19]	None	1986 MBR + Fuel Adjustment + 20%
	[21] Caps: Renewal Lease - $371.00 for one year lease, $381.50 for two year lease; Vacancy Lease - $397.25 for one year lease, $407.75 for two year lease.						
17	10/1/85 to 9/30/86	4% (Rent < $300, add $15)[22]	6.5%	--	7.5%[19]	None	1984 MBR + Fuel Adjustment + 20%
	[22] Caps: Renewal Lease - $312 for one year lease, $319.50 for two year lease; Vacancy Lease - $334.50 for one year lease, $342.00 for two year lease.						
16	10/1/84 to 9/30/85	6% (Rent < $250, add $10)[24]	9%	--[23]	7.5%[19]	None	1984 MBR + Fuel Adjustment + 15%
	[23] Owners no longer required to offer a three year lease effective 10/1/83.				[24] Caps: Renewal Lease - $265 for one year lease, $272.50 for two year lease; Vacancy Lease - $283.75 for one year lease, $291.25 for two year lease.		
15	10/1/83 to 9/30/84	4% (Rent < $200, add $10)[26]	7%	10%	0, 5, 10, or 15%[25]	Minus 1%	1982 MBR+Fuel Adj.+20%
	[25] 0% if 15% or more vacancy allowance has been charged since 7/1/79. 5% if less than 15% but more than 0% vacancy allowance has been charged since 6/1/79. 10% if the last vacancy allowance was charged between 7/1/75 and 6/30/79. 15% if no vacancy allowance has been charged in any guidelines period since 7/1/75. If rent is < $200, see box with Vacancy Allowance Caps.				[26] Caps: Renewal Lease without electric - $208 one year; $214 two years, $220 three years. Renewal Lease with electric - $206 one year, $212 two years, $218 three years.		
14	10/1/82 to 9/30/83	4%	7%	10%	None	Minus 1%	1982 MBR + Fuel Adj + 15%

*This chart summarizes apartment guidelines and should not be construed as a substitute for full orders. Orders can be found on the RGB's website or by emailing ask@rgb.nyc.gov. Loft guidelines can be obtained from individual orders.

New York City Rent Guidelines Board
1 Centre Street, Suite 2210 • New York, NY 10007
email: ask@rgb.nyc.gov • nyc.gov/rgb

Chair: Doug Apple
Executive Director: Andrew McLaughlin

Rent Guidelines Board Apartment Orders #1 through #57*

Order Number	Rent Stabilized Leases Starting Between	One-Year Renewal Lease	Two-Year Renewal Lease	Three-Year Renewal Lease	Vacancy Lease	Electrical Inclusion	Fair Market Rent Guidelines for Previously Controlled Units
13	10/1/81 to 9/30/82 [27]	10% [7] 6.5% [8]	13% [7] 9.5% [8]	16% [7] 12.5% [8]	15%	4%	20% above 1980 MBR
	[27] Starting with Order #13, rent increases are based on the legal rent in effect on September 30 prior to the guideline period.						
12, 12a	7/1/80 to 6/30/81 [28]	11% [7] 5% [8]	14% [7] 7% [8]	17% [7] 9% [8]	5% [29], 10% [30] 15% [31]	1.5%	15% above 1980 MBR
	[28] This guideline period is for fifteen months. [30] If there has been no change in tenancy since 7/1/75.						
	[29] If there has been a change in tenancy since 7/1/75. [31] Vacancy increase over 6/30/81 rent for new leases starting on or after 7/1/81 and on or before 9/30/81.						
11, 11a, 11b [32]	7/1/79 to 6/30/80	8.5%	12%	15%	5% [33] or 15% [34]	None	20% above 1978 MBR
	[32] A fuel surcharge of $8 per month is in effect one year from the starting day of any leases commencing between 7/1/79 and 6/30/80. [33] For leases beginning between 7/1/79 and 1/31/80. [34] For leases beginning between 2/1/80 and 6/30/80.						
10b,c,d,e	7/1/78 to 6/30/79	2.5% [35]	2% [35]	0.5% [35]	10% [36, 48]	--	
	[35] In addition to the base adjustment permitted under order #10a, these fuel adjustments for one, two and three year leases could be charged effective 3/1/79. Additional fuel adjustments were set down by Orders #10c,d and e as follows: 1) as of 1/1/80 in addition to the above, $12.00 per month per unit could be charged through 6/30/80; 2) starting 7/1/80, an $8.00 per month per unit fuel adjustment could be charged effective through the end of the lease. In all cases, these adjustments apply only where the landlord provides heat at no additional charge to the tenant. Also, none of these adjustments become part of the base rent and cannot be included in subsequent calculations of rent increases. [36] For leases where apartment was vacated between 2/1/80 and 6/30/80.						
10,10a	7/1/78 to 6/30/79	4.5%	6.5%	8.5%	5% [48]	0.5%	15% above 1978 MBR
9	7/1/77 to 6/30/78	6.5%	8.5%	11.5%	5% [48]	4% [37]	20% above 1976 MBR
	[37] Only if no electrical inclusion was previously taken.						
8 [38]	7/1/76 to 6/30/77	6.5%	8%	11.0%	5% [48]	3.5% [37]	15% above 1976 MBR
	[38] Special adjustments apply for the first renewal lease of any apartment decontrolled under the Vacancy Decontrol Law. See Supplemental Order #6a for specifics.						
7 [38]	7/1/75 to 6/30/76	7.5%	9.5%	12.5%	5% [48]	3.5%	22.5% above 1974 MBR
6,6a,6b,6c [38]	7/1/74 to 6/30/75	8.5%	10.5%	12%	None [48]	2.5% [39]	15% above 1974 MBR
					[39] Applies only to leases starting on or after 9/1/74.		
5 [40]	7/1/73 to 6/30/74	6.5%	8.5%	10.5%	5% [41, 48]	None	
	[40] Vacancy Decontrol was in effect from 7/1/71 to 6/30/74. [41] Effective only for apartments vacated before 6/30/71 and not subject to the Vacancy Decontrol Law.						
4 [40]	7/1/72 to 6/30/73 [42]	6%	8%	10%	5% [41, 48]	None	
	[42] The renewal lease guidelines also include a separate "stabilizer" of 0.5%.						
3	7/1/71 to 6/30/72 [43]	7%	9%	12%	10% [41, 48]	None	
	[43] The renewal lease guidelines also include a separate "stabilizer" of 1.0%.						

*This chart summarizes apartment guidelines and should not be construed as a substitute for full orders. Orders can be found on the RGB's website or by emailing ask@rgb.nyc.gov. Loft guidelines can be obtained from individual orders.

New York City Rent Guidelines Board
1 Centre Street, Suite 2210 • New York, NY 10007
email: ask@rgb.nyc.gov • nyc.gov/rgb

Chair: Doug Apple
Executive Director: Andrew McLaughlin

Rent Guidelines Board Apartment Orders #1 through #57*

Order Number	Rent Stabilized Leases Starting Between	One-Year Renewal Lease	Two-Year Renewal Lease	Three-Year Renewal Lease	Vacancy Lease	Electrical Inclusion	Fair Market Rent Guidelines for Previously Controlled Units
2	7/1/70 to 6/30/71 [44]	6%	8%	11%	7.5% [48]	None	
1	7/1/68 to 6/30/70	10% [45]	10%	15%	5% [46, 48] or 10% [47, 48]	None	

[44] The renewal lease guidelines also include a separate "stabilizer" of 1.0%.

[45] A one-year lease extension at the same rental could be requested by the tenant.

[46] For two year leases.

[47] For three year leases.

[48] The vacancy lease guidelines can be taken in conjunction with renewal lease guidelines.

*This chart summarizes apartment guidelines and should not be construed as a substitute for full orders. Orders can be found on the RGB's website or by emailing ask@rgb.nyc.gov. Loft guidelines can be obtained from individual orders.

Appendix M1

Hotel Guidelines

1971-2026

New York City Rent Guidelines Board
1 Centre Street, Suite 2210 • New York, NY 10007
email: ask@rgb.nyc.gov • nyc.gov/rgb

Chair: Doug Apple
Executive Director: Andrew McLaughlin

Rent Guidelines Board Hotel Orders #1 through #55*

Order Number	Renewal Leases Starting Between	Residential Class A	Lodging Houses	Rooming Houses	Class B Hotels	S.R.O. Buildings	*FOR SPECIAL NOTE ON RENT ADJUSTMENTS ON VACANCY: SEE END.
55	10/1/25 to 9/30/26	0%	0%	0%	0%	0%	
54	10/1/24 to 9/30/25	0%	0%	0%	0%	0%	
53	10/1/23 to 9/30/24	0%	0%	0%	0%	0%	
52	10/1/22 to 9/30/23	0%	0%	0%	0%	0%	
51	10/1/21 to 9/30/22	0%	0%	0%	0%	0%	
50	10/1/20 to 9/30/21	0%	0%	0%	0%	0%	
49	10/1/19 to 9/30/20	0%	0%	0%	0%	0%	
48	10/1/18 to 9/30/20	0%	0%	0%	0%	0%	
47	10/1/17 to 9/30/18	0%	0%	0%	0%	0%	
46	10/1/16 to 9/30/17	0%	0%	0%	0%	0%	
45	10/1/15 to 9/30/16	0%	0%	0%	0%	0%	
44	10/1/14 to 9/30/15	0%	0%	0%	0%	0%	
43	10/1/13 to 9/30/14	0%	0%	0%	0%	0%	
42	10/1/12 to 9/30/13	0%	0%	0%	0%	0%	
41	10/1/11 to 9/30/12	3%[1]	3%[1]	3%[1]	3%[1]	3%[1]	[1]These increases shall be 0% when 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.
40	10/1/10 to 9/30/11	0%	0%	0%	0%	0%	
39	10/1/09 to 9/30/10	0%	0%	0%	0%	0%	
38	10/1/08 to 9/30/09	4.5%[1]	4.5%[1]	4.5%[1]	4.5%[1]	4.5%[1]	
37	10/1/07 to 9/30/08	0%	0%	0%	0%	0%	
36	10/1/06 to 9/30/07	2%[2]	2%[2]	2%[2]	2%[2]	2%[2]	[2]These increases shall be 0% when 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 80% 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.
35	10/1/05 to 9/30/06	0%	0%	0%	0%	0%	
34	10/1/04 to 9/30/05	0%	0%	0%	0%	0%	

*This chart summarizes hotel guidelines and should not be construed as a substitute for full orders.
Orders can be found on the RGB's website or by emailing ask@rgb.nyc.gov.

M1-1

New York City Rent Guidelines Board
1 Centre Street, Suite 2210 • New York, NY 10007
email: ask@rgb.nyc.gov • nyc.gov/rgb

Chair: Doug Apple
Executive Director: Andrew McLaughlin

Rent Guidelines Board Hotel Orders #1 through #55*

Order Number	Renewal Leases Starting Between	Residential Class A	Lodging Houses	Rooming Houses	Class B Hotels	S.R.O. Buildings	*FOR SPECIAL NOTE ON RENT ADJUSTMENTS ON VACANCY: SEE END.
33	10/1/03 to 9/30/04	3.5%[3, 4]	3.5%[3, 4]	3.5%[3, 4]	3.5%[3, 4]	3.5%[3, 4]	[3]These increases shall be 0% when 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 75% 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. [4]If the owner failed to provide to new occupant(s) of a unit a copy of Rights and Duties of Hotel Owners and Tenants, pursuant to Section 2522.5 of the Rent Stabilization Code, then the allowable level of rent adjustment shall be 0%.
32	10/1/02 to 9/30/03	0%[4, 5]	0%[4, 5]	0%[4, 5]	0%[4, 5]	0%[4, 5]	[5]These increases shall be 0% when 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 70% 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.
31	10/1/01 to 9/30/02	2%[4, 6]	2%[4, 6]	2%[4, 6]	2%[4, 6]	2%[4, 6]	[6]These increases shall be 0% if fewer than 70% of the residential units in a building are occupied by 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.
30	10/1/00 to 9/30/01	2%[4, 6]	2%[4, 6]	2%[4, 6]	2%[4, 6]	2%[4, 6]	
29	10/1/99 to 9/30/00	4%[4, 6]	4%[4, 6]	4%[4, 6]	4%[4, 6]	4%[4, 6]	
28	10/1/98 to 9/30/99	0%	0%	2%[4, 7, 8]	0%	0%	[7] If the affected building contains A) 20 or more units; and 10% or more of the units have been withheld from the rental market for a period exceeding 30 days, unless the owner can show a reasonable basis for the witholding; OR B) 20% or more of the units are not registered with the DHCR, then the allowable level of rent adjustment shall be 0%. [8]If fifty percent or more of the units have been leased, used, or dedicated to a use other than permanent residential housing at the legal level, then the allowable level of rent adjustment shall be 0%.
27	10/1/97 to 9/30/98	0%	0%	2%[4, 7, 8]	0%	0%	
26	10/1/96 to 9/30/97	0%	0%	0%	0%	0%	
25	10/1/95 to 9/30/96	0%	0%	0%	0%	0%	

*This chart summarizes hotel guidelines and should not be construed as a substitute for full orders.
Orders can be found on the RGB's website or by emailing ask@rgb.nyc.gov.

New York City Rent Guidelines Board
1 Centre Street, Suite 2210 • New York, NY 10007
email: ask@rgb.nyc.gov • nyc.gov/rgb

Chair: Doug Apple
Executive Director: Andrew McLaughlin

Rent Guidelines Board Hotel Orders #1 through #55*

Order Number	Renewal Leases Starting Between	Residential Class A	Lodging Houses	Rooming Houses	Class B Hotels	S.R.O. Buildings	***FOR SPECIAL NOTE ON RENT ADJUSTMENTS ON VACANCY: SEE END.**
24	10/1/94 to 9/30/95	2%	2%[7]	2%[7]	2%[7]	2%[7]	
23	10/1/93 to 9/30/94	3%	2%[7]	2%[7]	2%[7]	3%[7]	
22	10/1/92 to 9/30/93	3%	2%	2%	2%[7]	2%[7]	
21	10/1/91 to 9/30/92	3.5%	3.5%	3.5%	3.5%[9]	3.5%[9]	[9]If the affected building contains A) 20 or more units; and 10% or more of the units have been deliberately withheld from the rental market for a period exceeding 30 days OR B) 20% or more of the units are not registered with the DHCR; then the allowable level of rent adjustment shall be 0%.
20	10/1/90 to 9/30/91	2%	2%	2%	2%[9]	2%[9]	
19	10/1/89 to 9/30/90[9]	3.5%[11]	3.5%[11]	3.5%[11]	3.5%[9,11]	3.5%[9,11]	[10]For those leases or rental agreements which will expire between 7/1/89 and 9/30/89 the rent in effect under the expiring lease shall continue in effect through 9/30/89. [11]A temporary rent increase of .875% of the rent charged and paid on June 30, 1989 may be charged. This temporary increase may be collected only for the effective period of this Order and may not be included in the legal regulated base rent once a new rent is charged under a subsequent Order.
18	7/1/88 to 6/30/89	3.5%	2%	3.50%	2%[9]	2%[9]	
17	7/1/87 to 6/30/88	3%	3%	3%	0%	0%	
16	7/1/86 to 6/30/87	0%	0%	0%	0%	0%	
15	7/1/85 to 6/30/86	2%[12]	2%[12]	2%[12]	2%[12]	2%[12]	[12]For buildings of more than 30 units this increase shall not apply where more than 5% of the units are vacant for the 60 days preceding the effective date of this order, except as otherwise permitted in the order.
14	7/1/84 to 6/30/85	0%	0%	0%	0%	0%	
13	7/1/83 to 6/30/84	4%[13, 14]	4%[13, 14]	4%[13, 14]	4%[13, 14]	4%[13, 14]	[13]This increase will not apply where 40% or more of the dwelling units in a hotel are vacant and unoccupied on the date specified in the order except as otherwise permitted in the order. [14]Those units which have had no new tenancy commencing on or after July 1, 1978, are allowed an additional 5% vacancy allowance over rentals charged on June 30, 1983.
12	7/1/82 to 6/30/83	2%[13]	2%[13]	2%[13]	2%[13]	2%[13]	

*This chart summarizes hotel guidelines and should not be construed as a substitute for full orders. Orders can be found on the RGB's website or by emailing ask@rgb.nyc.gov.

New York City Rent Guidelines Board
1 Centre Street, Suite 2210 • New York, NY 10007
email: ask@rgb.nyc.gov • nyc.gov/rgb

Chair: Doug Apple
Executive Director: Andrew McLaughlin

Rent Guidelines Board Hotel Orders #1 through #55*

Order Number	Renewal Leases Starting Between	Residential Class A	Lodging Houses	Rooming Houses	Class B Hotels	S.R.O. Buildings	*FOR SPECIAL NOTE ON RENT ADJUSTMENTS ON VACANCY: SEE END.
11	5/1/81 to 6/30/82	10%[13, 15, 16]	10%[13, 15, 16]	10%[13, 15, 16]	10%[13, 15, 16]	10%[13, 15, 16]	[15]A temporary surcharge of 1.67% can be applied for the period between 5/1/81 to 5/31/81 and remains in effect through June 30, 1982 or through the termination of the tenancy, whichever occurs first and shall not merge with the base rent established pursuant to Hotel Order 11 for the purpose of computing any rental adjustments. [16]A temporary surcharge of .83% can be applied for the period between 6/1/81 to 6/30/81 and remains in effect through June 30, 1982 or through the termination of the tenancy, whichever occurs first and shall not merge with the base rent established pursuant to Hotel Order 11 for the purpose of computing any rental adjustments.
10	5/1/80 to 4/30/81	9.5%[13]	9.5%[13]	9.5%[13]	9.5%[13]	9.5%[13]	
9	5/1/79 to 4/30/80	6.5%[13]	6.5%[13]	6.5%[13]	6.5%[13]	6.5%[13]	
8	5/1/78 to 4/30/79	5%[13]	5%[13]	5%[13]	5%[13]	5%[13]	
7	5/1/77 to 4/30/78	7%[13]	7%[13]	7%[13]	7%[13]	7%[13]	
6	1/1/76 to 4/30/77	6%[13]	6%[13]	6%[13]	6%[13]	6%[13]	
5	1/1/75 to 12/31/75	8%[13]	8%[13]	8%[13]	8%[13]	8%[13]	
4	1/1/74 to 12/31/74	5.5%[13]	5.5%[13]	5.5%[13]	5.5%[13]	5.5%[13]	
3	1/1/73 to 12/31/73	4%[13]	4%[13]	4%[13]	4%[13]	4%[13]	
2	1/1/72 to 12/31/72	4.5%	4.5%	4.5%	4.5%	4.5%	
1	1/1/71 to 12/31/71	6%/8%[17]	6%/8%[17]	6%/8%[17]	6%/8%[17]	6%/8%[17]	[17]Order #1 calls for a 6% increase "which shall escalate as of June 1, 1971 to 8%" over the rent in effect on 12/31/70.

***Note on Rent Increases Upon Vacancy in Stabilized Hotel Units:**

Prior to 1983 the Rent Stabilization Law provided that "any hotel dwelling unit which is voluntarily vacated by the tenant thereof may be offered for rental at any price notwithstanding any established permissable rent level." Chapter 448 of the Laws of 1983 substituted the following language: "Any hotel dwelling unit which is voluntarily vacated by the tenant thereof may be offered for rental at the guideline level for vacancies established by the rent guidelines board." Only once, in 1983, has the board permitted a special increase upon vacancy for stabilized hotel units.

*This chart summarizes hotel guidelines and should not be construed as a substitute for full orders. Orders can be found on the RGB's website or by emailing ask@rgb.nyc.gov.

Appendix N

2025 Apartment & Loft Order #57

NEW YORK CITY RENT GUIDELINES BOARD

2025 Apartment & Loft Order #57

June 30, 2025

Order Number 57 - Apartments and Lofts, rent levels for leases commencing **October 1, 2025** through **September 30, 2026.**

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE NEW YORK CITY RENT GUIDELINES BOARD BY THE RENT STABILIZATION LAW OF 1969, as amended, and the Emergency Tenant Protection Act of 1974, as amended and implemented by Resolution No. 276 of 1974 of the New York City Council, and in accordance with the requirements of Section 1043 of the New York City Charter, that the Rent Guidelines Board (RGB) hereby **adopts** the following levels of fair rent increases over lawful rents charged and paid on **September 30, 2025**. These rent adjustments will apply to rent stabilized apartments with leases commencing on or after **October 1, 2025** and through **September 30, 2026**. Rent guidelines for loft units subject to Section 286 subdivision 7 of the Multiple Dwelling Law are also included in this order.

ADJUSTMENT FOR LEASES (APARTMENTS)

Together with such further adjustments as may be authorized by law, the annual adjustment for leases for apartments shall be:

For a **one**-year lease commencing on or after **October 1, 2025** and on or before **September 30, 2026**: **3%**

For a **two**-year lease commencing on or after **October 1, 2025** and on or before **September 30, 2026**: **4.5%**

These adjustments shall also apply to dwelling units in a structure subject to the partial tax exemption program under Section 421-a of the Real Property Tax Law, or in a structure subject to Section 423 of the Real Property Tax Law as a Redevelopment Project.

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

The Rent Guidelines Board **adopts** the following levels of rent increase above the "base rent," as defined in Section 286, subdivision 4, of the Multiple Dwelling Law, for units to which these guidelines are applicable in accordance with Article 7-C of the Multiple Dwelling Law:

For **one**-year increase periods commencing on or after **October 1, 2025** and on or before **September 30, 2026**: **3%**

For **two**-year increase periods commencing on or after **October 1, 2025** and on or before **September 30, 2026**: **4.5%**

FRACTIONAL TERMS

For the purposes of these guidelines any lease or tenancy for a period up to and including one year shall be deemed a one-year lease or tenancy, and any lease or tenancy for a period of over one year and up to and including two years shall be deemed a two-year lease or tenancy.

ESCALATOR CLAUSES

Where a lease for a dwelling unit in effect on May 31,1968 or where a lease in effect on June 30, 1974 for a dwelling unit which became subject to the Rent Stabilization Law of 1969, by virtue of the Emergency Tenant Protection Act of 1974 and Resolution Number 276 of the New York City Council, contained an escalator clause for the increased costs of operation and such clause is still in effect, the lawful rent on **September 30, 2025** over which the fair rent under this Order is computed shall include the increased rental, if any, due under such clause except those charges which accrued within one year of the commencement of the renewal lease. Moreover, where a lease contained an escalator clause that the owner may validly renew under the Code, unless the owner elects or has elected in writing to delete such clause, effective no later than **October 1, 2025** from the existing lease and all subsequent leases for such dwelling unit, the increased rental, if any, due under such escalator clause shall be offset against the amount of increase authorized under this Order.

SPECIAL ADJUSTMENTS UNDER PRIOR ORDERS

All rent adjustments lawfully implemented and maintained under previous apartment orders and included in the base rent in effect on **September 30, 2025** shall continue to be included in the base rent for the purpose of computing subsequent rents adjusted pursuant to this Order.

SPECIAL GUIDELINE

Under Section 26-513(b)(1) of the New York City Administrative Code, and Section 9(e) of the Emergency Tenant Protection Act of 1974, the Rent Guidelines Board is obligated to promulgate special guidelines to aid the State Division of Housing and Community Renewal in its determination of initial legal regulated rents for housing accommodations previously subject to the City Rent and Rehabilitation Law which are the subject of a tenant application for adjustment. The Rent Guidelines Board hereby **adopts** the following Special Guidelines:

For dwelling units subject to the Rent and Rehabilitation Law on **September 30, 2025**, which become vacant after **September 30, 2025**, the special guideline shall be **49%** above the maximum base rent.

DECONTROLLED UNITS

The permissible increase for decontrolled units as referenced in Order 3a, which become decontrolled after **September 30, 2025**, shall be **49%** above the maximum base rent.

CREDITS

Rentals charged and paid in excess of the levels of rent increase established by this Order shall be fully credited against the next month's rent.

STATEMENT OF BASIS AND PURPOSE

The Rent Guidelines Board is authorized to promulgate rent guidelines governing apartment units subject to the Rent Stabilization Law of 1969, as amended, and the Emergency Tenant Protection Act of 1974, as amended. The purpose of these guidelines is to implement the public policy set forth in Findings and Declaration of Emergency of the Rent Stabilization Law of 1969 (§26-501 of the N.Y.C. Administrative Code) and in the Legislative Finding contained in the Emergency Tenant Protection Act of 1974 (L.1974 c. 576, §4 [§2]).

The Rent Guidelines Board is also authorized to promulgate rent guidelines for loft units subject to Section 286 subdivision 7 of the Multiple Dwelling Law. The purpose of the loft guidelines is to implement the public policy set forth in the Legislative Findings of Article 7-C of the Multiple Dwelling Law (Section 280).

The prior proposed rule for Apartment and Loft Order 57 adopted April 30, 2025 was withdrawn. The board received written and in-person testimony from many parties with an interest in this process both prior to the vote taken on April 30 and since. In particular, the Board received testimony on the impact of potential rent increases on tenants whose incomes are not keeping pace with the rising cost of living. As the board implements its mandate to consider the cost of operating rent stabilized buildings while maintaining reasonable rents, it must also consider the economic uncertainty reflected in much of the testimony that the Board has received to date. Therefore the board voted to restart the rulemaking process and approved proposed adjustments for two-year leases that have more flexibility than what was determined on April 30.

Dated: June 30, 2025

_____

Doug Apple
Chair
New York City Rent Guidelines Board

Appendix N1

Explanatory Statement
Apartment & Loft Order #57

EXPLANATORY STATEMENT - APARTMENT ORDER #57

Explanatory Statement and Findings of the Rent Guidelines Board in Relation to 2025-26 Lease Increase Allowances for Apartments and Lofts under the Jurisdiction of the Rent Stabilization Law[1]

Summary of Order No. 57

The Rent Guidelines Board (RGB) by Order No. 57 has set the following maximum rent increases for leases effective on or after October 1, 2025 and on or before September 30, 2026 for apartments under its jurisdiction:

For a one-year lease commencing on or after October 1, 2025 and on or before September 30, 2026: 3%

For a two-year lease commencing on or after October 1, 2025 and on or before September 30, 2026: 4.5%

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, 2025 and on or before September 30, 2026.

For one-year increase periods commencing on or after October 1, 2025 and on or before September 30, 2026: 3%

For two-year increase periods commencing on or after October 1, 2025 and on or before September 30, 2026: 4.5%

These guidelines apply to all leases and increase periods. Therefore, consistent with guidance from New York State Homes and Community Renewal (HCR), the guidelines apply to vacant apartment and loft units that become occupied during the term of the Order, as well as to renewal leases or periods. No more than one guideline adjustment may be added during the guideline year governed by Order No. 57.

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

Special Guideline

Leases for units subject to rent control on September 30, 2025 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 HCR. In order to aid HCR in this review, the

[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.

Rent Guidelines Board has set a special guideline of 49% above the maximum base rent.

All rent adjustments lawfully implemented and maintained under previous apartment Orders and included in the base rent in effect on September 30, 2025 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. 57

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; and

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. 57 was issued following **eight** public meetings, **five** public hearings, 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. Approximately **200** written, oral, and video submissions were received by the Board from many individuals and organizations including public officials, tenants and tenant groups, and owners and owner groups. The Board members were provided with copies of public comments received by the **June 27, 2025** deadline. All of the above listed documents were available for public inspection.

Open meetings of the Board were held following public notice on March 27, April 10, April 17, April 24, and May 22, 2025. On **May 27, 2025**, the Board adopted revised proposed rent guidelines for apartments, lofts, and hotels.

Public hearings were held on **June 5, June 9, June 12, June 17, and June 27, 2025**. Public hearings were held 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 on June 5 from 5:30 p.m. to 9:15 p.m., June 9 from 5:30 p.m. to 9:50 p.m., June 12 from 5:35 p.m. to 10:30 p.m., June 17 from 5:10 p.m. to 8:00 p.m., and June 27 from 10:05 a.m. to 11:50 a.m. Testimony from members of the public speaking at these hearings was added to the public record. The Board heard testimony from **approximately 222** apartment tenants and tenant representatives**, 6** apartment owners and owner representatives**,** and **10** public officials.

On **June 30, 2025** the guidelines set forth in Order No. 57 were adopted.

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

Presentations by RGB Staff and Housing Experts Invited by Members of the Board

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

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

Meeting Date / Name	Affiliation
March 27, 2025:	Staff presentation *2025 Income and Expense Study*
April 10, 2025:	Staff presentation *2025 Income and Affordability Study*
	NYU Furman Center
1. Mark Willis	Senior Policy Fellow
April 17, 2025:	Staff presentations *2025 Price Index of Operating Costs* *2025 Mortgage Survey Report*
	Community Preservation Corporation (CPC)
1. Robert Riggs	Senior Vice President
	NYC Department of Housing Preservation and Development
1. Lucy Joffe	Deputy Commissioner
2. Elyzabeth Gaumer	Assistant Commissioner
	Center on Poverty & Social Policy at Columbia University
1. Ryan Vinh	Research Analyst
2. Anastasia Koutavas	Research Analyst

	NYS Homes and Community Renewal
1. Anthony Tatano	Acting Deputy Commissioner

April 24, 2025:

	Tenant group testimony:
1. Larry Wood	Goddard Riverside Law Project
2. Brad Lander	NYC Comptroller
3. Charlie Dulik	Housing Conservation Coordinators (Hell's Kitchen)
4. Joanne Grell	Community Action for Safe Apartments (CASA) (Bronx)
5. Sam Stein	Community Service Society of New York (CSSNY)
6. Maxwell Austensen	JustFix
7. Tim Collins	Collins, Dobkin & Miller LLP
	Owner group testimony:
1. Joseph Condon	New York Apartment Association (NYAA)
2. Kelly Farrell	New York Apartment Association (NYAA)
3. Ann Korchak	Small Property Owners of New York (SPONY)
4. Valentina Gojcaj	Small Property Owners of New York (SPONY)
5. Jan Lee	Small Property Owners of New York (SPONY)
6. Basha Gerhards	Real Estate Board of New York (REBNY)

May 22, 2025: Staff presentations

2025 Housing Supply Report
Changes to the Rent Stabilized Housing Stock in New York City in 2024
2025 Hotel Report

	Guest Speakers
1. Sean Campion	Citizens Budget Commission (CBC)
2. Tania Garrido	Enterprise Community Partners
3. Emily Eisner	Fiscal Policy Institute
4. David Aviram	Maverick Real Estate Partners
5. Shimon Shkury	Ariel Property Advisors
6. Benjamin Teresa	Urban and Regional Studies and Planning, VCU

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. *2025 Income and Expense Study*, March 2025 (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);

2. *2025 Mortgage Survey Report*, April 2025 (an evaluation of recent underwriting practices, financial availability and terms, lending criteria, building sales data);

3. *2025 Income and Affordability Study*, April 2025 (including employment trends, housing court actions, changes in eligibility requirements and public benefit levels in New York City);

4. *2025 Price Index of Operating Costs*, April 2025 (measuring the price change for a market basket of goods and services which are used in the operation and maintenance of stabilized hotels);

5. *2025 Housing Supply Report*, May 2025 (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 2024*, May 2025 (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, nyc.gov/rgb, and are also available at the RGB offices, One Centre St., Suite 2210, New York, NY 10007 upon request.

2025 Income and Expense Study

Overall, Net Operating Income (NOI) grew by 12.1% from 2022 to 2023, driven by Manhattan Core's growth of 23.1%. However, NOI in Bronx buildings grew at a rate of 0.8%. Overall, after inflation, NOI grew by 8.0% Citywide. Furthermore, buildings that are 100% rent stabilized showed an NOI growth of 4.6% and after inflation, a 0.7% increase in NOI.

2025 Price Index of Operating Costs for Rent Stabilized Apartment Units in New York City

This year, the PIOC for all rent stabilized apartments increased by 6.3%. Increases occurred in all seven PIOC components. Taxes, which carry the highest weight in this year's Index, increased by 3.9%. The largest proportional increase was seen in Insurance Costs (18.7%), followed by Fuel (10.3%), and Utilities (8.2%). More moderate increases were seen in Administrative Costs (5.1%), Maintenance (4.3%), and Labor Costs (3.7%). The growth in the Consumer Price Index (CPI), which measures inflation in a wide range of consumer goods and services, was lower than the PIOC, rising by 4.0% during this same time period.[2] See the table below and Appendix 2 for changes in costs and prices for buildings that contain rent stabilized apartments between 2024 and 2025.

[2] The average CPI for All Urban Consumers, New York-Northeastern New Jersey for the year from March 2024 to February 2025 (336.4) compared to the average for the year from March 2023 to February 2024 (323.6) rose by 4.0%. This is the latest available CPI data and is roughly analogous to the 'PIOC year.'

The "Core" PIOC, which excludes changes in fuel oil, natural gas, and steam costs used for heating buildings, is useful for analyzing long-term inflationary trends. The Core PIOC rose by 6.0% this year, and was lower than the overall PIOC due to the exclusion of costs in the Fuel component, which increased by 10.3%. The PIOC for apartments heated by gas increased by 6.2%, and those heated by oil increased by 6.6%. The PIOC for pre-1974 apartments rose by 6.4%, similar to that for post-1973 apartments, which increased by 6.5%. The PIOC for hotels increased by 7.3%, and the Loft PIOC increased by 9.6%.

Table 1

2024-25 Percentage Changes in Components of the Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City[3]

Component	Expenditure Weights	2024-25 Percentage Change	2024-25 Weighted Percentage Change
Taxes	28.84%	3.86%	1.12%
Labor Costs	11.97%	3.69%	0.44%
Fuel Oil	8.08%	10.29%	0.83%
Utilities	10.63%	8.19%	0.87%
Maintenance	18.43%	4.25%	0.78%
Administrative Costs	13.40%	5.12%	0.69%
Insurance Costs	8.65%	18.66%	1.61%
All Items	100.00%	-	6.34%

Source: *2025 Price Index of Operating Costs.*

Selected Excerpts from Oral and Written Testimony from Tenants and Tenant Groups[4]

Comments from tenants and tenant groups included:

"If the past year saw worsening conditions for tenants, it also saw an improving outlook for landlords. According to this year's Income and Expense report, the most comprehensive look into the landlords' books provided to the Board, this year saw the highest increase in owners' Net Operating Income (NOI) on record, up 12.1 percent from the previous year—which was already up over 10 percent over the prior year. And while "Core Manhattan" saw the biggest boost—up 23.1 percent over last year—83 percent of the city's Community Districts saw rent stabilized NOI improve, with one of the biggest leaps coming from The South Bronx (Hunts Point/Longwood up nearly 20 percent). Rent collection rates rose 6.9 percent, reaching highs not seen since 2015, with increases in every single Community District in the city. The average rent stabilized building has a NOI of $338,000…In these chaotic times, tenants simply cannot afford a rent increase, and landlords do not need one. For these reasons, we recommend that the Board institute a rent freeze."

"Notwithstanding far more reasonable rent adjustments over the past nine years, net operating income actually continued to rise to 41.8% in 2016 dropping back only to 37.8% as of 2023.

[3] Totals may not add due to weighting and rounding.
[4] Sources: Submissions by tenant groups and testimony by tenants.

This is clear and unequivocal evidence that owners have continued to do very well riding on the substantial gains made during the very hard years of the Great Recession and continuing through the economic downturn of 2020/21…Year in and year out the RGB staff produces comprehensive data demonstrating that the RGB has more than maintained the sustainability of the stabilized stock. In fact, the Board has significantly overcompensated the City's landlords while tenants face unwarranted and continuing hardships. For all of the foregoing reasons, there is no compelling reason for the Board to raise rents this year. If any increase is contemplated, decades of overcompensation now built into existing rent levels should be factored in to keep such increases to a minimum."

"As a resident of New York City and a current federal employee, the proposed rent adjustment is both alarming and deeply concerning. The planned hike of 1.75%-4.75% for one-year leases and 4.75%-7.75% for two-year leases from October 2025 through September 2026 will place an undue financial burden on residents, particularly those like me who already face economic pressures. As a federal employee, I am already facing the overwhelming challenges of a high cost of living, possible stagnant wages, and uncertain job security, as highlighted by the recent unlawful firings at the Department of Government Efficiency (DOGE). The proposed rent hikes of up to 7% will only exacerbate these struggles, turning what is already a difficult financial situation into a more severe challenge for basic stability."

"My name is Evan, and I am a third-year medical student at Albert Einstein College of Medicine in the Bronx. I'm writing to urge you to vote against any rent increases in the upcoming preliminary vote. As part of my clinical training, I care for patients across the Bronx — one of the most rent-burdened areas in the city. I recently met a middle-aged woman in clinic who had been skipping her insulin doses to save money for rent…This is just one of many patients I've seen who are forced to choose between their health and their housing. Every rent hike puts more families in crisis, worsens chronic conditions, and drives people into emergency rooms when care could have been managed earlier — and more affordably — in the community. Housing is health care. When people are priced out of their homes, it doesn't just hurt them — it undermines the health of entire communities."

"The proposed rates or any rent increases at this time will create a greater need for shelters. The economy right now is not doing well. As a person who makes a decent living I am having issues with what we can afford in my family since 2020 and any rent hike to anyone in NYC now will create a greater number of homeless families and single people. NYers are protesting shelters and where will these people go? Landlords in NYC have had increases steadily over the past 30 years. A break for tenants will allow our economy to grow. People will have something left over to spend elsewhere."

Selected Excerpts from Oral and Written Testimony from Owners and Owner Groups[5]

Comments from owners and owner groups included:

"Housing in New York is expensive. NYAA is striving to find ways to make this a more affordable proposition for both owners and tenants alike. We continue to work with government partners to urge them to reduce taxes, water and sewer and other costs within its control. We support initiatives that shield rent increases from those least able to pay them,

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

such as SCRIE, DRIE and various voucher programs. And we are working with advocates throughout the state on programs such as the Housing Voucher Access Program to expand housing affordability. But we are here testifying before the RGB today because you are challenged to establish the appropriate rental adjustments needed by stabilized buildings in NYC given the fiscal realities of declining NOI and the corresponding stresses this is placing on ongoing building operations and housing quality, particularly in the pre-1974 highly stabilized stock. And the reality is the adjustment necessary to do so is the CPI-adjusted NOI Commensurate Adjustment. We urge you to adopt this standard."

"The Rent Guidelines Board's (RGB) research reports and public hearings this year paint a stark picture: a significant share of New York City's rent stabilized stock, particularly 100 percent stabilized buildings built before 1974, is at risk: many properties are in poor condition and a growing number are in financial distress. The City should act now to stop the physical and financial deterioration of the rent regulated stock before these problems grow worse and enter the maintenance "death spiral" observed in New York City Housing Authority (NYCHA) buildings, where, as a result of deferred maintenance, the cost of repairs nearly exceed the cost of a new building. Inaction will only further increase repair costs, push them onto the City and State, and threaten the quality of life of many of the 1.7 million New Yorkers who live in pre-1974 stabilized units. It is not solely the RGB's problem to fix, but the RGB plays a significant role by approving rent increases that balance the interests of tenants and landlords, and by improving the public's understanding of the condition of rent regulated housing."

"I am writing as a small property owner deeply concerned about the detrimental impact current rent guidelines and the broader housing regulatory system have on our ability to properly maintain and invest in our properties. While tenant protections and housing affordability remain crucial, the balance has significantly tipped against small landlords. Persistent limitations on rent increases, despite escalating operational costs such as property taxes, utilities, insurance premiums, and mandated repairs, place immense financial strain on our resources. Additionally, over-regulation, extensive bureaucratic delays for rent adjustments, and increased compliance obligations further exacerbate these challenges. The housing regulatory environment disproportionately affects small property owners who do not have the substantial resources available to larger landlords. These compounded economic and regulatory pressures undermine our ability to sustain quality housing, making property upkeep increasingly difficult and undesirable. This creates a troubling environment that pushes responsible small landlords away from investing in New York City housing, potentially leading to further deterioration similar to the ongoing crisis within NYCHA properties."

"Please vote on the highest percent increase. I live in a stabilized apartment, and at the same time my father owns one stabilized building that he purchased with the hopes of supporting his family. It is impossible with the yearly water rate increases, inflation and cost of repairs to successfully continue the upkeep of this building. He is bleeding out all his savings and keeps on borrowing just to stay afloat. The rents are just too low to cover the expenses."

"As a landlord, I respectfully disagree with the Rent Guidelines Board's proposed rent adjustments for stabilized leases beginning October 1, 2025. The proposed increases— 1.75% to 4.75% for one-year leases and 4.75% to 7.75% for two-year leases—do not sufficiently reflect the sharp rise in operating costs, including property taxes, insurance, maintenance, and compliance with new regulations. These modest increases may jeopardize the long-term

sustainability of rent stabilized housing and discourage necessary investment in building upkeep and safety. I urge the Board to reconsider these guidelines in light of real financial pressures faced by small property owners."

Selected Excerpts from Oral and Written Testimony from Public Officials[6]

Comments from public officials included:

"After carefully reviewing the research reports compiled by the Rent Guidelines Board for 2025, I believe that a rent freeze is appropriate for the upcoming year, following three years of rent increases that have raised rents by nearly 9%. A few key metrics have led me to this decision. After adjusting for inflation, Net Operating Income for owners grew by 8% between 2022 and 2023… From 2022 to 2023, rental income increased an average of 6.9% while operating costs rose an average of 3.8%. Operating costs are rising, of course. But rental income and NOI are rising twice as fast. Building distress has declined for the first time since 2016 and rent collection is up in every single community district in the city. These are strong indicators, that show that the nearly $3 billion in emergency rental assistance funding helped tenants pay rent and increased owners' ability to operate their buildings, and that rental properties have largely recovered financially since the pandemic."

"Rent stabilization was passed in the New York State Legislature in 1974 with the goal of protecting affordability for tenants living in our State. A great portion of Manhattan tenants can only afford to live in their homes because of these protections. In 2024, the NYS Comptroller's Office found that 52.4% of New York's renters are cost burdened by their rent. A rent hike will make thousands more tenants in rent stabilized housing rent burdened, setting a dangerous precedent for New Yorkers. This vote comes in the backdrop of the displacement of long time NYC residents, particularly Black and brown residents, who have been facing accelerating gentrification and displacement for decades. Rent stabilization has been one of few ways that working and low-income families can stay in New York, and even now it is being attacked. The Rent Guidelines Board must stand to protect the rights of tenants and vote on a 0% rent increase. This will fight displacement and ensure New Yorkers can stay in their homes."

"Over the last three years, the Rent Guidelines Board has approved increases totaling nearly 9%. At the same time, our city's vacancy rate has dropped to a historic low of 1.4%. This is a crisis…Landlords' net operating income increased by 8% last year, even after adjusting for inflation. And with targeted support for distressed buildings, we can stabilize both tenants and owners. The stakes are clear: when we lose rent stabilized homes, we lose the heart of Brooklyn. Our borough thrives because of the people who live and work here—not because of real estate profits. Let's keep our communities intact. I urge this board to vote for a full rent freeze. I stand firmly with the tenants of District 39 —and across this city—in demanding nothing less.

"Right now, New York is in the midst of the most severe housing crisis in our city's history. Homelessness is at a record high, eviction filings are nearly back to pre-2020 levels, and we have housing shortages in every borough pushing rents skyward. The rental vacancy rate, now at only 1.4%, is the lowest it has been since 1968, and in Manhattan, the median rent is over $5,000 a month. I Low-income, working and middle-class families to stretch every dollar as

[6] Sources: Submissions by public officials.

they try to live and raise a family. To address this crisis, we must use every tool at our disposal to increase housing supply and affordability, while at the same time protecting tenants from displacement from their homes. That is why we need to continue to build more housing, including low-income housing, in Manhattan and across the city. It's why we must ensure tenants facing eviction have access to legal representation. And it's why this board must pass a rent freeze this year for New Yorkers living in the nearly one million rent stabilized apartments across the city.

"In 2024, the State Comptroller reported that over half of New York renters - including those in my district - are rent burdened. This year's proposed increases set a dangerous precedent for the future of tenants in our city. Rent stabilization has been one of the few tools allowing working-class and low-income families to remain in the city, and now even that protection is under threat. While landlords are also facing challenges, it is my understanding that a Rent Guidelines Board report released in late March 2025 showed that net revenues of rent stabilized housing grew 12% citywide, which was higher than the 10% growth from 2024…Given the continued economic challenges facing so many New Yorkers, I urge the Rent Guidelines Board to protect the rights of tenants and freeze rents by voting on a 0% rent increase for all lease renewals. This will limit displacement and help to ensure New Yorkers can stay in their homes."

On April 23, 2025, the staff of the Rent Guidelines Board released a memo to Board members with additional information concerning the *2025 Price Index of Operating Costs*. The memo follows:

[START OF MEMO]

At the April 17, 2025 Price Index of Operating Costs Study (PIOC) presentation, two questions were asked for which an immediate answer could not be provided. An additional two questions were asked outside of the presentation. Answers for three of these four questions follow.

Question 1: Can a summary of PIOC component weights for the previous 10 years be provided?

PIOC Year	PIOC Component Weights						
	Taxes	Labor Costs	Fuel	Utilities	Maintenance	Admin Costs	Insurance
2016	26.7%	16.2%	12.0%	10.9%	16.7%	12.7%	4.9%
2017	28.3%	16.5%	8.6%	10.8%	17.5%	13.2%	5.1%
2018	29.9%	16.7%	6.4%	10.3%	17.9%	13.6%	5.1%
2019	29.6%	15.7%	6.9%	9.9%	17.7%	15.2%	5.0%
2020	31.9%	11.0%	7.9%	10.1%	18.3%	15.6%	5.3%
2021	32.6%	11.1%	7.3%	9.8%	18.0%	15.6%	5.6%
2022	36.1%	9.9%	6.8%	9.5%	16.3%	14.8%	6.5%
2023	29.6%	12.8%	7.0%	10.8%	18.4%	14.4%	7.0%
2024	29.4%	12.7%	8.4%	10.1%	18.7%	13.5%	7.2%
2025	28.8%	12.0%	8.1%	10.6%	18.4%	13.4%	8.6%

Question 2: How many rent stabilized tenants elected to sign a one-year lease 2024? How many rent stabilized tenants elected to sign a two-year lease in 2024? Can this data also be provided historically?

A Board member requested the RGB to obtain this information from NYS Homes and Community Renewal (HCR), as part of their annual submission to the RGB. Because it was not submitted in time to receive a response from HCR, staff used 10 years of HCR registration data, and NYC Housing and Vacancy Surveys dating back to 1996 to provide the answer to this question. Note that HCR data is provided by owners or managers of rent stabilized apartments, while HVS data is based on a representative sample of rent stabilized tenants.

Note that HCR registration files reflect a single point in time each year – April 1. Also note that tenants who elect to sign a two-year lease do not sign a lease each year. Due to these parameters, the HCR file can only provide data on the number of tenants who are in either a one-year or two-year lease as of April 1 of each year, regardless of when the lease was actually signed. Also note that not every registration record in the HCR file contains lease term data. For instance, in the 2024 registration file (the most current file available to RGB staff), of the 1,00,8273 registrations, nearly 48,000 units (or 4.7%) are units that were vacant on April 1, 2024. An additional 111,000 records (11.0% of the total) either contain no lease information, or information that may contain errors. Some possible reasons why a registered apartment would not contain lease information is because the unit is employee- or owner-occupied, the unit is registered as exempt, or the tenant is a rent stabilized hotel tenant.

The table below provides the proportion of rent stabilized tenants in either a one-year or two-year lease as of April 1 of the year noted. The proportions are based on only those tenants for which an appropriate lease term could be identified, with data provided by the owners or managers of each apartment in the registration file.

Lease Terms (Based on HCR Registration Files, as of April 1 of Each Year)

Year	Proportion of One-Year Leases	Proportion of Two-Year Leases
2015	44.6%	55.4%
2016	45.7%	54.3%
2017	49.6%	50.4%
2018	48.1%	51.9%
2019	43.4%	56.6%
2020	42.2%	57.8%
2021	43.8%	56.2%
2022	46.9%	53.1%
2023	43.8%	56.2%
2024	42.4%	57.6%

The table below provides the proportion of rent stabilized tenants in each HVS survey who reported that they signed either a one-year or two-year lease, beginning with the 1996 survey. Note that HVS respondents can respond that their lease is less than one year; one year; more

than one year, but less than two years; two years; or more than two years. The RGB classified tenants that responded that their leases were either less than one year, or exactly one year, as having a one-year lease. All other responses were classified as a two-year lease. Note that the vast majority of tenants responded that their leases were for a duration of exactly one year or two years, including, for example, close to 90% of tenants in the 2023 HVS.

Lease Terms for Rent Stabilized Tenants
(Based on NYC Housing and Vacancy Surveys)

HVS Year	Proportion of One-Year Leases	Proportion of Two-Year Leases
1996	31.1%	67.9%
1999	33.3%	66.7%
2002	33.3%	66.7%
2005	35.1%	64.9%
2008	39.8%	60.2%
2011	44.3%	55.7%
2014	49.6%	50.4%
2017	50.8%	49.2%
2021	N/A	N/A
2023	51.1%	48.9%

Question 3: How many vacant apartments were registered with HCR over the past 10 years?

The following table provides the number, and proportion, of vacant units in each HCR registration file, beginning in 2015. Each file is current as of April 1 of that year.

Registered Vacant Units (Based on HCR Registration Files, as of April 1 of Each Year)

Year	Vacant Units	Total Units	Proportion of Vacant Units
2015	27,262	868,109	3.1%
2016	28,321	873,880	3.2%
2017	33,675	889,970	3.8%
2018	37,453	934,139	4.0%
2019	33,803	907,012	3.7%
2020	32,433	889,421	3.6%
2021	63,079	889,101	7.1%
2022	44,177	897,999	4.9%
2023	45,050	974,050	4.6%
2024	47,720	1,008,273	4.7%

[END OF MEMO]

Local Law 63/Income & Expense Review

The sample size for the Income and Expense (I&E) Study is 16,722 properties containing 752,436 units. This is the 33rd year that staff has been able to obtain longitudinal data in addition to the primary, "moment-in-time" RPIE data set. The RGB staff found the following average monthly (per unit) operating and maintenance (O&M) costs in 2024 Real Property Income and Expense (RPIE) statements for the year 2023:

Table 2

2023 Average Monthly Operating and Maintenance Costs Per Unit			
	Pre '74	Post '73	All Stabilized
Total	$1,155	$1,187	$1,160

Source: *2025 Income and Expense Study*, from 2024 Real Property Income and Expense filings for 2023, NYC Department of Finance.

In 1992, the DOF and RGB staff tested RPIE expense data for accuracy. Initial examinations found that most "miscellaneous" costs were administrative or maintenance costs, while 15% were not valid business expenses. Further audits on the revenues and expenses of 46 rent stabilized properties revealed that O&M costs stated in RPIE filings were generally inflated by about 8%.

Until three years ago, the annual *I&E Study* reported both unaudited O&M expenses, and well as audited expenses (with O&M costs adjusted downwards as based on the results of the 1992 audit). However, since the original audit was conducted over thirty years ago and included a limited number of properties, staff two years ago began using an alternate methodology to adjust O&M expenses. The RPIE data provided to the RGB by the DOF includes records that have had income and expenses adjusted by the DOF when they consider these figures to be outside of what is reasonable as part of their assessment valuations, including adjustments to expense ratios and vacancy rates. Staff also requested a subset of this data that includes only those properties where no adjustments have been deemed necessary. To calculate an adjustment in costs, staff calculated the difference between the weighted average operating costs among buildings that did not have any DOF assessment adjustments and compared it to the weighted average operating costs found in the main data set. RGB staff believes it is a more accurate adjustment because it uses current expense data. Average costs among this year's main data set were 4.25% higher than among the non-adjusted building data set, down from a difference of 4.41% last year. Therefore, this year's new cost adjustment reduces expenses by 4.25%. Adjustment of the 2023 RPIE O&M cost ($1,160) by the results of this year's cost adjustment results in an average monthly O&M cost of $1,111. As a result, the following relationship between operating costs and residential rental income was suggested by the Local Law 63 data:

Table 2(a)

2023 Operating Cost to Rent/Income Ratio with Adjusted Costs					
	Adjusted O&M Costs[7]	Rent	O&M to Rent Ratio	Income	O&M to Income Ratio
All stabilized	$1,111	$1,599	0.695	$1,786	0.622

Source: *2025 Income and Expense Study*, from 2024 Real Property Income and Expense filings for 2023 NYC Department of Finance.

On April 4, 2025, the staff of the Rent Guidelines Board released a memo to Board members with additional information concerning the *2025 Income and Expense Study*. The memo follows:

[START OF MEMO]

During the presentation of the *2025 Income & Expense Study*, board members posed several questions regarding the study. Staff responses are provided below:

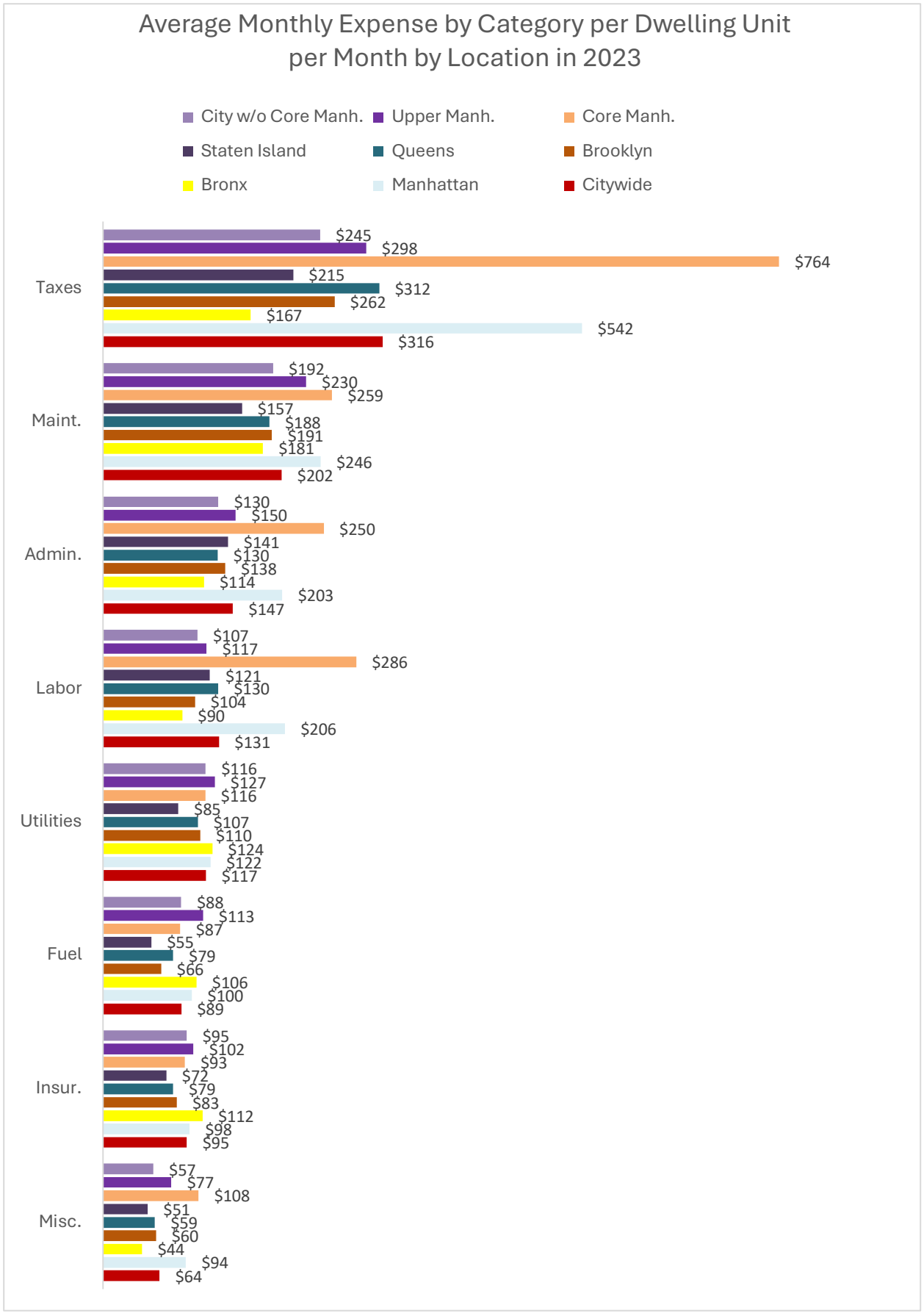
Q1: A Board member asked about the specific items included within the RPIE's Miscellaneous expense category.

According to the NYC Department of Finance (DOF), "The miscellaneous field should be reserved for petty cash, lease buy-out, special assessments and sundry."

Q2: A Board member requested a detailed breakdown of individual expense categories by geographical location.

See the following graph and tables for the Average Monthly Expense per Dwelling Unit per Month by Location:

[7] Overall O&M expenses were adjusted as described above. The unadjusted O&M to Rent ratio would be 0.725. The unadjusted O&M to Income ratio would be 0.649.


Average Monthly Expense by Category per Dwelling Unit per Month by Location in 2023
City w/o Core Manh.
Upper Manh.
Core Manh.
Staten Island
Queens
Brooklyn
Bronx
Manhattan
Citywide
Taxes
$245
$298
$764
$215
$312
$262
$167
$542
$316
Maint.
$192
$230
$259
$157
$188
$191
$181
$246
$202
Admin.
$130
$150
$250
$141
$130
$138
$114
$203
$147
Labor
$107
$117
$286
$121
$130
$104
$90
$206
$131
Utilities
$116
$127
$116
$85
$107
$110
$124
$122
$117
Fuel
$88
$113
$87
$55
$79
$66
$106
$100
$89
Insur.
$95
$102
$93
$72
$79
$83
$112
$98
$95
Misc.
$57
$77
$108
$51
$59
$60
$44
$94
$64

Average Monthly Expense by Category per Dwelling Unit per Month by Location in 2023

Expenses	Citywide	Manhattan	Bronx	Brooklyn	Queens	St. Island
Taxes	$316	$542	$167	$262	$312	$215
Maint.	$202	$246	$181	$191	$188	$157
Admin.	$147	$203	$114	$138	$130	$141
Labor	$131	$206	$90	$104	$130	$121
Utilities	$117	$122	$124	$110	$107	$85
Fuel	$89	$100	$106	$66	$79	$55
Insur.	$95	$98	$112	$83	$79	$72
Misc.	$64	$94	$44	$60	$59	$51

Expenses	Core Man	Upper Manh.	City w/o Core Manh.
Taxes	$764	$298	$245
Maint.	$259	$230	$192
Admin.	$250	$150	$130
Labor	$286	$117	$107
Utilities	$116	$127	$116
Fuel	$87	$113	$88
Insur.	$93	$102	$95
Misc.	$108	$77	$57

Q3: A Board member requested the number of buildings and dwelling units situated within 100% stabilized buildings.

The following table shows the requested comparison:

Number of 100% Stabilized Buildings and Units in 2023

Location	Post - 1973		Pre - 1974		All Years	
	Buildings	DU's	Buildings	DU's	Buildings	DU's
Citywide	813	59,591	7,530	328,771	8,344	388,387
Manhattan	142	16,654	1,623	67,269	1,765	83,923
Bronx	232	14,588	2,580	119,204	2,812	133,792
Brooklyn	305	20,088	2,355	92,671	2,661	112,784
Queens	120	7,565	926	47,438	1,046	55,003
St. Island	14	696	46	2,189	60	2,885
Core Manh.	71	11,981	606	30,849	677	42,830
Upper Manh.	71	4,673	1,017	36,420	1,088	41,093

Note: Total figures may not be accurate because the age of one Brooklyn building is unknown.

Q4: A Board member asked for the number and proportion of distressed pre-1974 buildings over the last four years.

The following table shows the number and proportion of distressed pre-1974 buildings over the last three years, the only years where pre-1974 data is available:

Number and Proportion of Distressed Pre-1974 Buildings Over Last 3 Years

Pre-74 Bldgs.	2023 I&E		2024 I&E		2025 I&E	
	Bldgs.	Proportion Distressed	Bldgs.	Proportion Distressed	Bldgs.	Proportion Distressed
Citywide	1,273	9.1%	1,409	10.1%	1,492	9.7%
Bronx	201	7.0%	378	12.5%	455	13.3%
Brooklyn	180	5.5%	245	7.5%	279	7.2%
Manhattan	754	13.1%	631	11.0%	607	9.8%
Queens	133	6.8%	150	8.0%	140	7.7%
St. Island	5	7.2%	5	7.7%	11	14.7%
Core Manh.	520	13.6%	333	8.9%	281	7.0%
Upper Manh.	234	12.0%	298	14.9%	326	15.0%
City w/o Core	753	7.4%	1,076	10.5%	1,211	10.7%

Q5: A Board member asked for the inflation-adjusted NOI change from 2022 to 2023 for 50%+, 80%+, and 100% stabilized buildings.

The following table shows the inflation-adjusted NOI change for all buildings containing stabilized units, 50%+ stabilized, 80%+ stabilized, and 100% stabilized buildings:

Change in NOI from 2022 to 2023 by Proportion of Stabilized Units in a Building

Stabilized Proportion	Nominal Increase	Inflation-Adjusted Increase
Citywide	12.1%	8.0%
50%+ Citywide	7.3%	3.4%
80%+ Citywide	5.1%	1.3%
100% Citywide	4.6%	0.7%

Q6: A Board member asked for the proportion of one- and two-year lease signers.

As calculated for the 2024 RGB Rent Index, an estimated 39.4% of rent stabilized renters signed one-year renewal leases (during Guidelines Order 56), 50.7% signed two-year leases (either during Guidelines Order 55 or 56), and 9.8% of units signed vacancy leases during Guidelines Order 56).[8]

Q7: A Board member asked for the operating cost-to-income ratios 70% and 80% deciles from 10 years ago, 5 years ago, and 3 years ago, broken out by borough.

The following table shows the requested deciles for each of the requested years:

[8] Numbers may not add up due to rounding.

Operating Cost-to-Income Ratios for 70% and 80% Deciles

70% Decile	2015 I&E	2020 I&E	2022 I&E	2025 I&E
Citywide	0.77	0.74	0.75	0.78
Manhattan	0.74	0.73	0.77	0.76
Bronx	0.83	0.77	0.77	0.86
Brooklyn	0.74	0.73	0.72	0.75
Queens	0.74	0.73	0.72	0.77
St. Island	0.78	0.72	0.69	0.82
80% Decile	**2015 I&E**	**2020 I&E**	**2022 I&E**	**2025 I&E**
Citywide	0.83	0.80	0.81	0.86
Manhattan	0.82	0.81	0.85	0.85
Bronx	0.89	0.82	0.82	0.93
Brooklyn	0.80	0.78	0.77	0.80
Queens	0.80	0.78	0.78	0.84
St. Island	0.82	0.76	0.76	0.91

Q8: A Board member asked for a comparison of the gap between inflation-adjusted NOI in Core Manhattan vs. NYC outside Core Manhattan over each of the last ten years.

The following table shows the requested comparison:

Core Manhattan vs. City excluding Core Manhattan NOI Over Last 10 Years

	Core Manhattan NOI	NYC excluding Core Manh. NOI	Difference	Core Manh. this percentage larger than Upper Manh.
2015 I&E	$ 1,199	$ 453	$ 746	165%
2016 I&E	$ 1,244	$ 478	$ 766	160%
2017 I&E	$ 1,353	$ 527	$ 827	157%
2018 I&E	$ 1,364	$ 555	$ 809	146%
2019 I&E	$ 1,260	$ 534	$ 726	136%
2020 I&E	$ 1,210	$ 518	$ 692	134%
2021 I&E	$ 1,221	$ 536	$ 685	128%
2022 I&E	$ 1,006	$ 555	$ 451	81%
2023 I&E	$ 912	$ 576	$ 337	58%
2024 I&E	$ 1,184	$ 508	$ 677	133%
2025 I&E	$ 1,290	$ 509	$ 780	153%

[END OF MEMO]

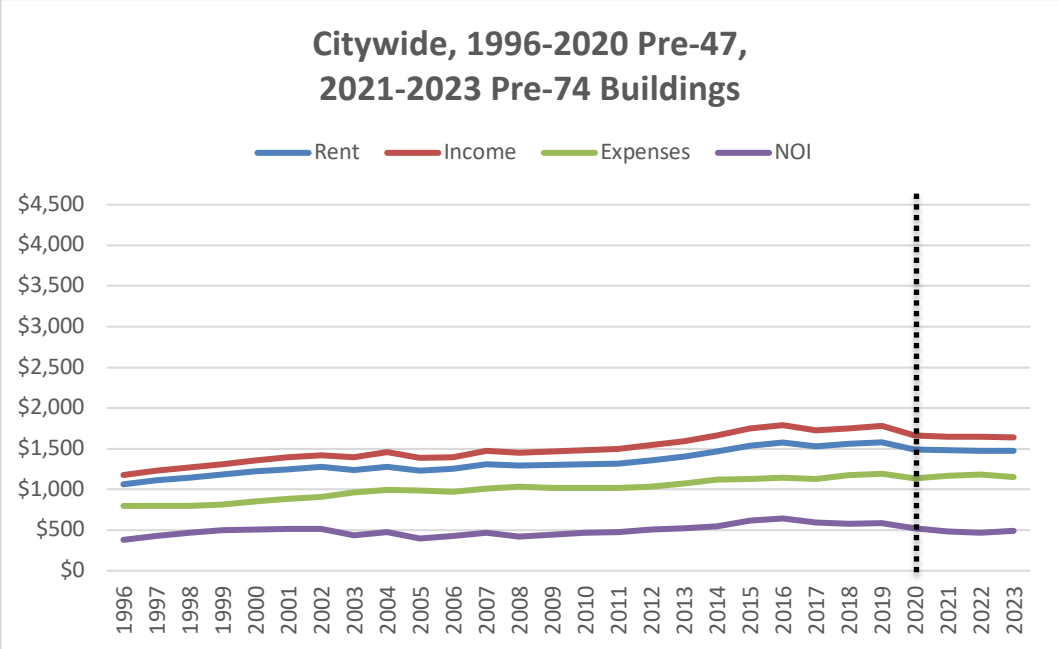
On May 21, 2025, the staff of the Rent Guidelines Board released a memo to Board members, providing additional details regarding the 2025 *Income and Expense Study.* The memo is as follows:

[START OF MEMO]

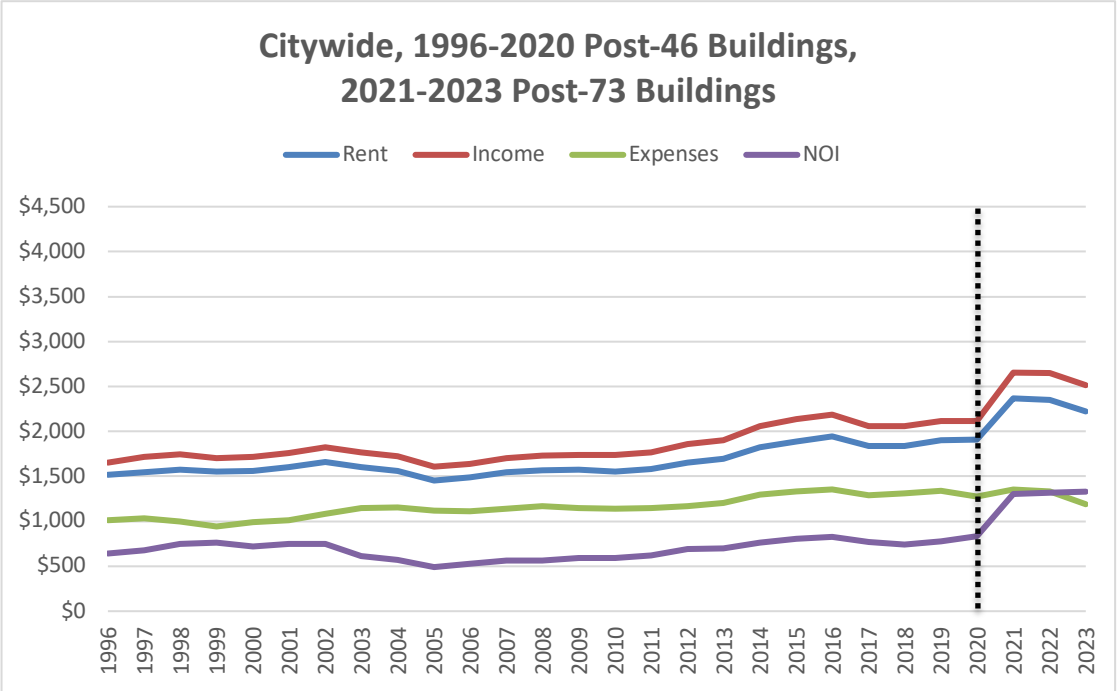
Following the presentation of the 2025 *Income & Expense Study,* board members requested that the charts on Pages 12 and 13 of the report (which provide inflation-adjusted data on rent, income, expenses, and net operating income (NOI)) be further stratified by the age of the buildings, in addition to adding analyses of both Core Manhattan and the City without Core Manhattan.

The following charts provide this data for the City as a whole and each borough, excluding Staten Island, for the period of 1996 through 2023. The data for both Core Manhattan and the City without Core Manhattan is available for the period of 1999 through 2023. Note that in each chart, the data through 2020 is based on a breakdown of pre-1947/post-1946 ages, and beginning in 2021, the data is based on a breakdown of pre-1974/post-1973 ages.

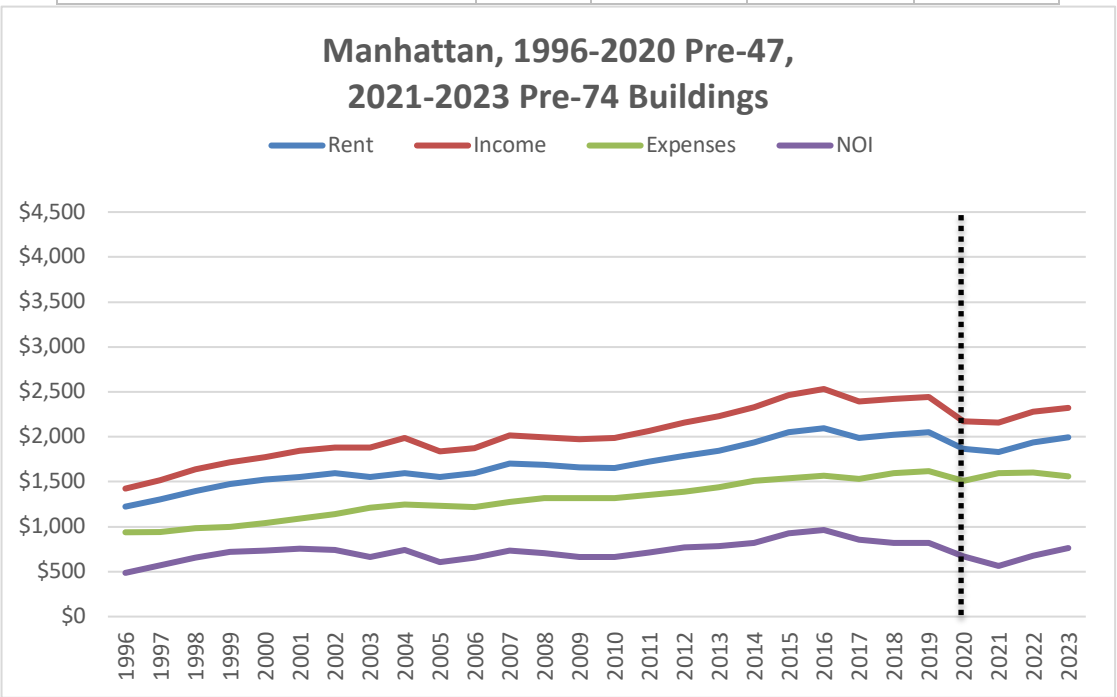
All figures are inflation-adjusted and expressed in 2023 dollars, the most recent year for which data is available.



