# EXPLANATORY STATEMENT - APARTMENT ORDER #44

## Explanatory Statement and Findings of the Rent Guidelines Board In Relation to 2012-13 Lease Increase Allowances for Apartments and Lofts under the Jurisdiction of the Rent Stabilization Law[1]

### Summary of Order No. 44

The Rent Guidelines Board (RGB) by Order No. 44 has set the following maximum rent increases for leases subject to renewal on or after October 1, 2012 and on or before September 30, 2013 for **apartments** under its jurisdiction:

For a **one**-year renewal lease commencing on or after October 1, 2012 and on or before September 30, 2013: **2% or $20 whichever is greater**

For a **two**-year renewal lease commencing on or after October 1, 2012 and on or before September 30, 2013: **4% or $40 whichever is greater**

#### VACANCY ALLOWANCE

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

#### SUBLET ALLOWANCE

The increase landlords are allowed to charge when a rent stabilized apartment is sublet by the primary tenant to another tenant on or after October 1, 2012 and on or before September 30, 2013 shall be **10%**.

#### ADJUSTMENTS FOR LOFTS

For **Loft units** to which these guidelines are applicable in accordance with Article 7-C of the Multiple Dwelling Law, the Board established the following maximum rent increases for increase periods commencing on or after October 1, 2012 and on or before September 30, 2013. No vacancy allowance is included for lofts.

For **one**-year increase periods commencing on or after **October 1, 2012** and on or before **September 30, 2013**: **2% or $20 whichever is greater**

For **two**-year increase periods commencing on or after **October 1, 2012** and on or before **September 30, 2013**: **4% or $40 whichever is greater**

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

Any increase for a renewal lease may be collected no more than once during the guideline period governed by Order No. 44.

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

## Special Guideline

Leases for units subject to rent control on September 30, 2012 that subsequently become vacant and then enter the stabilization system are not subject to the above adjustments. Such newly stabilized rents are subject to review by the State Division of Housing and Community Renewal (DHCR). In order to aid DHCR in this review the Rent Guidelines Board has set a special guideline of whichever is greater:

1. **30%** above the maximum base rent, or

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

Such HUD-determined Fair Market Rents will be published in the Federal Register, to take effect on October 1, 2012.

All rent adjustments lawfully implemented and maintained under previous apartment Orders and included in the base rent in effect on **September 30, 2012** 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. 44

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

(1) the economic condition of the residential real estate industry in the affected area including such factors as the prevailing and projected (i) real estate taxes and sewer and water rates, (ii) gross operating and maintenance costs (including insurance rates, governmental fees, cost of fuel and labor costs), (iii) costs and availability of financing (including effective rates of interest), (iv) overall supply of housing accommodations and overall vacancy rates;

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

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

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

## Material Considered by the Board

Order No. 44 was issued by the Board following **two** public hearings, **seven** public meetings, its review of written submissions provided by the public, and a review of research and memoranda prepared by the Board's staff. Approximately 47 written submissions were received at the Board's offices from many individuals and organizations including public officials, tenants and tenant groups, and owners and owner groups. The Board members were provided with copies of public comments received by the **June 18, 2012** deadline. All of the above listed documents were available for public inspection.

Open meetings of the Board were held following public notice on March 22, April 5, April 19, April 26, and May 31, 2012. On **May 1, 2012**, the Board adopted proposed rent guidelines for apartments, lofts, and hotels.

Public hearings were held on **June 13, 2012** and **June 18, 2012** pursuant to Section 1043 of the New York City Charter and Section 26-510(h) of the New York City Administrative Code. Testimony on the proposed rent adjustments for rent-stabilized apartments and lofts was heard from **4:30 p.m. to 7:15 p.m. on June 13, 2012** and from **10:00 a.m. to 6:05 p.m. on June 18, 2012**. Both hearings ended when all those who were in attendance who wished to testify did so and there were no additional speakers. Testimony from members of the public speaking at these hearings was added to the public record. The Board heard testimony from **approximately** 40 apartment tenants and tenant representatives**,** 32 apartment owners and owner representatives**,** and 2 public officials. In addition, 10 speakers read into the record written testimony from various public officials. On **June 21, 2012** the guidelines set forth in Order No. 44 were adopted.

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

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

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

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

| *Meeting Date / Name* | *Affiliation* |
|---|---|
| **March 22, 2012**: | Staff presentation, *2012 Mortgage Survey Report* |
| | NYC Department of Housing Preservation and Development (HPD) testimony |
| 1. Joseph Rosenberg | Senior Counsel, State Legislative Affairs |
| **April 5, 2012**: | Staff presentation, *2012 Income and Affordability Study* |
| **April 19, 2012**: | Staff presentations<br>*2012 Price Index of Operating Costs*<br>*2012 Income and Expense Study* |
| | Fuel Oil Emissions Panel: |

| | |
|---|---|
| 1. Steven Caputo | Policy Advisor, NYC Mayor's Office of Long-Term Planning and Sustainability |
| 2. Geraldine Kelpin | Director, Air and Noise Enforcement and Policy Division, NYC Department of Environmental Protection |
| 3. Robert Daly | Technical Director, Boiler Division, NYC Department of Buildings |

| | |
|---|---|
| **April 26, 2012:** | |
| | Apartment Owners group testimony: |
| 1. Jack Freund | Rent Stabilization Association (RSA) |
| 2. Patrick Siconolfi | Community Housing Improvement Program (CHIP) |
| 3. Hershel Weiss | Ashokan Water Services |
| | |
| | Apartment Tenants group testimony: |
| 1. Timothy Collins, Esq., | Collins, Dobkin & Miller LLP |
| 2. Victor Bach | Community Service Society |
| 3. Moses Gates | Association for Neighborhood and Housing Development |
| 4. Tom Waters | Community Service Society |
| | |
| | Hotel Tenants group testimony: |
| 1. Larry Wood | Goddard Riverside Family Council |
| 2. Daniel L. Parcerisas | SRO Law Project at Goddard Riverside Community Center |
| 3. Brian Sullivan | SRO Law Project at MFY Legal Services, Inc. |

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|---|---|
| **May 31, 2012:** | Staff presentations |
| | *2012 Housing Supply Report* |
| | *Changes to the Rent Stabilized Housing Stock in New York City in 2011* |
| | |
| | NYS Division of Housing and Community Renewal (DHCR) testimony |
| 1. Woody Pascal | Deputy Commissioner for Rent Administration |
| 2. Guy Alba | Assistant Commissioner for Research and Analysis |
| 3. Michael Rosenblatt | Assistant Commissioner for Rent Administration |
| | |
| | NYC Department of Finance testimony |
| 1. Sara Meyers | Assistant Commissioner |

## SELECTED EXCERPTS FROM ORAL AND WRITTEN TESTIMONY FROM TENANTS AND TENANT GROUPS[2]

Comments from tenants and tenant groups included:

"In light of rent escalation trends that persisted before and since the recession struck the city, it would appear that the private rental industry has not suffered a decline as a result of the economic crisis, certainly not a decline comparable to the losses in income and employment that continue to beset New York renters, particularly low-income tenants. Continuing high demand in a market short of affordable rental opportunities, along with growing difficulties in sustaining or financing home ownership, may have spurred greater returns for apartment building owners."

"On the tenant side the cost of renting a stabilized apartment has risen to a median of 35.2% of income according to 2011 HVS data – up from 31.7% found in the 2008 HVS. This dramatic and unwarranted increase is larger than any previously recorded for a three year period by any HVS survey. Simply put, it means that rent now consumes an additional 4.5% of all tenant income. That increase in rent burdens more than wipes out all gains in median income for rent stabilized households since 2004 (when

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

median incomes were $35,500 compared with $37,000 in 2011). These are the highest rent burdens ever recorded for stabilized households."

"Since at least 2008, the Price Index of Operating Costs (PIOC) projections, which are used by the RGB to estimate the costs of building operations for the upcoming year, have far outstripped the actual amount landlords reported spending on their buildings…The disparities between projected and actual expenses in recent years is significant, and has led to an increase in net operating income for landlords for the sixth consecutive year, at the expense of working poor and middle income New Yorkers"

"If the middle class is to continue to live in NYC, and not have it become a city only of the very rich or poor, the assumption that rents must go up every year or two should be reassessed. As you know, there has been an erosion of salary buying power but the rents, for no good reason, go up every year. Given the state of the economy I would propose freezing increases for one and two year leases, or at most increase at the bare minimum."

"When the New York Real Estate Industry wants higher rents, they focus on the Mom and Pop landlords, the small guys who can actually need help at times. But when this Board grants generous increases year after year, it is the largest landlords with thousands of apartments who benefit most, especially in Manhattan where rents are almost obscene and have little relation to landlord costs. I pay more than half of my retirement income to the landlord for rent."

SELECTED EXCERPTS FROM ORAL AND WRITTEN TESTIMONY FROM OWNERS AND OWNER GROUPS[3]

Comments from owners and owner groups included:

"This year's 2.8% Price Index is deceptively low, driven down by an unusually warm winter and sharp drops in the price of gas and electricity. The core Price Index, at an average of 5% over the last five years, is more representative of the level of cost increases propelled principally by large increases in real estate taxes and water and sewer charges. Unfunded government mandates are a growing cost for owners and should be accounted for by the RGB as factors not included in the Price Index. Operating margins are slim for a large percentage of the affordable housing stock outside of Manhattan with owners unable to absorb cost increases that are not passed on to tenants. The majority of middle-income stabilized tenants have reasonable rent burdens and can sustain moderate rent increases without affecting affordability."

