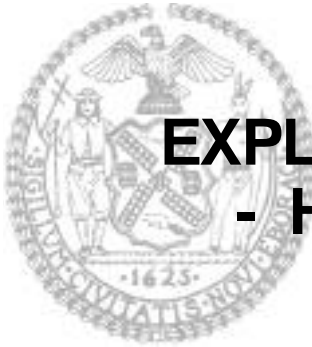


## Appendix N3

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# EXPLANATORY STATEMENT - HOTEL ORDER # 30 -



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 30, Effective October 1, 2000 through and including September 30, 2001.<sup>1</sup>

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 Rent Regulation Act of 1997, it is the responsibility of the Rent Guidelines Board to establish guidelines for hotel increases. Hotel Order Number 30, adopted on June 22, 2000, applies to stabilized hotel units occupied by non-transient tenants.

Hotel Order Number 30 provides for an allowable increase of 2 percent over the lawful rent actually charged and paid on September 30, 2000 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 level of rent increase governing a new tenancy shall be the same as the guideline for rent increases set forth above.

Rooming house, lodging house, Class B hotel, single room occupancy building, and Class A residential hotel owners shall not be entitled to any of the above rent adjustments, and shall receive a 0 percent adjustment if any or all of the following conditions exist:

- 1) 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; or
- 2) If the owner has failed to provide to the new occupant of that unit a copy of the Rights and Duties of Hotel Owners and Tenants, pursuant to Section 2522.5 of the Rent Stabilization Code.

<sup>1</sup> 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.

## 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.

## BACKGROUND

Public meetings of the Board were held on March 21 and 28, April 11 and 25, May 2, and June 6, 2000 following public notices. On May 8, the Board adopted proposed rent guidelines for hotels, apartments, and lofts.

One public hearing was held on June 15, 2000 to hear comments on the proposed rent adjustments for rent stabilized hotels and apartments. The hearing was held from 10:00 a.m. to 12:30 p.m. and from 7:00 p.m. to 8:00 p.m. The Board heard testimony from 47 hotel tenants and tenant representatives, 1 hotel owner representative and 10 public officials. In addition, the Board's office received approximately 31 written statements from owners and owner groups and from tenants and tenant groups. On June 22, 2000, the guidelines set forth in Hotel Order Number 30 were adopted.

### Testimony from owners and owner groups:

- “We (Associated Hotels and Motels of Greater New York) ask you to please consider giving the industry a 9% increase across the board with no restrictions. This would insure the owners that we are interested in keeping as many SRO tenants in their homes as possible...”
- “As you are aware, the rising fuel costs are a very serious issue this year. Everyday owners call and ask me for recommendations regarding this problem. I can only look to you to help them. Some have reported exorbitant raises and an inability to continue operating if they have no relief.”
- “[T]he last order limited the increase to those buildings who had 70% or more occupancy by tenants. This means for this particular sector, there has been no relief in

over ten years. While your position is understood, today I wish to discuss those owners who have had no relief, some fell just short of the 70%, some have had to diversify in order to meet their obligations and provide the services required. Therefore, they were ineligible."

- "Everyone agrees we need SROs. Tenants want to remain in their buildings. Owners wish to stay in business. An increase is necessary."

### Testimony from tenants and tenant groups:

- "Except for rooming houses, where a small increase is arguably warranted, although there is certainly a lot of questions that could be raised about that, the increase for SRO's should still be 0%."
- "Those SRO's electing to derive income from other more lucrative sources, or deliberately warehousing their units, should be permitted no increase. And those that fail to provide the Notice of Rights, as required by law, should be permitted no increase. By awarding an increase with the provisos that deter and punish owners who do not derive their income and profits from permanent tenants, the Board will effect a good balance of the extreme needs of the tenants for this low cost housing available to the last of New York City's low income tenants."
- "Over the last 15 years, SRO rents have risen almost 21% and over 25% for rooming houses. A large increase would be devastating to tenants living on fixed incomes including elderly people, low income wage earners, and public assistance recipients. This Board must take into account the tenants' ability to pay."
- "The vast majority of SRO landlords are making a lot of money, most of it coming from tourist and other non-rent stabilized tenant. There is no economic problem for them (landlords). On the otherhand there is a economic problem for their tenants who are still the poorest of the poor and they can't afford to pay increases. ...Even if you look only at what's happening in the rent stabilized sector of the SRO market you are going to find that incomes have been rising over the last ten years at least at a faster rate than costs."
- "In years past, the Rent Guidelines Board has bolstered the rationale for increases for SROs by putting in place a proviso — a sentry — which routes increases only to landlords who, at least arguably, may need it: those who rent at least 70% of their units to permanent tenants. Reducing that requirement to 50% utterly defeats the point of the sentry and strips any increase this board may grant of any rational basis."