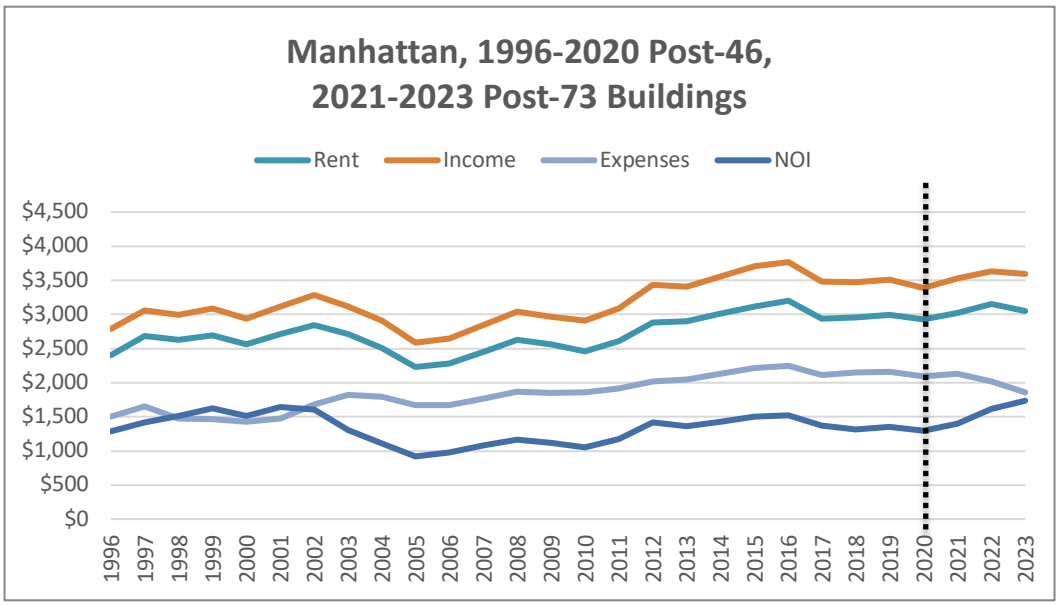
Inflation-Adjusted Change	Rent	Income	Expenses	NOI
1996 to 2020 Pre-47 Bldgs.	40.2%	41.0%	42.4%	38.0%
2021 to 2023 Pre-74 Bldgs.	-0.2%	-0.3%	-1.0%	1.6%



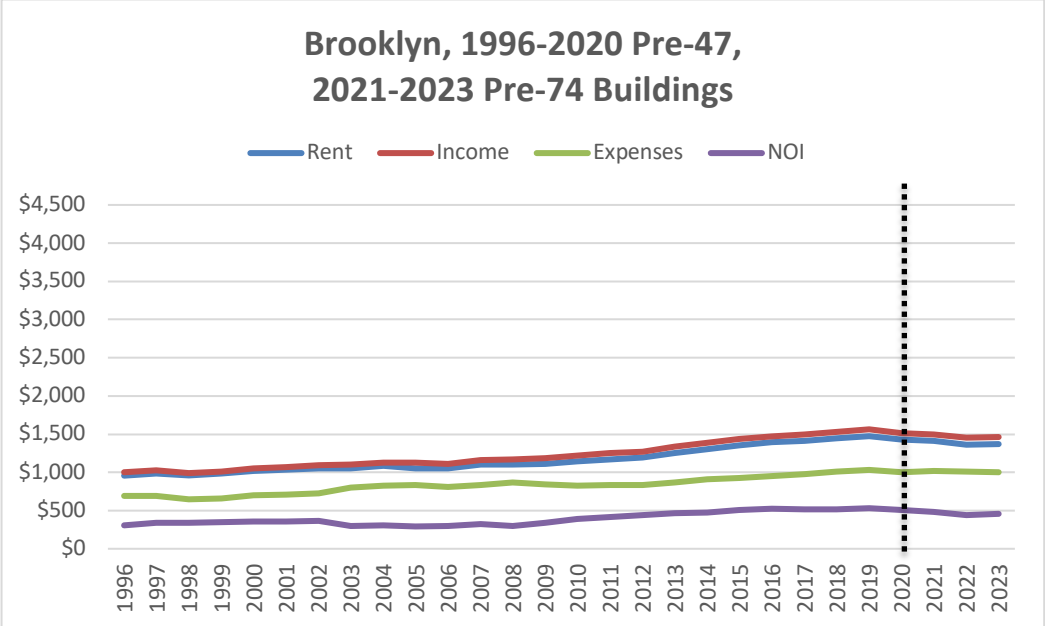
Inflation-Adjusted Change	Rent	Income	Expenses	NOI
1996 to 2020 Post-46 Bldgs.	25.8%	27.9%	26.1%	30.6%
2021 to 2023 Post-73 Bldgs.	-6.3%	-5.2%	-12.2%	2.2%



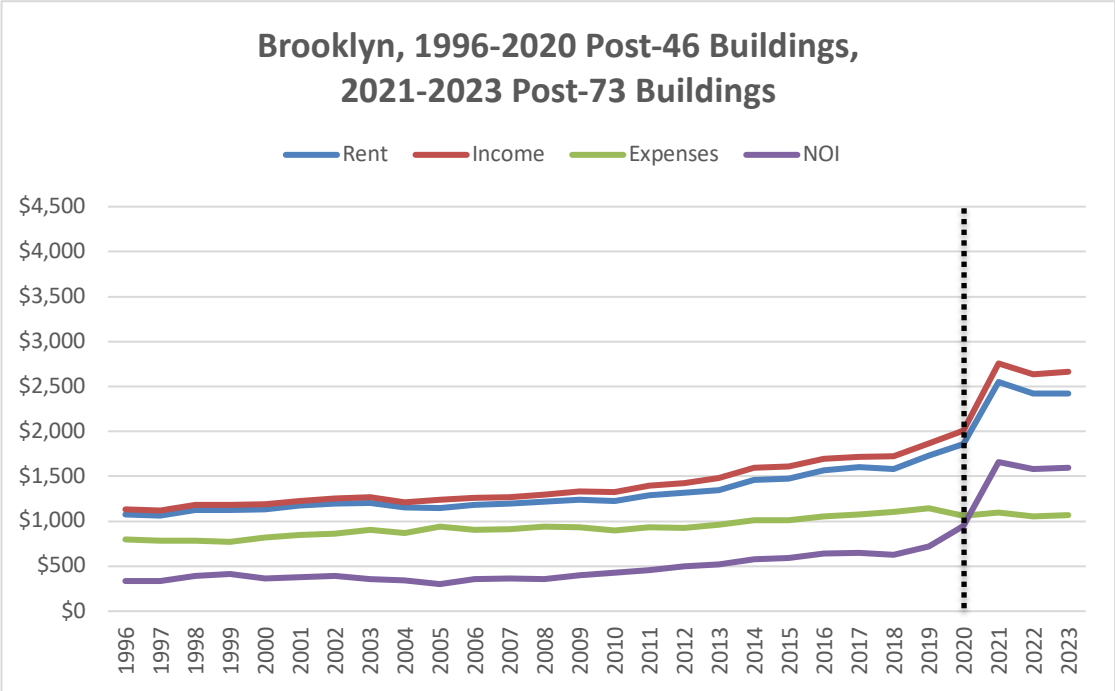
Inflation-Adjusted Change	Rent	Income	Expenses	NOI
1996 to 2020 Pre-47 Bldgs.	52.8%	52.8%	60.7%	37.5%
2021 to 2023 Pre-74 Bldgs.	8.7%	7.8%	-2.2%	36.4%



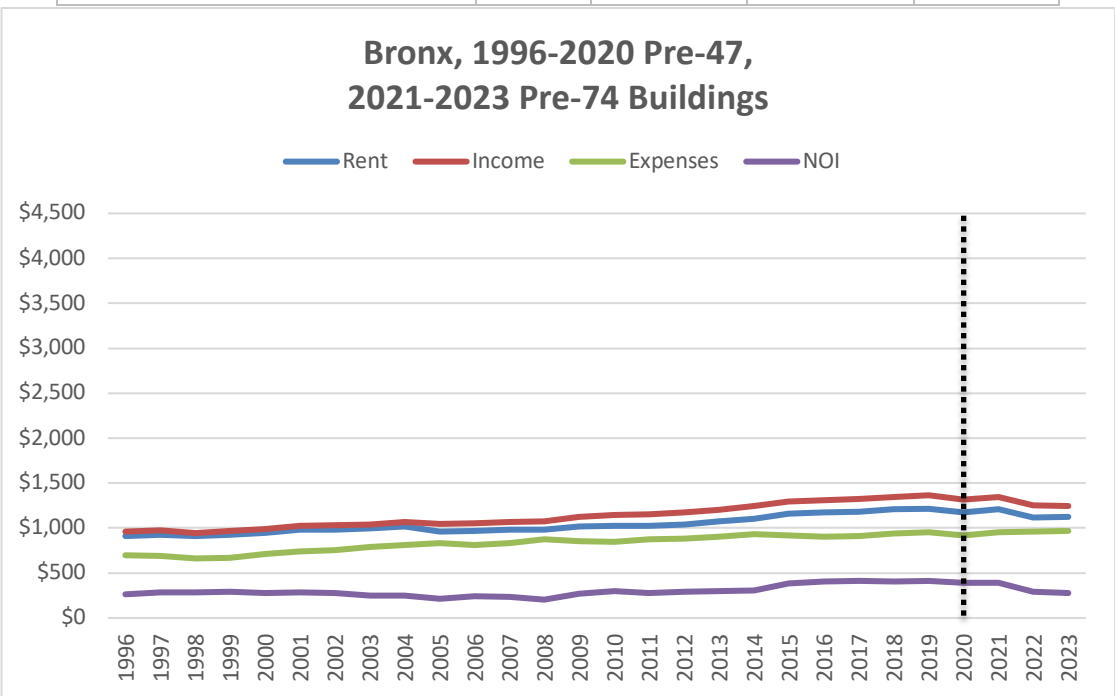
Inflation-Adjusted Change	Rent	Income	Expenses	NOI
1996 to 2020 Post-46 Bldgs.	21.9%	21.5%	39.1%	0.7%
2021 to 2023 Post-73 Bldgs.	0.9%	1.9%	-12.6%	24.0%



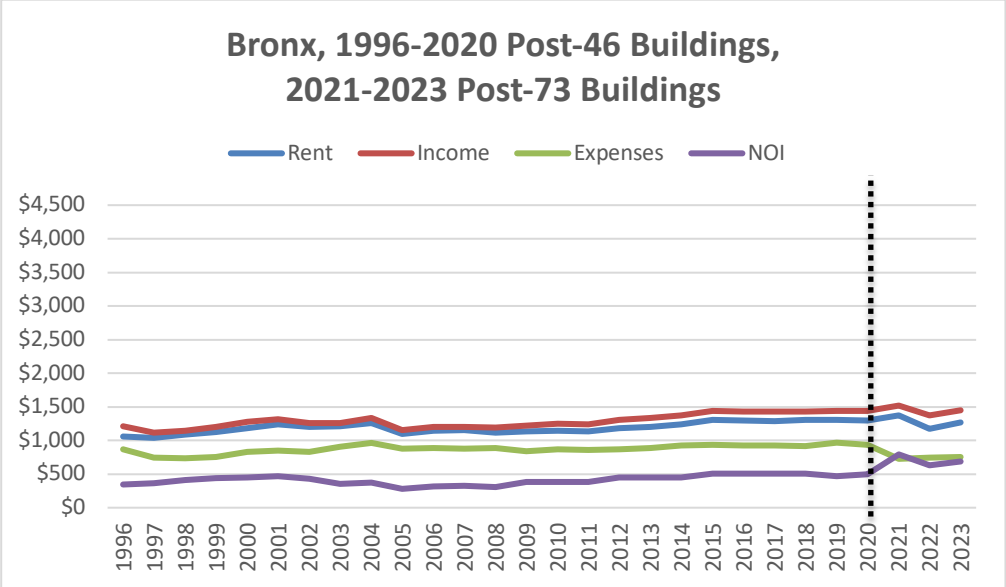
Inflation-Adjusted Change	Rent	Income	Expenses	NOI
1996 to 2020 Pre-47 Bldgs.	49.1%	50.7%	44.0%	65.6%
2021 to 2023 Pre-74 Bldgs.	-2.7%	-2.7%	-1.8%	-4.8%



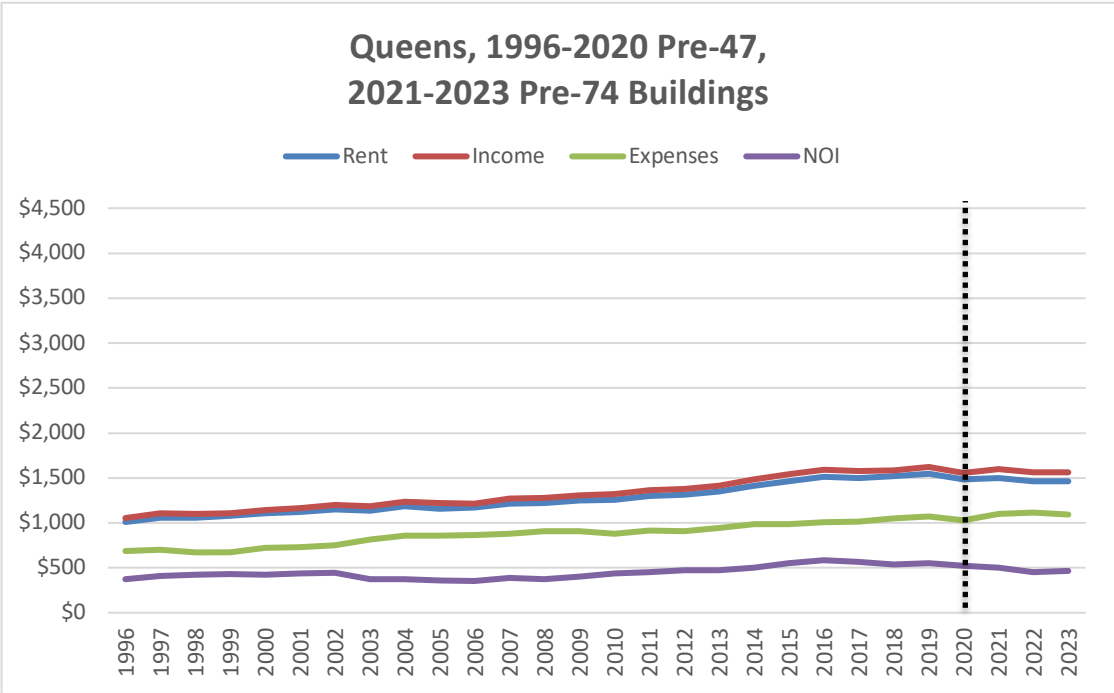
Inflation-Adjusted Change	Rent	Income	Expenses	NOI
1996 to 2020 Post-46 Bldgs.	72.3%	77.6%	33.4%	183.2%
2021 to 2023 Post-73 Bldgs.	-5.1%	-3.4%	-2.6%	-4.0%



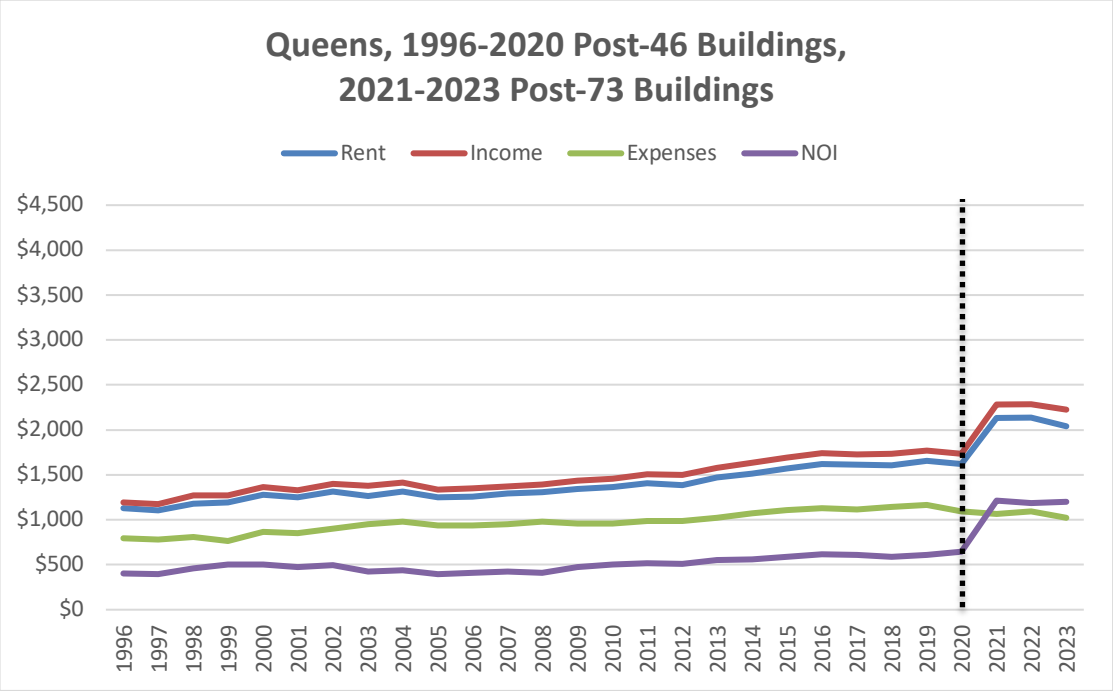
Inflation-Adjusted Change	Rent	Income	Expenses	NOI
1996 to 2020 Pre-47 Bldgs.	28.8%	36.8%	31.7%	50.3%
2021 to 2023 Pre-74 Bldgs.	-7.2%	-7.3%	1.6%	-29.0%



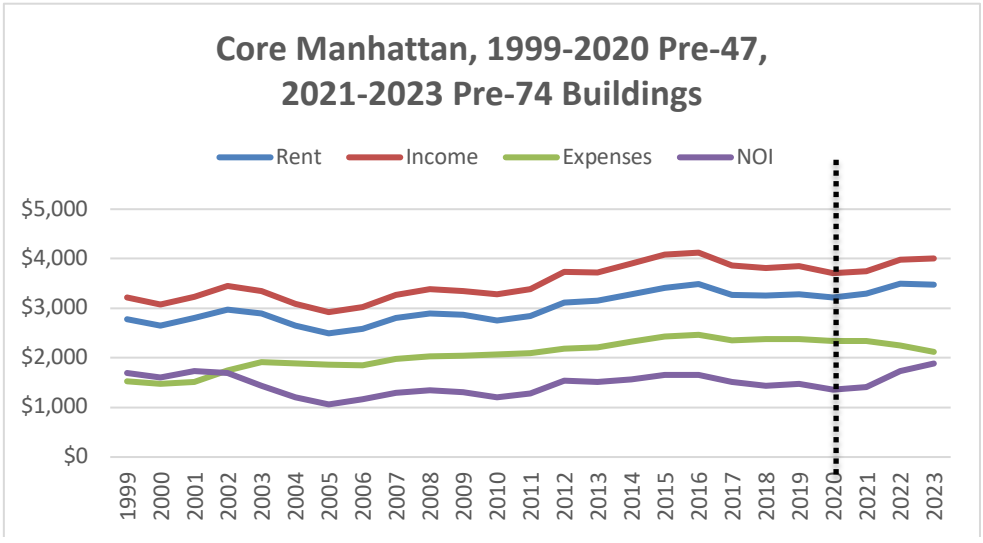
Inflation-Adjusted Change	Rent	Income	Expenses	NOI
1996 to 2020 Post-46 Bldgs.	22.3%	18.6%	7.8%	46.1%
2021 to 2023 Post-73 Bldgs.	-7.8%	-4.9%	4.4%	-13.5%



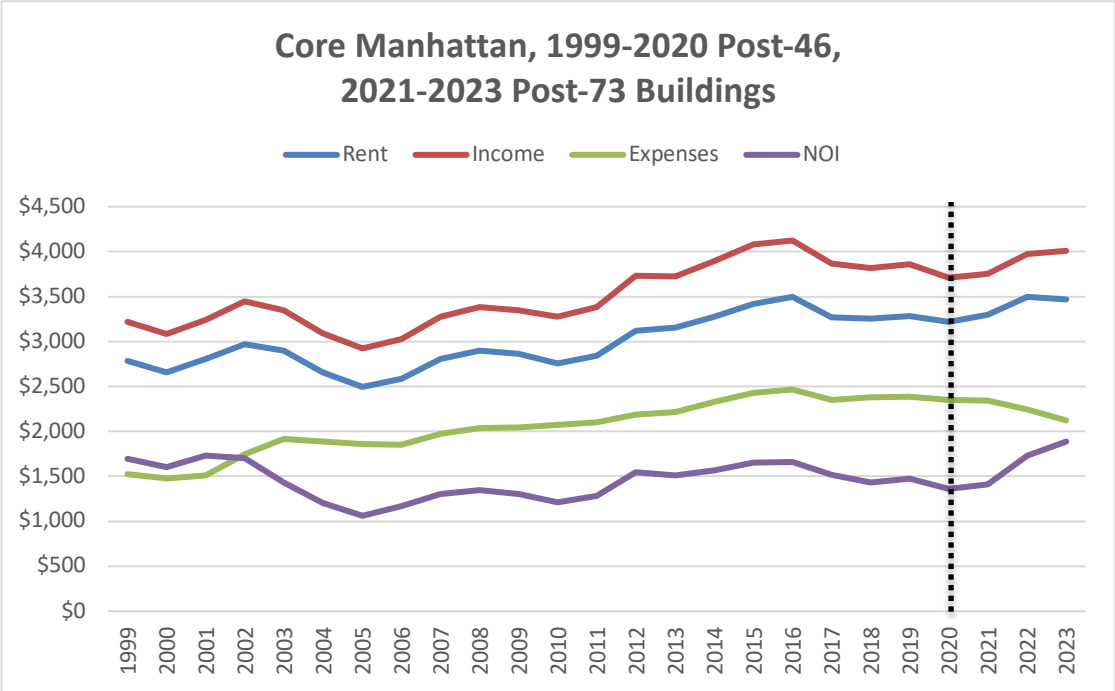
Inflation-Adjusted Change	Rent	Income	Expenses	NOI
1996 to 2020 Pre-47 Bldgs.	47.2%	47.4%	50.6%	41.4%
2021 to 2023 Pre-74 Bldgs.	-2.5%	-2.4%	-0.7%	-6.2%



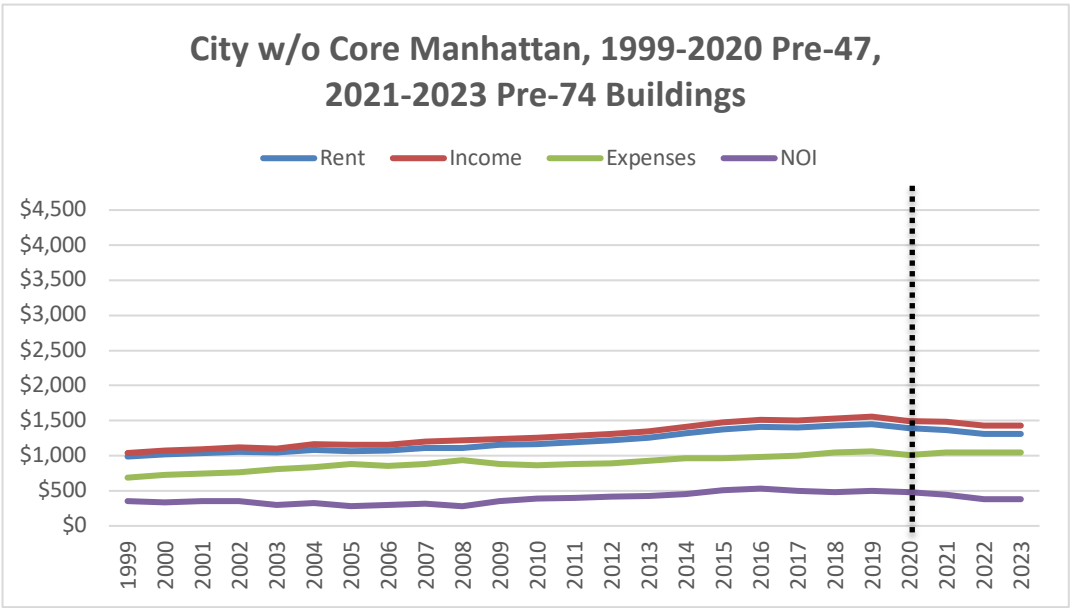
Inflation-Adjusted Change	Rent	Income	Expenses	NOI
1996 to 2020 Post-46 Bldgs.	43.6%	45.2%	38.0%	59.5%
2021 to 2023 Post-73 Bldgs.	-4.3%	-2.4%	-4.1%	-0.9%



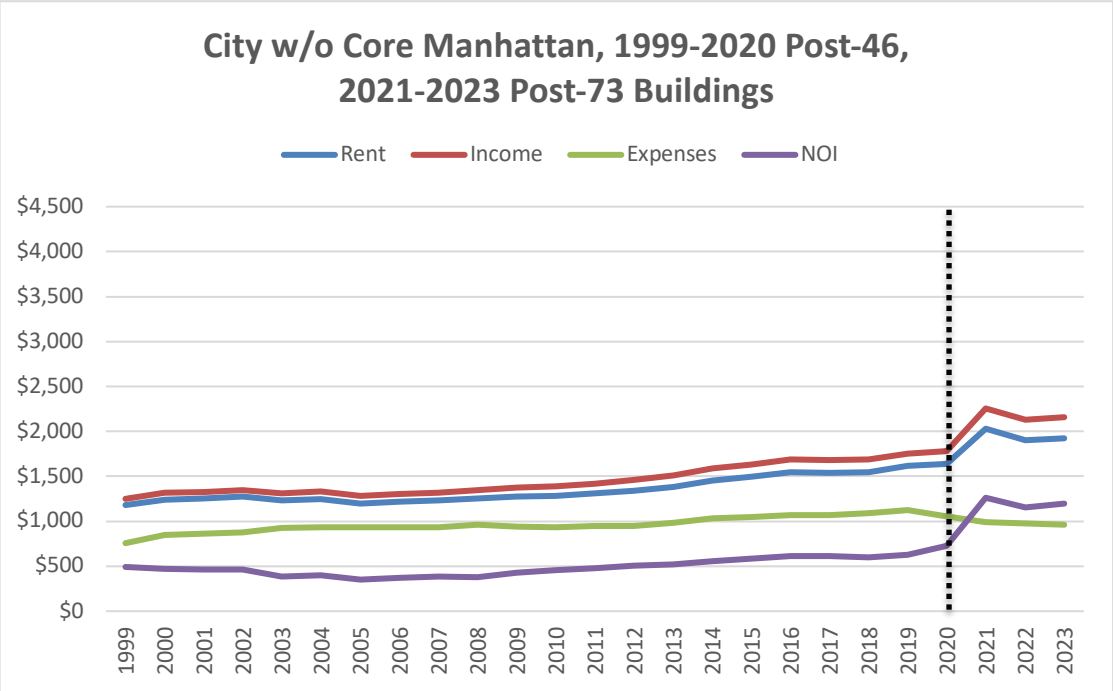
Inflation-Adjusted Change	Rent	Income	Expenses	NOI
1999 to 2020 Pre-47 Bldgs.	32.5%	31.9%	62.2%	-6.5%
2021 to 2023 Pre-74 Bldgs.	14.5%	13.2%	-4.3%	65.4%



Inflation-Adjusted Change	Rent	Income	Expenses	NOI
1999 to 2020 Post-46 Bldgs.	15.7%	15.3%	54.1%	-19.6%
2021 to 2023 Post-73 Bldgs.	5.3%	6.8%	-9.5%	33.8%



Inflation-Adjusted Change	Rent	Income	Expenses	NOI
1999 to 2020 Pre-47 Bldgs.	41.1%	43.7%	47.1%	37.0%
2021 to 2023 Pre-74 Bldgs.	-3.8%	-4.0%	-0.1%	-13.1%



Inflation-Adjusted Change	Rent	Income	Expenses	NOI
1999 to 2020 Post-46 Bldgs.	38.5%	42.5%	39.3%	47.5%
2021 to 2023 Post-73 Bldgs.	-5.4%	-4.2%	-2.9%	-5.2%

[END OF MEMO]

Forecasts of Operating and Maintenance Price Increases for 2025-26

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 2025-26 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 2024-25 and Projected 2025-26		
	Price Index 2024-25	Projected Price Index 2025-26
Taxes	3.9%	3.2%
Labor Costs	3.7%	4.1%
Fuel Oil	10.3%	-4.4%
Utilities	8.2%	5.0%

Maintenance	4.3%	5.7%
Administrative Costs	5.1%	4.3%
Insurance Costs	18.7%	17.7%
Total (Weighted)	**6.3%**	**4.8%**

Source: *2025 Price Index of Operating Costs.*

Overall, the PIOC is expected to grow by 4.8% from 2025 to 2026. Costs are predicted to rise in each component except Fuel, with the largest growth (17.7%) projected to be in Insurance Costs. Taxes, the component that carries the most weight in the Index, is projected to increase by 3.2%, while Fuel is projected to decrease by 4.4%. Other projected increases include Maintenance (5.7%), Utilities (5.0%), Administrative Costs (4.3%), and Labor Costs (4.1%). Table 3 shows projected changes in PIOC components for 2026. The Core PIOC is projected to rise by 5.6%, 0.8 percentage points higher than the overall projected PIOC for rent stabilized apartments.

Commensurate Rent Adjustment

Commensurate rent adjustments have been used since the inception of the RGB in 1969. These formulas, each with their own methodology (utilizing data such operating costs, revenues, and inflation), provide a set of illustrative one- and two-year renewal rent adjustments that would hypothetically compensate owners for the change in prices measured by the PIOC, while keeping net operating income (NOI) constant.[9] Note that these commensurate formulas do not constitute staff or Board recommendations for guideline adjustments. The various data points presented in this, and other, Rent Guidelines Board annual research reports (e.g., the *Income and Affordability Study* and the *Income and Expense Study*), supplementary data sources, in addition to public testimony, can all be considered to determine appropriate rent adjustments.

The first commensurate method is called the "Net Revenue" approach, designed to consider the change in the PIOC, and revenue received by owners based on an estimate of tenants who sign either one- or two-year lease renewals.[10] Under the "Net Revenue" formula, a guideline that would preserve NOI in the face of this year's 6.3% increase in the PIOC is 4.5% for a one-year lease and 7.75% for a two-year lease.

The second commensurate method, the "CPI- Adjusted NOI" formula, considers the change in the PIOC, the mix of lease terms, and the effect of inflation on NOI. A guideline that would

[9] The commensurate rent adjustments were first introduced before deregulation was widespread. At their inception, with little to no deregulation, these formulas largely reflected the rent stabilized stock at large, despite being designed to keep NOI constant in only those units subject to rent stabilization. Note that with deregulation permitted under state law from 1993 through 2019, thousands of buildings now contain both rent stabilized and deregulated units. Because the commensurates were not designed to keep NOI constant in deregulated units (where annual adjustments in rents are subject to changes in the real estate rental market), these formulas will not necessarily keep NOI constant for buildings that contain both rent stabilized and deregulated units.

[10] Starting in 2024, and in a change from prior years, staff is calculating a single formula for this commensurate, which assumes that, after a vacancy, owners will be able to collect the applicable RGB guidelines for renewal leases, as authorized under current NYS law. With the passage of the Housing Stability and Tenant Protection Act in 2019, vacancy allowance increases are no longer permitted, but increases on vacancy leases equal to RGB renewal lease guidelines are permitted. In prior years, the RGB reported two variations of the "Net Revenue" commensurate. One assumed no increase upon vacancy. The other relied on estimates of the revenue owners received on vacant units (from NYS Homes and Community Renewal apartment registration data), in conjunction with the estimated level of turnover (based on NYC Housing and Vacancy Survey data).

preserve NOI in the face of the 4.0% increase in the Consumer Price Index[11] and the 6.3% increase in the PIOC, is 6.25% for a one-year lease and 9.75% for a two-year lease.[12]

Note that in a change from prior years, and for the second consecutive year, staff is calculating a single formula for both the "Net Revenue" and "CPI-Adjusted NOI" commensurates, which assumes that, after a vacancy, owners will be able to collect the applicable RGB guidelines for renewal leases, as authorized under current New York State law. See Footnote 11 for more details about this methodological change.

The third commensurate method, the "traditional" commensurate adjustment, is the formula that has been in use since the inception of the Rent Guidelines Board, and is the only method that relies on both the current PIOC change as well as the PIOC projection for the following year. Note that this commensurate does not account for the mix of lease terms, or the effect of inflation on NOI. The "traditional" commensurate yields 4.1% for a one-year lease, and 5.8% for a two-year lease. This reflects the increase in operating costs of 6.3% found in the 2025 PIOC and the projection of a 4.8% increase next year.[13]

All of these commensurate methods have limitations. The "Net Revenue" formula does not attempt to adjust NOI by the effect of inflation. The "CPI-Adjusted NOI" formula does not consider that while inflation may change, the debt service portion of NOI may stay constant. As a means of compensating for cost changes, the "traditional" commensurate rent adjustment has two major flaws. First, although the formula is designed to keep owners' current dollar NOI constant, it does not consider the mix of one- and two-year lease renewals. Since less than three-quarters of leases are renewed in any given year, with a majority of leases being renewed having a two-year duration, the formula does not necessarily accurately estimate the amount of income needed to compensate owners for O&M cost changes. A second flaw of the "traditional" commensurate formula (as well as the "Net Revenue" formula) is that it does not consider the erosion of owners' income by inflation. By maintaining current dollar NOI at a constant level, adherence to the formula may cause NOI to decline over time. However, such degradation is not an inevitable consequence of using the "traditional" commensurate formula.[14] Note that the "traditional" commensurate formula is the only formula of the three that uses the PIOC projection.

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

---

[11] The average CPI for All Urban Consumers, New York-Northeastern New Jersey for the year from March 2024 to February 2025 (336.4) compared to the average for the year from March 2023 to February 2024 (323.6) rose by 4.0%. This is the latest available CPI data and is roughly analogous to the 'PIOC year.'

[12] As with the "Net Revenue" commensurate, only one version of the "CPI Adjusted NOI" commensurate will now be calculated (see Endnote 7 for more details). The following assumptions were used in the computation of both the "Net Revenue" and "CPI Adjusted NOI" commensurates: (1) the required change in owner revenue is 64.9% of the 2025 PIOC increase of 6.3%, or 4.1%. The 64.9% figure is the most recent ratio of average operating costs to average income in buildings that contain rent stabilized units; (2) for only the "CPI-Adjusted NOI" commensurate, the increase in revenue due to the impact of inflation on NOI is 35.1% times the latest 12-month increase in the CPI ending February 2025 (4.0%), or 1.4%; (3) the proportion of one-year (42.4%) and two-year (57.6%) leases was derived from 2024 HCR registration files; and (4) the collectability of these commensurate adjustments is assumed. Also note that the lease adjustments generated by these commensurate formulas are only illustrative—other combinations of one- and two-year guidelines could produce the adjustment in revenue.

[13] The "traditional" formula adjusts only owner expenses, not NOI. Expenses are adjusted based on the current PIOC change for the one-year lease commensurate, and by both the current PIOC and the PIOC projection for the two-year lease commensurate.

[14] 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.

O&M costs by using only the known PIOC change in costs (6.3%). The traditional method differs from the other formulas in that it uses both the PIOC's actual change in costs as well as the projected change in costs (4.8%).

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 considered current mortgage interest rates and the availability of financing and refinancing. It reviewed the staff's *2025 Mortgage Survey Report* of lending institutions. Table 4 gives the reported rate and points for the past nine years as reported by the mortgage survey.

Table 4

2025 Mortgage Survey[15]
Average Interest Rates and Points for
New Financing of Permanent Mortgage Loans 2017-2025

	2017	2018	2019	2020	2021	2022	2023	2024	2025
Avg. Rates	4.3%	4.8%	4.7%	4.0%	3.8%	3.9%	6.0%	7.0%	6.7%
Avg. Points	0.44	0.44	0.38	0.22	0.38	0.32	0.29	0.37	0.30

Source: 2017–2025 *Annual Mortgage Surveys*, RGB.

Condition of the Rent Stabilized Housing Stock

In 2024, there was a 4.8% decrease from 2023 in the number of permits issued for new housing units, falling to 15,626. However, there was an increase of 21.5% in the number of units completed in new buildings, to 33,974. The number of units newly receiving 421-a benefits increased 1.0% from 2023 levels. Rehabilitation of housing units under the J-51 tax abatement and exemption program decreased by 12.3% in 2024. The number of permits for demolitions (both residential and commercial) fell by 8.8% in 2024. As of 2023, a tight housing market also remains in New York City, with a Citywide net rental vacancy rate of 1.41% and 9.2% of all rental housing considered overcrowded.

The Board reviewed the number of units that are exiting the rental market due to cooperative and condominium conversions. Table 5 presents the count of conversions since 2015.

[15] 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 5

Number of Cooperative / Condominium Plans[16] Accepted for Filing, 2015-2023									
	2015	2016	2017	2018	2019	2020	2021	2022	2023
New Construction	212	206	224	233	227	186	183	130	158
Conversion Non-Eviction	28	27	18	11	11	12	4	3	2
Conversion Eviction	0	0	0	0	0	0	0	0	0
Rehabilitation	43	45	33	42	43	37	33	42	34
Total	283	278	275	286	281	235	220	205	194
Subtotal:									
HPD Sponsored Plans	1	0	0	1	0	0	0	0	0

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

On May 30, 2025, the staff of the Rent Guidelines Board released a memo to Board members with additional information concerning the *2025 Housing Supply Report*. The following is an excerpt from that memo):

[START OF MEMO]

At the May 22, 2025 Housing Supply Report presentation, one question was asked for which an immediate answer could not be provided. The answer follows.

Question 1: Of the reported completions in 2024, how many overlap with the reported data on affordable housing starts and 421-a Final Certificates of Eligibility and may be rent stabilized?

As reported in the 2025 Housing Supply Report (HSR), there was an estimated 33,974 units of Class A housing in 1,234 newly constructed buildings containing Class A units of housing during 2024.[17] The HSR also reports that 27,620 units of housing were started under programs sponsored by NYC in 2024 (with 14,145 of these units new construction), and 21,235 421-a units (including 20,623 rental units) received their Final Certificates of Eligibility (FCE) in 2024.

The figures for each of these data points cannot be compared to each other based solely on data reported in the HSR. The number of completed units is provided by the NYC Department of City Planning (DCP) for both rental and homeowner units. The number of City-sponsored units are starts, not completions. The number of newly certified 421-a units is a tally of the number of units that received their FCE in 2024, not a tally of units that completed construction in 2024.

[16] "Accepted" refers only to those co-op and condo plans that require offering plans. Those that do not, and receive a "no-action" letter from the NYS Attorney General's office, are not included in this data. Within the 2023 data there are 20 residential plans (with 73 residential units) that have been accepted for filing but have outstanding deficiencies. The information entered for these plans was entered upon processing of the initial submission of the offering plan, so some of the data may be outdated and/or incomplete.

[17] It is unknown how many of these units are rental versus homeowner.

Receiving the FCE is a process that may not be completed in the same calendar year as the completion of construction, and as reported in the HSR, approximately 16% of the FCEs granted by the NYC Department of Housing Preservation and Development (HPD) in 2024 were due to prior compliance issues, possibly from buildings that completed construction years earlier.

Matching the list of buildings containing affordable housing (from HPD) with the list of newly completed buildings (from DCP), 22,718 of the 33,974 units (67%) in new buildings that completed construction in 2024 were in buildings containing affordable units of housing. Of the 1,234 buildings that completed construction in 2024, 346 were buildings that contained affordable units of housing. Of the 22,718 units in buildings containing affordable units, 10,716 were affordable and 12,002 were market rate (but are nonetheless likely to be subject to rent stabilization during the tax exemption period). Nearly all of the units were rental units (21,987 of the 22,718) and are likely to be subject to rent stabilization, for, at a minimum, the period of tax exemption (with 10,631 units of affordable rental housing likely to be rent stabilized indefinitely). Note that the data on City-sponsored housing starts includes 421-a projects, as well as any other tax incentive programs sponsored by the City.

Note that the RGB's annual Changes to the Rent Stabilized Housing Stock in NYC tracks the number of units newly added to the rent stabilized housing stock. The report quantifies the number of newly rent stabilized units, based on buildings that filed an initial registration with NYS Homes and Community Renewal (from the period of April 1 of one year, through March 30 of the following year). The 2025 Changes to the Rent Stabilized Housing Stock in NYC report detailed a total of 25,940 units added to the rent stabilized housing stock between April 1, 2024 and March 31, 2025, with the vast majority of these units from the 421-a program (22,574).

[END OF MEMO]

Consumer Price Index

The Board reviewed the Consumer Price Index. Table 7 shows the percentage change for the NY-Northeastern NJ Metropolitan area since 2018.

Table 6

Percentage Changes in the Consumer Price Index
for the New York City - Northeastern New Jersey Metropolitan Area, 2018-2025
(For "All Urban Consumers")

	2018	2019	2020	2021	2022	2023	2024	2025
1st Quarter Avg.[18]	1.6%	1.5%	2.3%	1.5%	5.5%	5.5%	3.1%	4.0%
Yearly Avg.	1.9%	1.7%	1.7%	3.3%	6.1%	3.8%	3.8%	--

Source: U.S. Bureau of Labor Statistics.

---

[18] First 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.

Calculation of the Current Operating and Maintenance Expense to Income 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 income ratio.

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

In order to calculate the change in income for the latest three years, staff uses the RGB Rent Index. The RGB Index calculates the change in rent based on the guidelines passed by the Board, as well as the change in rent upon vacancy. The RGB Index is calculated using the adjustments authorized in applicable Apartment and Loft Orders and the change in rents upon vacancy (most recently, 2.59%). Then, in order to represent the same 12-month time period as the change in costs, measured change in income is adjusted to match the same period as measured change in costs. Therefore, the change in rent incorporates seven months of the previous Rent Index (7/12 or 58.3%), plus five months of the most recent Rent Index, (5/12 or 41.7%).

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

Table 7

Revised Calculation of Operating and Maintenance Cost Ratio for Rent Stabilized Buildings from 1989 to 2026			
Year[19]	Average Monthly O & M Per d.u.[20]	Average Monthly Income Per d.u.	Average O & M to Income Ratio
1989	$370 ($340)	$567	.65 (.60)
1990	$382 ($351)	$564	.68 (.62)
1991	$382 ($351)	$559	.68 (.63)
1992	$395 ($363)	$576	.69 (.63)
1993	$409 ($376)	$601	.68 (.63)
1994	$415 ($381)	$628	.66 (.61)
1995	$425 ($391)	$657	.65 (.59)
1996	$444 ($408)	$679	.65 (.60)
1997	$458 ($421)	$724	.63 (.58)
1998	$459 ($422)	$755	.61 (.56)
1999	$464 ($426)	$778	.60 (.55)
2000	$503 ($462)	$822	.61 (.56)
2001	$531 ($488)	$868	.61 (.56)
2002	$570 ($524)	$912	.63 (.57)
2003	$618 ($567)	$912	.68 (.62)
2004	$654 ($601)	$969	.67 (.62)
2005	$679 ($624)	$961	.71 (.65)
2006	$695 ($638)	$1,009	.69 (.63)
2007	$738 ($678)	$1,088	.68 (.62)
2008	$790 ($726)	$1,129	.70 (.64)
2009	$781 ($717)	$1,142	.68 (.63)
2010	$790 ($726)	$1,171	.67 (.62)
2011	$812 ($746)	$1,208	.68 (.63)
2012	$841 ($772)	$1,277	.66 (.60)
2013	$884 ($812)	$1,337	.66 (.61)
2014	$946 ($869)	$1,434	.66 (.61)
2015	$960 ($882)	$1,487	.64 (.59)
2016	$985 ($905)	$1,552	.63 (.58)
2017	$984 ($904)	$1,524	.65 (.59)
2018	$1,034 ($950)	$1,568	.66 (.61)
2019	$1,070 ($983)	$1,626	.66 (.61)
2020	$1,035 ($951)	$1,580	.66 (.60)
2021	$1,091 ($1,037)	$1,667	.65 (.62)
2022	$1,164 ($1,113)	$1,769	.66 (.63)
2023	$1,160 ($1,111)	$1,786	.65 (.62)
2024[21]	$1,205 ($1,154)	$1,828	.66 (.63)
2025[22]	$1,281 ($1,227)	$1,878	.68 (.65)
2026[23]	$1,343 ($1,286)	$1,937	.69 (.66)

Source: RGB Income and Expense Studies, 1989-2025; Price Index of Operating Costs, 2023 – 2025 RGB Rent Index for 2023 – 2025.

[19] The O&M and income data from 2008 to 2011 has been revised from that reported in previous explanatory statements to reflect actual, rather than estimated, expense and income data.

[20] Operating and expense data listed through 2020 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. Beginning with 2021 data, expense adjustments were calculated by taking the difference between the weighted average operating costs among buildings that did not have any DOF assessment adjustments and compared it to the weighted average operating costs found in the Finance data set. In 2021, average costs among the main data set were 4.41 percentage points larger than among the non-adjusted building data set. In 2022, average costs among the main data set were 4.41 percentage points larger than among the non-adjusted building data set. Therefore, the cost adjustment for years 2022-2025 reduces expenses by 4.41% See the Local Law 63/Income & Expense Review section above for additional information. Figures in parentheses are adjusted to reflect these findings.

[21] Estimated expense figure includes 2024 expense updated by the PIOC for the period from 3/1/23 through 2/29/24 (3.9%). Income includes the income for 2024 updated by staff estimate based upon guidelines and choice of lease terms for a period from 3/1/23 through 2/29/24 (2.36% --- i.e., the 10/1/22 to 9/30/23 rent projection (2.57%) times (.583), plus the 10/1/23 to 9/30/24 rent projection (2.08%) times (.417)).

[22] Estimated expense figure includes 2025 expense updated by the PIOC for the period from 3/1/24 through 2/29/25 (6.3%). Income includes the income for 2025 updated by staff estimate based upon guidelines and choice of lease terms for a period from 3/1/24 through 2/29/25 (2.70% --- i.e., the 10/1/23 to 9/30/24 rent projection (2.08%) times (.583), plus the 10/1/24 to 9/30/25 rent projection (3.56%) times (.417)).

[23] Estimated expense figure includes 2025 expense estimate updated by the 2025 PIOC projection for the period from 3/1/25 through 2/28/26 (4.8%). Income includes the income estimate for 2026 updated by staff estimate based upon guidelines and choice of lease terms for a period from 3/1/24 through 2/28/25 (3.15% - i.e., the 10/1/24 to 9/30/25 rent projection (3.56%) times (.583), plus the 10/1/25 to 9/30/26 rent projection (2.59%) times (.417)).

Changes in Housing Affordability

Per the *2025 Income and Affordability Study*, economic and social indicators in NYC in 2024 showed both strengths and weaknesses, compared to the preceding year. Positive indicators, on an annual average basis, include a 2.2% increase in employment levels within NYC businesses in 2024. Gross City Product is also forecast to increase, rising in inflation-adjusted terms by 2.1% in 2024. Both non-payment filings and calendared cases in Housing Court declined in 2024, decreasing by 11.7% and 6.1%, respectively. Inflation in the NYC metro area was also steady, remaining at 3.8% for the second consecutive year. Nominal average wages also grew in the most recent 12-month time period, by 3.1%. The poverty rate decreased by 0.1 percentage point in 2023 (the latest available data), to 18.2%.

Negative indicators, on an annual average basis, include an inflation-adjusted 0.4% decrease in average wages during the most recent 12-month period. Public benefit caseloads rose in 2024, with the average number of cash assistance recipients increasing by 16.2%; Supplemental Nutrition Assistance Program (SNAP) recipients increasing by 3.0%; and Medicaid enrollees increasing by 5.5%. The unemployment rate for NYC residents rose for the first time since 2020, up 0.3 percentage points from 2023, to 5.3%. Sheltered homeless levels in NYC Department of Homeless Services (DHS) facilities increased by 8.6%, including asylum-seekers. Excluding asylum-seekers, sheltered homeless levels also rose, by 8.7%. The number of residential evictions also rose, increasing by 22.6%. Personal bankruptcy filings in NYC also rose for the second consecutive year, increasing by 13.7%.

Compared to 2019 (the last full year preceding the pandemic), economic and social indicators are mixed. Compared to 2019, the unemployment rate in 2024 is 1.3 percentage points higher, despite a 2.7% increase in overall employment levels. Initial unemployment claims are 5.0% higher, cash assistance caseloads are 66.2% higher, Medicaid enrollees are 4.5% higher, and SNAP caseloads are 17.1% higher. However, average wages are higher, by 3.1% considering inflation, and by 22.6% nominally. Including asylum-seekers, DHS sheltered homeless levels are 46.4% higher (but excluding asylum-seekers, they are 5.8% lower). In Housing Court, non-payment filings and calendared cases are both lower, by 33.6% and 29.1%, respectively. Residential evictions are also 7.1% lower.[24]

On April 15, 2025, the staff of the Rent Guidelines Board released a memo to Board members with additional information concerning the *2025 Income & Affordability Study*. The memo follows:

[START OF MEMO]

At the April 10, 2025 *Income & Affordability Study* (I&A) presentation, two questions were asked for which an immediate answer could not be provided. Answers follow.

Question 1: Can a summary of I&A data regarding rent delinquency be provided?

[24] See the *2025 Income and Affordability Study* for the sources of all data presented in this section.

Following are all the measures of rent delinquency in the *2025 I&A Study*, summarized:

Housing Court Statistics (2019-2024)[25]

Year	Non-Payment Filings	Non-Payment Cases Noticed for a Hearing	Residential Evictions & Possessions (both non-payment and holdover)
2019	145,212	79,856	14,756
2020[26]	63,331	29,814	2,614
2021	33,054	13,659	126
2022	88,510	44,885	3,742
2023	109,267	60,357	11,186
2024	96,443	56,651	13,711

***2023 NYC Housing and Vacancy Survey* (HVS) Statistics[27]**

Interviews for the *2023 HVS* asked respondents if, over the past year, they were ever late paying the rent because they didn't have enough money at the time. For those who answered in the affirmative, the interviewer also asked how many times they were late paying the rent in the last year and if they currently had rent arrears that were at least 30 days past due.17.9% of rent stabilized tenants reported that at some point in the past year, they were late paying the rent because they did not have money at the time rent was due.

  - Not including tenants receiving Section 8, 34.6% of these households were severely rent burdened (paying more than 50% of income towards rent)
  - Not including tenants receiving Section 8, 18.6% of these households were moderately rent burdened (paying more than 30% of income, but less than 50% of income, towards rent)
  - Not including tenants receiving Section 8, 46.8% were not rent burdened (paying 30% or less of income towards rent)

- Of those 17.9% of rent stabilized tenants that reported missing a rent payment at some point in the past year:
  - 13.3% were late one time
  - 20.0% were late two times
  - 17.1% were late three times, and
  - 49.6% were late four or more times
- Of those 17.9% of rent stabilized tenants that reported missing a rent payment at some point in the past year, 38.2% currently had rent arrears that were at least 30 days past due.

Household Pulse Survey (NYC metro area)[28]

[25] See Appendix 10 of the 2025 Income and Affordability Study for data from 1983-2018.
[26] Note that an eviction moratorium was in place from March 20, 2020 through January 15, 2022.
[27] The data in this section was calculated directly from HVS microdata, which was not available to the RGB at the time of the publication of the 2024 I&A Study. Therefore, this data has never been published.
[28] Note that the Census Bureau advised that the data from this survey was experimental, and that caution should be taken when using estimates based on subpopulations of the data because sample sizes may be small and the standard errors may be large. Data in this section is from Public Use Files from the U.S. Census Bureau's Household Pulse Survey: https://www.census.gov/programs-surveys/household-pulse-survey.html.

One of the questions asked of respondents regarding housing was whether they were caught up on rent.

- From March to September 2024 (seven surveys that ranged from the publication of the *2024 I&A Study* through the final survey of the *Household Pulse Survey*), the average proportion of renter households in the NYC metro area reporting that they were not caught up on their rent was 16.6%, compared to 18.5% in the prior year.
    - For households making less than $35,000 per year, an average of 24.8% (between April 2023 and September 2024 – a 17-month period)[29] were not caught up on rent.
    - For households making $100,000 per year, an average of 4.4% (between April 2023 and September 2024 – a 17-month period)[30] were not caught up on rent.
- Among the 16.6% of households in the NYC metro area reporting rent delinquency from March to September 2024, an average of:
    - 21.9% responded that they owed "zero" months of rent[31]
    - 21.1% owed one month
    - 16.1% owed two months of back rent
    - 26.5% owed between three and seven months of back rent, and
    - 14.4% owed eight months or more
- The average number of months of back rent owed remained relatively stable compared to the previous year. Across the past seven surveys, the average number of months of rent owed by NYC metro renters who are at least one month delinquent is 3.57 months, minimally changed from the previous year's average of 3.55 months.

Community Service Society's "Annual Survey of Housing and Economic Security"[32]

- 22% of NYC renters reported current rent arrears in 2024

"Poverty Tracker Annual Report" by the Poverty Tracker Research Group at Columbia University[33]

The following data is consolidated from surveys conducted in 2019, 2022, and 2023 by the Poverty Tracker Research Group at Columbia University. Respondents were asked if they ever not paid their rent in full during the 12 months preceding each survey due to financial problems.

- An average of 27% of all renters below 200% of the Supplemental Poverty Measure (SPM) reported not paying their rent in full

[29] Due to small sample sizes, data from 17 monthly surveys (April 2023-September 2024) were utilized to compute an average.
[30] Due to small sample sizes, data from 17 monthly surveys (April 2023-September 2024) were utilized to compute an average.
[31] The discrepancy between the householder responding that they were behind on rent and then subsequently answering that they were "zero" months behind on rent cannot be explained definitively. The survey is conducted online and all data is self-reported by the households selected to respond to the survey. In an email conversation, the Census Bureau speculates that respondents answering "zero" months behind may be less than one month behind. From April 2024 to September 2024, an average of 18.0% of renters reporting being behind on rent did not specify how many months. Therefore, reported proportions of the months that households are behind on rent is based solely on those households who responded with a specific number (including zero).
[32] "Preventing Eviction in New York State: A Snapshot of What Works and What Doesn't." Community Service Society, March 2025. https://www.cssny.org/publications/entry/ preventing-eviction-in-new-york-state-snapshot.
[33] Poverty Tracker Research Group at Columbia University (2024). Poverty Tracker Data. Center on Poverty and Social Policy at Columbia University and Columbia Population Research Center. https://www.povertycenter.columbia.edu/ poverty-tracker-data. Note that data is weighted for persons, not households.

    - including 26% of rent stabilized tenants and 27% of market rate tenants
- An average of 13% of renters above 200% of the SPM reported not paying their rent in full
    - including 17% of rent stabilized tenants and 11% of market rate tenants
- In total, an average of 22% of all renters were not current on their rent at some point during the 12 months preceding each survey
    - including 23% of rent stabilized tenants and 21% of market rate tenants

Question 2: Can data from the 2023 American Community Survey provide median gross rent-to-income ratios for tenants, based on the length of tenancy?

The following table provides data from the *2023 American Community Survey* for median gross rent-to-income ratios,[34] in addition to median household income, and median gross rent, for select categories of tenancy length. See the table below for detailed data for all New York City renter households:

***2023 American Community Survey* Data[35] for New York City Renters, by Length of Tenancy**

Length of Tenancy	Median Gross Rent-to-Income Ratio	Median Household Income	Median Gross Rent
12 months or less	32%	$82,785	$2,420
13 to 23 months	29%	$96,854	$2,380
2 to 4 years	30%	$78,095	$2,100
5 to 9 years	30%	$57,399	$1,660
10 to 19 years	31%	$48,937	$1,480
20 to 29 years	31%	$40,577	$1,300
30 years or more	31%	$36,703	$1,100

Similar data can also be obtained from the *2023 NYC Housing and Vacancy Survey*. In the following table, the length of tenancy has been grouped to roughly fit the pre-defined categories of the *American Community Survey* (see above). Data is provided for all renters, all rent stabilized households, rent stabilized households in buildings built prior to 1974, and tenants in market rentals. Note that the gross rent-to-income ratios do not include households that receive Section 8[36] and that due to small sample sizes, data tenants in buildings after 1973 were not included, as margins of error may be large.

[34] Unlike the data that follows from the 2023 NYC Housing and Vacancy Survey, the median gross rent-to-income ratios included in this table encompass all households, including those who receive Section 8.

[35] Per the Census Bureau, estimates generated using the ACS Public Use Microdata Sample (PUMS) files will be slightly different from the pre-tabulated ACS estimates on data.census.gov because PUMS data include only about two-thirds of the cases used to create estimates on data.census.gov, and contain additional edits and modifications to protect respondent confidentiality. Due to these differences, the estimates provided directly from the Census Bureau (such as the data for all households) is considered more accurate than data from the PUMS.

[36] For tenants receiving rent assistance, such as Section 8 or CityFHEPS, "out-of-pocket" rent is generally no more than 30% of their income. However, the HVS calculates the rent-to-income ratio by dividing the contract or gross rent of the apartment (i.e., the amount the owner receives from both the tenant and the rental assistance program) by the respondent's monthly income, resulting in artificially high rent-to-income ratios, often exceeding 100%. Approximately 198,000 renter households receive rent assistance, including 104,000 rent stabilized households. Of those households for which a gross rent-to-income ratio can be computed, approximately 70% who receive rent assistance are recorded by the HVS as paying more than 30% of their income towards gross rent, two-thirds pay more than 40%, and almost one-third pay 100% or more.

2023 NYC Housing and Vacancy Survey Data **(Median Gross Rent-to-Income Ratio, Excluding Tenants Receiving Section 8[37]), by Year Moved into Unit**

Year Moved into Unit	Median Gross Rent-to-Income Ratio (Excluding Tenants Receiving Section 8)			
	All Renters	All Rent Stabilized	Rent Stabilized (pre-74)	Market Rentals
2022-2023	28.4%	32.2%	29.0%	27.6%
2021	26.7%	29.9%	29.9%	25.1%
2018-2020	28.3%	29.4%	28.6%	26.6%
2013-2017	28.6%	27.3%	27.3%	28.6%
2003-2012	27.8%	28.4%	27.8%	25.9%
1993-2002	26.6%	22.9%	22.9%	31.0%
1992 or earlier	34.7%	33.5%	34.5%	44.3%

2023 NYC Housing and Vacancy Survey **Data (Median Household Income), by Year Moved into Unit**

Year Moved into Unit	Median Household Income in 2022			
	All Renters	All Rent Stabilized	Rent Stabilized (pre-74)	Market Rentals
2022-2023	$91,092	$75,000	$76,000	$110,000
2021	$100,000	$80,000	$75,000	$132,000
2018-2020	$75,000	$65,200	$70,045	$95,000
2013-2017	$60,000	$52,700	$58,000	$80,000
2003-2012	$52,199	$47,000	$50,000	$72,000
1993-2002	$50,900	$60,968	$62,000	$62,288
1992 or earlier	$32,000	$35,484	$35,600	$44,000

2023 NYC Housing and Vacancy Survey **Data (Median Gross Rent), by Year Moved into Unit**

Year Moved into Unit	Median Gross Rent			
	All Renters	All Rent Stabilized	Rent Stabilized (pre-74)	Market Rentals
2022-2023	$2,143	$1,845	$1,845	$2,488
2021	$2,395	$2,010	$1,849	$2,835
2018-2020	$1,974	$1,831	$1,841	$2,270
2013-2017	$1,668	$1,604	$1,625	$1,913
2003-2012	$1,500	$1,400	$1,438	$1,886
1993-2002	$1,302	$1,350	$1,352	$1,500
1992 or earlier	$1,097	$1,150	$1,150	$1,228

[END OF MEMO]

[37] See Endnote 37.

On May 21, 2025, the staff of the Rent Guidelines Board distributed an email to Board members with additional historic data that compares rent increases authorized by the RGB to inflation. Hard copies of these documents were distributed to the members at the May 22 public meeting of the board. The email follows:

[START OF EMAIL]

The tables and charts below, distributed to the board members on May 21, 2025, are data requests from Alex Schwartz and Alex Armlovich, both of whom asked that additional historic data be provided to the Board that compares rent increases authorized by the RGB to inflation (as measured by the Consumer Price Index, or CPI).

Alex Schwartz specifically asked that data regarding a comparison of the RGB Rent Index and the CPI be distributed to the Board. The RGB's Rent Index is a composite measure that estimates the overall impact of the Board's guidelines on rent rolls. The formula considers the one- and two-year guidelines authorized by the Board, the mix of lease terms (i.e., the proportion of tenants who take a one-year lease versus a two-year lease), and prior to 2019, the impact of increases upon vacancy. To accurately compare this measure to the Consumer Price Index (CPI), the change in CPI is calculated as the change from the period October-September of one year, compared to period of October-September in the following year.

Alex Armlovich asked that data regarding a comparison of the one-year renewal lease guidelines and CPI be distributed to the Board.

As these requests both include a comparison to CPI, the requests have been combined in a single table. In addition, Alex Schwartz also created charts of the comparison of the RGB rent index to the CPI, which are below the table.

One-Year Guideline, CPI, and RGB Rent Index Adjustments 1969-2025

Order Number	Guideline Year	One-Year Guideline	CPI in Guideline Period	One-Year Guideline Minus CPI in Guideline Period	RGB Rent Index	RGB Rent Index Minus CPI in Guideline Period
1	7/1/68 to 6/30/70	10.0%	3.40%	6.6%	8.0%	4.60%
2	7/1/70 to 6/30/71	6.0%	6.76%	-0.8%	5.8%	-0.96%
3	7/1/71 to 6/30/72	7.0%	5.01%	2.0%	6.4%	1.39%
4	7/1/72 to 6/30/73	6.0%	4.68%	1.3%	5.40%	0.72%
5	7/1/73 to 6/30/74	6.5%	8.94%	-2.4%	5.40%	-3.54%
6	7/1/74 to 6/30/75	8.5%	9.85%	-1.3%	5.64%	-4.21%
7	7/1/75 to 6/30/76	7.5%	6.60%	0.9%	5.62%	-0.98%
8	7/1/76 to 6/30/77	6.5%	5.24%	1.3%	5.33%	0.09%
9	7/1/77 to 6/30/78	6.5%	5.21%	1.3%	5.49%	0.28%
10	7/1/78 to 6/30/79	4.5%	6.95%	-2.5%	4.23%	-2.72%
11	7/1/79 to 6/30/80	8.5%	10.63%	-2.1%	7.73%	-2.90%
12	7/1/80 to 6/30/81	11.0%	10.40%	0.6%	10.28%	-0.12%
13	10/1/81 to 9/30/82	10.0%	9.32%	0.7%	10.11%	0.79%
14	10/1/82 to 9/30/83	4.0%	5.25%	-1.2%	*3.52%*	-1.73%
15	10/1/83 to 9/30/84	4.0%	4.76%	-0.8%	4.93%	0.17%
16	10/1/84 to 9/30/85	6.0%	3.89%	2.1%	5.82%	1.93%
17	10/1/85 to 9/30/86	4.0%	3.58%	0.4%	6.55%	2.97%
18	10/1/86 to 9/30/87	6.0%	4.21%	1.8%	6.18%	1.97%
19	10/1/87 to 9/30/88	3.0%	5.22%	-2.2%	5.87%	0.65%
20	10/1/88 to 9/30/89	6.0%	5.32%	0.7%	6.39%	1.07%
21	10/1/89 to 9/30/90	5.5%	5.93%	-0.4%	6.16%	0.23%
22	10/1/90 to 9/30/91	4.5%	5.27%	-0.8%	4.15%	-1.12%
23	10/1/91 to 9/30/92	4.0%	3.46%	0.5%	3.93%	0.47%
24	10/1/92 to 9/30/93	3.0%	3.41%	-0.4%	3.11%	-0.30%
25	10/1/93 to 9/30/94	3.0%	2.34%	0.7%	2.93%	0.59%
26	10/1/94 to 9/30/95	2.0%	2.42%	-0.4%	2.73%	0.31%
27	10/1/95 to 9/30/96	2.0%	2.92%	-0.9%	4.10%	1.18%
28	10/1/96 to 9/30/97	5.0%	2.49%	2.5%	5.72%	3.23%
29	10/1/97 to 9/30/98	2.0%	1.80%	0.2%	3.66%	1.87%
30	10/1/98 to 9/30/99	2.0%	1.75%	0.2%	3.71%	1.96%
31	10/1/99 to 9/30/00	2.0%	2.89%	-0.9%	3.91%	1.02%
32	10/1/00 to 9/30/01	4.0%	2.92%	1.1%	5.04%	2.12%
33	10/1/01 to 9/30/02	4.0%	2.21%	1.8%	4.78%	2.57%
34	10/1/02 to 9/30/03	2.0%	3.04%	-1.0%	3.61%	0.57%
35	10/1/03 to 9/30/04	4.5%	3.38%	1.1%	5.72%	2.34%
36	10/1/04 to 9/30/05*	3.5%	3.82%	-0.3%	4.75%	0.92%
37	10/1/05 to 9/30/06°	2.75%	4.09%	-1.3%	4.22%	0.13%
38	10/1/06 to 9/30/07‡	4.25%	2.61%	1.6%	4.38%	1.77%
39	10/1/07 to 9/30/08	3.0%	4.12%	-1.1%	3.57%	-0.55%
40	10/1/08 to 9/30/09∞	4.5% œ	0.76%	3.7%	8.00%	7.24%
41	10/1/09 to 9/30/10•	3.0% ∑	1.69%	1.3%	5.82%	4.13%
42	10/1/10 to 9/30/11	2.25%	2.45%	-0.2%	3.40%	0.95%
43	10/1/11 to 9/30/12	3.75%	2.23%	1.5%	4.54%	2.30%
44	10/1/12 to 9/30/13π	2.0%	1.85%	0.2%	2.84%	0.99%
45	10/1/13 to 9/30/14	4.0%	1.44%	2.6%	4.62%	3.19%
46	10/1/14 to 9/30/15	1.0%	0.18%	0.8%	2.39%	2.21%
47	10/1/15 to 9/30/16	0.0%	0.81%	-0.8%	1.55%	0.74%
48	10/1/16 to 9/30/17	0.0%	1.96%	-2.0%	1.72%	-0.24%
49	10/1/17 to 9/30/18	1.25%	1.86%	-0.6%	2.35%	0.49%
50	10/1/18 to 9/30/19	1.5%	1.65%	-0.2%	2.66%	1.01%
51	10/1/19 to 9/30/20	1.5%	1.77%	-0.3%	1.87%	0.09%
52	10/1/20 to 9/30/21	0.0%	2.57%	-2.6%	0.40%	-2.17%
53	10/1/21 to 9/30/22	0% , 1.5%ˆ	5.74%	-5.0%	1.86%	-3.88%
54	10/1/22 to 9/30/23	3.25%	4.55%	-1.3%	2.57%	-1.99%
55	10/1/23 to 9/30/24	3.0%	3.53%	-0.5%	2.08%	-1.44%
56	10/1/24 to 9/30/25	2.75%	3.01%	-0.3%	3.56%	0.55%
(Order 56 CPI number is not yet final)						

* For tenants who pay for their heat separately the guidelines was 3.0%.

° For tenants who pay for their heat separately the guidelines was 2.25%.

‡ For tenants who pay for their heat separately the guidelines was 3.75%.

œ For tenants who pay for their heat separately the guidelines was 4.0%.

∑ For tenants who pay for their heat separately the guidelines was 2.5%.

∞ Provided, however, that where the most recent vacancy lease was executed 6 yrs or more prior to the date of the renewal lease under this Order, the following shall apply:

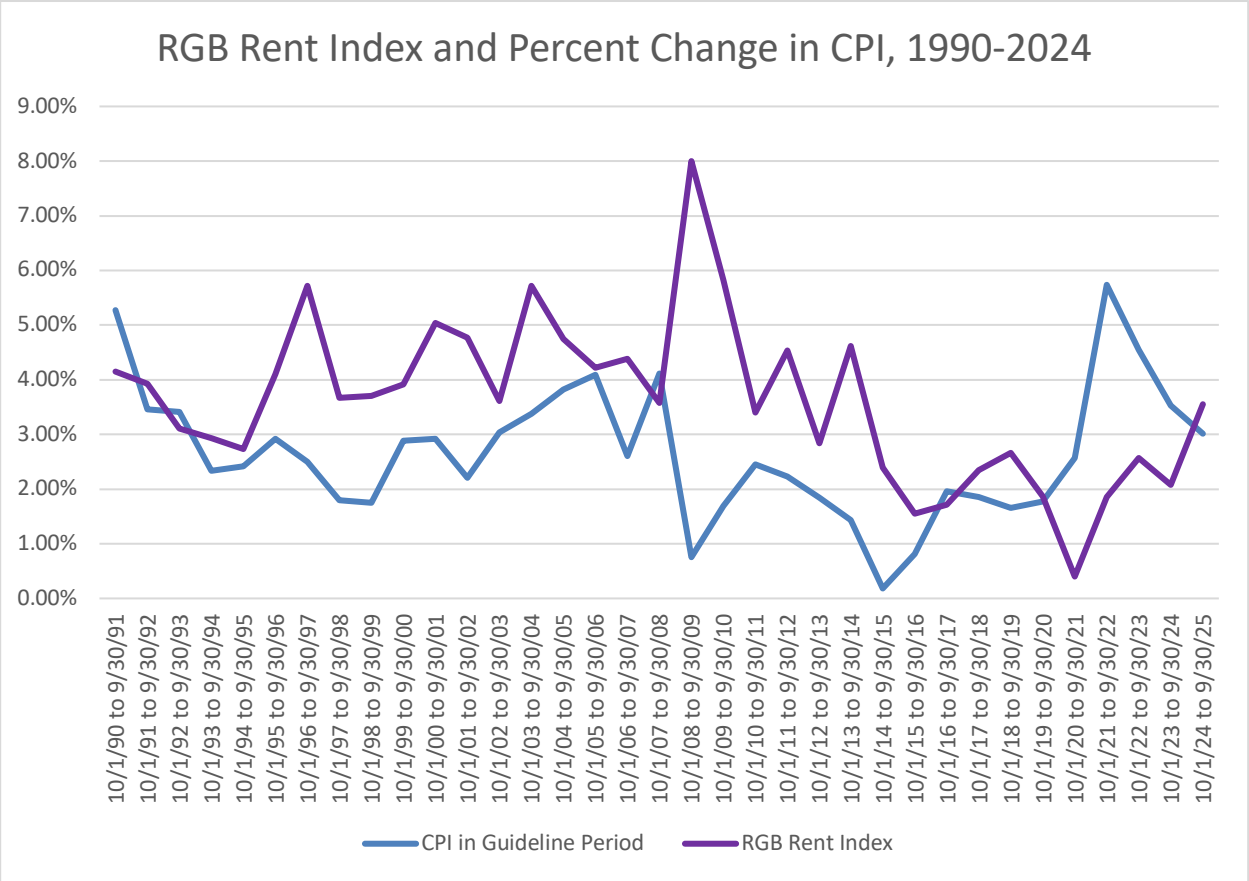
For a one-year renewal lease: 4.5% or $45, whichever is greater (tenants paying heat, 4.0% or $40, whichever is greater).

• Provided, however, that where the most recent vacancy lease was executed 6 yrs or more prior to the date of the renewal lease under this Order, the following shall apply:

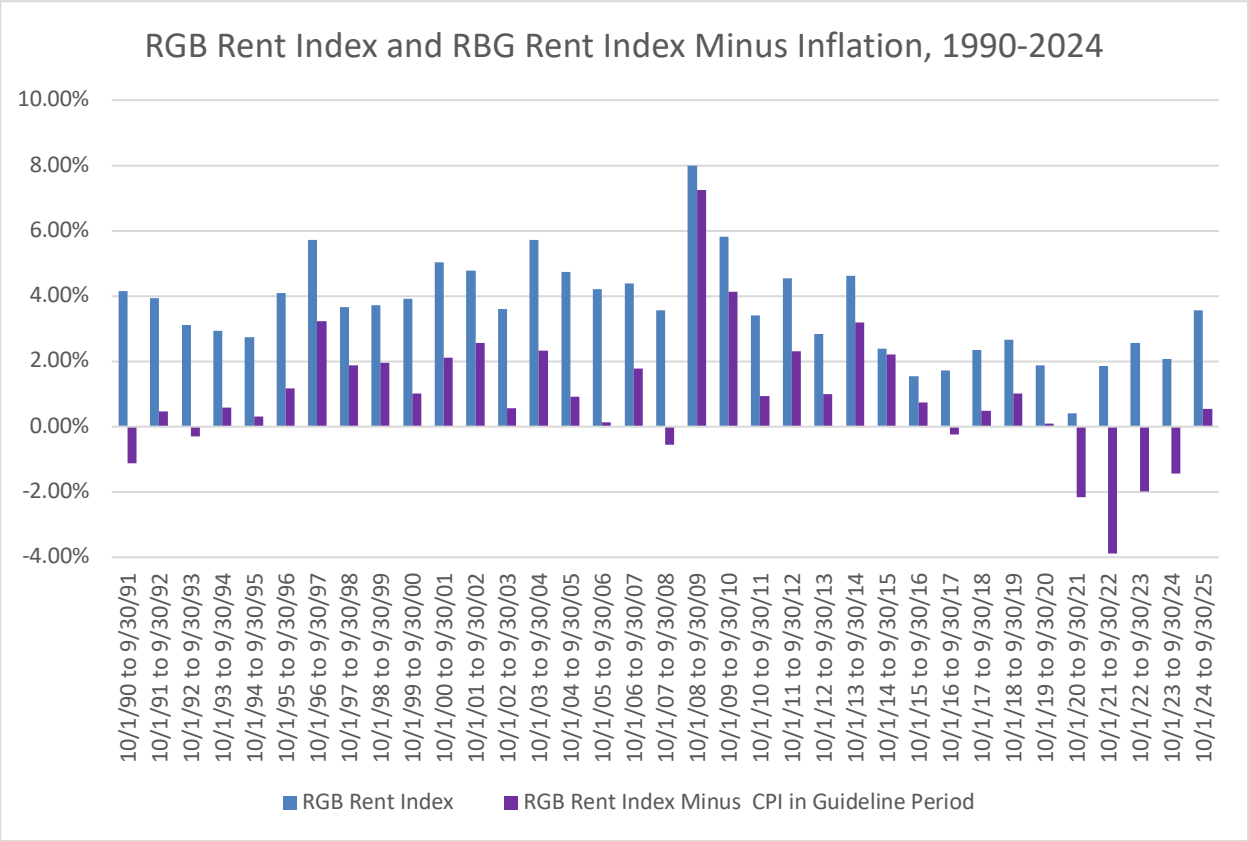
For a one-year renewal lease: 3.0% or $30, whichever is greater (tenants paying heat, 2.5% or $25, whichever is greater).

π 2% or $20 whichever is greater

ˆ 0.0% for the first six months, 1.5% for the last six months of the lease



Note: CPI for the guideline period of 10/1/24-9/30/25 is not final.



Note: CPI for the guideline period of 10/1/24-9/30/25 is not final.

[END OF EMAIL]

On June 11, 2025, the staff of the Rent Guidelines Board released a memo to Board members with an analysis of the potential correlation between building violations and the financial health in buildings containing rent stabilized units. The memo follows:

[START OF MEMO]

Introduction

At the request of Board members, staff was asked to examine the relationship between the number of violations in buildings that contain rent stabilized units, and the financial health of such buildings.

The first section (including Tables 1, 2, and 3) of this memo focuses on violation data for buildings that contain rent stabilized units and have a high number of violations relative to their size. For the purposes of this analysis, buildings deemed to have a high number of violations were those that generally matched the criteria for inclusion in the NYC Department of Housing Preservation and Development's (HPD) Alternative Enforcement Program (AEP), the criteria for which is explained in detail in the summary and in Section 4.

To assess the financial health of buildings with a high number of violations, the second section of this memo (including Tables 4-12) presents summary statistics from the NYC Department of Finance's (DOF) 2023 Real Property Income and Expense filings for a subset of buildings that contain rent stabilized units and generally matched the criteria for inclusion in AEP. It includes data on costs, rents, incomes, and the related statistics of net operating income and cost-to-income ratios.

The third section of this memo provides some caveats regarding the violation data, and the fourth section provides detailed program information for AEP.

Appendix 1 provides a general overview of violation data for buildings that contain rent stabilized units, compared to both all buildings, as well as those buildings that do not contain rent stabilized units.

Appendix 2 provides detailed definitions of terms used in this memo and sources of data.

Summary

This memo provides data regarding buildings containing rent stabilized units[38] that have a significant number of B or C violations (those deemed hazardous or immediately hazardous),[39] relative to their size.[40] The criteria used to select buildings with a significant number of violations is similar to that of HPD's Alternative Enforcement Program (AEP), which selects 250 buildings each year that have a significant number of housing maintenance code violations relative to their size and compels owners to resolve the outstanding violation issues (see Sections 1 and 4 for detailed AEP program criteria)The study frame includes buildings that contain rent stabilized units (as identified in the 2023 NYS Homes and Community Renewal (HCR) annual registration file) and have Class B and C violations that were open as of February 12, 2025 (that were initially issued within the five years preceding that date).[41] Among the findings:

- 23,724 buildings that contain rent stabilized units had open B/C violations on February 12, 2025 that were issued in the five years prior to that date (accounting for 53.7% of the 44,154 buildings that registered with HCR in 2023). See Table 1 for more information.
- Of the buildings in the study frame, a total of 1,185 buildings would generally qualify for inclusion in AEP (2.7% of the 44,154 buildings that contain rent stabilized units, and 5.0% of the 23,724 buildings with violations). These buildings have a total of 22,413 units of housing (1.5% of the units in buildings that contain rent stabilized housing and 2.2% of units in buildings that contain rent stabilized units and had open B/C violations on February 12, 2025 that were issued in the five years prior to that date). Of the 22,413 units in these buildings, 18,942 (85%) of the units are registered as currently occupied by rent stabilized tenants in 2023, 2.1% of the total number of registered occupied rent stabilized units in 2023 (918,217).[42] See Table 1 for more information.

[38]See footnote 47 and Appendix 2 for the definition of a "building" and footnote 52 for the methodology of identifying buildings that contain rent stabilized units.

[39]See footnote 49 and Appendix 2 for a detailed description of Class B and Class C violations.

[40]See footnote 50 for the parameters of this analysis.

[41]See footnote 52 and Appendix 2 for a definition of buildings that contain rent stabilized units and footnote 50 for the parameters of this analysis.

[42]See footnote 53 and Appendix 2 for a discussion of "registered occupied rent stabilized units."

- Of the 1,185 buildings that contain rent stabilized units and would generally qualify for inclusion in AEP, 440 (37.1%) have been placed in the official AEP program by HPD at some point between 2007 and 2025. See Table 1 for more information.
- Of the 1,185 buildings that contain rent stabilized units and would generally qualify for inclusion in AEP, approximately 810 (68.4%) have a proportion of rent stabilized units of at least 80%, and 414 (34.9%) have a proportion of rent stabilized units of 100%.[43] See Table 2 for more information.
- Of the 22,413 units in buildings that contain rent stabilized units and would generally qualify for inclusion in AEP, approximately 15,942 (71.1%) are in buildings that had a proportion of rent stabilized units of at least 80%, and 5,430 (24.2%) are in buildings that had a proportion of rent stabilized units of 100%.[44] See Table 2 for more information.
- The overall average number of B and C violations per unit in buildings that contain rent stabilized units is 0.53, compared to 5.63 violations per unit in buildings that contain rent stabilized units and generally qualify for AEP.[45] See Table 3 for more information.

