

## **DUTIES OF THE RENT GUIDELINES BOARD**

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

The one decision of the Rent Guidelines Board that has, by far, the greatest impact on owners and tenants is the annual establishment of lease renewal guidelines. Since 1983 tenants have had the option of choosing between one and two year renewal leases.<sup>137</sup> An estimated 80% of all stabilized tenants have a renewal lease, 13% move or 'turn over,' approximately 3% report having no lease, and about 1% pay no cash rent. Almost 40% of all stabilized tenants with leases regularly sign one-year leases leaving some 60% of tenants who sign two-year leases. Approximately half of those choosing two-year leases remain unaffected by any given guideline - being in the second year of a two-year lease signed under the previous guideline.<sup>138</sup> Consequently, about 65% of the approximately one million rent stabilized households are directly affected by the adoption of any single set of annual renewal guidelines.

The economic impact of these guidelines on the City's housing stock is enormous. Given current rent levels, any 1% increase in average rents raises aggregate rent rolls by about \$120 million dollars per year. An average annual increase of 5.7% in rent rolls for each of three years since the last Housing and Vacancy Survey was conducted (2008-2010) for the stabilized apartment inventory as a whole (including an estimated impact of the statutory vacancy allowance)<sup>139</sup> amounted to approximately \$2.2 billion in cumulative added rent - an average of about \$2,200 in total added rent per rent stabilized household. Guideline renewal increases account for most of this growth.

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

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<sup>137</sup> Prior to the enactment of the Omnibus Housing Act of 1983 tenants were given the additional option of choosing three year leases.

<sup>138</sup> See note 17 following Table 8 in the Explanatory Statement for Apartments (Appendix N1) for further explanation of these estimates.

<sup>139</sup> This is an average of the last three entries in the Board's rent index contained in table 8 of the Explanatory Statement for Order #42. Note that this estimate could be adjusted downward once lawsuits regarding Orders #40 and #41 are adjudicated.

not and cannot presently be measured in the rent index prepared by the RGB staff each year. Therefore, these increases are not reflected in the above estimates.

The vast majority (about one million) of tenant households affected by these guidelines are **apartment** dwellers.

Approximately 16,516 units fall within the **hotel** stabilized group which presently includes (according to the 2008 HVS) class “B” hotels (3,401), single room occupancy units (3,513), rooming houses (3,695), lodging houses (few units/no data) and “apartment hotels” (5,907).<sup>140</sup> The number of stabilized hotel units has declined dramatically in recent years as a result of building demolitions and conversions and from an increase in transient (and thus unregulated) hotel rentals.

The Board reviews the economics of hotel buildings separately from apartments pursuant to §26-510(e) of the RSL (included as part of Appendix A). It also holds hearings for hotels and adopts separate hotel orders. These orders have historically differed significantly from those given for apartments and lofts. While one year renewal increases for apartments and lofts averaged around 3% between 1996 -2000, increases for the hotel sector averaged about 1% over the same period. More than half of the guidelines for Hotels have been 0% since then.

A sound estimate of the number of **loft** units currently affected by the Board’s loft guidelines pursuant to §286 of the Multiple Dwelling Law is difficult to calculate.<sup>141</sup> As these units are “legalized” and move from interim multiple dwelling status to class “A” multiple dwellings some may be deregulated while others may fall under apartment rent stabilization.

While the Rent Guidelines Board does conduct an independent review of the economics of loft buildings, because of significant similarities with apartments in operating cost changes over the years the Board’s loft orders have generally paralleled its apartment orders, but are usually lower. In 2009 and 2010, loft orders equaled apartment orders, while in 2008 they were a percentage point lower for one-year leases, and two percentage points lower for two-year leases.

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<sup>140</sup> 2008 Housing and Vacancy Survey

<sup>141</sup> A copy of §286 of the Multiple Dwelling Law is contained in Appendix L.

### *Useful Appendices for Reference:*

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

## **Special Orders**

### *Sublet Allowances*

As discussed in the section describing the Rent Regulation Reform Act of 1997, the vacancy allowance is now established by statute, although the RGB is not precluded from adding an additional vacancy increase. The Board may, however, promulgate a special vacancy allowance for apartments occupied by subtenants, known as the 'sublet allowance.' Section 2525.6(e) of the Rent Stabilization Code provides that “the legal regulated rent payable to the owner effective upon the date of subletting may be increased by the vacancy allowance, if any, provided by the Rent Guidelines Board Order in effect at the commencement of the date of the lease, provided the lease is a renewal lease.” Under Order #37, the Board authorized a 10% sublet allowance.