"CHIP recommends guidelines increases as follows: 5% for a one-year renewal; 9% for a two-year renewal; and a low rent supplement. CHIP recommends that the RGB enact a low rent supplement. Low rent supplements are important because many apartments' rents do not cover the actual cost of providing the apartment. The average income per apartment of $1,171 must be measured against the cost of providing that apartment, not simply the partial operating expenses which the RGB recognizes in the PIOC."

"I am the owner of a six family house in Woodside, Queens. I think I struggle to pay my bills, because to go to the bank to withdraw money from my savings to pay my water, my taxes and my heating is not financially sound."

"To help remedy the gap between expenses and low rents, I ask you to pass increases of 5% or a minimum of $50 for a one-year lease (whichever is greater) and 9% or a minimum of $90 for a two-year lease. Such a formula allows the Board to set more flexible, equitable guidelines. It should be used in this and future years to bring more reason and justice to the rent regulation system."

"Whatever you decide for percentage increase is not going to be enough to cover the injustices in an unjust system. …Affordable housing has been my life's work. My company has renovated every

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

property in our portfolio. I have not one rent near $2,000. I have hundreds of apartments under $750. Its costs approximately $750 per apartment just cover basic expenses! We need to maintain our properties; provide good maintenance; pay our bills. This is impossible with these low rents. We need a supplement to help raise these low rents to a sensible number. I recommend that rents below $750 be given a $100 supplemental increase."

### SELECTED EXCERPTS FROM ORAL AND WRITTEN TESTIMONY FROM PUBLIC OFFICIALS[4]

Comments from public officials included:

"The current situation is not sustainable. Rents are rising while people are losing jobs or having their hours cut back, or working at jobs that don't pay a living wage. The rent burden in New York City is 35%—that is the highest it has ever been. And one-third of New Yorkers who live in rent stabilized apartments—where we would expect rents to be affordable—are spending 50% of their total income on rent. Shelter is a basic human necessity, but the tenants in my district are telling me stories of having to cut back on other real necessities like food and medicine for themselves and their children in order to keep a roof over their heads."

"Across our country and here in New York, the costs of food, energy, and healthcare have gone up, even as our slow economy forces people to do more with less. In New York City, the unemployment rate remains uncharacteristically high, standing at over 9%. Our economy is still on a fragile road to recovery. Unduly raising rents on millions of middle class New Yorkers is not a recipe for economic recovery. Two and a half million middle class New Yorkers live in rent-protected apartments. If we lose our middle class, our city loses its economic base."

"Owners' costs are way down while their profits are higher and remain healthy. And the economy is still sluggish at best. Any increase above 2 percent is not supported by the data. I urge the Rent Guidelines Board to consider my testimony and keep rent stabilized housing affordable for the one million tenants who call these apartments home. There is no justification for a high rent increase this year, and I strongly recommend that the rent increase be kept to a minimum."

"Any approved rent increases by the RGB would only increase landlord profits and further chip away at New York City's affordable housing stock, which lost more than 6,000 units in 2011, 34% more than in 2010. The citywide vacancy rate has dropped to 3.12%, legally constituting a housing emergency…Therefore, I urge the RGB impose a freeze on rents for all rent regulated apartments as well as lofts, hotels, rooming houses, single room occupancy buildings and lodging houses."

"Once again, I want to oppose any minimum rent increase for low rent apartments. This policy – often referred to as a 'poor tax' – directly targets low income tenants. It is unfair and wrongly targets our residents that have been hardest hit by the recession and slow recovery."

## 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) *2012 Mortgage Survey Report*, March 2012, (An evaluation of recent underwriting practices, financial availability and terms, and lending criteria);

[4] Sources: Submissions by public officials.

(2) *2012 Income and Expense Study*, April 2012, (Based on income and expense data provided by the Finance Department, the *Income and Expense Study* measures rents, operating costs and net operating income in rent stabilized buildings);

(3) *2012 Income and Affordability Study,* April 2012, (Includes employment trends, housing court actions, changes in eligibility requirements and public benefit levels in New York City);

(4) *2012 Price Index of Operating Costs,* April 2012, (Measures the price change for a market basket of goods and services which are used in the operation and maintenance of stabilized buildings);

(5) *2012 Housing Supply Report*, May 2012, (Includes new housing construction measured by certificates of occupancy in new buildings and units authorized by new building permits, tax abatement and exemption programs, and cooperative and condominium conversion and construction activities in New York City); and,

(6) *Changes to the Rent Stabilized Housing Stock in NYC in 2011,* May 2012, (A report quantifying all the events that lead to additions to and subtractions from the rent stabilized housing stock).

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

## 2012 Price Index of Operating Costs For Rent Stabilized Apartment Houses in New York City

The *2012 Price Index of Operating Costs* for rent stabilized apartment houses in New York City found a 2.8% increase in costs for the period between March 2011 and March 2012.

This year, the PIOC for all rent stabilized apartment buildings increased by 2.8%, 3.3 percentage points less than the PIOC percentage change from the year before (6.1% in 2011). The PIOC was driven upward by a significant increase in the real estate tax component of 7.5%. More moderate increases were seen in Contractor Services (3.2%), Administrative Costs (2.6%), Insurance Costs (2.5%), Labor Costs (2.5%) and Fuel Oil costs (1.6%). The Parts and Supplies and Replacement Costs components, each of which carry very little weight in the PIOC, increased 3.7% and 3.2% respectively. In contrast, the Utilities component declined 4.0%. The growth in the Consumer Price Index (CPI) during this same time period was slightly higher than the PIOC, rising 3.0%.

The "core" PIOC, which excludes erratic changes in fuel oil, natural gas, and electricity costs, is useful for analyzing long-term inflationary trends. The core PIOC rose by 5.0% this year and was higher than the overall PIOC due to the exclusion of fuel oil costs, which witnessed moderate growth, and natural gas costs, which declined significantly.

## Table 1

| 2011-12 Percentage Changes in Components of *the Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City*[5] | | | |
|---|---|---|---|
| Item | Expenditure Weights | 2011-12 Percentage Δ | 2011-12 Weighted Percentage Δ |
| Taxes | 28.33% | 7.47% | 2.12% |
| Labor Costs | 12.92% | 2.49% | 0.32% |
| Fuel Oil | 13.30% | 1.63% | 0.22% |
| Utilities | 17.50% | -4.01% | -0.70% |
| Contractor Services | 11.91% | 3.25% | 0.39% |
| Administrative Costs | 7.17% | 2.58% | 0.18% |
| Insurance Costs | 6.84% | 2.51% | 0.17% |
| Parts & Supplies | 1.43% | 3.70% | 0.05% |
| Replacement Costs | 0.61% | 3.23% | 0.02% |
| **All Items** | **100%** | **-** | **2.77%** |

Source: *2012 Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City.*
Note: The Δ symbol means change.

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**On April 24, 2012 the staff of the Rent Guidelines Board released a memo to Board members with additional information concerning the *2012 Price Index of Operating Costs*. Below is the memo in its entirety:**

At the April 19, 2012 Price Index of Operating Costs presentation, board members asked for more detailed data regarding the results of the heating characteristics survey sent to owners as part of the annual owner survey. There were 577 responses to this survey, but note that not every respondent answered every question. Results for several of the questions follow.

Question 1. Was this building constructed before 1947?
Yes: 507 (88%)
No: 70 (12%)

Question 3. Who is responsible for electricity costs in the individual apartments of this building?
Tenant: 525 (95%)
Owner: 27 (5%)

Question 4. What is the heating system in this building?
Heating Oil-only Burner: 248 (43%)
Natural Gas-only Burner: 300 (52%)
Dual-Fuel Burner: 25 (4%)
Purchased Steam: 2 (0.3%)
Electricity: 0 (0%)

Question 5. If you used any Heating Oil over the last 12 months, which grade of oil did you use?
#2 Oil: 227 (83%)
#4 Oil: 27 (10%)
#6 Oil: 17 (6%)
#4/#6: 1 (0.4%)

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

Question 6. If you used any Natural Gas for heating over the last 12 months:

a: From whom did you purchase it?
- Con Edison: 97 (31%)
- National Grid: 209 (66%)
- Other: 12 (4%)

b: Are you an interruptible or temperature-controlled Natural Gas customer?
- Yes: 111 (44%)
- No: 142 (56%)

A copy of the Heating Characteristics section of the survey follows on the next page.