To assess the financial health of buildings that contain rent stabilized units and have significant violations, summary statistics from 2023 Real Property Income and Expense (RPIE) reports for the 1,185 buildings that contain rent stabilized units that generally met the qualifications for AEP were requested from DOF. DOF was able to provide the RGB with data for 384 of these properties that were constructed prior to 1974 (Pre-1974). This data is presented in Tables 4-12. In summary, compared to data from the full sample of 15,403 Pre-1974 buildings that were reported in the *2025 Income and Expense Study*, in the 384 Pre-1974 buildings that generally met the criteria for AEP:

- the average building size Citywide is 30.7% smaller (29 units per building versus 42 units per building)
- average costs Citywide are 7.1% less overall ($1,073 versus $1,155), but significantly higher for fuel, insurance, and utilities, and lower for taxes and labor
- the average rent Citywide is 20.4% lower ($1,176 versus $1,477)
- the average income Citywide is 18.9% lower ($1,332 versus $1,642)
- the average Net Operating Income (NOI) Citywide is 46.9% lower ($259 versus $488)
- the average cost-to-income ratio Citywide is 10.3 percentage points higher (80.6% versus 70.3%)
- Citywide, 22.7% of the high-violation sample was considered distressed, compared to 9.7% of overall Pre-1974 buildings
- the change in the Citywide average NOI between 2022 and 2023 is 12.3 percentage points lower than the change in NOI in the overall Pre-1974 buildings (a decline of 1.1% versus an increase of 11.2%)

Also see Section 3 for caveats to the violation data, and Section 4 for detailed program information for AEP. Appendix 1 provides comparison data for buildings that contain rent stabilized units to both all buildings, and those buildings that do not contain rent stabilized units. Appendix 2 provides more detailed information and the terms and sources of data used in this memo.

[43]See footnote 57 for a description of the caveats for calculating the proportion of rent stabilized units.
[44]See footnote 57 for a description of the caveats for calculating the proportion of rent stabilized units.
[45]See footnotes 64 and 65.

Section 1: Buildings That Generally Fit the Criteria of the Alternative Enforcement Program (With Open Class B/C Violations on February 12, 2025 (That Were Issued Between February 13, 2020 and February 12, 2025))

This section focuses on buildings that contain rent stabilized units with a high number of violations.[46] Violation data is published daily on the NYC OpenData portal by HPD.[47] The data includes detailed information about each violation, such as the building address, issue date, violation class (A, B, or C)[48], specific violation, and current status (whether it is open or closed, and if closed, the date that the violation was cured with HPD). For this analysis, buildings with a high number of violations were defined as those generally matching the criteria for inclusion in HPD's Alternative Enforcement Program (AEP). This includes buildings with open Class B/C violations as of February 12, 2025 (that were issued between February 13, 2020 and February 12, 2025).[49] AEP is an HPD enforcement program for apartment buildings with a significant number of housing maintenance code violations relative to their size. The program aims to improve housing conditions by performing frequent inspections to monitor correction of violations, and issue Orders to Correct if the owner fails to act. The program also allows HPD to make repairs and replace building systems if necessary.

AEP selection criteria include the number of Class B (hazardous) and Class C (immediately hazardous) housing maintenance code violations, as well as the dollar value of emergency repair charges incurred from HPD's repair work. Each January 31, HPD selects 250 buildings for inclusion in this program, and by statute, approximately 90% of these selected buildings have 6 or more units. Failure to correct the qualifying conditions may result in emergency repair charges, liens, and significant fees, and buildings may also be subject to tax liens to repay these costs. For a full description of the AEP statute, including selection criteria, fines, and how buildings are discharged from the program, see Section 4 of this memo.

The following analysis applies the general selection criteria of AEP to buildings containing rent stabilized units with open Class B/C violations on February 12, 2025 that were issued within the five years preceding that date (February 13, 2020 to February 12, 2025). Note that the RGB did not consider the amount of emergency repair charges paid by any building (which is part of the AEP statute). Therefore, the analysis below is based solely on the number of violations per dwelling unit, using the AEP criteria outlined in Section 4: five or more violations per unit for buildings with fewer than 15 units, and three or more violations per unit for buildings with 15 or

[46]The use of the term "building," throughout this memo, refers to single parcels, which may contain multiple buildings. The identification of buildings that contain rent stabilized units is based on the 2023 HCR building registration file. See Appendix 2 for a detailed description of the 2023 HCR building registration file and its difference from the 2024 HCR building registration file (which was unavailable at the time of this analysis).

[47]Violation data is updated daily on the NYC OpenData portal: https://data.cityofnewyork.us/Housing-Development/Housing-Maintenance-Code-Violations/wvxf-dwi5/about_data.

[48]The violation class correlates to the severity of the violation. Class A violations are considered non-hazardous, and are not considered in this analysis. Class B violations are deemed hazardous, and Class C violations are deemed immediately hazardous. Many of Class C violations must be corrected by the owner within 24 hours. Note that owners have up to 30 days to correct Class B violations, and depending on the type of Class C violation, up to 21 days to correct Class C violations. This analysis does not account for violations issued within 30 days of February 12, 2025 that could have been corrected on time by owners. Because 6.3% of all violations (or almost 60,000), were issued within 30 days of February 12, 2025, the analysis somewhat overstates both the number of buildings that would qualify for the AEP program and the average number of violations per dwelling unit. See Appendix 2 for a more detailed definition of Class B and C violations.

[49]The parameters for this analysis include buildings with Class B and C violations (those that are deemed hazardous or immediately hazardous) that were open as of February 12, 2025, and initially issued within the five years preceding that date (February 13, 2020 through February 12, 2025). Inclusion in AEP also requires a certain threshold of violations per dwelling unit (which varies based on the size of the buildings), as well as a threshold for Emergency Repair Charges, that were not considered as part of this analysis. See Sections 1 and 4 for more detailed program criteria and methodology, or refer to HPD's website: https://www.nyc.gov/site/hpd/services-and-information/alternative-enforcement-program-aep.page.

more units. Residential unit data was obtained from the NYC Department of City Planning and HPD (including both Class A and Class B units).[50]

Table 1 illustrates that a total of 23,724 of the 44,154 buildings[51] (53.7%) registered with HCR in 2023 had Class B and C violations (those deemed hazardous or immediately hazardous) that were open as of February 12, 2025, and initially issued within the five years preceding that date (February 13, 2020 through February 12, 2025). Of these, 1,185 buildings, or 2.7% of the total registered rent stabilized buildings, would have generally met the AEP qualifications (not considering emergency repair charges). As a proportion of only those buildings with violations (23,724 buildings), 5.0% of buildings containing rent stabilized units with open B/C violations would generally qualify for AEP.

Of the 1,185 buildings that contain rent stabilized units and generally qualify for AEP, 440 (37.1%) have been placed in the official AEP program by HPD at some point between 2007 and 2025. Buildings that successfully clear their violations can be discharged from AEP. As of June 1, 2025, 238 of the 440 buildings in the study frame that have been officially placed in AEP at some point since 2007 had yet to be discharged from the official AEP program. This represents 54% of the 440 buildings in the study frame that were officially part of AEP, and 20.1% of the 1,185 buildings that generally qualified for AEP in February 2025. The latest round of AEP (Round 18) began just prior to this memo's study period. A total of 102 (8.6%) of the 1,185 buildings found to generally qualify for AEP in February 2025 were placed in the official AEP program in January 2025 (16 of which have since been discharged from the program, as of June 1, 2025). These 102 buildings represent 23% of the 440 buildings in the study frame that were officially part of AEP, and 8.6% of the 1,185 buildings in the study frame that generally qualified for AEP in February 2025.

The 23,724 buildings that contain rent stabilized units and have B/C violations (as of February 2025) collectively contain an estimated total of just over one million units of housing (including market rate units). This accounts for 69.1% of the total number of units in buildings containing rent stabilized units (including buildings without B/C violations). The buildings that would generally qualify for AEP contain a total of 22,413 housing units, representing 1.5% of all units in buildings that contain rent stabilized units, and 2.2% of units in only those buildings with B/C violations. As noted previously, 440 of the 1,185 buildings that contain rent stabilized units that generally qualify for AEP have been part of HPD's AEP program at some point between 2007 and 2025. These 440 buildings contain 9,975 housing units (44.5% of the 22,413 units in buildings that generally qualified for AEP in February 2025). Of the 9,975 units in buildings entered in AEP, 6,356 have yet to be discharged from AEP. This represents 28.4% of the 22,413 units in buildings that generally qualify for AEP, and 64% of the units that have been entered into AEP at some point since 2007. A total of 3,210 of the 22,413 units in buildings that generally qualified for AEP in February 2025 were placed in the official AEP program in January 2025. This represents 32% of the 9,975 units in buildings in the study frame that were officially part of AEP

[50]Note that the number of residential units in a building may differ depending on the source. The residential units presented in this memo are based on the greater of the total number of residential units reported by either HPD or DCP for buildings registered with HCR in 2023. See Appendix 2 for a more detailed description of "residential units."

[51]Any references to buildings containing rent stabilized units are based on the 2023 NYS Homes and Community Renewal building registration file, which contained 44,154 individual borough, block, and lot designations (parcels), and 47,594 individual buildings. The 2024 HCR registration file, which was unavailable at the time this analysis was completed, has 46,225 parcels and 49,789 buildings (or 2,071 additional records that could have been matched to the violation data). The increased number of parcels in the 2024 registration file would have enabled more buildings with violations to be identified as rent stabilized, with an estimated impact of an additional 1,331 buildings in the sample frame that contain rent stabilized units, 124 of which would generally qualify for inclusion in AEP.

and 14.3% of the 22,413 units in the study frame that generally qualified for AEP in February 2025.

The 2023 HCR annual registration file records 918,217 occupied rent stabilized housing units.[52] Of the 918,217 occupied rent stabilized housing units registered with HCR in 2023, a total of 681,757 (74.2%) had Class B or Class C violations open as of February 12, 2025 that were initially issued within the five years preceding that date (February 13, 2020, through February 12, 2025). Of these occupied and registered rent stabilized units, 18,942, or 2.1% of the total occupied and registered rent stabilized units, would have generally met the AEP qualifications (not considering emergency repair charges). As noted previously, these buildings contain a total of 22,413 units, 85% of which (18,942) are registered as occupied rent stabilized.

[52]This analysis is only able to quantify those registered rent stabilized units that are currently registered as occupied in the 2023 HCR building registration file. Because the registered vacant units may, or may not, be rent stabilized (as opposed to market rate), it is not possible to obtain an accurate count of rent stabilized units using HCR data. Therefore, the number of rent stabilized units is likely somewhat higher, but cannot be quantified.

Table 1: Data for Buildings that Contain Rent Stabilized Units with Open Class B/C Violations on February 12, 2025 (That Were Issued Between February 13, 2020 and February 12, 2025)[53]

AEP and Violation Metrics	Number	Proportion
Total number of buildings that contain rent stabilized units (April 2023)	**44,154**	**--**
Buildings that contain rent stabilized units with B/C violations (February 2025)	23,724	53.7%
Buildings that contain rent stabilized units and generally qualify for AEP (February 2025)	1,185	2.7%
Buildings that contain rent stabilized units, generally qualify for AEP, and have been part of any official AEP Round (2007-2025)	*440*	*37.1%*
Buildings that contain rent stabilized units, generally qualify for AEP, and have not been discharged from AEP (2007-2025)	*238*	*20.1%*
Buildings that contain rent stabilized units, generally qualify for AEP, and were part of the most recent AEP Round (Round 18, 2025)	*102*	*8.6%*
Total units in buildings that contain rent stabilized units (April 2023)[54]	**1,493,346**	**--**
Total units in buildings that contain rent stabilized units with B/C violations (February 2025)	1,032,001	69.1%
Total units in buildings that generally qualify for AEP (February 2025)	22,413	1.5%
Total units in buildings that contain rent stabilized units, generally qualify for AEP, and have been part of any official AEP Round (2007-2025)	*9,975*	*44.5%*
Total units in buildings that contain rent stabilized units, generally qualify for AEP, and have not been discharged from AEP (2007-2025)	*6,356*	*28.4%*
Total units in buildings that contain rent stabilized units, generally qualify for AEP, and were part of the most recent AEP Round (Round 18, 2025)	*3,210*	*14.3%*
Total registered and occupied rent stabilized units in buildings that contain rent stabilized units (April 2023)[55]	**918,217**	**--**
Total registered and occupied rent stabilized units in buildings that contain rent stabilized units with B/C violations (February 2025)	681,757	74.2%
Total registered and occupied rent stabilized units in buildings that generally qualify for AEP (February 2025)	18,942	2.1%

Source: NYC OpenData Portal and 2023 HCR Building Registration File

Table 2 illustrates that of the 1,185 buildings that contain rent stabilized units and would generally qualify for AEP, approximately 114 (9.6%) had a proportion of rent stabilized units of less than 50%; 1,071 (90.4%) had a proportion of rent stabilized units of at least 50%; 810

[53]See footnote 50 for the parameters of this analysis.

[54]See footnote 51 for a discussion of residential unit counts.

[55]See footnote 53.

(68.4%) had a proportion of rent stabilized units of at least 80%; and 414 (34.9%) had a proportion of rent stabilized units of 100%.[56] Of the 22,413 units in these buildings, approximately 1,753 (7.8%) are in buildings with a proportion of rent stabilized units of less than 50%; 20,660 (92.2%) are in buildings with a proportion of rent stabilized units of at least 50%; 15,942 (71.1%) are in buildings with a proportion of rent stabilized units of at least 80%; and 5,430 (24.2%) are in buildings with a proportion of rent stabilized units of 100%.

Of the 1,185 buildings that contain rent stabilized units and would generally qualify for inclusion in AEP, approximately 80 (6.8%) have fewer than six units; 420 (35.4%) have between six and 10 units; 221 (18.6%) have between 11 and 19 units; 400 (33.8%) have between 20 and 49 units; 59 (5.0%) have between 50 and 99 units; and five (0.4%) have 100 or more units.[57] Of the 22,413 units in these buildings, approximately 264 (1.2%) are in buildings that have fewer than six units; 3,028 (13.5%) are in buildings that have between six and 10 units; 3,379 (15.1%) are in buildings that have between 11 and 19 units; 11,502 (51.3%) are in buildings that have between 20 and 49 units; 3,702 (16.5%) are in buildings that have between 50 and 99 units; and 538 (2.4%) are in buildings that have 100 or more units.

[56]Calculating a proportion of rent stabilized units is complicated by both an unknown number of vacant rent stabilized units (see footnote 15), and differing unit counts of the total number of units in buildings, depending on the agency reporting the units. This proportion is based on the number of occupied rent stabilized units registered with NYS Homes and Community Renewal in 2023, divided by the greater of the number of total units reported by either HPD or the NYC Department of City Planning.

[57]See footnote 51 for a discussion of residential unit counts.

Table 2: Data for Buildings that Contain Rent Stabilized Units with Open Class B/C Violations on February 12, 2025 (That Were Issued Between February 13, 2020 and February 12, 2025), by Proportion of Rent Stabilized Units and Building Size[58]

AEP and Violation Metrics	Number	Proportion
Buildings containing rent stabilized units that generally qualify for AEP, by proportion of rent stabilized units (February 2025)[59]	**1,185**	**--**
Less than 50% rent stabilized	114	9.6%
50% or more rent stabilized	1,071	90.4%
80% or more rent stabilized	810	68.4%
100% rent stabilized	414	34.9%
Units in buildings containing rent stabilized units that generally qualify for AEP, by proportion of rent stabilized units (April 2023 and February 2025)[60]	**22,413**	**--**
Less than 50% rent stabilized	1,753	7.8%
50% or more rent stabilized	20,660	92.2%
80% or more rent stabilized	15,942	71.1%
100% rent stabilized	5,430	24.2%
Buildings containing rent stabilized units that generally qualify for AEP, by building size (February 2025)[61]	**1,185**	**--**
1-5 Units	80	6.8%
6-10 Units	420	35.4%
11-19 Units	221	18.6%
20-49 Units	400	33.8%
50-99 Units	59	5.0%
100+ Units	5	0.4%
Units in buildings containing rent stabilized units that generally qualify for AEP, by building size (February 2025)[62]	**22,413**	**--**
1-5 Units	264	1.2%
6-10 Units	3,028	13.5%
11-19 Units	3,379	15.1%
20-49 Units	11,502	51.3%
50-99 Units	3,702	16.5%
100+ Units	538	2.4%

Source: NYC OpenData Portal and 2023 HCR Building Registration File

Table 3 illustrates that the average number of B/C violations per unit in buildings that generally qualify for AEP is significantly higher than the average B/C violations per unit in the overall population of buildings with violations. The overall average number of B and C violations per

[58]See footnote 50 for the parameters of this analysis.

[59]See footnote 57 for a description of the caveats for calculating the proportion of rent stabilized units.

[60]See footnote 57 for a description of the caveats for calculating the proportion of rent stabilized units.

[61]See footnote 51 for a discussion of residential unit counts.

[62]See footnote 51 for a discussion of residential unit counts.

unit in buildings that contain rent stabilized units (23,724 buildings, see Table 1) is 0.53.[63] However, the average number of B and C violations per dwelling unit decreases as building size increases. In the overall stock of buildings that contain rent stabilized units and had open B/C violations in February 2025, the average B and C violations per dwelling unit for buildings with fewer than six units is 2.29; between six and 10 units: 1.62; between 11 and 19 units: 1.06; between 20 and 49 units: 0.81; between 50 and 99 units: 0.52; and 100 or more units: 0.18.

For the 1,185 buildings that contain rent stabilized units and would generally qualify for inclusion in AEP, the average violations per dwelling unit is 5.63.[64] However, the average number of B and C violations per dwelling unit generally decreases as building size increases. In buildings that contain rent stabilized units and generally qualify for AEP, the average B and C violations per dwelling unit for buildings with fewer than six units is 10.28; between six and 10 units: 9.02; between 11 and 19 units: 5.82; between 20 and 49 units: 5.00; between 50 and 99 units: 4.43; and 100 or more units: 4.63.

[63]This average is computed for all buildings that contain rent stabilized units and had Class B and C violations (those that are deemed hazardous or immediately hazardous) that were open as of February 12, 2025, and initially issued within the five years preceding that date (February 13, 2020 through February 12, 2025). See footnote 49 for a discussion on why this figure is somewhat overstated.

[64]This figure was calculated using the same parameters as those for all buildings that contain rent stabilized units (see footnote 64), but only for those buildings that generally meet the qualifications for AEP.

Table 3: Average B/C Violations by Building Size in Buildings that Contain Rent Stabilized Units (For Violations That Were Issued Between February 13, 2020 and February 12, 2025)[65]

Building Size	Average Violations per Dwelling Unit
Average B/C violations per unit in **all buildings containing rent stabilized units** that were open as of February 12, 2025, and initially issued within the five years preceding that date, by building size (23,724 buildings, 1,032,001 units)[66]	0.53
1-5 Units (674 buildings, 2,392 units)	2.29
6-10 Units (5,686 buildings, 42,320 units)	1.62
11-19 Units (3,652 buildings, 54,954 units)	1.06
20-49 Units (7,741 buildings, 243,521 units)	0.81
50-99 Units (4,135 buildings, 281,053 units)	0.52
100+ Units (1,836 buildings, 407,761 units)	0.18
Average B/C violations per unit in **buildings containing rent stabilized units that generally qualify for AEP** (as of February 12, 2025), by building size (1,185 buildings, 22,413 units)[67]	5.63
1-5 Units (80 buildings, 264 units)	10.28
6-10 Units (420 buildings, 3,028 units)	9.02
11-19 Units (221 buildings, 3,379 units)	5.82
20-49 Units (400 buildings, 11,502 units)	5.00
50-99 Units (59 buildings, 3,702 units)	4.43
100+ Units (5 buildings, 538 units)	4.63

Source: NYC OpenData Portal and 2023 HCR Building Registration File

Section 2: Financial Health of Buildings That Contain Rent Stabilized Units and Generally Meet the Criteria for Inclusion in AEP

In April 2025, the RGB submitted the list of 1,185 buildings that contain rent stabilized units that generally met the qualifications for AEP to the NYC Department of Finance (DOF), in order to obtain summary statistics on average and median costs, rents, and incomes in these buildings, based on 2023 Real Property Income and Expense (RPIE filings).[68] Owners of buildings with more than 10 units are required to file RPIE statements with DOF annually, and the RGB uses this data to produce an annual Income & Expense Study (I&E).

[65] See footnote 50 for the parameters of this analysis.

[66] See footnote 64.

[67] See footnote 65.

[68] As noted in footnote 52 and Appendix 2, the identification of buildings that contain rent stabilized units was based on 2023 HCR registration data. Only those buildings that both registered with HCR and generally qualified for AEP were provided to DOF for computation of RPIE summary statistics.

Of the 1,185 buildings that contain rent stabilized units that generally met the qualifications for AEP, approximately 660 (or 56%) had more than 10 units and were required to file RPIE statement. However, DOF was only able to provide summary statistics for 394 of these buildings, representing 33% of the total sample submitted, and 60% of the buildings required to file RPIE statements.[69] Since only 10 of these buildings were built after 1973, the following analysis will focus solely on buildings built before 1974 (Pre-1974) to ensure a more parallel comparison with the full RPIE sample.[70] The tables below compare data from the Pre-1974 buildings in the *2025 I&E Study* (which analyzed 2023 RPIE data for 15,403 buildings that contain rent stabilized units), to the 384 buildings that generally met the qualifications for AEP and reported data to DOF on 2023 RPIE statements (hereafter referred to as the "high-violation sample"). Each of the datasets includes buildings registered with NYS Homes and Community Renewal in 2023.[71] Note that due to small sample sizes, data for Queens, Core Manhattan, and buildings with 100 or more units cannot be reported separately, but are included in both the Citywide and City excluding Core Manhattan analyses. Additionally, no buildings in Staten Island were provided to the RGB for these analyses.

Table 4 illustrates the number of buildings and dwelling units, in 2023, for both the Pre-1974 high-violation sample and the overall Pre-1974 sample. With the exception of Citywide 11-19 unit buildings (where the sizes are roughly equal), the average building size for the high-violation sample is smaller than that of the overall sample. The average building size is 30.7% smaller in the Citywide Pre-1974 high-violation sample compared to the overall Pre-1974 sample (29 units per building versus 42 units per building, respectively) and 32.3% smaller compared to the City excluding Core Manhattan (29 units per building versus 43 units per building, respectively).

[69] Due to small sample sizes, data for Queens, Core Manhattan, and buildings with 100 or more units cannot be reported separately, but are included in both the Citywide and City excluding Core Manhattan analyses. There were also no buildings from Staten Island provided to the RGB for these analyses. For the 266 buildings that had more than 10 units, but were not represented in the RPIE data provided by DOF, it is unknown if it is because they did not file RPIE statements in 2023, or if the buildings were excluded from the analysis because they did not qualify for the inclusion criteria set by DOF (which excludes buildings that are 1st and 99th percentiles of monthly income and expense or have an expense ratio of equal to or more than 300%).

[70] While 7.8% of buildings in the full 2023 RPIE analysis were built after 1973, in the sample of high-violation buildings, only 2.5% were built after 1973.

[71] See footnote 52.

Table 4: Building and Unit Counts in 2023, Pre-1974 Buildings That Contain Rent Stabilized Units (High-Violation Sample Versus All Buildings)

Location[72]	Number of Buildings		Number of Units		Average Building Size		Percentage Difference in Average Building Size
	Pre-1974 High-Violation Sample	All Pre-1974 Buildings	Pre-1974 High-Violation Sample	All Pre-1974 Buildings	Pre-1974 High-Violation Sample	All Pre-1974 Buildings	
Citywide	384	15,403	11,116	643,140	29	42	-30.7%
11-19 units	116	4,056	1,808	60,870	16	15	3.9%
20-99 units	265	10,583	8,991	438,109	34	41	-18.0%
Bronx	147	3,418	4,861	155,922	33	46	-27.5%
Brooklyn	112	3,887	2,840	154,852	25	40	-36.4%
Manhattan	104	6,206	2,562	233,861	25	38	-34.6%
Upper Manhattan	85	2,171	2,104	81,296	25	37	-33.9%
City w/o Core Man	365	11,368	10,658	490,575	29	43	-32.3%

Source: NYC Department of Finance, RPIE Filings (2023) and 2023 HCR Building Registration File

Table 5 illustrates the average cost per unit per month for eight categories of expenses (in 2023). While the Pre-1974 high-violation sample spent less, on average, each month on overall operating and maintenance expenses (an average of $82 per month, or 7.1% less), certain expense categories were significantly higher than those for the sample of all Pre-1974 buildings. Notably, fuel costs are 42.8% higher, insurance 21.3% higher, and utility costs 16.1% higher in the high-violation sample compared to all buildings. However, the high-violation sample spent significantly less on labor (16.7% less) and taxes (12.5% less).

[72]See footnote 70.

Table 5: Average Costs per Unit per Month in 2023, Pre-1974 Buildings That Contain Rent Stabilized Units (High-Violation Sample Versus All Buildings)

Average Costs per Unit per Month (2023)	Taxes	Labor	Fuel	Utilities	Maint.	Admin.	Insurance	Misc.	Total
Pre-1974 high-violation sample	$288	$98	$136	$135	$217	$136	$119	$63	$1,073
All pre-1974 buildings	$329	$118	$95	$116	$201	$136	$98	$61	$1,155
Difference ($)	-$41	-$20	$41	$19	$16	$0	$21	$2	-$82
Difference (%)	-12.5%	-16.7%	42.8%	16.1%	7.7%	-0.3%	21.3%	3.8%	-7.1%

Source: NYC Department of Finance, RPIE Filings (2023) and 2023 HCR Building Registration File

Table 6 illustrates that, in almost all cases, both average and median rents in the Pre-1974 high-violation sample are lower than overall rents for Pre-1974 buildings (in 2023). The only exception is median rent in the Bronx, which is 3.0% higher in the high-violation sample. In all other building categories analyzed, both average and median rents are lower in the high-violation sample compared to the overall Pre-1974 buildings, with almost all showing a double-digit percentage difference. Average rent Citywide is 20.4% lower in the Pre-1974 high-violation sample, and 11.7% lower in the City excluding Core Manhattan. Similarly, median rent Citywide is 15.6% lower in the Pre-1974 high-violation sample, and 9.1% lower in the City excluding Core Manhattan.

Table 6: Average and Median Rent per Unit per Month in 2023, Pre-1974 Buildings That Contain Rent Stabilized Units (High-Violation Sample Versus All Buildings)

Location[73]	Pre-1974 High-Violation Sample		All Pre-1974 Buildings		Difference ($)		Difference (%)	
	Average Rent	Median Rent	Average Rent	Median Rent	Average Rent	Median Rent	Average Rent	Median Rent
Citywide	$1,176	$1,149	$1,477	$1,361	-$301	-$212	-20.4%	-15.6%
11-19 units	$1,154	$1,100	$1,484	$1,467	-$330	-$367	-22.3%	-25.0%
20-99 units	$1,183	$1,156	$1,360	$1,325	-$177	-$169	-13.0%	-12.8%
Bronx	$1,100	$1,138	$1,124	$1,105	-$24	$33	-2.1%	3.0%
Brooklyn	$1,127	$1,099	$1,371	$1,301	-$244	-$202	-17.8%	-15.5%
Manhattan	$1,316	$1,226	$1,992	$1,836	-$676	-$610	-33.9%	-33.2%
Upper Manhattan	$1,270	$1,208	$1,424	$1,349	-$154	-$141	-10.8%	-10.5%
City w/o Core Man	$1,158	$1,139	$1,312	$1,253	-$154	-$114	-11.7%	-9.1%

Source: NYC Department of Finance, RPIE Filings (2023) and 2023 HCR Building Registration File

[73] See footnote 70.

Table 7 illustrates that, in almost all cases, average and median income in the Pre-1974 high-violation sample is lower than the overall Pre-1974 income (in 2023). With the exception of median income in the Bronx, which is 0.5% higher in the high-violation sample, average and median income is lower in each of the other building categories analyzed. In addition, almost all income levels in the high-violation sample are lower than those in the overall Pre-1974 buildings, by double digits. The average income Citywide is 18.9% lower in the Pre-1974 high-violation sample, and 9.3% lower in the City excluding Core Manhattan, compared to overall Pre-1974 buildings. Similarly, the median income Citywide is 16.7% lower in the Pre-1974 high-violation sample, and 9.3% lower in the City excluding Core Manhattan.

Table 7: Average and Median Income per Unit per Month in 2023, Pre-1974 Buildings That Contain Rent Stabilized Units (High-Violation Sample Versus All Buildings)

Location[74]	Pre-1974 High-Violation Sample		All Pre-1974 Buildings		Difference ($)		Difference (%)	
	Average Income	Median Income	Average Income	Median Income	Average Income	Median Income	Average Income	Median Income
Citywide	$1,332	$1,228	$1,642	$1,474	-$310	-$246	-18.9%	-16.7%
11-19 units	$1,345	$1,205	$1,743	$1,660	-$398	-$455	-22.8%	-27.4%
20-99 units	$1,322	$1,231	$1,494	$1,415	-$172	-$184	-11.5%	-13.0%
Bronx	$1,221	$1,218	$1,248	$1,212	-$27	$6	-2.2%	0.5%
Brooklyn	$1,179	$1,116	$1,459	$1,370	-$280	-$254	-19.2%	-18.5%
Manhattan	$1,640	$1,478	$2,324	$2,126	-$684	-$648	-29.4%	-30.5%
Upper Manhattan	$1,544	$1,409	$1,649	$1,524	-$105	-$115	-6.4%	-7.5%
City w/o Core Man	$1,294	$1,218	$1,427	$1,343	-$133	-$125	-9.3%	-9.3%

Source: NYC Department of Finance, RPIE Filings (2023) and 2023 HCR Building Registration File

Table 8 illustrates that, in almost all cases, average and median costs in the Pre-1974 high-violation sample are lower than, or only slightly higher than, overall Pre-1974 costs (in 2023). While average and median costs are slightly higher in the Pre-1974 high-violations sample in Upper Manhattan and the City excluding Core Manhattan, there is a greater disparity in the Bronx, where average costs are 5.0% higher and median costs 6.1% higher. However, in Manhattan, costs are significantly lower in the Pre-1974 high-violation sample compared to the overall Pre-1974 buildings, with average costs 17.5% lower and median costs 15.9% lower. Average costs Citywide are 7.1% lower in the Pre-1974 high-violation sample, and 0.5% higher in the City excluding Core Manhattan. Similarly, median costs Citywide are 5.7% lower in the Pre-1974 high-violation sample and 1.1% higher in the City excluding Core Manhattan.

[74] See footnote 70.

Table 8: Average and Median Costs per Unit per Month in 2023, Pre-1974 Buildings That Contain Rent Stabilized Units (High-Violation Sample Versus All Buildings)

Location[75]	Pre-1974 High-Violation Sample		All Pre-1974 Buildings		Difference ($)		Difference (%)	
	Average Costs	Median Costs	Average Costs	Median Costs	Average Costs	Median Costs	Average Costs	Median Costs
Citywide	$1,073	$1,003	$1,155	$1,064	-$82	-$61	-7.1%	-5.7%
11-19 units	$1,119	$1,051	$1,217	$1,177	-$98	-$126	-8.1%	-10.7%
20-99 units	$1,049	$966	$1,071	$1,028	-$22	-$62	-2.1%	-6.0%
Bronx	$1,017	$998	$969	$941	$48	$57	5.0%	6.1%
Brooklyn	$938	$885	$1,001	$947	-$63	-$62	-6.3%	-6.5%
Manhattan	$1,287	$1,161	$1,560	$1,380	-$273	-$219	-17.5%	-15.9%
Upper Manhattan	$1,228	$1,149	$1,218	$1,129	$10	$20	0.8%	1.8%
City w/o Core Man	$1,048	$993	$1,043	$982	$5	$11	0.5%	1.1%

Source: NYC Department of Finance, RPIE Filings (2023) and 2023 HCR Building Registration File

Table 9 illustrates that, in all cases, average and median Net Operating Income (NOI) in the Pre-1974 high-violation sample is lower than overall Pre-1974 NOI (in 2023). Average NOI Citywide is 46.9% lower in the Pre-1974 high-violation sample, and 35.9% lower in the City excluding Core Manhattan, compared to overall Pre-1974 buildings. Similarly, median NOI Citywide is 45.1% lower in the Pre-1974 high-violation sample and 37.7% lower in the City excluding Core Manhattan.

[75] See footnote 70.

Table 9: Average and Median Net Operating Income (NOI) per Unit per Month in 2023, Pre-1974 Buildings That Contain Rent Stabilized Units (High-Violation Sample Versus All Buildings)

Location[76]	Pre-1974 High-Violation Sample		All Pre-1974 Buildings		Difference ($)		Difference (%)	
	Average NOI	Median NOI	Average NOI	Median NOI	Average NOI	Median NOI	Average NOI	Median NOI
Citywide	$259	$225	$488	$410	-$229	-$185	-46.9%	-45.1%
11-19 units	$226	$154	$526	$483	-$300	-$329	-57.0%	-68.1%
20-99 units	$273	$265	$423	$387	-$150	-$122	-35.5%	-31.5%
Bronx	$204	$220	$279	$271	-$75	-$51	-26.9%	-18.8%
Brooklyn	$241	$231	$458	$423	-$217	-$192	-47.4%	-45.4%
Manhattan	$353	$317	$765	$746	-$412	-$429	-53.8%	-57.5%
Upper Manhattan	$316	$260	$431	$395	-$115	-$135	-26.8%	-34.2%
City w/o Core Man	$246	$225	$384	$361	-$138	-$136	-35.9%	-37.7%

Source: NYC Department of Finance, RPIE Filings (2023) and 2023 HCR Building Registration File

Table 10 presents average cost-to-income ratios for each of the categories of buildings. As the table illustrates, in all cases, the average cost-to-income ratio in the Pre-1974 high-violation sample is higher than overall Pre-1974 cost-to-income ratios (in 2023). The average cost-to-income ratio Citywide in the Pre-1974 high-violations sample, 80.6%, is 10.3 percentage points higher than the average cost-to-income ratio in the Pre-1974 buildings overall. Similarly, the ratio for the City excluding Core Manhattan, 81.0%, is 7.9 percentage points higher than the full sample.[77]

[76] See footnote 70.

[77] The annual Income & Expense Studies (I&E) apply an adjustment to reported costs because a 1992 NYC Department of Finance audit found that owners overstated costs when filing RPIE statements. The methodology for that adjustment has changed over time, and was calculated to be 4.25% in the 2025 report. Because that adjustment could not be made to the high-violation sample, all reported cost-to-income ratios (including both the high-violation sample and the overall pre-1974 sample) are unadjusted. For reference, the adjusted cost-to-income ratio for all pre-1974 buildings in 2023 (as reported in the 2025 I&E Study) was 67.3%, versus an unadjusted ratio of 70.3% (as reported here).

Table 10: Average Cost-to-Income Ratios in 2023, Pre-1974 Buildings That Contain Rent Stabilized Units (High-Violation Sample Versus All Buildings)

Location[78]	Average Cost-to-Income Ratio		Percentage Point Difference
	Pre-1974 High-Violation Sample	All Pre-1974 Buildings	
Citywide	80.6%	70.3%	10.3%
11-19 units	83.2%	69.8%	13.4%
20-99 units	79.3%	71.7%	7.6%
Bronx	83.3%	77.6%	5.7%
Brooklyn	79.6%	68.6%	11.0%
Manhattan	78.5%	67.1%	11.4%
Upper Manhattan	79.5%	73.8%	5.7%
City w/o Core Man	81.0%	73.1%	7.9%

Source: NYC Department of Finance, RPIE Filings (2023) and 2023 HCR Building Registration File

Table 11 provides the number and proportion of Pre-1974 high-violation buildings classified as distressed in 2023. Buildings that have operating and maintenance costs that exceed gross income are considered, for the purposes of this study, distressed.[79] Citywide, 22.7% of the buildings in the high-violation sample were considered distressed, as were 23.0% of the buildings in the City excluding Core Manhattan. This compares to a distress rate of 9.7% for Pre-1974 buildings Citywide, and 10.7% for buildings in the City excluding Core Manhattan.

[78]See footnote 70.

[79]As noted in footnote 70, the RPIE data excludes buildings with income and expenses that are outliers. This includes buildings with cost-to-income ratios of 300% or more, that would otherwise be considered distressed. It is unknown if any of the buildings in the high-violation sample met this parameter for exclusion.

Table 11: Number and Proportion of Distressed Buildings in 2023, Pre-1974 Buildings That Contain Rent Stabilized Units (High-Violation Sample)

Building Size	Pre-1974 High-Violation Sample		All Pre-1974 Buildings	
	Citywide	City w/o Core Manhattan	Citywide	City w/o Core Manhattan[80]
All distressed pre-1974 buildings in the high-violation sample	87	84	1,492	1,211
11-19 units	38	37	536	395
20-99 units	49	47	927	797
Distressed buildings (as a proportion of all pre-1974 buildings)	*22.7%*	*23.0%*	*9.7%*	*10.7%*

Source: NYC Department of Finance, RPIE Filings (2023) and 2023 HCR Building Registration File

Table 12 presents a longitudinal analysis of Net Operating Income (NOI). The longitudinal analysis compares the change in NOI in same set of 336 buildings in the high-violation sample in 2022 and 2023, as well as the same set of 14,113 buildings in the overall Pre-1974 sample. As the table illustrates, the change in NOI between 2022 and 2023 was negative for all categories within the Pre-1974 high-violation sample (except for Manhattan and Citywide 20-99 unit buildings), whereas the change was positive in all categories in the overall Pre-1974 sample. In all cases, the change in NOI was higher in the overall Pre-1974 sample than in the high-violation sample. The change in the Citywide average NOI for the high-violations sample, -1.1%, was 12.3 percentage points lower than the change in NOI in the overall Pre-1974 buildings. Similarly, change in NOI in the City excluding Core Manhattan, -7.5%, was 13.4 percentage points lower than the full sample.

[80]Not shown in this table, there also 29 buildings of 100 units or more that are distressed Citywide in the full sample, including 19 in the City excluding Core Manhattan.

Table 12: Longitudinal Change in Average Net Operating Income, 2022–2023, Pre-1974 Buildings That Contain Rent Stabilized Units (High-Violation Sample Versus All Buildings)

Location[81]	Number of Buildings		Change in NOI (2022-2023)		Percentage Point Difference
	Pre-1974 High-Violation Sample	All Pre-1974 Buildings	Pre-1974 High-Violation Sample	All Pre-1974 Buildings	
Citywide	336	14,113	-1.1%	11.2%	-12.3%
11-19 units	94	3,630	-7.4%	16.1%	-23.5%
20-99 units	240	9,761	1.1%	9.7%	-8.6%
Bronx	134	3,162	-5.0%	0.1%	-5.1%
Brooklyn	95	3,547	-4.9%	8.0%	-12.9%
Manhattan	91	5,678	8.7%	21.2%	-12.5%
Upper Manhattan	73	1,977	-10.2%	9.9%	-20.1%
City w/o Core Man	318	10,412	-7.5%	5.9%	-13.4%

Source: NYC Department of Finance, RPIE Filings (2022 and 2023) and 2023 HCR Building Registration File

Section 3: Caveats to the Data

While HPD violation data offers the advantages of easy accessibility and daily updates, making it a valuable information source, it's important to acknowledge several caveats when interpreting this data. Among the potential caveats:

- It is unknown whether every "open" violation has actually been cured. Violations might remain open for a variety of reasons, such as the repair not being reported to HPD, HPD not updating the repair confirmation from the owner, or the owner not paying paid accrued fines.
- There may be inconsistencies in the violation reporting by inspectors. For instance, if the heat is out in an entire building, the violation is sometimes recorded only for the apartment(s) that reported the issue to 311 (i.e., one violation per reporting unit) or can be issued for each unit of the building, regardless of how many complaints were made. Additionally, the classification of a violation is at the inspector's discretion, meaning similar issues could receive different violation classes.
- Generally, violations are issued only upon complaints to 311, therefore, the number of unreported violations can never be known. In addition, HPD inspectors require access to the premises to properly inspect and issue the violation. If HPD cannot gain access to the premises, a violation will not be issued. Note that this memo's study period starts in February 2020, just before the start of the COVID-19 pandemic. It is likely that tenants were less likely to allow inspectors into their homes during the height of the pandemic.
- The identification of buildings containing rent stabilized units relies solely on annual registration data from NYS Homes and Community Renewal (HCR). As such, any building with violations that contains rent stabilized units and did not register with HCR in 2023

[81] See footnote 70.

was classified as a building that does not contain rent stabilized units in Appendix 1 of this memo. In addition, only those buildings that both registered with HCR in 2023 and generally qualified for AEP were provided to DOF for computation of RPIE summary statistics. Updated data from HCR may have resulted in a slightly different set of buildings that contain rent stabilized units. For instance, HCR continues to compel owners to register their rent stabilized properties annually, increasing the number of buildings that can be identified as rent stabilized. In addition, newly constructed buildings are registered each year (however, buildings which leave rent stabilization are removed from the registration file each year). For instance, the 2024 HCR registration file, which was unavailable at the time this analysis was completed, has 46,225 individual borough, block, and lot designations (or parcels) and 49,789 individual buildings, 2,071 more parcels than the 2023 registration file. The increased number of parcels in the 2024 registration file would have enabled more buildings with violations to be identified as rent stabilized, with an estimated impact of an additional 1,331 buildings in the sample frame that contain rent stabilized units, 124 of which would generally qualify for inclusion in AEP.

- The identification of buildings with open violations that were issued in the past five years, and those that would generally qualify for AEP, should be thought of as a "moment in time," that may or may not be reflective of general trends. As violations are cured, buildings may no longer fit the general criteria for AEP. Concurrently, new violations are being issued every day, bringing new buildings into qualification for AEP. The 1,185 buildings that contain rent stabilized units and generally qualified for AEP on February 12, 2025 are 2.7% of all rent stabilized buildings. This relatively small sample of buildings was provided to DOF to obtain summary statistics on costs, rents, and incomes in these buildings. A total of 394 buildings of the 1,185 buildings provided to DOF **could** be used in their summary statistics, 384 of which (the Pre-1974 sample) were **utilized** in this analysis. This very small sample of buildings was then compared to a relatively large number of buildings from the full 2023 RPIE sample (15,403 pre-1974 buildings). The trends identified in this data (as detailed in Section 2 of this memo) reflect data from this "moment in time," but may or may not be generally reflective of buildings with a high number of violations.

Section 4: AEP Statutes

Per the AEP statute,[82] buildings are selected for AEP based on the criteria that:

- "The Department will identify no more than twenty-five multiple dwellings that contain less than six units for participation in the program. Such multiple dwellings must have: (i) A ratio of open hazardous and immediately hazardous violations that were issued by the Department within the five-year period prior to such identification that equals in the aggregate five or more such violations for every dwelling unit in the multiple dwelling; and (ii) Paid or unpaid Emergency Repair Charges of five thousand dollars ($5,000.00) or more, which were incurred within the five-year period prior to such identification."
- "A multiple dwelling that contains at least six but not more than fourteen dwelling units must have: (i) A ratio of open hazardous and immediately hazardous violations that were issued by the Department within the five-year period prior to such identification that equals in the aggregate five or more such violations for every dwelling unit in the multiple

[82] https://www.nyc.gov/assets/hpd/downloads/pdfs/services/AEP-Rules.pdf.

dwelling; and (ii) Paid or unpaid Emergency Repair Charges of five thousand dollars ($5,000.00) or more, which were incurred within the five-year period prior to such identification."

- "A multiple dwelling that contains fifteen or more dwelling units must have: (i) A ratio of open hazardous and immediately hazardous violations that were issued by the Department within the five-year period prior to such identification that equals in the aggregate three or more such violations for every dwelling unit in the multiple dwelling; and (ii) Paid or unpaid Emergency Repair Charges of two thousand five hundred dollars ($2,500.00) or more, which were incurred within the five-year period prior to such identification."

In order to be discharged from AEP, selected buildings must meet the following criteria, within four months of notification from HPD:

- Correct, using safe work practices:
  - All heat and hot water violations
  - All immediately hazardous class "C" mold violations and at least 80% of hazardous class "B" mold violations
  - At least 80% of vermin violations
  - At least 80% of all other class "B" and "C" violations
- Pay all outstanding fees and charges, including liens, complaint inspections, and work performed by HPD, or enter into an agreement with the Department of Finance (DOF) to pay such charges
- Submit a current, valid property registration statement

The building can also get discharged from AEP if it has been vacant for at least one year, except for any building that contains six or more units and is the subject of a Vacate Order, or if the city transfers the building to a third party because the owner failed to pay property taxes.

If the owner does not correct the qualifying conditions within the first four months, HPD will issue an AEP Order to Correct that lists the underlying conditions in need of fixing. The AEP Order to Correct is mailed to the owner, posted at the building, and filed with the County Clerk. If the owner fails to comply, HPD may hire a contractor to make the repairs at the owner's expense. An owner's failure to pay the bill may result in a tax lien being placed against the property. HPD may initiate legal action against in owner in Housing Court.

Buildings not discharged within the first four months of the initial notice are subject to fees:

- $500 per dwelling unit every six months, beginning on the date of the building wide inspection, with a maximum total fee of $1,000 per dwelling unit during participation in AEP
- $200 for any complaint inspection performed in the subject property that results in the issuance of a class "B" (hazardous) or "C" (immediately hazardous) violation
- $100 for each re-inspection pursuant to a certification of correction of violation(s) submitted to HPD where HPD finds one or more violations have not been corrected

Failure to pay these fees may result in filing of a tax lien or liens against the property.

Appendix 1: Violation Metrics in Buildings with Open Class B/C Violations on February 12, 2025 (That Were Issued Between February 13, 2020 and February 12, 2025), by Type of Building

Appendix 1 details data for all buildings with violations, buildings that contain rent stabilized units, and buildings that do not contain rent stabilized units.[83] In contrast to other sections of this memo (which focused on those buildings that contain rent stabilized units that generally qualify for AEP), the data in this Appendix references all buildings with Class B or Class C violations that were issued between February 13, 2020 and February 12, 2025, and remained open on February 12, 2025.

As the below table illustrates, there were nearly 950,000 violations that were issued between February 13, 2020 and February 12, 2025, and remained open on February 12, 2025. (including almost 550,000 in buildings containing rent stabilized units). In buildings that contain rent stabilized units,[84] 59.0% of the violations were Class B (compared to 64.8% in buildings that did not contain rent stabilized units) and 41.0% were Class C (compared to 35.2% in buildings that did not contain rent stabilized units).

Of the 946,746 violations among all types of buildings, a greater proportion, 57.8% (or 547,345 B/C violations), were in buildings containing rent stabilized units. However, of the 54,782 buildings that received the violations, a lesser proportion, 43.3% (or 23,724 buildings), were buildings containing rent stabilized units. A disproportionate share of violations was in buildings containing rent stabilized units because, on average, buildings containing rent stabilized units are 2.5 times larger than those that did not. The average building size in this sample is 44 units for buildings containing rent stabilized units and 17 units for those that do not, primarily due to most buildings containing rent stabilized units having at least six units.

Due to larger buildings generally having fewer violations per dwelling unit than smaller buildings, the average number of violations per unit in buildings containing rent stabilized units (0.53) was less than that of buildings that do not contain rent stabilized units (0.77). This can be attributed primarily to the vast majority of buildings that have rent stabilized units having at least six units (as do 97.2% of buildings in this sample frame that contain rent stabilized units, compared to 29.9% of those that do not). When isolating the sample frame to only those buildings with at least six units, the average B/C violations per unit for buildings containing rent stabilized units is 0.53, higher than the average of 0.42 for those that do not.

As the table also shows, the average violations per unit decreases as building sizes increase. For buildings that contain rent stabilized units with 1-5 units, the average violations per unit is 2.29; with 6-10 units, 1.62; with 11-19 units, 1.06; with 20-49 units, 0.81; with 50-99 units, 0.52; and with 100 units or more, 0.18. Nearly 40% of the units in buildings containing rent stabilized units that have open B/C violations are in buildings of at least 100 units, which, as previously noted, have an average of B/C violations per unit of 0.18.

---

[83] Those buildings that contain rent stabilized units were determined by matching Borough, Blocks, and Lots in the 2023 NYS Homes and Community Renewal building registration file to HPD violations data. See footnote 52 and Appendix 2 for a discussion about the difference between 2023 HCR data and 2024 HCR data (which was not available at the time the analysis in this memo was initiated). Note that any building with violations that did not register with HCR in 2023 was classified as a building that does not contain rent stabilized units in this Appendix.

[84] The use of the term "building," throughout this memo, refers to single parcels, that may contain multiple buildings. See also footnote 47 and Appendix 2.

Approximately 56.1% of units in buildings containing rent stabilized units are in buildings with an average of less than 0.25 violations per unit; 71.5% are in buildings with less than 0.5 violations per unit; and 85.0% are in buildings with less than 1 violation per unit.

See the table below for a detailed comparison of violation metrics for buildings that contain rent stabilized units to both buildings that do not contain rent stabilized units, and all buildings. Note that any building with violations that did not register with HCR in 2023 was classified as a building that does not contain rent stabilized units in this Appendix.

Violation Metrics in Buildings with Open Class B/C Violations on February 12, 2025 (That Were Issued Between February 13, 2020 and February 12, 2025)

Violation Metrics	All Buildings	Buildings That Contain Rent Stabilized Units[85]	Buildings That Do Not Contain Rent Stabilized Units
Class B violations	581,669	322,944	258,725
Proportion of Class B violations (of all B/C violations)	61.4%	59.0%	64.8%
Class C violations	365,077	224,401	140,676
Proportion of Class C violations (of all B/C violations)	38.6%	41.0%	35.2%
Total **Class B/C violations**	946,746	547,345	399,401
Proportion of total B/C violations (by building type)	--	57.8%	42.2%
Average building size of buildings with B/C violations	28	44	17
Median building size of buildings with B/C violations	7	23	3
Average violations per unit, by building size	0.61	0.53	0.77
1-5 units	3.54	2.29	3.59
6-10 units	1.76	1.62	1.96
11-19 units	1.10	1.06	1.21
20-49 units	0.81	0.81	0.79
50-99 units	0.49	0.52	0.37
100 or more units	0.16	0.18	0.13
Count of **all buildings** with B/C violations	54,782	23,724	31,058
Proportion of buildings with B/C violations (by building type)	--	43.3%	56.7%
Count of **buildings with six or more units** and B/C violations	32,324	23,050	9,274

[85]Note that any building with violations that did not register with HCR in 2023 was classified as a building that does not contain rent stabilized units in this Appendix.

Proportion of buildings with B/C violations and six or more units (of all building sizes)	59.0%	97.2%	29.9%
Average **violations per unit** in buildings with six or more units	0.49	0.53	0.42
Average building size in buildings with six or more units	46	45	49
Median building size in buildings with six or more units	21	24	14
Total **units in buildings with six or more units** with B/C violations	1,487,258	1,029,609	457,649
Proportion of units in building with six or more units with B/C violations (of all building sizes)	96.1%	99.8%	88.8%
Total **units in buildings with 100 or more units** with B/C violations	692,474	407,761	284,713
Proportion of units in buildings with 100 or more units with B/C violations (of all building sizes)	44.7%	39.5%	55.2%
Proportion of units in buildings with an **average of less than 0.25 B/C violations per unit** (of all units)	59.8%	56.1%	67.2%
Proportion of units in buildings with an **average of less than 0.5 B/C violations per unit** (of all units)	72.8%	71.5%	75.5%
Proportion of units in buildings with an **average of less than 1.0 B/C violations per unit** (of all units)	84.7%	85.0%	84.2%

Source: NYC OpenData Portal and 2023 HCR Building Registration File

Appendix 2: Definitions and Sources

Definitions:

Building: The use of the term "building," throughout this memo, refers to single parcels, which may contain multiple buildings. Each parcel has its own individual Borough, Block, and Lot identifier that was used to match buildings across datasets.

Buildings that Contain Rent Stabilized Units: The identification of buildings that contain rent stabilized units is based on the 2023 NYS Homes and Community Renewal building registration file, which contained 44,154 individual borough, block, and lot designations (parcels), and 47,594 individual buildings. The 2024 HCR registration file, which was unavailable at the time this analysis was completed, has 46,225 parcels and 49,789 buildings (or 2,071 additional records that could have been matched to the violation data). The increased number of parcels in the 2024 registration file would have enabled more buildings with violations to be identified as rent stabilized, with an estimated impact of an additional 1,331 buildings in the sample frame that contain rent stabilized units, 124 of which would generally qualify for inclusion in AEP.

Class B Violation: Class B violations are deemed hazardous and may include conditions such as rodent or insect infestations; no smoke detector and/or carbon monoxide detector in apartment; or water leaks or mold. The owner has 30 days to correct Class B violations.

Class C Violation: Class C violations are deemed immediately hazardous and may include conditions such as no heat or hot water; broken sinks, showers, or toilets; broken appliances; or

missing window guards in apartments that contain children. Many of Class C violations must be corrected by the owner within 24 hours. Note that owners have up to 30 days to correct Class B violations, and depending on the type of Class C violation, up to 21 days to correct Class C violations. This analysis does not account for violations issued within 30 days of February 12, 2025 that could have been corrected on time by owners. Because 6.3% of all violations (or almost 60,000), were issued within 30 days of February 12, 2025, the analysis somewhat overstates both the number of buildings that would qualify for the AEP program and the average number of violations per dwelling unit.

Alternative Enforcement Program (AEP): AEP is an HPD enforcement program for apartment buildings that have a significant number of housing maintenance code violations in relation to the size of the building. The goal of the program is to improve housing conditions by performing frequent inspections to monitor correction of violations, and issue Orders to Correct if the owner fails to act. The program also allows HPD to make repairs and replace building systems if necessary. Selection criteria for AEP include the number of Class "B" hazardous and Class "C" immediately hazardous housing maintenance code violations and the dollar value of emergency repair charges incurred as a result of repair work performed by HPD. Each January 31, HPD selects 250 buildings for inclusion in this program, and by statute, approximately 90% of these selected buildings have 6 or more units. Failure to correct the qualifying conditions may result in emergency repair charges, liens, and significant fees, and buildings may also be subject to tax liens to repay these costs. For a full description of the AEP statute, including selection criteria, fines, and how buildings are discharged from the program, see Section 4 of this memo or refer to HPD's website: https://www.nyc.gov/site/hpd/services-and-information/alternative-enforcement-program-aep.page

Residential Units: The number of residential units in a building may differ depending on the source. For the purposes of this memo, the number of residential units was determined by utilizing the greater number of units reported in either the NYC Department of City Planning's Primary Land Use Tax Lot Output database or the NYC Department of Housing Preservation and Development's database of Buildings Subject to HPD Jurisdiction, both available on NYC OpenData.

Registered Occupied Rent Stabilized Units: This term refers to those rent stabilized units that are currently registered as occupied in the 2023 HCR building registration file. Because the registered vacant units may, or may not, be rent stabilized (as opposed to market rate), it is not possible to obtain an accurate count of rent stabilized units using HCR data.

Sources:

NYC OpenData Portal: The following datasets were utilized from the NYC Data Portal (https://opendata.cityofnewyork.us/)

- **Housing Maintenance Code Violations (NYC Department of Housing Preservation and Development):** Violation data is published on the NYC OpenData portal by the NYC Department of Housing Preservation and Development (HPD) daily. The data includes detailed information about each violation, such as the building address, issue date, violation class (A, B, or C), specific violation, and current status (whether it is open or closed, and if closed, the date that the violation was cured with HPD).

https://data.cityofnewyork.us/Housing-Development/Housing-Maintenance-Code-Violations/
wvxf-dwi5/about_data. Also see Section 3 of this memo for caveats to the violation data.

- **Buildings Subject to HPD Jurisdiction (NYC Department of Housing Preservation and Development):** This dataset is one of the two data sources for residential unit counts. Pursuant to New York City's Housing Maintenance Code, the Department of Housing Preservation and Development (HPD) collects information on multiple dwellings in New York City, and other buildings that fall under its jurisdiction. HPD's Buildings Open Data covers all buildings that meet any of the following criteria: HPD has required the owner to register the building under the Housing Maintenance Code (HMC); HPD has initiated a litigation action under the HMC; HPD has received a complaint for the building; HPD has initiated a work order for the purposes of emergency repair, demolition, or the Alternative Enforcement Program (AEP) for the building; or HPD has added the property to the AEP program. The database reports registered Class A and Class B units. For the purposes of this memo, the number of residential units utilized in the analysis is the greater of the total of HPD's count of Class A and Class B units, or the reported residential unit count from the Department of City Planning (see below). https://data.cityofnewyork.us/Housing-Development/Buildings-Subject-to-HPD-Jurisdiction/kj4p-ruqc/about_data
- **Primary Land Use Tax Lot Output (PLUTO, NYC Department of City Planning):** This dataset is one of the two data sources for residential unit counts. This database includes extensive land use and geographic data at the tax lot level. The PLUTO files contain more than seventy fields derived from data maintained by city agencies. For the purposes of this memo, the number of residential units utilized in the analysis is the greater of the total residential units in the PLUTO file, or the reported Class A and Class B unit count from the Department Housing Preservation and Development (see above).
- **Buildings Selected for the Alternative Enforcement Program (NYC Department of Housing Preservation and Development)**: Each year, HPD designates severely distressed multiple dwellings for participation in the Alternative Enforcement Program (AEP). This dataset includes all buildings selected for participation in the AEP and the current status of the building in the program. It is updated monthly. https://data.cityofnewyork.us/Housing-Development/Buildings-Selected-for-the-Alternative-Enforcement/hcir-3275/about_data
-

2023 NYS Homes and Community Renewal (HCR) Annual Registration Data: Owners are required to file annually with HCR with detailed information for each building they own, and each rent stabilized apartment within these buildings, as of April 1 of each year. As noted in this memo, a building cannot be identified as containing rent stabilized units unless the owner registers with HCR. Subsequent to the start of the analysis in this memo, but before its completion, the RGB was given access to updated 2024 HCR data, but that data could not be utilized in this memo. As noted in the definition of "buildings that contain rent stabilized units," above, the increased number of parcels in the 2024 registration file would have enabled more buildings with violations to be identified as rent stabilized, with an estimated impact of an additional 1,331 buildings in the sample frame that contain rent stabilized units, 124 of which would generally qualify for inclusion in AEP.

[END OF MEMO]

Buildings with Different Fuel and Utility Arrangements

The Board was also informed of the circumstances of buildings with different fuel and utility arrangements including buildings that are master metered for electricity and that are heated with gas versus oil (see Table 8). Under some of the Board's Orders in the past, separate adjustments have been established for buildings in certain of these categories where there were indications of drastically different changes in costs in comparison to the generally prevailing fuel and utility arrangements. This year the Board did not make a distinction between guidelines for buildings with different fuel and utility arrangements under Order 57.

Table 8

Changes in Price Index of Operating Costs for Apartments in Buildings with Various Heating Arrangements, 2024-25

Index Type	2024-25 Price Index Change
All Dwelling Units	6.3%
Pre-1974	6.4%
Post-1973	6.5%
Oil Used for Heating	6.6%
Gas Used for Heating	6.2%

Source: *2025 Price Index of Operating Costs.*

Adjustments for Units in the Category of Buildings Covered by Article 7-C of The Multiple Dwelling Law (Lofts)

Section 286, subdivision 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."

The increase in the Loft PIOC this year was 9.6%, higher than the increase of 8.6% in 2024. Increases in costs were seen in all eight components that make up this index. Insurance Costs saw the highest proportional increase, rising by 18.7%, followed by rises in Fuel of 12.5%, and Utilities of 8.0%. The remaining five components all rose by lesser proportions, including Administration Costs-Legal (6.7%), Administrative Costs-Other (5.0%), Maintenance (4.4%), Taxes (3.9%), and Labor Costs (3.6%). Note that historically Administrative Costs in the Loft

Index has been split into two components — Administrative Costs-Legal and Administrative Costs-Other. Therefore, the Loft PIOC has eight components.

This year's guidelines for lofts are for a one-year period 3% and for a two-year period 4.5%.

Table 9

Changes in the Price Index of Operating Costs for Lofts from 2024-25	
	Loft Price Index Change
All Buildings	9.6%

Source: *2025 Price Index of Operating Costs.*

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 NYS Homes and Community Renewal in determining fair market rents for housing accommodations that enter the stabilization system. This year, the Board set the guidelines at **49%** above the maximum base rent.

The Board concluded that for units formerly subject to rent control **49%** above the maximum base rent was a desirable minimum increase.

INCREASE FOR UNITS RECEIVING PARTIAL TAX EXEMPTION PURSUANT TO SECTION 421-A 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.

Votes

The votes of the Board on the adopted motion pertaining to the provisions of Order #57 were as follows:

	Yes	No	Abstentions
Guidelines for Apartment Order #57	5	4	-

Dated: June 30, 2025
Filed with the City Clerk: July 1, 2025

_____
Doug Apple
Chair
NYC Rent Guidelines Board

BIBLIOGRAPHY

The City of New York Rent Stabilization Law of 1969 Section 26 - 501 et seq.
Chapter 576 of the Laws of 1974 (The Emergency Tenant Protection Act).
Resolution Number 276 of 1974 of the New York City Council.
Chapter 203 of the Laws of 1977.
Chapter 933 of the Laws of 1977 (Open Meetings Law).
Local Laws of the City of New York for the year 1979, No. 25.
Chapter 234 of the Laws of 1980.
Chapter 383 of the Laws of 1981.
Local Laws of the City of New York for the Year 1982, No. 18.
Chapter 403 of the Laws of 1983.
Chapter 248 of the Laws of 1985.
Chapter 45 of the New York City Charter.
Chapter 65 of the Laws of 1987.
Chapter 144 of the Laws of 1989.
Chapter 167 of the Laws of 1991.
Chapter 253 of the Laws of 1993.
Rent Regulation Reform Act of 1997.
Chapter 82 of the Laws of 2003.
Chapter 97 of the Laws of 2011.
Rent Act of 2015.
Housing Stability and Tenant Protection Act of 2019.
Written, oral and video submissions by tenants, tenant organizations, owners, owner organizations, and elected officials.
RGB Staff, *2025 Price Index of Operating Costs.*
RGB Staff, *2025 Mortgage Survey Report.*
RGB Staff, *2025 Income and Expense Study.*
RGB Staff, *2025 Income and Affordability Study.*
RGB Staff, *2025 Housing Supply Report.*
RGB Staff, *Changes to the Rent Stabilized Housing Stock in New York City in 2024.*
U.S. Bureau of the Census, *New York City Housing and Vacancy Surveys*, 1970-2023.

Appendix N2

2025 Hotel Order #55

NEW YORK CITY RENT GUIDELINES BOARD

2025 Hotel Order #55

June 30, 2025

Order Number 55 - Hotels, Rooming Houses, Single Room Occupancy Buildings and Lodging Houses. Rent levels to be effective for leases commencing **October 1, 2025** through **September 30, 2026**.

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE NEW YORK CITY RENT GUIDELINES BOARD BY THE RENT STABILIZATION LAW OF 1969, as amended, and the Emergency Tenant Protection Act of 1974, as amended and implemented by Resolution No. 276 of 1974 of the New York City Council, and in accordance with the requirements of Section 1043 of the New York City Charter, that the Rent Guidelines Board hereby **adopts** the following levels of fair rent increases over lawful rents charged and paid on **September 30, 2025**.

APPLICABILITY

This order shall apply to units in buildings subject to the Hotel Section of the Rent Stabilization Law (Sections 26-504(c) and 26-506 of the N.Y.C. Administrative Code), as amended, or the Emergency Tenant Protection Act of 1974 (L.1974, c. 576 §4 [§5(a)(7)]). With respect to any tenant who has no lease or rental agreement, the level of rent increase established herein shall be effective as of one year from the date of the tenant's commencing occupancy, or as of one year from the date of the last rent adjustment charged to the tenant, or as of **October 1, 2025**, whichever is later. This anniversary date will also serve as the effective date for all subsequent Rent Guidelines Board Hotel Orders, unless the Board shall specifically provide otherwise in the Order. Where a lease or rental agreement is in effect, this Order shall govern the rent increase applicable on or after **October 1, 2025** upon expiration of such lease or rental agreement, but in no event prior to one year from the commencement date of the expiring lease, unless the parties have contracted to be bound by the effective date of this Order.

RENT GUIDELINES FOR HOTELS, ROOMING HOUSES, SINGLE ROOM OCCUPANCY BUILDINGS AND LODGING HOUSES

Pursuant to its mandate to promulgate rent adjustments for hotel units subject to the Rent Stabilization Law of 1969, as amended (§26-510(e) of the N.Y.C Administrative Code), the Rent Guidelines Board hereby **adopts** the following rent adjustments:

The allowable level of rent adjustment over the lawful rent actually charged and paid on **September 30, 2025** shall be:

1) Residential Class A (apartment) hotels -	**0%**
2) Lodging houses -	**0%**
3) Rooming houses (Class B buildings containing less than 30 units) -	**0%**
4) Class B hotels -	**0%**
5) Single Room Occupancy buildings (MDL section 248 SRO's) -	**0%**

ADDITIONAL CHARGES

It is expressly understood that the rents collectible under the terms of this Order are intended to compensate in full for all services provided without extra charge on the statutory date for the particular hotel dwelling unit or at the commencement of the tenancy if subsequent thereto. No additional charges may be made to a tenant for such services, however such charges may be called or identified.

STATEMENT OF BASIS AND PURPOSE

The Rent Guidelines Board is authorized to promulgate rent guidelines governing hotel units subject to the Rent Stabilization Law of 1969, as amended, and the Emergency Tenant Protection Act of 1974, as amended. The purpose of these guidelines is to implement the public policy set forth in Findings and Declaration of Emergency of the Rent Stabilization Law of 1969 (§26-501 of the N.Y.C. Administrative Code) and in the Legislative Finding contained in the Emergency Tenant Protection Act of 1974 (L.1974 c. 576, §4 [§2]).

In view of the Board's withdrawal of the Apartment and Loft Order 57 adopted April 30, 2025, the prior proposed rule for Hotel Order 55 adopted April 30, 2025 was also withdrawn.

Dated: June 30, 2025

_____

Doug Apple
Chair
New York City Rent Guidelines Board

Appendix N3

Explanatory Statement
Hotel Order #55

EXPLANATORY STATEMENT - HOTEL ORDER #55

Explanatory Statement and Findings of the Rent Guidelines Board in Relation to 2025-26 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 55, Effective October 1, 2025 through and including September 30, 2026.[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 55, adopted on June 30, 2025, applies to stabilized hotel units occupied by non-transient tenants.

Hotel Order Number 55 provides for an allowable increase of **0%** over the lawful rent actually charged and paid on September 30, 2025 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, 2025.

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

The Board issued Order No. 55 following **eight** public meetings, and **five** public hearings, 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 27, April 10, 17, and 24, and May 22, 2025, following public notices. On April 30, the Board adopted proposed rent guidelines for hotels, apartments, and lofts, and then adopted revised guidelines on May 27.

Five public hearings were held on June 5, June 9, June 12, June 17, and June 27, 2025. The hearings were held from 5:30 p.m. to 9:15 p.m. on June 5; 5:30 p.m. to 9:50 p.m. on June 9; 5:35 p.m. to 10:30 p.m. on June 12; 5:10 p.m. to 8:00 p.m. on June 17; and 10:05 a.m. to 11:50 a.m. on June 27. The Board heard testimony from approximately one hotel tenant representative and one public official. In addition, the Board received approximately one written submission from a tenant representative and one public official. On June 30, 2025, the Board adopted guidelines set forth in Hotel Order Number 55.

Selected Oral and Written Testimony from Tenants and Tenant Groups:

– "Unfortunately, the poor conditions that SRO tenants have faced in the past 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. 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, we hope our testimony today will compel the Board to vote for a 0% rent increase for tenants of SROs again this year."

– "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."

– "Tenants seeking assistance from our office routinely report incomes as lower than $10,000 per year. For many, the affordability of their SRO home means the difference between having a roof over their head and being homeless. With vacancy rates in apartments during 2019 costing below $800 at just 1.15% and homelessness at a nightly average of over 60,000, the City cannot afford to increase rents on what is one of the last sources of truly affordable housing for low-income New Yorkers."

– "SRO owners are making profits by both legally, and illegally, renting out rent-stabilized units to tourists on a nightly or weekly basis, depending on the classification, zoning, and fire-code regulations that apply to the building. Some SRO Hotels are lawfully permitted to offer transient rentals, but the vast majority never inform their guests that the rooms are subject to

rent stabilization, and the guest has a right to become a permanent tenant. Although the strengthening of the law prohibiting illegal hotels in 2010 and increased enforcement have helped curb the practice of transient rentals to a certain extent, many SRO owners continue to skirt the law and charge exorbitant rates for rooms that have legal rents that would be affordable for low-income New Yorkers. In 2021 alone, the Mayor's Office of Special Enforcement issued 2,760 violations for illegal short-term of SRO units."

Selected Oral and Written Testimony from Owners and Owner Groups:

– None submitted.

Selected Oral and Written Testimony from Public Officials:

– I urge the Board to continue 0% increases for SRO and lodging house tenants as they are among the city's most vulnerable residents.

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 *2025 Price Index of Operating Costs* and *2025 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 24, 2025. Guest speakers representing hotel tenants included Larry Wood from the Goddard Riverside Law Project.

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. *2025 Mortgage Survey Report*, April 2025 (an evaluation of recent underwriting practices, financial availability and terms, and lending criteria);

2. *2025 Income and Affordability Study,* April 2025 (including employment trends, housing court actions, changes in eligibility requirements and public benefit levels in New York City);

3. *2025 Price Index of Operating Costs,* April 2025 (measuring the price change for a market basket of goods and services which are used in the operation and maintenance of stabilized hotels);

4. *2025 Hotel Report,* May 2025 (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. *2025 Housing Supply Report*, May 2025 (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 2024,* May 2024 (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 by 7.3% this year, compared to the rise of 3.3% in last year's PIOC. There were increases in all seven Hotel PIOC components. The Insurance Costs component had the highest proportional increase, rising by 18.7%, but accounts for just 8.5% of the index. Fuel rose by 10.1%, and Utilities by 8.2%. More moderate increases were seen in Administrative Costs (7.1%), Taxes (6.0%), Maintenance (3.9%), and Labor Costs (3.7%). See the table on this page for changes in costs and prices for all hotels that contain rent stabilized units from 2024-2025.

Among the different categories of Hotels, the index for "Traditional" Hotels increased by 7.5%, Rooming Houses by 7.7%, and SROs by 7.1%.

Percent Change in the Components of the Price Index of Operating Costs
April 2024 to March 2025, By Hotel Type and All Hotels

Item Description	All Hotels	"Traditional" Hotel	Rooming House	SRO
TAXES	6.0%	7.2%	3.9%	4.1%
LABOR COSTS	3.7%	3.7%	4.3%	4.1%
FUEL	10.1%	10.1%	10.9%	9.7%
UTILITIES	8.2%	7.5%	9.5%	7.7%
MAINTENANCE	3.9%	4.1%	3.3%	3.3%
ADMINISTRATIVE COSTS	7.1%	7.2%	7.0%	7.0%
INSURANCE COSTS	18.7%	18.7%	18.7%	18.7%
ALL ITEMS	**7.3%**	**7.5%**	**7.7%**	**7.1%**

Source: *2025 Price Index of Operating Costs*

Changes in Housing Affordability

Per the *2025 Income and Affordability Study*, economic and social indicators in NYC in 2024 showed both strengths and weaknesses, compared to the preceding year. Positive indicators, on an annual average basis, include a 2.2% increase in employment levels within NYC businesses in 2024. Gross City Product is also forecast to increase, rising in inflation-adjusted terms by 2.1% in 2024. Both non-payment filings and calendared cases in Housing Court declined in 2024, decreasing by 11.7% and 6.1%, respectively. Inflation in the NYC metro area was also steady, remaining at 3.8% for the second consecutive year. Nominal average wages also grew in the most recent 12-month time period, by 3.1%. The poverty rate decreased by 0.1 percentage point in 2023 (the latest available data), to 18.2%.

Negative indicators, on an annual average basis, include an inflation-adjusted 0.4% decrease in average wages during the most recent 12-month period. Public benefit caseloads rose in 2024, with the average number of cash assistance recipients increasing by 16.2%; Supplemental Nutrition Assistance Program (SNAP) recipients increasing by 3.0%; and Medicaid enrollees increasing by 5.5%. The unemployment rate for NYC residents rose for the first time since 2020, up 0.3 percentage points from 2023, to 5.3%. Sheltered homeless levels in NYC Department of Homeless Services (DHS) facilities increased by 8.6%, including asylum-seekers. Excluding asylum-seekers, sheltered homeless levels also rose, by 8.7%. The number of residential evictions also rose, increasing by 22.6%. Personal bankruptcy filings in NYC also rose for the second consecutive year, increasing by 13.7%.

Compared to 2019 (the last full year preceding the pandemic), economic and social indicators are mixed. Compared to 2019, the unemployment rate in 2024 is 1.3 percentage points higher, despite a 2.7% increase in overall employment levels. Initial unemployment claims are 5.0% higher, cash assistance caseloads are 66.2% higher, Medicaid enrollees are 4.5% higher, and SNAP caseloads are 17.1% higher. However, average wages are higher, by 3.1% considering inflation, and by 22.6% nominally. Including asylum-seekers, DHS sheltered homeless levels are 46.4% higher (but excluding asylum-seekers, they are 5.8% lower). In Housing Court, non-payment filings and calendared cases are both lower, by 33.6% and 29.1%, respectively. Residential evictions are also 7.1% lower.[2]

---

[2] See the *2025 Income and Affordability Study* for the sources of all data presented in this section.

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 2017.

Percentage Changes in the Consumer Price Index for the New York City - Northeastern New Jersey Metropolitan Area, 2017-2025 (For "All Urban Consumers")									
	2017	2018	2019	2020	2021	2022	2023	2024	2025
1st Quarter Avg.[3]	2.5%	1.6%	1.5%	2.3%	1.5%	5.5%	5.5%	3.1%	4.0%
Yearly Avg.	2.0%	1.9%	1.7%	1.7%	3.3%	6.1%	3.8%	3.8%	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 *2025 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*.

2025 Mortgage Survey[4] Average Interest Rates and Points for New and Refinanced Permanent Mortgage Loans 2016-2025										
New Financing of Permanent Mortgage Loans, Interest Rate and Points										
	2016	2017	2018	2019	2020	2021	2022	2023	2024	2025
Avg. Rates	4.0%	4.3%	4.8%	4.7%	4.0%	3.8%	3.9%	6.0%	7.0%	6.7%
Avg. Points	0.42	0.44	0.44	0.38	0.22	0.38	0.32	0.29	0.37	0.30

Source: 2016–2025 *Annual Mortgage Surveys*, RGB.

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

An analysis of 2023/2024 HCR registration data identified registration records for 84 hotels and 267 rooming houses (a total of 351 buildings). These 351 buildings contained 6,555 hotel units and 5,185 rooming house units (a total of 11,740 units). Slightly less than half of these units (5,588) were registered as "rent stabilized," with most units including corresponding rent data. The balance of the units (6,152) were registered as either vacant or exempt. For those units where rent data is reported, the median legal rent is $965 for hotels and $1,246 for rooming houses (with an overall median of $1,172). The average legal rent is $1,201 for hotels and $1,264 for rooming houses (with an overall average of $1,235). The median "rent received" (the legal rent, except in cases where there is a preferential rent provided) is $823 for hotels 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.

$1,163 for rooming houses (with an overall median of $962). The average "rent received" is $1,050 for hotels and $1,132 for rooming houses (with an overall average of $1,095). In addition, a longitudinal analysis of the change in rent in the same set of units in both 2023 and 2024 shows that the median legal rent decreased by 1.0% in hotels, and rose by 2.5% in rooming houses, and by 2.5% overall. The average legal rent in the longitudinal sample rose by 2.2% in hotels, 4.1% in rooming houses, and 3.3% overall. For the "rent received" by owners in the longitudinal sample, the median decreased by 1.7% in hotels, and rose by 1.5% in rooming houses, and by 2.0% overall. The average "rent received" in the longitudinal sample rose by 2.6% in hotels, 4.4% in rooming houses, and 3.6% overall.[5]

SRO Housing and Airbnb Rentals

Single Room Occupancy (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). In 2024, the number of buildings granted CONHs granted by HPD rose, but the number of units in the buildings granted CONHs fell. A total of 70 CONHs were granted to buildings in 2024, an increase of 9.4%.2 These buildings contained 1,467 units of housing, a decline of 34.3% from the 2,234 units in 2023.[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] while additional legislation in 2012[8] and 2016[9] strengthened the law and authorized fines of up to $7,500.