### *Supplemental Rent Adjustment*

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

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

**Table V.**  
**Supplemental Rent Adjustments in RGB Orders 1983-2011**

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

\*Note: There were no supplements in RGB Orders 22 through 25 and 33-42. Source: RGB Orders # 15-42.

### ***Special Guidelines and Decontrolled Units***

As discussed in the section concerning fair market rent appeals (*supra*, at pp. 79 to 81) apartments in buildings with six or more units vacated by a rent controlled tenant will fall under rent stabilization. If the first stabilized tenant chooses to challenge the rent, the DHCR will consider the special guidelines adopted by the Board pursuant to §26-513 of the RSL (See Appendix O) in making its determination as to whether the new rent is “fair”. As noted previously, in addition to this advisory guideline the DHCR will permit the owner to submit information on “rents generally prevailing in the same area for substantially similar housing accommodations.” If presented with such information, the current DHCR practice is to average the rent calculated in accordance with the special guideline with the average rent for qualified comparable units.

In establishing the special guidelines, at one time the Board’s policy was generally to close the gap between rent controlled rents and rent stabilized rents, the latter often being much higher. From 1974 through 1986 the Board adopted special guidelines that ranged between 15% to 20% above the maximum base rent (“MBR”) established under the rent control system. In 1987 the Board took notice of information provided by the most recent Housing and Vacancy Survey which indicated that median rent stabilized rents in pre ‘47 buildings were approximately 35% above median rent controlled rents. Consequently, the Board increased the special guideline to 35% above the MBR in its 1987 rent orders. The following year tenant representatives argued that since the Board’s

stated aim for the special guideline was to close the gap between rent controlled and rent stabilized rents, and since the gap reflected in the HVS figures is really a gap between Maximum Collectible Rents<sup>142</sup> and stabilized rents, the special guideline should be added to the MCR and not the MBR. Acknowledging some value in retaining the MBR as the minimally desired rent, the Board's 1988 and 1989 special guidelines consisted of a 45% increase above the MCR or a 25% increase above the MBR - whichever increase was greater. In 1990 the Board moved to a fixed increase of 35% above the MCR. In 1991, responding to arguments that the MBR is a minimally sufficient rent to run a building, the Board returned to the MBR as an appropriate base from which to calculate adjustments by simply adding 15% to the MBR. This approach was continued in 1992. In 1993 the Board once again returned to the "closing the gap" approach by adding 40% to the MCR.

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

Notably, according to the 2008 Housing and Vacancy Survey, the median rent controlled rent (the "MCR") is \$721, while the median rent stabilized rent is \$923 – a 28% difference.<sup>143</sup> Because the MBR is always equal to or greater than the MCR, the Board's most recent minimum adjustment of 50% above the MBR would raise a typical decontrolled unit to at least \$1,082 per month.

It should be added that the Board's special guideline orders also affect buildings which have been decontrolled pursuant to section 2(f)(15)(c)&(d) [now §2200.2(f)(15)(iii)&(iv)] of the New York City Rent and Eviction Regulations. These sections concern apartments with past rent levels that made them high rent or "luxury" apartments in the mid-1960's. These units may still be decontrolled on a case by case basis pursuant to a court order. While this type of decontrol rarely occurs today, the Board's orders continue to provide protection for newly stabilized tenants who move into one of these previously controlled units. These decontrol guidelines have historically been identical to the special guidelines for rent controlled units which are voluntarily vacated.

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<sup>142</sup> "MCR" = the amount rent controlled tenants are actually required to pay which may increase by no more than 7.5% per year. The MBR is a rent ceiling which reflects the amount theoretically required to maintain the unit and produce a fair return. The MCR never exceeds the MBR.

<sup>143</sup> 2008 Housing and Vacancy Survey

### ***Electrical Inclusion Adjustment***

Approximately 90% of stabilized tenants pay for their own electricity while some 10% have the cost of electricity included in their rent. If the cost of electricity rises at a faster rate than the average increase in operating and maintenance costs and the Board does not compensate owners for this difference in its rent orders, owners who supply electricity would be at a disadvantage. Similarly, if the price of electricity were falling relative to other expenses, owners who supply electricity would reap a windfall unless the Board adjusted rents accordingly. Recognizing this, the Board has included special adjustments - both up and down - where the rate of increase for electricity costs has not paralleled changes in other costs. These “electrical inclusion adjustments” were common in the mid-1970’s to the early-1980’s but have not been added to any rent order since 1983 when a one percent reduction for master metered buildings was included in order #15. Master metered buildings are still analyzed separately in the Board’s annual review of operating cost changes, however, and there is no indication that electrical inclusion adjustments will not be included in future rent orders.