## D. HEATING CHARACTERISTICS

1. Was this building constructed before 1947? *(circle one)* **Yes** **No**

2. How many apartments are in this building?
   (Please include all apartments, regardless of their rent regulation status) _________ (apartments)

3. Who is responsible for electricity costs in the **individual apartments** of this building? *(circle one)* **Tenant** **Owner**

4. What is the **heating system** in this building? *(check one)*

   ____ Heating Oil-only Burner (*see Question 5, then Question 8*)
   ____ Natural Gas-only Burner (*skip ahead to Question 6, then Question 8*)
   ____ Dual-Fuel Burner (*please complete Questions 5 through 8*)
   ____ Purchased Steam (*skip ahead to Question 8*)
   ____ Electricity (*skip ahead to Question 8*)

5. If you used any **Heating Oil** over the last 12 months, which grade of oil did you use? *(check one)*

   ____ #2 Oil ____ #4 Oil ____ #6 Oil

   Name of Supplier: ___________________________________

6. If you used any **Natural Gas** *for heating* over the last 12 months:

   a: From whom did you purchase it? *(check one)*
   ____ Con Edison
   ____ National Grid
   ____ Other (Name of Supplier): __________________________________

   b: Are you an interruptible or temperature-controlled Natural Gas customer? *(check one)*

   ____ Yes ____ No

7. If you have a **Dual-Fuel burner**, what is your best estimate of the percent of total heating costs in this building over the last 12 months accounted for by Heating Oil and Natural Gas (total should equal 100%):

   ________ Heating Oil (%) ________ Natural Gas (%)

8. What was the **total cost** for each of the fuels you used for heating this building in 2011? (note that it is not necessary to provide costs for utilities not used for heating, such as electricity in the common areas)

   $_______________ (Heating Oil) $_______________ (Natural Gas)

   $_______________ (Steam) $_______________ (Electricity)

## Local Law 63/ Income & Expense Review

The sample size for the *Income and Expense (I&E) Study* includes almost 16,200 properties containing almost 719,000 units. This is the 20$^{th}$ year that staff has been able to obtain longitudinal data in addition to cross-sectional data. The RGB staff found the following average monthly (per unit) operating and maintenance (O&M) costs in 2011 Real Property Income and Expense (RPIE) statements for the year 2010:

## Table 2

| *2012 Income and Expense Study* Average Monthly Operating and Maintenance Costs Per Unit | | | |
|---|---|---|---|
| | Pre '47 | Post '46 | All Stabilized |
| **Total** | **$759** | **$855** | **$790** |

Source: *2012 Income and Expense Study*, from 2011 Real Property Income and Expense filings for 2010, NYC Department of Finance.

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

If we assume that an audit of this year's I&E data would yield similar findings to the 1992 audit, one would expect the average O&M cost for stabilized buildings to be $725, rather than $790. As a result, the following relationship between operating costs and residential rental income was suggested by the Local Law 63 data:

## Table 2(a)

| 2010 Operating Cost to Rent/Income Ratio Adjusted to 1992 Audit | | | | | |
|---|---|---|---|---|---|
| | O&M Costs[6] | Rent | O&M to Rent Ratio | Income | O&M to Income Ratio |
| All stabilized | $725 | $1,037 | 0.699 | $1,171 | 0.620 |

Source: 2012 Income and Expense Study, from 2011 Real Property Income and Expense filings for 2010, NYC Department of Finance.

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**On April 19, 2012 the staff of the Rent Guidelines Board released a memo to Board members with additional information concerning RPIE cost-to-income ratios by decile. Below is the memo in its entirety:**

As per a board member's request for the distribution of operating costs in relation to total income in buildings by deciles, the following breaks down data by borough and citywide. The data was provided by the NYC Department of Finance and derived from cross-sectional 2010 RPIE data, as referenced in the 2012 Income and Expense Study.

The figures for each of the deciles represent the percentage of buildings with cost-to-income ratios at or below those figures. For instance, looking at the 70% decile Queens cell below means 70% of stabilized buildings in Queens have cost-to-income ratios at or below 0.74. Another example: Looking at the 90% decile in Brooklyn shows that 90% of stabilized buildings in Brooklyn have cost-to-income ratios at or below 0.93. A final example: Looking at the 50% decile Citywide, half of all stabilized buildings Citywide have cost-to-income ratios of 0.68 or less.

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

| Cost-to-Income Ratios | | | | | | |
|---|---|---|---|---|---|---|
| **Deciles** | **Manh** | **Bronx** | **Brooklyn** | **Queens** | **SI** | **Citywide** |
| **# Bldgs** | 6,906 | 3,511 | 3,789 | 1,894 | 89 | **16,189** |
| **10%** | 0.50 | 0.56 | 0.51 | 0.50 | 0.48 | **0.51** |
| **20%** | 0.54 | 0.61 | 0.57 | 0.55 | 0.53 | **0.56** |
| **30%** | 0.58 | 0.66 | 0.61 | 0.59 | 0.60 | **0.60** |
| **40%** | 0.61 | 0.69 | 0.64 | 0.62 | 0.65 | **0.64** |
| **50%** | 0.65 | 0.73 | 0.68 | 0.66 | 0.68 | **0.68** |
| **60%** | 0.70 | 0.77 | 0.71 | 0.70 | 0.71 | **0.72** |
| **70%** | 0.76 | 0.81 | 0.76 | 0.74 | 0.76 | **0.77** |
| **80%** | 0.84 | 0.88 | 0.83 | 0.79 | 0.80 | **0.84** |
| **90%** | 0.97 | 0.99 | 0.93 | 0.87 | 0.85 | **0.95** |
| **100%** | 5.14 | 2.82 | 3.07 | 3.16 | 1.33 | **5.14** |

Source: NYC Department of Finance, 2010 RPIE filings

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**On April 24, 2012 the staff of the Rent Guidelines Board released a memo to Board members with additional information concerning NOI growth and renter household income by neighborhood. Below is the memo in its entirety:**

The 2012 Income and Expense (I&E) Study revealed that from 2009 to 2010, Net Operating Income (NOI) rose an average of 1.8% and median NOI increased 6.5% citywide. In order to conduct a more in-depth analysis in the change in NOI, staff presented the average change in NOI by neighborhood, in a map of Community Districts in NYC. (See page 14 of the *2012 I&E Study*)

As per a board member's request for a more detailed look at NOI growth by neighborhood, the following tables present, by borough, the average NOI per unit per month in 2009 and 2010, as well as the percentage change between these two years. Also included is the same analysis for median NOI per neighborhood. These numbers are based on RPIE longitudinal data obtained by the NYC Department of Finance, as referenced in the *2012 Income and Expense Study*.

Also requested, and presented in these tables, is 2010 median renter household income, as derived from the recently released *2011 NYC Housing and Vacancy Survey (HVS)*. However, the HVS breaks down neighborhoods differently than RPIE data. RPIE data is broken down by Community District, while HVS data is broken down by Subboros. In most neighborhoods, these are the same areas. However, in two boroughs, some areas differ. In the Bronx, HVS Subboro #1 combines CD's 1 and 2, while HVS Subboro #2 combines CD's 3 and 4. In Manhattan Subboro #1 combines CD's 1 and 2, while HVS Subboro #3 combines CD's 4 and 5. Subboros that combine CD's are indicated in the tables below under the HVS Subboro Name column.

## Bronx

| CD # | CD Name | Average 2009 NOI | Average 2010 NOI | Average % Change NOI | Median 2009 NOI | Median 2010 NOI | Median % Change NOI | HVS Subboro # | HVS Subboro Name | 2010 Median Renter Household Income |
|---|---|---|---|---|---|---|---|---|---|---|
| 01 | Mott Haven/Port Morris | $146 | $217 | **48.6%** | $191 | $208 | **8.9%** | 1 | Mott Haven/Hunts Point (combines CD's 1 & 2) | $16,764 |
| 02 | Hunts Point/Longwood | $161 | $167 | **3.7%** | $139 | $144 | **3.6%** | 2 | Morrisania/E. Tremont (combines CD's 3 & 6) | $20,219 |
| 03 | Morrisania/Melrose/Claremont | $101 | $144 | **42.6%** | $93 | $125 | **34.4%** | 3 | Highbridge/S. Concourse | $25,000 |
| 04 | Highbridge/S. Concourse | $219 | $240 | **9.6%** | $245 | $248 | **1.2%** | 4 | University Hts./Fordham | $20,200 |
| 05 | University Heights/Fordham | $203 | $221 | **8.9%** | $207 | $223 | **7.7%** | 5 | Kingsbridge Hts./Mosholu | $27,280 |
| 06 | E. Tremont/Belmont | $159 | $194 | **22.0%** | $165 | $200 | **21.2%** | 6 | Riverdale/Kingsbridge | $30,000 |
| 07 | Kingsbridge Hts./ Mosholu/Norwood | $237 | $257 | **8.4%** | $251 | $261 | **4.0%** | 7 | Soundview/Parkchester | $28,400 |
| 08 | Riverdale/Kingsbridge | $272 | $296 | **8.8%** | $278 | $310 | **11.5%** | 8 | Throgs Neck/Co-op City | $42,800 |
| 09 | Soundview/Parkchester | $220 | $233 | **5.9%** | $223 | $245 | **9.9%** | 9 | Pelham Parkway | $37,000 |
| 10 | Throgs Neck/Co-op City | $237 | $228 | **-3.8%** | $263 | $255 | **-3.0%** | 10 | Williamsbridge/Baychester | $27,400 |
| 11 | Pelham Parkway | $255 | $266 | **4.3%** | $284 | $300 | **5.6%** | | | |
| 12 | Williamsbridge/Baychester | $244 | $233 | **-4.5%** | $249 | $250 | **0.4%** | | | |

