



*Policy Statement 92-2 (May 21, 1992)*

***Collectibility of "421-a" Rent Increases***

This Policy Statement is being issued to assure awareness of DHCR's policy with respect to the collectibility of "421-a" rent increases.

For buildings subject to the Partial Tax Exemption Program under Section 421-a of the Real Property Tax Law to off-set the declining real estate tax exemption, the Real Property Tax Law, and Section 4.2 of the New York City's Department of Housing Preservation and Development's 421-a Program regulations provide 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...."

Section 2522.5(e)(2) of the Rent Stabilization Code permits an owner to include in each tenant's vacancy and or renewal lease a clause providing for such increase.

On August 27, 1987, for the purposes of clarification, the New York City Department of Housing Preservation and Development ("HPD") amended its regulations governing the 421-a program by specifying that owners cannot collect more than nine annual 421-a rent increases. Because the 2.2 percent increase was intended as an offset against the declining real estate taxes DHCR had interpreted HPD's regulations to require this limitation even prior to the specific amendment.

An owner may charge the 421-a rent increase commencing with the anniversary date of the first lease of the first tenant to take occupancy of the unit after the building was constructed, and once each year thereafter on such anniversary date, for a total period of nine years. Each annual rent increase is equal to 2.2% of the initial rent of the unit's first tenant. The total maximum increase thus permitted is 19.8 percent above the unit's initial monthly rental.

Orders of the New York City Rent Guidelines Board authorize owners of "421-a" buildings to charge guidelines increases for vacancy and renewal leases in addition to the 2.2% "421-a" rent increase.

Section 2522.5(e)(4) of the Rent Stabilization Code provides that any 2.2% increase which became effective on or after November 19, 1982 shall not become part of the legal regulated rent but is to be charged the tenant as a separate charge, not included in the "base rent" when calculating Rent Guidelines Board increases.

The maximum increase (19.8%) may continue to be charged in each year following the expiration of the tax benefit period, but no additional 2.2% increases may be added after the tax benefits end.

*This document is being reissued for informational purposes only.  
The original document which contains signatures of authorization is on file at DHCR's Office of Rent Administration.*



421-a housing accommodations remain subject to Rent Stabilization after the ten-year period of tax benefits expires, where (a) the accommodation has not been vacated since the expiration of the benefits; or (b) the accommodation first became subject to the rent stabilization requirements of 421-a after July 3, 1984, and the owner has failed to include a clause in at least twelve point type that the apartment will be deregulated upon expiration of the last lease entered into during the tax benefit period in all of the leases of the tenant in occupancy when the benefits expire. This clause must also state when the benefits expire.

Rent charged in excess of nine 2.2 percent per annum charges, limited to nine years or a maximum increase of 19.8%, or which is otherwise not in compliance with this statement constitute overcharges.

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