### ***Buildings with J-51 or 421-a Tax Abatements***

As mentioned previously, owners of property completed or substantially rehabilitated after January 1, 1974 may avail themselves of 421-a (new construction) or J-51 (rehabilitation) tax abatements or similar abatements. A condition of entering these programs is acceptance of rent stabilized status for a prescribed period. The period of stabilized status and conditions for deregulation vary by program. Relevant portions of these regulations are attached as Appendix P.<sup>144</sup>

Owners of buildings receiving 421-a benefits may charge initial rents according to a formula that accounts for development costs and operating expenses, and, during the period of gradual diminution of their 421-a tax exemption, may only charge guideline rent increases plus 2.2% of the original rent per annum.<sup>145</sup> Owners of buildings with J-51 tax benefits do not receive this additional 2.2% increase.

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<sup>144</sup> See also RSC 2520.11 (o) &(p).

<sup>145</sup> See RSC 2522.5(e)(2).

## ***Stabilizers***

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

## ***Other - Fractional Terms, Escalator Clauses***

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

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

## **Exemptions to Orders**

### ***Warehousing Exemptions***

As far back as 1972, under **hotel** order #3, the Board began adopting orders denying rent increases to owners of hotel buildings that contain a large number of units deliberately withheld from the market. It has long been argued that owners who deliberately deprive themselves of additional rents by withholding units from the market should not be heard to complain that existing rents for the remaining tenants are inadequate to produce a fair return on their investment. This view may be distinguished from attempts to eliminate warehousing on public policy grounds through the imposition of fines or other penalties. The anti-warehousing provisions of recent Board orders are an attempt to distinguish between buildings in economic terms and to adopt guidelines accordingly - not to penalize owners who choose to utilize their properties in a manner that some might find offensive.

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

### ***Registration Exemption/Hotels***

The stabilization provisions governing hotels are distinct from those governing apartments in one fundamental respect: vacant hotel units may be rented to transient tenants who are generally not protected by the rent stabilization laws.<sup>146</sup> Prior to 1983, rents in hotel units that became vacant were allowed to go to market. They were thereafter re-stabilized if the unit became occupied by a permanent tenant. In 1983 the language permitting market rents upon vacancy was deleted. New tenants were not automatically given rent stabilized status under this legislation, however, and are still required to request a lease or reside in the unit for six months before becoming “permanent” (and thus stabilized) tenants. Upon becoming a permanent tenant, the DHCR will require that the rent be rolled back to the level that existed under the last stabilized tenancy, plus any renewal increase. Consequently, the hotel stabilization laws continue to permit several classes of tenants within a single building: those who are long term stabilized tenants, those who are transient tenants and as such pay open market rents, those who reside units with rents which exceeded \$350 per month or \$80 per week on 5/31/68 and thus were never stabilized,<sup>147</sup> and those new tenants who request leases or reside in their unit for six months and thereby become rent stabilized.<sup>148</sup> It is easy to see that owners have significant incentives to rent only to transient tenants and the Board has received testimony that such practices are commonplace.

Recognizing that owners who reap market rentals from transient tenants may have less of a need for rent increases from other tenants, the Board, in many recent hotel orders, adopted special exemptions for buildings which show limited occupation by rent regulated tenants. Because rent registration data compiled by the DHCR indicates the number of stabilized units and those not stabilized in a given hotel or SRO, the Board uses this ratio to establish the criteria for implementing its

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<sup>146</sup> Such tenants may have the right to become permanent and thus rent stabilized tenants pursuant to §2522.5(a)(2) of the RSC, as well a right to be notified of the protections afforded by rent stabilization [RSC §2522.5(c)(2)], but these protections may have been thwarted to some extent by the use of “short-stay” agreements and by other actions designed to deprive tenants of legal process (required under NY Admin. Code § 26-521) prior to being locked out.

<sup>147</sup> See RSL §26-506.

<sup>148</sup> See RSL §26-510(e).

“registration exemption”. For instance, the provision (under Hotel Order #38) allowed for no rent increase if fewer than 85% 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.

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

In addition to the registration exemption, the RGB has refused rent increases to owners who fail to provide new hotel occupants with a copy of the “Rights and Duties of Hotel Owners and Tenants, pursuant to Section 2522.5(c)(2) of the Rent Stabilization Code.” Thus, while hotel owners received a 3.5% rent increase under Order #33 (the last such increase), they received a 0% adjustment if they failed to provide this required notice. Among other things, this notice apprises incoming tenants of their right to the protections of rent stabilization.