## Brooklyn

| | | Average | | | Median | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| CD # | CD Name | 2009 NOI | 2010 NOI | % Change NOI | 2009 NOI | 2010 NOI | % Change NOI | HVS Subboro # | HVS Subboro Name | 2010 Median Renter Household Income |
| 01 | Williamsburg/Greenpoint | $240 | $286 | **19.2%** | $249 | $262 | **5.2%** | 1 | Williamsburg/Greenpoint | $45,000 |
| 02 | Brooklyn Hts./Fort Greene | $432 | $461 | **6.7%** | $446 | $461 | **3.4%** | 2 | Brooklyn Hts./Fort Greene | $46,800 |
| 03 | Bedford Stuyvesant | $124 | $190 | **53.2%** | $155 | $171 | **10.3%** | 3 | Bedford Stuyvesant | $28,100 |
| 04 | Bushwick | $162 | $259 | **59.9%** | $211 | $285 | **35.1%** | 4 | Bushwick | $35,000 |
| 05 | East New York/Starett City | $121 | $221 | **82.6%** | $178 | $205 | **15.2%** | 5 | East New York/Starett City | $28,000 |
| 06 | Park Slope/Carroll Gardens | $435 | $445 | **2.3%** | $404 | $463 | **14.6%** | 6 | Park Slope/Carroll Gardens | $65,000 |
| 07 | Sunset Park | $266 | $308 | **15.8%** | $285 | $307 | **7.7%** | 7 | Sunset Park | $35,000 |
| 08 | North Crown Hts./ Prospect Hts. | $247 | $276 | **11.7%** | $225 | $242 | **7.6%** | 8 | North Crown Hts./Prospect Hts. | $35,000 |
| 09 | South Crown Hts. | $245 | $279 | **13.9%** | $242 | $278 | **14.9%** | 9 | South Crown Hts. | $39,800 |
| 10 | Bay Ridge | $293 | $318 | **8.5%** | $297 | $308 | **3.7%** | 10 | Bay Ridge | $40,000 |
| 11 | Bensonhurst | $224 | $270 | **20.5%** | $254 | $276 | **8.7%** | 11 | Bensonhurst | $34,200 |
| 12 | Borough Park | $269 | $299 | **11.2%** | $290 | $317 | **9.3%** | 12 | Borough Park | $29,960 |
| 13 | Coney Island | $333 | $350 | **5.1%** | $331 | $344 | **3.9%** | 13 | Coney Island | $24,828 |
| 14 | Flatbush | $271 | $290 | **7.0%** | $290 | $321 | **10.7%** | 14 | Flatbush | $42,200 |
| 15 | Sheepshead Bay/Gravesend | $272 | $305 | **12.1%** | $327 | $346 | **5.8%** | 15 | Sheepshead Bay/Gravesend | $30,000 |
| 16 | Brownsville/Ocean Hill | $203 | $235 | **15.8%** | $178 | $206 | **15.7%** | 16 | Brownsville/Ocean Hill | $20,219 |
| 17 | East Flatbush | $230 | $249 | **8.3%** | $265 | $267 | **0.8%** | 17 | East Flatbush | $36,000 |
| 18 | Flatlands/Canarsie | $302 | $304 | **0.7%** | $299 | $292 | **-2.3%** | 18 | Flatlands/Canarsie | $35,935 |

## Manhattan

| | | Average | | | Median | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| CD # | CD Name | 2009 NOI | 2010 NOI | % Change NOI | 2009 NOI | 2010 NOI | % Change NOI | HVS Subboro # | HVS Subboro Name | 2010 Median Renter Household Income |
| 01 | Financial District | | excluded* | | | | | 1 | Financial Dist/Greenwich Vill (combines CD's 1 & 2) | $90,000 |
| 02 | Greenwich Village | $795 | $745 | **-6.3%** | $765 | $674 | **-11.9%** | 2 | Lower East Side/Chinatown | $37,564 |
| 03 | Lower East Side/Chinatown | $528 | $534 | **1.1%** | $499 | $522 | **4.6%** | 3 | Chelsea/Clinton/Midtown (combines CD's 4 & 5) | $75,000 |
| 04 | Chelsea/Clinton | $668 | $620 | **-7.2%** | $541 | $523 | **-3.3%** | 4 | Stuyvesant Town/Turtle Bay | $84,000 |
| 05 | Midtown | $905 | $943 | **4.2%** | $912 | $969 | **6.3%** | 5 | Upper West Side | $80,000 |
| 06 | Stuyvesant Town/Turtle Bay | $763 | $736 | **-3.5%** | $716 | $718 | **0.3%** | 6 | Upper East Side | $75,000 |
| 07 | Upper West Side | $697 | $679 | **-2.6%** | $646 | $581 | **-10.1%** | 7 | Morningside Hts./Hamilton Hts. | $35,000 |
| 08 | Upper East Side | $704 | $658 | **-6.5%** | $624 | $579 | **-7.2%** | 8 | Central Harlem | $33,189 |
| 09 | Morningside Hts./ Hamilton Hts. | $246 | $264 | **7.3%** | $189 | $209 | **10.6%** | 9 | East Harlem | $31,000 |
| 10 | Central Harlem | $211 | $234 | **10.9%** | $194 | $233 | **20.1%** | 10 | Washington Hts./Inwood | $40,000 |
| 11 | East Harlem | $331 | $328 | **-0.9%** | $271 | $292 | **7.7%** | | | |
| 12 | Washington Hts./Inwood | $269 | $274 | **1.9%** | $240 | $250 | **4.2%** | | | |

*CD's with fewer than 35 stab bldgs are excluded from this analysis

## Queens

| CD # | CD Name | Average 2009 NOI | Average 2010 NOI | Average % Change NOI | Median 2009 NOI | Median 2010 NOI | Median % Change NOI | HVS Subboro # | HVS Subboro Name | 2010 Median Renter Household Income |
|---|---|---|---|---|---|---|---|---|---|---|
| 01 | Astoria | $298 | $332 | **11.4%** | $323 | $361 | **11.8%** | 1 | Astoria | $41,400 |
| 02 | Sunnyside/Woodside | $310 | $343 | **10.6%** | $349 | $369 | **5.7%** | 2 | Sunnyside/Woodside | $47,000 |
| 03 | Jackson Hts. | $283 | $326 | **15.2%** | $320 | $333 | **4.1%** | 3 | Jackson Hts. | $45,000 |
| 04 | Elmhurst/Corona | $336 | $342 | **1.8%** | $356 | $379 | **6.5%** | 4 | Elmhurst/Corona | $45,000 |
| 05 | Middle Village/Ridgewood | $245 | $269 | **9.8%** | $239 | $280 | **17.2%** | 5 | Middle Village/Ridgewood | $45,000 |
| 06 | Forest Hills/Rego Park | $404 | $395 | **-2.2%** | $397 | $421 | **6.0%** | 6 | Forest Hills/Rego Park | $49,800 |
| 07 | Flushing/Whitestone | $343 | $337 | **-1.7%** | $366 | $356 | **-2.7%** | 7 | Flushing/Whitestone | $37,000 |
| 08 | Hillcrest/Fresh Meadows | $386 | $403 | **4.4%** | $369 | $408 | **10.6%** | 8 | Hillcrest/Fresh Meadows | $44,600 |
| 09 | Kew Gardens/Woodhaven | $311 | $355 | **14.1%** | $296 | $356 | **20.3%** | 9 | Kew Gardens/Woodhaven | $34,000 |
| 10 | Howard Beach/ S. Ozone Park* | | excluded* | | | | | 10 | Howard Beach/S. Ozone Park | $44,847 |
| 11 | Bayside/Little Neck | | excluded* | | | | | 11 | Bayside/Little Neck | $47,900 |
| 12 | Jamaica | $315 | $332 | **5.4%** | $323 | $337 | **4.3%** | 12 | Jamaica | $43,000 |
| 13 | Bellerose/Rosedale | | excluded* | | | | | 13 | Bellerose/Rosedale | $60,000 |
| 14 | Rockaways | | excluded* | | | | | 14 | Rockaways | $25,000 |

*CD's with fewer than 35 stab bldgs are excluded from this analysis

## Staten Island

| CD # | CD Name | Average 2009 NOI | Average 2010 NOI | Average % Change NOI | Median 2009 NOI | Median 2010 NOI | Median % Change NOI | HVS Subboro # | HVS Subboro Name | 2010 Median Renter Household Income |
|---|---|---|---|---|---|---|---|---|---|---|
| 01 | North Shore | $250 | $327 | **30.8%** | $299 | $337 | **12.7%** | 01 | North Shore | $30,028 |
| 02 | Mid-Island | | excluded* | | | | | 02 | Mid-Island | $35,000 |
| 03 | South Shore | | excluded* | | | | | 03 | South Shore | $36,560 |

*CD's with fewer than 35 stab bldgs are excluded from this analysis

## FORECASTS OF OPERATING AND MAINTENANCE PRICE INCREASES FOR 2011-12

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 2012-13 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 2011-12 and Projected 2012-13 | | |
|---|---|---|
| | Price Index 2011-12 | Projected Price Index 2012-13 |
| Taxes | 7.5% | 6.4% |
| Labor Costs | 2.5% | 4.0% |
| Fuel Oil | 1.6% | 21.4% |
| Utilities | -4.0% | 7.0% |
| Contractor Services | 3.2% | 2.7% |
| Administrative Costs | 2.6% | 3.2% |
| Insurance Costs | 2.5% | 0.0% |
| Parts & Supplies | 3.7% | 2.0% |
| Replacement Costs | 3.2% | 1.8% |
| **Total (Weighted)** | **2.8%** | **7.0%** |

Source: *2012 Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City*, which includes the 2013 PIOC Projection.

Overall, the PIOC is expected to grow by 7.0% from 2012 to 2013. Costs are predicted to rise in each component except Insurance, where costs are anticipated to remain flat. Fuel Oil, the most volatile PIOC component, is expected to increase the greatest proportion, by 21.4%. Taxes, the component that carries the most weight in the Index, is projected to increase 6.4% while the Utilities component is anticipated to increase 7.0%. More moderate increases are projected in Labor (4.0%), Administrative Costs (3.2%) and Contractor Services (2.7%). The Parts and Supplies and Replacement Costs components are expected to rise 2.0% and 1.8%, respectively. The table on this page shows predicted changes in PIOC components for 2013. The core PIOC is projected to rise 4.6%, less than the overall PIOC.