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 are required to 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. Listings for units in "Class B multiple dwellings" — which are lawfully used for short-term rental — are exempt from the reporting requirements. The reports are required to be submitted quarterly to OSE and include information that allows OSE to ascertain if the listings are legal.[10] In January 2022, New York City enacted Local Law 18 (also known as the Short-Term Rental Registration Law) to help curb the use of permanent housing for short-term rentals. The law, which took effect on March 6, 2023 and was enforced as of September 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. Registration numbers cannot be issued by OSE unless the unit is verified to be legal for residential occupancy and the permanent residence of the applicant, and the applicant discloses online listings and agrees to follow all applicable laws. The law also prohibits the registration of rent regulated units, and allows building owners to certify that short-term rentals are not allowed in their buildings and add their buildings to OSE's prohibited building list, thereby preventing OSE from issuing a registration number to an individual tenant of such a building. In addition, upon receipt of registration applications from renters, OSE will notify the owner of record of the dwelling unit/building. The law also requires that booking

[5] 2023 and 2024 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/specialenforcement/reporting-law/reporting-law.page

services (such as Airbnb, VRBO, Booking.com, and other similar platforms) verify that listings are properly registered with OSE before they can take a fee.[11]

As of May 1, 2025, almost 14,000 buildings have applied to be on the prohibited buildings list,[12] and over 7,700 applications for registration numbers have been received by OSE. Of these applications, 3,054 (or 39.5%) have been granted. However, 4,284 (or 55.4%) of the reviewed applications have been denied. One reason for denial is that the building contains rent stabilized or rent controlled units, as was the case with 540 of the denials (12.6% of the denials). An additional 361 applications (or 4.7%) have been returned to the applicant to provide additional information or correct deficiencies. A total of 35 applications (0.5%) have either not yet been reviewed, or are being reviewed for a second time after corrections were made by the applicant.[13]

In 2024, 1,452 violations were issued by OSE relating to the illegal short-term rental of units (including apartments, private homes, and SROs), an increase of 14.7% from 2023. As is the case in most years, the vast majority of violations issued by OSE in 2024 were substantive, a total of 1,389 violations, or 95.7% of all violations. A total of only 63 B263 violations were issued in 2024, or 4.3% of all violations issued.[14] By borough, 593 (40.8% of the total), were for dwelling units in Brooklyn, with 439 violations in Manhattan (30.2% of the total); 352 violations in Queens (24.2% of the total); 49 violations in the Bronx (3.4% of the total); and 19 in Staten Island (1.3% of the total). Between May 2011 and December 2024, approximately 27,000 violations have been issued by OSE as part of its efforts to address illegal short-term rentals.[15] Note that violations issued by OSE for the illegal short-term rental of units (as described above) are primarily for units intended to be used for permanent housing. For instance, in 2023, 60% of the 1,266 violations were issued to units in multiple dwellings, while 36% were issued to units in one- and two-family homes, and just 4% issued in commercial and manufacturing locations.[16] The 1,266 violations issued in 2023 were contained in 277 buildings, approximately 32% of which were buildings containing rent stabilized units (with 24% of the violations issued to units in buildings that contain rent stabilized units).[17]

OTHER RELEVANT INFORMATION

The NYS Division of Housing and Community Renewal released a memo to the Board dated April 16, 2025 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):

---

[11] https://www.nyc.gov/site/specialenforcement/registration-law/registration.page

[12] Buildings which apply to be on the Prohibited Buildings List are automatically approved by OSE, and as of May 1, 2025, 13,979 buildings submitted applications to be on this list. In addition, other entirely rent regulated buildings were proactively added to this list, including Mitchell-Lama buildings, buildings reported by HPD to OSE as being rent regulated, and NYCHA buildings.

[13] Per data from the Mayor's Office of Special Enforcement, current as of May 1, 2025.

[14] Violations issued by OSE include both substantive violations (those issued based on inspection and observation of illegal conditions), as well as violations for failure to comply with an order to file a certification of correction with the NYC Department of Buildings (DOB), known as a B263 violation. When OSE finds a unit of permanent housing being used as an illegal short term rental, it will issue a violation for illegal conversion or occupancy contrary to that allowed by the DOB, and companion violations for missing safety features required for transient use, including sprinklers, adequate means of egress, and fire alarms. These are the most common substantive violations, in addition to exceeding the number of units permitted on the Certificate of Occupancy (which are issued when units are illegally subdivided into multiple rooming units).

[15] Office of the Criminal Justice Coordinator, Mayor's Office of Special Enforcement.

[16] Mayor's Office of Special Enforcement, 2023 Annual Report.

[17] The 2023 Annual Report issued by the Mayor's Office of Special Enforcement provides a list of violations, as well as the corresponding BIN number. This BIN number was matched to a list of Multiple Dwelling Registrations (as published by HPD on Open Data), from which the corresponding Borough, Block, and Lot (BBL) was matched to 2024 NYS Homes and Community Renewal annual registration data. Individual violations data for 2024 is not yet available.

[START OF MEMO]

6. What is the total number of SRO/Hotel units registered with the DHCR in 2024? 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	**9,766**
Vacant Units	**1,482**
Temporary Exempts Units	**6,553**
Permanent Exempt Units	**69**
Total Number of Units	**17,870**

10. What is the total number of SRO/Hotel units registered with the DHCR on an annual basis from 2009-20234

- **In 2009 the total number of units registered was 24,890**
- **In 2010 the total number of units registered was 25,771**
- **In 2011 the total number of units registered was 25,156**
- **In 2012 the total number of units registered was 24,586**
- **In 2013 the total number of units registered was 23,474**
- **In 2014 the total number of units registered was 23,529**
- **In 2015 the total number of units registered was 22,299**
- **In 2016 the total number of units registered was 21,994**
- **In 2017 the total number of units registered was 21,817**
- **In 2018 the total number of units registered was 21,666**
- **In 2019 the total number of units registered was 21,042**
- **In 2020 the total number of units registered was 19,904**
- **In 2021 the total number of units registered was 17,997**
- **In 2022 the total number of units registered was 18,604**
- **In 2023 the total number of units registered was 18,012 and**
- **In 2024 the total number of units registered was 17,870**

Please note that this data has been updated as of 3/27/2025.
Please be aware that owners continue to file late registration. The numbers from past years reflect that change.

11. What is the average and median rent for rent stabilized SRO/Hotel units in 2024?

- **The average rent stabilized rent for SRO/Hotel units in 2024 is $1,417; the median rent is $1,336.**

[END OF MEMO]

VOTE

The vote of the Rent Guidelines Board on the adopted motion pertaining to the provisions of Order Number 55 was as follows:

	Yes	No	Abstentions
Guidelines for Hotels	**7**	**2**	**-**

Dated: June 30, 2025
Filed with the City Clerk: July 1, 2025

Doug Apple
Chair
NYC Rent Guidelines Board

BIBLIOGRAPHY

The City of New York Rent Stabilization Law of 1969 Section 26 - 501 et seq.
Chapter 576 of the Laws of 1974 (The Emergency Tenant Protection Act).
Resolution Number 276 of 1974 of the New York City Council.
Chapter 203 of the Laws of 1977.
Chapter 933 of the Laws of 1977 (Open Meetings Law).
Local Laws of the City of New York for the year 1979, No. 25.
Chapter 234 of the Laws of 1980.
Chapter 383 of the Laws of 1981.
Local Laws of the City of New York for the Year 1982, No. 18.
Chapter 403 of the Laws of 1983.
Chapter 248 of the Laws of 1985.
Chapter 45 of the New York City Charter.
Chapter 65 of the Laws of 1987.
Chapter 144 of the Laws of 1989.
Chapter 167 of the Laws of 1991.
Chapter 253 of the Laws of 1993.
Rent Regulation Reform Act of 1997.
Chapter 82 of the Laws of 2003.
Chapter 97 of the Laws of 2011.
Rent Act of 2015.
Housing Stability and Tenant Protection Act of 2019.
RGB Staff, *2025 Price Index of Operating Costs.*
RGB Staff, *2025 Income and Affordability Study*.
RGB Staff, *2025 Mortgage Survey Report.*
RGB Staff, *2025 Housing Supply Report*.
RGB Staff, *Changes to the Rent Stabilized Housing Stock in NYC in 2024.*
RGB Staff, *2025 Hotel Report*.
Written, oral and video submissions by tenants, tenant organizations, owners, and owner organizations.

Appendix O

Rent Stabilization Law of 1969

§ 26-513 Application for adjustment of initial rent

a. The tenant or owner of a housing accommodation made subject to this law by the emergency tenant protection act of nineteen seventy-four[176] may, within sixty days of the local effective date of this section or the commencement of the first tenancy thereafter, whichever is later, file with the commissioner an application for adjustment of the initial legal regulated rent for such housing accommodation. The commissioner may adjust such initial legal regulated rent upon a finding that the presence of unique or peculiar circumstances materially affecting the initial legal regulated rent has resulted in a rent which is substantially different from the rents generally prevailing in the same area for substantially similar housing accommodations.

b. 1. The tenant of a housing accommodation that was regulated pursuant to the city rent and rehabilitation law[177] or this law prior to July first, nineteen hundred seventy-one and that became vacant on or after January first, nineteen hundred seventy-four may file with the commissioner within ninety days after notice has been received pursuant to subdivision d of this section, an application for adjustment of the initial legal regulated rent for such housing accommodation. Such tenant need only allege that such rent is in excess of the fair market rent and shall present such facts which, to the best of his or her information and belief, support such allegation. The rent guidelines board shall promulgate as soon as practicable after the local effective date of the emergency tenant protection act of nineteen seventy-four guidelines for the determination of fair market rents for housing accommodations as to which any application may be made pursuant to this subdivision. In rendering a determination on an application filed pursuant to this subdivision b the commissioner shall be guided by such guidelines and by the rents generally prevailing in the same area for substantially similar housing accommodations. Where the commissioner has determined that the rent charged is in excess of the fair market rent he or she shall, in addition to any other penalties or remedies permitted by law, order a refund of any excess paid since January first, nineteen hundred seventy-four or the date of the commencement of the tenancy, whichever is later. Such refund shall be made by the landlord in cash or as a credit against future rents over a period not in excess of six months.

2. The provisions of paragraph one of this subdivision shall not apply to a tenant of a housing accommodation for which the initial legal regulated rent is no greater than the maximum rent that would have been in effect under this law on December thirty-first, nineteen hundred seventy-three, or for the period commencing January first, nineteen hundred seventy-four and ending December thirty-first, nineteen hundred seventy-five as calculated pursuant to the city rent and rehabilitation law (if no such maximum rent has been calculated for a particular unit for the period commencing January first, nineteen hundred seventy-four and ending December thirty-first, nineteen hundred seventy-five,

[176] Section 8621 et seq., post.
[177] Section 26-01 et seq., ante.

the division of housing and community renewal shall calculate such a rent), as the case may be, if such apartment had not become vacant on or after January first, nineteen hundred seventy-four, plus the amount of any adjustment which would have been authorized under this law for renewal leases or other rental agreement, whether or not such housing accommodation was subject to this law, for leases or other rental agreements commencing on or after July first, nineteen hundred seventy-four.

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

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

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

(L.1985, c. 907, § 1.)

Excerpts from J-51 & 421-a regulations (Current as of 09/24)

J 51 Regulations

Section 2.6 Rent Regulatory Requirements

(1) Rent Regulation Generally Mandatory. In order to be eligible to receive tax benefits under the Act and for at least so long as a building is receiving the benefits of the Act, except for dwelling units which are exempt from such requirement pursuant to paragraph (2) below, all dwelling units in buildings or structures converted, altered or improved shall be subject to rent regulation pursuant to:

.

(i) the City Rent and Rehabilitation Law (§§ 26-401 et seq. of the Administrative Code); or
(ii) the Rent Stabilization Law of 1969 (§§ 26-501 et seq. of the Administrative Code); or
(iii) the Private Housing Finance Law; or
(iv) any federal law providing for rent supervision or regulation by HUD or any other federal agency; or
(v) the Emergency Tenant Protection Act of 1974.

(2) Exemption from Rent Regulation.
(i) Notwithstanding paragraph (1) above, dwelling units in multiple dwellings which are owned as cooperatives or condominiums and which are not regulated pursuant to any of such laws shall not be required to be subject to rent regulation.

(ii) Newly created dwelling units in a building for which a prospectus for condominium or cooperative formation has been submitted to the Attorney General at the time of application for benefits to the Office shall not be required to registered with DHCR, unless a plan of cooperative or condominium ownership has not been declared effective within fifteen (15) months of the date of the acceptance for filing of the plan of cooperative or condominium ownership with the Attorney General.

(3) Deregulation of units.

(i) With respect to a dwelling unit in any building receiving benefits under the Act,

(A) such unit shall remain subject to rent regulation until the occurrence of the first vacancy after tax benefits are no longer being

received for the building at which time the unit shall be deregulated, unless the unit is otherwise subject to rent regulation; or

(B) if each lease and renewal thereof for such unit for the tenant in residence at the time of the expiration of the tax benefits has included a notice in at least twelve-point type informing such tenant that the unit shall become subject to deregulation upon the expiration of the tax benefits and stating the approximate date on which tax benefits are to expire, such dwelling unit shall be deregulated after tax benefits are no longer being received for the building, unless the unit is otherwise subject to rent regulation.

(ii) As provided in 28 RCNY § 39-03, rent regulation shall not be terminated by the waiver or revocation of tax benefits.

(iii) Rent regulation of dwelling units shall not be exempted or terminated other than as set forth in this subdivision (f) as long as benefits are in force.

(4) *Permanent residential use*. All dwelling units must be leased for permanent residential purposes for a term of not less than one year so long as tax benefits are in effect. Permanent residential use shall not include use as a hotel, dormitory, employee residence or facility, fraternity or sorority house, resort housing or any similar type of non-permanent housing. For purposes of this chapter, a "hotel" shall mean (i) any Class B multiple dwelling, as such term is defined in the Multiple Dwelling Law, (ii) any structure or part thereof containing living or sleeping accommodations which is used or intended to be used for transient occupancy, (iii) any apartment hotel or transient hotel as defined in the Zoning Resolution, or (iv) any structure or part thereof which is used to provide short term rentals or owned or leased by an entity engaged in the business of providing short term rentals. For purposes of this definition, a lease, sublease, license or any other form of rental agreement for a period of less than six months shall be deemed to be a short term rental. Notwithstanding the foregoing, (i) a structure or part thereof owned or leased by a not-for-profit corporation for the purpose of providing governmentally funded emergency housing shall not be considered a hotel for purposes of this chapter, and (ii) benefits may be pro-rated by deducting out work attributable to Class B units in a building containing both Class A and Class B units, provided that all units in a building are registered with DHCR as rent stabilized or rent controlled units, and are utilized for permanent residential use.

(5) *Escalation clauses in leases.* Except for the notice referred to in subparagraph (i)(B) above, no lease for dwelling units which are registered with DHCR shall contain escalation clauses for real estate taxes or any other provisions for increasing the rent set forth in the lease, other than permitting an increase in rent pursuant to an order of DHCR or the Rent Guidelines Board.

(6) *Partial waiver of rent adjustments attributable to major capital improvements.*

(i) As a requirement for claiming or receiving any tax abatement attributable to a major capital improvement, the owner of the property shall file with the Office, on the date any application for benefits is made, a declaration stating that in consideration of any tax abatement benefits which may be

received pursuant to such application for alterations or improvements constituting a major capital improvement, such owner agrees to waive the collection of a portion of the total annual amount of any rent adjustment attributable to such major capital improvement which may be granted by DHCR pursuant to the rent stabilization code equal to one-half of the total annual amount of the tax abatement benefits which the property receives pursuant to such application with respect to such alterations or improvements. For example, an owner receiving a total rent adjustment over eighty-four months equal to $100,000 for a major capital improvement along with tax abatement of $100,000 for the same improvement would waive collection of $50,000 during such period. Such waiver shall commence on the date of the first collection of such rent adjustment, provided that, in the event that such tax abatement benefits were received prior to such first collection, the amount waived shall be increased to account for such tax abatement benefits so received. The entire amount shall be applied against the first annual rent adjustment, including any retroactive rent adjustments which may be granted by the applicable DHCR order, unless the amount exceeds such adjustments, in which event the excess shall be carried forward. The calculation of the amount attributable to the waiver shall be against the total rent adjustment for the eighty-four-month period prior to the application of any annual percentage limitation applied by DHCR to defer collection of the total rent adjustment. In calculating rental adjustments pursuant to Rent Guidelines Board orders, the amount of the waived rent shall not be included in the base rent. Following the expiration of a tax abatement for alterations or improvements constituting a major capital improvement for which a rent adjustment has been granted by DHCR, the owner may collect the full amount of annual rent permitted pursuant to such rent adjustment. A copy of such declaration shall be filed simultaneously with DHCR. Such declaration shall be binding upon such owner and his or her successors and assigns.

(ii) The provisions of subparagraph (i) shall not apply to substantial rehabilitation of buildings vacant when alterations or improvements are commenced or to buildings rehabilitated with substantial governmental assistance.

421-a Regulations

Section 2.7 Rent Regulatory Requirements

To be eligible for partial tax exemption the land upon which the eligible project is located must meet the following letting, rental and occupancy requirements:

(1) If a building which, on December 31, 1974, contained more than twenty-five occupied dwelling units administered under the City Rent and Rehabilitation Law, the Rent Stabilization Law of nineteen hundred sixty-nine, or the Emergency Tenant Protection Act of nineteen hundred seventy-four, is displaced, or any unit therein is displaced, the new multiple dwelling will be eligible for partial tax exemption only if a Certificate of Eviction was issued for at least one dwelling unit in the displaced building. If only one unit is displaced as the result of eligible construction, the Certificate of Eviction must pertain to that displaced unit. Notwithstanding the foregoing, the sale, transfer or utilization of air rights over residential buildings which were not demolished shall not be construed as a displacement within the purview of this subdivision (g).

(2) Notwithstanding the provisions of any local law for the stabilization of rents in multiple dwellings or the Emergency Tenant Protection Act of 1974, the rents of a unit shall be fully subject to regulation under such local law or such Act, unless exempt under such local law or such act from regulation by reason of the cooperative or condominium status of the unit, for the entire period during which the property is receiving tax benefits pursuant to the Act, or for the period any such applicable local law or such Act is in effect, whichever is shorter. Thereafter, such rents shall continue to be subject to such regulation to the same extent and in the same manner as if this subdivision (g) had never applied thereto, except that for dwelling units in buildings completed, as that term is defined herein, on or after January 1, 1974, such rents shall be deregulated if:

(i) with respect to dwelling units located in multiple dwellings completed after January 1, 1974 such unit becomes vacant after the expiration of the lease for the unit in effect when such benefit period or applicable law or Act expires, provided, however, such unit shall not be deregulated if the Commissioner of the New York State Division of Housing and Community Renewal or a court of competent jurisdiction finds the unit became vacant because the owner thereof or any person acting on his or her behalf engaged in any course of conduct, including but not limited to, interruption or discontinuance of essential services which interfered with or disturbed or was intended to interfere with or disturb the comfort, repose, peace or quiet of the tenant in his use or occupancy of such unit, and that upon such finding in addition to being subject to any other penalties or remedies permitted by law, the owner of such unit shall be barred from collecting rent for such unit in excess of that charged to the tenant, if the tenant so desires, in which case the rent of such tenant shall be established as if such tenant had not vacated such unit, or compliance with such other remedy, including, but not limited to, all remedies provided for by the emergency tenant protection act of nineteen seventy-four for rent overcharge or failure to comply with any order of the Commissioner of the New York State Division of Housing and Community Renewal, as shall be determined by said Commissioner to be appropriate; provided, however, that if a tenant fails to accept any such offer of restoration

of possession, such unit shall return to rent stabilization at the previously regulated rent.

(ii) with respect to dwelling units located in multiple dwellings with became subject to the rent stabilization provisions of the Act on or after July 1, 1984, the lease for the unit expires after such tax benefit period expires, provided that each lease and renewal thereof for such unit for the tenant entitled to a lease at the time of such deregulation contained a notice in at least twelve (12) point type informing such tenant that the unit shall be subject to deregulation upon the expiration of such benefit period and stated the approximate date on which such benefit period was expected to expire. If each lease and renewal thereof has not contained such notice, a unit covered by such lease shall be subject to subdivision (i) above even though it became subject to the rent stabilization provisions of the Act on or after July 1, 1984. This subdivision (ii) shall not apply to any unit in any multiple dwelling which was subject to the rent stabilization provisions of the Act prior to July 1, 1984, notwithstanding any contrary provision in any lease or renewal thereof.

(3) Notwithstanding paragraph (2) above, dwelling units in multiple dwellings owned as cooperatives or condominiums which are exempt from such provisions of law shall not be required to be subject to the provisions of law set forth in that paragraph (2) during the time period specified therein. Newly created dwelling units in a building for which a prospectus for condominium or cooperative formation has been submitted to the Attorney General at the time of application for benefits to the Office, shall not be required to be registered with the New York State Division of Housing and Community Renewal, provided that an affidavit has been filed with the Office stating that the sponsor will register the building and all units as they become occupied, with the New York State Division of Housing and Community Renewal within fifteen months from the date of issuance of a Final Certificate of Eligibility if a cooperative or condominium plan has not been declared effective by that time.

(4) The offering by the owner to all tenants in rental dwelling units in the multiple dwelling, of an initial lease of at least two years; unless the dwelling unit's rent is regulated by local laws, such as § 26-401 of the Administrative Code, which do not provide for the offering of leases for fixed terms. This requirement shall not preclude a shorter lease where requested by the tenant, or where a lease of at least two years is specifically prohibited by the terms of a Department of Housing and Urban Development regulatory agreement for an insured subsidized project, or where, through foreclosure, title to a building eligible for partial tax exemption pursuant to the Act is held subsequently by the Department of Housing and Urban Development.

(5) No lease for dwelling units subject to the Rent Stabilization Law or Emergency Tenant Protection Act which are registered with the New York State Division of Housing and Community Renewal shall contain escalation clauses for real estate taxes or any other provisions for increasing the rent set forth in the lease other than permitting an increase in rent pursuant to an order of the New York State Division of Housing and Community Renewal or the Rent Guidelines Board; or an increase of 2.2 percent pursuant to 28 RCNY § 6-04(b).

TITLE 4: DETERMINATION OF INITIAL RENT; RENT INCREASES

§6-04 Determination of Initial Rent; Rent Increases.

(a) *Determining the initial adjusted monthly rent and the comparative adjusted monthly rent for rental dwelling units.* No certification of eligibility shall be issued by the Department until the Department determines the initial adjusted monthly rent to be paid by tenants residing in rental dwelling units contained within the multiple dwelling. Except for affordable units, the initial adjusted monthly rent is determined in accordance with the provisions of paragraph (3) below.

(1) The total expenses of the multiple dwelling shall be determined by the Department in order to calculate the initial adjusted monthly rent. Total expenses shall mean the annual total of the following:

(i) An amount for the annual cost of operation and maintenance, as established pursuant to the Annual Schedule of Reasonable Costs; plus,

(ii) An amount for vacancies, contingency reserves and management fees as established pursuant to the Annual Schedule of Reasonable Costs; plus,

(iii) Projected real property taxes to be levied on the multiple dwelling and the land on which it is situated at the time of estimated initial occupancy; plus,

(iv) Fourteen percent of the total project cost, as determined pursuant to 28 RCNY § 6-05(b)(1)(i) and the Annual Schedule of Reasonable Costs, which amount will include debt service; less,

(v) The estimated annual income to be derived from any Floor Area of Commercial, Community Facilities, and Accessory Use Space in the multiple dwelling.

(2) The adjusted monthly rent per room shall be determined by the Department by dividing the total expenses as determined pursuant to paragraph (1) above by twelve (12) and then dividing that amount by the Room Count as defined in subdivision (c) of 28 RCNY § 6-01 of this chapter; i.e.,

Total Expenses / 12	=	Total Monthly Expenses		Total Monthly Expenses / Room Count	=	Adjusted Monthly Rent Per Room

(3) The initial adjusted monthly rent for each dwelling unit shall be determined by the Department by multiplying the adjusted monthly rent per room to be determined pursuant to paragraph (2) above by the Room Count, as defined in subdivision (c) of 28 RCNY §6-01 of this chapter, of each rental dwelling unit. Adjustments to the initial adjusted monthly rent per room to be determined pursuant to paragraph (2) above by the Room Count, as defined in subdivision (c) of 28 RCNY § 6-01 of this chapter, of each rental dwelling unit. Adjustments to the initial adjusted monthly rent for any dwelling unit may be allowed by the Department provided that the total of the rentals charged in the multiple dwelling do not exceed the total expenses of such multiple dwelling, as determined pursuant to paragraph (1) above; i.e.,

Adjusted Monthly Rent Per Room x Room Count Per Dwelling Unit	=	Initial Adjusted Monthly Rent for Such Dwelling Unit

(b) Rent increases.

The owner of a multiple dwelling receiving partial tax exemption may insert in each lease to be effective during the period of gradual diminution of tax exemption, as defined in 28 RCNY § 6-06(e), a provision for an annual rent increase over the initial adjusted monthly rental at a rate not to exceed 2.2 percent per annum on the anniversary date of the first lease for the unit provided, however, that no increase shall be permitted pursuant to this subdivision (b) unless specifically provided for in each affected lease, and provided further that no more than one such increase per unit may be charged or collected in each given year regardless of the number of lease renewals or new leases which may pertain to that unit. The initial 2.2 percent escalation and all subsequent escalations shall be based solely on the actual rental amount in effect (regardless of whether the legal regulated rent may be greater) at the commencement of the period during which the increase may be charged and shall not be compounded from year to year but rather shall remain constant based on said rent. In addition, the increase shall be independent of any other escalation authorized by the Rent Guidelines Board and shall not be considered or included when a Rent Guidelines Board increase is effected, making the latter increase effective upon the base rent, excluding the 2.2 percent escalation. The maximum increase permitted by this subdivision (b) is 19.8 percent over the actual rental amount in effect at the commencement of the period during which the increase may be charged. The maximum increase permitted by this subdivision (b) may be charged in each year following the expiration of the tax benefit period, but shall not exceed 19.8 percent, or that amount charged in the last year of the exemption period, and shall not become part of the base rent.

(c) Annual rent schedule.

Each year the owner shall make available to the Office a schedule of rents for each unit in the building.

Report on Rent Stabilized Hotels

Summary

The data in this study raises some troubling questions about the implementation of rent regulation in the hotel sector. Given the low rate of registration and the possibility that many owners may derive a small percentage of revenue from permanent tenants one might argue that the impact of the regulatory system on this vital housing resource is rapidly diminishing.

As our registration study will show, a very large proportion of hotel buildings and units which should have registered with DHCR have failed to do so. In fact, using a *very conservative* approach, we estimate that 40% of all hotel-type units which should have registered between 1984 and 1989 did not register even once. The non-registration rate for the 1987-1989 period is even higher.

The hotel I&E portion of this study indicates that "apartment" rental income represents less than half of all income for hotel-type lings as a group. For ls and SROs the percentage of income from apartment rental is even less - about one-third. The I&E form includes separate categories for "apartment" rental income and "other" rental income under the heading "Rental from Tenants." If owners considered the apartment rental income category to include rents from permanent tenants and "other rental income" to refer to transient tenants, the implications of the above findings would be dramatic. However, it must be said that the I&E form is not tailored to the needs of hotel owners. There is enough ambiguity in the form (and how the owners may have approached the form) to make conclusive statements about the exact percentage of income from permanent tenants difficult.

Between 1985 and 1990 nearly a third of hotel buildings became luxury hotels or motels, were converted to co-ops or condominiums, became vacant, or changed use in some other manner. The disappearance of single room occupancy hotel rooms described in USR&E's *Single Room Occupancy in New York City* continues.

Although the stabilization system does protect a dwindling number of tenants, one might ask at what cost. Landlords who follow the RGB guidelines have received very modest rent increases since 1983. It is obvious that market, institutional and regulatory forces encourage owners to leave the stabilization system. It is not clear, however, if this loss would have occurred differently in the absence of rent regulation.

Finally, it must be pointed out that 25% of the buildings in this study reported O&M to income ratios of more than 100% (vs. 10% in the apartment I&E study). Over one-third of rooming house operators reported O&M to income ratios of over 100%.

Introduction

Background

The most recent and comprehensive hotel research dates from the mid-80's. The studies of particular interest to the Board were both undertaken by USR&E: *Single Room Occupancy in New York City* and the *1985 Hotel Expenditure Study*. The primary objective of *Single Room Occupancy* was to estimate the number and type of hotel units in the city; however, a module on owner operating costs and income was also part of the study. The object of the hotel expenditure study was to provide a reliable estimate of average operating costs by expenditure category for the hotel PIOC.

The Hotel Expenditure Study was conducted in the first four months of 1985. The sample frame for the study was the Metropolitan Hotel Industry Association (METHISA) membership list. All of the 647 establishments registered with METHISA were contacted and 134 responded to the survey, including 14 hotels (44% of units), 104 rooming houses (37% of units), and 15 SROs (19% of units). USR&E used the survey responses to devise expenditure weights for the Hotel PIOC. Weights were computed for four categories: Hotels, Rooming Houses, SROs and "All."

Single Room Occupancy in New York City was commissioned by HPD to help the city devise policies to combat the loss of SROs. One major goal was simply to establish a reasonable estimate of the remaining population of SRO-type units. After a lengthy analysis of the Master Building File and visits by HPD inspectors to buildings likely to contain SRO units, HPD and USR&E determined the number of units which were extant. The percent-age breakdown of these units, excluding the "other" category, was: Hotels (42%), Rooming Houses (42%) and SROs (15%).

In another portion of the SRO study USR&E surveyed the owners of SRO-type buildings; 193 responses to the survey were received. Over 90% of the units represented in the owner survey were hotels or SROs while a mere 10% were rooming houses. However, a majority of BUILDING responses were from rooming houses. Usable financial information was gathered for 66 buildings. Due to the extremely small size of the Hotel and SRO samples (12 and 10 buildings respectively) the information does not appear to be reliable.

Apart from the USR&E studies, only one other major effort has been made in the last 6 years to quantify the remaining population of hotels. In preparation for the 1991 Housing and Vacancy Survey (HVS), HPD staff prepared a SRO sample frame for use by the U.S. Census Bureau. The sample frame is HPD's best estimate of the remaining universe of SRO-type units. Although the list should not be used to arrive at a numerical estimate of SROs (the HVS will do this) it may give us some idea how the distribution of units within this sector has changed in the past few years. According to HPD the 1990 breakdown (excluding "other" SROs) is as follows: Hotel (33%), Rooming House (50%) and Section 248 SRO (16%).

It is interesting to compare the breakdown of units in the 1985 SRO study and HPD's most recent effort. The total number of units is comparable but rooming houses are a substantially greater proportion of the stock in 1990 (i.e. about 50% of units) while both the number and percentage of hotel units has declined substantially. As we shall see, the decline in the number of hotel units is largely a result of hotel owners converting their buildings to luxury hotels or co-ops/condominiums.

The two hotel studies undertaken in the mid-80's suffer from a common problem - poor survey results. For instance, the Hotel Expenditure Study received only 14 responses from hotels. Yet, due to the way in which the weights for the Hotel PIOC were calculated, these 14 hotels account for MORE THAN HALF of the entire index. Only 22 SROs and hotels

responded to USR&E's owner survey but these buildings contained over 90% of the units on which the per unit net operating income (NOI) figures were based. The I&E portion of the current study, which is based on a carefully chosen sample of properties, will attempt to address the problem of poor financial survey statistics.

Before we delve into the issues, a note on terminology would be useful. The RGB has used the term "hotel guidelines" to cover all hotel-type units covered by the Board's orders, including apartment hotels, SROs and rooming houses. In some years separate rent guidelines have been formulated for the various sub-categories. This paper tries to use the word "hotel-type" as a generic term to refer to all three categories. To make matters a little more confusing, HPD (and the reports commissioned by HPD) most often uses the term "SRO" or "SRO-type units" as a generic term to cover all three types of "hotels" (as defined by the RGB). Hopefully the context will be sufficient to allow the reader to decipher the appropriate meaning of all terms.

Issues

In the *1985 Price Index of Operating Costs for Hotel Stabilized Units in New York City* it was noted that

> *When buildings are sorted according to the Multiple Dwelling Law classification into three groups (Hotels, Rooming Houses, and SROs), it is apparent that their operating characteristics are quite dissimilar. Accordingly, separate price indexes have been constructed for each class of building.*

Despite the apparent effort by USR&E to emphasize the *variety* of the housing stock in the hotel sector, hotel guidelines in the 80's were shaped largely by conditions in Manhattan hotels and SROs. The guidelines largely reflected testimony of hotel tenants about poor living conditions and a presumption that hotel owners were collecting adequate rents by making units available to transient tenants. Most of the evidence presented to the Board was circumstantial, and very little of it concerned rooming houses, apart from the testimony of a few rooming house operators.

This study is an attempt to gather some quantifiable evidence to supplement the vast amount of anecdotal material the Board has received over the past few years. In particular, there are five main areas of concern:

1. Reliability of the Hotel PIOC;
2. Overall financial condition of hotel-type buildings;
3. Registration issues;
4. Housing conditions;
5. Differences between sectors of the hotel stabilized stock.

Over the past eight years the hotel PIOC has been overtaken by other considerations in the determination of hotel guidelines. With numerous and pressing research needs and limited resources, examination of the reliability of the hotel PIOC has not been a top research priority. The recent availability of the Finance Department I&E data has made it now possible to evaluate the reliability of the hotel PIOC expenditure weights.

The financial condition of hotel-type buildings is a matter of greater dispute. Although it has been assumed that many hotel owners are renting units on a "transient" basis, the relative importance of income derived from these rentals has been a matter of speculation. In addition, it has never been possible to evaluate the notion that while some owners (e.g. hotel) benefit substantially from transient income others might not (e.g. rooming house operators). This study presents up-to-date information on the O&M to income ratio for the various categories of hotels.

The registration of hotel buildings and units is an issue that is closely tied to the financial condition of owners. Owners who do not register their buildings may be more likely to rent units on a "transient" basis. Some owners may have never registered in order to evade rent regulations entirely. It is possible that others, discouraged

by low rent increases in recent years, no longer register their buildings, recognizing that in the event of enforcement, the only penalty for failing to register is no rent increases.

It has proven impossible to make a direct connection between DHCR's rent registration data and the Finance Department's I&E files. Even so, this data is a good start.

Registration Study

In the 1985 SRO study (*Single Room Occupancy Housing in New York City, USR&E, 1986*) a serious attempt was made to determine the size of the SRO housing stock. After choosing a sample of buildings which were thought to contain SRO units, HPD inspectors visited each building to determine whether this was the case. Of the original sample of over 1,100 buildings, 794 were determined to contain SRO units.

The purpose of this registration study is to examine these 794 buildings in detail. More specifically, we attempt to answer the following questions:

1. How many of the buildings are part of the stabilized stock and are required to register with DHCR? How many actually did register at least once between 1984 and 1989?
2. What has become of these buildings since 1985? For instance, how many of the buildings are now vacant or converted to co-ops or condominiums?
3. Has registration been affected by the low rent guidelines of the past several years?

In order to answer the first question, the 1985 list was tailored to exclude buildings which did not contain stabilized units. The 1985 buildings did not include institutional SRO buildings (e.g. college dormitories, nurses residences), luxury hotels, vacant buildings, and residences operated by the city, state or another government entity. However, the list did contain some buildings with less than 6 units. After excluding the 22 buildings with less than 6 units, we were left with 772 buildings containing SRO-type units; these are buildings which should have registered with DHCR (Seven of these buildings had less than six units in our files but also registered with DHCR. We assume that they were required to register.)

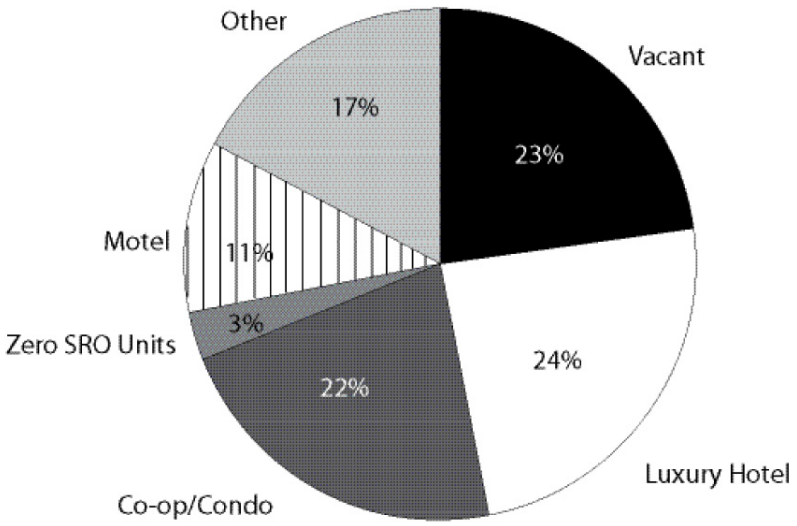
In order to develop a conservative estimate of non-registration which takes into consideration developments in the stock since 1985, two additional adjustments to the data were made. First, it was presumed that all buildings which were in-rem in 1991 (27 buildings) were not required to register in any year. Second, some of the buildings in the 1985 group (of 772) were excluded by HPD from their 1990 list for various reasons. It was assumed that NONE of these buildings were required to register in any year between 1984 and 1989.

Of the 772 buildings from the 1985 SRO study, 92 were excluded from HPD's 1990 sample frame. The reasons for exclusion were diverse and include the following: Vacant, dormitory, luxury hotel, co-op/condo, zero SRO units, motel, miscellaneous other reasons. The chart on page Q-5 shows the breakdown of excluded buildings by the reason for exclusion.

Nearly one-third of the hotel buildings on the 1985 list (60 buildings) were excluded by HPD in 1990. Over half of these buildings were classified as either luxury hotels or as motels in 1990; the next largest group of excluded buildings included co-ops or condos. About one-tenth of the rooming houses and SROs on the 1985 list were excluded; "vacant" and "co-op/condo" were the most frequent explanations.

In excluding buildings from the 1985 sample, HPD did

Distribution of the 92 Buildings Excluded by HPD on the 1991 HVS List



Source: NYC Department of Housing Preservation and Development.

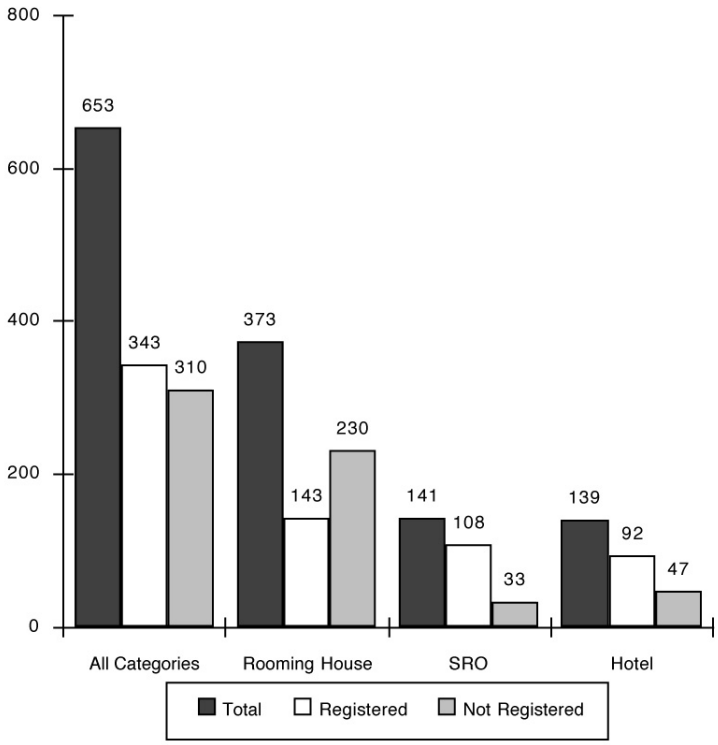
Note: The category "other" includes buildings that are dormitories, buildings with certain types of informational housing code violations, and buildings rejected in the 1985 SRO Survey.

not necessarily determine that the excluded buildings contained NO SRO-type units. HPD's primary aim was to include buildings which were SROs (although the buildings may also contain some type A housing units) and to exclude buildings which were likely to have few or no SROs. It is reasonable to assume, for instance, that some of the co-ops excluded from HPD's SRO sample frame were converted under noneviction plans and still contain SRO-type units.

The assumption that NONE of the buildings excluded by HPD were required to register is a very conservative approach. This will be considered a low bound for non-registration. Using the 653 buildings which remain (original 772 minus 27 in-rem, minus 92 excluded by HPD), we see that 47% of all buildings failed to register, including 34% of hotels, 23% of SROs and fully 62% of rooming houses.

The picture is somewhat different if we look at units registered rather than buildings. Using the conservative approach once again, 59% of rooming house units in our sample are unregistered, 29% of hotel units, and 18% of SRO units. Since the 1985 sample is not representative of the hotel stock as a whole, it has been weighted to arrive at an estimate of the total number of hotel-type units in the city which have not registered since 1984. **It appears that at least 40% of all**

Registered and Non-Registered Buildings by Hotel Category



Source: NYS Division of Housing and Community Renewal, 1985 SRO Study, and NYC Department of Housing Preservation and Development.

(potential) stabilized hotel-type units have not been registered even once since 1984.

And what of the buildings which have registered? Have they continued to register even though the rent guidelines were extremely low throughout the 80's? The chart on this page shows registration trends for the 1984 to 1989 period.

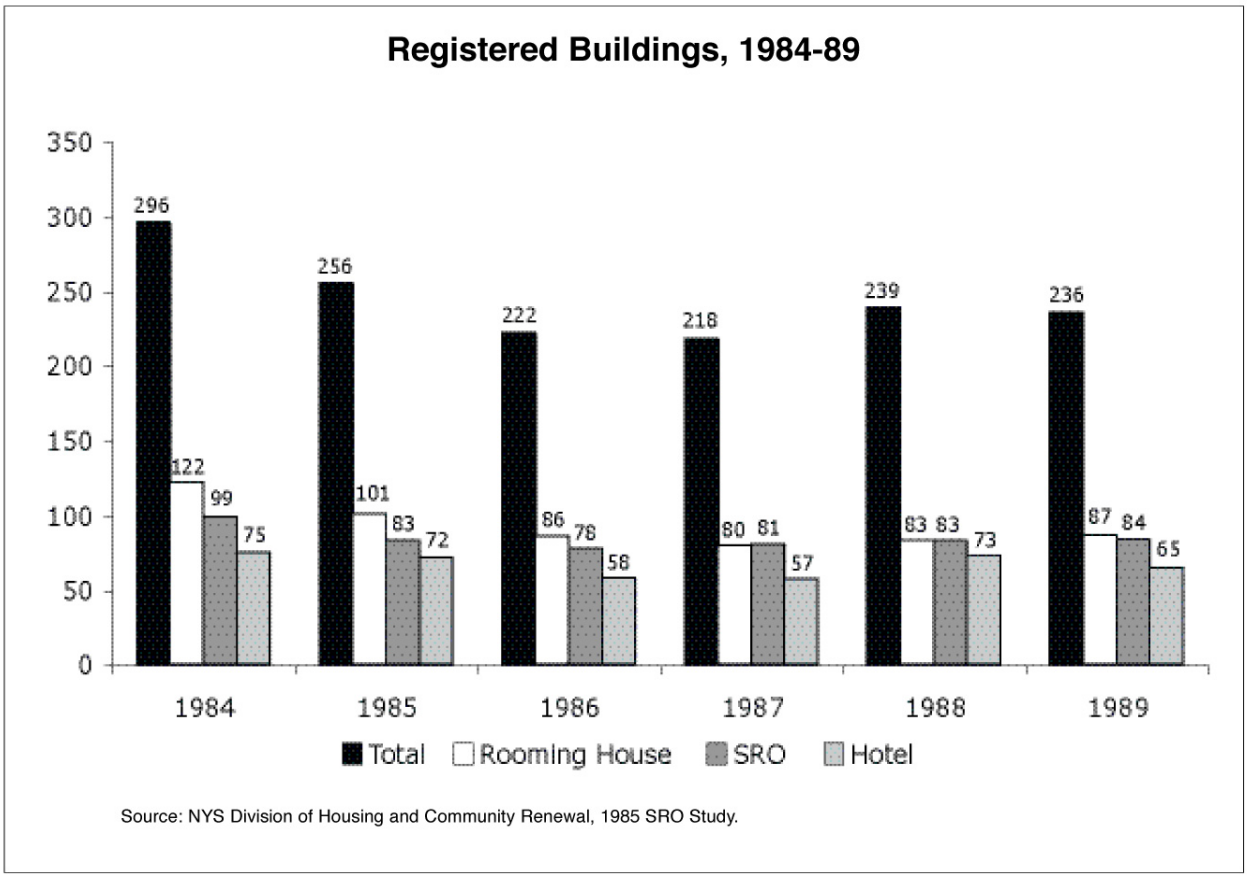
The peak year for registration was in 1984. During the next three years registration for all types of hotel-type buildings declined steadily, reaching a level of 218 buildings in 1987. During the next two years registration levels improved somewhat. Even so, the non-registration rate for buildings was 64% in 1989 using our most **conservative** assumptions and over 75% among rooming houses.

The patterns in registration rates do not directly parallel low rent allowances. If low allowances were the sole factor influencing registration rates one might have expected an uninterrupted decline in registration. Instead, registration seems to follow trends in the New York City economy (in an inverse fashion) with declining registration during the prosperous mid-80's and registration improving somewhat as the economy softened.

The correlation between the economy and registration rates could be entirely coincidental, although it does seem reasonable to assume that enhanced economic opportunities for landlords might lead to lower registration rates. Other factors which may have had a more direct impact on registration include DHCR enforcement efforts, the activities of tenant groups, and tenants' knowledge of the rent registration system.

The data does not, of course, reveal WHY non-registration rates differ for the various classes of buildings, though it does provide some hints. Building size, location, and building type all appear to be important factors in determining whether a building will register.

There are enormous differences in building size



Source: NYS Division of Housing and Community Renewal, 1985 SRO Study.

among the three categories of hotels. While rooming houses contain an average of 13 units per building, hotels have 162 units. SROs are in between with 70 units. Within each of the three groups, buildings which are registered are, on average, larger than those which have not registered. For instance, among Manhattan SROs, registered buildings average 92 units per building while non-registered buildings have only 66 units per building.

Location also seems to be very important. Manhattan is the only borough with a majority of registered buildings. The "close in" boroughs follow with substantially lower registration rates. Amazingly enough, in Queens only 3 of 74 buildings were registered. It seems as if distance from Manhattan is directly correlated with the likelihood of registration.

The RGB also gathered information on tax arrears and housing code violations for the buildings in our sample. Average arrears for rooming houses (1.26 quarters) were double the rate for SROs and hotels (.63 quarters). Rooming houses also had substantially more housing code violations per unit (1.72) than either SROs (.7) or hotels (.26). The average number of violations per building for rooming houses was half that of hotels; however, hotels are on average more than 10 times larger.

The data on arrears and violations was also tabulated for buildings which registered and buildings which did not. Average arrears are not significantly different for the two groups. This may indicate that regulated rents are not a significant factor in the financial stress experienced by some of these buildings.

Violations per unit are higher for **registered** buildings than non-registered buildings in the hotel and rooming house sectors but lower for SROs. The most serious (i.e. "C") violations follow the same pattern. High registration levels and large number of violations in certain locations and building types may reflect pressure from local advocacy and enforcement organizations such as the West and East Side SRO Law Projects. The higher violation count may relate to a greater frequency of inspections in closely monitored buildings, brought on by such organizations. Without more specific information, however, this data is largely inconclusive.

I&E Study

Sample Frame

A comprehensive sample frame for the hotel income and expense study was not readily available, therefore staff was faced with the necessity of developing one. To compile a comprehensive sample frame of stabilized hotels, RGB used USR&E's list from the 1985 SRO Study and a listing developed by HPD for the 1991 Housing and Vacancy Survey (HVS). The original sample of hotels chosen by HPD in 1985 consisted of 1138 buildings. In the 1985 survey HPD inspectors determined that 794 buildings contained hotel units. These 794 buildings provided the initial basis for the sample frame.

To prepare the sample frame for the I&E study the 794 buildings from the 1985 list were matched with the updated list for the 1991 HVS. Staff found that 785 buildings matched with the 1991 list. All but one of the nine excluded buildings were in Staten Island.

This matched list was the starting point for staff to work toward a "cleaner" sample frame by excluding certain types of buildings. Based on additional information in the 1991 list, some of the reasons for excluding additional buildings were: vacant, dormitory, luxury hotel, co-op/condo & non-residential, building used for

specialized social services, multiple dwelling converted to a private dwelling without a properly authorized certificate of occupancy, dwellings not inspected since 1970.

RGB staff excluded 125 buildings which were in one of the above specified categories. Most of the excluded buildings fell in the co-op/condo category (30 buildings), followed by vacant buildings (27 buildings) and luxury hotels (25 buildings). Twenty out of the 27 vacant buildings were in Manhattan. There existed a similar relationship in the co-op/condo category. However, 48% of the luxury hotels were in Queens (12 out of 25 buildings). RGB staff excluded an additional 200 buildings because the number of units was less than 11. A total of 325 buildings, containing 10,859 units, were excluded.

After these adjustments, the resulting sample frame included 460 buildings with a total of 36,254 units. These buildings were determined to have stabilized hotel units in 1985 and 1991. Also, the list consisted only of hotel buildings required to file I&E forms with the Finance Department.

Sample Size and Selection

The characteristics of the stabilized stock of hotels and staff's sample frame dictated the specification of the categories and the distribution of sample units among them. At the outset, the sample size was set at 250. The first step in drawing the sample was to make sure it reflected the Hotel Section of the Rent Stabilization Law. Therefore, staff divided the sample frame into three distinct categories: Hotels, rooming houses and single room occupancy (SRO) buildings.

The next step was to distribute the sample size of 250 buildings among the 3 categories. The allocation reflects the importance of each building type in the sample frame. The number of sample buildings desired within each category were as follows:

Hotels	67
SROs	68
Rooming Houses	115
Total	250

No information pertaining to the buildings' assessed value was readily available. Thus, staff did not know what proportion of buildings in the list would meet the basic criterion of an assessed value of at least $40,000. Also, due to the likelihood that some I&E forms might be incomplete, or the possibility that some landlords did not file their I&E statements, RGB wanted to give Finance as many buildings as possible in order to obtain data for the target sample size of 250. Since the sample frame was somewhat small (containing only 460 buildings), the entire list was randomized and sent to Finance.

Data Collection and Summary Statistics

The major changes made in the I&E study of stabilized apartments have been incorporated into the hotel study. Briefly recapitulating these changes, staff requested that Finance exclude buildings with short accounting periods and with no rental income. In addition, assessors examined the miscellaneous category. Also, the assessors reclassified miscellaneous expenses if the owner provided enough information for them to do so. The Finance Department produced additional summary output for buildings without commercial space, and for those buildings with an O&M to income ratio greater than or equal to 100%.

Due to time constraints there was not any replacement if Finance did not find I&E forms for all 250 buildings. In fact, Finance could only locate and provided summary statistics for the following:

Hotels	66
SROs	67
Rooming Houses	45
Total	178

Finance staff provided the RGB with summary data on the number of buildings for which I&E forms could not be located. The large shortfall in the number of rooming houses was

due mainly to the fact that over 60% of those buildings did not meet the minimum assessed value of $40,000.

There is no detailed data for stabilized hotels in the triennial HVS. The most comprehensive study, to date, is the 1985 SRO Study. However, the list prepared for the 1991 HVS also includes estimates of the weights for the three types of hotel units. Staff decided that the best alternative was to use both the 1985 and 1991 weights in order to estimate a range of values for citywide rents and expenses. The weight assigned to each category was equivalent to the citywide share of all stabilized hotel units in that cell.

After aggregating the raw data with both sets of weights, there was not any major difference between the two figures. The difference was $4 for overall O&M costs. Therefore, only the estimates using the 1985 weights are discussed in this report.

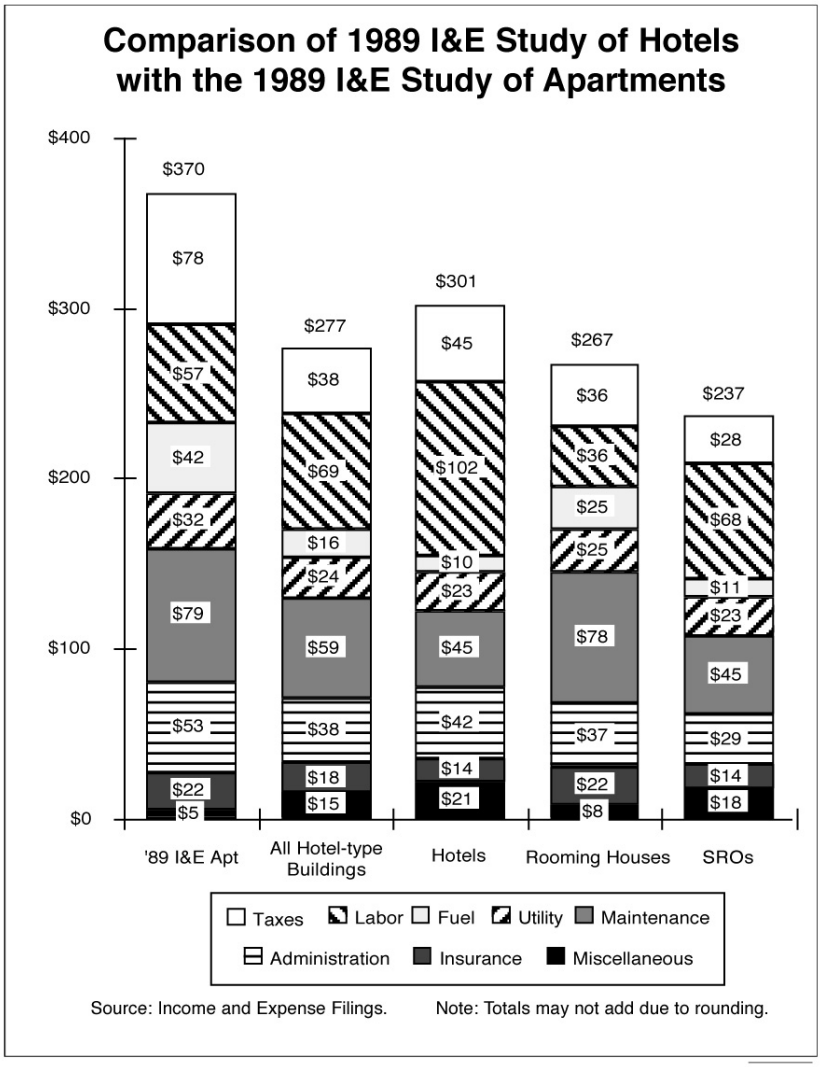
The data is taken from the I&E forms filed with the Finance Department by September 1990. Most owners do file statements for calendar year 1989, but there may be some who reported income and expenses for later fiscal years. As a result, the average O&M expenses and income are for Fall 1989.

Operating & Maintenance Costs

The chart shows average O&M expenses for all stabilized hotel units, and for each of the three hotel groups: rooming houses, SROs, and hotels. In addition, we included the figures from the '89 I&E Study for the apartments. These figures have been included in order to allow for some comparisons between the two studies.

Average monthly O&M costs are estimated to be $277 for all hotel type units. The average for rooming houses and SROs are lower than the average, $267 and $237 respectively. The average monthly expenses for hotels is much higher at $301 per month. Labor and maintenance account for most of the difference in overall cost levels between the three groups.

The most obvious and striking difference is the wide difference in estimated labor costs. Hotels' labor costs averaged $102 per month, followed by $68 per month for SROs, and rooming houses averaged only $36 per month for labor expenses. It is also interesting to note that there is a wide gap in maintenance expenses. In rooming house



units these expenses are 32% higher than the overall average maintenance costs for all stabilized hotel units, $78 versus $59. In fact, the $78 seems surprisingly high and raises some concern about the accuracy of this figure. In most of the other components, the average costs for rooming houses are about equal to or lower than the overall average.

Although overall O&M is substantially different for hotels and SROs, many of the component costs are in fact remarkably similar. For instance, average expenses for utilities, maintenance, and insurance are the same; fuel expenses only differ by $1. The major differences can be attributed to labor costs and taxes and to a lesser extent administration.

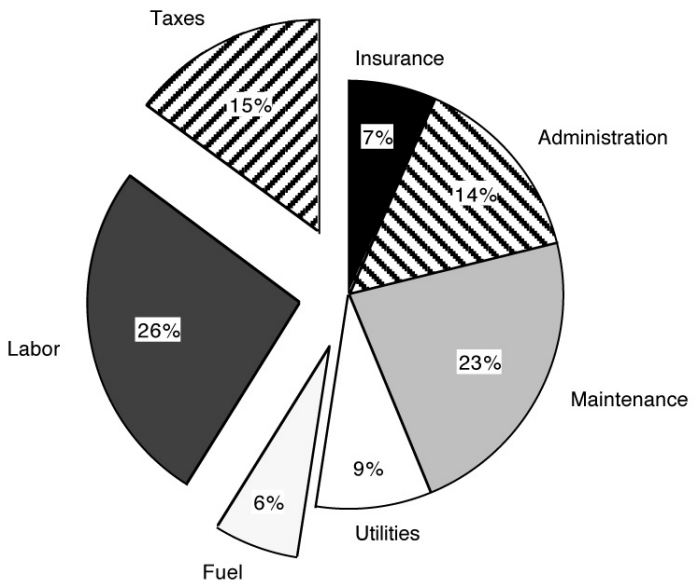
The best explanation for the huge difference in labor costs between hotels and rooming houses is in building size. A rooming house can not have more than 29 units whereas hotels have a minimum of 30 units. Hence, due to labor expenses such as front desk clerks, maid services and superintendents, labor costs would tend to be higher for hotels.

Overall expenses for apartments is $370, or $93 higher than O&M costs for all stabilized hotel units. In terms of overall cost levels, taxes, fuel, and maintenance account for most of the difference. One would, in fact, expect all three of these categories to be substantially higher for apartments than for hotel units since hotel rooms are much smaller than apartments and often lack amenities such as kitchen facilities or even bathrooms. This difference is quite apparent in hotel fuel costs which are only 38% of the apartment average.

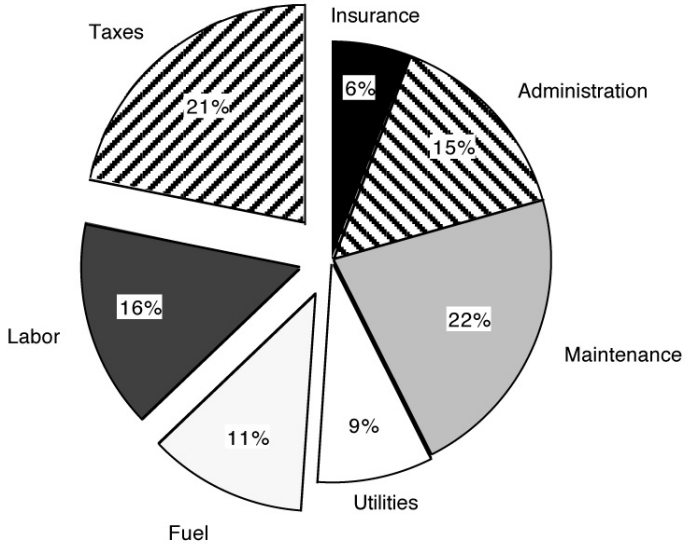
Although overall cost levels vary, the weight of most components, with the exception of the three just discussed, is

Distribution of O&M Expenses

All Hotels



1989 Apartment I&E Study



Source: Income and Expense Filings.

quite similar for hotels and apartments. Insurance, administration, maintenance, and utilities have the same weights for both types of units. Taxes and labor do show a wide difference. In the apartment study taxes accounted for 21% of costs and 14% for hotel units. Also, labor's weight in the overall costs for all hotel units is 25% and 15% for apartments.

O&M Costs for Buildings Without Commercial Space

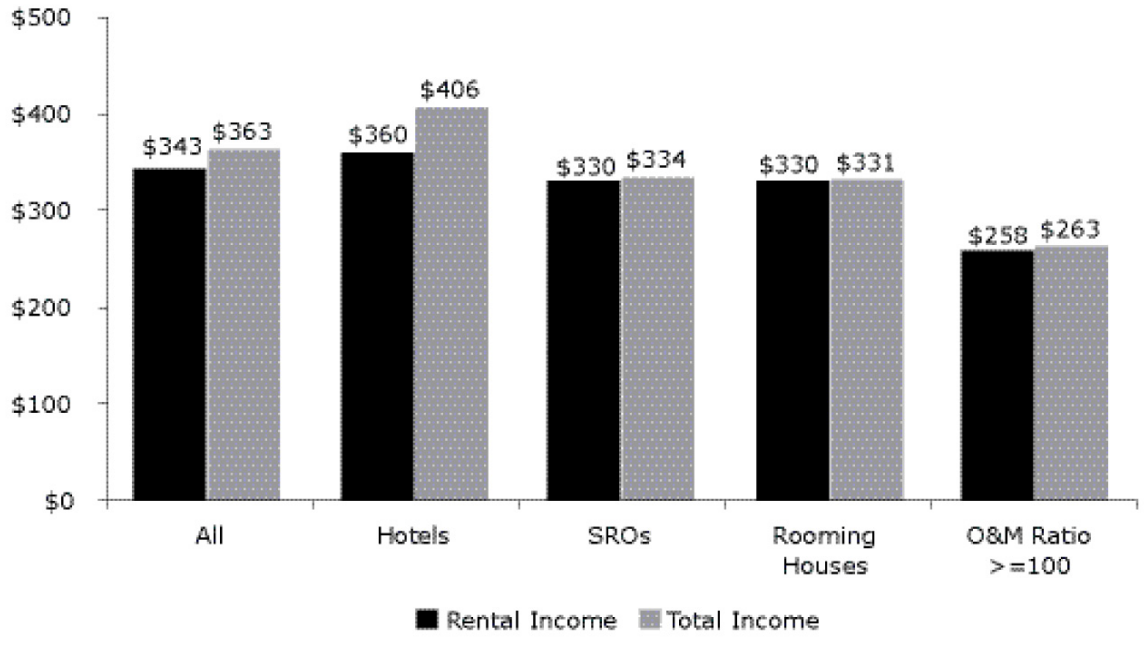
Average expenses for residential buildings is $253. This is approximately 9% lower than the average for all buildings. This difference between the two figures can be attributed to the small percentage of buildings with commercial units. About 16% of the buildings had commercial units. Most of the commercial units are located in SRO buildings which play a relatively small role in the computation of overall average O&M costs. Based on data from the 1985 SRO Study, SRO units accounted for only 15% of all hotel units.

One would expect buildings with commercial units to have higher expenses. However, this is not the case for each of the hotel groups. The difference between O&M costs for all buildings versus all residential buildings is somewhat inconsistent and unusual. For hotels and SROs, overall expenses for residential buildings are higher than those for all buildings.

Income

The definitions of rent and income remain unchanged from the I&E study of apartments. Rent is defined as payments collected from tenants plus governmental rent subsidies

Average Rental Income and Total Income per Dwelling Unit by Hotel Category



Source: Income and Expense Filings.

(i.e., SCRIE and Section 8). Rental income is defined as apartment rent plus rent from offices, retail space, garage/parking, and industrial space. Total income is apartment rent plus commercial rent plus other sources of revenue such as the sale of utilities and laundry services.

In the schedule of income and expenses, no specific instructions were provided for hotel owners. In particular, the income section did not specify if the definition of "apartments" included hotel-type units, which are technically individual rooms. Therefore, the decision as to where to include rent from rooms becomes crucially important.

According to Finance Department staff, on many of the forms a substantial amount of income was reported on the line "other" rental income. It is uncertain exactly how much of this income is from transient tenants and whether landlords reported rent from permanent tenants on this line.

Unfortunately, since RGB does not have access to the raw data, we can not state what proportion of forms listed rent from rooms as "apartment" rental income, nor can we report if major reallocations should or would have been done. However, staff will attempt to obtain additional information from Finance to clarify this matter.

O&M Ratio

The overall O&M to gross income ratio for all stabilized hotel units is .76. For SROs and hotels the ratio is lower, .71 and .74 respectively, while the rooming house O&M ratio (.81) is higher. The O&M to gross income ratio for all residential units is also .76.

These O&M to income ratios are substantially higher than those found in the apartment sector (e.g. the .65 for all stabilized apartments). The higher O&M to income ratio for hotels could reflect either lower debt levels or lower profit margins. Anecdotal evidence and the 1985 SRO survey suggest that many hotel-type buildings have long term owners who may have little mortgage debt.

The overall O&M to income ratio (.76) is comparable to the O&M to rent ratio in Table 2 of the Board's Explanatory Statement for hotels (.74). The latter ratio was originally developed by USR&E in 1985 and has been updated each year since then. The similarity between the two figures appears to be largely a matter of coincidence, however, since none of the individual hotel sectors are similar. For instance, the O&M to income ratio for SROs in this study is .71 while the figure in the explanatory statement is .57.

A strong case could be made to replace the (updated) 1985 O&M ratios with those developed in this study. As pointed out in the introduction, the 1985 study is based on a very small sample of buildings. In addition, the current data is fresher and makes no artificial distinction between rents and income. Of course, the weakness in the current data is the absence of rooming houses with fewer than 11 units or with assessed values of less than $40,000. Nonetheless, this study includes far more hotel stabilized properties than the 1985 study.

O&M to Income Ratio Over 100%

In the recent apartment I&E study we found that about 10% of the buildings in the sample had an O&M to income ratio of 100% or more. In the current study 25% of the hotel-type buildings reported a ratio of 100% or more including 16% of SROs, 26% of hotels and 36% of rooming houses.

Among the high ratio buildings income per unit was substantially below average ($263 vs. $363 for all hotels) while expenses were well above average ($363 vs. $277). It should be noted that labor costs in these buildings are extremely high - $123 vs. $69 for the sample as a whole. In fact, labor costs account for two-thirds of the difference in the average O&M figures. The remainder of the difference is spread among many of the components·

TRANSIENT RENTALS IN SRO-TYPE BUILDINGS

Summary

The purpose of this study is to determine the proportion of rent hotel owners derive from "transient" tenants. In this paper we compare data derived from Department of Finance I&E statements with DHCR rent rolls. For buildings which are registered with DHCR, it appears that hotel owners derive a considerable proportion of their revenue (40% or more) from transient rentals. Registered rooming houses and SROs, on the other hand, seem to have little or no transient income.

[Editor's Note: One of the major issues the Rent Guidelines Board has debated over the past several years is "transient income" in hotels. Tenant advocacy groups have argued that owners benefit greatly by short term rentals not subject to stabilization regulations. Hence, no rent increases for stabilized tenants are necessary. Owner groups contend that such a policy merely punishes the "good" owners who rent to long-term stabilized tenants (i.e. not to transients). This study contains the only concrete evidence presented to the Board regarding the extent of transient rentals.]

Background

Last year's research consisted of two hotel studies. In the first of these, the so-called "Registration Study," staff attempted to estimate the number of SRO-type buildings which should have registered with DHCR from 1984 to 1989, and the percentage of buildings and units which actually did register. Using very conservative assumptions, it was estimated that almost half of all buildings and 40% of all units were not registered even once during the period. Based on this analysis we concluded that

> "The data ... raises some troubling questions about the implementation of rent regulation in the hotel sector. Given the low rate of registration and the possibility that many owners may derive a small percentage of revenue from permanent tenants one might argue that the impact of the regulatory system on this vital housing resource is rapidly diminishing."[1]

The second hotel study analyzed income and expenses in hotel buildings using the Finance Department's Local Law 63 filings. Although this study did allow us to compute averages for O&M expense, income, and the O&M to income ratio, it proved to be impossible to estimate how much income landlords derived from "transient" (i.e. non-stabilized) tenants.

In April the RGB gained access to DHCR's "on-line" rent registration records, thereby making it possible to compare the total amount of income reported by landlords to the Department of Finance with the aggregate amount of rent registered with DHCR. The difference between these two figures can be considered a rough estimate of income derived from non-registered units, some of which may be rented on a "transient" basis.[2]

---

[1] *Rent Stabilized Housing in New York City: A Summary of Rent Guidelines Board Research*, 1991, p.74.

[2] "Rental income" reported to the Department of Finance includes rent from all "apartment units" (SRO-type or regular) as well as rent from commercial units (e.g. stores, parking). It is a measure of rent collected rather than rent charged. Registered DHCR rents, on the other hand, are rents charged and account for vacancy losses (in our study) but they do not account for collection losses. If commercial rent constitutes 10% of total income (as in the apartment I&E study) and collection losses average 10%, these factors would more or less cancel out, making the two sources of data roughly comparable.

The income and expense study included data from 178 buildings, including 66 hotels, 67 SROs, and 45 Rooming Houses. After a comprehensive search of the DHCR registration records, we found that only 107 of these buildings registered between 1988 and 1991.[3] In short, 40% of the buildings were unregistered compared to 47% in the previously mentioned registration study. Registration rates ranged from 67% of SROs, to 58% of rooming houses, and 55% of hotels.

Addresses for the 107 registered buildings were transmitted to the Finance Department. Finance staff then "matched" these buildings with last year's computer file to produce income and expense data for the registered buildings. RGB staff undertook the task of manually entering the DHCR data (comprising 107 rent rolls and about 7700 units) into spreadsheets and deriving estimates of rent.

[3] Last year's I&E study was largely comprised of income and expense filings for calendar 1989. The most directly comparable DHCR rent information is from April 1989.

Buildings Registered with DHCR Which Also Filed I&E Forms

	% Units Registered	% Registered Units registered "Stabilized"	% Income from Registered units*
Rooming Houses	95%	87%	112%
SROs	88%	91%	104%
Hotels	57%	88%	60%

* Defined as registered rent divided by rents reported to the Department of Finance.

Source: NYS Division of Housing and Community Renewal, NYC Department of Finance.

Findings

The table below shows the characteristics of the buildings in our study. In order to allow direct comparisons between the amount of rent reported to DHCR and the amount of income reported to the Department of Finance, buildings with commercial units have been eliminated. This allows us to compare income reported to Finance (nearly all of which presumably comes from residential unit rents) with rents registered with DHCR.

Although all of these owners registered their buildings with DHCR, the percentage of units which were registered varies considerably.[4] In the rooming house and SRO sectors it appears that 95% and 88% of the units (respectively) were registered.[5] In the hotel sector, on the other hand only 57% of units were registered.

The table also indicates the percentage of registered units which are labelled "stabilized" in the DHCR files. Between 87% and 91% of all the units are registered as "stabilized" units. The other two categories are "exempt" (indicating that the unit is either temporarily or permanently exempt from rent stabilization) and "vacant." Very few units are registered "exempt." The vast majority of

[4] This percentage is the sum of all units registered with DHCR (whether "stabilized," "exempt" or "vacant") divided by the number of units reported on the Finance Department income and expense form. It should be kept in mind that ALL of these figures were reported by owners to the respective government departments.

[5] Some of the units are certainly owner-occupied and not required to register. As a result, the percentage of units which should have been registered and were actually registered is slightly higher than indicated by the table.

the registered units not registered as "stabilized" are in the "vacant" category. Vacant units account for about 10% of all registered units.

The fact that few units are registered as exempt does NOT mean that transient occupancy is a rare phenomenon. As we noted previously, 40% of the buildings in the I&E sample did not register at all and a large percentage of hotel units are unregistered. Some portion of these may be rented on a transient basis. In addition, according to testimony heard by the board this year some landlords also rent out units registered as "stabilized" on a transient basis.

The last column of the table is the amount of registered rent divided by the amount of income reported to the Department of Finance.[6] In the rooming house sector this figure is 112% - in other words, DHCR rents actually exceed income reported to Finance. Part of the difference between the DHCR and Finance figures is due to collection losses. If collection losses of 10% are included, the figure would approximate 100%. It is conceivable that some of the rent paid by tenants to small landlords is in cash and that not all is reported. Note from the table that the characteristics of SROs are similar to rooming houses.

Hotels derive approximately 60% of their income from registered units.[7] Since we have excluded buildings with commercial units from our sample, the remaining 40% of the income must be derived from the unregistered units (43% of all hotel units), some portion of which may be rented on a transient basis. **It seems clear that hotels have a very different income structure from rooming houses and SROs. The figures cited here suggest that transient income is probably an important factor in the hotel industry.** Rooming houses, on the other hand, may derive little if any income from transient tenants. SROs are between the two extremes but appear to be more akin to rooming houses than hotels.

One final aspect of these figures is worth noting. The average monthly rent for non-registered hotel units is $351, or less than the average for registered stabilized units ($455). Since one might expect unregistered units to rent for more than the registered units, the only plausible explanation is that a large number of units are unoccupied - either through deliberate warehousing or because of inability to rent them to transients. ❍

[6] DHCR rents are annualized to arrive at a figure comparable to the Department of Finance figures. Included in the DHCR figure are all unit rents classified as "stabilized" or "exempt" but NOT those classified as "vacant." By excluding the vacant units we assume that this "snapshot" of the vacancy rate would hold true for the entire year.

[7] The figure may be somewhat less since collection losses are not considered.

What to Do With the Price Index?

Dr. Anthony Blackburn

Brief History of the Price Index of Operating Costs

The Price Index of Operating Costs (PIOC) was constructed for the first time in 1970 by the Bureau of Labor Statistics (BLS), U.S. Department of Labor, under contract to the City of New York. The first BLS PIOC report provided estimates of price index change for the 3 years 1967-1970.[178] The BLS continued to provide annual PIOC reports through 1981, at which time reductions in force mandated by the Reagan administration compelled BLS to decline further PIOC responsibilities. From 1982-1991, RGB contracted with private consulting firms to prepare the annual PIOC. Annual PIOC reports from 1992 onwards have been prepared by RGB staff with modest levels of outside consulting assistance.

The PIOC is a "base-weighted index of the prices of various cost components."[179] "Base-weighted" in this context means that the quantities of goods and services used in the base year operation of apartment buildings are assumed to remain unchanged over time.

The relative importance of each component of the index, as measured by the expenditure weights, changes over time as some prices grow faster than others. Thus, the expenditure weights are updated annually, but the implicit base year quantities (i.e. gallons of fuel oil per unit per annum) remain fixed. The expenditure weights are combined with the changing prices of goods and services purchased by landlords to arrive at an estimate of changes in operating costs over time. As BLS pointed out in its first PIOC report, "The index is a price index and not a cost index. To the degree that the base-period market basket becomes unrepresentative because landlords choose to purchase more or fewer units of the same item, the index would to some extent lose its appropriateness as a measure of changing cost."[180]

The usefulness of the PIOC to RGB is, however, based solely on its presumed accuracy in measuring changes in operating costs over time. For this reason, the RGB has been periodically concerned to make sure that the base-year market basket is indeed representative of the current pattern of landlords' expenditures.

In 1974, BLS re-surveyed a subsample of its 1970 landlords at RGB's request and concluded

---

[178] The decision to commission a specific price index for apartment buildings evidently reflected a concern for insuring the high quality of information used by RGB. The CPI, which is a poor indicator of changes in rental operating costs, was used extensively in other communities as a basis for rent adjustments. (See Monica Lett, Rent Control: Concepts, Realities, and Mechanisms. Center for Urban Policy Research, 1976.)

[179] A Price Index of Operating Costs for Uncontrolled Apartment Houses in New York City, U.S. Department of Labor, Bureau of Labor Statistics, Middle Atlantic Office, Regional Report No. 17. February 1971, p. 4.

[180] Op.Cit., p.4

that the expenditure weights had remained reliable, and a full-scale expenditure survey to update the weights was not warranted at that time.[181] In 1980, during a three-year period of extraordinary increases in the price of heating oils, the RGB itself made an ad hoc reduction of 10% in the fuel expenditure weight to incorporate the estimated effects of landlords' fuel conservation efforts. In 1980, BLS again re-surveyed a subsample of its 1970 landlords, and this time concluded that there was a need to revise the expenditure weights, particularly with respect to utilities and fuel.

In 1983, RGB commissioned its PIOC contractor to perform a new survey of rent stabilized landlords' 1982 expenditure patterns. The updated weights, which were first used in construction of the 1982-1983 PIOC, confirmed the BLS suspicion that the major differences between the 1969 and 1982 market baskets were in the fuel and utilities components.[182] It was also apparent from the 1982 updated fuel weight that RGB's 1980 10% reduction in the fuel weight had substantially underestimated the effect of conservation.