### ***Resolutions***

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

## **Research and Mandated Considerations**

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

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

## **Economic Condition of the Residential Real Estate Industry**

### *Price Index of Operating Costs Survey*

Each year since 1969 the Board has been provided with a Price Index of Operating Costs (also known as the price index or “PIOC”) which approximates the actual changes in gross operating costs for apartment buildings. The PIOC also provides information on actual changes in real estate taxes and sewer and water rates.<sup>149</sup> These price changes are incorporated into a single figure that often becomes a point of departure for consideration of other economic and policy issues relating to the guidelines. Although not controlling, the PIOC is perhaps the most influential figure affecting the final guidelines.

The price index is a relatively complex instrument for estimating the actual costs of operating a rental building. In 1970 the federal Bureau of Labor Statistics constructed a “market basket” of goods that a typical owner is expected to purchase in a given year. The basic components of that market basket include taxes, labor, fuel, utilities, insurance, maintenance and administrative costs. Each item is given a “weight” to gauge its relative importance in the overall basket. Price changes in the various components are gathered through a series of surveys of vendors and reviews of such things as labor and insurance contracts. In the case of taxes, actual changes in

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<sup>149</sup> From 1969 through 1981 this index was prepared by the Bureau of Labor Statistics. Between 1982 and 1987 the index was prepared by Urban Systems Research and Engineering and in 1988 and 1989 by Abt Associates. In 1990 it was prepared by Speedwell Inc. Since 1991 the index has been prepared by the RGB staff with the assistance of Speedwell Inc. A payment history of the contract is included in Appendix G. Separate price indices are also provided for hotels and lofts.

tax bills are derived from tax data received from the City's Department of Finance. The price of heating fuel is adjusted to reflect the relative warmth of the year under review, by adjusting for degree-day variation. Each year the weights in the market basket are adjusted to reflect the relative changes in the price of each component. Thus, for example, if labor costs outpace insurance costs, the weight given to labor will be increased before the next survey.

With the exception of taxes, fuel and insurance, the price index is not a measure of **cost** changes.<sup>150</sup> Rather it is a measure of **price** changes. Thus, if an owner experiences fuel savings due to conservation measures such as the installation of thermopane windows, or labor savings by switching from manual to automatic elevators, such gains are not captured in the index. Similarly, if an owner is saddled with new costs such as new permit or filing fees, or regulatory obligations such as lead paint removal, these burdens are not captured in the index.

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

The chart on the following page shows the percent changes in both the PIOC and the “core” PIOC from 1982 to 2010. The “core” PIOC eliminates the more volatile fuel and fuel-related costs from the calculation. The figures for 2011 are projections.

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<sup>150</sup> The prices changes in the fuel component and some fuel-related items are 'cost-weighted,' to account for seasonal usage.

### Chart III.

Percent Change in the Price Index of Operating Costs and the Core PIOC, 1982-2011



\*Note: The percent change for 2011 was estimated, by using projections. "Core" Indices for years before 1982 cannot be calculated because fuel and utility components were combined.

Source: Price Indices of Operating Costs, 1982-2010, PIOC projection for 2011

### Price Index Projections

In addition to the price index, each year the staff produces a set of price projections for the coming year. These projections are particularly helpful with respect to the renewal guidelines for two-year leases. A complete summary of the projections from 1975 through 2011 including actual changes in the price indices with which to gauge the accuracy of the projections is included in Appendix S.

### RGB Rent Index

The price changes measured by the PIOC are also compared to projected changes in rent levels to produce an estimate of the average operating cost to rent ratio ("O&M to rent ratio") in rent stabilized buildings. The staff uses a measure called the RGB Rent Index to estimate the overall impact of the Board's guidelines and the statutory vacancy allowance on rent rolls each year. The one and two-year guideline increases, the mix of lease terms, the supplemental adjustment, the statutory vacancy allowance and the minimum rent are combined to produce the aggregate change in rent levels. A chart of the changes in operating costs from 1969 through 2010 as estimated by the price index, along with the RGB Rent Index over the same period is contained in Appendix T.

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

### ***Income and Expense Study***

Much has been said about the accuracy and general value of the annual price index. Owners have charged that it fails to reflect true operating costs and other obligations of ownership while tenants claim that the index methodology is unsound and misleading in the sense that it does not provide data on actual expenditures and profits. While no study of profits has ever been undertaken, access to income and expense statements on file with the New York City Department of Finance has greatly enhanced the Board's understanding of the financial condition of rent stabilized properties. For the past 20 years the Board has received detailed summaries of operating costs as well as rental incomes. The Real Property Income and Expense (RPIE) data is analyzed by RGB staff in its annual *Income and Expense Study*. In addition, in the Spring of 1992 the Department of Finance conducted audits on some 46 rent stabilized properties in order to gauge the accuracy of the I&E filings.