## COMMENSURATE RENT ADJUSTMENT

Throughout its history, the Rent Guidelines Board has used a formula, known as the commensurate rent adjustment, to help determine annual rent guidelines for rent stabilized apartments. In essence, the "commensurate" combines various data concerning operating costs, revenues, and inflation into a single measure indicating how much rents would have to change for net operating income (NOI) in stabilized buildings to remain constant. The different types of "commensurate" adjustments described below are primarily meant to provide a foundation for discussion concerning prospective guidelines. In its simplest form, the commensurate rent adjustment is the amount of rent change needed to maintain landlords' current dollar NOI at a constant level. In other words, the formula provides a set of one- and two-year renewal rent increases or guidelines that will compensate owners for the change in prices measured by the PIOC and keep net operating income "whole."

The first commensurate method is called the "Net Revenue" approach. While this formula takes into consideration the types of leases actually signed by tenants, it does not adjust landlords' NOI for inflation. The "Net Revenue" formula is presented in two ways: First, adjusting for the mix of lease terms; and Second, adding an assumption for stabilized apartment turnover and the impact of revenue from vacancy increases. Under the "Net Revenue" formula, a guideline that would preserve NOI in the face of this year's 2.8% increase in the PIOC is 2.25% for a one- year lease and 4.0% for a two-year lease. Using this formula and adding assumptions for the impact of vacancy increases on revenues when apartments experience turnover result in guidelines of 1.25% for one-year leases and 2.0% for two-year leases.

The second commensurate method considers the mix of lease terms while adjusting NOI upward to reflect general inflation, keeping both operating and maintenance (O&M) costs and NOI constant. This is commonly called the "CPI-Adjusted NOI" formula. A guideline that would preserve NOI in the face of the 3.0% increase in the Consumer Price Index and the 2.8% increase in the PIOC is 3.75% for a one-year lease and 6.0% for a two-year lease. Guidelines using this formula and adding the estimated impact of vacancy increases are 2.5% for one-year leases and 4.0% for two-year leases.[7]

The "traditional" commensurate adjustment is the formula that has been in use since the inception of the Rent Guidelines Board. The "traditional" commensurate yields 1.9% for a one-year lease and 4.3% for a two-year lease. This reflects the increase in operating costs of 2.8% found in the 2012 PIOC and the projection of a 7.0% increase next year.[8]

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

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

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

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

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[7] The following assumptions were used in the computation of the commensurates: (1) the required change in landlord revenue is 67.5% of the 2012 PIOC increase of 2.8%, or 1.9%. The 67.1% figure is the most recent ratio of average operating costs to average income in stabilized buildings; (2) for the "CPI-Adjusted NOI" commensurate, the increase in revenue due to the impact of inflation on NOI is 32.5% times the latest 12-month increase in the CPI ending February 2012 (3.0%) or 0.97%; (3) these lease terms are only illustrative—other combinations of one- and two-year guidelines could produce the adjustment in revenue; (4) assumptions regarding lease renewals and turnover were derived from the 2008 Housing and Vacancy Survey; (5) for the commensurate formulae, including a vacancy assumption, the 7.32% median increase in vacancy leases found in the rent stabilized apartments that reported a vacancy lease in the 2011 apartment registration file from the Division of Housing and Community Renewal was used; and (6) the collectability of these commensurate adjustments are assumed.

[8] Calculating the "traditional" commensurate rent adjustment requires an assumption about next year's PIOC. In this case, the 7.0% PIOC projection for 2013 is used.

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

for the adjustment in their operating and maintenance costs measured each year in the PIOC. The "Net Revenue" and the "CPI-Adjusted NOI" formulas attempt to compensate owners for the adjustment in O&M costs by using only the known PIOC change in costs (2.8%). 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 (7.0%). If the change in projected costs, which may not be an accurate estimate of owner's costs, is added to the "Net Revenue" and "CPI-Adjusted NOI" formulas, the resulting guidelines will likely over- or under- compensate for the change in costs.

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

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**On April 24, 2012 the staff of the Rent Guidelines Board released a memo to Board members comparing the net revenue commensurate with vacancy and the RGB final guidelines. Below is the memo in its entirety:**

Per a request by Mr. Cheigh, please find attached a historic record of the "Net Revenue Commensurate Adjustment with Vacancy Assumptions" for the past 10 years in comparison with the RGB Final Guidelines. In addition, Mr. Cheigh requested inclusion of the growth in NOI in these years as well as a 3-year average of the PIOC.

**Net Revenue Commensurate Rent Increases w/ Vacancy Allowances Compared to the RGB Final Guidelines, 2002-2011**

| | | PIOC Δ | Net Revenue **with** Vacancy Allowance | | Final Guidelines | | |
|---|---|---|---|---|---|---|---|
| Year | PIOC Δ Change | Change 3-year Avg. | 1 Year Renewal | 2 Year Renewal | 1 Year Renewal | 2 Year Renewal | NOI Change |
| 2002 | -1.6% | 5.0% | -5.0% | -3.5% | 2.0% | 4.0% | -0.1% |
| 2003 | 16.9% | 8.0% | 12.0% | 16.0% | 4.5% | 7.5% | -8.7% |
| 2004 | 6.9% | 7.4% | 2.5% | 4.5% | 3.5% (3%*) | 6.5% (6%*) | —** |
| 2005 | 5.8% | 9.9% | 2.5% | 4.75% | 2.75% (2.25%*) | 5.5% (4.5%*) | 1.6% |
| 2006 | 7.8% | 6.8% | 5.0% | 9.5% | 4.25% (3.75%*) | 7.25% (6.75%*) | 8.8% |
| 2007 | 5.1% | 6.3% | 3.25% | 5.75% | 3.0% | 5.75% | 9.3% |
| 2008 | 7.8% | 6.9% | 4.75% | 9.5% | 4.5% (4.0%*)[1] | 8.5% (8.0%*)[1] | 5.8% |
| 2009 | 4.0% | 5.6% | 1.75% | 2.5% | 3.0% (2.5%*)[2] | 6.0% (5.0%*)[2] | 5.8% |
| 2010 | 3.4% | 5.1% | 1.25% | 2.3% | 2.25% | 4.5% | 1.8% |
| 2011 | 6.1% | 4.5% | 3.25% | 6.5% | 3.75% | 7.25% | N/A |

1) Provided, however, that where the most recent vacancy lease was executed six years or more prior to the date of the renewal lease under this Order, the following shall instead apply:
For a one-year renewal lease: 4.5% or $45, whichever is greater (tenants paying heat, 4.0% or $40, whichever is greater).
For a two-year renewal lease: 8.5% or $85, whichever is greater (tenants paying heat, 8.0% or $80, whichever is greater).
2) Provided, however, that where the most recent vacancy lease was executed six years or more prior to the date of the renewal lease under this Order, the following shall instead apply:
For a one-year renewal lease: 3.0% or $30, whichever is greater (tenants paying heat, 2.5% or $25, whichever is greater).
For a two-year renewal lease: 6.0% or $60, whichever is greater (tenants paying heat, 5.0% or $50, whichever is greater).

*For Tenants who pay for heat separatley
**NOI Growth could not be calculated for 2004
Source: Price Index of Operating Costs, 2002-2011, Income and Expense Studies, 2004-2012

## Consideration of Other Factors

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

### EFFECTIVE RATES OF INTEREST

The Board took into account current mortgage interest rates and the availability of financing and refinancing. It reviewed the staff's *2012 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**

| *2012 Mortgage Survey*[10] Average Interest Rates and Points for New and Refinanced Permanent Mortgage Loans 2004-2012 | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| New Financing of Permanent Mortgage Loans, Interest Rate and Points | | | | | | | | | |
| | **2004** | **2005** | **2006** | **2007** | **2008** | **2009** | **2010** | **2011** | **2012** |
| Avg. Rates | 5.8% | 5.5% | 6.3% | 6.3% | 5.9% | 6.5% | 6.3% | 5.8% | 4.6% |
| Avg. Points | 0.67 | 0.56 | 0.44 | 0.61 | 0.47 | 0.62 | 0.79 | 0.61 | 0.63 |
| Refinancing of Permanent Mortgage Loans, Interest Rate and Points | | | | | | | | | |
| | **2004** | **2005** | **2006** | **2007** | **2008** | **2009** | **2010** | **2011** | **2012** |
| Avg. Rates | 5.7% | 5.5% | 6.3% | 6.2% | 5.8% | 6.5% | 6.3% | 5.7% | 4.7% |
| Avg. Points | 0.60 | 0.56 | 0.44 | 0.61 | 0.44 | 0.62 | 0.83 | 0.61 | 0.63 |

Source: 2004–2012 Annual *Mortgage Survey Reports*, RGB.