Seventeen years have now elapsed since the PIOC weights were last updated. The passage of time does not by itself mean that the expenditure weights are no longer accurate, particularly if relative prices have been fairly stable and the underlying technology of apartment building operations is essentially unchanged. However, the fact that so many years have passed since the last update does at least raise the possibility that the PIOC may no longer provide an accurate measure of change in apartment operating costs.

The accuracy of the PIOC in the future will depend on whether the items priced, and the weights attached to those prices (the market basket), are representative of landlords' actual expenditure patterns. A market basket must specify the relative importance of the major components and sub-components of landlords' expenditures in the new base year, based on data on landlord expenditures. Within these major components and sub-components, a list of items representative of goods and services purchased by landlords, together with precise specifications of each item and an attached “item weight” is then developed, and the new market basket is complete. It should be noted that the items included in the index are a representative sample of goods and services purchased by landlords, not an exhaustive list.

Sources of Change in Expenditure Weights

In a world in which technology, regulation, and relative prices were unchanging over time, there would be no reason for landlords to adjust their expenditure patterns. This is not the world we live in, however.

Changes in the relative prices create incentives for landlords to economize on goods and services whose prices increase faster than average. The sharp increase in fuel prices in the late 1970s was, as is well documented, accompanied by a sharp reduction in fuel use. Landlords' ability to substitute less expensive for more expensive inputs in order to enhance return on investment means that a price index, in which inputs are not substituted for one another, will tend to overestimate

[181] 1981 Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City, U.S. Department of Labor, Bureau of Labor Statistics, p. 87.

[182] *Report on the 1983 Expenditure Study and Analysis*, Urban Systems Research & Engineering, April 1983, pp. 4-5.

actual changes in costs. Changes in technology, such as more energy efficient appliances, more reliable elevators, cheaper PC-based accounting systems, will tend to reduce the cost of required inputs (or they would not be adopted). Such advances contribute to price index overestimates of cost changes.

Offsetting the effect of changing relative prices and technological change may be the effect of increased regulatory requirements. Increased regulatory requirements typically force landlords to purchase goods and services not previously needed. These increases in required inputs are not captured by a price index, and, as a result, a price index will tend to underestimate actual changes in costs when the regulatory burden is increasing.

It should also be noted that the inventory of rent stabilized buildings today is not the same as it was in 1983 when the expenditure weights were last updated. Between 1981 and 1996, the number of pre-1947 stabilized units increased by approximately 130,000, while the number of post-1946 stabilized units fell by about 30,000.[183] Given the known differences in expenditure patterns between older and newer buildings, this shift might by itself lead to progressive inaccuracy in the expenditure weights.

For all these reasons, the market basket that was constructed in 1983 may no longer be representative of landlords' expenditure patterns. Landlords may be purchasing more of some items and less of others; furthermore, there may be some new items (fees, computers, etc.) that did not exist 17 years ago, but which now account for significant shares of building operating costs.

Price and Cost Indexes

A price index, such as the PIOC, directly measures change in a weighted average of a set of prices paid for goods and services. To the extent that the weights correspond to the relative importance of these goods and services in providing a service, such as rental housing, the price index will provide an accurate measure of change in costs. However, if the relative importance of the goods and services being priced is changing while the weights are fixed, the price index may not provide an accurate measure of change in costs.

A cost index, on the other hand, directly measures costs, rather than base-weighted prices, at different points in time. At each point in time, costs are the sum of the product of prices paid and quantities purchased; unlike a price index, in a cost index the quantities purchased may vary over time.

For the purpose of regulating rents, an index that directly measures costs is clearly preferable to a price index, other things being equal. However, it is generally the case that a price index is much cheaper to construct, because it is much easier to collect price data than to obtain detailed expenditure data from less-than-cooperative landlords. To construct a price index, it is necessary to collect the detailed expenditure data from landlords only when the weights are updated. To construct an annual cost index, it would normally be necessary to conduct a major expenditure study every

[183] *Housing New York City 1993*, Table 4.11, and *Housing New York City 1996*, Table 4.25.

year.

There is another practical reason why a price index approach might be preferred. Landlords surveyed to find out how much their costs had risen over time would have powerful reasons to exaggerate the increase in their costs. In contrast, if data supplied by landlords are used simply to update price index expenditure weights, these incentives would not exist.

It should be noted at this point that, while the PIOC is for the most part a pure price index, it contains some important elements that would also show up in a cost index.

The most important of these is the Real Estate Tax component, accounting for about 25% of aggregate operating costs. This is currently measured by real estate taxes levied on rent stabilized buildings. This information is provided by the Department of Finance, and would presumably be corroborated if it were instead obtained through a survey of landlords' expenditures. The same reasoning holds for water and sewer costs, which account for a further 6% of operating costs.[184] Thus, approximately one-third of the operating costs covered by the PIOC would be treated identically in a cost index.

The current treatment of fuel oil and gas used for space heating in the PIOC is also somewhat anomalous for a price index. Through 1985, the fuel oil and gas price relatives were conventionally estimated on a “point-to-point” basis; i.e. as the ratio of the prices in successive April's. From 1986 onwards, at the request of the Board, the PIOC fuel oil and gas price relatives were calculated by estimating the ratio of total costs in successive years. The construction of price ratios involves combining monthly climatic data (heating degree days) with monthly prices so that the price relative is typically higher when cold years follow warm years, and vice versa.

These fuel and gas components may look a little like components of a cost index, but actually they are not because they implicitly assume that base-year consumption levels correspond to current average yearly consumption levels. To the extent that the underlying fuel oil and gas weights may have become less accurate with the passage of time (possibly as a result of on-going conservation efforts), changes in these components of the PIOC may no longer accurately measure actual changes in cost.

Notwithstanding the somewhat anomalous treatment of fuel oil and gas heating in the PIOC, the decision of the Board to convert from a “point-to-point” price relative to what might reasonably be called an annual “cost relative” clearly improved the PIOC's ability to track annual changes in apartment operating costs over time. All other price relatives except taxes and water and sewer are calculated on a point-to-point basis.

Accuracy of the PIOC

The PIOC is intended to provide a reliable estimate of the annual percentage change in the

[184] Real estate taxes are the same in both price and cost indexes because there is no “quantity” variation. The same is true for water and sewer frontage costs. This is not true however for metered water costs, which, because the PIOC uses actual bill amounts, incorporate varying water use just like a cost index.

aggregate operating costs of rent stabilized apartment buildings. To assess the accuracy of the PIOC over time, it would be necessary to determine average costs per unit in the base year, as measured by an expenditure survey, use the PIOC to predict average costs per unit in a subsequent year, and compare this prediction with actual costs in the same year, as measured by a second expenditure survey.

It is possible to use the 1982 expenditure survey results to assess the reliability of the BLS price index as a measure of costs over the period 1969-1982. The BLS price index "predicted" monthly operating costs for post-1946 units to be $328 in 1982. By contrast, the 1982 expenditure study estimated annual operating costs for post-1946 units to be $262. Of the $66 (25%) overestimate, $48 (73%) was accounted for by two components: - fuel and utilities ($27) and taxes ($20). The overestimate of fuel and utilities resulted from reduced fuel use in response to rapidly rising oil prices that led RGB to reduce the fuel weight by 10%. The overestimate of taxes cannot be explained in the same way because there is no baseline "quantity" for taxes. The overestimate of 1982 taxes can most probably be attributed to statistical sampling error resulting from the use of a rather small sample of establishments to calculate the tax price relative over the 1969-1982 period.

To assess the accuracy of the PIOC between 1983 and 1999, absent data from a new expenditure study of the type performed in 1983, recourse may be had to the I&E data that was first made available to RGB in 1990. The I&E survey respondents are not a completely representative sample of the rent stabilized universe, but RGB staff correctly re-weight the I&E data to insure that building types and geographic areas are not underrepresented.

Over the eight years since the I&E data became available, RGB staff research has shown that there is a high level of agreement between growth in the PIOC and growth in I&E-based costs. Between 1990 and 1998, the PIOC increased by 26.5%, while I&E costs increased by 26.0%.[185]

In 1997, the most recent year for which I&E data are available, the average monthly operating cost per I&E unit was $458. If this is adjusted downwards by 8% to reflect the findings of the 1992 I&E audit study, average monthly operating expense would be $421.[186] The comparable PIOC estimate of average monthly operating costs over the 12 months April 1997 to 1998 was $419.

This extraordinary degree of agreement does not necessarily imply that the PIOC has functioned like a precision instrument for the last 17 years, but rather than its errors have tended to offset one another. To see this, compare the PIOC expense projections for the year ending 3/31/98 with the 1997 I&E breakdown.[187]

[185] *2000 Income & Expense Study*, NYC Rent Guidelines Board, p. 10.
[186] *Rents, Markets & Trends 1999*, NYC Rent Guidelines Board, p. 32.
[187] The I&E figures incorporate downward adjustments of 11% to Maintenance, 25% to Administration, 37% to Miscellaneous, and 1% to all other categories to reflect the findings of the Audit Study (*Rent, Markets & Trends, 1997*, p. 42). The Maintenance category incorporates the Contractor Services, Parts & Supplies, and Replacement Costs components of the PIOC. All Miscellaneous expenses in the I&E data have been allocated to the combined Maintenance and Admin. Category.

	PIOC		I&E		Variance
Taxes	$107	(25.5%)	$107	(25.4%)	$0
Labor	70	(16.7%)	64	(15.2%)	+6
Fuel	44	(10.5%)	43	(10.2%)	+1
Utilities	60	(14.3%)	47	(11.2%)	+13
Insurance	27	(6.4%)	23	(5.5%)	+4
Maintenance & Admin.	110	(26.3%)	137	(32.5%)	-27
TOTAL	$419		$421		-$2

(Numbers do not sum exactly because of rounding error.)

It will be apparent that, if the I&E data are accurate, the PIOC has overpredicted combined Labor, Fuel, Utilities, and Insurance costs by about $25 per month and underpredicted, by a similar amount, Maintenance and Administrative costs. The underprediction of maintenance and administrative costs is consistent with the owners' claims of an increased regulatory burden; the overprediction of utilities may be evidence of ongoing energy conservation. In any event, it is clear that there is significant deviation between the two sets of weights, particularly for Utilities, which is a fairly volatile component, and for Maintenance and Administration.

Should the PIOC Expenditure Weights be Revised?

Notwithstanding the remarkable degree of agreement between the aggregate expense estimates from the two sources, it is apparent that the possibility now exists for the PIOC to mis-estimate future change in operating costs. This will certainly happen if utility prices increase faster or slower than the All-Items change or if the prices of maintenance and administration items increase faster or slower than the All-Items change.

For example, if utility prices were to increase by 10% while all other prices increased by around 2%, the All-Items PIOC price relative would over-estimate actual price change by about one quarter of one percent. If, in the same year, Maintenance/Admin costs increased by only 1%, the PIOC over-estimate would be about one third of one percent (3.2% vs. 2.9%).

The basic case for updating the PIOC rests on the importance of its accuracy in measuring changes in operating costs. Statistical analysis of the relationship between the one-year rent guideline and the PIOC All-Items price index change over the 23-year period 1975-1997 indicates that each one-percent increase in the PIOC translates into a one-half-percent increase in the one-year rent guideline. Given an aggregate rent roll of $8 billion for the stabilized inventory, a one-percent error in the PIOC would translate into a $40 million transfer in one direction or another between landlords and tenants in the first year. The present value of this indefinite stream discounted at 5 percent is therefore around $800 million.[188] This simple arithmetic is the most powerful reason for trying to enhance the reliability of the PIOC as a measure of operating costs.

[188] This is certainly an overestimate because stabilized rents exceed market rents in many areas of the City.

Alternative Approaches to Revising the PIOC

Two alternative approaches are available. The most obvious is to replicate the 1983 Expenditure Survey. This would support estimates of new component weights, would assist in the specification of items to be priced, and would provide a basis for the new item weights.

There are two problems with this approach. The first problem is that it is expensive. In 1983, the cost of the Expenditure Survey was $235,000, and by now this cost would certainly be much higher. Given the importance of accuracy in the PIOC, such an expense may again be justifiable.

The second problem concerns the statistical reliability of the findings of both the 1983 Expenditure Survey and any similar survey that the RGB might commission. Notwithstanding an extraordinarily intense effort to survey the owners/managers of almost 2,500 buildings (mailings, postcard reminders, and over 13,000 telephone callbacks), the number of completed responses was just 398, a response rate of only 17 percent. The low response rate may be partially attributed to factors that could be avoided in any future survey. These include fielding the survey in the holiday season, augmenting the basic survey with a long survey of mortgage financing, and the refusal of RSA to supply a letter of endorsement. None of these hindrances were present when the survey was pre-tested, but even then the response rate achieved was only 26 percent.

The problem with such a low response rate is possible self-selection bias. We cannot know whether owners who differ in their willingness to respond also differ in the way they operate their buildings. Notwithstanding the seeming reliability of the 1982-based PIOC, the accuracy of the 1982 expenditure weights, given the 17% response rate, are necessarily suspect.

Lastly, it should be noted that a revised PIOC, even with initially accurate expenditure weights, would continue to have the same drawbacks as any price index, in that actual utilization patterns may change over time, while the base year market basket does not.

The alternative approach is to use the I&E data to update the component weights. Simply comparing sample sizes, it is clear that the I&E data is greatly preferable. The 1983 Expenditure Survey was based on data from 398 buildings accounting for about 24,000 units. The 1998 I&E data, by contrast, are based on data from 12,383 buildings accounting for 569,042 units. The 1983 Expenditure Survey response rate was 17 percent. The 1998 I&E data contained information on approximately 60 percent of all rent stabilized buildings required to file. These buildings account for 51 percent of all rent stabilized units registered with DHCR, and 56 percent of all rent stabilized units in buildings required to file. On grounds of sample size, response rate, and coverage, the I&E database is clearly superior to any data which might be acquired through a replication of the 1983 Expenditure Survey.

It is the nature of things that we cannot know whether owners who respond to an expenditure survey or who submit RPIE filings have different expenditure patterns than those who do not respond. If they do, the resulting expenditure weight estimates will be biased. The extent of this bias is inversely related to the response rate. Since the I&E response rate is 3.5 times higher than the 1983 Expenditure Survey response rate, weights based on the I&E data are, other things being equal, likely to be much less biased than weights based on expenditure study data.

In one respect, and only one respect, an expenditure survey approach is to be preferred over an I&E approach to revising the weights. The I&E data excludes data on buildings with 10 or fewer units, whereas the expenditure study sample universe includes all rent stabilized buildings. The I&E data also excludes buildings with assessed values of $80,000 or less, of which there are very few.

The problem of the 6-10 unit buildings is not as serious as it might seem because of the way that the expenditure weights are constructed. Buildings with 10 or fewer units account for just 10 percent of all rent stabilized units and probably somewhere around 10 percent of aggregate operating costs. Because the expenditure weight estimates are equal to the share of each component of aggregate expenditure, the exclusion of a relatively small portion of aggregate expenditures would not greatly bias the estimates. In any event, a statistical analysis of the relationship between building size and expenditure patterns would support a simple adjustment to remove what relatively little bias might be introduced by the unavailability of data on the smallest stabilized buildings.

It should be acknowledged that the I&E buildings are known to be somewhat unrepresentative of the rent-stabilized universe, particularly in terms of the under-representation of buildings in distressed areas of the City. RGB staff currently deal with this problem by weighting the data at the borough level. It would certainly be possible to refine this procedure by going to a higher level of geographic disaggregation; i.e. the 55 sub-boroughs used in the Housing and Vacancy Survey (HVS).

It may be argued that the I&E data, being essentially unaudited, are inherently unreliable. This argument can be countered in two ways. In the first place, I&E filings, which are legal documents with owner/agent signatures, are probably at least as reliable as expenditure survey data to which no penalties for providing false information are attached. Secondly, the evidence of the 50-building audit study of 1990 I&E filings is generally reassuring, especially for taxes, labor, fuel, utilities, and insurance, which currently account for 62% of all operating costs.

For many years, tenant representatives have argued for the use of audited expense data from all stabilized landlords as a basis for estimating annual change in operating costs. As a practical matter, comprehensive audited financial data are not going to become available on an annual basis, and even if they were, the elapsed time between fiscal year ends and the completion of the audit process and data analysis would mean that such information could not be obtained in time to meet the need for annual rent guidelines that are not hopelessly out-dated.

A case could be made for commissioning a one-time comprehensive audit study of a large number of RPIE filings and using the results to re-estimate the expenditure weights. This would undoubtedly be an expensive undertaking and, in any event, the findings of such an audit study would be better applied to make adjustments to the much larger data set of unaudited filings. An updated audit study of the type performed by the Finance Department in 1992 would be an extremely valuable contribution if the PIOC is to be revised using the I&E data.

Concerns that the I&E buildings may not be representative of the rent stabilized universe in terms of location or building characteristics should be alleviated by the knowledge that RGB staff already re-weight the data to deal with this problem.

For the reasons outlined above, it should be apparent that the I&E data would support more

reliable estimates of the expenditure weights than would a new expenditure study of the type performed in 1983.

There is an additional, and perhaps even more compelling, reason for constructing an index based on the I&E data. The I&E weights will change each year, albeit with a lag, not only because of changing prices, but also because the base-year quantities may be changing. In this way, an I&E-based index would approximate a true cost index, without the drawback of fixed base-year quantities. It was precisely this drawback that caused the 1969-based index to overestimate the change in operating costs in the 1970s.

Specifying Items to be Priced and Assigning Item Weights

The I&E data, unlike expenditure survey data, do not include information that can be used to estimate item weights. There is no real reason for supposing that the existing item weights are unsatisfactory, except in the area of administrative costs, where information technology has been completely revolutionized since 1982, and in the area of taxes, fees, and permits, where additional regulatory requirements have been imposed over the years. It would be desirable to introduce a number of new items into the administrative cost index component, such as personal computers, printers, accounting software, etc., and also to include the various fees referenced in RSA's May 1999 submission to RGB.

This could be best accomplished by conducting a relatively small survey of landlord/building managers to find out what they have been purchasing and how much they have been spending on such items. This survey, administered to a sample of 50-100 owners of buildings stratified by size and location, would be designed to elicit information on outlays for such items as computer equipment, lead paint abatement, recycling, etc. The survey could be conducted by telephone and/or mail, using RGB staff resources. It would also be desirable to determine the continued representativeness of other items through an informal survey of vendors.

It is important that RGB members understand that introducing new items into the market basket will not lead to an increase in the PIOC estimate of operating costs. For example, any additional fees and charges that are not included in the current index would simply appear as new items to be priced in a re-based PIOC. To the extent that these fees and charges do not increase over time as fast as other items, their inclusion will tend to reduce rather than increase the rate of growth of the All-Items price index.

Summary

The PIOC appears to have provided quite accurate estimates of changes in operating costs over the last 17 years, in part because its errors have been offsetting. It also appears that, because of drift in the expenditure weights, there is now a potential for the PIOC to misestimate future changes in operating costs.

For this reason, it is recommended that the PIOC be revised and that the new index be based on expenditure weights estimated using I&E data. The I&E 1999 weights, for example, would be updated using the 1999-2000 price relatives for use in estimating the 2000-2001 PIOC change. The

resulting index would approximate a cost index for all price index components, thereby avoiding the well-known drawbacks of a base-weighted price index. A similar approach could be adopted to update the Hotel Price Index based on hotel-specific tabulations of the I&E data.

Attachment A

Issues Raised by Mr. Lubell

Is there any rationale for having some utility measured on a point-to-point basis while others are measured in a cost-weighted basis? Wouldn't it be more accurate to have all elements measured on a cost-weighted basis? Since utility costs usually have fuel-cost adjustments associated with them, aren't owners disadvantaged if utilities are measured on a point-to-point basis (April to April) when fuel costs have been driven up during the winter?

In 1986, the Board decided to abandon the traditional point-to-point method of calculating the price relatives for all three grades of heating oil and for the two gas bills used for space heating in favor of a more complex "cost-relative" approach. The objective was to achieve a more accurate estimate of year-to-year change in heating costs.

Mr. Lubell has raised the possibility of extending this approach to cover additional utility bills (electricity, gas used for cooking). His reasoning is that, while usage for non-space heating purposes may not exhibit much inter-year and seasonal variation, the rates charged for these utility items may well vary from month to month because of fuel adjustments. Mr. Lubell is quite correct in making this suggestion, and it would not be difficult to incorporate such a change in future PIOC calculations. I do suspect, however, that the change in method will not change the numbers very much.

I do not share his view that seasonal variation in utility prices means that April-to-April calculations of price change are unfair to owners. April prices may tend to be below the year-round average, but over the years they will be below the year-round average in the same degree. This means that the point-to-point method will generally provide an unbiased estimate of the change in costs.

Doesn't it make sense for the RGB to at least consider the real estate tax increase for the "average" building alongside the traditional "aggregate" increase in real estate taxes measured by the PIOC?

This same question was also raised in a recent letter to the RGB Chairman by Mr. Lubell, in which he requested that certain alternative methods of calculating the change in real estate taxes be considered for the 2000 PIOC. Specifically, Mr. Lubell requested that "the staff calculate an average and a median per-building increase in real estate taxes" and that, in addition to reporting the standard PIOC results, supplementary PIOCs be calculated which incorporate these alternative methods of computing the tax price relative.

In general, I would support Mr. Lubell's request for mean and median per-building tax changes on the grounds that the more information the Board has, the better will be its decisions on rent guidelines. I would, however, argue strongly against using these numbers to construct alternative PIOCs.

Basic price index methodology mandates the use of the traditional “aggregate” calculation of the tax price relative, which is used implicitly for all other components of the PIOC. To substitute an alternative method for taxes would mean that the PIOC could no longer be described as a price index in the terminology of economics, but rather as some sort of hybrid index. It would also mean that the PIOC could no longer be used as it has been in the past to set rent guidelines.

Over the years, the Board has commonly considered rent increases that will, at a minimum, indemnify building owners for increases in costs. This was the purpose of the “traditional” commensurate rent increase calculation, although the Board also took into account other factors. Using the standard PIOC tax price relative methods would insure that, if aggregate real estate taxes levied on rent stabilized buildings increased by, say, 5% or $50 million, the resulting commensurate rent increase would allow a $50 million increase in rental income.

As Mr. Lubell has correctly pointed out, taking the average percentage tax increase across buildings will almost certainly yield a different number for the tax price relative, say 7.5% in this example. The total tax increase is still $50 million, however. But plugging the 7.5% into the commensurate rent increase calculation would then lead to a $75 million increase in rental income. The argument is similar if the median percentage tax increase is used.

It should be noted, however, that the average percentage tax increase across buildings may be either greater or less than the standard PIOC tax increase. The standard PIOC tax increase implicitly weights each building's tax relative by its share of aggregate base-year taxes. The average percentage tax increase across buildings gives each building's tax relative equal weight. If buildings with smaller base-year taxes tend to have larger than average percentage tax increase, the average percent tax increase will exceed the PIOC price relative, as in the above example. Conversely, if percentage tax increases are positively correlated with base-year taxes, the reverse is true.

New York City Rent Guidelines Board
51 Chambers Street, Suite 202 • New York, NY 10007 • (212) 385-2934
Fax: (212) 385-2554 • Web: nycrgb.org

Chair
Rachel D. Godsil

Executive Director
Andrew McLaughlin

Memo

To: Board Members
From: Andrew McLaughlin
Date: April 24, 2014
Re: Calculating the *Price Index of Operating Costs (PIOC)* Using Component Weights from the RPIE data presented in the *Income and Expense Study*

Introduction

The NYC Rent Guidelines Board (RGB) *Price Index of Operating Costs (PIOC)* gathers prices for a market basket of goods and services used in the operation and maintenance of rent stabilized buildings in NYC and uses these prices to estimate cost changes from one year to the next. This is the same approach used by the Consumer Price Index (CPI) and other similar indices, but the PIOC specifically analyzes the goods and services typically purchased by building owners. Every PIOC in the last 30 years, including the most recent Index, is based on expenditure patterns of owners from 1983. Although these expenditure weights are revised each year, and there have been some changes to expenditure items since 1983, the PIOC may no longer represent expenditure patterns that are prevalent today. In fact, the RGB report that measures recent owner-reported expenses, the *Income and Expense Study (I&E)*, shows that increases in overall operating costs have been smaller than those shown by the PIOC in recent years.

In the fall of 2013, the RGB commissioned Dr. James Hudson to study this issue and to offer suggestions on how to use the NYC Department of Finance Real Property Income and Expense (RPIE) data presented in the *RGB Income and Expense Studies* to update the expenditure patterns in the PIOC. The results of Dr. Hudson's analysis were released in his paper entitled *Comparing the Price Index of Operating Costs (PIOC) and the RGB Income and Expense Study* and were presented to the Board on March 27. Dr. Hudson concluded that the main cause of the differences between the PIOC and the I&E is "how owners change their spending in response to changes in prices and the goods and services that are available." These changes are not captured in the PIOC. He proposed two approaches to address the divergence between these indices:

- Use the most recent I&E to create the component weights for each year's PIOC. This will connect the PIOC much more closely to what owners have actually been buying so that we can better estimate the overall effect of price changes.
- Annually survey owners about their costs for various items within a single component, to update the item weights and allow development of improved items and specifications. Since this is not necessary for taxes and insurance (which have one item each in their components), it should allow updates of items weights across the PIOC every 5-6 years.

In an attempt to update the PIOC to reflect current expenditure patterns, Dr. Hudson, along with assistance from the RGB staff, used the expenditure patterns presented in the *2014 Income and Expense Study* to update the component weights for the *2014 PIOC*. In addition, a historical analysis was conducted to gauge the impact of using the I&E component weights in PIOCs dating back to 1999. The results of these analyses are presented in this memo. Note that this analysis does not alter the items priced in the PIOC, which may be updated by staff at a later date.

Updating the 2014 PIOC Using Weights from the 2014 I&E

Data used to update the component weights for the *2014 PIOC* is contained in the *2014 RGB Income and Expense Study*. The I&E used summary data from the NYC Department of Finance RPIE filings to report on owner expense. Data from the 2013 RPIE filings were used and represent owner reported expenses from calendar year 2012.

In order to update the PIOC component weights, there were two technical issues involved in using the I&E weights that had to be addressed.

First, the individual items in the PIOC needed to be allocated to the corresponding I&E components. The current PIOC contains nine components and the I&E data is categorized into eight components. Using the Expense Categories Chart of items in the 2013 RPIE Worksheet, PIOC expense items were allocated to the corresponding I&E expense categories. For example, the Fuel component in the I&E includes natural gas costs, fuel oil and steam. Therefore the gas and steam heating items from the PIOC Utilities component and the Fuel Oil component items were put into one component labeled Fuel. This same procedure was used with other PIOC items and I&E expense components. There were a few items that did not fit into any of the I&E expense categories, such as the PIOC items that priced air conditioners, so they were not included in this update. These items carried minimal weight in the PIOC so the effect of not including them was negligible. Furthermore, there were no items priced in the PIOC that fit into the I&E expense category of Miscellaneous, so that component is not included in this analysis. Therefore, seven components are used in this I&E weight-based 2014 PIOC.

Second, the I&E weights are from a year earlier than the PIOC. So those data needed to be updated based on the previous PIOC prices. For example, for 2014 this involved:

- Taking the I&E costs per component from 2012
- Updating those to estimated 2013 costs based on the 2013 PIOC
- Adjusting the weights based on those 2013 costs

This is the same methodology used in the PIOC to update weights each year. The only difference is using the I&E component weights as the starting point.

After applying the methodology outlined above, the impact of using I&E component weights with *2014 PIOC* price relatives resulted in lowering the Price Index for Apartments from 5.7% to 5.2%. Below is a table that compares the component weights in each index.

A Comparison of Component Weights, 2014 I&E-Based PIOC vs. the 2014 PIOC, Apartments

2014 I&E-Based PIOC Components	Weight	2014 PIOC Components	Weight
Taxes	26.6%	Taxes	28.7%
Labor	11.6%	Labor	12.5%
Fuel	15.9%	Fuel Oil	14.9%
Utilities	11.8%	Utilities	16.4%
Administration	16.3%	Administration	6.9%
Insurance	4.9%	Insurance	6.9%
Maintenance	13.0%	Contractor Services	11.7%
		Parts & Supplies	1.4%
		Replacement Costs	0.6%
Total	100%	Total	100%

Source: *2014 PIOC* and 2014 *I&E Study*

In this table, note that the weight in the I&E "Fuel" component (including Oil and Natural Gas) is similar to the weight in the PIOC for Fuel Oil alone. The I&E-based approach also shows Insurance as a smaller portion of expenditures and Administration as a larger one, compared to the 2014 PIOC.

It is important to note that this new methodology still uses the same prices and costs as reported in the 2014 PIOC. Therefore, the individual price relatives do not change from one to the other. Real estate taxes increased 5% in the 2014 PIOC. This same increase is used in the 2014 I&E-Based PIOC. What differs is the *importance* of these changes in price from one index to the other. Taxes represent 28.7% of the 2014 PIOC and 26.6% of the 2014 I&E-Based PIOC. Below is a table that outlines the price relative for the seven components in the 2014 I&E-Based PIOC.

2014 I&E - Based PIOC Components	Price Relative
Taxes	5.0%
Labor	3.0%
Fuel	9.5%
Utilities	6.0%
Administration	2.0%
Insurance	9.3%
Maintenance	3.9%
Total	**5.2%**

Since 1983, the PIOC has calculated separate indices for different types of buildings that contain rent stabilized units. In addition to the all Apartment PIOC, separate indices for buildings constructed before 1947 (pre-1947) and for buildings constructed in 1947 or later (post-1946) as well as gas-heated and oil-heated can also be calculated using I&E component weights. The master-metered building index cannot be calculated using this methodology because there is no usable data for calculating expenditure weights. Below is a table that compares these separate indices using the 2014 PIOC and the 2014 I&E-Based PIOC.

Price Indices for Different Building Types, 2014 PIOC vs. 2014 I&E- Based PIOC

	2014 PIOC	2014 I&E-Based PIOC
All Apartments	5.7%	5.2%
Pre-1947	6.2%	5.2%
Post-1946	5.2%	5.2%
Gas Heated	6.2%	6.0%
Oil Heated	5.6%	4.9%

Source: *2014 PIOC* and 2014 *I&E Study*

After all is said and done, there are still limitations using this methodology. First, the PIOC still measures prices, not costs. It can be expected to slightly overestimate changes in costs. Secondly, the Hotel and Loft Indices cannot be updated using the I&E weights.

Historic Analysis

Now that a methodology is in place to update the PIOC expenditure weights using I&E data, we can go review previous Apartment PIOC indices, comparing these new I&E-based PIOCs with the traditional methodology. Below is a table that tracks these changes.

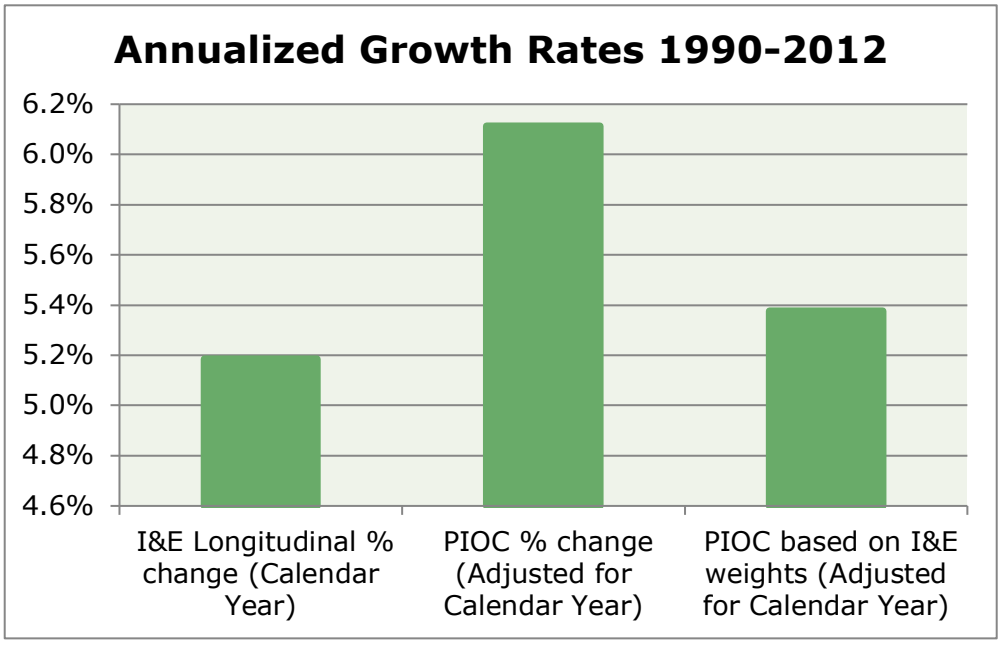
PIOC vs. I&E-Based PIOC, Apartments, 2000-2014

Year	PIOC	I&E-Based PIOC
2000	7.8%	6.5%
2001	8.7%	7.0%
2002	-1.6%	-0.8%
2003	16.9%	12.8%
2004	6.9%	5.5%
2005	5.8%	N/A
2006	7.8%	7.0%
2007	5.1%	5.2%
2008	7.8%	7.0%
2009	4.0%	4.5%
2010	3.4%	4.0%
2011	6.1%	3.5%
2012	2.8%	3.5%
2013	5.9%	5.2%
2014	5.7%	5.2%

N/A: I&E data not available
Source: *PIOCs* 2000-2014 and RGB *Income and Expense Studies*, 2000-2014

As the table illustrates, there are years in which the I&E-based changes exceed expense growth of the PIOC and other years where the PIOC grew faster. This comes from the differences in weights. For example, the 2014 I&E-based PIOC had a lower weight for fuel oil items (Specs 301, 302 and 303) than the PIOC, and that pattern shows up in the other years. So, in years when fuel oil increased faster than the overall PIOC, the I&E-based approach would typically show a lower increase; in years where fuel oil increased slower than the overall PIOC, the I&E-based approach would tend to be higher. Differences in weights for Insurance, Administration, and other areas will tend to lower or raise the I&E-based increase compared to the PIOC.

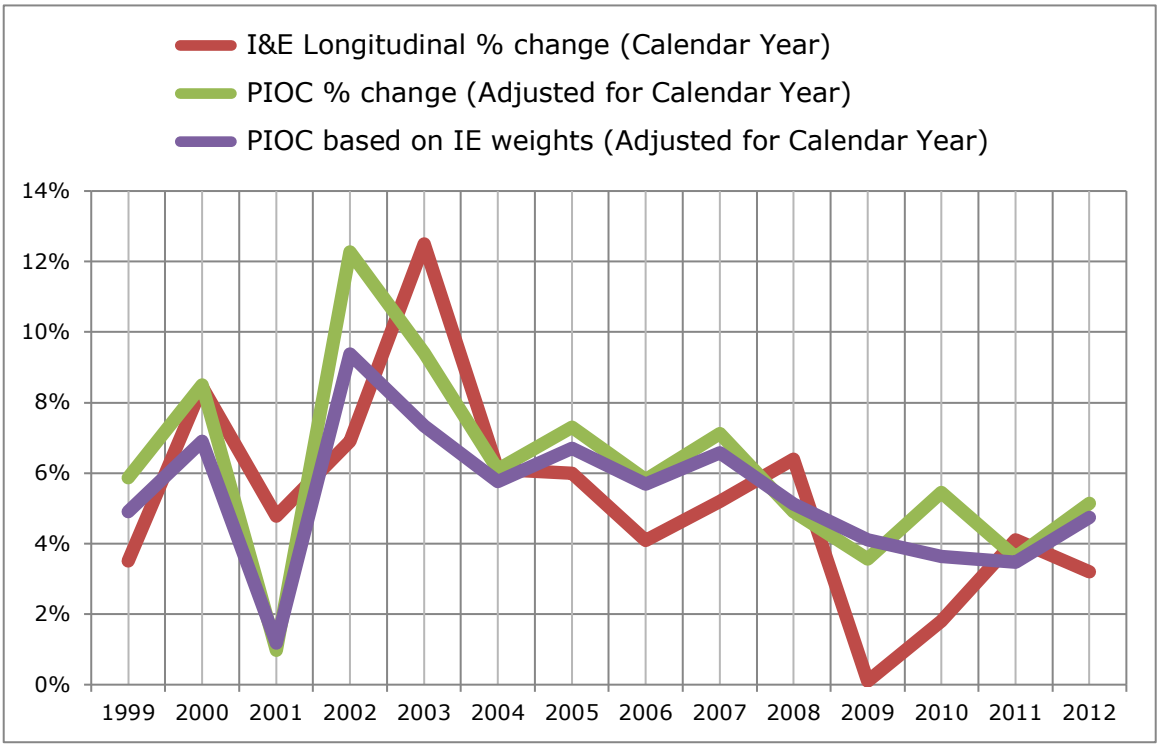
The more useful analysis is to examine the growth in expense from the I&E with both the PIOC and I&E-based PIOC over time. In order to do this analysis, we first needed to adjust the PIOC time frame to that of the I&E. The PIOC tracks price data from March to March while the RPIE data is based on a calendar year. Once this adjustment was made, the annualized growth rate for all three indices was computed. From 1999 to 2012, the PIOC witnessed an annualized growth rate of 6.1%. The I&E-based PIOC annualized growth rate was less, 5.4%, and more in line with that of the RPIE expense growth of 5.2%. See graph below.



Note: Since no longitudinal data was available to calculate a cost change for the I&E in 2004, the PIOC percent change of 6.1% was used to calculate annualized growth rates for all three indices.
Source: PIOC, 1999-2012 and Income and Expense Studies, 2001-2014

The graph below outlines annual longitudinal percent cost changes reported in the RGB *Income and Expense Studies* along with annual changes in the PIOC and I&E-Based PIOC from 1999 to 2012.

Percent Change in I&E Longitudinal Annual Cost Change vs. that of the PIOC and the I&E-Based PIOC Annual Price Change, 1999-2012



Note: Since no longitudinal data was available to calculate a cost change for the I&E in 2004, the PIOC percent change of 6.1% was used.
Source: PIOC, 1999-2012 and Income and Expense Studies, 2001-2014

PIOC Projections 1975-2026

Comparison of percentage changes in actual PIOC and 1-year and 2-year projections

Year	1 Yr. Proj.	2 Yr. Proj.	Actual	1 Yr. Diff.	2 Yr. Diff.
‘75	6.8		6.5	0.3	
‘76	10.3		8.8	1.5	
‘77	6.6	8.7	7.5	-0.9	1.2
‘78	6.0	7.7	0.6	5.4	7.1
‘79	5.7	6.9	10.4	-4.7	-3.5
‘80	8.3	7.5	17.0	-8.7	-9.5
‘81	9.8	5.8	14.6	-4.8	-8.8
‘82	9.5	8.6	2.8	6.7	5.8
‘83	5.8	8.9	2.6	3.2	6.3
‘84	6.8	5.6	6.3	0.5	-0.7
‘85	6.7	6.5	5.4	1.3	1.1
‘86	5.4		6.4	-1.0	
‘87	9.1		2.1	7.0	
‘88	7.0		6.4	0.6	
‘89	6.6		6.7	-0.1	
‘90	7.5		10.9*	-3.4	
‘91	6.0		6.0**	0.0	
‘92	5.2		4.0	1.2	
‘93	5.3		4.7	0.6	
‘94	3.1		2.0	1.1	
‘95	3.4		0.1	3.3	
‘96	3.2		6.0	-2.8	
‘97	2.7		2.4	0.3	
‘98	1.8		0.1	1.7	
‘99	3.5		0.03	3.2	
‘00	5.3		7.8	-2.5	
‘01	3.8		8.7	-4.9	
‘02	2.1		-1.6	3.7	
‘03	6.4		16.9	-10.5	
‘04	6.4		6.9	0.5	
‘05	3.6		5.8	-1.8	
‘06	6.7		7.8	-1.1	
‘07	6.2		5.1	1.1	
‘08	8.5		7.8	0.7	
‘09	7.3		4.0	3.4	
‘10	2.2		3.4	-1.2	
’11	6.7		6.1	0.6	
’12	7.4		2.8	4.6	
’13	7.0		5.9	1.1	
’14	2.6		5.7	-3.1	
’15	1.7		0.5	1.2	
’16	4.2		-1.2	6.4	
’17	5.5		6.2	0.7	
’18	4.4		4.5	0.1	
’19	3.4		5.5	2.1	
’20	3.2		3.7	0.5	

*I&E data indicated a 7.7% rise
**Revised

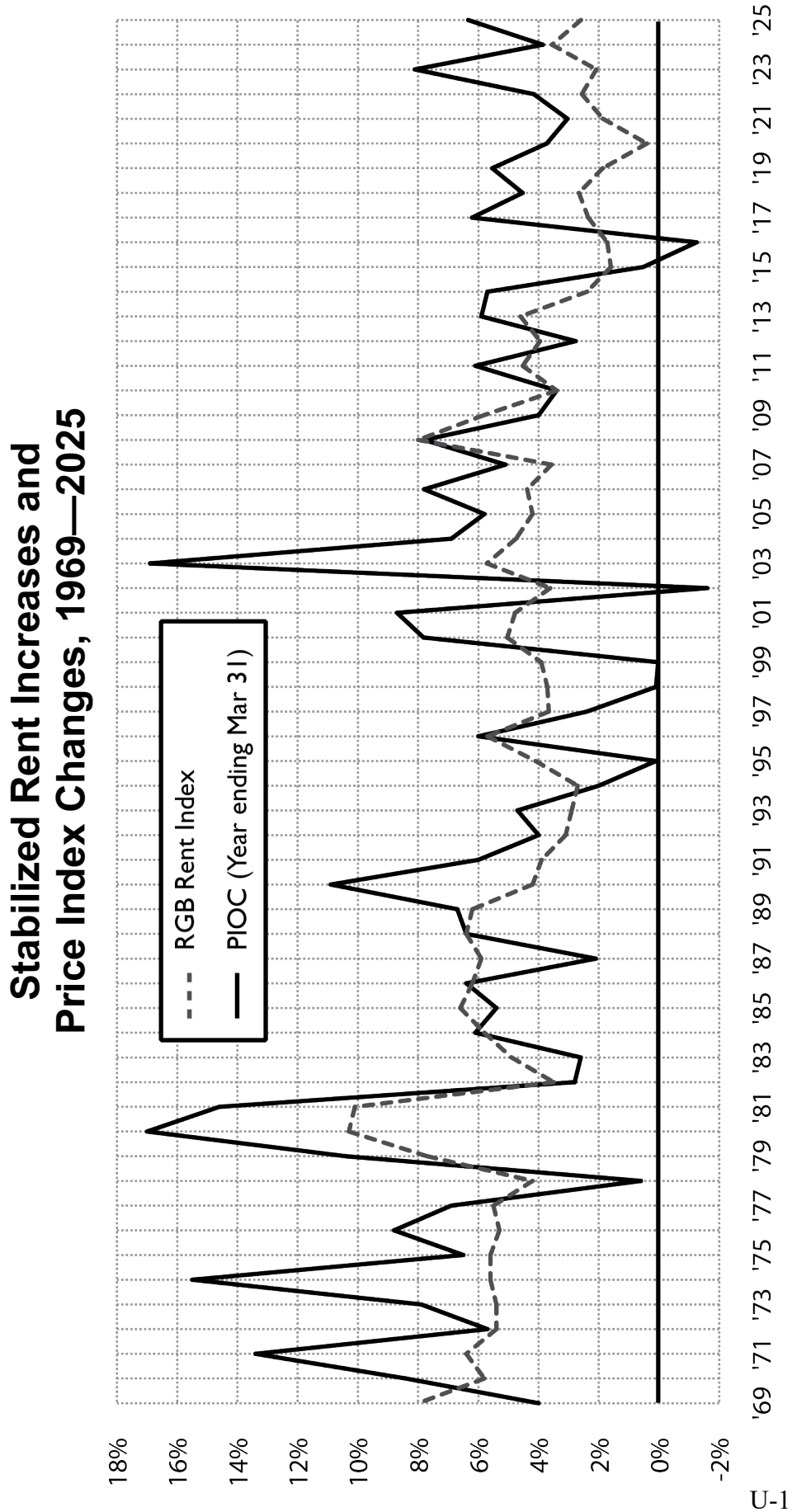
Note: Since 1984, owners have not been able to offer three year leases. Consequently, the RGB staff ceased two year projections.

PIOC Projections 1975-2026 (continued)

Comparison of percentage changes in actual PIOC and 1-year and 2-year projections

Year	1 Yr. Proj.	2 Yr. Proj.	Actual	1 Yr. Diff.	2 Yr. Diff.
‘21	2.4		3.0	0.6	
‘22	1.3		4.2	2.9	
’23	4.7		8.1	3.4	
’24	3.7		3.9	0.2	
’25	4.4		6.3	1.9	
’26	4.8				

Year	Rent Index	PIOC
1969	8.0%	4.0%
70	5.8%	8.4%
71	6.4%	13.4%
72	5.4%	5.7%
73	5.4%	7.9%
74	5.6%	15.5%
75	5.6%	6.5%
76	5.3%	8.8%
77	5.5%	6.9%
78	4.2%	0.6%
79	7.7%	10.4%
80	10.3%	17.0%
81	10.1%	14.6%
82	3.5%	2.8%
83	4.9%	2.6%
84	5.8%	6.1%
85	6.6%	5.4%
86	6.2%	6.4%
87	5.9%	2.1%
88	6.4%	6.4%
89	6.2%	6.7%
90	4.2%	10.9%
91	3.9%	6.0%
92	3.1%	4.0%
93	2.9%	4.7%
94	2.7%	2.0%
95	4.1%	0.1%
96	5.7%	6.0%
97	3.7%	2.4%
98	3.7%	0.1%
99	3.9%	0.03%
2000	5.0%	7.8%
01	4.8%	8.7%
02	3.6%	-1.6%
03	5.7%	16.9%
04	4.8%	6.9%
05	4.2%	5.8%
06	4.4%	7.8%
07	3.6%	5.1%
08	8.0%	7.8%
09	5.8%	4.0%
10	3.4%	3.4%
11	4.5%	6.1%
12	4.0%	2.8%
13	4.6%	5.9%
14	2.4%	5.7%
15	1.6%	0.5%
16	1.7%	-1.2%
17	2.3%	6.2%
18	2.7%	4.5%
19	1.9%	5.5%
20	0.4%	3.7%
21	1.9%	3.0%
22	2.6%	4.2%
23	2.1%	8.1%
24	3.6%	3.9%
25	2.6%	6.3%



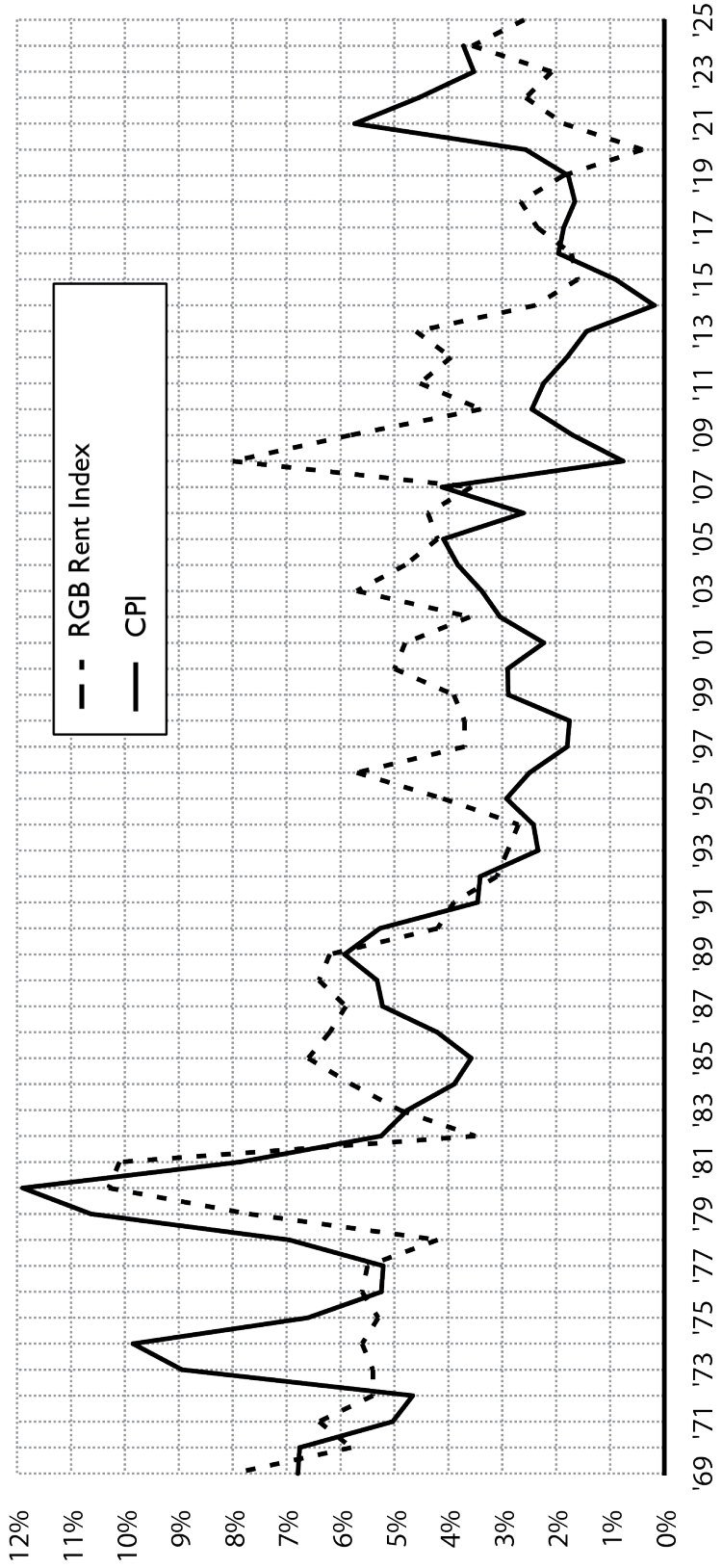
The Rent Guidelines Board (RGB) Rent Index

The RGB Rent Index estimates the overall effect of the Board's annual rent increases and vacancy increases on stabilized contract rents each guideline year (October 1 to September 30). The RGB Rent Index includes the percentage increases for one- and two-year leases, the estimated increase for vacancy leases and increases, if applicable, due to the low rent supplement or the minimum rent. Rents can increase due to other factors not included in the RGB Rent Index, e.g., increases for Major Capital Improvements or individual apartment improvements.

Order No.	RGB Year	Rent Index	Order No.	RGB Year	Rent Index
1	1969-70	8.0%	30	1998-99	3.7%
2	1970-71	5.8%	31	1999-2000	3.9%
3	1971-72	6.4%	32	2000-01	5.0%
4	1972-73	5.4%	33	2001-02	4.8%
5	1973-74	5.4%	34	2002-03	3.6%
6	1974-75	5.6%	35	2003-04	5.7%
7	1975-76	5.6%	36	2004-05	4.8%
8	1976-77	5.3%	37	2005-06	4.2%
9	1977-78	5.5%	38	2006-07	4.4%
10	1978-79	4.2%	39	2007-08	3.6%
11	1979-80	7.7%	40	2008-09	8.0%
12	1980-81	10.3%	41	2009-10	5.8%
13	1981-82	10.1%	42	2010-2011	3.4%
14	1982-83	3.5%	43	2011-2012	4.5%
15	1983-84	4.9%	44	2012-2013	4.0%
16	1984-85	5.8%	45	2013-2014	4.6%
17	1985-86	6.6%	46	2014-2015	2.4%
18	1986-87	6.2%	47	2015-2016	1.6%
19	1987-88	5.9%	48	2016-2017	1.7%
20	1988-89	6.4%	49	2017-2018	2.3%
21	1989-90	6.2%	50	2018-2019	2.7%
22	1990-91	4.2%	51	2019-2020	1.9%
23	1991-92	3.9%	52	2020-2021	0.4%
24	1992-93	3.1%	53	2021-2022	1.9%
25	1993-94	2.9%	54	2022-2023	2.6%
26	1994-95	2.7%	55	2023-2024	2.1%
27	1995-96	4.1%	56	2024-2025	3.6%
28	1996-97	5.7%	57	2025-2026	2.6%
29	1997-98	3.7%			

Year	RGB Rent Index	CPI
1969	8.0%	6.8%
70	5.8%	6.8%
71	6.4%	5.0%
72	5.4%	4.7%
73	5.4%	8.9%
74	5.6%	9.8%
76	5.3%	6.6%
75	5.6%	5.2%
77	5.5%	5.2%
78	4.2%	7.0%
79	7.7%	10.6%
80	10.3%	11.9%
81	10.1%	7.9%
82	3.5%	5.2%
83	4.9%	4.8%
84	5.8%	3.9%
85	6.6%	3.6%
86	6.2%	4.2%
87	5.9%	5.2%
88	6.4%	5.3%
89	6.2%	5.9%
90	4.2%	5.3%
91	3.9%	3.5%
92	3.1%	3.4%
93	2.9%	2.3%
94	2.7%	2.4%
95	4.1%	2.9%
96	5.7%	2.5%
97	3.7%	1.8%
98	3.7%	1.8%
99	3.9%	2.9%
2000	5.0%	2.9%
01	4.8%	2.2%
02	3.6%	3.0%
03	5.7%	3.4%
04	4.8%	3.8%
05	4.2%	4.1%
06	4.4%	2.6%
07	3.6%	4.1%
08	8.0%	0.8%
09	5.8%	1.7%
10	3.4%	2.5%
11	4.5%	2.2%
12	4.0%	18%
13	4.6%	1.4%
14	2.4%	0.2%
15	1.6%	0.8%
16	1.7%	2.0%
17	2.3%	1.9%
18	2.7%	1.7%
19	1.9%	1.8%
20	0.4%	2.6%
21	1.9%	5.7%
22	2.6%	4.6%
23	2.1%	3.5%
24	3.6%	3.7%
25	2.6%	

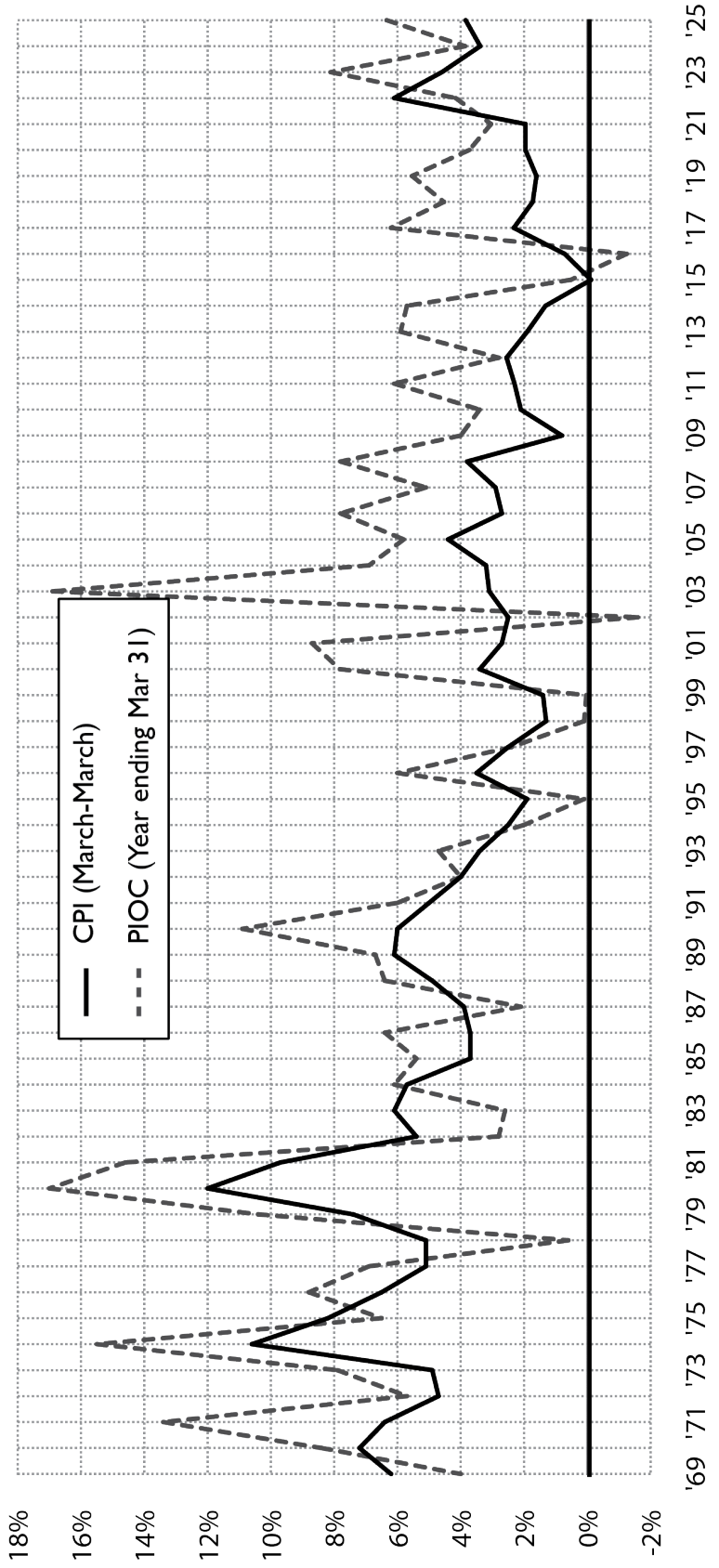
Consumer Price Index and Stabilized Rent Increases, 1969-2025



Note: The CPI is for all Urban consumers in the New York, Northeastern New Jersey region as reported by the Bureau of Labor Statistics for the same periods as the RGB Rent Index. The RGB Rent Index covers different terms, 7/1 to 6/30 from 1969-80; from 7/1/80 to 9/30/81, and from 10/1 to 9/30, 1981 to present.

Year	CPI (Mar-Mar)	PIOC
1969	6.2%	4.0%
70	7.2%	8.4%
71	6.4%	13.4%
72	4.7%	5.7%
73	4.9%	7.9%
74	10.6%	15.5%
75	8.2%	6.5%
76	6.5%	8.8%
77	5.1%	6.9%
78	5.1%	0.6%
79	7.4%	10.4%
80	12.0%	17.0%
81	9.7%	14.6%
82	5.4%	2.8%
83	6.1%	2.6%
84	5.7%	6.1%
85	3.7%	5.4%
86	3.7%	6.4%
87	3.9%	2.1%
88	4.9%	6.4%
89	6.1%	6.7%
90	6.0%	10.9%
91	5.0%	6.0%
92	4.0%	4.0%
93	3.4%	4.7%
94	2.5%	2.0%
95	1.9%	0.1%
96	3.5%	6.0%
97	2.5%	2.4%
98	1.3%	0.1%
99	1.4%	0.03%
00	3.4%	7.8%
01	2.7%	8.7%
02	2.5%	-1.6%
03	3.1%	16.9%
04	3.2%	6.9%
05	4.4%	5.8%
06	2.7%	7.8%
07	2.9%	5.1%
08	3.8%	7.8%
09	0.8%	4.0%
10	2.1%	3.4%
11	2.3%	6.1%
12	2.6%	2.8%
13	1.9%	5.9%
14	1.3%	5.7%
15	-0.1%	0.5%
16	0.7%	-1.2%
17	2.3%	6.2%
18	1.7%	4.5%
19	1.6%	5.5%
20	2.0%	3.7%
21	2.0%	3.0%
22	6.1%	4.2%
23	4.6%	8.1%
24	3.4%	3.9%
25	4.0%	6.3%

Consumer Price Index (March-March)* and PIOC Increases, 1969-2025



*Note: The CPI is for all Urban consumers in the New York, Northeastern New Jersey region as reported by the Bureau of Labor Statistics point-to-point from March to March. The POIC "year" measures price changes of owner costs from March to March.

Open Meetings Law §§ 103 & 104 (Current as of 11/2025)

§103. Open meetings and executive sessions.

(a) Every meeting of a public body shall be open to the general public, except that an executive session of such body may be called and business transacted thereat in accordance with section ninety-five of this article.
(b) Public bodies shall make or cause to be made all reasonable efforts to ensure that meetings are held in facilities that permit barrier-free physical access to the physically handicapped, as defined in subdivision five of section fifty of the public buildings law.
*(c) A public body shall provide an opportunity for the public to attend, listen and observe meetings in at least one physical location at which a member participates.
*NB Effective until July 1, 2026
**(c) A public body that uses videoconferencing to conduct its meetings shall provide an opportunity for the public to attend, listen and observe at any site at which a member participates.
**NB Effective July 1, 2026
***(d) Public bodies shall make or cause to be made all reasonable efforts to ensure that meetings are held in an appropriate facility which can adequately accommodate members of the public who wish to attend such meetings.
***NB There are 2 sub (d)'s
***(d) 1. Any meeting of a public body that is open to the public shall be open to being photographed, broadcast, webcast, or otherwise recorded and/or transmitted by audio or video means. As used herein the term "broadcast" shall also include the transmission of signals by cable.

2. A public body may adopt rules, consistent with recommendations from the committee on open government, reasonably governing the location of equipment and personnel used to photograph, broadcast, webcast, or otherwise record a meeting so as to conduct its proceedings in an orderly manner. Such rules shall be conspicuously posted during meetings and written copies shall be provided upon request to those in attendance.
***NB There are 2 sub (d)'s
(e) Agency records available to the public pursuant to article six of this chapter, as well as any proposed resolution, law, rule, regulation, policy or any amendment thereto, that is scheduled to be the subject of discussion by a public body during an open meeting shall be made available, upon request therefor, to the extent practicable at least twenty-four hours prior to or at the meeting during which the records will be discussed. Copies of such records may be made available for a reasonable fee, determined in the same manner as provided therefor in article six of this chapter. If the agency in which a public body functions maintains a regularly and routinely updated website and utilizes a high speed internet connection, such records shall be posted on the website to the extent practicable at least twenty-four hours prior to the meeting. An agency may, but shall not be required to, expend additional moneys to implement the provisions of this subdivision.

(f) Open meetings of an agency or authority shall be, to the extent practicable and within available funds, broadcast to the public and maintained as records of the agency or authority. If the agency or authority maintains a website and utilizes a high speed internet connection, such open meeting shall be, to the extent practicable and within available funds, streamed on such website in real-time, and posted on such website within and for a reasonable time after the meeting. For the purposes of this subdivision, the term "agency" shall mean only a state department, board, bureau, division, council or office and any public corporation the majority of whose members are appointed by the governor. For purposes of this subdivision, the term "authority" shall mean a public authority or public benefit corporation created by or existing under any state law, at least one of whose members is appointed by the governor (including any subsidiaries of such public authority or public benefit corporation), other than an interstate or international authority or public benefit corporation.

§104. Public notice.

1. Public notice of the time and place of a meeting scheduled at least one week prior thereto shall be given or electronically transmitted to the news media and shall be conspicuously posted in one or more designated public locations at least seventy-two hours before such meeting.
2. Public notice of the time and place of every other meeting shall be given or electronically transmitted, to the extent practicable, to the news media and shall be conspicuously posted in one or more designated public locations at a reasonable time prior thereto.
3. The public notice provided for by this section shall not be construed to require publication as a legal notice.
4. If videoconferencing is used to conduct a meeting, the public notice for the meeting shall inform the public that videoconferencing will be used, identify the locations for the meeting, and state that the public has the right to attend the meeting at any of the locations.
5. If a meeting will be streamed live over the internet, the public notice for the meeting shall inform the public of the internet address of the website streaming such meeting.
6. When a public body has the ability to do so, notice of the time and place of a meeting given in accordance with subdivision one or two of this section, shall also be conspicuously posted on the public body's internet website.

NYC Charter- 1041-1045 (Current as of 11/2025)

CHAPTER 45
CITY ADMINISTRATIVE PROCEDURE ACT

Section
1041. Definitions.
1042. Regulatory agenda.
1043. Rulemaking.
1044. Review of previously adopted rules.
1045. Compilation of City rules.
1046. Adjudication.
1047. Declaratory rules.

§ 1041. Definitions. As used herein, the term

1. "Adjudication" means a proceeding in which the legal rights, duties or privileges of named parties are required by law to be determined by an agency on a record and after an opportunity for a hearing.

2. "Agency" means any one or more of the elected or appointed officers provided for in this charter and any other official or entity which is acting (1) under the direction of one or more of such officers, (2) under the direction of one or more other officials who are appointed by, or appointed on the recommendation of, such officers, or (3) under the direction of a board, the majority of whose members are appointed by, or appointed upon the recommendation of, one or more of such officers, but shall not include the city council.

3. “Compilation” means the Compilation of city rules required to be published under section one thousand forty-five.

4. “Law” means federal, state and local law, this charter, and rules issued pursuant thereto.

5. "Rule" means the whole or part of any statement or communication of general applicability that (i) implements or applies law or policy, or (ii) prescribes the procedural requirements of an agency including an amendment, suspension, or repeal of any such statement or communication.

a. "Rule" shall include, but not be limited to, any statement or communication which prescribes (i) standards which, if violated, may result in a sanction or penalty; (ii) a fee to be charged by or required to be paid to an agency; (iii) standards for the issuance, suspension or revocation of a license or permit; (iv) standards for any product, material, or service which must be met before manufacture, distribution, sale or use; (v) standards for the procurement of goods and services; (vi) standards for the disposition of public property or property under agency control; or (vii) standards for the granting of loans or other benefits.

b. "Rule" shall not include any (i) statement or communication which relates only to the internal management or personnel of an agency which does not materially affect the rights of or procedures available to the public; (ii) form, instruction, or statement or communication of general policy, which in itself has no legal effect but is merely explanatory; (iii) statement or communication concerning the allocation of agency resources or personnel; (iv) statement or communication for guiding, directing or otherwise regulating vehicular and pedestrian traffic, including but not limited to any statement or communication controlling parking, standing, stopping or a construction detour, the contents of which is indicated to the public in signs, signals, markings and similar devices, the determination and installation of which is based on engineering or other technical considerations not involving substantial policy considerations; (v) statement or communication effecting a non-continuous closing of a street; or (vi) statement or communication adopted pursuant to sections fifty-one, one hundred ninety-seven-a except pursuant to the first sentence of subdivision b or the third sentence of subdivision c of section one hundred ninety-seven-a, one hundred ninety-seven-c except pursuant to subdivisions i and l of section one hundred ninety-seven-c, one hundred ninety-nine, two hundred, two hundred one, two hundred two and seven hundred five of this charter.

§ 1042 Regulatory agenda. a. Each agency shall publish by the first day of May annually, a regulatory agenda which shall contain:

1. a brief description of the subject areas in which it is anticipated that rules may be promulgated during the next fiscal year, including a description of the reasons why action by the agency is being considered;

2. a summary, to the extent known, of the anticipated contents of each such proposed rule, its objectives and legal basis;

3. a description of the types of individuals and entities likely to be subject to the rule;

4. an identification, to the extent practicable, of all relevant federal, state, and local laws and rules, including those which may duplicate, overlap or conflict with the proposed rule; and

5. an approximate schedule for adopting the proposed rule, and the name and telephone number of an agency official knowledgeable about each subject area involved.

b. Each agency the single head of which is appointed by the mayor shall forward to the mayor its regulatory agenda. The mayor shall review such regulatory agenda to determine whether regulations contemplated by city agencies are consistent with the policy objectives of the administration.

c. Failure to include an item in a regulatory agenda shall not preclude action thereon. If rulemaking is undertaken on a matter not included in the regulatory agenda the agency shall include in the notice of proposed rulemaking the reason the rule was not anticipated. The inadvertent failure to provide the reason such rule was not included in the regulatory agenda shall not serve to invalidate the rule.

§ 1043 Rulemaking. a. Authority. Each agency is empowered to adopt rules necessary to carry out the powers and duties delegated to it by or pursuant to federal, state or local law. No agency shall adopt a rule except pursuant to this section. Each such rule shall be simply written, using ordinary language where possible.

2. Subject to paragraph 1 of subdivision f, each agency may adopt rules necessary to carry out the power and duties delegated to it by a local law that has not yet gone into effect, except as otherwise provided by law.

b. Notice. 1. Each agency shall publish the full text of the proposed rule in the City Record at least thirty days prior to the date set for a public hearing to be held pursuant to the requirements of subdivision e of this section or the final date for receipt of written comments, whichever is earlier. A proposed rule amending an existing rule shall contain in brackets any part to be deleted and shall have underlined or italicized any new part to be added. A proposed rule repealing an existing rule shall contain in brackets the rule to be repealed, or if the full text of the rule was published in the Compilation required to be published pursuant to section one thousand forty-five, shall give the citation of the rule to be repealed and a summary of its contents. Such published notice shall include a draft statement of the basis and purpose of the proposed rule, the statutory authority, including the particular sections and subdivisions upon which the action is based, the time and place of public hearing, if any, to be held or the reason that a public hearing will not be held, and the final date for receipt of written comments. If the proposed rule was not included in the regulatory agenda, such notice shall also include the reason the rule was not anticipated, as required in subdivision c of section one thousand forty-two of this chapter.

2. Copies of the full text of the proposed rule shall be electronically transmitted to the office of the speaker of the council, the council's office of legislative documents, the corporation counsel, each council member, the chairs of all community boards, the news media and civic organizations no later than the date the proposed rule is transmitted to the City Record for publication pursuant to paragraph one of subdivision b of this section; provided that an inadvertent failure to fully comply with the notice requirements of this paragraph shall not serve to invalidate any rule.

3. (a) News media, for the purposes of this subdivision, shall include (i) all radio and television stations broadcasting in the city of New York, all newspapers published in the city of New York having a city-wide or borough-wide circulation, and any newspaper of any labor union or trade association representing an industry affected by such rule, and (ii) any community newspaper or any other publication that requests such notification on an annual basis.

(b) Civic organizations, for the purposes of this subdivision, shall include any city-wide or borough-wide organization or any labor union, trade association or other group that requests such notification on an annual basis.

4. In addition to the requirements set forth in paragraph one of this subdivision, each agency shall provide information regarding the public hearing to be held with regard to a proposed rule in a prominent location on such agency's website at least seven days prior to the date set for such hearing. Each agency shall further provide, in a prominent location on such agency's website, a link to the NYC

Rules online portal or any successor city website or page that is substantially similar in form or function. Each agency shall, to the greatest extent practicable, and in addition to the electronic transmissions required by paragraph two of this subdivision, publicize upcoming public hearings via electronic means that are likely to reach interested members of the public. This paragraph shall not be construed to create a private right of action to enforce its provisions. Inadvertent failure to comply with this paragraph shall not result in the invalidation of any rule.

c. Review of statutory authority. The corporation counsel shall review the proposed rule to determine whether it is within the authority delegated by law to the agency proposing the rule. If the corporation counsel determines that the proposed rule is not within the agency's delegated authority, the corporation counsel shall notify the agency in writing prior to the publication of the final rule in the City Record.

d. (1) The law department and the mayor's office of operations shall review each proposed rule prior to publication of such proposed rule in the City Record. At the conclusion of its review, the law department shall state whether each proposed rule: (i) is drafted so as to accomplish the purpose of the authorizing provisions of law; (ii) is not in conflict with other applicable rules; (iii) to the extent practicable and appropriate, is narrowly drawn to achieve its stated purpose; and (iv) to the extent practicable and appropriate, contains a statement of basis and purpose that provides a clear explanation of the rule and the requirements imposed by the rule. As part of its review, the mayor's office of operations shall analyze each proposed rule and state: (a) whether such rule is understandable and written in plain language; (b) how the drafting process of the rule, to the extent practicable and appropriate, included analysis sufficient to minimize the compliance costs for the discrete regulated community or communities, to the extent one exists, consistent with achieving the stated purpose of the rule; and (c) why, in the event such rule involves the establishment of a violation, modification of a violation or modification of the penalties associated with a violation without also including a cure period, or other opportunity for ameliorative action by the party or parties subject to enforcement, such cure period or other opportunity for ameliorative action was not included. Provided, however, that if the proposed rule solely establishes or modifies the amount of a monetary penalty or penalties then the law department statement required by this paragraph shall not be required and the analysis of the office of operations may be limited to the reason or reasons a cure period or other opportunity for ameliorative action was not included.

(2) After completing the review as set forth in paragraph one of this subdivision, the law department and the mayor's office of operations shall certify that they have performed such review, and shall promptly transmit a copy of such certification, including the analysis performed by the mayor's office of operations, to the relevant agency. Such agency shall annex such certification and analysis to the full text of the proposed rule as published in the City Record. Such certification and analysis shall also be made available to the public on the city's website and transmitted to the speaker of the city council at the time of publication. In no event shall a proposed rule be submitted for initial publication in the City Record unless the law department and the mayor's office of operations have issued such certification and analysis.

(3) This subdivision shall not be construed to create a private right of action to enforce its provisions. Inadvertent failure to comply with this subdivision shall not result in the invalidation of any rule.

(4) This subdivision shall not apply to rules that: (i) are promulgated pursuant to the emergency procedures set forth in subdivision i of this section; (ii) are solely concerned with the establishment or modification of the amount of a monetary penalty or penalties, and the underlying violation or a modification of the penalties associated with such violation has previously been analyzed in accordance with paragraph one of this subdivision; (iii) are solely concerned with the establishment or modification of the amount of a fee or fees or (iv) implement particular mandates or standards set forth in newly enacted federal, state, or local laws, regulations or other requirements with only minor, if any, exercise of agency discretion in interpreting such mandates or standards. If an analysis of a proposed rule is not performed pursuant to the exceptions noted in this paragraph, such fact shall be noted and the note annexed to the full text of the proposed rule as published in the City Record.

e. Opportunity for and consideration of agency and public comment. The agency shall provide the public an opportunity to comment on the proposed rule (i) through outreach to the discrete regulated community or communities, if one exists, provided that this clause shall not be construed to create a private right of action to enforce this requirement; (ii) through submission of written data, views, or arguments, and (iii) at a public hearing unless it is determined by the agency in writing, which shall be published in the notice of proposed rulemaking in the City Record, that such a public hearing on a proposed rule would serve no public purpose. All written comments and a summary of oral comments concerning a proposed rule received from the public or any agency shall be placed in a public record and be made readily available to the public as soon as practicable and in any event within

a reasonable time, not to be delayed because of the continued pendency of consideration of the proposed rule. After consideration of the relevant comments presented, the agency may adopt a final rule pursuant to subdivision f of this section; except that, other than a rule adopted pursuant to subdivision i of this section, no final rule shall be adopted by such board or commission unless its final language is posted in a prominent location on such agency's website and electronically transmitted to each member of such board or commission at least three calendar days, exclusive of Sundays, prior to such rule's adoption; provided, however, that revisions may be made to a final rule posted online and sent electronically in conformity with this subdivision at any time prior to the vote on such rule if such revisions are approved by all members of such board or commission by unanimous consent. Such final rule may include revisions of the proposed rule, and such adoption of revisions based on the consideration of relevant agency or public comments shall not require further notice and comment pursuant to this section. This paragraph shall not be construed to create a private right of action to enforce its provisions. Inadvertent failure to comply with this paragraph shall not result in the invalidation of any rule.

f. Effective date. 1. No rule shall be effective until

(a) the rule is filed by the agency with the corporation counsel for publication in the Compilation,

(b) the rule and a statement of basis and purpose is transmitted to the council for its information,

(c) in the case of a rule adopted pursuant to one or more provisions of a local law, the effective date of the section or sections of the local law that added such provision or provisions, and

(d) the rule and a statement of basis and purpose have been published in the City Record and thirty days have elapsed after such publication. The requirement that thirty days shall first elapse after such publication shall not apply where a finding that a substantial need for the earlier implementation of a program or policy has been made by the agency in writing and has been approved by the mayor prior to the effective date of the rule and such finding and approval is contained in the notice.