The changing relationship between incomes and expenses is an extraordinarily complex matter that draws upon a variety of data sources. A complete history of the income and expense issue was prepared in the spring of 1993 and was published in the 1993 Summary of Research. The full text of the 1993 report is contained in Appendix K1. An update of that memo, analyzing historic changes in the relationship between operating costs and rents is contained in Appendix K.

The findings of the most recent RPIE data analysis divides between units in buildings constructed before 1947 (“pre-war”) and after 1946 (“post-war”) due to disparate data sources. It is important to note that income from the RPIE data represents in part, rent collected from rent stabilized, deregulated (i.e., free market), commercial and rent controlled units. The main findings are as follows:

In the Post-War stock, the O&M to rent (contract) ratio increased by one percentage point from .55 in 1969 to .56 in 2009. That is, owners of post-war buildings spent an average of 55 cents of each rent dollar on operating costs in 1969 (the first year of stabilization), and an average of 56 cents in 2009.

In the Pre-War stock, the O&M to income ratio decreased by one percentage point from .65 in 1967 to .64 in 2009. In other words, owners of these units (which were subject to rent control at the time) spent 65 cents of each rent dollar on operating costs in 1967. By 2009 they spent an average of 64 cents of each rent dollar on operating costs.

Overall, the O&M to rent/income ratio decreased from .623 to .616 between 1967 and 2009. That is, owners on average devoted 62.3 cents of each rent dollar collected to operating costs in 1967-70, and 61.6 cents in 2009.

When operating costs are subtracted from rent collections, the amount remaining is net operating income (“NOI”), which allows for capital improvements, financing costs and “profit.”<sup>151</sup> Adjusting NOI for inflation in the post-war stock (the only stock for which comparative data is available), from 1969-70 to 2009 average monthly NOI rose from \$535 to \$605 (by \$70 or 13%).

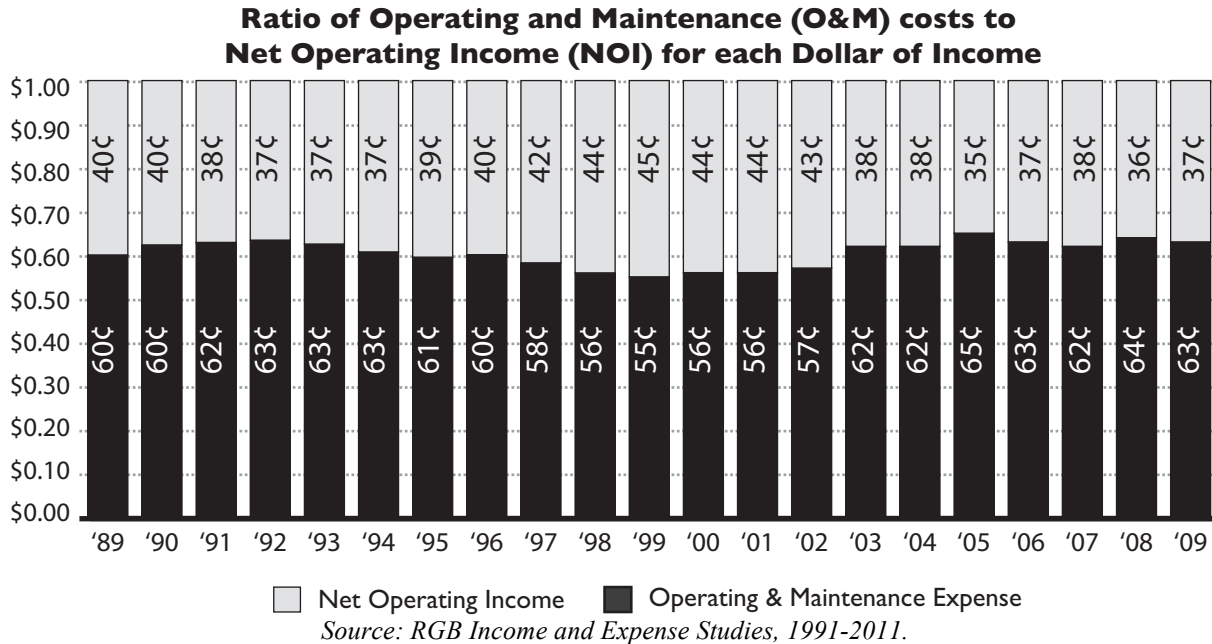
These are complex issues and many caveats are in order. Board members are advised to consult the complete text of the memo (see Appendix K). When applying the methodology outlined in the memo, the cost of operating a rental building relative to rental income has fallen over four decades of rent stabilization. This means that the average net operating incomes have grown relative to operating costs. In inflation-adjusted terms, net operating income has risen in post-war buildings.