### CONDITION OF THE RENT STABILIZED HOUSING STOCK

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

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

## Table 5

| Number of Cooperative / Condominium Plans[11] Accepted for Filing, 2003-2011 | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | **2003** | **2004** | **2005** | **2006** | **2007** | **2008** | **2009** | **2010** | **2011** |
| New Construction | 190 | 268 | 361 | 644 | 573 | 454 | 335 | 236 | 210 |
| Conversion Non-Eviction | 10 | 16 | 24 | 53 | 66 | 50 | 29 | 20 | 22 |
| Conversion Eviction | 0 | 15 | 18 | 13 | 16 | 18 | 13 | 4 | 9 |
| Rehabilitation | 18 | 18 | 6 | 0 | 8 | 4 | 1 | 0 | 0 |
| **Total** | **218** | **317** | **409** | **710** | **663** | **526** | **378** | **260** | **243** |
| **Subtotal:** | | | | | | | | | |
| HPD Sponsored Plans | 0 | 15 | 18 | 13 | 16 | 18 | 13 | 4 | 9 |

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

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## CONSUMER PRICE INDEX

The Board reviewed the Consumer Price Index. Table 6 shows the percentage change for the NY-Northeastern NJ Metropolitan area since 2005.

## Table 6

| Percentage Changes in the Consumer Price Index for the New York City - Northeastern New Jersey Metropolitan Area, 2005-2012 (For "All Urban Consumers") | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| | **2005** | **2006** | **2007** | **2008** | **2009** | **2010** | **2011** | **2012** |
| 1st Quarter Avg.[12] | 4.1% | 3.4% | 2.9% | 3.7% | 1.3% | 2.1% | 2.0% | 2.7% |
| Yearly Avg. | 3.9% | 3.8% | 2.8% | 3.9% | 0.4% | 1.7% | 2.8% | -- |

Source: U.S. Bureau of Labor Statistics.

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## CALCULATING OF THE CURRENT OPERATING AND MAINTENANCE EXPENSE TO RENT RATIO

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

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

[12] 1st Quarter Average refers to the change of the CPI average of the first three months of one year to the average of the first three months of the following year.

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

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

## Table 7

| Revised Calculation of Operating and Maintenance Cost Ratio for Rent Stabilized Buildings from 1989 to 2013 | | | |
|---|---|---|---|
| **Year**[13] | **Average Monthly O & M Per d.u.**[14] | **Average Monthly Income Per d.u.** | **Average O & M to Income Ratio** |
| 1989 | $370 ($340) | $567 | .65 (.60) |
| 1990 | $382 ($351) | $564 | .68 (.62) |
| 1991 | $382 ($351) | $559 | .68 (.63) |
| 1992 | $395 ($363) | $576 | .69 (.63) |
| 1993 | $409 ($376) | $601 | .68 (.63) |
| 1994 | $415 ($381) | $628 | .66 (.61) |
| 1995 | $425 ($391) | $657 | .65 (.59) |
| 1996 | $444 ($408) | $679 | .65 (.60) |
| 1997 | $458 ($421) | $724 | .63 (.58) |
| 1998 | $459 ($422) | $755 | .61 (.56) |
| 1999 | $464 ($426) | $778 | .60 (.55) |
| 2000 | $503 ($462) | $822 | .61 (.56) |
| 2001 | $531 ($488) | $868 | .61 (.56) |
| 2002 | $570 ($524) | $912 | .63 (.57) |
| 2003 | $618 ($567) | $912 | .68 (.62) |
| 2004 | $654 ($601) | $969 | .67 (.62) |
| 2005 | $679 ($624) | $961 | .71 (.65) |
| 2006 | $695 ($638) | $1,009 | .69 (.63) |
| 2007 | $738 ($678) | $1,088 | .68 (.62) |
| 2008 | $790 ($726) | $1,129 | .70 (.64) |
| 2009 | $781 ($717) | $1,142 | .68 (.63) |
| 2010 | $790 ($726) | $1,171 | .67 (.62) |
| 2011[15] | $838 ($770) | $1,227 | .68 (.63) |
| 2012[16] | $862 ($791) | $1,275 | .68 (.62) |
| 2013[17] | $922 ($847) | $1,330 | .69 (.64) |

Source: RGB *Income and Expense Studies*, 1989-2012, *Price Index of Operating Costs* 2010 - 2012, RGB Rent Index for 2010 - 2012.

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

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

[15] Estimated expense figure includes 2010 expense updated by the PIOC for the period from 3/1/10 through 2/28/11 (6.1%). Income includes the income estimate for 2010 updated by staff estimate based upon renewal guidelines and choice of lease terms for a period from 3/1/10 through 2/28/11 (**4.81**% - i.e., the 10/1/09 to 9/30/10 rent projection (5.82%) times (.583), plus the 10/1/10 to 9/30/11 rent projection (3.40%) times (.417)).

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

[17] Estimated expense figure includes 2012 expense estimate updated by the staff PIOC projection for the period from 3/1/12 through 2/28/13 (7.0%). Income includes the income estimate for 2012 updated by staff estimate based upon renewal guidelines and choice of lease terms for a period from 3/1/12 through 2/28/13 (**4.29**% - i.e., the 10/1/11 to 9/30/12 rent projection (4.53%) times (.583), plus the 10/1/12 to 9/30/13 rent projection (3.95%) times (.417)).

## CHANGES IN HOUSING AFFORDABILITY

Preliminary results from the *2011 Housing and Vacancy Survey* were released in February of this year, and show that the vacancy rate for New York City is currently 3.12%. Approximately 45% of renter households in NYC are rent stabilized, with a vacancy rate of 2.63%. The survey also shows that the median household income in 2010 was $37,000 for rent stabilized tenants, versus $38,500 for all renters. The median gross rent for rent stabilized tenants was also slightly lower than that of all renters, at $1,160 versus $1,204 for all renters. And rent stabilized tenants saw a median gross rent-to-income ratio of 35.2% in 2011, compared to 33.8% for all renters.

Looking at New York City's economy during 2011, it showed both strengths and weaknesses as compared with the preceding year. Positive indicators include citywide unemployment rates decreasing to 9.0% during 2011, a 0.5 percentage point decrease from the prior year. In addition, employment levels grew, for the second year in a row, increasing 2.0% in 2011. Inflation-adjusted wages also increased 1.3% during the most recent 12-month period (the fourth quarter of 2010 through the third quarter of 2011). Gross City Product also increased for the second consecutive year, rising in real terms by 3.2% in 2011.

Negative indicators included a 7.7% increase in evictions, despite the number of "calendered" non-payment filings in Housing Court declining 0.8%. In addition, cash assistance levels increased for the third consecutive year, increasing by 0.4% between 2010 and 2011. The number of food stamp recipients also rose, increasing for the ninth consecutive year, by 4.9% in 2011. In addition, homelessness rose over 2010 levels, increasing to an average of almost 38,000 persons a night, a 4.4% increase.

The most recent numbers, from the fourth quarter of 2011 (as compared to the fourth quarter of 2010), show that homeless levels were up 8.4%, food stamp caseloads were up 1.5%, and non-payment housing court filings were up 5.5%. However, calendared non- payment housing court cases fell by 1.9%, employment levels were up 1.5%, unemployment levels remained at 9.0%, and GCP rose by 2.5%.

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**On April 19, 2012 the staff of the Rent Guidelines Board released a memo to Board members with additional information concerning the *2012 Income and Affordability Study*. Below is the memo in its entirety:**

At the April 5, 2012 *Income & Affordability Study* (I&A) presentation, one question was asked for which an immediate answer could not be provided. A detailed answer follows.

*Question 1: What is the rent-to-income ratio for rent stabilized households if households on Section 8 are excluded?*

As detailed in the I&A report and presentation, and in the *2011 Housing and Vacancy Survey* summary that was distributed to Board members on March 22, 2012, the median gross rent-to-income ratio (which includes payments for utilities) for rent stabilized tenants in 2011 was 35.2%. The median contract rent-to-income ratio (which does not include utility payments) was 32.0%.

The 2011 HVS finds that a total of 152,202 rental households are receiving Section 8 benefits[18]. For those tenants living in rent stabilized housing, 82,688 are receiving Section 8 benefits[19].

[18] More than 55,000 households either did not know if they received Section 8 or refused to answer and almost 1.9 million households reported not receiving Section 8.

If Section 8 tenants are excluded from the analysis of rent-to-income ratios for rent stabilized tenants, the median gross rent-to-income ratio falls to 32.7% (a 2.5 percentage point drop) and the median contract rent-to-income ratio falls to 30.0% (a 2.0 percentage point drop).

The reason for this drop is because the actual contract and gross rents for these Section 8 apartments (which is the amount that is used by the Census Bureau to derive the rent-to-income ratios) are approximately equivalent to these tenants' incomes. While these tenants pay approximately 30% of their income towards rent, the actual rents on these apartments are higher than what is being paid out of pocket by the tenant. In fact, the median contract rent-to-income ratio for rent stabilized Section 8 tenants is 93.9% and the median gross rent-to-income ratio is more than 100%.

Because of this disparity in contract/gross rent versus out of pocket rent, staff has calculated the out of pocket rent-to-income ratio for rent stabilized tenants. This ratio only takes into account the actual money that a tenant is paying towards rent[20]. The 2011 median out of pocket rent-to-income ratio for all rent stabilized tenants is 27.0% (this does not include utility payments). The median out of pocket rent-to-income ratio for rent stabilized Section 8 tenants is 20.9%[21]. It is 28.0% for rent stabilized tenants, excluding those on Section 8.

A proxy gross rent-to-income ratio can be calculated from out of pocket rents by adding the amount spent on utilities to the HVS-provided out of pocket rents (the amount of utilities was derived by subtracting contract rent from gross rent). The median "gross" out of pocket rent-to-income ratio is 31.0% for all rent stabilized tenants. It is 30.7% for those rent stabilized tenants receiving Section 8, and 31.1% for those who are not.