2. A rule shall be void if it is not published in the next supplement to the Compilation in which its publication is practicable; provided, however, that in the case of an inadvertent failure to publish a rule in such supplement, the rule shall become effective as of the date of its publication, if it is published within six months of the date the corporation counsel receives notice of its omission; and further provided that any judicial or administrative action or proceeding, whether criminal or civil, commenced under or by virtue of any provision of a rule voided pursuant to this section and pending prior to such voidance, may be prosecuted and defended to final effect in the same manner as they might if such rule had not been so voided.

g. Petition for rules. Any person may petition an agency to consider the adoption of any rule. Within sixty days after the submission of a petition, the agency shall either deny such petition in writing, stating the reasons for denial, or state the agency's intention to initiate rulemaking, by a specified date, concerning the subject of such petition. Each agency shall prescribe by rule the procedure for submission, consideration and disposition of such petitions. In the case of a board, commission or other body that is not headed by a single person, such rules of procedure may authorize such body to delegate to its chair the authority to reject such petitions. Such decision shall be within the discretion of the agency and shall not be subject to judicial review.

h. Maintenance of comments. Each agency shall establish a system for maintaining and making available for public inspection all written comments received in response to each notice of rulemaking.

i. Emergency procedures. 1. Notwithstanding any other provision of this section, an agency may adopt a rule prior to the notice and comment otherwise required by this section if the immediate effectiveness of such rule is necessary to address an imminent threat to health, safety, property or a necessary service. A finding of such imminent threat and the specific reasons for the finding must be made in writing by the agency adopting such rule and shall be approved by the mayor before such rule may be made effective. In the event that an elected official other than the mayor has the authority to promulgate rules, such official may make such findings without prior mayoral approval. The rule and accompanying finding shall be made public forthwith and shall be published in the City Record as soon as practicable. Agencies shall also electronically transmit all emergency rules adopted pursuant to this paragraph to the office of the speaker of the council, the council's office of legislative documents, the corporation counsel, each council member, the chairs of all community boards, the news media and civic organizations, as such term is defined in subdivision b of this section, no later than the date the emergency rules are transmitted to the City Record for publication pursuant to this paragraph.

2. A rule adopted on an emergency basis shall not remain in effect for longer than sixty days unless the agency has initiated notice and comment otherwise required by this section within such sixty day period and publishes with such notice a statement that an extension of such rule on an emergency basis is necessary for an additional sixty days to afford an opportunity for notice and comment and to

adopt a final rule as required by this section; provided that no further such finding of an emergency may be made with respect to the same or a substantially similar rule.

§ 1044 Review of previously adopted rules. a. Submission of previously adopted rules.

1. By the tenth day of August, nineteen hundred eighty-nine, each agency shall send to the corporation counsel a copy of each rule, as defined in subdivision five of section one thousand forty-one, in force as of the first day of January of nineteen hundred eighty-nine. Each such rule shall be identified by the agency as one of the following:

(a) a rule which should be continued in its present form;

(b) a rule which should be continued with amendments; or

(c) a rule which should be repealed.

2. Any amendment or repeal of a rule described in paragraph one of this subdivision, shall be subject to the provisions set forth in section one thousand forty-three.

b. In regard to all rules submitted pursuant to subdivision a of this section, the corporation counsel shall

1. include such rules in the Compilation required to be published pursuant to section one thousand forty-five; provided, however, that each rule which the agency identifies as a rule which should be continued but with amendments, and each rule which the agency identifies as a rule which should be repealed, shall be published in the Compilation with an appropriate notation as to the agency's comments and intentions. Such notations shall be provided for informational purposes only and such rule in its present form shall remain in full force and effect until and unless such rule is amended or repealed pursuant to the procedures set forth in section one thousand forty-three, and

2. submit to the City Record for publication by the first day of September, nineteen hundred ninety, a list of rules submitted pursuant to subdivisions a and e of this section, except for rules contained in the health code. Such list shall include for each rule a short descriptive title, as well as any available identifying names, numbers, adoption dates or similar information regarding such rule; and an indication of the agency's intention to continue such rule without amendments, to continue it with amendments or to repeal it.

c. No rule, as defined in subdivision five of section one thousand forty-one, which is in force as of the first day of January, nineteen hundred eighty-nine shall have any force or effect on or after the tenth day of August, nineteen hundred and eighty-nine unless it is submitted by the agency to the corporation counsel by such date.

d. Except as provided in subdivision e, no rule adopted by any agency prior to the effective date of this chapter shall have any force or effect after the first day of July, nineteen hundred ninety-one unless it is included in the Compilation required to be published by that date pursuant to section one thousand forty-five; provided however that in the case of an inadvertent failure to publish a rule in such Compilation, the rule shall become effective as of the date of its publication, if it is published within six months from the date the corporation counsel received notice of its omission, and further provided that any judicial or administrative action or proceeding, whether criminal or civil, commenced under or by virtue of any provision of a rule voided pursuant to this section and pending prior to such voidance, may be prosecuted and defended to final effect in the same manner as they might if such rule had not been so voided.

e. On or before a date one hundred eighty days after the publication date of the Compilation required to be published pursuant to section one thousand forty-five, any person may submit to the agency involved a copy or a description of a rule which such person believes to be in force as of the effective date of this chapter. Upon the receipt of a description or copy of such a rule, the agency shall endeavor to verify the existence of such rule and upon identifying such rule, if such rule was in force and effect as of the effective date of this chapter and has not been submitted to the corporation counsel pursuant to subdivision a of this section, the agency shall take the actions required pursuant to subdivision a of this section, and notwithstanding the provisions of subdivisions c and d of this section, such rule shall remain in force and effect until or unless amended or repealed pursuant to section one thousand forty-three.

§ 1045 Compilation of city rules. a. The corporation counsel shall publish a Compilation of city rules and thereafter keep such Compilation up to date through supplements issued at least every six months and at such other times as the corporation counsel shall determine. The Compilation and its supplements shall be certified by the corporation counsel and shall include every rule currently in effect. The Compilation and its supplements may contain such other information as the corporation counsel deems necessary and appropriate for full understanding of any rule or which the corporation counsel in his or her discretion determines may be of interest or assistance to the public. The Compilation and its supplements shall be organized by agency and indexed by subject matter. An

indexed edition of the Compilation shall be published by the first day of July, nineteen hundred and ninety-one, which date shall be deemed the publication date of the Compilation, and shall be updated and republished by the first day of March of every fourth year thereafter.

b. The rules contained within the Compilation and its supplements shall be certified by the corporation counsel and shall be the rules of the city unless added to, amended or repealed in accordance with section ten hundred forty-three of the charter. Materials included in the Compilation may be edited, rearranged and updated for clarity, accuracy and reorganization without change in substance. Section numbers, stylistic and organizational formats and other non-substantive revisions to the rules effected by the law department pursuant to this subdivision shall become effective on the publication date of the Compilation and upon the publication of each supplement.

c. Documents submitted by an agency pursuant to subdivision a of section ten hundred forty-four of the charter which were not formally adopted by the agency as rules pursuant to section eleven hundred five of the charter as in effect prior to November eighth, nineteen hundred eighty-eight shall either be included in the Compilation or filed in the municipal reference and research center in the manner provided below. All documents which the corporation counsel, in his or her discretion, determines should not be included in the Compilation shall be organized by agency and subject matter in a form which shall be easily accessible to the public and filed by the corporation counsel in the municipal reference and research center on or prior to July first nineteen hundred ninety-one. Notice of such filing and a list of the documents filed shall be published in the City Record. Notwithstanding any inconsistent provision of section ten hundred forty-four of the charter, any of such documents so filed shall, if otherwise valid, continue to be effective provided, however, that the amendment or repeal of any document which is within the definition of rule set forth in subdivision five of section ten hundred forty-one of the charter shall be in accordance with section ten hundred forty-three of the charter.

§ 1046. Adjudication. Where any agency is authorized to conduct an adjudication, it shall act, at a minimum, in accordance with the provisions set forth below. The parking violations bureau shall not be subject to the requirements of this section.

a. Notice. All parties shall be given reasonable notice of such hearing, which shall include:

1. a statement of the nature of the proceeding and the time and place it will be held, if applicable;
2. a statement of the legal authority and jurisdiction under which the hearing is to be held, and a reference to the particular sections of the law and rules involved; and
3. a short and plain statement of the matters to be adjudicated, including reference to the particular sections of law and rule involved.

b. Notice of agency procedures. Agencies shall adopt rules governing agency procedures for adjudications and appeals. Agencies shall make a copy of any such rule available, upon request, to any party who has received notice of violation of the laws, rules or orders enforced by the agency.

c. Hearing.

1. All parties shall be afforded an opportunity for a hearing within a reasonable time. At the hearing the parties shall be afforded due process of law, including the opportunity to be represented by counsel, to issue subpoenas or request that a subpoena be issued, to call witnesses, to cross-examine opposing witnesses and to present oral and written arguments on the law and facts. Adherence to formal rules of evidence is not required. No ex parte communications relating to other than ministerial matters regarding a proceeding shall be received by a hearing officer, including internal agency directives not published as rules.
2. Findings of fact shall be based exclusively on the record of the proceeding as a whole. Except as otherwise provided for by state or local law, the party commencing the adjudication shall have the burden of proof.
3. The hearing shall be transcribed or recorded and a copy of the transcript or record, or any part thereof, shall be made available to any party to the hearing upon request therefor. A typed or recorded copy of such transcript shall be provided upon request for a reasonable cost.

d. Informal disposition. Unless precluded by law, informal disposition may be made of any matter which is the subject of an adjudication by methods of alternative dispute resolution, stipulation, agreed settlement, or consent order.

e. Hearing officer. Except as otherwise provided for by this charter the person presiding at a hearing shall be assigned solely to adjudicative and related duties. Except as otherwise provided for by the rules of the agency or by order of the mayor issued in accordance with subdivisions two and three of section one thousand forty-eight, such hearing officer shall make final findings of fact and shall not make any final decision, determination, or order, but shall only recommend such, and shall forward such recommendation and the record of the adjudication to the agency, who may adopt, reject or modify any such recommended decision, determination or order.

f. Recommendation or decision. Any recommended decision, final decision, determination or order shall be in writing, or stated in the record if the parties are present, and shall include findings of fact and conclusions of law. A copy of any written recommended decision, final decision, determination, or order shall be delivered or mailed forthwith to each party.

§ 1047. Declaratory ruling. On the written petition of any person, an agency may issue a written declaratory ruling on the applicability of any rule adopted by it, to any person, property, or state of facts. A declaratory ruling shall be binding only with respect to the person who makes the petition and only with respect to the stated facts contained in the petition.

Appendix Z

Selected Initial Findings of the 2023 New York City Housing and Vacancy Survey

(prepared by the NYC Dept. of Housing Preservation and Development)

2023 New York City Housing and Vacancy Survey

Selected Initial Findings

Table of Contents

How To Read This Report i

2023 New York City Housing and Vacancy Survey Selected Initial Findings 1

The Supply of Housing in New York City 2

- Composition and Net Change 2
- Tenure and Types of Housing 5
- Unit Size 8
- Accessibility 11
- Rent Levels 13

The Rental Inventory and Vacancies 21

- The 2023 Net Rental Vacancy Rate 21
- The Growth in Occupied Households 23
- Changes in Occupancy Status: 2021 and 2023 24
- Affordability of the Rental Inventory 25
- Turnover in Rental Units 27
- Units Not Available for Rent or Sale 29
- Investment Activity in Vacant Units 31

The Condition of Rental Housing 32

- Housing Problems Over Time 32
- Specific Types of Housing Problems 33
- Units with Three or More Housing Problems 35

Indicators of Continuing Need 42

- Changes in the Income Distribution 42
- The Renter Population 44
- Who Moved Out and Who Moved In: 2021 and 2023 46
- Disparities in Housing Quality 51
- Residential Crowding 53
- Rent Burden 55
- Financial Hardship 59

Conclusion 68

Appendix A. About the NYCHVS 69

Appendix B: Glossary and Technical Definitions 70
Appendix C. Classification of Housing Types 87
Appendix D. Technical Notes on Methodology 90
Endnotes 91

List of Tables and Figures

Figure 1. Total Number of Housing Units and Renter Households: 1965 – 2023 2
Table 1. Housing Units by Borough, Year Built, and Building Size, 2021 to 2023 4
Figure 2. Rental Units by Type of Housing 6
Table 2. Renter-and Owner-Occupied Units by Condo/Coop Status and Building Size 7
Table 3. Housing Units by Number of Bedrooms and Rooms: 2021-2023 8
Table 4. Number of Bedrooms by Borough, Year Built, and Building Size 10
Table 5. Accessibility by Borough, Year Built, and Building Size 12
Table 6. Median Monthly Contract Rent by Borough, Type of Housing 14
Figure 3. Median Gross Rent: 1975 - 2023 15
Table 7. Distribution of Monthly Rent within Borough, Type of Housing, and Building Size 17
Table 8. Distribution of Monthly Rent by Unit Size and Accessibility 18
Figure 4. Distribution of Monthly Rent: 1993 – 2023 20
Figure 5. Net Change in Monthly Rents: 1993 – 2023 20
Figure 6. Net Rental Vacancy Rate by Asking Rent 21
Table 9. Net Rental Vacancy Rate by Borough, Asking Rent, and Type of Housing 22
Figure 7. Net Change in Housing Units, by Occupancy Status: 2021 – 2023 23
Figure 8. Change in Occupancy Status from 2021 to 2023 24
Figure 9. Incomes Needed to Afford Vacant Units Available for Rent 26
Table 10. Turnover in Housing Units by Borough, Type of Housing, and Monthly Rent 28
Figure 10. Units Not Available for Rent or Sale by Specified Reason 30
Figure 11. Renovation Activity in Units that were Vacant, but Not Available 31
Figure 12. Prevalence of Reported Housing Problems: 1991 - 2023 33
Table 11. Reported Housing Problems in Rent Stabilized and Market Rentals 34
Table 12. Number of Reported Housing Problems by Borough, Year Built, and Building Size 37
Figure 13. Units Reporting 3+ Housing Problems 38
Figure 14. Net Change in the Share of Units Reporting 3+ Housing Problems 39
Figure 15. Net Change in the Share of Units Reporting 3+ Housing Problems, by Rent Level 40
Table 13. Number of Reported Housing Problems by Type of Housing and Monthly Rent 41
Figure 16. Household Incomes in New York City: 2021 – 2023 43

Table 14. Household Composition and Income by Tenure 45
Figure 17. Residential Mobility Among Renters, by Household Income: 2021 – 2023 46
Figure 18. Residential Mobility Among Renters, by Householder Race/Ethnicity: 2021 - 2023 47
Table 15. Household Composition and Income of Renters by Type of Housing 50
Table 16. Number of Reported Housing Problems by Race/Ethnicity, Nativity, and Income 52
Table 17. Crowding by Household Composition and Income 54
Figure 19. Median Gross Rent-to-Income Ratio: 1965 – 2023 56
Table 18. Rent Burden by Household Composition and Income 58
Figure 20. Rent Burden, by Household Income 59
Table 19. Inability to Pay Rent by Income 61
Figure 21. Prevalence of Missed or Late Rent Payments in Last Year, by Household Income 62
Figure 22. Prevalence of Renters who Still Owed Rent, by Household Income 62
Table 20. Inability to Pay Rent by Level of Rent Burden 63
Table 21. Food Insecurity by Type of Housing and Income 64
Figure 23. Prevalence of Food Insecurity, by Household Income 65
Table 22. Student Debt by Type of Housing, Income, and Level of Rent Burden 67
Figure C1. Rental Units by Type of Housing, 2021 – 2023 88

How To Read This Report

This report presents findings from the 2023 New York City Housing and Vacancy Survey (NYCHVS), which was conducted by the U.S. Census Bureau on behalf of the City of New York. As such, the data are subject to both statistical quality standards and disclosure avoidance practices that determine how the findings are presented.

Like all sample surveys, the NYCHVS is subject to sampling error. All counts of units and households in this report are presented as estimates and shown with a corresponding margin of error (MOE) representing a 90 percent confidence level. This matches the U.S. Census Bureau standard of publishing MOEs and determining statistically significant differences for the American Community Survey (ACS).

In this report, a 90 percent confidence interval for the estimate has a lower bound calculated by subtracting the MOE from the estimate and an upper bound calculated by adding the MOE to the estimate. This confidence interval indicates that if data on every housing unit or household were collected for that measure, 90 times out of 100 the actual value of the estimate would fall somewhere between the lower and upper bound. MOEs were calculated by multiplying the standard error of the estimate by 1.645. In some instances, we present the lower and upper bound rather than the MOE. Margins of error are not shown where the estimate was controlled to an independent housing estimate (e.g., housing units by borough); these are marked as *****.

In producing this report, statistical quality measures were applied to assess the relative amount of sampling error associated with a given estimate. This was done by calculating the coefficient of variation (CV), which is the standard error of the estimate divided by the estimate itself. In general, the NYCHVS considers an estimate that has a CV of less than 0.20 to be reliable. Estimates with a CV of 0.20 to 0.30 are presented in the table with ** next to the number to alert the reader to use caution when interpreting the estimate. Generally, estimates that have a CV of 0.30 and higher were replaced with **. In rare instances, estimates with a CV of between 0.30 and 0.50 are shown with *** next to the number; this is done only for sub-group analysis of the net rental vacancy rate (e.g., by borough) where the small number of vacant units make these estimates subject to a large variance.

Some tables present information from prior NYCHVS cycles along with an estimated net change. This represents the sum of any additions and losses between the two survey periods. Just as the point estimates within a given survey are subject to sampling and non-sampling error, so too are these estimates

of net change. A ♦ indicates when the estimated net change falls within the margin of error of the two underlying estimates—this is a conservative indicator of when the difference may be statistically equivalent to zero.

The U.S. Census Bureau applies various safeguards to help prevent against anyone being able to trace any statistic back to a specific housing unit or respondent. These same procedures apply to the NYCHVS.

- All estimates in this report are rounded to four significant digits. This means that counts of less than ten thousand are presented as whole numbers without rounding, those in the tens of thousands are rounded to the nearest ten, those in the hundreds of thousands are rounded to the nearest hundred, and those of a million or more are rounded to the nearest thousand. Totals are rounded separately from the underlying data; therefore, rounded values may not sum to the total in a given table or across tables.
- When percentages are presented next to counts in tables, the percentages are calculated based on the rounded values, rather than the underlying data. This means that some percentages will not sum to 100 percent. Estimates of mean values for key measures, including the net rental vacancy rate, are calculated directly from the underlying data and then rounded to four significant digits (i.e., the percentage and up to two decimal places).
- In some tables, an * appears instead of an estimate. This is an indication that one or more of the estimates in the table was based on a sample size that was too small to be reported. In any table where one or more estimate had too small of a sample size to be reported, three additional estimates were suppressed. This complementary suppression ensures that no one can derive the original suppressed value.
- In rare instances, two or more estimates were combined so that the combined estimate could be shown rather than suppressing multiple values in the table.

Additional technical details are provided in the appendices.

The U.S. Census Bureau reviewed all of the 2023 NYCHVS estimates that appear in this report for unauthorized disclosure of confidential information and approved the disclosure avoidance practices applied to this release. CBDRB-FY24-0114 and CBDRB-FY24-0145.

2023 New York City Housing and Vacancy Survey
Selected Initial Findings

The statutory obligation set forth in the Local Emergency Housing and Rent Control Act of 1962 (LEHRCA) requires that New York City conduct a survey and report its findings on the supply of housing accommodations in the city, the condition of such accommodations, and the continued need for the regulation of residential rents and evictions. This report presents the Selected Initial Findings of the 2023 New York City Housing and Vacancy Survey (NYCHVS) to meet these requirements.

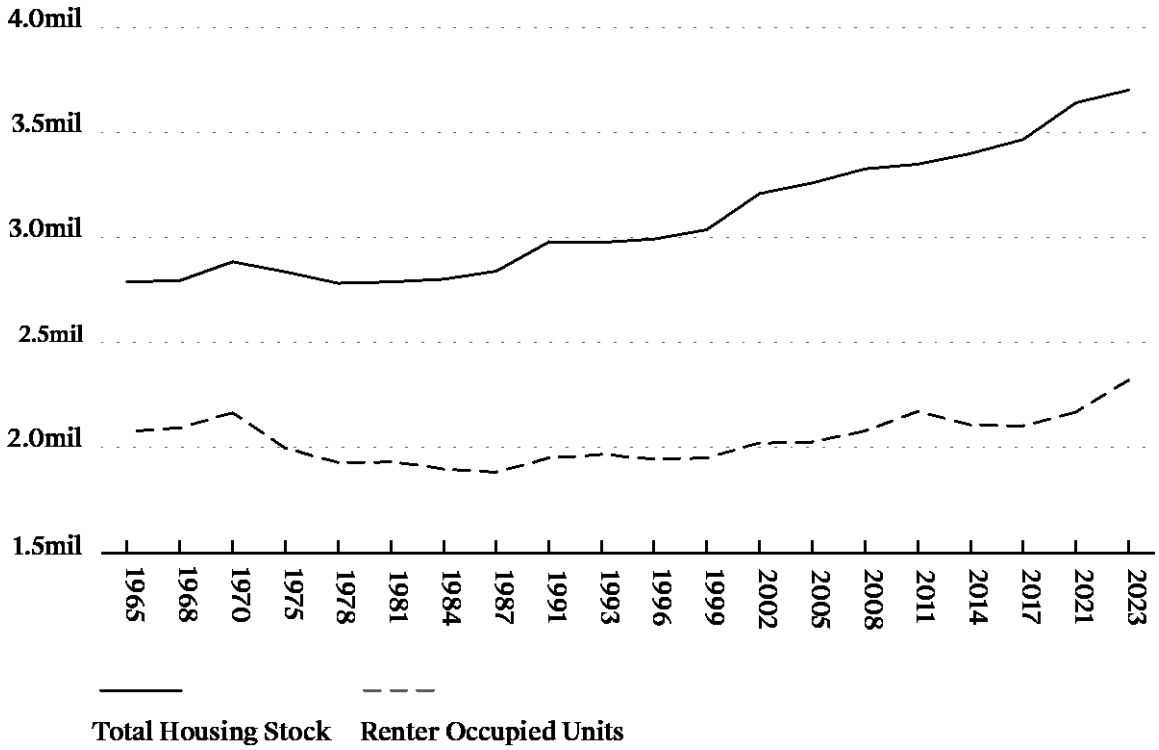
The report is structured in four parts. The first part examines the overall supply of housing units in New York City in 2023 and net change over time, with a particular focus on rental housing, including rental costs within the occupied stock. The second part presents the official net rental vacancy rate and information on the inventory of units that were available for rent in 2023. It also presents information on the number and type of housing units that did not meet the NYCHVS definitions of occupied or vacant available (for example, units held for seasonal or occasional use as second homes) and thus were not included in the calculation of the net rental vacancy rate. The third part of the report examines the condition of rental housing in 2023 and over time. The last section provides information on the household composition and incomes of the resident population and indicators of continued need, including the prevalence of crowding, rent burden, and financial insecurity.

This report highlights differences in the supply, condition, and continued need in New York City between the 2021 and 2023 NYCHVS surveys. In many instances, these findings represent a net change between the two years—that is, the overall difference that results from both loss and gain or decreases and increases measured on a gross basis. To complement this approach, we also present supplemental analyses on changes that occurred within housing units or households between 2021 and 2023. These findings utilize a special matched dataset on sampled units that were interviewed in both the 2021 and 2023 NYCHVS survey cycles. Estimates from this matched dataset appear as gray pages to indicate the difference in source and methodology.

The Supply of Housing in New York City

The total number of housing units in New York City in 2023 was 3,705,000, a net increase of about 61,000 since 2021. This was the largest housing stock for New York City in the fifty-eight-years since the NYCHVS was first conducted in 1965 and continued the trend of growth shown over the past few cycles of the NYCHVS. Figure 1 shows the New York City housing supply from 1965 through 2023 as well as the number of renter-occupied units.

Figure 1. Total Number of Housing Units and Renter Households: 1965 – 2023



Source: New York City Housing and Vacancy Survey (NYCHVS), 1965 – 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.

Composition and Net Change

A total of 562,300 units (15 percent of the city's stock) were in The Bronx, 1,111,000 (30 percent) were in Brooklyn, 927,000 (25 percent) were in Manhattan, 919,800 (25 percent) were in Queens, and 184,800 (5 percent) were in Staten Island. This distribution of units across the five boroughs was the same as in 2021, indicating relatively consistent net growth in the housing supply throughout New York City over the past two years.

In 2023, 37 percent of housing units were in buildings with fewer than six units, including 1,007,000 (or 27 percent of all housing units) in buildings with only one or two units. At the other extreme, there were 829,200 units (22 percent of the stock) in buildings with 100 or more units. Units in multiple-

dwelling buildings, those with three or more residential units, comprised 73 percent of the housing stock, or 2,698,000 units. Between 2021 and 2023, there was a substantial net increase in the number of housing units in buildings with 100 units or more by 57,200 units, representing an increase of 7 percent relative to 2021.

More than 3,000,000 units or four out of every five units were in buildings built before 1974, including 2,017,000 (54 percent) in buildings built before 1947 and 960,200 (26 percent) in buildings built between 1947 and 1974. A total of 310,000 units (8 percent) were in buildings built between 1974 and 2000, 242,800 units (7 percent) were built between 2000 and 2010, and 175,100 units (5 percent) in 2010 or later. Although the vast majority of the New York City housing supply continued to be concentrated in older buildings, there was a substantial net increase of 56,200 housing units in buildings built in 2010 or later.

Table 1. Housing Units by Borough, Year Built, and Building Size, 2021 to 2023

	Housing Units								
	2021 Total			2023 Total			Net Change		
	Estimate	MOE	%	Estimate	MOE	%	Estimate	%	
Borough									
Bronx	551,300	*****	15%	562,300	*****	15%	11,000	2%	
Brooklyn	1,090,000	*****	30%	1,111,000	*****	30%	21,000	2%	
Manhattan	918,500	*****	25%	927,000	*****	25%	8,500	1%	
Queens	900,400	*****	25%	919,800	*****	25%	19,400	2%	
Staten Island	184,000	*****	5%	184,800	*****	5%	800	0%	
Year Built									
Before 1947	2,042,000	±26,950	56%	2,017,000	±29,710	54%	-25,000	-1%	♦
1947-1973	974,000	±24,680	27%	960,200	±24,540	26%	-13,800	-1%	♦
1974-1999	283,000	±13,790	8%	310,000	±16,680	8%	27,000	10%	♦
2000-2009	226,400	±17,420	6%	242,800	±17,120	7%	16,400	7%	♦
2010 or later	118,900	±10,210	3%	175,100	±12,290	5%	56,200	47%	
Building Size									
1-2 Units	958,800	±26,430	26%	1,007,000	±26,630	27%	48,200	5%	♦
3-5 Units	417,000	±23,420	11%	384,600	±25,150	10%	-32,400	-8%	♦
6-19 Units	423,700	±21,170	12%	395,800	±16,680	11%	-27,900	-7%	♦
20-49 Units	557,100	±28,680	15%	571,000	±20,920	15%	13,900	2%	♦
50-99 Units	515,400	±21,360	14%	517,200	±21,120	14%	1,800	0%	♦
100+ Units	772,000	±20,760	21%	829,200	±24,940	22%	57,200	7%	
Citywide	3,644,000	*****	100%	3,705,000	*****	100%	61,000	2%	

Percentages sum to 100% for each measure within a column.
Source: New York City Housing and Vacancy Survey (NYCHVS), 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.
***** A margin of error is not reported because the corresponding estimate is controlled to an independent population or housing estimate.
♦ The 90% confidence interval of the 2021 estimate overlaps with that of 2023 estimate; therefore, the net change should be used with caution.

Tenure and Types of Housing

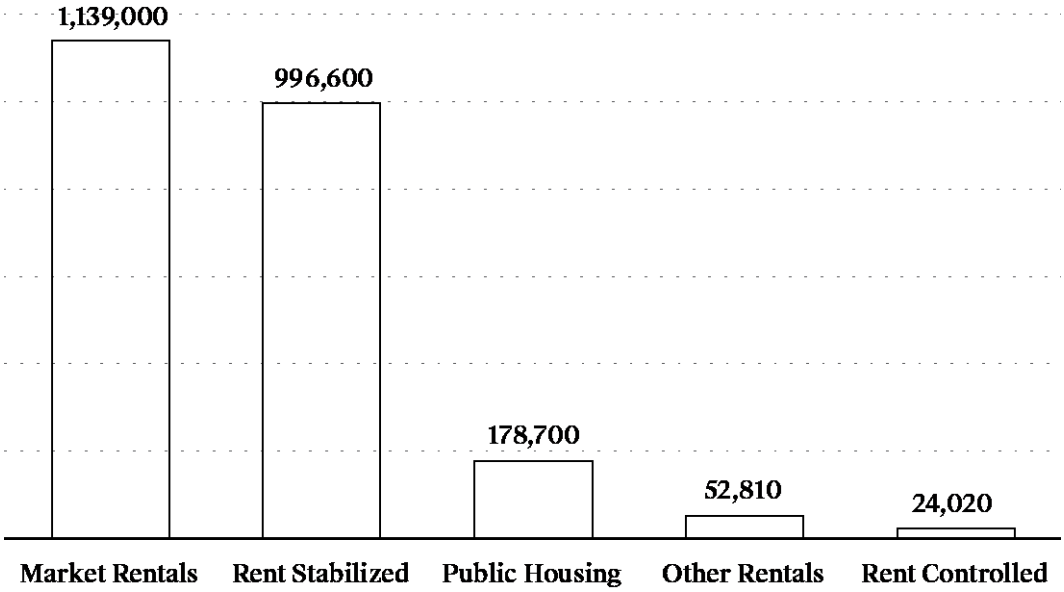
The stock of rental units comprised an increasingly diverse set of housing types. The NYCHVS groups housing units into five major categories: rent controlled, rent stabilized, market rentals (or private unregulated rentals), public housing, and rental units regulated in some other way.[1] Various information on these different categories of rental housing is presented throughout this report.

Rent controlled units are subject to an older form of rent regulation and are generally in pre-war buildings where the occupant(s) have been in continuous residence since before July 1, 1971.[2] In 2023, there were 14,050 rent controlled units occupied since this date, down from 16,400 in 2021. However, a co-resident family member may succeed the original occupant(s) and remain rent controlled. In 2023, there were an additional 9,970 rent controlled units occupied by successors who moved in on or after July 1, 1971. This brings the total number of rent controlled units in the city in 2023 to 24,020.[3]

In 2023, there were 996,600 rent stabilized units.[4] Rent stabilized units represented 27 percent of the overall housing stock and 41 percent of rental units. Rent stabilization generally applies to units in buildings built before 1974 with six or more units through the Emergency Tenant Protection Act (ETPA), though other units are also subject to rent stabilization as a result of participation in affordable housing or tax incentive program. Units may also exit rent stabilization if they meet certain criteria, though legislation enacted in 2019 limited the circumstances under which housing units could exit rent stabilization. In 2023, the NYCHVS estimated that about 76 percent (or 758,700 units) were subject to rent stabilization as a result of ETPA; some of these units also have participated in an affordable housing or tax benefit program requiring rent stabilization. This is statistically the same as in 2021.

In 2023, there were 1,139,000 units identified as market rentals.[5] These units are commonly referred to as “market rate” because their rents are not regulated. These include units in newer buildings that were not subject to rent stabilization as a result of participation in an affordable housing or tax incentive program, units in smaller buildings where rent stabilization did not apply, and units that were previously decontrolled and not subject to rent stabilization by some other means. Market rentals also generally included units in condominium and cooperative buildings that were renter-occupied, either as a sponsor unit rented after construction or conversion or as a sublet by the unit’s owner or shareholder.

Figure 2. Rental Units by Type of Housing



Source: New York City Housing and Vacancy Survey (NYCHVS), 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.

The NYCHVS identifies public housing units owned and operated by the New York City Housing Authority (NYCHA). In 2023, the NYCHVS estimated a total of 178,700 public housing units. The 2023 NYCHVS identified 52,810 units as rentals that were regulated in some other way. This last category included rental units that were part of the Mitchell Lama program, units subject to the New York City Loft Board, *in rem* units, and other affordable housing rental units not otherwise subject to rent stabilization.[6]

Between 2021 and 2023, there was a large net increase of 275,000 occupied units or 9 percent in just two years. In 2023, there were 2,324,000 renter-occupied households, up from 2,171,000 in 2021 (a net increase of about 153,000 households or 7 percent). In 2023, there were 1,109,000 owner-occupied units,[7] up from 986,100 in 2021 (a net increase of about 123,000 or 12 percent). The homeownership rate in 2021, which was calculated as the share of units occupied by the owner divided by all occupied units, was 30 percent. The homeownership rate in condos was 35 percent and 62 percent in coops. Condos and coops represent an important part of the rental stock.

Table 2 shows the tenure of occupied condo and coop units as well as the breakdown of renter- and owner-occupied units in smaller buildings that were not condos or coops. In 2023, 861,200 units (just under one in four) were in a condominium or cooperative building.[8] In 2023, 378,400 single- family homes (78 percent) were owner-occupied, 216,400 units in two-unit buildings (45 percent) were occupied by the owner, and 60,260 units in three- to five-unit buildings (17 percent) were occupied by the owner. Only a small share (1 percent) of larger buildings were owner-occupied.

Table 2. Renter-and Owner-Occupied Units by Condo/Coop Status and Building Size

	Occupied Housing Units						
	Renter-Occupied			Owner-Occupied			
	Estimate	MOE	%	Estimate	MOE	%	Total
Condominium	191,100	±11,730	60%	126,900	±11,200	40%	318,000
Cooperative	140,300	±11,180	31%	310,500	±12,770	69%	450,800
Not Condominium or Cooperative							
Single Family Home	87,390	±14,690	19%	378,400	±23,620	81%	465,800
2-Unit Building	231,600	±18,310	52%	216,400	±21,270	48%	448,000
3-5 Unit Building	256,900	±23,310	81%	60,260	±9,298	19%	317,200
6+ Units	1,416,000	±19,180	99%	16,470	±4,665	1%	1,432,000
Citywide	2,324,000	±31,190	68%	1,109,000	±32,440	32%	3,432,000

Percentages sum to 100% within each row.
Source: New York City Housing and Vacancy Survey (NYCHVS), 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.

Unit Size

In 2023, the housing stock comprised 6 percent studios, 33 percent one-bedrooms, 32 percent two-bedrooms, and 29 percent units with three or more bedrooms. Between 2021 and 2023, significant net increase in the number of units with three or more bedrooms, from 967,100 units in 2021 to 1,017,000 in 2023 (a net increase of over 100,000 units representing an 11 percent increase over this period). Table 3 shows the distribution of unit size as well as net change from 2021 to 2023.

Table 3. Housing Units by Number of Bedrooms and Rooms: 2021-2023

	Housing Units								
	2021			2023			Net Change		
	Estimate	MOE	%	Estimate	MOE	%	Estimate	%	
Number of Bedrooms									
Studio	200,500	±17,370	6%	225,700	±13,940	6%	25,200	13%	♦
1 Bedroom	1,241,000	±32,250	34%	1,237,000	±28,560	33%	-4,000	0%	♦
2 Bedrooms	1,235,000	±36,070	34%	1,171,000	±34,920	32%	-64,000	-5%	♦
3+ Bedrooms	967,100	±31,570	27%	1,071,000	±31,440	29%	103,900	11%	
Number of Rooms									
1 Room	195,700	±16,190	5%	201,900	±16,210	5%	6,200	3%	♦
2 Rooms	306,000	±18,840	8%	341,000	±18,650	9%	35,000	11%	♦
3 Rooms	924,400	±26,330	25%	913,400	±30,050	25%	-11,000	-1%	♦
4 Rooms	936,100	±32,170	26%	927,300	±29,940	25%	-8,800	-1%	♦
5 Rooms	663,800	±31,970	18%	669,500	±26,010	18%	5,700	1%	♦
6+ Rooms	618,100	±29,180	17%	652,100	±24,580	18%	34,000	6%	♦
Citywide	3,644,000	*****	100%	3,705,000	*****	100%	61,000	2%	

Percentages sum to 100% for each measure within a column.
Source: New York City Housing and Vacancy Survey (NYCHVS), 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.
***** A margin of error is not reported because the corresponding estimate is controlled to an independent population or housing estimate.
♦ The 90% confidence interval of the 2021 estimate overlaps with that of 2023 estimate; therefore, the net change should be used with caution.

Table 4 shows the number of bedrooms in 2023 by borough, year built, and building size. In 2023, Manhattan had the most studios and one-bedroom units, both in terms of the absolute number (504,600 units) and share (54 percent of units in the borough were studios or one-bedrooms). Citywide, just over one third of all studios and one-bedroom units were in Manhattan. In contrast, more than 60 percent of housing units in Staten Island had three or more bedrooms (113,400 units), representing just over 10 percent of all larger units in the city. Brooklyn had the largest number of units with three bedrooms or more with 348,800 (31 percent of units in the borough had three or more bedrooms), followed closely by Queens, which had 343,800 units with three or more bedrooms (37 percent of units in the borough had three or more bedrooms). While both boroughs experienced a net increase of larger units, Brooklyn gained more units with three or more bedrooms in both absolute and relative terms, up almost 60,000 units or four percentage points since 2021 (a net increase of 20 percent relative to 2021).

Larger units were more common in smaller buildings, where 64 percent of units in buildings with only one or two units had three bedrooms or more, whereas 58 percent of units in buildings with 50 or more units were studios or one-bedrooms. The overall distribution of units by number of bedrooms was relatively similar across buildings of different ages, with the exception of newer construction. In buildings built in 2000 or later, 45 percent of units are studios or one-bedrooms and 23 percent are three-bedrooms or larger compared to just under 40 percent and about 30 percent, respectively, in buildings built before 2000.

Table 4. Number of Bedrooms by Borough, Year Built, and Building Size

	Housing Units									
	Studio and 1 Bedroom			2 Bedrooms			3+ bedrooms			
	Estimate	MOE	%	Estimate	MOE	%	Estimate	MOE	%	Total
Borough										
Bronx	246,900	±12,660	44%	194,800	±12,170	35%	120,600	±12,470	21%	562,300
Brooklyn	379,500	±17,190	34%	383,000	±17,350	34%	348,800	±17,030	31%	1,111,000
Manhattan	504,600	±14,710	54%	278,100	±13,040	30%	144,300	±13,790	16%	927,000
Queens	303,000	±15,310	33%	273,000	±15,640	30%	343,800	±17,600	37%	919,800
Staten Island	29,080	±5,547	16%	42,380	±8,340	23%	113,400	±9,352	61%	184,800
Year Built										
Before 1947	784,900	±26,390	39%	630,300	±25,830	31%	601,900	±25,480	30%	2,017,000
1947-1973	374,200	±20,050	39%	315,500	±16,890	33%	270,500	±17,680	28%	960,200
1974-1999	114,000	±12,050	37%	95,570	±11,240	31%	100,400	±10,180	32%	310,000
2000 or later	189,900	±14,150	45%	130,000	±13,450	31%	98,070	±11,770	23%	417,900
Building Size										
1-2 Units	95,670	±10,960	10%	269,000	±20,730	27%	642,700	±25,300	64%	1,007,000
3-5 Units	104,900	±14,920	27%	143,700	±15,360	37%	136,000	±15,710	35%	384,600
6-19 Units	183,300	±12,950	46%	141,900	±11,700	36%	70,670	±8,816	18%	395,800
20-49 Units	293,400	±19,020	51%	202,400	±14,810	35%	75,230	±9,432	13%	571,000
50-99 Units	307,300	±19,620	59%	154,100	±12,440	30%	55,750	±7,129	11%	517,200
100+ Units	478,500	±24,300	58%	260,300	±13,810	31%	90,410	±9,766	11%	829,200
Citywide	1,463,000	±27,270	39%	1,171,000	±34,920	32%	1,071,000	±31,440	29%	3,705,000

Percentages sum to 100% within each row.
Source: New York City Housing and Vacancy Survey (NYCHVS), 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.

Accessibility

The NYCHVS has examined building and unit accessibility for those with difficulty climbing stairs for many cycles. Here, two complementary measures for the accessibility of housing units in New York City are presented: whether the unit could be reached from the sidewalk without climbing any steps or stairs and whether the building had an elevator. The third measure shown is whether one had to climb one or more flights of stairs to reach the unit, which includes units on the second floor or higher where no elevator was present. Table 5 shows these accessibility measures for all units by borough, year built, and building size in 2023.

In 2023, a total of 1,256,000 housing units (34 percent) were accessible from the sidewalk without having to climb any steps or stairs. This includes units on the first floor where no steps were required to enter the building as well as those on higher floors where there was an elevator and no steps from the sidewalk to the elevator or from the elevator to the housing unit. This represents a net increase in units accessible without any steps, up about 77,000 units or 2 percentage points (a 7 percent increase relative to 2021). A larger number of units were in buildings that had an elevator (1,699,000 or 46 percent), which includes units where someone would have to climb one or more step to reach the elevator, either to enter the building or to reach the elevator from the lobby as well as those that could be reached without the use of stairs. This also represents a net increase of accessible units relative to 2021, up 78,000 units or two percentage points (a 5 percent increase relative to 2021). In total, 873,600 units (24 percent) required one or more flight of stairs to reach the unit. Although there was a net decrease of units in walk-ups by about 42,000 units, it not statistically meaningful relative to 2021.

Manhattan was the most accessible borough by these measures, where 54 percent (497,400 units) was accessible from the sidewalk without steps or stairs, 77 percent (712,000 units) had an elevator, and only 17 percent (158,800 units) required climbing one or more flight. The Bronx had the second highest share of accessible units, where 38 percent (212,200 units) was accessible from the sidewalk without steps or stairs, 54 percent (302,700 units) had an elevator, and 21 percent required one or more flight of stairs. Brooklyn, Queens, and Staten Island had similar shares that were accessible without climbing any steps or stairs with about one in four units; however, Brooklyn had a larger share of units with an elevator, followed by Queens, and Staten Island had the smallest share where only 10 percent of units had an elevator. Staten Island, which comprised more small buildings, had the smallest share of units that required one or more flight (10 percent). Not surprisingly, units in newer buildings and those in larger buildings were more accessible.

Table 5. Accessibility by Borough, Year Built, and Building Size

	Housing Units									
	Sidewalk to Unit Without Any Stairs			Elevator in Building			1+ Flight of Stairs			
	Estimate	MOE	%	Estimate	MOE	%	Estimate	MOE	%	Total
Borough										
Bronx	212,200	±11,540	38%	302,700	±10,110	54%	119,400	±8,964	21%	562,300
Brooklyn	279,600	±12,870	25%	381,100	±12,970	34%	362,500	±12,830	33%	1,111,000
Manhattan	497,400	±15,830	54%	712,000	±10,910	77%	158,800	±9,097	17%	927,000
Queens	218,300	±15,810	24%	284,200	±12,470	31%	213,500	±17,170	23%	919,800
Staten Island	48,610	±6,912	26%	18,470	±3,343	10%	19,350	±5,042	10%	184,800
Year Built										
Before 1947	420,300	±22,310	21%	597,800	±23,380	30%	671,400	±25,150	33%	2,017,000
1947-1973	431,500	±17,120	45%	633,600	±19,660	66%	104,900	±11,470	11%	960,200
1974-1999	169,300	±15,260	55%	172,400	±13,870	56%	40,660	±8,192	13%	310,000
2000 or Later	234,900	±13,320	56%	294,800	±13,690	71%	56,500	±9,776	14%	417,900
Building Size										
1-2 Units	163,100	±16,610	16%	9,385**	±3,859**	1%**	235,300	±17,860	23%	1,007,000
3-5 Units	75,590	±10,140	20%	6,990**	±3,091**	2%**	194,700	±14,780	51%	384,600
6-19 Units	58,180	±8,982	15%	53,540	±7,883	14%	232,400	±13,090	59%	395,800
20-49 Units	145,900	±12,020	26%	313,900	±16,710	55%	188,000	±14,490	33%	571,000
50-99 Units	234,400	±16,650	45%	*	*	*	*	*	*	517,200
100+ Units	578,800	±19,900	70%	*	*	*	*	*	*	829,200
Citywide	1,256,000	±29,940	34%	1,699,000	±22,700	46%	873,500	±24,360	24%	3,705,000

Accessibility measures are shown as percent of the number of units in the total column.
Source: New York City Housing and Vacancy Survey (NYCHVS), 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.
* Estimate is suppressed following US Census Bureau disclosure avoidance practices.
** Estimate is subject to a large amount of sampling variation and should be interpreted with caution.

Rent Levels

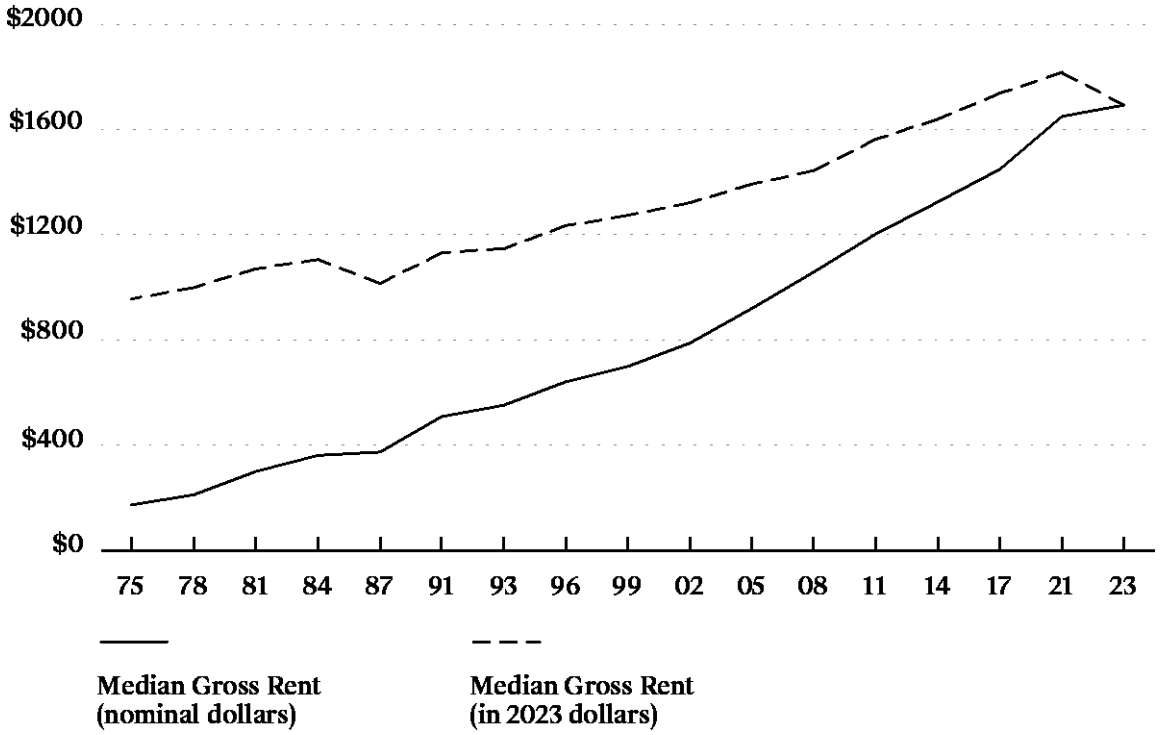
In 2023, the median monthly rent for all renter-occupied units was $1,641.[9] In nominal terms, this was an increase of 9 percent, up from $1,500 in 2021. Over this period, there was historically high inflation—the annual Consumer Price Index (CPI) for the New York-Northern New Jersey-Long Island, NY-NJ-CT-PA area increased 10.2 percent from 2021 to 2023, making it the highest two-year period of inflation since 1989 to 1991. Taking this into account, the median rent citywide declined by 1 percent between 2021 and 2023 in inflation-adjusted terms but was well within the margin of error. Table 6 shows the median rent level by borough and type of rental housing in 2023 as well as 2021 estimates in both nominal and inflation-adjusted (2023) dollars. Figure 3 shows the median rent over time from 1975 through 2023 in both nominal and inflation-adjusted 2023 dollars.

Table 6. Median Monthly Contract Rent by Borough, Type of Housing

	Occupied Rental Units				
	Median Monthly Rent				
	2021			Net Change	
	Nominal	Real	2023	Nominal	Real
Borough					
Bronx	$1,200	$1,322	$1,280	7%	-3%♦
Brooklyn	$1,593	$1,755	$1,650	4%♦	-6%♦
Manhattan	$1,898	$2,091	$2,148	13%	3%♦
Queens	$1,625	$1,790	$1,740	7%♦	-3%♦
Staten Island	$1,545	$1,702	$1,600	4%♦	-6%♦
Type of Rental Housing					
Rent Controlled	$858	$945	$988	15%♦	5%♦
Rent Stabilized	$1,400	$1,542	$1,500	7%♦	-3%♦
Market Rental	$1,825	$2,010	$2,000	10%♦	-1%♦
Public Housing	$500	$551	$560	12%♦	2%♦
Other Rentals	$1,200	$1,322	$1,367	14%♦	3%♦
Citywide	$1,500	$1,652	$1,641	9%	-1%♦

Source: New York City Housing and Vacancy Survey (NYCHVS), 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.
♦ The 90% confidence interval of the 2021 estimate overlaps with that of 2023 estimate; therefore, the net change should be used with caution.

Figure 3. Median Gross Rent: 1975 - 2023
(in Nominal and Inflation-Adjusted 2023 Dollars)



Source: New York City Housing and Vacancy Survey (NYCHVS), 1975 – 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.

Rent levels varied significantly by location, segment of the rental stock, and building and unit characteristics. The median monthly rent was $1,280 in The Bronx, $1,650 in Brooklyn, $2,148 in Manhattan, $1,740 Queens, and $1,600 in Staten Island. In nominal dollars, the median rent increased in every borough though within the margin of error except for Manhattan and the Bronx. In real terms, there was no statistically meaningful difference in median rents between 2021 and 2023.

Among rent stabilized units, the median monthly rent was $1,500 and among market rentals it was $2,000, with no statistically meaningful difference between 2021 and 2023. In 2023, the median monthly rent was $988 for rent controlled units, $560 for public housing, and $1,367 among rental units regulated in some other way—all statistically the same as in 2021.

These median values obscure variation within the renter-occupied stock. Table 7 shows the distribution of rental costs within each borough, type of housing, and building size. These four rent categories are roughly equivalent to quartiles. Citywide, 25 percent of occupied rentals (586,800 units) had rents below $1,100, 25 percent (578,100 units) had rents ranging from $1,100 to $1,649, 24 percent (554,300 units) had rents between $1,650 and $2,399, and 26 percent (604,300 units) had rents of $2,400 or more.

Public housing was concentrated at the lowest rent levels, where 77 percent of units rented for less than $1,100 and almost all were below the citywide median of $1,641. Rent controlled and rentals regulated in some other way were also concentrated in the bottom half of the rent distribution, where 43 percent of units rented for less than $1,100 and 22 percent had rents between $1,100 and $1,649. Most rent stabilized units had rents in the bottom half of the distribution: 26 percent had rents below $1,100 and 34 percent had rents between $1,100 and $1,649. Market rentals were concentrated at the upper end of the distribution, where 40 percent had rents of $2,400 or more.

Occupied rental units in buildings with fewer than six units had the smallest shares with rents less than $1,100, while rentals in buildings with 100 or more units had a substantial share of both the lowest-cost units (31 percent) and highest-cost units (37 percent).

The distribution of unit sizes varied by rent level. Table 8 shows the distribution of bedrooms and rooms within each of the four monthly rent categories. There was a relatively even distribution of studios across all rent levels; however, among higher-rent units there were fewer one-bedrooms and more units with three bedrooms or more. The same pattern was true for the distribution of rooms within each rent level.

There was a higher share of the lowest- and highest cost units that were accessible without climbing any steps or stairs (39 percent among those with rents of less than $1,100 and 43 percent among those with rents of $2,400 or more). There was a relatively even distribution of units in buildings with elevators across all rent levels, though slightly more concentrated among the lowest- and highest-cost units (similar to that of large buildings). A higher share of units with rents of $1,650 to $2,399 were in walk-ups that required one or more flight to reach the unit (36 percent).

Table 7. Distribution of Monthly Rent within Borough, Type of Housing, and Building Size

	Renter-Occupied Units								
	< $1,100		$1,100-$1,649		$1,650-$2,399		$2,400+		
	%	MOE	%	MOE	%	MOE	%	MOE	Total
Borough									
Bronx	35%	±2%	40%	±3%	20%	±2%	5%	±1%	436,800
Brooklyn	25%	±1%	25%	±2%	26%	±2%	25%	±2%	727,800
Manhattan	25%	±2%	13%	±1%	16%	±2%	47%	±2%	613,300
Queens	18%	±2%	25%	±2%	34%	±3%	23%	±3%	481,000
Staten Island	24%	±6%	27%	±6%	34%	±8%	15%**	±7%**	64,590
Type of Rental Housing									
Rent Stabilized	26%	±2%	34%	±2%	25%	±1%	15%	±1%	960,700
Market Rental	16%	±1%	19%	±1%	26%	±2%	40%	±2%	1,119,000
Public Housing	77%	±3%	16%	±2%	5%	±1%	**	**	167,700
Rent Controlled and Other Rental	43%	±5%	22%	±4%	20%	±4%	14%	±4%	76,580
Building Size									
1-2 Units	18%	±3%	24%	±3%	32%	±4%	26%	±4%	327,100
3-5 Units	14%	±2%	24%	±3%	33%	±4%	29%	±4%	263,600
6-19 Units	20%	±2%	24%	±2%	28%	±2%	28%	±3%	326,200
20-49 Units	29%	±2%	31%	±2%	22%	±2%	18%	±2%	466,600
50-99 Units	30%	±2%	30%	±3%	23%	±2%	16%	±2%	390,200
100+ Units	31%	±2%	17%	±2%	14%	±1%	37%	±2%	549,900
Citywide	586,800	±22,140	578,100	±25,070	554,300	±21,990	604,300	±24,710	2,324,000

Percentages sum to 100% within each row.
Source: New York City Housing and Vacancy Survey (NYCHVS), 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.
** Estimate is subject to a large amount of sampling variation and is therefore either not reported or should be interpreted with caution.

Table 8. Distribution of Monthly Rent by Unit Size and Accessibility

	Renter-Occupied Units								
	< $1,100		$1,100-$1,649		$1,650-$2,399		$2,400+		All Rent Levels
	Percent	MOE	Percent	MOE	Percent	MOE	Percent	MOE	
Number of Bedrooms									
Studio	8%	±1%	7%	±1%	6%	±1%	7%	±1%	7%
1 Bedroom	43%	±2%	47%	±2%	37%	±2%	35%	±2%	41%
2 Bedrooms	33%	±2%	36%	±2%	35%	±3%	31%	±2%	34%
3+ Bedrooms	16%	±1%	11%	±1%	22%	±2%	26%	±2%	19%
Number of Rooms									
1 Room	7%	±1%	6%	±1%	5%	±1%	7%	±1%	6%
2 Rooms	11%	±1%	10%	±1%	10%	±1%	14%	±2%	11%
3 Rooms	29%	±2%	35%	±2%	28%	±2%	27%	±2%	30%
4 Rooms	30%	±2%	26%	±2%	31%	±3%	23%	±2%	27%
5 Rooms	16%	±1%	16%	±2%	18%	±2%	16%	±2%	16%
6+ Rooms	8%	±1%	6%	±1%	8%	±1%	13%	±2%	9%
Accessibility									
Sidewalk to Unit Without Any Stairs	39%	±2%	29%	±3%	27%	±2%	43%	±2%	35%
Elevator in Building	62%	±2%	48%	±2%	38%	±2%	56%	±2%	51%
1+ Flight of Stairs	22%	±2%	28%	±2%	36%	±2%	26%	±2%	28%
Citywide	586,800	±22,140	578,100	±22,140	554,300	±21,990	604,300	±24,710	100%

Measures are shown as percent of citywide within each column.
Source: New York City Housing and Vacancy Survey (NYCHVS), 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.

Figure 4 shows the distribution of rental costs in 1993 and in 2023. All rents were inflation-adjusted and shown in increments of $100 (in 2023 dollars); the black bar in each shows the median monthly rent for that survey cycle. Figure 5 summarizes the overall net change in rents from 1993 to 2023 after adjusting for inflation. During this thirty-year period, New York City saw a substantial net loss of low-cost units and a net increase of higher-cost units. This was the net result of multiple factors: differences in the rents charged over time for existing units, the construction of new units at various rent levels, the additions and losses from alterations and conversions, and changes in availability (held off the market or part of the active inventory) and tenure (from renter to owner and from owner to renter). Over this 30-year period, New York City has experienced a net loss of over 600,000 units with rents of $1,500 or less (in inflation-adjusted 2023 dollars). There has also been a net increase of about 75,000 units with rents of $5,000 or more.

Figure 4. Distribution of Monthly Rent: 1993 – 2023
(Inflation-Adjusted and Shown in 2023 Dollars)

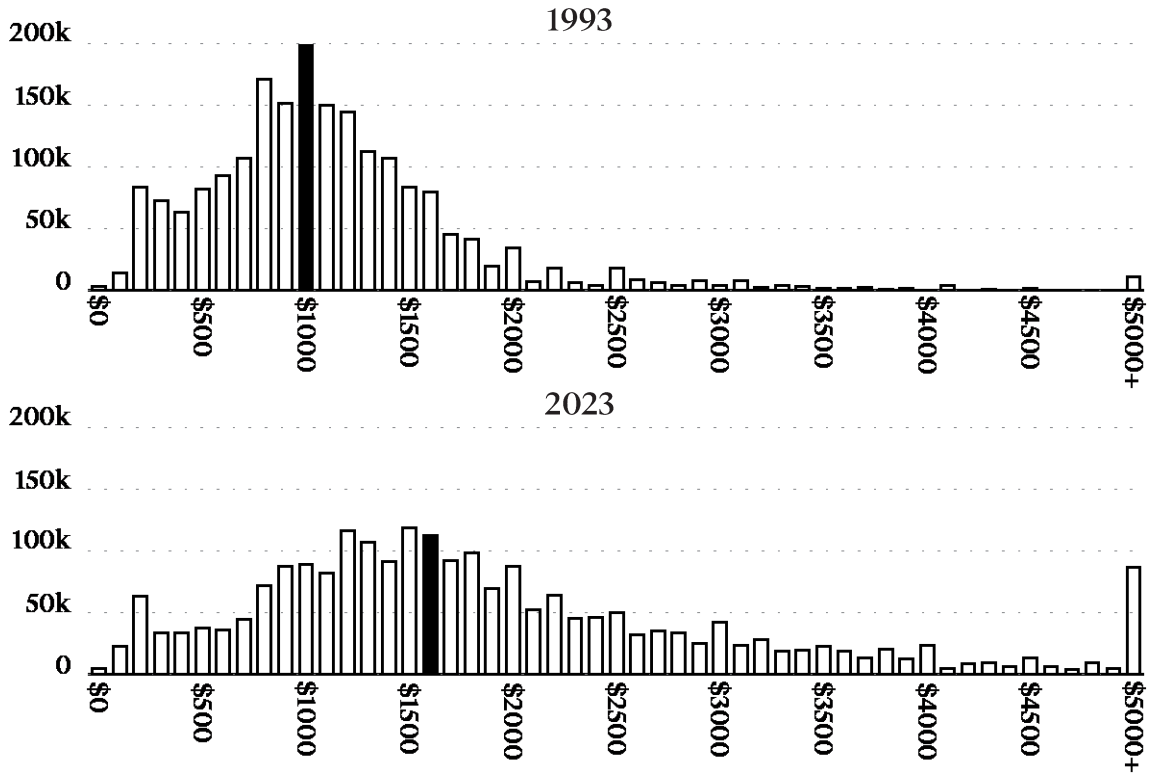
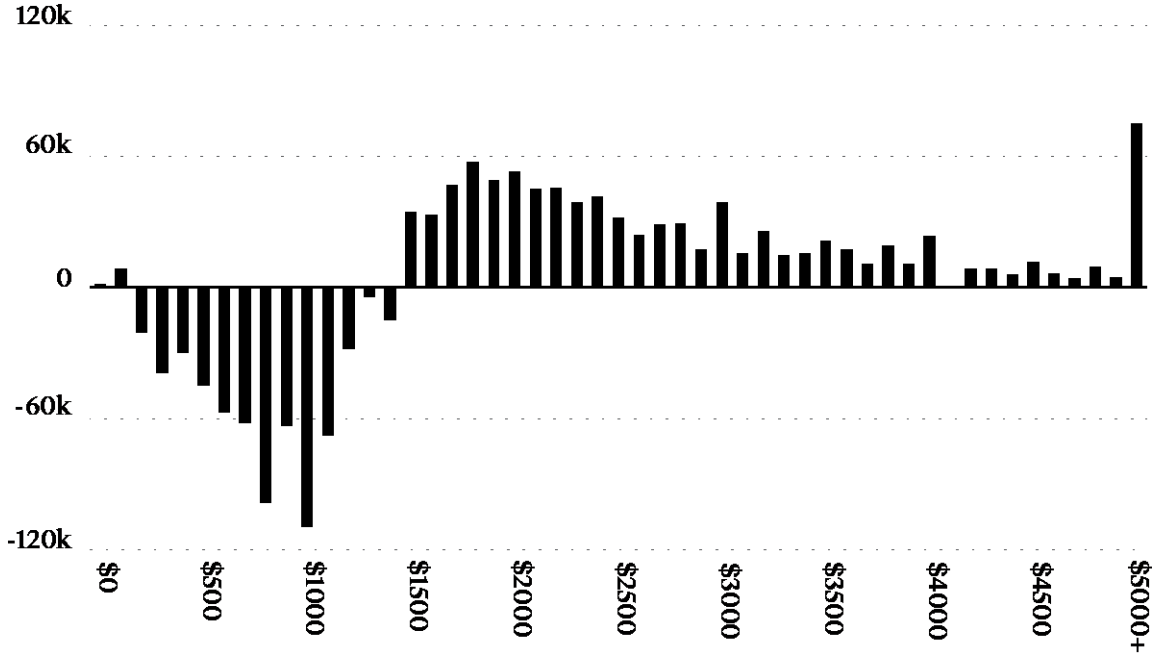


Figure 5. Net Change in Monthly Rents: 1993 – 2023
(Inflation-Adjusted and Shown in 2023 Dollars)



Source: New York City Housing and Vacancy Survey (NYCHVS), 1993, 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.

The Rental Inventory and Vacancies

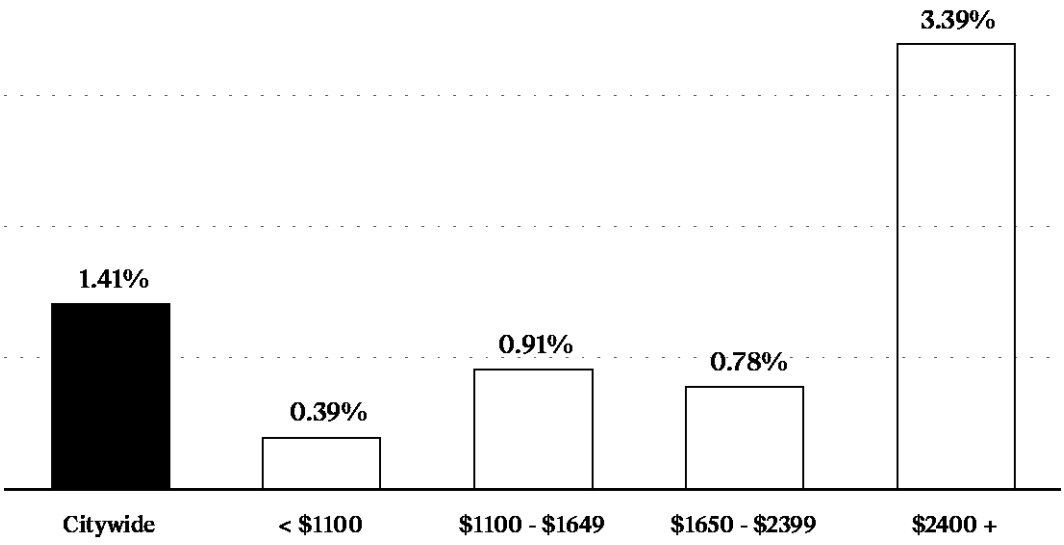
The 2023 Net Rental Vacancy Rate

The net rental vacancy rate in 2023 for all housing accommodations in New York City was 1.41 percent. There were 33,210 units available for rent out of a total stock of 2,357,000 occupied and vacant available rental units during the survey period, which ran from January to the middle of June 2023. This was one of the lowest net rental vacancy rates on record since the NYCHVS began in 1965 and stands in contrast to the historically high net rental vacancy rate in 2021 of 4.54 percent.

The net rental vacancy rate remained extremely limited at the lowest rent levels. For units renting for less than $1,100 (the bottom quartile of rents in 2023), it was 0.39 percent. For units renting for $1,100 to $1,649 (the second quartile), it was 0.91 percent. This continued the extremely limited supply of available rental units renting for below the median rent level seen in 2021, when the net rental vacancy rate for these units was also less than one percent. This remained statistically the same between the two surveys.

Among higher-cost units (those with rents of $1,650 or more), there was a significant drop in the net rental vacancy rate between 2021 and 2023. In 2023, the supply of available units renting for $1,650 to $2,399 (the third quartile of rents) was 0.78 percent. The net rental vacancy rate continued to be highest among those with rents in the top rent quartile ($2,400 or more in 2023) at 3.39 percent and the net rental vacancy rate for units with rents of $1,650 or more was statistically higher than among units with rents of less than $1,650 in 2023.[10]

Figure 6. Net Rental Vacancy Rate by Asking Rent



Source: New York City Housing and Vacancy Survey (NYCHVS), 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.

The net rental vacancy rate varied by segment of the rental stock, borough, and rent level, as shown in Table 9. All five boroughs had very low net rental vacancy rates. Manhattan had the highest at 2.33 percent, which was still significantly lower than in 2021 when it was 10.01 percent. The net rental vacancy rate was 0.98 percent within the rent stabilized stock, down from 4.57 percent in 2021. It was 1.84 percent for market rentals, down from 5.29 percent in 2021. It was 1.21 percent for public housing and rentals regulated in some other way—statistically the same as in 2021. By definition, all rent-controlled units are occupied and therefore there is no computed net rental vacancy rate for this segment of the stock. Due to the small number of vacant units that were available for rent in New York City in 2023, net rental vacancy rates within borough and different types of rental housing are all statistically similar to one another.

Table 9. Net Rental Vacancy Rate by Borough, Asking Rent, and Type of Housing

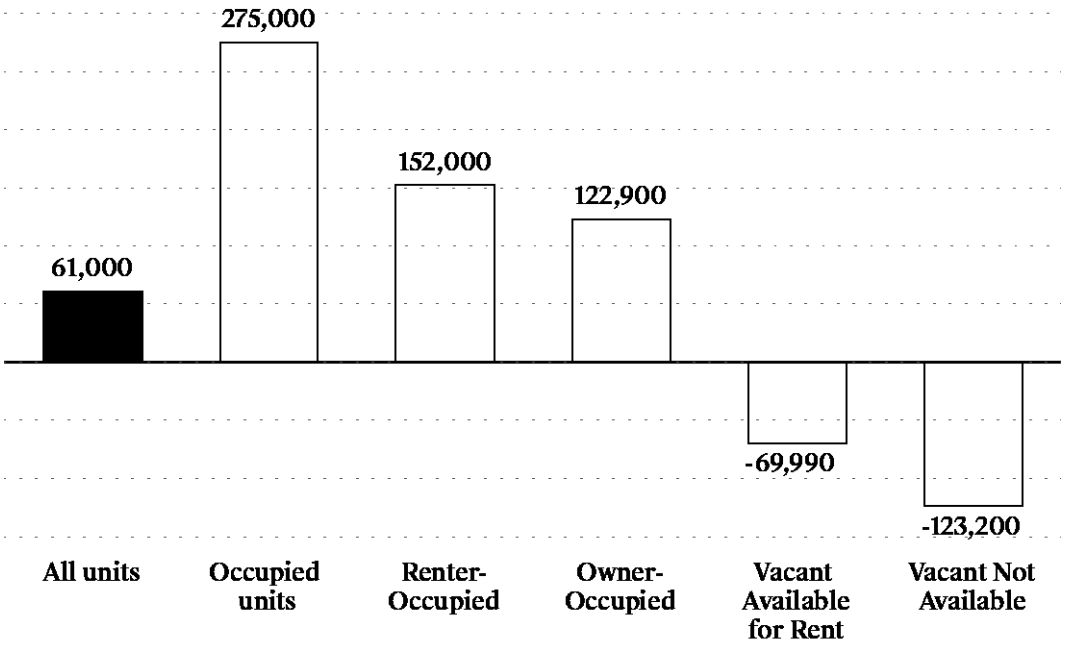
	2021				2023			
		90% Confidence Interval				90% Confidence Interval		
	Net Rental Vacancy Rate	Lower Bound	Upper Bound		Net Rental Vacancy Rate	Lower Bound	Upper Bound	
Citywide	4.54%	[4.10% , 4.98%]			1.41%	[1.15%, 1.67%]		
Borough								
Bronx	0.78%	[0.32% , 1.24%]		***	0.82%	[0.34%, 1.30%]		***
Brooklyn	2.73%	[2.14% , 3.32%]			1.27%	[0.76%, 1.78%]		**
Manhattan	10.01%	[8.81% , 11.21%]			2.33%	[1.72%, 2.94%]		
Queens	4.48%	[3.52% , 5.44%]			0.88%	[0.47%, 1.29%]		**
Staten Island	**	**			**	**		
Monthly Asking Rent								
<$1,650	0.90%	[0.60% , 1.19%]			0.65%	[0.44%, 0.85%]		
$1,650+	7.57%	[6.83% , 8.30%]			2.16%	[1.79%, 2.53%]		
Type of Rental Housing								
Rent Stabilized	4.57%	[3.86% , 5.28%]			0.98%	[0.67%, 1.29%]		
Market Rental	5.29%	[4.60% , 5.98%]			1.84%	[1.41%, 2.27%]		
Public Housing and Other Rentals	1.36%	[0.78% , 1.94%]		**	1.21%	[0.67%, 1.75%]		**

Each net rental vacancy is calculated for the subset of these units following the methodology in Appendix B.
Source: New York City Housing and Vacancy Survey (NYCHVS), 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.
** *** Due to the small number of units that were vacant and available for rent, estimate is subject to a large amount of sampling variation and is therefore either not reported or should be interpreted with caution.

The Growth in Occupied Households

These low net rental vacancy rates were explained by higher occupancy rates and a larger number of occupied housing units[11] that exceeded the net increase in supply between 2021 and 2023. The number of occupied housing units increased across almost every category relative to 2021. Citywide, there were 3,432,000 occupied housing units in 2023, up from 3,157,000 in 2021—a net increase of 275,000 households or 9 percent relative to 2021. There were 2,324,000 renter-occupied units, up from 2,171,000 in 2021, a net increase of percent. There were 1,109,000 owner-occupied units, up from 986,100 in 2021, a net increase of about 123,000 units or 12.5 percent.

Figure 7. Net Change in Housing Units, by Occupancy Status: 2021 – 2023



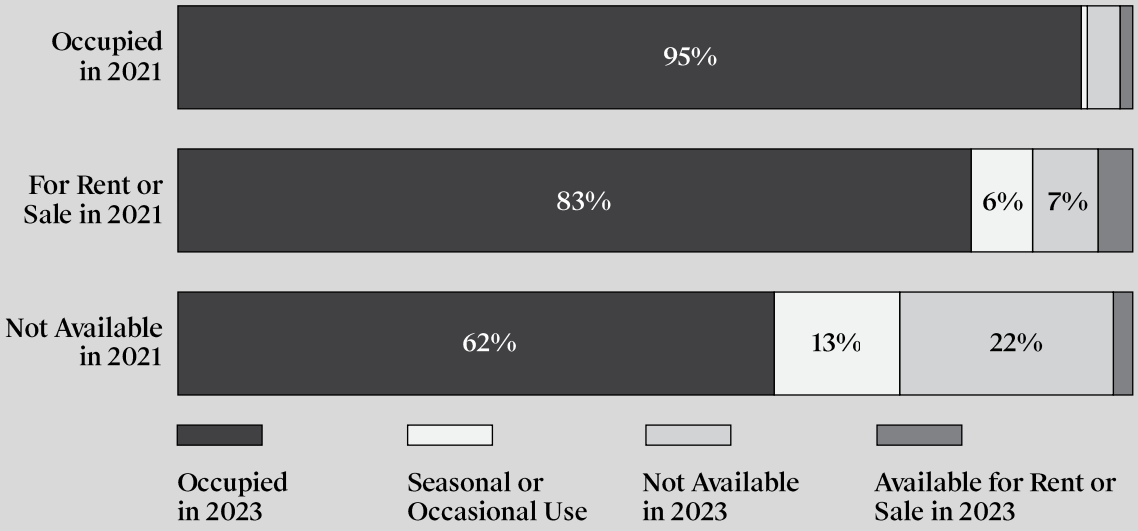
Source: New York City Housing and Vacancy Survey (NYCHVS), 2021, 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.

Changes in Occupancy Status: 2021 and 2023

In every housing market, units cycle in and out of the active market, people move out and others move in, new housing is built, units are combined or split; owners sublet to renters, and so on. All of these are factors that contribute to the net change in housing supply presented in this report. To complement these findings, we use data on the same units that were in both the 2021 and 2023 NYCHVS surveys to examine changes within occupancy status.

In 2021, the NYCHVS estimated a total of 3,157,000 occupied units, 133,600 units that were available for rent or sale, and 353,400 units that were not available for rent or sale. This last category includes 102,900 or 29 percent that were held for seasonal or occasional use (such as pieds-a-terre or those used exclusively for short-term rentals).

Figure 8. Change in Occupancy Status from 2021 to 2023



Source: New York City Housing and Vacancy Survey (NYCHVS), 2021, 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.

- Of the units that were occupied in 2021, 95 percent were occupied in 2023 (though not always by the same household); 3 percent were unavailable, and about 2 percent were either available or were being used for seasonal or occasional use.
- Of the units that were available for rent or sale in 2021, 83 percent were occupied in 2023; 6 percent were being used for seasonal or occasional use, 7 percent were unavailable, and a small share were on the market.
- Of the units that were off the market in 2021, 62 percent were occupied in 2023, 13 percent continued to be used for seasonal or occasional use, and 22 percent were unavailable for a variety of reasons; a small share were available.

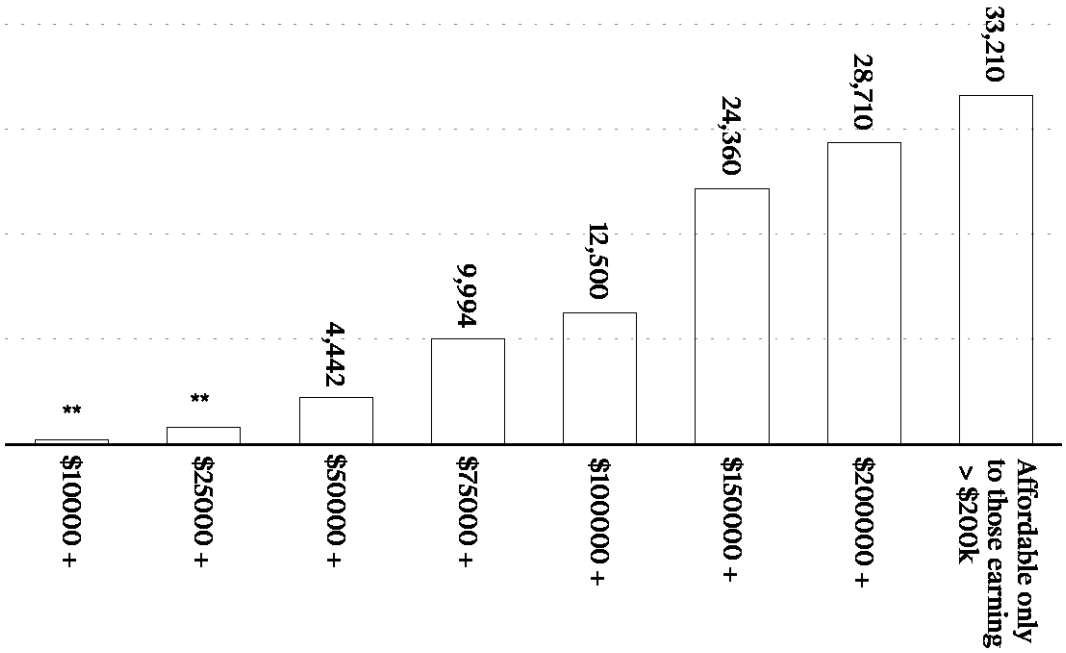
New York City's housing market is dynamic. Since 2021, most units that were off the market became active again and were occupied in 2023, while smaller shares of units that were occupied or available for rent or sale became unavailable. There was a smaller, though still substantial, share of units that continued to be held for seasonal or occasional use, with some units that had been on the market in 2021 becoming seasonal or occasional use properties. The clearest pattern is one of higher occupancy across the board, contributing to the tight housing market in 2023.