## MATERIAL CONSIDERED BY THE BOARD

In addition to oral and written testimony presented at its public hearing, the Board's decision is based upon material gathered from the *2000 Price Index of Operating Costs for Hotel Stabilized Units* in New York City, 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 testimony from invited guest speakers on May 2, 2000. Guest speakers representing hotel tenants included: Elizabeth Kane, Project Director, and Terry Poe, Tenant Organizer, from the West Side SRO Law Project; Peggy Earisman, Managing Attorney, from the East Side SRO Law Project of MFY Legal Services; and Bob Grossman, tenant of the Riverside Tower Hotel. Guest speaker representing hotel landlords was Helen Maurizio, Executive Director, Associated Hotels and Motels of Greater New York.

## Price Index of Operating Costs for Rent Stabilized Hotel Units

The Hotel Price Index includes separate indices for each of three categories of rent stabilized hotels (due to their dissimilar operating cost profiles) and a general index for all stabilized hotels. The three categories of hotels are: 1) Hotels—a multiple dwelling which has amenities such as a front desk, and maid or linen service; 2) Rooming Houses—a multiple dwelling other than a hotel with thirty or fewer sleeping rooms; and, 3) single room occupancy hotels (SROs)—a multiple dwelling in which one or two persons occupy a single room residing separately and independently of other occupants.

The price index for all stabilized hotels rose 8.0% this year, slightly more than the increase in the apartment price index. The primary difference between the increase in the hotel index and the apartment index was in the tax component. The increase in taxes for all types of hotels was 7.2% overall (versus 5.2% in apartment buildings), driven mainly by the increase found in assessments for "traditional" Hotels. There was notable diversity among hotel subgroups in tax expense this year, as "traditional" stabilized Hotels experienced an increase in taxes of 10.9%, while Rooming Houses and SRO's had lower tax increases of 5.7% and 4.7% respectively.

While the increase in cost for taxes was higher for stabilized hotels than for apartments, these properties also experienced higher increases for utilities and labor expense. The increase in utility cost for hotels was 7.6%; somewhat larger than the 5.7% increase for apartments. The difference was due primarily to electricity costs in Hotels, which is weighted more heavily in hotels than in apartments. The sharper increase in the tax, labor and utility components caused the price index for all stabilized hotels to rise somewhat faster than the price index for all stabilized apartments.

Among the different categories of hotels, the index for "traditional" Hotels increased 8.8%, SROs by 8.6% and Rooming Houses by 8.1% respectively.<sup>2</sup>

**Table 1**  
**PERCENT CHANGE IN THE COMPONENTS OF THE PRICE INDEX OF OPERATING COSTS**  
 April, 1999 to April, 2000

	<u>Hotels</u>	<u>Rooming Houses</u>	<u>SRO's</u>	<u>All Hotels</u>
Taxes, Fees & Permits	10.86	5.71	4.70	7.15
Labor Costs	3.65	5.37	4.42	3.93
Fuel Costs	42.51	35.76	54.46	43.66
Utilities Costs	7.53	7.35	7.79	7.57
Contractor Services	2.66	3.36	3.35	2.91
Administrative Costs	3.78	3.84	3.81	3.80
Insurance Costs	0.66	0.66	0.66	0.66
Parts & Supplies	1.89	2.11	2.15	1.98
Replacement Costs	1.30	1.18	1.22	1.27
<b>Overall</b>	<b>8.80</b>	<b>8.06</b>	<b>8.60</b>	<b>8.01</b>

Source: 2000 Price Index of Operating Costs for Rent Stabilized Hotels.

(2) This year for the first time, the 'All-Hotels' price index change lies outside the range of the price index changes of the N3-4

individual hotel categories. This seemingly paradoxical outcome results from the fact that, for several years, the 'All-Hotels' tax and utility price relatives were constructed using data which included some buildings whose Multiple Dwelling Law classifications (Hotel, Rooming House, SRO) were not known. As a result, the 'All-Hotels' price index is not an exact weighted average of the Hotel, Rooming House and SRO indices.

## VOTE

The vote of the Rent Guidelines Board on the adopted motion pertaining to the provisions of Order Number 30 was as follows:

	<u>Yes</u>	<u>No</u>	<u>Abstentions</u>
Guidelines for Hotels	5	4	—

Dated: June 30, 2000  
 Filed with the City Clerk: July 1, 2000

Edward S. Hochman  
 Chairman  
 Rent Guidelines Board

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