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**On April 24, 2012 the staff of the Rent Guidelines Board released a memo to Board members with additional information concerning rents, incomes and vacancy rates by borough and neighborhood. Below is the memo in its entirety:**

In June of 2011, board member Brian Cheigh released "FOLLOW-UP RESEARCH POINTS: Clarification of points raised at the June 2nd RGB Meeting & Discussion," which, in part, used the *2008 Housing and Vacancy Survey* to provided data on rents and incomes at the sub-borough level of New York City. Per a request by Mr. Cheigh, those data are being updated based on results of the recently released *2011 Housing and Vacancy Survey*. A table showing median rent stabilized rents, median market rate rents, the percentage difference between stabilized and market rate rents, median household income for market rate tenants, and the vacancy rate follows. Any sub-borough category that did not contain sufficient sample sizes was removed from this analysis due to questions of accuracy. As noted, the vacancy rates should be interpreted with extreme caution as the sample sizes of vacant units at the sub-borough level are very small (ranging form a low of one sample household to a high of 21 households).

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19 More than 25,000 households either did not know if they received Section 8 or refused to answer and approximately 850,000 households reported not receiving Section 8.

20 Note: This data was not calculated by the Census Bureau as part of the released *2011 Housing and Vacancy Survey* data. It was calculated by staff using data provided in other portions of the HVS.

21 While Section 8 tenants are required to pay at least 30% of their income towards rent (and no more than 40%), incomes are adjusted based on a variety of factors. Allowable deductions to gross income include having dependents under the age of 18; having a family member who is elderly or disabled; costs for disability assistance (such as home care attendants); and child care expenses for children under the age of 13. These deductions may explain why the out of pocket rent-to-income ratio for Section 8 tenants is less than 30%. For more information on allowable deductions, please see: http://www.nyc.gov/html/nycha/downloads/pdf/070213N.pdf

### *Bronx*

| HVS Sub-boro Area | Median Rent Stabilized Rent | Median Market Rate Rent | Percentage Difference | Median Market Rate Household Income | Vacancy Rate* |
|---|---|---|---|---|---|
| Mott Haven/Hunts Point | $1,020 | $1,442 | 41% | $16,000 | 2.1% |
| Morrisania/East Tremont | $1,050 | $1,285 | 22% | $33,000 | 5.1% |
| Highbridge/ S. Concourse | $1,030 | ---** | --- | $25,000 | 0.9% |
| University Heights/ Fordham | $1,040 | ---** | --- | $19,000 | 3.1% |
| Kingsbridge Heights/Mosholu | $1,100 | ---** | --- | $30,000 | 6.2% |
| Riverdale/Kingsbridge | $1,088 | $1,300 | 19% | $60,000 | 2.3% |
| Soundview/Parkchester | $1,050 | $1,150 | 10% | $31,000 | 3.7% |
| Throgs Neck/Co-op City | $1,178 | $1,500 | 27% | $45,150 | 0.8% |
| Pelham Parkway | $1,067 | $1,370 | 28% | $45,000 | 1.0% |
| Williamsbridge/Baychester | $1,100 | $1,500 | 36% | $30,740 | 5.5% |

* Interpret with extreme caution as the sample sizes of vacant units are very small
**Not enough data is available at the subboro level to provide accurate data.

### *Brooklyn*

| HVS Sub-boro Area | Median Rent Stabilized Rent | Median Market Rate Rent | Percentage Difference | Median Market Rate Household Income | Vacancy Rate* |
|---|---|---|---|---|---|
| Williamsburg/Greenpoint | $1,415 | $1,600 | 13% | $70,000 | 1.3% |
| Brooklyn Heights/Fort Greene | $1,445 | $1,780 | 23% | $60,000 | 0.6% |
| Bedford Stuyvesant | $988 | $1,315 | 33% | $40,438 | 3.1% |
| Bushwick | $1,156 | $1,300 | 12% | $36,520 | 2.1% |
| East New York/Starrett City | $1,005 | $1,250 | 24% | $36,616 | 1.0% |
| Park Slope/Carroll Gardens | $1,400 | $2,150 | 54% | $87,000 | 2.0% |
| Sunset Park | $1,111 | $1,290 | 16% | $39,228 | 4.6% |
| North Crown Heights/Prospect Heights | $1,150 | $1,300 | 13% | $47,000 | 5.3% |
| South Crown Heights | $1,040 | $1,170 | 13% | $39,000 | 1.7% |
| Bay Ridge | $1,159 | $1,255 | 8% | $45,000 | 3.4% |
| Bensonhurst | $1,115 | $1,130 | 1% | $36,514 | 2.2% |
| Borough Park | $1,165 | $1,285 | 10% | $32,772 | 2.7% |
| Coney Island | $1,085 | $1,208 | 11% | $50,000 | 1.5% |
| Flatbush | $1,179 | $1,300 | 10% | $50,000 | 4.6% |
| Sheepshead Bay/Gravesend | $1,100 | $1,170 | 6% | $30,000 | 3.4% |
| Brownsville/Ocean Hill | $1,072 | $1,300 | 21% | $26,228 | 2.1% |
| East Flatbush | $1,023 | $1,200 | 17% | $33,000 | 2.9% |
| Flatlands/Canarsie | ---** | $1,328 | --- | $45,000 | 2.4% |

* Interpret with extreme caution as the sample sizes of vacant units are very small
**Not enough data is available at the subboro level to provide accurate data.

***Manhattan***

| HVS Sub-boro Area | Median Rent Stabilized Rent | Median Market Rate Rent | Percentage Difference | Median Market Rate Household Income | Vacancy Rate* |
|---|---|---|---|---|---|
| Greenwich Village/Financial District | $1,600 | $2,625 | 64% | $110,000 | 3.8% |
| Lower East Side/Chinatown | $1,300 | $2,675 | 106% | $110,000 | 0.6% |
| Chelsea/Clinton/Midtown | $1,450 | $2,695 | 86% | $100,000 | 2.0% |
| Stuyvesant Town/Turtle-Bay | $1,590 | $2,650 | 67% | $119,000 | 2.8% |
| Upper West Side | $1,450 | $2,785 | 92% | $120,000 | 3.6% |
| Upper East Side | $1,600 | $2,820 | 76% | $106,000 | 5.0% |
| Morningside Heights/Hamilton Heights | $1,205 | $2,052 | 70% | $47,000 | 1.5% |
| Central Harlem | $1,110 | $1,790 | 61% | $62,000 | 2.2% |
| East Harlem | $1,097 | $1,670 | 52% | $55,000 | 3.5% |
| Washington Heights/Inwood | $1,140 | $2,065 | 81% | $55,000 | 1.9% |

* Interpret with extreme caution as the sample sizes of vacant units are very small

***Queens***

| HVS Sub-boro Area | Median Rent Stabilized Rent | Median Market Rate Rent | Percentage Difference | Median Market Rate Household Income | Vacancy Rate* |
|---|---|---|---|---|---|
| Astoria | $1,343 | $1,405 | 5% | $52,000 | 2.8% |
| Sunnyside/Woodside | $1,205 | $1,610 | 34% | $62,900 | 3.0% |
| Jackson Heights | $1,222 | $1,500 | 23% | $51,500 | 6.2% |
| Elmhurst/Corona | $1,218 | $1,410 | 16% | $50,000 | 2.5% |
| Middle Village/Ridgewood | $1,167 | $1,190 | 2% | $50,000 | 3.2% |
| Rego Park/Forest Hills | $1,285 | $1,392 | 8% | $60,000 | 4.4% |
| Flushing/Whitestone | $1,190 | $1,475 | 24% | $47,900 | 3.7% |
| Hillcrest/Fresh Meadows | $1,230 | $1,300 | 6% | $57,000 | 3.4% |
| Kew Gardens/Woodhaven | $1,050 | $1,400 | 33% | $40,000 | 3.1% |
| South Ozone Park/Howard Beach | ---** | $1,350 | --- | $45,000 | 2.9% |
| Bayside/Little Neck | ---** | $1,450 | --- | $57,000 | 1.1% |
| Jamaica | $1,200 | $1,365 | 14% | $49,800 | 5.3% |
| Bellerose/Rosedale | ---** | $1,370 | --- | $61,000 | 3.2% |
| Rockaways | ---** | $1,370 | --- | $30,000 | 7.6% |

* Interpret with extreme caution as the sample sizes of vacant units are very small
**Not enough data is available at the subboro level to provide accurate data.

***Staten Island***

| HVS Sub-boro Area | Median Rent Stabilized Rent | Median Market Rate Rent | Percentage Difference | Median Market Rate Household Income | Vacancy Rate* |
|---|---|---|---|---|---|
| North Shore | $1,150 | $1,340 | 17% | $39,680 | 8.6% |
| Mid-Island | ---** | $1,300 | --- | $44,129 | 4.9% |
| South Shore | ---** | $1,145 | --- | $36,000 | 5.1% |

* Interpret with extreme caution as the sample sizes of vacant units are very small
**Not enough data is available at the subboro level to provide accurate data.

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## BUILDINGS WITH DIFFERENT FUEL AND UTILITY ARRANGEMENTS

The Board was also informed of the circumstances of buildings with different fuel and utility arrangements including buildings that are master-metered for electricity and that are heated with gas versus oil (see Table 8). Under some of the Board's Orders in the past, separate adjustments have been established for buildings in certain of these categories where there were indications of drastically different changes in costs in comparison to the generally prevailing fuel and utility arrangements. This year the Board did **not** make a distinction between guidelines for buildings with different fuel and utility arrangements under Order 44.