As stated previously, the RGB has had access to owner reported income and expense data from the Department of Finance RPIE filings for the past 20 years. From this data, the RGB staff calculates an O&M to income ratio. Chart IV that follows is derived directly from annual income and expense filings and represents both post-war and pre-war buildings. It shows, for every dollar of stabilized owner income, the average amount spent on expenses in a building and the amount left over for net operating income. In 2009, the O&M to income ratio for the entire stock of rent stabilized housing was .628, meaning that owners were spending 62.8 cents of every dollar earned on expenses. Using the methodology outlined in Appendix K, owners were spending less, 61.6 cents, on expenses. Although these ratios differ slightly, they are both reliable indicators of how owners have fared over the years in regard to owner income and expense.

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<sup>151</sup> The term profit used here is not true profit, insofar as it does not account for appreciation in resale value.

Chart IV.



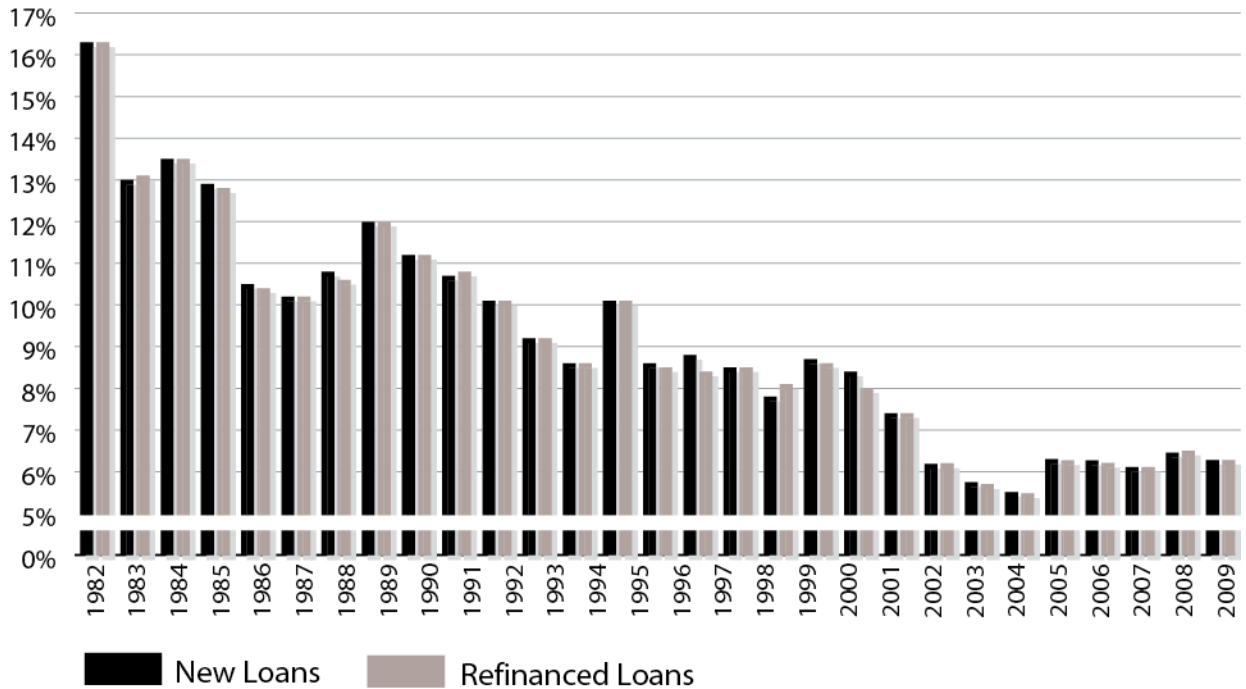
The price index, along with the O&M to rent/income ratios and the projections, are used to generate two figures known as the commensurate rent adjustment. This adjustment was discussed on pages 70 to 72. A memorandum describing the various commensurate formulae is included herein at Appendix J.

## The Cost and Availability of Financing

### *The Mortgage Survey*

Each year the Board’s research staff conducts a survey of area lending institutions. This survey includes questions on financing terms, financial characteristics of “typical mortgages,” factors influencing mortgage decisions, and the number and dollar value of loans made to owners of stabilized buildings. The results of the survey are reported to the Board annually in the *Mortgage Survey Report*. In addition, experts in banking and finance are often invited to testify at Board meetings. The chart below shows average interest rates for new and refinanced multi-family mortgages for rent stabilized properties from 1982-2009.