Affordability of the Rental Inventory

Housing affordability is generally defined as a monthly rent that is no more than 30 percent of the occupant's monthly gross household income. This definition can be applied in two ways: based on the actual ratio of rent-to-income for the current occupant and based on the maximum income that would make the unit affordable to a hypothetical occupant. Because units that are vacant and available for rent have no current occupants, the NYCHVS utilized the latter approach to define affordability.

For each unit that is vacant and available for rent, a future household would have to earn at least 40 times the rent (minimum household income to afford a unit = (monthly rent / 30 percent) * 12 months). Figure 9 shows the distribution of the minimum incomes needed to afford units that were vacant and available for rent in 2023. Each bar shows the number of units that were available for rent that would be affordable to that income level; each bar is cumulative in that it includes all of the units that are also affordable to households that earn less plus the number of units that *only* households with that income can afford. Imagine a household that earns $120,000. They can pay up to $3,000 a month in rent, but they can also afford any unit that costs less while a household earning $60,000 can only afford to pay $1,500. All of the units that rent for $1,500 as well as all of the units that rent for between $1,500 and $3,000 are within reach of the higher-income household, while only those with rents of $1,500 or less are within reach of the middle-income household. In 2023, 6 percent of units that were available for rent were affordable to households earning $25,000; 30 percent were affordable to those earning $70,000; 86 percent were affordable to those earning $200,000; and 14 percent were only affordable to those earning more than $200,000.

Figure 9. Incomes Needed to Afford Vacant Units Available for Rent



Source: New York City Housing and Vacancy Survey (NYCHVS), 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.
** Estimate is subject to a large amount of sampling variation and is therefore not reported.

Turnover in Rental Units

Table 10 shows the number of households that were occupied in the 2023 NYCHVS that moved to their home in the previous two years—2022 or 2021. Citywide, 387,500 households that were occupied in 2023 moved into their homes in 2022; an additional 373,700 households moved in 2021. In total, 22 percent of all occupied households moved to their home during this two-year period. This was significantly larger volume of recent movers than in 2020 and 2021. In the two years leading up to the 2023 NYCHVS, 230,000 more households moved into their home than in the two-years prior to the 2021 survey, an increase of 5 percentage points (a 44 percent increase relative to 2021).

Of the 387,500 households that moved in 2022, 33 percent moved to a unit in Manhattan, 32 percent moved to a unit in Brooklyn, 22 percent moved to a unit in Queens, and 9 percent moved to a unit in The Bronx. Only 3 percent moved to a unit in Staten Island.

The turnover rate, or the share of units that were vacant and became occupied in a twelve- month period,[12] varied significantly by the tenure and type of housing. Of the households that moved in 2022, 57 percent moved into market rentals compared to 49 percent in 2020. About one in four (24 percent) moved into rent stabilized units compared to 33 percent in 2020. A negligible share moved into public housing or a rental regulated in some other way. In total, 16 percent of those who moved in 2022 moved into owner-occupied units.

Tenants who recently moved into their unit are often referred to as “recent movers” and serve as an indicator for the monthly rent that someone actively seeking a unit on the market may have to pay. Overall, 42 percent of those who moved into their unit in 2022 had a monthly rent of $2,400 or more compared to 20 percent of tenants with a monthly rent of $1,650 to $2,399, 12 percent of those paying $1,100 to $1,649 and 11 percent among those renting their unit for less than $1,100.

Table 10. Turnover in Housing Units by Borough, Type of Housing, and Monthly Rent

	Occupied Housing Units						
	Moved in 2022			Moved in 2021			
	Estimate	MOE	%	Estimate	MOE	%	Total
Borough							
Bronx	36,340	±5,378	9%	39,000	±5,353	10%	529,900
Brooklyn	125,100	±11,770	32%	106,200	±11,070	28%	1,042,000
Manhattan	128,700	±13,420	33%	134,800	±11,490	36%	822,700
Queens	84,110	±10,570	22%	78,830	±8,924	21%	863,700
Staten Island	13,270**	±4,433**	3%**	14,960	±3,925	4%	173,700
Tenure							
Renter Occupied	325,400	±11,800	84%	306,300	±10,270	82%	2,324,000
Owner Occupied	62,060	±9,979	16%	67,420	±10,220	18%	1,109,000
Type of Housing							
Rent Stabilized	94,600	±8,998	24%	113,100	±11,740	30%	960,700
Market Rentals	221,400	±16,320	57%	185,500	±12,730	50%	1,119,000
Public Housing	5,698**	±2,277**	1%**	5,467**	±2,010**	1%**	167,700
Rent Controlled	*	*	*	*	*	*	24,020
Other Rentals	*	*	*	*	*	*	52,570
Monthly Rent							
<$1,100	41,830	±7,560	11%	41,830	±5,139	11%	586,800
$1,100-$1,649	45,150	±7,305	12%	45,150	±7,477	12%	578,100
$1,650-$2,399	75,840	±9,992	20%	75,840	±11,040	20%	554,300
$2,400+	162,600	±14,190	42%	162,600	±12,780	44%	604,300
Citywide	387,500	±22,680	100%	373,700	±15,540	100%	3,432,000

Percentages sum to 100% for each measure within a column.
Source: New York City Housing and Vacancy Survey (NYCHVS), 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.
* Estimate is suppressed following US Census Bureau disclosure avoidance practices.
** Estimate is subject to a large amount of sampling variation and is therefore either not reported or should be interpreted with caution.

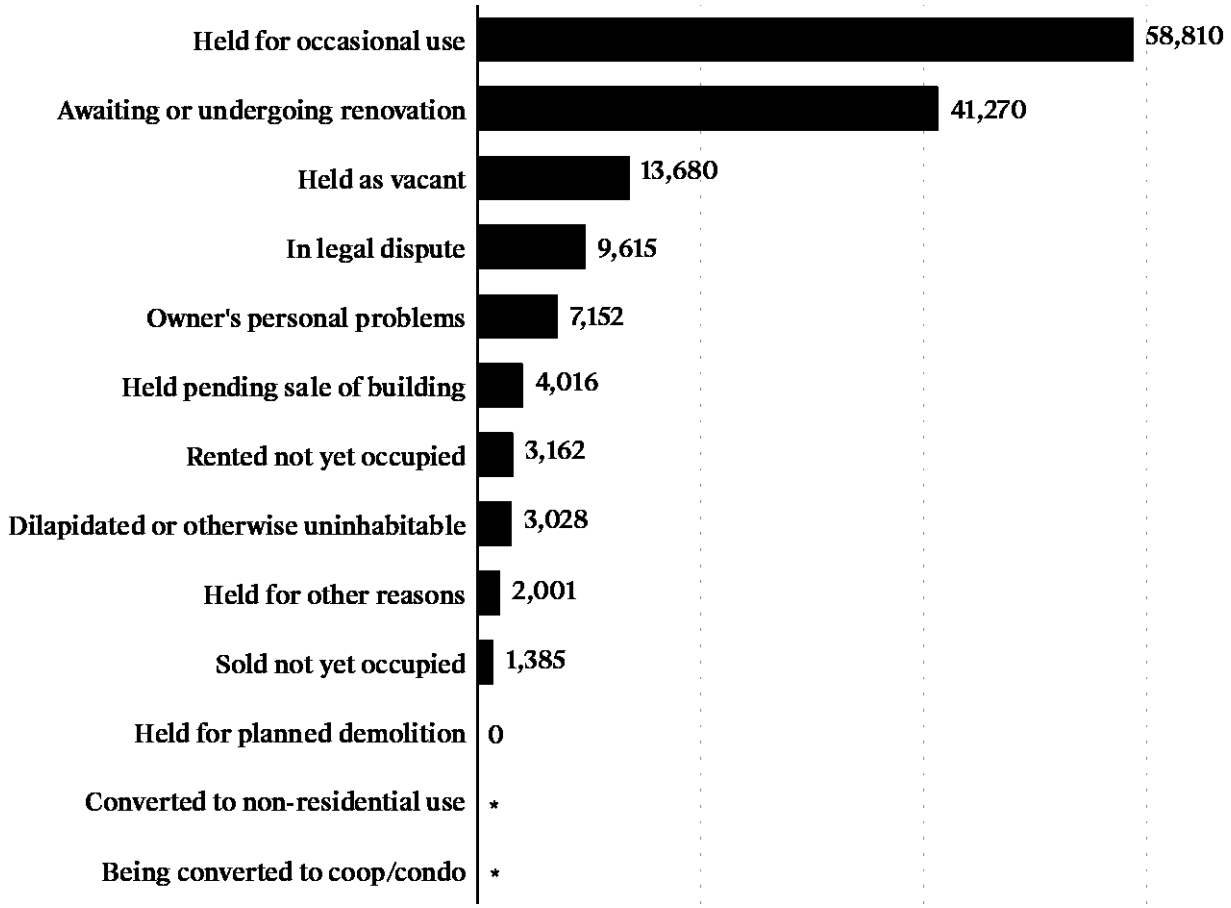
Units Not Available for Rent or Sale

The numerator of the net rental vacancy rate calculation included all units that were not occupied and were available for rent such that a new tenant could move in at the time of the survey. Units that did not meet this definition were classified as vacant and not available for rent or sale. The 2023 NYCHVS used the same categories, data sources, and definitions for vacant but not available used in the 2021 survey. In 2023, there were 230,200 units that were vacant but not available for one or more reason, down from 353,400 in 2021.[13]

In 2023, a total of 82,380 units (36 percent) were not available for rent for two or more reasons. Of the 145,100 that were unavailable for only one reason (shown in Figure 11), the most prevalent reason was that the unit was held for seasonal, recreational, or occasional use (58,810 units or 26 percent of all units not available for rent or sale), down from 102,900 in 2021 and 74,950 in 2017. There were 41,270 units undergoing or awaiting renovation where no other reason also applied, statistically similar to the 37,320 units in 2021.[14] There were 13,680 units that were held vacant for 12 months or longer where no other reason was reported, down significantly from 26,050 in 2021.

Each of the remaining reasons had a prevalence of less than 5 percent. Units that were not available because of a legal dispute remained statistically similar to 2021, with 9,615 units. Units that were not available because of an owner's personal situation (such as illness) remained statistically similar to 2021, with 7,152 units. Just over 4,000 units were held pending the sale of the building, up from 2023 when there were too few units to report. The number of units rented but not yet occupied was down significantly, with just over 3,000 units in 2023 compared to almost 17,000 in 2021; the same was true for units that had been sold but not yet occupied—just under 1,500 units in 2023 compared to about 7,300 units in 2021. The number of units deemed dilapidated or otherwise uninhabitable (for example, if the unit had no access to a bathroom or had an active vacate order in effect) was significantly lower with just over 3,000 units in 2023 compared to about 11,500 in 2021. There were 2,001 units (1 percent) that gave a reason that could not be categorized as one of the enumerated reasons and was recorded by the NYCHVS Field Representative (FR) as "other."

Figure 10. Units Not Available for Rent or Sale by Specified Reason



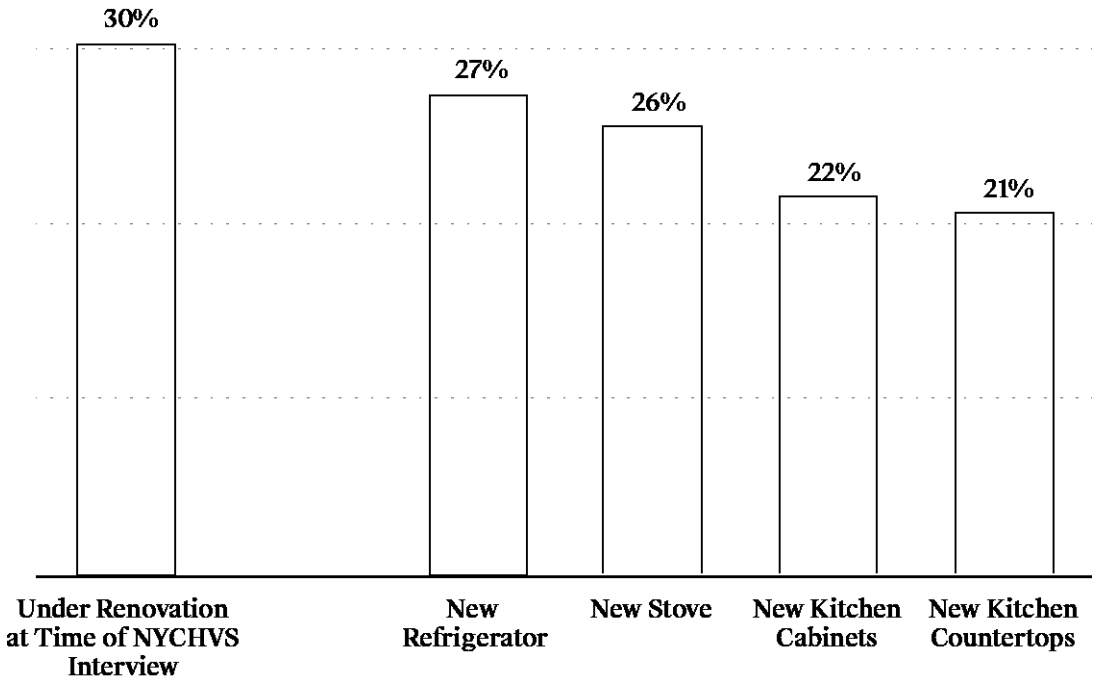
Source: New York City Housing and Vacancy Survey (NYCHVS), 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.
* Estimate is suppressed following US Census Bureau disclosure avoidance practices.

The NYCHVS cannot distinguish between those units that would remain permanently off the market and those that would return to the active housing inventory in the future and, if so, how long before they would become renter- or owner-occupied. Additionally, most of the units that were vacant but not available had an unknown tenure, meaning that if they were to become occupied in the future it may be by either a tenant or owner. There were a few exceptions to this. Units that were vacant but not available because they had been rented or sold but not yet occupied may be assumed to become renter- and owner-occupied, respectively, when the new occupant moves in. Together, these categories comprised just over 4,500 units or about 2 percent of all units that were vacant but not available in 2023. The NYCHVS classified other units that were vacant but not available based on both building and unit characteristics where possible. In 2023, 26,310 units that were vacant but not available were rent stabilized, down from 42,860 in 2021.

Investment Activity in Vacant Units

As discussed above, in 2023, the second most common reason that units were not available for rent or sale was that they were awaiting or undergoing renovation (41,270 units or 18 percent); however, other units may have already completed renovation work or may have been repairing or upgrading the unit even if that was not the reason for why it was off the market. For each unit that was not available for rent or sale, the NYCHVS asked if the unit was undergoing renovation.[15] Just over 52,000 units reported being under renovation at the time of the NYCHVS interview (30 percent of the 171,400 units not on the market, excluding those held for seasonal or occasional use). The NYCHVS also asked if specific appliances or kitchen elements were new (had been replaced since the last occupant where there was a previous occupant); this questions was asked independently of whether the unit was undergoing renovation at that time. Overall, 27 percent of units had a new refrigerator, 26 percent had a new stove, 22 percent had new kitchen cabinets, and 21 percent had new kitchen countertops.

Figure 11. Renovation Activity in Units that were Vacant, but Not Available



Source: New York City Housing and Vacancy Survey (NYCHVS), 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.

The Condition of Rental Housing

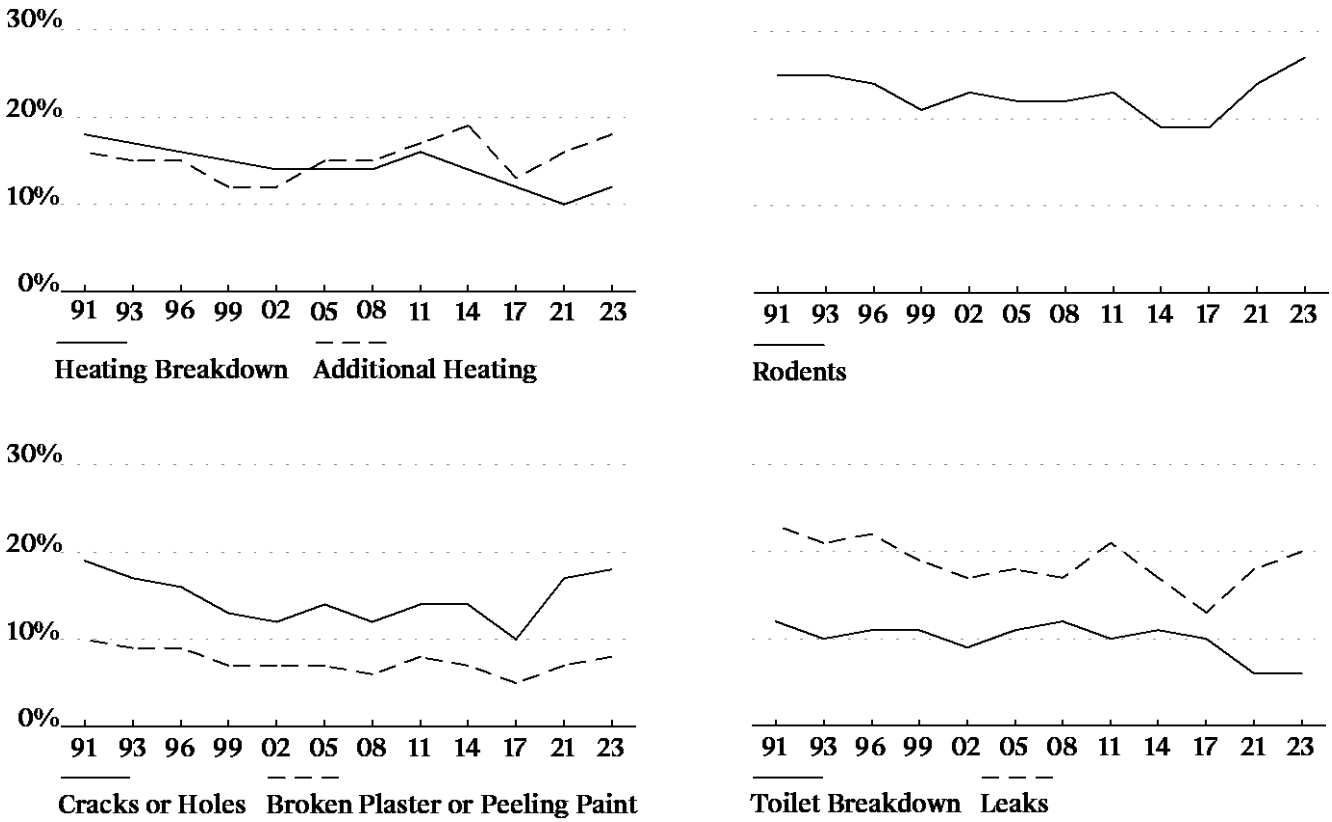
The 2023 NYCHVS measured various dimensions of poor housing quality using a series of items on housing problems that have been administered in some form for many survey cycles.[16] Each of the specific problems measured in the 2023 NYCHVS reflects an important aspect of the living conditions of current occupants, though some represent a more immediate threat to the health and safety of the residents. Moreover, the NYCHVS only measured the severity of the problem for select items, such as having multiple heating breakdowns for a period of six hours or more in the prior winter or the number of pests seen on a typical day. Any single item, if severe enough, could indicate poor housing quality; however, having multiple problems may signal more serious problems in the unit or building, even if all of the reported conditions are relatively minor in scope or duration.

There are seven housing problems that have been tracked since 1991. These include: (1) the presence of rodents in the home or residential building; (2) leaks in the unit; (3) cracks or holes in the walls, ceiling, or floor; (4) the need for supplemental heat; (5) heating breakdowns in the past winter; (6) broken plaster or peeling paint that is at least the size of a letter-size sheet of paper; and (7) non-functioning toilets. Additional conditions, including presence of mold, prevalence of pests, and elevator breakdowns, were also measured in 2023 using the same approach as the 2021 survey. (For definitions and reference periods for each item, please see Appendix B.) The prevalence of housing problems was based on the self-report of the current occupant who was interviewed and therefore could not be collected in units that were vacant in 2023.

Housing Problems Over Time

The 2023 NYCHVS showed a higher prevalence of most individual housing problems relative to earlier cycles, following the same general pattern as in 2021. This was true for housing types, including rent stabilized units and market rentals. The share of units reporting cracks or holes, broken plaster or peeling paint, and toilet breakdowns remained statistically similar to 2021. Figure 13 shows the trend for each item from 1991 through 2023.

Figure 12. Prevalence of Reported Housing Problems: 1991 - 2023



Source: New York City Housing and Vacancy Survey (NYCHVS), 1991 – 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.

Specific Types of Housing Problems

Table 11 shows the prevalence of specific types of housing problems for all occupied units, rent stabilized units, and market rentals. The most prevalent condition was presence of rodents, with 27 percent of occupied units reporting this problem in 2023. Leaks were the next most common problem with a prevalence of 20 percent, followed by cracks or holes in the ceiling or floors (18 percent), and additional heating required during the prior winter (18 percent). Among all occupied units in 2023, 12 percent reported a heating breakdown during the prior winter. The prevalence of broken plaster or peeling paint was about 8 percent and no functioning toilet for a period of six hours or more in the last year was 6 percent. One in ten occupied housing units reported having mold in their unit in the year prior to the NYCHVS interview.

Table 11. Reported Housing Problems in Rent Stabilized and Market Rentals

	Occupied Housing Units								
	Total Occupied			Rent Stabilized			Market Rentals		
	Estimate	MOE	%	Estimate	MOE	%	Estimate	MOE	%
Reported Housing Problems									
Presence of Rodents	920,600	±29,590	27%	376,200	±15,560	39%	240,600	±20,970	22%
Leaks	676,500	±29,100	20%	245,600	±15,860	26%	163,200	±18,230	15%
Cracks or Holes	613,600	±26,160	18%	252,000	±14,240	26%	171,900	±14,090	15%
Additional Heating	605,300	±26,760	18%	213,000	±16,580	22%	173,900	±15,360	16%
Heating Breakdown	423,300	±22,010	12%	188,800	±12,360	20%	103,500	±12,090	9%
Broken Plaster or Peeling Paint	260,600	±14,380	8%	101,200	±10,120	11%	53,360	±8,135	5%
Toilet Breakdown	218,300	±16,960	6%	71,600	±10,220	7%	64,510	±9,544	6%
Mold in Unit	329,400	±16,110	10%	147,600	±10,750	15%	69,380	±10,370	6%
Citywide	3,432,000	±16,230	100%	960,700	±19,300	100%	1,119,000	±26,930	100%

Reported housing problems are shown as percent of total and were not mutually exclusive.
Source: New York City Housing and Vacancy Survey (NYCHVS), 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.

Units with Three or More Housing Problems

For many cycles of the NYCHVS, the presence of three or more of the seven major types of problems was used to measure poor quality housing. This index included: (1) the presence of rodents in the building; (2) leaks in the unit; (3) cracks or holes in the ceiling, walls, or floors; (4) heating breakdowns of six or more hours; (5) additional heating used; (6) large areas of broken plaster or peeling paint; and (7) no functioning toilet for six or more hours. Table 12 shows the prevalence of occupied units by the count of housing problems.

Residents in the Bronx were the most likely to have reported housing problems, with 39 percent of occupied units reporting one or two problems and 26 percent reporting three or more problems. In contrast, 25 percent of occupied units in Staten Island reported one or two problems and 4 percent reported three or more. About one in three occupied units in Brooklyn reported one or two problems and 16 percent reported three or more. Brooklyn experienced the largest increase in the prevalence of housing problems relative to the other boroughs, with an 11-percentage point decrease in the share reporting no problems relative to 2021, an increase of 7 percentage points in the share reporting one or two problems, and a four-percentage point increase in the share reporting three or more. The Bronx reported the next largest increase in housing problems with a 6-percentage point decrease in the share of units reporting no problems, a 7-point increase in the share reporting one or two problems, and a one-point decrease in the share reporting three or more.

The prevalence of poor housing conditions was similar in pre-war buildings and those built from 1947 to 1973. In 2023, 35 percent of occupied units in buildings built before 1947 reported one or two problems and 17 percent had three or more; among those built from 1947 to 1973, 35 percent reported one or two problems and 16 percent reported three or more. In occupied units in buildings built in 1974 to 1999, 33 percent reported one or two problems and 9 percent reported three or more. In occupied units in buildings built in 2000 or later, 29 percent reported one or two problems and 8 percent reported three or more.

Although the prevalence of reported housing problems increased across all building ages, the largest increase was among occupied units in buildings built in 1974 to 1999, where the share of units with no reported problems decreased by 10 percentage points and the share reporting one or two problems increased by 9 percentage points; the latter represents a 37 percent increase relative to 2021. Not surprisingly, units in the newest buildings (built in 2000 or later) have a significantly lower prevalence of problems, but between 2021 and 2023 they showed an increase in reported housing problems that was similar to units in the oldest buildings (those built before 1947)—an increase of 4 percentage points for units reporting one or two problems and an increase of 2 percentage points for those reporting three or more.

Small buildings had a smaller share of units reporting three or more problems. In 2023, 7 percent of occupied units in buildings with one or two units and 13 percent in buildings with three to five units reported three or more problems. In buildings with 6 to 19 units, 19 percent of occupied units reported three or more problems. In buildings with 20 to 49 units, 25 percent reported three or more problems. In buildings with 50 to 99, 20 percent reported three or more problems and in buildings with 100 or more units, the prevalence of three or more problems was 14 percent. Although the prevalence of reported housing problems increased across all building sizes, the largest increase was among occupied units in buildings with three to five units, where the share reporting no problems decreased by 3 percentage points and the share reporting three or more problems increased by 4 percentage points (from 9 to 13 percent between 2021 and 2023).

Table 12. Number of Reported Housing Problems by Borough, Year Built, and Building Size

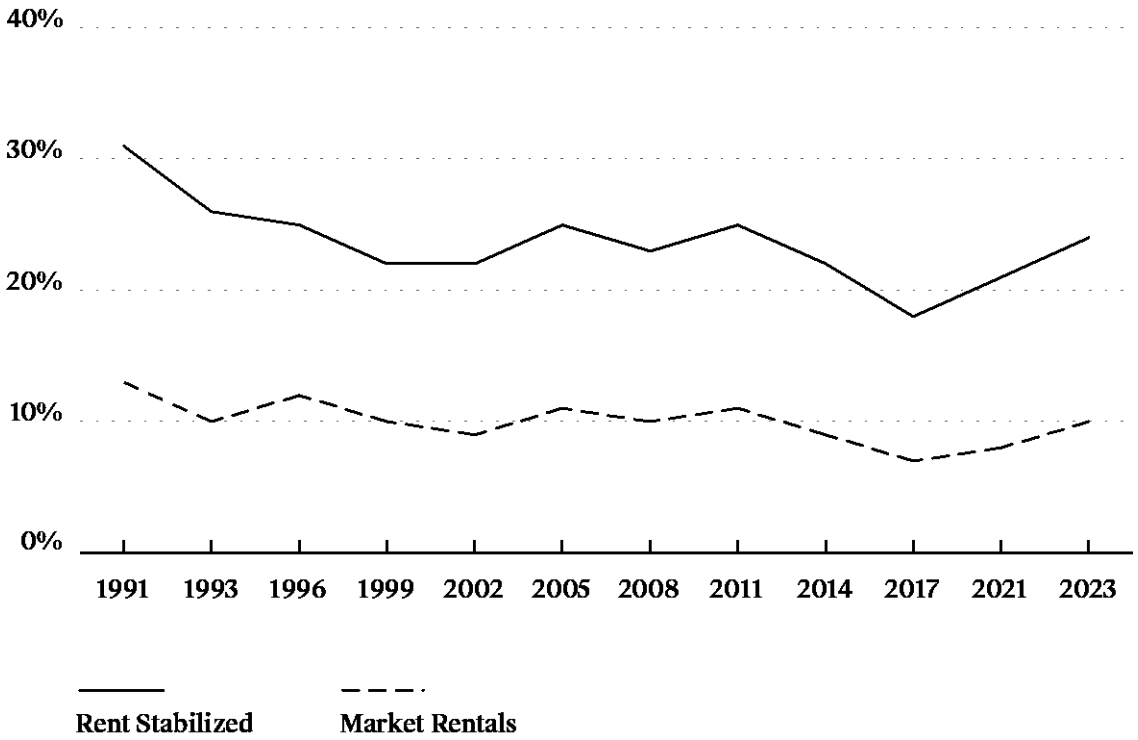
	Occupied Housing Units									
	No Reported Housing Problems			1-2 Reported Housing Problems			3+ Reported Housing Problems			
	Estimate	MOE	%	Estimate	MOE	%	Estimate	MOE	%	Total
Borough										
Bronx	184,100	±12,890	35%	206,500	±13,190	39%	139,300	±11,110	26%	529,900
Brooklyn	504,700	±19,160	48%	374,700	±19,230	36%	163,100	±13,070	16%	1,042,000
Manhattan	427,300	±15,900	52%	276,900	±16,880	34%	118,400	±8,751	14%	822,700
Queens	509,700	±16,940	59%	269,300	±15,900	31%	84,670	±10,250	10%	863,700
Staten Island	123,800	±8,358	71%	42,710	±7,384	25%	7,257**	±3,400**	4%**	173,700
Year Built										
Before 1947	898,300	±32,980	48%	648,300	±26,470	35%	317,200	±19,510	17%	1,864,000
1947-1973	444,000	±21,910	49%	316,500	±17,720	35%	141,000	±10,760	16%	901,500
1974-1999	164,200	±14,780	58%	92,640	±11,780	33%	24,870	±5,621	9%	281,700
2000 or later	243,200	±16,530	63%	112,600	±13,240	29%	29,720	±6,674	8%	385,500
Building Size										
1-2 Units	579,100	±27,220	61%	306,300	±26,340	32%	65,480	±10,540	7%	950,800
3-5 Units	195,200	±17,720	56%	108,100	±12,070	31%	44,080	±9,023	13%	347,400
6-19 Units	161,100	±12,290	44%	133,600	±9,590	37%	70,780	±8,202	19%	365,500
20-49 Units	198,500	±14,070	37%	205,200	±13,570	38%	134,200	±11,290	25%	537,900
50-99 Units	211,700	±11,590	44%	172,800	±13,930	36%	96,760	±8,325	20%	481,200
100+ Units	404,100	±21,450	54%	244,200	±16,220	33%	101,400	±8,809	14%	749,700
Citywide	1,750,000	±33,310	51%	1,170,000	±32,690	34%	512,700	±25,420	15%	3,432,000

Percentages sum to 100% within each row.
Source: New York City Housing and Vacancy Survey (NYCHVS), 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.
** Estimate is subject to a large amount of sampling variation and should be interpreted with caution.

In 2023, the prevalence of the number of reported housing problems varied by housing type and rent level. Table 13 shows the number of problems by type of housing and rent. Just under one in four (24 percent) rent stabilized units, 10 percent of market units, 43 percent of public housing units, 25 percent of rental units regulated in some other way and rent-controlled units, combined, reported three or more problems. In comparison, 7 percent of owner-occupied units reported three or more problems.

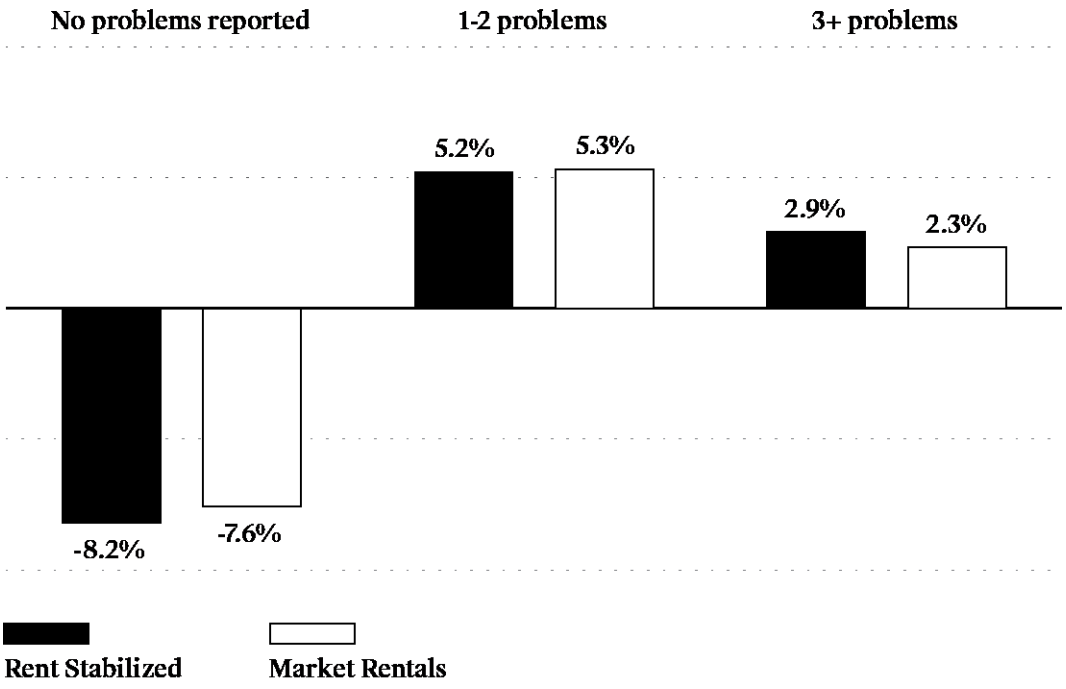
Rent stabilized and market rentals experienced a similar increase in the share reporting housing problems: both housing types had a decline of 8 percentage points in the share reporting no problems, a five-point increase in the share reporting one or two problems, and a 2.9 and 2.3 point increase, respectively, in the share reporting three or more problems. Units in public housing reported the same distribution of problems as in 2021.

Figure 13. Units Reporting 3+ Housing Problems for Rent Stabilized Units and Market Rentals: 1991 – 2023



Source: New York City Housing and Vacancy Survey (NYCHVS), 1991 – 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.

Figure 14. Net Change in the Share of Units Reporting 3+ Housing Problems for Rent Stabilized Units and Market Rentals, 2021 – 2023

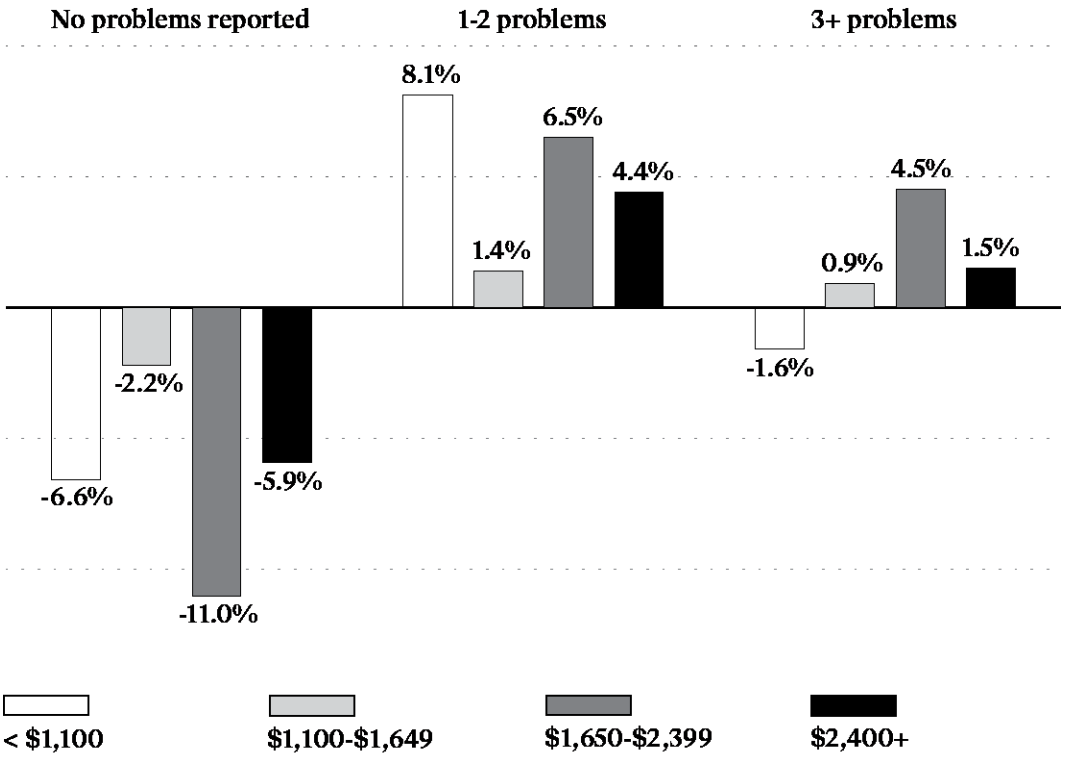


Source: New York City Housing and Vacancy Survey (NYCHVS), 2021, 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.

In 2023, occupied units with rents of less than $1,100 (the bottom quartile of rents in the city) reported a similar prevalence of three or more problems (25 percent) relative to those in the second quartile with rents of $1,100 to $1,649 (24 percent). Among units with rents between $1,650 and $2,399 (the third quartile of rents), 18 percent reported three or more problems. Among those with the highest rents of $2,400 or more (the top quartile), 9 percent reported three or more.

Although the prevalence of housing problems generally declines with increasing rent, the largest increase in the share reporting problems was in the third rent quartile (those with rents of $1,650 to $2,399), with an 11-percentage point decrease in the share of units reporting no problems, a 7-point increase in the share reporting one or two problems, and a 5-point increase in the share reporting three or more. Both units in the highest rent quartile ($2,400 or more in 2023) and those in the lowest (rents of less than $1,100), showed a 6.6 and 5.9 point net decrease, respectively, in the share of units with no housing problems. The bottom quartile showed a net increase of 8-points in the share reporting one or two problems while the top quartile showed a net increase of 4-points.

Figure 15. Net Change in the Share of Units Reporting 3+ Housing Problems by Rent Level 2021 – 2023



Source: New York City Housing and Vacancy Survey (NYCHVS), 2021, 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.

Table 13. Number of Reported Housing Problems by Type of Housing and Monthly Rent

Occupied Housing Units

	No Reported Housing Problems			1-2 Reported Housing Problems			3+ Reported Housing Problems			
	Estimate	MOE	%	Estimate	MOE	%	Estimate	MOE	%	Total
Type of Housing										
Rent Stabilized	373,200	±19,100	39%	357,500	±15,260	37%	230,100	±14,130	24%	960,700
Market Rental	675,100	±22,930	60%	328,200	±22,960	29%	115,200	±13,460	10%	1,119,000
Public Housing	33,250	±5,307	20%	62,540	±4,622	37%	71,920	±5,142	43%	167,700
Rent Controlled and Other Rentals	27,050	±5,272	35%	30,720	±5,264	40%	18,800	±3,234	25%	76,580
Owner	641,200	±27,110	58%	391,100	±22,440	35%	76,660	±12,600	7%	1,109,000
Monthly Rent										
< $900	213,700	±16,240	36%	223,800	±16,010	38%	149,300	±9,352	25%	586,800
$900-$1,499	235,600	±17,950	41%	204,400	±13,770	35%	138,100	±10,880	24%	578,100
$1,500-$2,299	265,900	±14,920	48%	191,400	±14,590	35%	97,020	±12,140	18%	554,300
$2,300+	393,400	±21,630	65%	159,300	±14,620	26%	51,610	±7,886	9%	604,300
Citywide	1,750,000	±33,310	51%	1,170,000	±32,690	34%	512,700	±25,420	15%	3,432,000

Percentages sum to 100% within each row.
Source: New York City Housing and Vacancy Survey (NYCHVS), 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.

Indicators of Continuing Need

No report on the supply and condition of housing would be complete without also considering the resident population it houses. This is partly because any assessment of the housing market requires an examination of demand as well as supply, but also because the scope of the NYCHVS extends beyond a description of market conditions alone. The statutory obligation set forth in the Local Emergency Housing and Rent Control Act of 1962 (LEHRCA) and fulfilled by the NYCHVS since 1965 requires a report not only on the supply and condition of residential accommodations, but also on the continued need for the regulation of residential rents and evictions. This necessitates a consideration of the tenant population as a whole, the conditions that make it more or less likely that residents will be able to find, and retain, housing that meets their needs, and the role of rent regulation in ensuring that housing in New York City is both adequate and affordable to those it serves, now and in the future.

This section begins with a description of the income distribution of New York City in 2023. It then narrows the focus to the tenant population, including demographics, household composition, and income. Data from 2023 on observed disparities in housing quality, the prevalence of residential crowding and rent burden, and measures of financial hardship and insecurity are also presented.

In this report, data on the population is presented at the household-level. As such, all of the estimates and percentages represent the number or share of households, rather than people.[17] Three types of measures are presented in this report: those based on the characteristics of the householder (e.g., their race/ethnicity and nativity), those based on one or more household member (e.g., age and disability status), and measures of the household as a whole (e.g., the combined income of all household members).

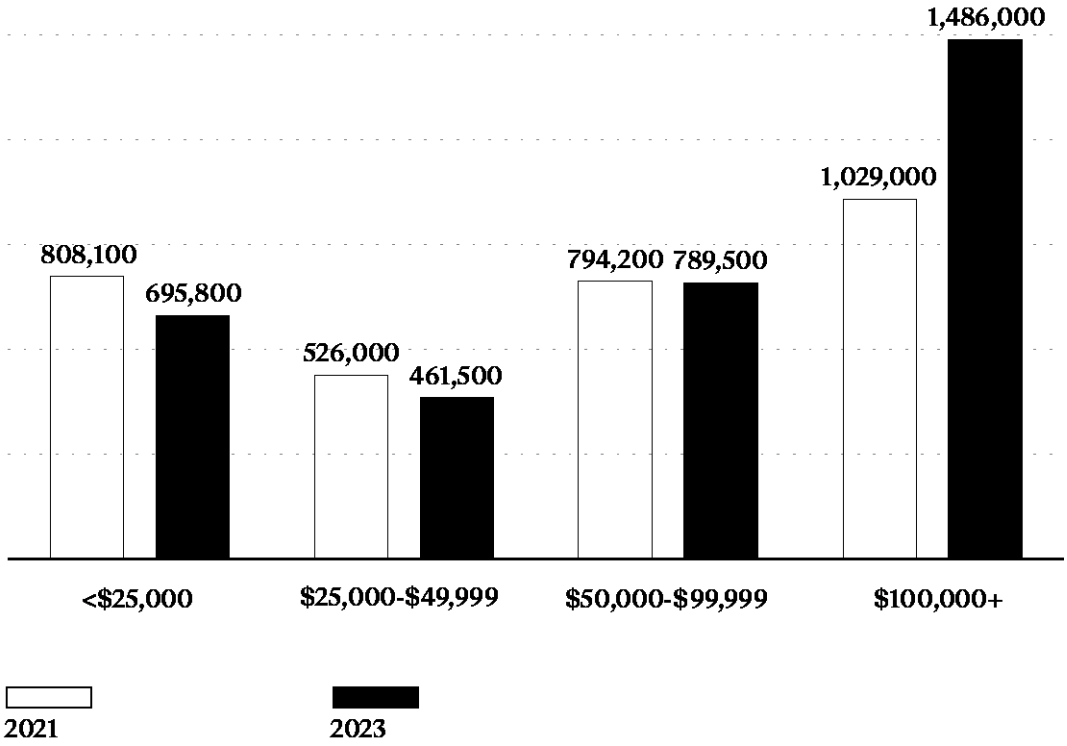
Changes in the Income Distribution

Between the 2021 and 2023 NYCHVS surveys, the income distribution of New York City households shifted dramatically. The median income (across owners and renters, all types of housing, and every neighborhood) increased to $80,000, up from $60,550 in 2020[18] ($66,380 in inflation-adjusted 2022 dollars). Among renters, it increased to $70,000 from $50,000 ($54,810 in 2022 dollars) and among owners, it increased to $122,000 from $98,000 ($107,400 in 2022 dollars).

This shift is even more dramatic when we look at households by income category. Figure X shows New York City's households sorted into four groups: those earning less than $25,000, those earning between $25,000 and $49,999, those earning $50,000 to $99,999, and those earning $100,000 or more (in nominal dollars). There was a stark net increase in the number of households in the highest income category (those earning $100,000 or more)—up by almost half a million households or 11 percentage

points relative to 2021. There was a corresponding net loss of lower-income households: down 2 points for those earning between $50,000 and $99,999, down 3 points for those earning $25,000 to $49,999, and down 5 points for those earning less than $25,000.

Figure 16. Household Incomes in New York City: 2021 – 2023



Source: New York City Housing and Vacancy Survey (NYCHVS), 2021, 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.

This upward shift in incomes resulted from a combination of factors, including increases in individual wages (e.g., because of a raise or change in jobs), the number of wage earners living together (e.g., household members entering the workforce or an additional wage earner moving in with others to increase the overall household income), and migration (e.g., new higher-income households that moved to New York City as well as lower-income households that left the city). Although the NYCHVS measures some of these individual components, it is not designed to track changes in income and employment at the individual level over time. Regardless of the source of this income shift, the distribution of household incomes is essential to understanding changes in supply and demand in the housing market and the corresponding measures of continuing need for the regulation of residential rents and evictions.

The Renter Population

Two out of every three households rented their home in 2023. Table 14 shows the distribution of the 2,324,000 renter households according to the race/ethnicity and nativity of the householder, the presence of one or more older adult, one or more co-resident child, those who lived alone, those with one or more person with a disability, and household income. Owner households are included for comparison.

Compared to households that owned their home, a larger share of renter households was headed by a person of color. Of the 2,324,000 renter households, 68 percent was headed by a person of color. About 506,400 households (22 percent) were headed by a Black New Yorker, 716,200 (31 percent) were headed by a Hispanic New Yorker, 321,500 (14 percent) were headed by an Asian New Yorker, and 36,380 (2 percent) were headed by a New Yorker who identified as another race or as two or more races. Overall, 32 percent of renter households were headed by a White New Yorker compared to 46 percent of owner households. A similar rate of renter and owner households were headed by someone who was born outside of the US—40 percent and 43 percent, respectively, but a much higher absolute number of renter households were headed by a New Yorker who was born outside of the US (935,500 renter households compared to about 475,000 owner households).

A smaller share of renter households comprised one or more older adult in the household—28 percent compared to 49 percent of owner households. A similar share had one or more co-resident child (25 and 27 percent, respectively). These were not mutually exclusive types of households, as some may have both one or more older adult as well as one or more co-resident child.

The 2023 NYCHVS showed a significant decrease in the number and share of individuals living alone. Citywide, 33 percent of households comprised only one person, down from 39 percent in 2021. This represents a return to the share of single-person households seen in 2017, signaling that 2021 may have been an outlier as a result of changes to household composition during the pandemic. About one in five New York City households comprised one or more person with a disability, with statistically similar shares among renters and owners. This included households where any household member had a hearing, vision, ambulatory, cognitive, self-care, or independent-living difficulty.

Despite the increase in median household income among renters, there continued to be a large share of low-income renters. In 2023, about one in four renter households earned less than $25,000 (547,400 or 24 percent) and 15 percent that earned between $25,000 and $49,999 (357,000 households). The majority of households that owned their home earned $100,000 or more (59 percent).

Table 14. Household Composition and Income by Tenure

	Households						
	Renters			Owners			
	Estimate	MOE	%	Estimate	MOE	%	Total
Householder Characteristics							
Race/Ethnicity							
White, Non-Hispanic	743,000	±25,990	32%	506,600	±22,930	46%	36%
Black, Non-Hispanic	506,400	±21,020	22%	178,700	±18,920	16%	20%
Hispanic	716,200	±23,980	31%	157,900	±14,500	14%	25%
Asian, Non-Hispanic	321,500	±18,280	14%	253,000	±18,620	23%	17%
Other	15,800	±5,016	1%	**	**	**	1%
Two or More Races	20,580	±5,034	1%	**	**	**	1%
Nativity							
Born Outside the US	935,500	±26,750	40%	474,900	±24,460	43%	41%
Household Characteristics							
1 + Older Adult	646,800	±29,690	28%	544,300	±30,300	49%	35%
1 + Child	586,800	±28,710	25%	300,400	±19,280	27%	26%
Single Person Household	857,100	±26,900	37%	266,300	±20,480	24%	33%
1 + Person with a Disability	516,100	±23,640	22%	224,600	±15,930	20%	22%
Household Income							
Median	$70,000			$122,000			$80,000
< $25,000	547,400	±20,320	24%	148,400	±15,760	13%	20%
$25,000-$49,999	357,000	±22,080	15%	104,500	±12,580	9%	13%
$50,000-$99,999	583,500	±26,300	25%	205,900	±20,810	19%	23%
$100,000 +	835,600	±26,850	36%	650,100	±29,230	59%	43%
Citywide	2,324,000	±31,190	100%	1,109,000	±32,440	100%	100%

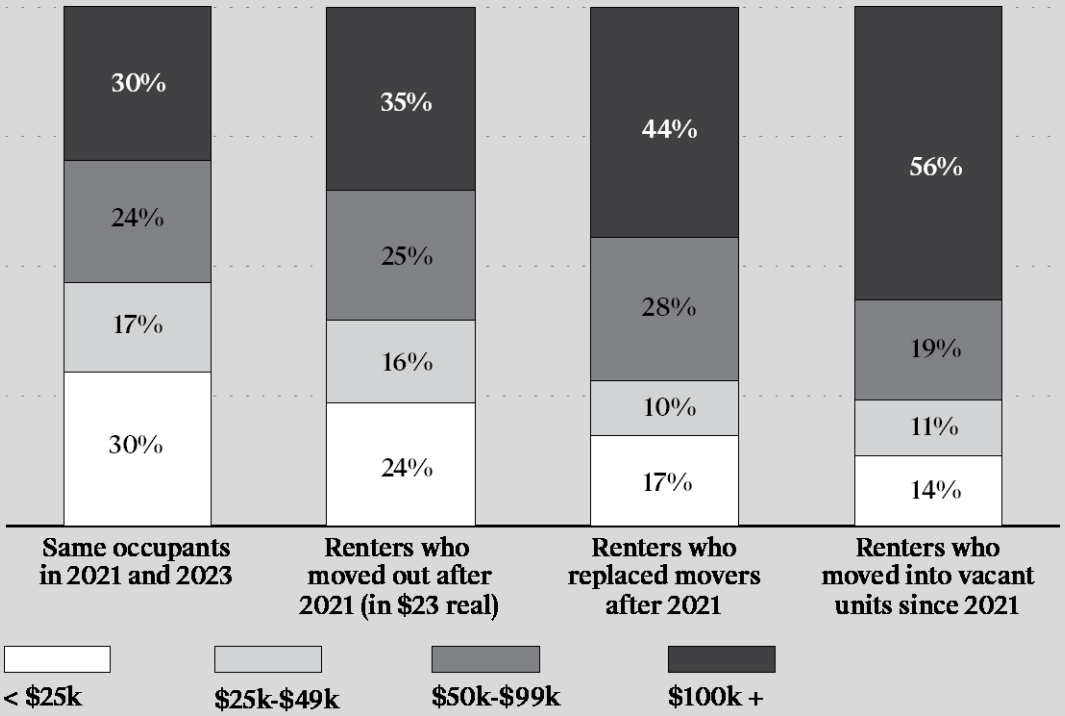
Percentages sum to 100% for each measure within a column.
Source: New York City Housing and Vacancy Survey (NYCHVS), 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.
** Estimate is subject to a large amount of sampling variation and is therefore not reported.

Who Moved Out and Who Moved In: 2021 and 2023

Residential mobility—including the characteristics of who moves and who stays—is a single, but essential, part of explaining how our city is changing over time. In this section, we use data on the same units that were interviewed in both the 2021 and 2023 NYCHVS surveys to compare among four groups of renters:

1. Renters who stayed: households that lived in the same home in both 2021 and 2023
2. Renters who moved out: households that moved out after we interviewed them in 2021, either to another home in New York City or somewhere else
3. Renters who moved in where others moved out: households that moved into the same units where a renter moved out between 2021 and 2023 (i.e., they now occupy the homes that the second group vacated)
4. Renters who moved into a unit that was vacant in 2021: households that moved into a unit that was either vacant and available for rent in 2021 or was off-the-market in 2021

Figure 17. Residential Mobility Among Renters, by Household Income: 2021 – 2023



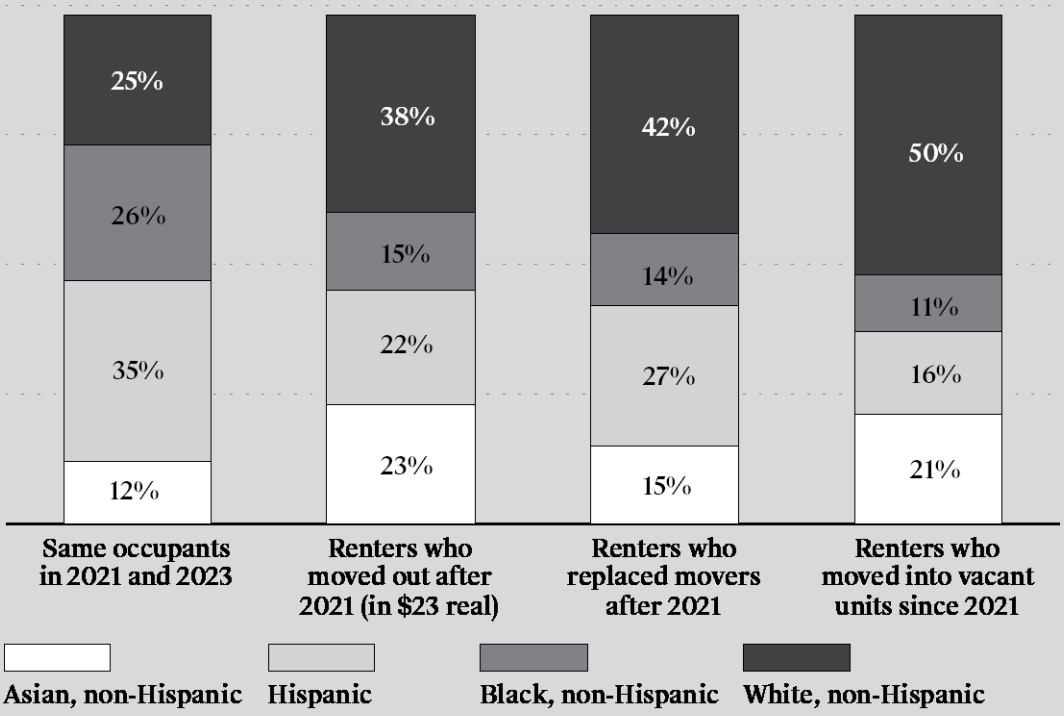
Source: New York City Housing and Vacancy Survey (NYCHVS), 2021, 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.

Figure 17 shows the income distribution for these four groups of renters. Among renters who stayed, 30 percent earned less than $25,000 and 30 percent earned $100,000 or more in 2023. Renter who moved out had slightly higher incomes than those who stayed: 24 percent earned less than $25,000 and 35 percent earned $100,000 or more. Renters who moved into those same units, “replacing” those who moved out, earned more than the renters who vacated those homes (17 percent earned less than $25,000 and 44 percent earned $100,000 or more, in inflation-adjusted 2023 dollars).

Renters who moved into units that were vacant in the 2021 NYCHVS had the highest incomes, with only 14 percent earning less than $25,000 and 56 percent earning $100,000 or more. This last group (those that moved into a vacant unit and earned $100,000 or more) had a median household income in 2023 of $192,000.

Figure 18 shows the race/ethnicity of the head of household for these same four groups of renters. Among those who stayed, 25 percent were headed by a White New Yorker, 26 percent were headed by a Black New Yorker, 35 percent were headed by a Hispanic New Yorker, and 12 percent were headed by an Asian New Yorker. A smaller share of those who moved out after the 2021 NYCHVS were headed by someone who identified as a person of color (62 percent compared to 75 percent among those who stayed). 58 percent of renters who moved into these homes were headed by a person of color. Only half of the households who moved to a unit that was vacant in 2021 were headed by a person of color.

Figure 18. Residential Mobility Among Renters, by Householder Race/Ethnicity: 2021 - 2023



Source: New York City Housing and Vacancy Survey (NYCHVS), 2021, 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.

White, affluent renters were more residentially mobile than those who remained in their home between 2021 and 2023. New occupants—those who moved in where someone else moved out and those who moved into vacant units—had a significantly larger share in the highest income group and more of these households were headed by a White New Yorker, showing a pattern of sociodemographic change that contributed to the broader net changes described elsewhere in this report.

Table 15 shows these same measures for renter households that lived in specific types of units, including rent stabilized, market rentals, public housing, and all other rental units (including rent controlled and rentals regulated in some other way).

Rent stabilization has always served more people of color than market rentals. In 2023, 29 percent of rent stabilized households were headed by a White New Yorker; just under one in four (23 percent) were headed by a Black New Yorker, 36 percent were headed by a Hispanic New Yorker, and 11 percent were headed by an Asian New Yorker. Market rentals had the larger shares of renter households headed by a White New Yorker (39 percent) or an Asian New Yorker (18 percent) and the smallest shares headed by a Black New Yorker (17 percent) or a Hispanic New Yorker (24 percent) relative to other types of rental housing.

Compared to market renters, rent stabilized households had a higher share of householders born outside the US (44 and 38 percent, respectively); this represents an increase from 40 percent of rent stabilized households in 2021 and no meaningful difference among market renters. In public housing, 95 percent of households were headed by a person of color while 32 percent were headed by someone who was born outside the US. About 75 percent of rent controlled and rental units regulated in some other way (these types of housing were combined due to the small number of units) were headed by a person of color. The share of these households that was headed by someone born outside of the US was statistically similar to all renters.

The composition of rent stabilized households was similar to renters citywide in terms of the presence of one or more older adult (31 percent compared to 28 percent citywide). In 2023, the share of rent stabilized households with one or more child increased relative to 2021 (to 23 percent from 19 percent) though the share citywide also increased (to 25 percent from 21 percent). The overall share of rent stabilized households where someone lived alone decreased to 41 percent, down from 46 percent in 2021. The share of rent stabilized households that included one or more person with a disability increased to 25 percent from 22 percent in 2021.

A significantly smaller share of households in market rentals had one or more older adult (21 percent), renters living alone (32 percent), and one or more person with a disability (15 percent). Market renters were similar to citywide in terms of the share with one or more child (26 percent). Public housing had a significantly higher share of households with one or more older adult (44 percent), one or more child (33 percent), and one or more person with a disability (43 percent). Rent controlled and rentals regulated in some other way had the highest share of households with one or more older adult (53 percent), likely as a result of the inclusion of rent-controlled units where, by definition, the residents have largely aged in place (rent control requires that the current resident or the original tenant prior to successors be in continuous residence since before July 1, 1971).

Public housing residents had the lowest household incomes with a median of $20,600, followed by

those that were rent controlled or living in rentals regulated in some other way ($36,020). In 2022, rent stabilized tenants had a median household income of $60,000, up from $47,000 in 2020 (which was $51,520 measured in 2022 dollars). In 2022, market renters had a median household income of $90,800, significantly higher than the median household income in 2020 of $62,960 (which was $69,020 in 2022 dollars).

In 2023, two out of every three New York City households rented their home. More of these households were headed by a person of color and had a significantly lower household income than owners. Within the renter population, there was substantial variation in demographics, household composition, and incomes. Those in public housing showed the most economic disadvantage and comprised the largest share of households with one or more child and one or more person with a disability. Households in rent-controlled units and rentals regulated in some other way had the largest share with one or more older adult and a median household income that was about half of the citywide median, though higher than those in public housing. Market renters had the lowest share of households headed by a person of color, had the smallest share with an older adult or person with a disability, and had the highest median income of any rental group. Rent stabilized tenants had a median household income that was lower than renter households overall, continued to show increasing racial and ethnic diversity, as well as growth in the share with one or more older adult, one or more co-resident child, and one or more person with a disability.

Table 15. Household Composition and Income of Renters by Type of Housing

	Renter Households								
	Rent Stabilized		Market Rental		Public Housing		Rent Controlled and Other Rentals		
	%	MOE	%	MOE	%	MOE	%	MOE	Total
Householder Characteristics									
Race/Ethnicity									
White, Non-Hispanic	29%	±1%	39%	±2%	4%	±1%	23%	±4%	32%
Black, Non-Hispanic	23%	±1%	17%	±1%	43%	±3%	31%	±5%	22%
Hispanic	36%	±1%	24%	±1%	45%	±4%	35%	±5%	31%
Asian, Non-Hispanic	11%	±1%	18%	±1%	6%	±2%	11%	±3%	14%
Other	**	**	**	**	*	*	*	*	1%
Two or More Races	**	**	**	**	*	*	*	*	1%
Nativity									
Born Outside of US	44%	±1%	38%	±2%	32%	±3%	39%	±6%	40%
Household Characteristics									
1 + Older Adult	31%	±1%	21%	±2%	44%	±3%	53%	±6%	28%
1 + Child	23%	±2%	26%	±2%	33%	±3%	18%	±4%	25%
Single Person Household	41%	±2%	32%	±2%	34%	±3%	51%	±6%	37%
1 + Person with a Disability	25%	±2%	15%	±1%	43%	±3%	43%	±4%	22%
Household Income									
Median	$60,000		$90,800		$20,600		$36,020		$70,000
< $25,000	26%	±2%	15%	±1%	58%	±3%	41%	±5%	24%
$25,000-$49,999	17%	±1%	13%	±1%	22%	±3%	18%	±4%	15%
$50,000-$99,999	27%	±1%	25%	±2%	15%	±2%	26%	±5%	25%
$100,000 +	30%	±2%	47%	±2%	5%	±1%	16%	±4%	36%
Citywide	960,700	±19,300	1,119,000	±26,930	167,700	±2,375	76,580	±7,187	100%

Percentages sum to 100% for each measure within a column.
Source: New York City Housing and Vacancy Survey (NYCHVS), 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.
* Estimate is suppressed following US Census Bureau disclosure avoidance practices.
** Estimate is subject to a large amount of sampling variation and is therefore not reported.

Disparities in Housing Quality

Detailed information on the conditions of the New York City housing stock was reported earlier in this report. Here, the focus is on the population living in these conditions. Table 16 shows the prevalence of no problems, one or two problems reported, and three or more problems by the race/ethnicity and nativity of the householder and by household income. As a reminder, the NYCHVS captures self-reported information on several housing problems for occupied units—seven of which have been asked for many survey cycles: (1) the presence of rodents in the home or residential building; (2) leaks in the unit; (3) cracks or holes in the walls, ceiling, or floor; (4) the need for supplemental heat; (5) heating breakdowns in the past winter; (6) broken plaster or peeling paint that is at least the size of a letter-size sheet of paper; and (7) non-functioning toilets. Following the same practice as past NYCHVS surveys, the number of problems that were counted is summed to identify those households with three or more problems in 2023.

The 2023 NYCHVS showed a clear disparity in housing quality by the race/ethnicity of the householder. More than half of the households headed by a White or Asian New Yorker reported none of the seven housing problems measured in the NYCHVS (60 and 59, respectively), while 37 percent of households headed by a Black New Yorker and 44 percent of households headed by a Hispanic New Yorker reported no problems. A similarly large share of households headed by a Black or Hispanic New Yorker reported three or more problems—about 23 and 20 percent, respectively—compared to 9 percent among both those headed by a White New Yorker and an Asian New Yorker. Households headed by someone who was born outside of the US had a similar prevalence of problems relative to all occupied households, citywide (51 percent reported no problems, 35 percent reported one or two problems, 14 percent reported three or more).

The prevalence of three or more housing problems decreased with increasing household income. Among those with an income of less than $25,000, 20 percent reported three or more problems (the same as in 2021). Among those with incomes between $25,000 and $49,999, it was 20 percent (up from 15 percent in 2021). Among those with incomes of $50,000 to $99,999, it was 15 percent (up from 12 percent in 2021), and among those with incomes of $100,000 or more, it was 11 percent (up from 9 percent in 2021).

Table 16. Number of Reported Housing Problems by Race/Ethnicity, Nativity, and Income

	Households									
	No Reported Housing Problems			1-2 Reported Housing Problems			3+ Reported Housing Problems			
	Estimate	MOE	%	Estimate	MOE	%	Estimate	MOE	%	Total
Householder Characteristics										
Race/Ethnicity										
White, Non-Hispanic	749,900	±23,380	60%	382,700	±20,550	31%	117,000	±13,370	9%	1,250,000
Black, Non-Hispanic	254,800	±16,960	37%	269,500	±15,820	39%	160,800	±13,410	23%	685,000
Hispanic	382,700	±18,390	44%	315,600	±20,130	36%	175,800	±12,610	20%	874,100
Asian, Non-Hispanic	339,700	±19,720	59%	183,200	±13,630	32%	51,630	±9,298	9%	574,500
Other	11,490**	±4,473**	51%**	9,155**	±4,089**	41%**	**	**	**	22,540
Two or More Races	11,110**	±3,760**	42%**	9,881**	±3,570**	37%**	5,655**	±2,341**	21%**	26,650
Nativity										
Born Outside of US	721,500	±25,140	51%	497,900	±24,530	35%	191,000	±15,510	14%	1,410,000
Household Income										
< $25,000	318,200	±22,820	46%	238,500	±17,310	34%	139,100	±10,580	20%	695,800
$25,000-$49,999	209,400	±16,240	45%	160,000	±13,380	35%	92,110	±11,490	20%	461,500
$50,000-$99,999	393,300	±24,680	50%	276,300	±21,090	35%	119,900	±10,280	15%	789,500
$100,000 +	828,800	±32,950	56%	495,200	±27,820	33%	161,700	±18,000	11%	1,486,000
Citywide	1,750,000	±33,310	51%	1,170,000	±32,690	34%	512,700	±25,420	15%	3,432,000

Percentages sum to 100% within each row.
Source: New York City Housing and Vacancy Survey (NYCHVS), 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.
** Estimate is subject to a large amount of sampling variation and is therefore either not reported or should be interpreted with caution.

Residential Crowding

In 2023, 8 percent of occupied households were living in crowded conditions—defined as having more than two people per bedroom or more than two people living in a studio apartment.[19] This remained the same as in 2021.

The rate of overcrowding varied by the race/ethnicity and nativity of the householder, by household composition, and by income. Table 17 shows the number of households that were overcrowded in 2023 and the rate of crowding. Households headed by a White or Black New Yorker had the lowest rate of crowding, at 4 and 7 percent, respectively. Those headed by a Hispanic or Asian New Yorker showed similarly high rates of residential crowding, at 11 and 10 percent, respectively. Households headed by someone who was born outside of the US had higher rates of crowding than the citywide rate; 12 percent (168,300 households) were crowded in 2023.

Households with one or more older adult and those with one or more person with a disability experienced a similar rate of crowding, at 5 and 7 percent, respectively. Households with one or more child, on the other hand, experienced a much higher rate of overcrowding—23 percent (202,700 households) were crowded in 2023. Crowding did not vary significantly by household income.

Table 17. Crowding by Household Composition and Income

	Households			
	Crowded			
	Estimate	MOE	%	Total
Housholder Characteristics				
Race/Ethnicity				
White, Non-Hispanic	55,560	±8,164	4%	1,250,000
Black, Non-Hispanic	45,970	±8,279	7%	685,000
Hispanic	97,850	±8,932	11%	874,100
Asian, Non-Hispanic	57,910	±8,213	10%	574,500
Other	*	*	*	22,540
Two or More Races	*	*	*	26,650
Nativity				
Born Outside of US	168,300	±13,080	12%	1,410,000
Household Characteristics				
1 + Older Adult	61,970	±8,643	5%	1,191,000
1 + Child	202,700	±15,030	23%	887,300
1 + Person with a Disability	52,590	±6,865	7%	740,700
Household Income				
< $25,000	32,960	±4,815	5%	695,800
$25,000-$49,999	44,410	±6,621	10%	461,500
$50,000-$99,999	75,070	±8,630	10%	789,500
$100,000 +	107,400	±13,800	7%	1,486,000
Citywide	259,800	±15,820	8%	3,432,000

Percentages are calculated as percent of total.
Source: New York City Housing and Vacancy Survey (NYCHVS), 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.
* Estimate is suppressed following US Census Bureau disclosure avoidance practices.

Rent Burden

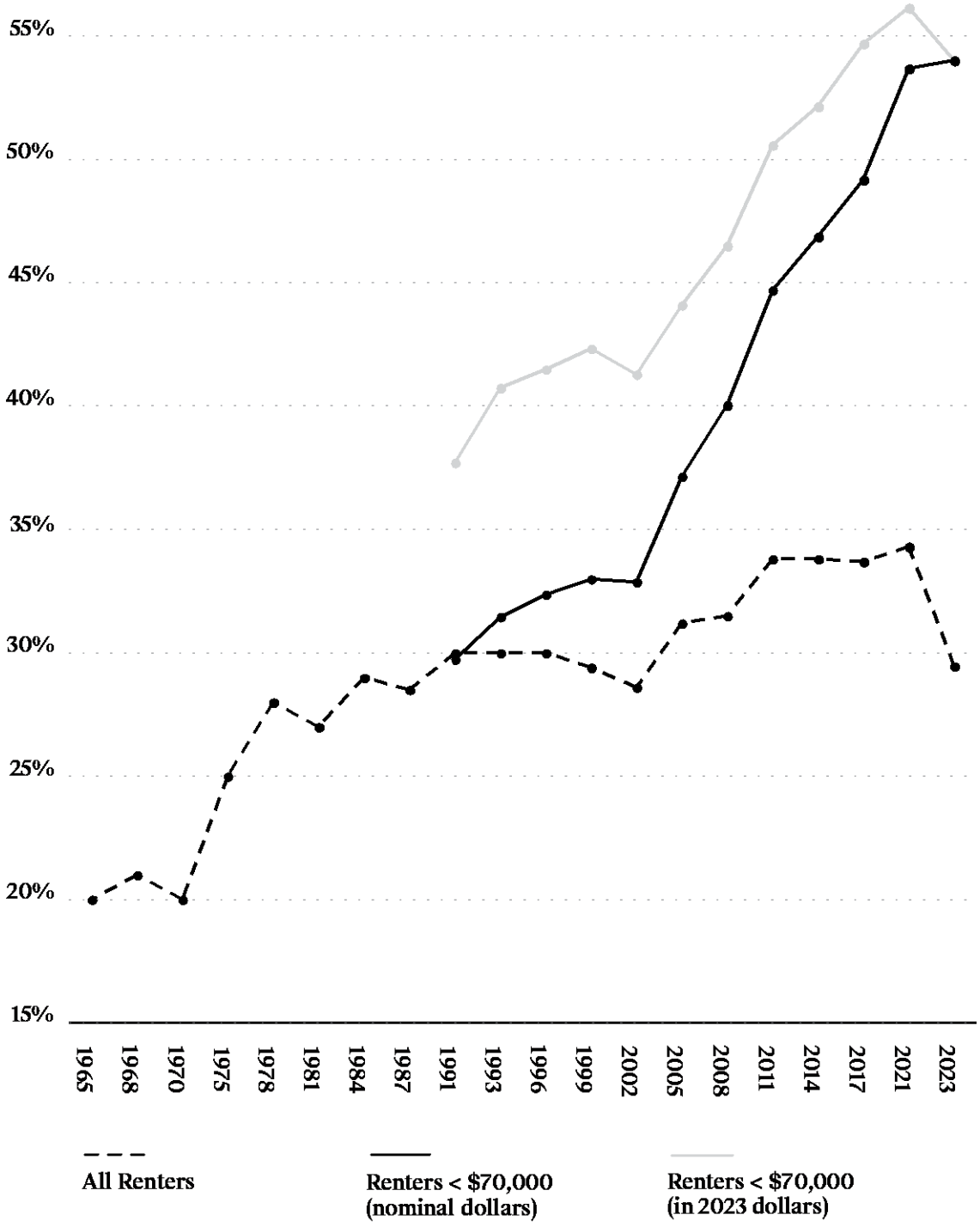
Rent burden is an essential measure of housing affordability and describes the share of income spent on housing costs. It can be described in several ways—as a median ratio of rent-to-income for a given population or segment of the housing stock or households can be categorized according to certain thresholds. In this section, we present both approaches to measuring housing affordability.

For the first time since 2002, the citywide median rent-to-income ratio went down: in 2023, the typical renter household in New York City paid 29.5 percent of their household income toward housing costs, down from 34.3 percent in 2021. This citywide measure includes all renter households, regardless of income or rent and therefore obscures the continued high levels of rent burden experienced by low-income renters. In 2023, for renter households earning less than $70,000 (the median household income of renters), the typical rent-to-income ratio is 54.0 percent. Said another way, the typical renter household in 2023 was severely rent burdened or paying more than half of their household income toward housing costs. Figure 16 shows the share of income paid by the typical renter households from 1965 through 2023 for all renters as well as for the period from 1991 through 2023 for renters earning less than $70,000 (in both nominal and inflation-adjusted 2023 dollars).

In the 1990s, there is a clear divergent trend for all households and for those earning less than $70,000. While renter households overall paid less of their income on rent with each successive NYCHVS survey, lower income renters paid an increasingly larger share of income on housing. After 9/11, New York City experienced dramatic changes, including increasing rental costs that generally outpaced the increase in incomes. During the 2000s, renter households experienced increasing rent burdens, with the share of income spent on housing increasing for all renters but even more steeply for renter households with incomes of less than $70,000. During the period from 2011 to 2021, the share of income spent on housing flattened on a citywide level, but it continued to increase for renter households earning less than $70,000.

As discussed earlier, between 2021 and 2023 rents in New York City continued to increase at the same high level as inflation—the median rent increased by 9 percent citywide, and inflation increased by about 10 percent. The drop in the median rent-to-income ratio across all income groups is the result of the sharp increase in household incomes. For those in the bottom half of the income distribution, the rent-to-income ratio was flat in nominal terms; accounting for inflation, it declined slightly—from 56 to 54 percent, though still well above the 50 percent mark that indicates severe rent burden.

Figure 19. Median Gross Rent-to-Income Ratio: 1965 – 2023



Source: New York City Housing and Vacancy Survey (NYCHVS), 1965 – 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.

As has been done for many cycles, the 2023 NYCHVS classified households according to three levels of rent burden: severely rent burdened, defined as those who paid more than half of household income toward rent; moderately rent burdened, defined as those who paid between 30 and 50 percent of income toward rent; and not rent burdened, defined as those who paid 30 percent or less of income toward rent. The term rent burdened in this report refers to households that were either severely or moderately rent burdened (paying more than 30 percent of income toward rent). Renter households in means-tested housing, including those in public housing and those who reported having a voucher, are not included in this analysis so as to focus on households whose rents are the result of market conditions or the regulation of residential rents rather than those whose rents vary with tenant income.[20]

Table 18 shows the prevalence of rent burden by household composition and income. In 2023, 28 percent of households headed by a Black New Yorker, 27 percent of those headed by a Hispanic New Yorker, and 26 percent of those headed by an Asian New Yorker were severely rent burdened, compared to 22 percent for those headed by a White New Yorker. Overall, renter households headed by a Black New Yorker had the highest share of rent burden, defined as being either severely or moderately rent burdened, at 47 percent (those headed by a Hispanic New Yorker were nearly as high at 45 percent). Among those headed by someone who was born outside of the US, 27 percent was severely rent burdened and an additional 19 percent was moderately rent burdened.

Single person households, those with one or more older adult, and those with one or more person with a disability show similarly high levels of rent burden. About 35 percent of these households was severely rent burdened; about an additional 20 percent was moderately burdened. Households with one or more co-resident child had lower, though still high, levels of rent burden with 23 percent of households that were severely burdened and an additional 20 percent that were moderately burdened.

Among those with household incomes of less than $25,000 who did not live in public housing or report having a voucher, a full 86 percent was severely rent burdened, and an additional 4 percent was moderately rent burdened. This remained at persistently high levels relative to 2021 when 85 percent were severely burdened and an additional 7 percent were moderately burdened. In comparison, 45 percent among those that earned $25,000 to $49,999 was severely burdened and 36 percent was moderately burdened. Households that earned $50,000 up to $99,999 experienced low levels of severe burden (10 percent) but one third were moderately burdened (33 percent). Among the highest earners (those with household incomes of $100,000 or more), only a small share paid more than 30 percent of income toward rent. Figure 20 shows this distribution of rent burden by income group. The pattern for the lowest income group is almost a mirror image of the rent burden among the highest income group.