### Table 8

| Changes in Price Index of Operating Costs for Apartments in Buildings with Various Heating Arrangements, 2011-12, and Commensurate Rent Adjustment | | |
|---|---|---|
| **Index Type** | **2011-12 Price Index Change** | **One-Year Rent Adjustment Commensurate With O&M to Income Ratio of .675** |
| All Dwelling Units | 2.8% | 1.87% |
| Pre 1947 | 2.2% | 1.49% |
| Post 1946 | 2.9% | 1.96% |
| Oil Used for Heating | 3.9% | 2.63% |
| Gas Used for Heating | 0.6% | 0.41% |
| Master Metered for Electricity | 1.3% | 0.88% |

Note: The O&M to Income ratio is from the *2012 Income and Expense Study*.
Source: RGB's *2012 Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City*.

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**On June 7, 2012, a memo was provided to the Board with answers to questions raised during a presentation by DHCR at the May 31 board meeting. Below is the memo in its entirety:**

At the May 31 board meeting, several board members asked follow-up questions of the Division of Housing and Community Renewal (DHCR). We have submitted these questions to the DHCR and will pass along their responses when we receive them. In the meantime, we are able to answer, at least in part, two questions:

Q1. What was the amount of MCI increases granted over the last five years (total and per unit, citywide and by borough)?

While we have asked DHCR to provide the Board with this information, we do have citywide data for the last four years. As you can see from the table below, since 2008 the dollar amount of MCIs granted annually has increased each year. From 2008 to 2011, the total dollar amount of MCIs granted by the DHCR was just over a half a billion dollars.

| Year | # of MCI Cases Processed | % of MCI Cases Approved | Total $ Amount of MCI Applied for by Owners | Total $ Amount of MCI Granted |
|---|---|---|---|---|
| 2011 | 1,069 | 80% | $238,748,776 | $153,284,754 |
| 2010 | 1,184 | 83% | $197,771,725 | $139,112,623 |
| 2009 | 1,071 | 85% | $166,238,377 | $118,727,068 |
| 2008 | 1,087 | 83% | TBD | $97,667,230 |
| **Total** | **4,411** | **-** | **-** | **$508,791,675** |

Source: Data provided by DHCR to questions submitted by the members of the RGB, 2008 to 2011.

Q2. How many rent stabilized apartment vacancy leases were registered with DHCR citywide and by borough for each of the last six years?

The table below breaks down the number of registered vacancy leases with the DHCR citywide and by borough annually from 2006 to 2011. Manhattan witnessed the highest number of vacancies over this time period, averaging over 21,000 per year.

| Year | S.I. | Queens | Manh | Bklyn | Bronx | Total |
|---|---|---|---|---|---|---|
| 2011 | 667 | 13,867 | 20,722 | 17,113 | 15,097 | 67,466 |
| 2010 | 643 | 14,190 | 22,346 | 17,026 | 16,157 | 70,362 |
| 2009 | 635 | 13,549 | 20,163 | 16,705 | 17,522 | 68,574 |
| 2008 | 718 | 14,781 | 20,566 | 17,911 | 17,671 | 71,647 |
| 2007 | 814 | 14,817 | 21,408 | 17,973 | 17,277 | 72,289 |
| 2006 | 820 | 15,956 | 23,404 | 19,697 | 17,914 | 77,791 |
| **Mean** | **716** | **14,527** | **21,435** | **17,738** | **16,940** | **71,355** |

Source: Data provided by DHCR to questions submitted by the members of the RGB, 2006 to 2011.

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**On June 19, 2012, a memo was distributed to the Board from the RGB's owner representatives clarifying their proposal for a minimum rent increase. Below is the memo in its entirety:**

We would like to clarify the owners' proposal for a minimum dollar increase which is based on the formulation that the RGB approved in Orders #40 and #41.

The need for a minimum rent increase is based on the mathematical fact that a percentage increase applied to a low rent will yield a lower dollar amount than the same percentage increase applied to a higher rent. So, for example, a 3% increase will yield a monthly rent increase of $45 on a $1,500 rent, $30 on a $1,000 rent and only $15 on a $500 rent.

Under the model previously established by the RGB, a guideline with a minimum dollar amount would provide for a rent increase of 3% or $30 whichever is greater. So the increase for the $1,500 rent and the $1,000 rent would remain the same as in the example above, but the $500 rent would be increased by $30 rather than $15, an incremental increase of $15.

This is important because the RGB assumes its guidelines will produce sufficient revenue to cover increased operating costs based on the average rent. But if an owner has a property with an above average number of low rent units, the guidelines will not produce enough revenue to cover cost increases.

Other formulations are possible. Prior to Order #40, the RGB enacted guidelines that provided an additional dollar amount for rents below a specific level. It is essential that the RGB enact guidelines that allow owners to cover their costs. To achieve the necessary revenue, lower guideline increases require higher minimum rent increases and, without a minimum rent increase, the guidelines need to be significantly higher.

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**On June 20, 2012, a memo was distributed to the Board from New York State Tenants & Neighbors in response to the RGB's owner representatives memo of June 19 calling for the Board to adopt minimum rent increases. Below is the memo in its entirety:**

In response to the letter circulated by the Owner Representatives on the Rent Guidelines Board regarding their proposal for a minimum dollar increase, we would like to share a few pieces of data from the most recent Housing Vacancy Survey.

The Housing Vacancy Survey data shows that a minimum dollar increase would disproportionately impact the most vulnerable rent stabilized tenants. The following chart shows that rent stabilized apartments with relatively low rents are, by and large, occupied by low income tenants. This is especially true in the case of the lowest rent apartments, which are over 80% occupied by the poor and near poor. Apartments between $500 and $1,000 are split fairly evenly between poor, near-poor and middle income tenants, with very few high earning tenants living in these units. Rent stabilized apartments over $1,000, which would not be subject to the minimum dollar increase, are split more evenly between low and high earning households.

**Who Lives in Stabilized Low Rent Apartments?**

| | | Income brackets | | | | | |
|---|---|---|---|---|---|---|---|
| | | Poor | Near-poor | Middle | Upper middle | High | Total |
| Rent class | Rent below $500 | 44.9% | 35.3% | 11.1% | 5.9% | 2.7% | 100.0% |
| | Rent $500 to $1,000 | 21.7% | 28.4% | 28.9% | 14.4% | 6.5% | 100.0% |
| | Rent at least $1,000 | 14.9% | 18.0% | 25.1% | 26.6% | 15.4% | 100.0% |
| Total | | 18.4% | 22.5% | 26.2% | 21.3% | 11.6% | 100.0% |

This data suggests that a minimum rent increase would disproportionately impact low income rent stabilized tenants, who are the least capable of absorbing a supplemental increase. With rent burdens already at record high levels, we are concerned that a minimum rent increase could push working families further into economic distress. We strongly encourage the Rent Guidelines Board not to adopt any policies that would single out the poorest New Yorkers for additional rent increases.

Definition of terms:

- Poor: below 100 percent of the federal poverty threshold ($17,552 for two adults and a child)
- Near poor: 100 to below 200 percent ($35,104).
- Middle income: 200 to below 400 percent ($70,208).
- Upper middle: 400 to below 800 percent ($140,416).
- High income: 800 percent or more.

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

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

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

The increase in the Loft Index this year was 3.7%, 0.9 percentage points higher than the increase for apartments. This difference is explained by the fact that the Utilities component decreased by just 0.25% for Lofts versus the decrease in Apartments of 4.0%. This smaller decrease in Utilities placed less downward pressure on the Loft Index resulting in an increase in the overall Loft Index that was higher than the PIOC for Apartments.

This year's guidelines for lofts are: **2% or $20 whichever is greater** for a one-year lease and **4% or $40 whichever is greater** for a two-year lease.

**Table 9**

| Changes in the Price Index of Operating Costs for Lofts from 2011-2012 | |
|---|---|
| | **Loft O & M Price Index Change** |
| All Buildings | 3.7% |

Source: *2012 Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City.*

## SPECIAL GUIDELINES FOR VACANCY DECONTROLLED UNITS ENTERING THE STABILIZED STOCK

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

(1) 30% above the Maximum Base Rent, or

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

The Board concluded that for units formerly subject to rent control, either an increase to rent levels reflecting the Fair Market Rent guidelines established by the U.S. Department of Housing and Urban Development (HUD), or 30% above the maximum base rent was a desirable minimum increase. Notably, the HUD guidelines differentiate minimum rents on the basis of bedroom count.

## Increase for Units Receiving Partial Tax Exemption Pursuant to Section 421 and 423 of the Real Property Tax Law

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

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

### Vacancy Allowance

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

### Sublet Allowance

The increase landlords are allowed to charge under Order #44 when a rent stabilized apartment is sublet by the primary tenant to another tenant on or after October 1, 2012 and on or before September 30, 2013 shall be **10%**.

### Votes

The votes of the Board on the adopted motion pertaining to the provisions of Order #44 were as follows:

| | Yes | No | Abstentions |
|---|---|---|---|
| Guidelines for Apartment Order #44 | 5 | 4 | - |

Dated: June 22, 2012
Filed with the City Clerk: June 27, 2012

Jonathan L. Kimmel
Chair
NYC Rent Guidelines Board

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