**Chart V.**



*Source: RGB Mortgage Surveys, 1982-2009.*

## **Overall Supply of Housing and Overall Vacancy Rates**

### ***The Housing Supply Report***

The local emergency housing rent control act mandates the production of a housing survey every three years specifically to determine if the declared housing emergency continues to exist justifying a continuation of the rent control law.<sup>152</sup> This survey commonly known as the Triennial Housing and Vacancy Survey (or the “HVS”), has evolved over the years into a highly detailed picture of the City’s rental housing stock along with demographics on the tenant population. Although originally concerned only with rent control, the survey now provides a wealth of data on all housing sectors. Consequently, the Board is provided with a comprehensive base of information regarding the overall supply of housing and vacancy rates every three years.

<sup>152</sup> See Unconsolidated Laws of N.Y. §8603.

In addition to the HVS data, the Board updates its information on the City's housing supply by reviewing new construction levels and rehabilitation efforts through information provided by the Department of Buildings and the Department of Housing Preservation and Development. Data provided by the State Attorney General's Office on the number of buildings converted to cooperatives is also reviewed. This data is summarized annually for the Board in the *Housing Supply Report*. See also the chart of New Dwelling Units Completed: New York City, 1921-2004 on Page 22.

### ***Changes to the Rent Stabilized Housing Stock in NYC***

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

In 2003, the RGB started to track the units entering and leaving the rent regulatory system. The findings of the staff were released in a report entitled *Changes in the Rent Stabilized Housing Stock in NYC, 1994-2002*. This report outlined the changes in the rent stabilized housing stock in New York City from 1994 to 2002 by quantifying the events that lead to additions to and subtractions from this category of housing. From 1994 through 2002, approximately 105,000 housing units left rent stabilization, while approximately 62,000 units initially entered the stabilization system. The built-in fluidity of the system resulted in a net loss of an estimated 43,000 regulated stabilized units to the rent stabilized housing stock. Subsequent reports have been done in each year since 2002, resulting in a total net loss of units since 1994 of over 73,000.

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

## Data from the Cost of Living Indices

### *The Income and Affordability Study*

Each year the Board is provided with data on an April-to-April basis from the regional cost of living index. This information may be compared to the data provided by the annual price index to gauge changes in a landlord's cost of maintaining rental housing relative to the overall cost of other goods and services. It is also helpful in comparing relative changes in rent to the cost of other goods and services. A comparison of changes in rent stabilized rents to changes in the regional consumer price index is contained in Appendix V. The cost of living data is reported to the Board annually in the *Income and Affordability Study*.

One of the most important indices, stabilized tenant income, is only available in the triennial Housing and Vacancy Survey. The table on the following page details median stabilized household income from 1974 through 2007, in nominal rates as well as real 2007 dollars.

**Table VI.**

**New York City Median Stabilized Renter Household Income 1974-2007**

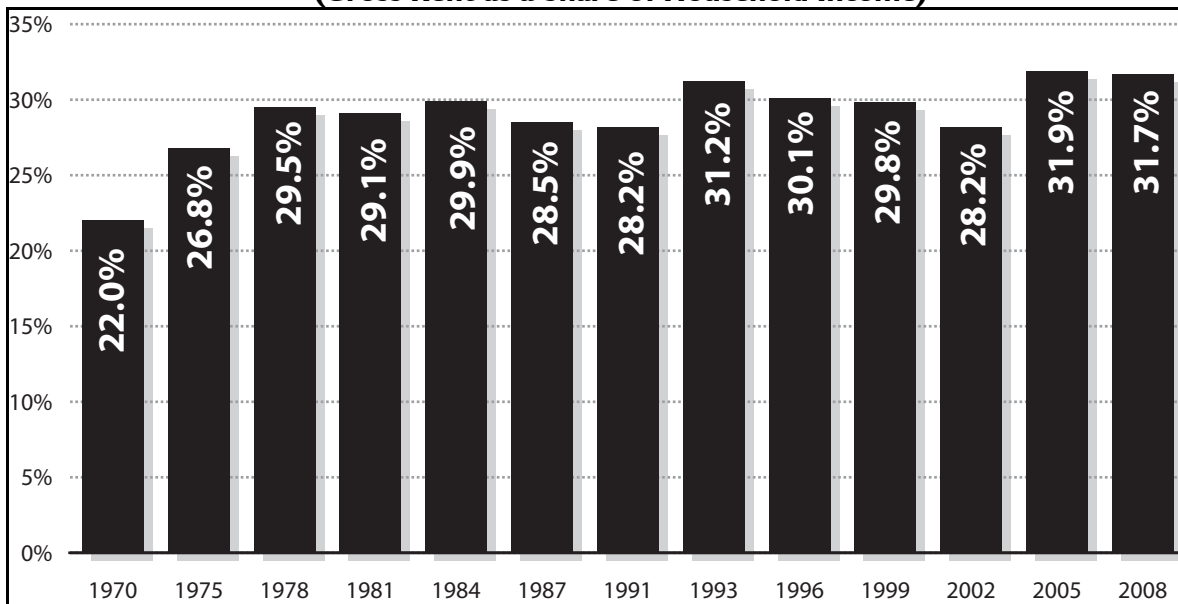
Year	Nominal	Real 2007 Dollars
2007	\$36,200	\$36,200
2004	\$32,000	\$35,459
2001	\$32,000	\$38,814
1998	\$27,000	\$35,296
1995	\$25,300	\$35,398
1992	\$20,160	\$30,501
1990	\$21,000	\$34,410
1986	\$18,547	\$37,480
1983	\$14,483	\$32,934
1980	\$11,976	\$33,104
1977	\$9,980	\$35,278
1974	\$9,908	\$42,028