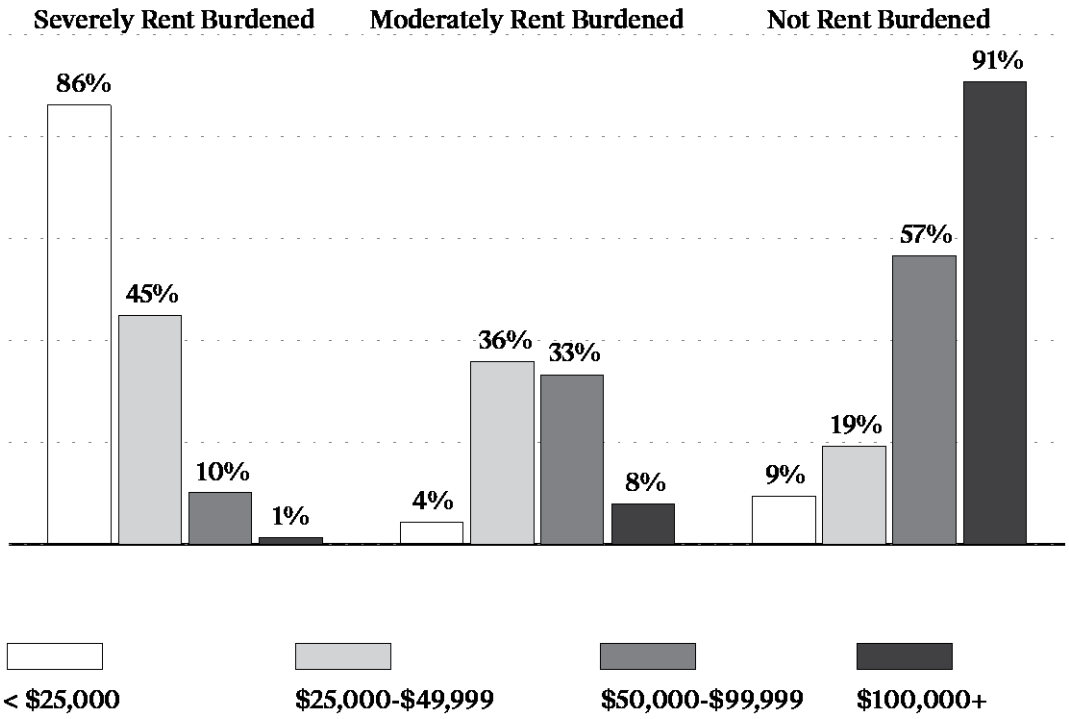
Table 18. Rent Burden by Household Composition and Income

Renter Households not in Means-Tested Housing

	Severely Rent Burdened			Moderately Rent Burdened			Not Rent Burdened			
	Estimate	MOE	%	Estimate	MOE	%	Estimate	MOE	%	Total
Householder Characteristics										
Race/Ethnicity										
White, Non-Hispanic	155,500	±11,730	22%	132,100	±11,840	18%	426,800	±22,540	60%	714,400
Black, Non-Hispanic	104,400	±11,270	28%	71,230	±9,783	19%	203,500	±14,220	54%	379,100
Hispanic	150,700	±13,300	27%	100,100	±10,930	18%	308,000	±18,010	55%	558,800
Asian, Non-Hispanic	78,380	±10,420	26%	49,470	±7,404	16%	175,000	±14,570	58%	302,900
Other	**	**	**	**	**	**	**	**	**	13,800
Two or More Races	**	**	**	**	**	**	10,810**	±3,626**	58%**	18,700
Nativity										
Born Outside of US	216,800	±16,030	27%	151,900	±13,760	19%	445,800	±21,040	55%	814,500
Household Characteristics										
1 + Older Adult	179,600	±16,800	36%	82,430	±9,284	17%	232,500	±15,630	47%	494,500
1 + Child	115,000	±13,220	23%	97,240	±12,780	20%	278,600	±22,360	57%	490,800
Single Person Household	249,900	±16,960	35%	143,800	±13,430	20%	328,700	±18,440	46%	722,400
1 + Person with a Disability	140,900	±13,710	38%	62,960	±7,544	17%	164,900	±14,010	45%	368,800
Household Income										
< $25,000	305,100	±16,320	86%	15,740	±3,927	4%	33,380	±6,927	9%	354,200
$25,000-$49,999	127,200	±12,590	45%	101,500	±10,500	36%	54,760	±9,478	19%	283,500
$50,000-$99,999	53,710	±8,327	10%	176,900	±15,200	33%	300,400	±18,140	57%	531,000
$100,000 +	11,350	±3,259	1%	65,350	±9,740	8%	742,300	±27,190	91%	819,000
Citywide	497,300	±22,130	25%	359,500	±20,090	18%	1,131,000	±30,940	57%	1,988,000

Percentages sum to 100% within each row.
Source: New York City Housing and Vacancy Survey (NYCHVS), 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.
** Estimate is subject to a large amount of sampling variation and is therefore either not reported or should be interpreted with caution.

Figure 20. Rent Burden, by Household Income



Source: New York City Housing and Vacancy Survey (NYCHVS), 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.

Financial Hardship

As in 2021, the NYCHVS included measures on late rental payments, what strategies tenants used to pay rent, food insecurity, and debt, among others. Most items asked about the prior year. Parallel estimates from 2021 are provided to compare against information on how New Yorker fared during the first 12 to 18 months of the pandemic.

Table 19 shows the prevalence of missed rent payments and different ways that tenants used to pay rent by income. A total of 307,200 renter households (13 percent) reported missing one or more rent payment in the last year because they did not have enough money at the time. This is a larger absolute number but the same share as in 2021. Of these renter households that reported being late or missing a rent payment, about 103,600 (34 percent) reported still having rent arrears at the time of the survey. This was significantly higher than in 2021, when 84,300 or 29 percent reported still being in arrears.

Missed or late rental payments and arrears varied by income level, with 18 percent of renter households with incomes less than $25,000 reporting one or more missed rental payment, 18 percent among those with incomes of $25,000 to $49,999, and 15 percent among those with incomes of $50,000 to $99,999. Among those with incomes of $100,000 or more, 7 percent reported one or more

missed rent payment. The subset of tenants who still owed rent at the time of the survey varied by income, though all groups experienced higher prevalence of arrears relative to 2021. The lowest income group reported the highest prevalence of rental arrears (46 percent, up from 38 percent in 2021), followed by those earning between $25,000 and $49,999 (40 percent, up from 27 percent in 2021). Just under 30 percent of renters earning between $50,000 and $99,999 reported being in arrears at the time of the survey (up from 26 percent), and among the highest earners 16 percent reported being at least 30 days behind.

The 2023 NYCHVS also collected information on the source of funds used to pay rent. This included several strategies, including whether the tenant used savings, borrowed money, paid with credit, or sold something to cover rent. About 369,500 renter households (16 percent) reported using one or more of these strategies at least once in the last year, similar to 2021. The two most common strategies were paying out of savings and borrowing money. Of those who used one or more of these strategies, 70 percent reported paying rent out of savings (11 percent of all renter households) and 22 percent reported borrowing money to cover rent (4 percent of all renter households). The prevalence of using any of these strategies to pay for rent did not vary substantially across incomes groups and was similar to 2021. Among the lowest income group, 14 percent reported using one or more strategy to pay rent with 9 percent using savings and 4 percent borrowing money. Among those with incomes of $25,000 to $49,999, 18 percent reported using one or more of these select strategies; 12 percent reported using savings and 4 percent reported borrowing money. Among those with incomes of $50,000 to $99,999, 18 percent reported using one of these strategies, with 12 percent using savings and 5 percent borrowing money—these rates were statistically similar to the lowest income group. Among those with incomes of $100,000 or more, 15 percent reported using one or more of these strategies, with 11 percent using savings and 2 percent borrowing money.

Table 20 shows these measures by level of rent burden and separately for those in means-tested housing (those living in public housing or with a voucher). The prevalence of having missed one or more rental payment increased with the severity of rent burden. Among those who were severely rent burdened, 16 percent reported missing one or more rent payment in the last year (similar to 2021). Among those with means-tested housing, 20 percent of households reported not paying rent one or more times (again, similar to 2021). Both severely rent burdened households and those in means-tested housing reported similar rate of arrears at 42 and 43 percent, respectively. Among those who were moderately rent burdened, 13 percent missed one or more rent payment, with 26 percent still in arrears; 10 percent of households that were not rent burdened reported not paying rent one or more times, with 25 percent still in arrears.

The share of renter households that used an any of these payment strategies did not vary substantially by level of rent burden or residence in means-tested housing. Those who were severely

rent burdened were slightly more likely to have paid using one or more strategy to cover rent at least once in the last year, to have used savings, and to have borrowed money to pay for rent, but these rates were statistically similar to all other groups.

Table 19. Inability to Pay Rent by Income

	Renter Households								
	< $24,999		$25,000-$49,999		$50,000-$99,999		$100,000+		
	%	MOE	%	MOE	%	MOE	%	MOE	Total
How Renters Paid for Rent									
Used 1+ of the following: savings, credit card, borrowed money, sale of an asset	14%	±2%	18%	±2%	18%	±2%	15%	±1%	16%
Paid out of savings	9%	±2%	12%	±2%	12%	±2%	11%	±1%	11%
Borrowed money	4%	±1%	4%	±1%	5%	±1%	2%	±1%	4%
Missed Rental Payments									
Missed Rent 1+ Times Last Year	18%	±2%	18%	±3%	15%	±2%	7%	±1%	13%
Still Owed Rent at Time of Interview	46%	±5%	40%	±7%	28%	±4%	16%	±5%	34%
Citywide	547,400	±20,320	357,000	±22,080	583,500	±26,300	835,600	±26,850	2,324,000

Percentages are calculated out of citywide for each measure, except for "Still Owed Rent at Time of Interview," which is calculated out of those who missed rent 1+ times last year.
Source: New York City Housing and Vacancy Survey (NYCHVS), 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.
** Estimate is subject to a large amount of sampling variation and is therefore either not reported or should be interpreted with caution.

Figure 21. Prevalence of Missed or Late Rent Payments in Last Year, by Household Income

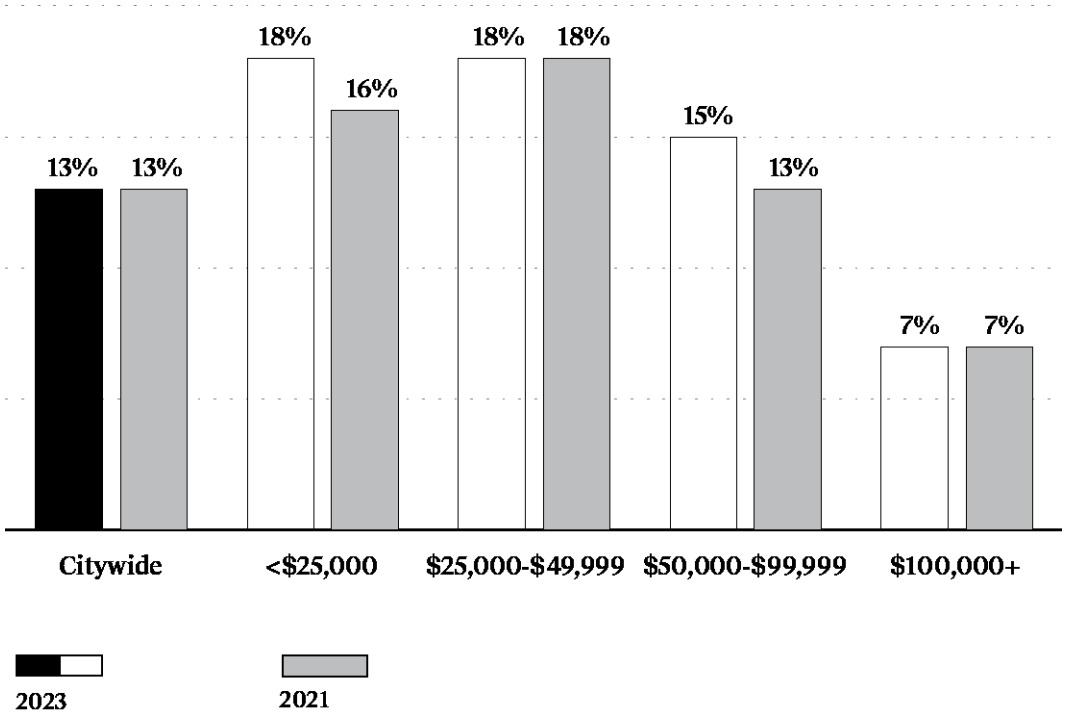
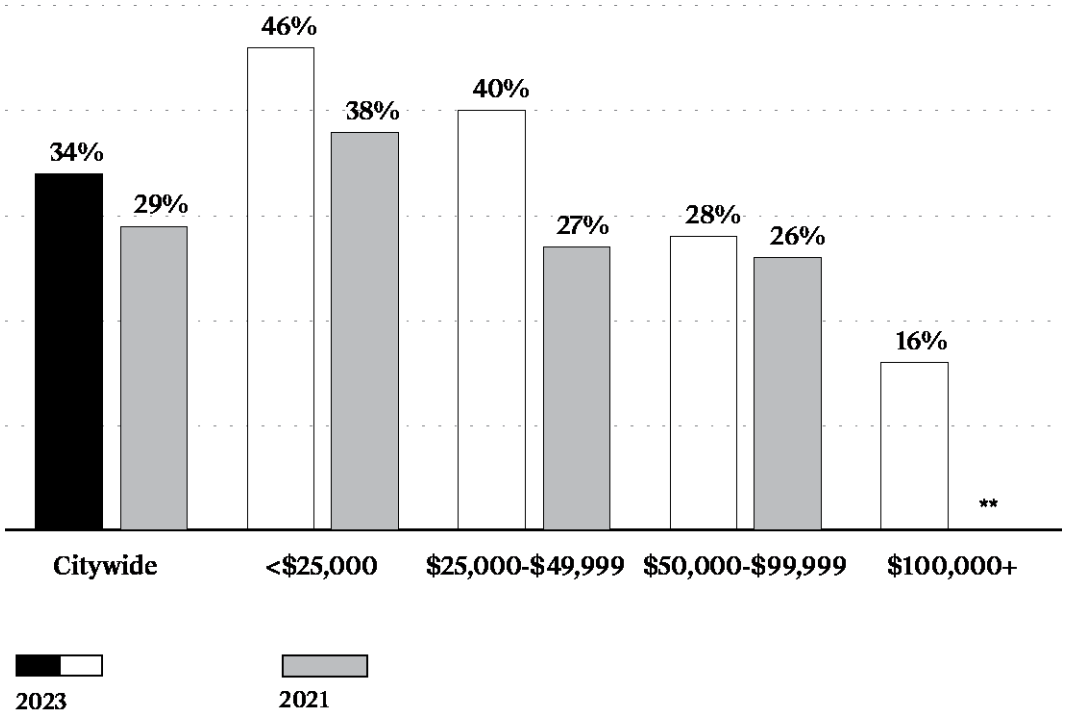


Figure 22. Prevalence of Renters who Still Owed Rent, by Household Income



Source: New York City Housing and Vacancy Survey (NYCHVS), 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.

Table 20. Inability to Pay Rent by Level of Rent Burden

	Renter Households								
	Severely Burdened		Moderately Burdened		Not Burdened		Means-Tested Housing		
	%	MOE	%	MOE	%	MOE	%	MOE	Total
How Renters Paid for Rent									
Used 1+ of the following: savings, credit card, borrowed money, sale of an asset	18%	±2%	20%	±2%	15%	±1%	12%	±1%	369,500
Paid out of savings	12%	±1%	13%	±2%	11%	±1%	6%	±1%	257,400
Borrowed money	4%	±1%	5%	±1%	3%	±1%	5%	±1%	81,870
Missed Rental Payments									
Missed Rent 1+ Times Last Year	16%	±2%	13%	±2%	10%	±1%	20%	±2%	307,200
Still Owed Rent at Time of Interview	42%	±6%	26%	±7%	25%	±5%	43%	±5%	103,600
Citywide	497,300	±22,130	359,500	±20,090	1,131,000	±30,940	335,800	±12,500	2,324,000

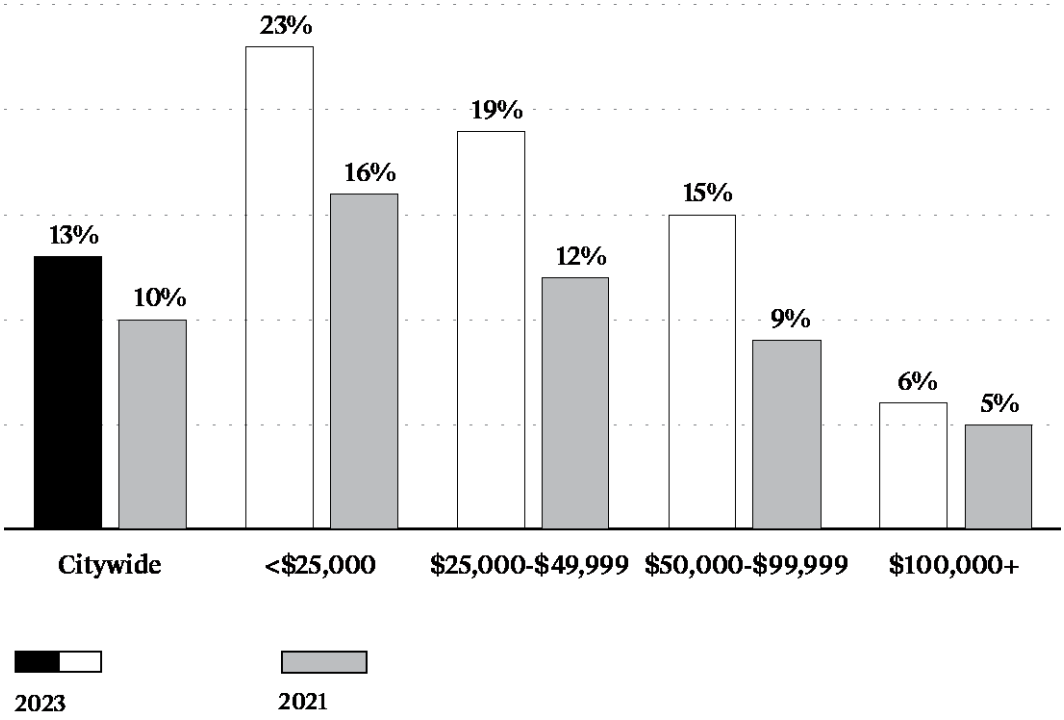
Percentages are calculated out of citywide for each measure, except for "Still Owed Rent at Time of Interview," which is calculated out of those who missed rent 1+ times last year.
Source: New York City Housing and Vacancy Survey (NYCHVS), 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.

Table 21. Food Insecurity by Type of Housing and Income

	Households									
	Very Insecure			Insecure			Not Insecure			
	Estimate	MOE	%	Estimate	MOE	%	Estimate	MOE	%	Total
Type of Housing										
Owner Occupied	24,050	±6,034	2%	47,420	±8,612	4%	1,037,000	±32,720	94%	1,109,000
Renter Occupied	146,300	±14,260	6%	244,800	±14,930	11%	1,932,000	±30,630	83%	2,324,000
Rent Stabilized	81,300	±9,516	8%	118,200	±10,330	12%	761,200	±17,850	79%	960,700
Market Rentals	44,360	±8,256	4%	87,200	±11,580	8%	986,900	±25,320	88%	1,119,000
Public Housing	15,870	±3,144	9%	28,040	±4,080	17%	123,800	±4,787	74%	167,700
Rent Controlled and Other Rentals	4,752**	±1,849**	6%**	11,350	±3,157	15%	60,490	±6,835	79%	76,580
Income										
< $25,000	66,500	±8,566	10%	95,570	±11,520	14%	533,800	±26,440	77%	695,800
$25,000-$49,999	31,660	±6,697	7%	57,130	±7,756	12%	372,700	±22,090	81%	461,500
$50,000-$99,999	43,110	±7,133	5%	73,020	±9,732	9%	673,300	±29,940	85%	789,500
$100,000 +	29,080	±6,708	2%	66,490	±8,241	4%	1,390,000	±34,840	94%	1,486,000
Citywide	170,300	±15,210	5%	292,200	±17,210	9%	2,970,000	±25,730	87%	3,432,000

Percentages sum to 100% within each row.
Source: New York City Housing and Vacancy Survey (NYCHVS), 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.
** Estimate is subject to a large amount of sampling variation and should be interpreted with caution.

Figure 23. Prevalence of Food Insecurity, by Household Income



Source: New York City Housing and Vacancy Survey (NYCHVS), 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.

Both the 2021 and 2023 NYCHVS surveys included questions about food security. These were based on a widely used index that captures different aspects (e.g., eating less food because of lack of money to buy more or not being able to eat a balanced diet because of cost) as well as severity (e.g., how often one was unable to buy food). Based on the answers to these questions, each household was classified into one of three categories: very insecure, insecure, or not insecure. For details on the specific measures and sources, please refer to Appendix B.

In 2023, 13 percent of all households (462,500) faced food insecurity, including those that met the definition for either insecure or very insecure. This represents a larger number and higher share of New Yorkers than in 2021, when 323,400 (10 percent) were food insecure. Table 21 shows the prevalence of households that were food secure, insecure, or very insecure. This was more pronounced among renter-households, where 17 percent experienced some level of food insecurity, including 146,300 renter households (6 percent) that were very food insecure. These rates are significantly higher than in 2021.

Public housing residents experienced the highest rates of food insecurity, with 17 percent experiencing moderate insecurity and 9 percent reported being very food insecure (up from 13 and 5 percent, respectively, in 2021). Rent stabilized tenants reported a slightly lower rate of food insecurity, with 12

percent experiencing moderate insecurity and 8 percent being very insecure. Only market renters showed similar levels of food insecurity to those reported in 2021, with 8 percent moderate food insecurity and 4 percent reporting being very insecure. Those with the lowest incomes (under $25,000) faced the highest rate of insecurity with 24 percent overall, including 10 percent that were very insecure.

COVID-19 relief for federal student loans temporarily suspended loan payments, set interest rates at zero percent, and stopped collections on defaulted loans; these temporary relief programs have since ended. Estimates of the prevalence of student loans and median amounts is included here as a proxy for which households may have benefitted from relief in the past and which now are responsible for payments. It is important to note that the 2023 NYCHVS only collected information about the debt of householders, not every individual in the household; these estimates should therefore be considered a floor for the prevalence of student loan debt, rather than a representative estimate of all New Yorkers who had student loans or the total amount of student debt within a household, which may include multiple borrowers.

Table 22 shows the prevalence of householders with student debt and the median amount owed by tenure, type of rental housing, household income, rent burden, and whether one or more rent payment was missed in the last year. In 2023, about 410,300 households (12 percent) were headed by someone with student debt. This is a larger absolute number but a similar share to 2021. A smaller share of householders in public housing or in rent controlled or rentals regulated in some other way reported student debt (11 percent and 10 percent, respectively). The median amount owed was similar across all the types of rental housing at about $25,000, with public housing residents having a slightly lower median amount (at $15,000).

The prevalence of householders with student debt was lowest among those with incomes of less than $25,000 (6 percent) and highest among those with incomes of $100,000 or more (15 percent); the median amount owed was $20,000 and $25,000, respectively. The share of householders with student debt was similar for severely rent burdened households and those in means-tested housing (9 and 10 percent, respectively), but the median amount owed was lower for those in public housing or with a voucher ($20,000 compared to $25,000 among severely rent burdened renters). Of those who were moderately rent burdened, 16 percent had student debt with a median amount of $22,000. Of those who were not rent burdened, 17 percent had student debt with a median amount of $25,000.

Table 22. Student Debt by Type of Housing, Income, and Level of Rent Burden

	Households				
	Has Student Debt			Median Amount of Student Debt	
	Estimate	MOE	%		Total
Type of Housing					
Owner Occupied	77,890	±10,840	7%	$25,000	1,109,000
Renter Occupied					
Rent Stabilized	142,300	±10,360	15%	$25,000	960,700
Market Rentals	164,300	±15,110	15%	$23,000	1,119,000
Public Housing	18,090	±3,626	11%	$15,000	167,700
Rent Controlled and Other Rentals	7,790	±2,389	10%	$22,000	76,580
Income					
< $25,000	44,780	±6,615	6%	$20,000	695,800
$25,000-$49,999	41,940	±7,041	9%	$20,000	461,500
$50,000-$99,999	104,500	±11,040	13%	$27,000	789,500
$100,000 +	219,200	±15,660	15%	$25,000	1,486,000
Rent Burden					
Severely Rent Burdened	44,540	±7,391	9%	$25,000	497,300
Moderately Rent Burdened	56,640	±7,643	16%	$22,000	359,500
Not Rent Burdened	197,400	±15,220	17%	$25,000	1,131,000
Means-Tested Housing	33,880	±5,529	10%	$20,000	335,800
Citywide	410,300	±22,600	12%	$23,000	3,432,000

Percentages are calculated as percent of total.
Source: New York City Housing and Vacancy Survey (NYCHVS), 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.

Conclusion

This report presented selected initial findings from the 2023 NYCHVS, including information on the supply of housing in New York City, its condition, and the continued need for the regulation of residential rents and evictions.

While the overall housing supply continued to grow (up 2 percent relative to 2021), the number of occupied housing units increased dramatically (up 9 percent relative to 2021). In 2023, New York City's net rental vacancy rate was only 1.41 percent, among the lowest on record in the six decades of the NYCHVS. This is in stark contrast to the 4.54 percent net rental vacancy rate in 2021, which was one of the highest on record.

The supply of available units within reach of low- and moderate-income New Yorkers remained extremely limited with a net rental vacancy rate of less than one percent. There was also far less availability among higher-cost rentals than in 2021.

Household incomes were significantly higher than in 2021 and there was a large net increase in the absolute number and share of higher-earning households (those earning above $100,000). Rental costs increased at about the same rate as inflation, which was very high during this two-year period. The overall prevalence of rent burden in New York City declined for the first time in several survey cycles. Yet, low-income New Yorkers continued to face severe affordability challenges with high levels of rent burden and growing financial insecurity. 86 percent of households earning less than $50,000 who didn't benefit from means-tested housing were rent burdened or paying more than 30 percent of income toward rent. Among all renters with incomes of less than $70,000 (the median in 2023), the median rent to income ratio was 54 percent—well above the threshold for severe rent burden.

Poor conditions were more prevalent among those with the lowest incomes and among households headed by a person of color. The rate of crowding was generally low, but the 2023 NYCHVS showed ongoing challenges for families with children and continuing disparities by race/ ethnicity and nativity.

New York City continues to feel the aftershocks of the pandemic and the data shown here show significant changes in only a short period of time. Low-income New Yorkers continue to struggle, with even less available housing to support them in making residential choices and ensuring that they and their families can continue to live here. These data provide the most up-to-date information available and are paint an accurate and comprehensive picture of the state of housing in New York City.

Appendix A. About the NYCHVS

The NYCHVS has been conducted by the U.S. Census Bureau, on behalf of the City of New York, since 1965, making it the longest running housing survey in the country. The 2023 NYCHVS is the 19th survey cycle and generally replicated changes implemented in the 2021 survey cycle.

The NYCHVS is based on a statistical sample of housing units, drawn by the U.S. Census Bureau to represent the New York City housing stock and resident population. Each housing unit that participated in the NYCHVS is weighted such that it represents that individual unit (and its occupants, where appropriate) and other similar units. As has been done for many cycles of the NYCHVS, a new sample of housing units was drawn at the beginning of the decade that serves as the core sample for later survey cycles—those drawn in 2021 served as the core sample for the 2023 survey. In addition, the 2023 NYCHVS sampled an additional set of addresses to increase the overall precision of the survey and enable analysis of various sub-groups. The 2023 NYCHVS had a sample of about 15,600 housing units and a response rate of 71% percent (weighted response rate: 68%).

The NYCHVS is collected as an in-person survey[31] where one occupant provides information on the unit, building, themselves, and anyone else who lives with them at the time of the survey. Information on the unit, building, and prior occupant(s) is collected by a knowledgeable informant for vacant units. The 2023 NYCHVS was administered as a computer-assisted personal interview (CAPI) using laptops in seven formally translated languages: English, Spanish, Chinese (Simplified and Traditional), Russian, Bengali, and Haitian Creole. All respondent-facing materials, including the NYCHVS website, advance materials, interview materials, and close-out communications, were available in all seven languages. Additional language needs beyond these seven languages were met using U.S. Census Bureau interpreters. The questionnaire was similar to that fielded in 2021, with a limited set of new items collected as part of the ongoing improvement of the survey.

The NYCHVS has always been voluntary, and any participant may decline to answer any question. Certain items, including vacancy status, are required for the interview to be considered complete and included in the final dataset. Other key measures are optional (such as demographics or rent level), but the U.S. Census Bureau allocates missing values using standard practices such that no data are missing in the analytic dataset. For other measures, only the answers provided by the respondent are available. Please see Appendix B for details on the universe of data presented. Administrative records were used to verify data collected during the interview and in some cases are used in lieu of self-report to reduce respondent burden and improve the consistency of the data.

Technical documentation will be available on www.nyc.gov when the 2023 NYCHVS microdata are published later in 2024.

Appendix B: Glossary and Technical Definitions

With each survey cycle, the NYCHVS strives to improve the quality of the survey and validity of the estimates. Data users should be aware of changes between cycles that may impact comparability over time. For technical definitions used in previous NYCHVS cycles, please refer to documentation on www.nyc.gov/hpd, including documentation on the 2021 NYCHVS, and in official NYCHVS reports.

Housing Unit

A housing unit is an apartment, a house, a group of rooms, or a single room occupied or intended for occupancy as separate living quarters. Housing units must meet both of the following qualifications: 1) separateness, meaning occupants live separately from any other occupants in the building and 2) direct access, meaning that the entrance to the living quarters must be directly from the outside of the building or through a common hall. Similar to prior cycles, group quarters were not considered housing units and are therefore excluded from the NYCHVS. Examples include nursing homes, prisons, rectories and dormitories for students or workers. Any persons residing in such places are also not included in the survey.

Year Built

The 2023 NYCHVS used administrative data from the NYC Department of Finance matched to sampled unit addresses. This was consistent with the approach used in recent cycles of the NYCHVS. Weighted estimates are categorized into one of four categories: Units in buildings built before 1947, built between 1947 and 1973, those built from 1974 to 1999, and those built in 2000 or later. Some additional estimates are reported for units in buildings built in 2010 or later.

Building Size

Building size indicates the total number of residential units in the building. The 2023 NYCHVS Building Size measure utilizes administrative records and FR-gathered information in addition to relying on self-report. In past cycles only self-report was used. It is possible that this produced variation in the classification of units by building size over time; thus, direct comparisons of specific years or periods should be used with caution. Differences in measurement over time should be reduced by the practice of grouping building sizes into broad categories. This is done in several ways in this report, including: single-family home (1 unit), 2 units, 3 to 5 units, 6 to 19 units, 20 to 49 units, 50 to 99 units, or 100 units or more. Where appropriate, these categories are collapsed.

Units in Condominium or Cooperative Buildings

The 2023 NYCHVS identified condominium (condo) and cooperative (coop) buildings primarily using administrative data matched to the building, relying on self-report where administrative records were unavailable. Tenure in condo and coop units is determined by self-report. Coops in the Mitchell-Lama program were identified based on administrative records and are a reported as part of the overall coop stock; owner-occupied Mitchell-Lama coops are reported as owner units, and renter-occupied Mitchell-Lama coops are reported as renters. In NYCHVS survey cycles prior to 2021, the condo and coop determinations relied solely on self-report; the 2023 NYCHVS follows the same approach as used in 2021.

Types of Housing

The NYCHVS classifies housing units into mutually exclusive categories, referred to as "Control Status Recode." This report describes five mutually exclusive categories based on a combination of information, including administrative records matched to the unit, building, or tax lot, and information collected during the NYCHVS interview. These categories and the underlying methodology have changed over time. For changes between the 2021 and 2023 NYCHVS cycles, see Appendix C of this document. Similar to prior cycles, the 2023 NYCHVS identified units as renter- or owner-occupied based on self-report information on the tenure of the current occupants, which may differ in some cases from the ownership structure of the building (i.e., a renter subletting a condo unit).

Owner Units

Similar to prior cycles, in the 2023 NYCHVS an owner-occupied unit is any housing unit where one or more occupants owns the unit or, for cooperatives, owns shares in the coop. Vacant units that are available for sale (and not available for rent) are also classified as owner units when discussing the entire housing stock. Owner units subject to government regulation are also reported as owner units in this report. This includes units identified based on administrative records for Mitchell Lama coops and other affordable condos, coops, and conventional homes in addition to self-report about the unit and occupant. In past cycles Mitchell Lama coop was its own category and these other types of housing were not specifically identified and appeared as part of multiple other categories.

Rental Units

Similar to prior cycles, in the 2023 NYCHVS an occupied rental unit is any housing unit whose occupants do not own the unit. Tenants in rental units generally pay rent to occupy the unit, but the NYCHVS categorizes non-owners who do not pay any rent as renters as well. Vacant units that are available for rent (including those also available for sale) are also classified as rental units when discussing the entire housing stock.

Rent Stabilized Units

Similar to prior cycles, the 2023 NYCHVS identified units as subject to rent stabilization ("rent stabilized") based on a combination of administrative records and self-report. However, the 2021 and 2023 NYCHVS utilized several additional sources of administrative records and implemented additional logic to account for various recent programmatic and legislative changes. These changes supplement prior definitional changes implemented in 2017 and prior cycles. In 2023, an additional change was made to address condos and coop that registered as rent stabilized with the NYS Department of Homes and Community Renewal but that were not subject to rent stabilization, by either statute or participation in an affordable housing or tax incentive program; most of these are now categorized as market rentals. For more details on these changes, please see Appendix C of this document.

Rent Controlled Units

The 2023 NYCHVS identified an occupied unit as subject to rent control ("rent controlled") based on a combination of self-report and administrative records. Beginning in 2021, the determination of rent control status was based on information about all occupants, rather than only the respondent as was done in prior cycles. In 2023, additional information was collected regarding successors to identify if the original tenant was in residence prior to July 1, 1971. This information was used to more accurately capture successors to rent-controlled units, whereas prior cycles likely categorized these successors as rent stabilized. For more details on these changes, please see Appendix C of this document.

Market Rentals

Similar to prior cycles, the 2023 NYCHVS identified units as market rentals (referred to in prior NYCHVS cycles as "private unregulated rentals") in distinction to other types of rental housing. Generally, units were classified as Market Rental if the sampled unit did not meet any of the criteria that would classify a unit as Rent Controlled, Rent Stabilized, or Rentals Regulated in Some Other Way. Some changes made to these other categories resulted in changes to Market Rentals. In 2023, an additional change was made to address condos and coop that registered as rent stabilized with the NYS Department of Homes and Community Renewal but that were not actually subject to rent stabilization, by either statute or participation in an affordable housing or tax incentive program; most of these are now categorized as market rentals. For more details on these changes, please see Appendix C of this document.

Public Housing

Similar to prior cycles, the 2023 NYCHVS identified units as public housing using administrative data from the New York City Housing Authority (NYCHA).

Units Regulated in Some Other Way (Other Rentals)

The 2023 NYCHVS identified units as “other renter” or “units regulated in some other way” based on administrative records for Mitchell Lama rental units, affordable rental units financed by New York State or NYC HPD or HDC that were not otherwise classified as rent stabilized, units under the supervision of the NYC Loft Board, and *in rem* units, in addition to self-report about the unit and occupant. These changes continue definitional changes implemented in 2021 and prior cycles.

Number of Bedrooms

The 2023 NYCHVS used the same definition of bedrooms used in the 2021 survey cycle. The number of bedrooms in the housing unit is the count of rooms used mainly for sleeping, even if also used for other purposes. Rooms reserved for sleeping, such as guest rooms, even though used infrequently, are counted as bedrooms. On the other hand, rooms used mainly for other purposes, even though used also for sleeping, such as a living room with a sleep sofa, were not considered bedrooms. A housing unit consisting of only one room, such as a one-room efficiency apartment, is classified, by definition, as having no bedroom. This is generally consistent with the definition used in previous cycles of the NYCHVS.

Number of Rooms

The 2023 NYCHVS used the same definition of rooms used in the 2021 survey cycle. Rooms counted include living rooms, dining rooms, bedrooms, kitchens, finished attic or basement rooms, recreation rooms, permanently enclosed porches that are suitable for year-round use. 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, Pullman kitchens, laundry or furnace rooms, unfinished attics or basements, other unfinished space used for storage, and open porches.

Accessibility

The 2023 NYCHVS uses a combination of administrative records, FR observation, and respondent self-report to categorize the accessibility of housing units in NYC. This was the same methodology employed in the 2021 survey cycle.

Sidewalk to Unit Without Stairs

The 2023 NYCHVS identified units that were accessible from the sidewalk without going up stairs based on a single item recorded through FR observation.

Elevator

The 2023 NYCHVS identified units with one or more elevator based on a combination of administrative records, FR observation, and respondent self-report.

One or More Flight of Stairs to Access Unit

The 2023 NYCHVS identified units that required going up one or more flight of stairs to access the unit based on administrative records, FR observation, and respondent self-report about floor of unit, presence of elevator, and necessity of stair use.

Net Rental Vacancy Rate

The NYCHVS estimated the net rental vacancy rate in New York City using the same methodology as in 2021, which was specified as follows:

$$\frac{\text{Number of Vacant Units that are Available for Rent that are Not Dilapidated or Otherwise Uninhabitable}}{\text{Number of Vacant Units that are Available for Rent that are Not Dilapidated or Otherwise Uninhabitable} + \text{Number of Units that are Renter-Occupied}}$$

The citywide net rental vacancy rate was calculated using this methodology for all housing accommodations in New York City. Net rental vacancy rates were calculated for subsets of housing accommodations (e.g., within a given borough, type of housing, or rent level) following the methodology described here. See also Vacant, Not Available for Rent or Sale

Net Rental Vacancy Rate by Asking Rent

This report provides net rental vacancy rates for various subgroups, including by different rent levels. In some cases, it is calculated for each of four rent categories that roughly correspond to rent quartiles: Less than $1,100, $1,100 to $1,649, $1,650 to $2,399, and $2,400 or More. These rent levels are based on either monthly rent (for occupied units in the denominator) or asking rents (for vacant and available units in the numerator). In other cases, it is calculated for two collapsed rent categories: Less than $1,650 and $1,650 or More. This was done to facilitate comparable estimates for both 2021 and 2023. As reported in the 2021 NYCHVS Selected Initial Findings, the median rent in 2021 was $1,500. This is equivalent to $1,652 in inflation-adjusted 2023 dollars.

This 2021 net rental vacancy rate of units with rents of Less than $1,650 and $1,650 or More was calculated using the 2021 NYCHVS Public Use File (PUF), adjusting asking rent categories into 2023 real dollars. For the 2023 net rental vacancy rate of units with rents of Less than $1,650 and $1,650 or More, we estimated a combined weighted rate of units with asking rents of less than $1,100 and rents

between $1,100 and $1,649 or rents between $1,650 and $2,399 and $2,400 and above. Margins of Error for the 2021 estimates were calculated using the available replicate weights in the PUF. Margins of error for the 2023 estimates were calculated using a Generalized Variance Function (GVF). (For general information on GVFs, please see Chapter 18: Variance Estimation: Complex Survey in Arnab, R. (2017). *Survey Sampling Theory and Applications*. Academic Press. https://www.sciencedirect.com/science/article/abs/pii/B9780128118481000182.)

Vacant, Not Available for Rent or Sale

Each NYCHVS cycle since 1965 has identified certain types of units as "vacant, not available for rent or sale" and excluded these units from the calculation of the net rental vacancy rate. Units that were "not available for rent or sale" were those where a new occupant would not have been able to move into the unit at the time of the NYCHVS occupancy status determination (i.e., the date of the interview or within 30 days of the case being worked by an FR, whichever is sooner) for one or more reason. The possible reasons for which a unit was not available for rent or sale have changed over time.

The 2023 NYCHVS used the same definition, categories, and methodology for units that were vacant and not available for rent or sale as used in the 2021 survey cycle.

Held for Occasional, Seasonal, or Recreational Use

Since 1981, the NYCHVS has included some version of "seasonal" or "held for occasional use" as reasons for the unit being "vacant, not available for rent or sale." Over the last few cycles of the NYCHVS, this has become an increasingly large and diverse group of units, comprising those maintained as pieds-a-terre, units held for investment purposes, and those used as short-term rentals where the entire unit is occupied on a temporary basis.

Units that are maintained by one or more individuals who also has a "usual residence elsewhere" or URE represent one type of unit that was classified by the NYCHVS as "held for occasional, seasonal, or recreational use." These cases were classified as "vacant, not available for rent or sale" regardless of whether anyone was staying in the unit at the time of the occupancy status determination; however, cycles prior to the 2021 NYCHVS did not adequately capture cases where someone was staying in the unit only on a temporary basis, which may have resulted in cases being classified as "occupied" rather than "vacant, not available for rent or sale."

The 2023 NYCHVS added additional logic to the computer-assisted personal interview (CAPI) that enabled an FR to identify URE cases, both as part of the occupied interview and as part of the information captured during the occupancy status determination prior to the start of an NYCHVS interview. These cases were classified as "vacant, not available for rent or sale" and the reason was classified as "held for occasional, seasonal, or recreational use."

Awaiting or Undergoing Renovation

Units that were undergoing renovation at the time of the 2023 NYCHVS interview and those that were awaiting renovation were reported as a combined category of "Awaiting or Undergoing Renovation." Beginning in 1991, the NYCHVS added "awaiting renovation" and "undergoing renovation" as new, separate reasons for a unit being "vacant, not available for rent or sale." Units that were under renovation on the date of the interview did not meet the NYCHVS definition of "vacant, available for rent" because a new occupant was unable to move into the unit at the time of the occupancy determination.

As in the 2021 NYCHVS, any vacant unit that was recorded as currently under renovation was classified as "vacant, not available for rent or sale" and the reason was classified as "undergoing renovation." Units where the renovation status was not reported by the respondent were treated as not being under renovation.

Held as Vacant

Consistent with the 2021 NYCHVS, the 2023 NYCHVS classified all vacant units that were unoccupied for 12 months or longer at the time of the interview as "vacant, not available for rent" and assigned their status as "held as vacant." This includes units where another specific reason was recorded (such as "awaiting renovation or conversion" or "owner's personal problems"), units recorded as "vacant, not available for rent" but where the reason was recorded as "other," and units that were recorded as "available for rent" but where the unit had not been rented for a year or more as of the date of the NYCHVS interview. Units assigned a status of "held as vacant" that also had one or more additional reason to be classified as "vacant, not available for rent" were classified as having two or more reasons. Units where the duration of vacancy was not reported by the respondent are treated as having been vacant for less than one year.

Rented, Not Yet Occupied

Units that have already been rented but where the new occupant has not yet moved in are considered vacant but not available for rent or sale. This is based on the self-report of the respondent for the vacant interview and is consistent in definition and coding from previous NYCHVS cycles.

Sold, Not Yet Occupied

Units that have already been sold but where the new occupant has not yet moved in are considered vacant but not available for rent or sale. This is based on the self-report of the respondent for the vacant interview and is consistent in definition and coding from previous NYCHVS cycles.

Dilapidated

Consistent with the 2021 NYCHVS, the 2023 NYCHVS classified units as "dilapidated" using a combination of administrative records on hazardous and immediately hazardous violations (B and C violations issued by HPD), emergency repairs performed by HPD, and vacate orders issued for the entire building (by HPD or DOB). These data are based on standard procedures implemented during building inspections by the City of New York and are independent of the NYCHVS.

Otherwise Uninhabitable

Units that lacked access to complete bathroom and kitchen facilities were classified as "Otherwise Uninhabitable" and reported together with dilapidated. Prior to 1991, units were identified as "not available for rent or sale" if the unit lacked complete plumbing facilities. Although this criterion was dropped for several cycles of the NYCHVS, the 2021 cycle used information on complete bathroom and kitchen facilities to determine if a unit was habitable at the time of the determination. The 2023 NYCHVS used this same approach.

Complete bathroom facilities include a sink, toilet, and bath or shower. These may be in the same room or located in different rooms of the housing unit. Complete kitchen facilities include running water, a cooking element, and a refrigerator. These may be in the same room or located in different rooms of the housing unit. If a unit was vacant and lacked complete bathroom facilities for the exclusive use of the occupant and did not have access to a shared bathroom and/or did not have complete kitchen facilities for the exclusive use of the occupant and did not have access to a shared kitchen facility, the unit was classified as "vacant, not available for rent or sale." Units where complete information was not available, for example when a respondent reported "Don't Know" or refused to provide an answer to any of the items used in this measure, were treated as having access to complete bath and kitchen facilities.

For disclosure avoidance purposes, "dilapidated" (either as a result of code violations or vacate order) and "otherwise uninhabitable" are combined into a single category. Because data on HPD and DOB violations and vacate orders are both available publicly through NYC Open Data, providing information separately on these measures presents an increased risk of re-identification of the building. By combining these indicators along with information on incomplete facilities, which are based on self-report, the NYCHVS was able to reduce the risk of inadvertent disclosure in future releases of NYCHVS data tables and microdata.

Owner's Personal Problems

Units where the owner cannot rent or sell at this time due to personal problems include vacant units that are unavailable for occupancy because of some personal problem of the owner such as age or illness. This was based on the self-report of the respondent for the vacant interview and is consistent in definition and coding from previous NYCHVS cycles.

In Legal Dispute

Units where there is a legal dispute involving the unit include vacant units where the terms of a will, a lawsuit, settlement of an estate, or some other legal matter places the unit in limbo. This was based on the self-report of the respondent for the vacant interview and is consistent in definition and coding from previous NYCHVS cycles.

Held for Planned Demolition

Units being held for planned demolition include vacant units that were held off the market because the building they are in was scheduled to be demolished. This was based on the self-report of the respondent for the vacant interview and is consistent in definition and coding from previous NYCHVS cycles.

Converted to Non-Residential Use

Vacant units that were being converted to non-residential use or where the unit was used for non-residential purposes are included in this category. This was based on the self-report of the respondent for the vacant interview and is consistent in definition and coding from previous NYCHVS cycles.

Being Converted to Condo/Coop

Units being converted or awaiting conversion to condominium or cooperative included vacant units that were not available for rent or sale because they were in the process of being converted to a condo/coop. This was based on the self-report of the respondent for the vacant interview and is consistent in definition and coding from previous NYCHVS cycles.

Held Pending Sale of Building

Units being held pending sale of building included vacant units that were being held off the market until the entire building was sold. This was based on the self-report of the respondent for the vacant interview and is consistent in definition and coding from previous NYCHVS cycles.

Held for Other Reasons

Units held for other reasons included vacant units that were unavailable for reasons not included in any of the above categories.

Not Available for Two or More Reasons

This category included vacant units that had two or more individual reasons the unit was not available for rent or sale. For the purpose of identifying two or more reasons, unique reasons included: Held for Occasional, Seasonal, or Recreational Use; Awaiting or Undergoing Renovation; Held as Vacant; Rented, Not Yet Occupied; Sold, Not Yet Occupied; Dilapidated or Otherwise Uninhabitable; Owners Personal Problems; In Legal Dispute; Held for Planned Demolition; Converted to Non-Residential Use; Being Converted or Awaiting Conversion to Condominium or Cooperative; Held Pending Sale of Building; and Held for Other Reasons.

Turnover Rate

The turnover rate is the share of units that were vacant and became occupied in a twelve-month period. The numerator of the turnover rate was defined as the number of households that moved into their housing unit in 2022; the denominator of the turnover rate was all occupied housing units. This allows for a consistent twelve-month period for measuring the turnover rate, as the 2023 NYCHVS field period extended from January 2023 to mid-June 2023. Note that because the NYCHVS did not capture if a unit that became occupied in 2022 also had become occupied in 2021, the turnover rate may be considered a lower bound.

Recent Movers

Recent movers were defined as households that moved into their housing unit between January 2021 and December 2022. The move-in date was the earliest date that any member of the household moved into the unit.

Housing Problems

The 2023 NYCHVS measures many aspects of housing quality. For many cycles, the NYCHVS has measured the same seven housing problems, including: (1) 1+ heating breakdown of 6 hours or more, (2) insufficient heat, (3) leaks, (4) rodents in the unit or building, (5) toilet(s) not working, (6) holes in walls or floors, and (7) large section(s) of peeling paint or broken plaster. The count of these seven items present in a unit are summed and categorized into one of three groups: (1) no reported problems, (2) one or two reported problems, and (3) three or more reported problems. This item is only calculated for those who resided in the unit long enough to provide responses for all seven items. Those who resided in the unit for a shorter time are reported here together with (1) no reported problems. This

measure remains unchanged from the 2021 NYCHVS. For changes to these items over time, please see the 2021 NYCHVS Public Use File (PUF) User Guide and Codebook.

Heating Breakdowns

The 2023 NYCHVS Heating Breakdown measure indicates whether there was one or more heating breakdown in the previous winter for 6 hours or more. Previous winter is defined as October 2021 through May of 2022, which conforms to when building owners must provide heat, following the guidelines available here: https://www.nyc.gov/site/hpd/services-and-information/heat-and-hot-water-information.page. Respondents who were unable to report on the presence or absence of this condition because they did not live in this unit during the reference period were not included in the prevalence of this housing problem. This measure remains unchanged from the 2021 NYCHVS. For changes to these items over time, please see the 2021 NYCHVS Public Use File (PUF) User Guide and Codebook.

Additional Sources of Heat

The 2023 NYCHVS Additional Sources of Heat measure indicates whether the current occupant(s) used any additional sources of heat, such as a space heater, in addition to their regular heating system in the previous winter. Previous winter is defined as October 2021 through May of 2022, which conforms to when building owners must provide heat, following the guidelines available here: https://www.nyc.gov/site/hpd/services-and-information/heat-and-hot-water-information.page. Respondents who were unable to report on the presence or absence of this condition because they did not live in this unit during the reference period were not included in the prevalence of this housing problem. This measure remains unchanged from the 2021 NYCHVS. For changes to this item over time, please see the 2021 NYCHVS Public Use File (PUF) User Guide and Codebook.

Leaks

The 2023 NYCHVS Leaks measure indicates whether there were any leaks in the unit in the past year. Respondents who were unable to report on the presence or absence of this condition because they did not live in this unit during the reference period were not included in the prevalence of this housing problem. This measure remains unchanged from the 2021 NYCHVS. For changes to this item over time, please see the 2021 NYCHVS Public Use File (PUF) User Guide and Codebook.

Peeling Paint

The 2023 NYCHVS Peeling Paint measure indicates if there was any broken plaster or peeling paint inside the unit that was at least 8 1/2 x 11 inches in size at the time of the NYCHVS interview. This measure two separate questions about whether there is any broken plaster or peeling paint in the unit, and if so, if the area was at least the size of a US standard letter-size paper. This measure remains

unchanged from the 2021 NYCHVS. For changes to these items over time, please see the 2021 NYCHVS Public Use File (PUF) User Guide and Codebook.

Cracks and Holes

The 2023 NYCHVS Cracks and Holes measure indicates if there were cracks in the walls or holes in the floors inside the unit at the time of the NYCHVS interview. This measure remains unchanged from the 2021 NYCHVS. For changes to these items over time, please see the 2021 NYCHVS Public Use File (PUF) User Guide and Codebook.

Presence of Rodents

The 2023 NYCHVS Rodents measure indicates if there was any evidence of mice or rats in the unit or in the building in the past three months. This measure two separate questions about whether the respondent has seen any evidence of mice or rats in the unit and, if not, if they have seen any evidence in the building. Respondents who were unable to report on the presence or absence of this condition because they did not live in this unit during the reference period were not included in the prevalence of this housing problem. This measure remains unchanged from the 2021 NYCHVS. For changes to these items over time, please see the 2021 NYCHVS Public Use File (PUF) User Guide and Codebook.

Toilet Breakdowns

The 2023 NYCHVS Toilet Breakdowns measure indicates that none of the toilets in the unit were working for 6 hours or more in the previous three months. Respondents who were unable to report on the presence or absence of this condition because they did not live in this unit during the reference period were not included in the prevalence of this housing problem. This measure remains unchanged from the 2021 NYCHVS. For changes to this item over time, please see the 2021 NYCHVS Public Use File (PUF) User Guide and Codebook.

Mold

The Mold measure indicates whether there has been any mold in the unit in the previous year. Respondents who were unable to report on the presence or absence of this condition because they did not live in this unit during the reference period were not included in the prevalence of this housing problem. This measure remains unchanged from the 2021 NYCHVS. For changes to this item over time, please see the 2021 NYCHVS Public Use File (PUF) User Guide and Codebook.

Monthly Rent

The 2023 NYCHVS Monthly Rent measure captures monthly rent due last month (relative to the interview date), inclusive of any fees paid separately and regardless of whether this amount was paid by the tenant(s) or others on behalf of the tenant. This is sometimes referred to as the contract rent. If

rent is paid at a different frequency (such as weekly or biweekly), the amount is normalized to be monthly. This measure remains unchanged from the 2021 NYCHVS. For changes to this item over time, please see the 2021 NYCHVS Public Use File (PUF) User Guide and Codebook.

Monthly Gross Rent

The 2023 NYCHVS Gross Rent measure captures the monthly rent, including utilities paid separately by the current occupant(s). This is sometimes referred to as the gross rent. Electricity, gas, water, and heat where paid separately by the tenant are included in this measure. Electricity and gas are asked separately for summer and winter costs, which are included as a weighted amount whereby summer costs are 1/4 and winter costs are 3/4. Water and heat are collected as an annual amount, which is divided by 12. This measure remains unchanged from the 2021 NYCHVS. For changes to this item over time, please see the 2021 NYCHVS Public Use File (PUF) User Guide and Codebook.

Monthly Asking Rent

The Asking Rent for vacant for-rent housing units was the rent asked for the unit at the time of interview which may differ from the rent paid at the time the unit was occupied by the previous tenant or what will be paid by the future occupant. The asking rent may or may not include utilities.

Inflation Adjusted 2023 Dollars / CPI

In some tables, dollar values from previous NYCHVS cycles were adjusted to be comparable with 2023 NYCHVS values using the annual average of the New York-Newark-Jersey City, NY-NJ-PA Consumer Price Index for All Urban Consumers (CPI-U). Rent amounts from previous cycles were adjusted to the 2023 annual value (321.998) from the value of the survey year (e.g., 292.303 in 2021). Because the NYCHVS collects income from the calendar year previous to the survey, income amounts from previous cycles were adjusted to 2022 annual value (310.141) from the value of the survey year (e.g., 282.92 in 2020).

Householder

The 2023 NYCHVS treats the survey respondent in occupied units as the householder or head of household. Respondents in occupied units were adults who resided in the sampled unit at the time of the interview. Where more than one adult resided in the sampled unit, US Census Bureau Field Representatives identified the person who was most knowledgeable about the unit and household.

Race/Ethnicity of Householder

The NYCHVS has always reported a combined race/ethnicity recode that conforms to Federal OMB guideline categories used in the decennial and other census surveys. The 2023 NYCHVS asked two questions that separately identified occupants of Hispanic, Latino, or Spanish origin and then identified

the group that best represented their origin. The 2023 NYCHVS similarly asked a separate question about Asian heritage from the question asking about race.

Person of Color

Persons of Color are defined as individuals who identified as any race other than White or who identified as Hispanic

Nativity of Householder

The NYCHVS has always reported on nativity of the householder. The 2023 NYCHVS asked for place of birth as an open-ended, interviewer-coded item that was then classified into regions. In this report, householders as classified as “born outside the US” if they indicated that they were born outside of the United States.

Households with One or More Older Adult

The NYCHVS has always defined household composition based on the age of the individual occupants. In 2023 the NYCHVS calculated actual age at the time of the survey based on birthdate and only used self-reported age for those who did not provide date of birth. For those who did not report actual date or birth or self-reported age, a follow-up question was asked if the individual was 62 or older. A household was defined as having one or more older adult if one or more household member was age 62 or older at the time of the survey. This is the same as the 2021 NYCHVS.

Households One or More Child

The NYCHVS has always defined household composition based on the age of the individual occupants. In 2023 the NYCHVS calculated actual age at the time of the survey based on birthdate, and only used self-reported age for those who did not provide date of birth. For those who did not report actual date or birth or self-reported age, a follow-up question was asked if the individual was under age 18. A household was defined as having one or more child if one or more household member was under age 18 at the time of the survey. This is the same as the 2021 NYCHVS.

Households with One or More Person with a Disability

The 2023 NYCHVS identified New Yorkers with a disability through six items, which were replicated from the American Community Survey (ACS): (1) Hearing difficulty: deaf or having serious difficulty hearing; (2) Vision difficulty: blind or having serious difficulty seeing, even when wearing glasses; (3) Cognitive difficulty: because of a physical, mental, or emotional problem, having difficulty remembering, concentrating, or making decisions; (4) Ambulatory difficulty: having serious difficulty walking or climbing stairs; (5) Self-care difficulty: having difficulty bathing or dressing; (6) Independent living difficulty: because of a physical, mental, or emotional problem, having difficulty

doing errands alone such as visiting a doctor's office or shopping. Items (3), (4), and (5) were asked only for individuals over the age of 5; item (6) was asked only for individuals aged 15 and older.

Households where respondents reported one or more household member having any one or more of the six disability types are considered Households with One or More Person with a Disability.

Single-Person Household

Single-person households were identified based on the household roster completed during the interview. Those who reported no other co-resident household members (those who live with them most of the time) were classified as individuals who live alone.

Household Income

Household income is the sum of the income from all sources in the last calendar year (2022) from all current household members, including public assistance in the form of cash transfers. Missing values were allocated followed standard US Census Bureau practices. The NYCHVS income measure was updated in 2021; 2023 continued the same approach.

Crowding

The 2023 NYCHVS definition of Crowding was now measured on the ratio of persons per bedroom rather than the ratio of persons per room, as was done cycles prior to 2021. The thresholds for "crowded" conform to standard occupancy criteria used in subsidized housing. A household was defined as crowded if there were more than two persons per bedroom. By this definition, households with only one or two members cannot be overcrowded.

Rent Burden

Information about Contract Rent Burden in the 2023 NYCHVS followed the same methodology employed in the 2021 survey cycle. Contract Rent Burden is calculated as the monthly rent divided by one-twelfth of the annual household income. This measure was calculated using values that have not been top-coded for Income and Contract Rent and therefore may differ from calculated values using the public microdata once released.

Severely and Moderately Rent Burdened

The 2023 NYCHVS categorical measure of Rent Burden is a recode of Contract Rent Burden that classifies renter-occupied households as Severely Rent Burdened (paying more than 50% of income toward rent), Moderately Rent Burdened (paying more than 30% but not more than 50% of income toward rent), and Not Rent Burdened (paying 30% or less of income toward rent), along with a separately classification renter-occupied households that reported having a voucher and those who live

in public housing. Households that paid no rent but reported having some income were classified as Not Rent Burdened; households that reported paying some rent but having no income were classified as Severely Rent Burdened. Households in means-tested housing (public housing or those with a voucher) have no calculated rent burden or classification as burdened or not, since by definition, rents are set according to income.

Means-Tested Housing

The 2023 NYCHVS defines households living in means-tested housing as those in either public housing or those who self-reported that they had a Section-8 or Housing Choice Voucher (HCV). Both of these programs set rents according to the household income.

Missed Rental Payments

The 2023 NYCHVS missed rental payments measure indicates the rent was paid late one or more times in the previous year because the occupants did not have enough money at the time. This includes households where the respondent self-reported missed a payment in the past and households that paid less than the amount due the previous month because they did not have enough money.

Still Owed Rent at Time of Interview / Rental Arrears

In the 2023 NYCHVS, respondents who reported missing one or more rental payment in the last year because they did not have enough money at the time (see Missed Rental Payments) were asked if they still owed any money that was at least 30 days past due.

Source of Funds for Paying Rent

The 2023 NYCHVS measured the source of funds used to pay rent. Respondents who reported paying rent by one or more of the following means were classified as paying using 1+ of the following methods: charged a credit card, paid out of savings, borrowed money, sold something. Respondents who were unable to or did not report on whether they had paid rent by any of these selected means in the last year were not included in the prevalence of this measure.

Food Insecurity

The 2023 NYCHVS measured food insecurity using the U.S. Household Food Security Survey Module: Six-Item Short Form from the USDA Economic Research Service. (https://www.ers.usda.gov/media/8282/short2012.pdf) Following recommended coding practices, answering “yes” to yes/no questions and “often”, “sometimes”, “almost every month”, or “some months but not every month” to frequency questions were coded as affirmative. Households with 0-1 affirmative responses were coded as Not Insecure; households with 2-4 affirmative responses were coded as Insecure; and households with 5-6 affirmative responses were coded as Very Insecure. The reference period for this measure in

the 2023 NYCHVS was the previous twelve months, which is consistent with the replicated USDA scale. The 2021 survey asked a modified version of these questions to capture food insecurity during the pandemic specifically using a reference period of March 1, 2020 to the date of the interview, rather than the last twelve months.

Student Debt

The 2023 NYCHVS collected information about the debt of householders, including student debt. Householders who reported having student debt were asked for the amount owed. If they were unable to provide an amount, they were asked a series of questions designed to narrow the amount owed into categories: 1) $0-$9,999; 2) $10,000-$24,999; 3) $25,000-$49,999; 4) $50,000-$74,999; and 5) $75,000 or more. To calculate median amounts of student debt, amount for respondents who only provided categorical responses were recoded as the mid-point of the category, e.g., $10,000-$24,999 was recoded as $17,500. Respondents reporting $75,000 or more were recoded as $75,000.

Appendix C. Classification of Housing Types

With each survey cycle, the NYCHVS seeks to improve its methodology, including the validity and precision of each measure. The NYCHVS for its entire history has classified housing units based on a combination of information, including administrative records matched to the unit, building, or tax lot, and information collected during the NYCHVS interview. For the purposes of the NYCHVS, these housing types are treated as mutually exclusive (i.e., a unit is only classified as one type, even if it meets the conditions for two or more types). These categories and the underlying methodology have changed over time, including between the 2021 and 2023 NYCHVS cycles.

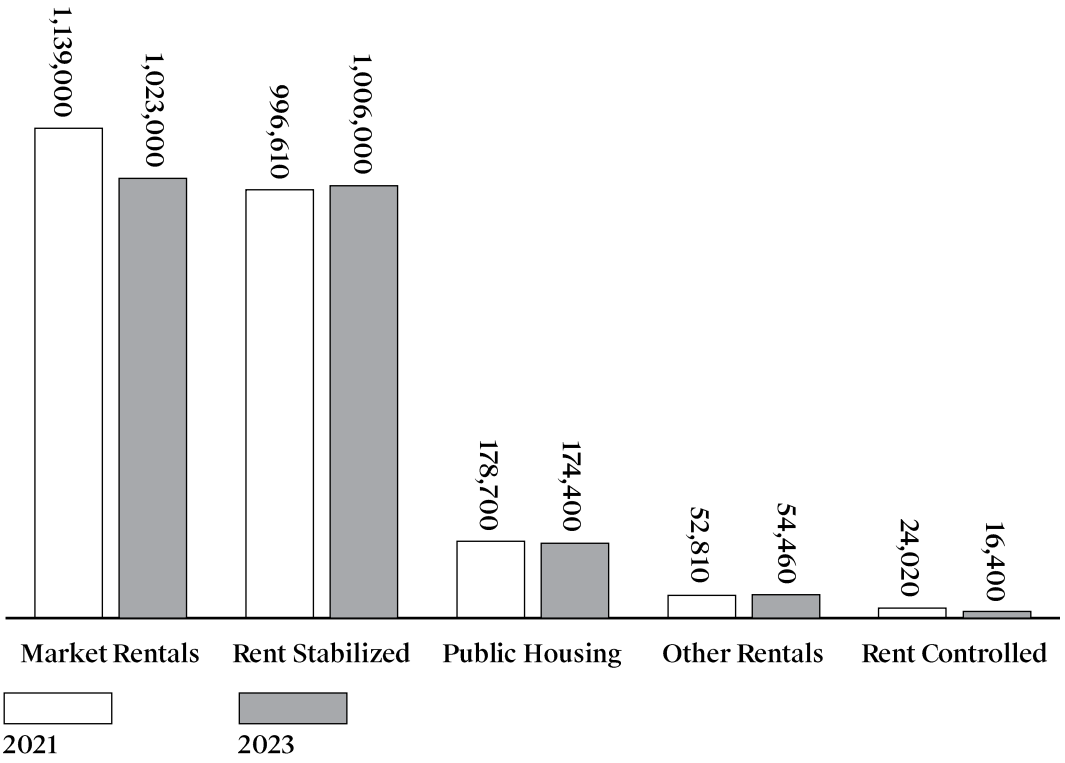
Sampled units are matched to various administrative records, by address and unit identifier (where applicable). This includes data such as initial and annual registrations from NY State Department of Homes and Community Renewal (HCR); public housing owned and managed by the New York City Housing Authority (NYCHA), buildings regulated by New York State or New York City under the Mitchell-Lama program, affordable housing developments financed by the NYC Department of Housing Preservation and Development (HPD), the Housing Development Corporation (HDC), or the NY State Department of Homes and Community Renewal (HCR); buildings held and managed by the City under the in rem program, and units whose rents are regulated by the New York City Loft Board. Information on receipt of tax benefits under the J-51, 421-a(1-15), and 421-a(16) programs during the 2023 NYCHVS survey cycle were also utilized, as were administrative data on the year of construction and property type from the New York City Department of Finance (DOF). Information obtained from the NYCHVS interview was used in additional to administrative data (e.g., occupancy, tenure, earliest move-in of current occupants, etc.). For units that did not match any of the administrative records described above, classification was based solely on these secondary data.

For the 2023 NYCHVS, the housing type and rent regulation coding sequence was adjusted to improve the accuracy of the estimates housing types. These improvements build on others made in previous cycles, including in 2021, 2017, and prior cycles.

Rent control

The 2023 NYCHVS methodology incorporates additional, newly collected information about successors living in rent controlled units, that otherwise may have been categorized as rent stabilized or another housing type. Previously, only residents who reported living in their units in appropriately sized and aged buildings previous to July 1, 1971 were classified as rent controlled. Now, residents who reported being successors to former tenants who moved in prior to that date are also classified as rent controlled. Incorporating these changes, the net change in rent controlled units from 2021 to 2023 was an additional 7,620 units.

Figure C1. Rental Units by Type of Housing, 2021 – 2023



Source: New York City Housing and Vacancy Survey (NYCHVS), 2021, 2023.
Please refer to the technical appendices at the end of this report for details on the NYCHVS design, definitions, and methodology.

Rent stabilized

Changes were implemented to increase the accuracy of units subject to rent stabilization. These changes resulted in both additions and subtractions relative to what would have been estimated using previous methodology. Through the 2021 NYCHVS, any unit that was registered as rent stabilized or vacant with HCR was classified as rent stabilized, with other sources of information identifying additional units based on a variety of unit and household characteristics.

Beginning in 2023, regardless of registration status with DHCR, rental units in condominiums or cooperatively owned buildings were not classified as rent stabilized unless (1) the condominium was a con-rental[21] or (2) the occupant(s) had lived in the unit since before the building converted from rental to condominium or cooperative and the conversion occurred under a non-eviction plan, as registered with the NYS Attorney General. Information from the AG's database was newly incorporated in 2023 to improve accuracy and reduce respondent burden. This results in both additions and subtractions, relative to previous methodology. Units in standard condos or coops and registered with HCR would previously have been classified as rent stabilized, while long-term tenants in converted units in non-eviction conversions that did not register would not have been classified as rent stabilized.

For the 2021 NYCHVS, for the first time, some units financed by NYC HPD or HDC and subject to rent stabilization by virtue of their regulatory agreements were classified as such regardless of their registration status with DHCR. New for the 2023 NYCHVS, additional information was included to ensure that the regulatory agreements were still in effect. Information was also incorporated about units built under the 421-a(16) tax exemption program that excluded units with rents above the Market Rate Threshold Exemption from classification as rent stabilized in the 2023 NYCHVS. Additional self-report information about whether the tenant had a rent stabilized lease was also incorporated into the classification of a unit as rent stabilized.

Maybe: Following 2021, the 2023 NYCHVS identified as subject to rent stabilization units that were not occupied and not available for rent or sale. Because of changes to the rent laws in 2019 via the Housing Stability and Tenant Protection Act, units that are vacant can reasonably assumed to remain subject to rent stabilization laws upon their subsequent occupancy. In 2017 and prior, however, these units could have decontrolled and therefore could not reliably be classified.

Altogether, the net change in rent stabilized units from 2021 to 2023 was 9,390 fewer units.

Public housing

To be consistent with rent stabilization above, any units that are classified as vacant, not available for rent (such as those undergoing substantial rehabilitation) are included in the count of public housing units. The net change in public housing units from 2021 to 2023 was 4,300 additional units.

Rentals regulated in another way

No changes to the identification strategy of rental units regulated in another way were implemented in the 2023 cycle. Changes to other categories as well as the corresponding shifts in unit weights may have resulted in changes to these units. The net change in rental units regulated in another way from 2021 to 2023 was 1,650 fewer units.

Market rental

The 2023 NYCHVS identified units as market rentals in distinction to other types of rental housing. Generally, units were classified as market rental if the sampled unit did not meet any of the criteria that would classify a unit as rent controlled, rent stabilized, public housing or rental unit regulated in some other way. Any changes made to these other categories may result in changes to market rental. Most of the change in this housing type is units shifting from owner- to renter-occupied (or vice versa) or natural growth in the rental stock, such as newly constructed units that are not subject to rent stabilization by virtue of participation in an affordable housing or tax benefit program. The net change in market rentals units from 2021 to 2023 was 116,000 additional units.

Appendix D. Technical Notes on Methodology

All estimates from the 2023 NYCHVS presented in this report were produced using the Internal Use File (IUF) prepared by the U.S. Census Bureau. All variables in the IUF have complete values as originally recorded or allocated. The 2023 NYCHVS Public Use File (PUF) will replace outlying relatively high values with top-coded values to ensure against disclosure. Thus, certain estimates produced from the PUF may not exactly match numbers in this report. Though top codes have not yet been determined for the PUF, this may include estimates based on rent, utilities, household income, household size, bedrooms, rooms, and student debt amounts.

Percentages were calculated based on the rounded estimates presented in the report and therefore may differ slightly from what would have been calculated from the unrounded data. MOEs of the percentages, however, were estimated based on the IUF and rounded after. Throughout the report, medians are reported without MOEs. Standard errors used to produce the Margins of Error (MOE) reported throughout this report were calculated using the replicate weights produced by the U.S. Census Bureau. For more information see the NYCHVS Guide to Estimating Variance.

Matched sample

The NYCHVS is a longitudinal survey, with the main sample selected at the beginning of every decade, and additional new units selected in each subsequent NYCHVS cycle including newly constructed and converted units to ensure that estimates from each survey cycle represent the entire New York City housing stock and population at that point in time. Accordingly, the NYCHVS 2023 sample design incorporated a longitudinal component, as the survey has for many decades. For the 2021 and 2023 samples, this same practice applied. However, it is important to note that the 2023 sample included an additional sample of approximately 3,500 units that could not be part of any longitudinal match.

The 2021-2023 NYCHVS matched sample used for this report comprised housing units that completed an interview in both 2021 and 2023. This includes occupied and not occupied units in both time periods. Overall, about two-thirds of the 2023 NYCHVS sampled units are part of the matched sample; the remaining one-third includes newly sampled units and units that completed an interview in 2023 but did not complete an interview in 2021 for any reason.

In this report, the focus is on the 2023 survey cycle to describe the current supply and condition of housing accommodations in New York City as of the time of data collection (January through mid-June 2023), as well as the continuing need for regulation of rents and evictions. Estimation procedures for the matched sample therefore use survey weights from the 2023 cycle unless otherwise noted. Where percent estimates are presented from the matched sampled, they represent percents of the matched sample.

Endnotes

[1]Units are classified based on a combination of information. General definitions are provided here but for more detailed information, please see Appendix B and survey documentation available on www.census.gov.

[2] HCR Fact Sheet 1: https://hcr.ny.gov/system/files/documents/2020/11/fact-sheet-01-09-2020.pdf

[3] Prior cycles of the NYCHVS did not capture successors to rent controlled units in the same way, thereby under-estimating the total number of units subject to rent control by classifying these successor units as rent stabilized or another type of housing instead. See Appendix B for NYCHVS technical details and methodology. See also Appendix C for details on how the NYCHVS classifies housing, including changes to the methodology between 2021 and 2023 survey cycles as well as HCR Fact Sheet 1 referenced above.

[4] This is lower than the 1,006,000 number of units reported in the 2021 NYCHVS; however, the difference is the result of methodological changes designed to improve the validity and accuracy of the data and does not represent a net loss of rent stabilized units. See Appendix C for details on how the NYCHVS classifies housing, including changes to the methodology between 2021 and 2023 survey cycles.

[5] The count of market rentals included occupied and vacant available for rent units.

[6] The count of public housing and rental units regulated in some other way included occupied, vacant available for rent, and units that were not available for rent. This included a small portion of these types of rental housing. See the section on units not available for rent or sale.

[7] Units that were maintained as a second home (what the NYCHVS refers to as for "occasional, seasonal, or recreational use") were not considered occupied.

[8] The count of condo and coop units includes occupied, vacant and available for rent or sale, and those that were not available for rent or sale. This last category includes units held for occasional or seasonal use—that is, those maintained as second homes. A large share of units in condos and coops fell into this last category.

[9] Asking rents for units that were vacant and available are discussed in the section on the rental inventory and vacancies.

[10] As reported in the 2021 NYCHVS Selected Initial Findings, the vacancy rates by asking rent used the following rent levels: Less than $900, $900 to $1,499, $1,500 to $2,299, and $2,300 or more (in 2021 dollars). These would be approximately $990, $1,650, and $2,500 in inflation-adjusted 2023 dollars. For this reason, the published estimates from 2021 are not directly comparable to the rent categories used throughout this 2023 report. Those wishing to compare published net rental vacancy rates between the two survey cycles should use the combined net rental vacancy rates for units with rents above and below $1,650 (in 2023 dollars), which are comparable statistics. These are presented in Table 9.

[11] It is important to note that occupied housing units, or households, is not the same as the population or number of people. It is possible for the number of households to increase and the population to remain constant or even decrease, depending on the composition of those households (i.e., larger or smaller household sizes). This report focuses only on housing, and not demographic shifts or population counts.

[12] The NYCHVS did not capture if a unit had become vacant and occupied more than once in a twelve-month period or how long it had been vacant prior to becoming occupied.

[13] See Appendix B for 2023 NYCHVS technical definitions and methodology.

[14] This corrects the number of units undergoing or awaiting renovation reported as 28,780 in a figure in 2021 NYCHVS Selected Initial Findings.

[15] This question was not asked of units that were held for seasonal or occasional use.

[16] See Appendix B for definitions and methodology used in the 2023 NYCHVS.

[17] As part of the 2023 NYCHVS, data were collected about each individual person in the household. This information can be used to generate estimates of the population in terms of people or aggregated to describe households with one or more person with a given characteristic. This report focuses only on housing, and not demographic shifts or population counts; therefore, estimates on the population are limited to those at the household-level.

[18] The NYCHVS asks about income for the previous calendar year. The 2021 NYCHVS captured 2020 incomes; the 2023 survey captured 2022 incomes.

[19] By definition, households with one or two people cannot be overcrowded.

[20] Households with means-tested housing have rents that vary with income. Generally, these households pay 30 percent of income as the tenant share of rent, though the tenant share for some households with a voucher may be higher and the rent-to-income ratio based on self-reported rent and income may vary from program calculations that determine the tenant share of rent to be paid.

[21] "Condominium rentals" or buildings where a one or more condo tax lot each comprises multiple rental units within. Generally, these rental units are more similar to units in rental buildings, including requirements related to rent stabilization.