Source: 1974–2008 Housing and Vacancy Surveys, U.S. Bureau of the Census

Another important figure derived from the HVS is the share of income paid in rent, or rent burden for *rent stabilized* tenants. The chart below shows the median rent burden for rent stabilized households from 1970-2008. As discussed earlier in the Affordability section on pages 57 through 63, the rent burden for both stabilized households and all renter households has risen sharply, especially in the initial stages of stabilization.

Chart VI.

**Rent Stabilized Median Rent Burden, New York City 1970-2008  
(Gross Rent as a Share of Household Income)**



**Other Data - Summary of Special Research from 1989-2000**

Along with the large variety of facts and figures provided by those who testify at the Board's annual meetings and hearings, the Board has requested special reports in a number of areas related to the economic condition of the rental housing industry and to the circumstances faced by rent stabilized tenants. Key findings from these various reports are provided below. The year noted on the left column refers to the annual research summary where the full report may be found.

**1989**

**Building Violations and Tax Arrearages in Rent Stabilized Hotels, SRO's and Rooming Houses (pp. 113-115)**

While now dated, this brief report disclosed that median per unit tax arrearages were a more serious problem for rooming houses (\$390) than for hotels (\$360) and SRO's (\$210). Similarly, rooming houses averaged about three times as many housing code violations per unit (1.34) than SRO's (.42) and more than seven times as many as hotels (.17).

## **1990**

### **The Supplementary Rent Adjustment / Housing Affordability (pp. 46 - 47)**

This report provides an overview of the effects of the Board's supplemental allowance on individual rent levels from 1983 to 1989 in percentage terms - depending on rent levels and the lease terms chosen. Generally, tenants unaffected by the supplemental adjustment experienced cumulative rent increases of 30 to 32% depending on whether they chose a one or two year lease. Cumulative rent increases for tenants affected by the supplemental adjustment ranged from 40% to 72%. Thus, while the dollar amount of increases may have been as great or greater for higher rent tenants, low rent tenants experienced much larger increases in percentage terms.

## **1991**

### **Energy Efficiency in Rent Stabilized Buildings (pp. 48)**

This brief report compares energy usage targets for “efficient” buildings developed by the Department of Housing Preservation and Development's Division of Energy Conservation, with actual energy usage derived from income and expense data for rent stabilized buildings. The report concludes that owners should save “anywhere between 6% and 13% on heating bills if greater conservation efforts are made.” Such improvements “should be achieved through 'better maintenance procedures, and low cost retrofits“ and “do not represent targets achievable only through highly expensive system replacements.”

### **Report on Rent Stabilized Hotels (pp. 74 - 85)**

This extensive report reviews the economic condition of rent stabilized hotels, SRO's and rooming houses, along with levels of rent registration with the DHCR for each group. The study finds that “it appears that 40% of all (potential) stabilized hotel-type units have not been registered even once since 1984.” It further found that 47% of buildings had not registered. It found that 59% of rooming house units, 29% of hotel units and 18% of SRO units were unregistered. A later analysis conducted in 1992 (reported at pp. 91-93 of the 1992 Research Summary) found that, among hotels that did register with the DHCR, on average, only about 60% of income was derived from registered rents. Among SRO's and rooming houses that registered with DHCR, virtually all of their income was derived from registered rents. Both reports raised troubling questions about the enforcement and efficacy of rent regulations in the hotel/SRO/rooming house sectors.

## **1992**

### **The Vacancy Allowance (pp. 51 - 61)**

This report summarizes the history of the Board's vacancy allowance and some arguments for and against the allowance. Issues discussed include its effects on rent skewing, tenant mobility, building revenues and the enforceability of alternative vacancy allowance formulas. In addition, an analysis of DHCR's treatment of preferential rents (rents below legal levels) and what happens to these rents when a vacancy occurs. While instructive, much of the analysis has been rendered moot by the imposition of a statutory vacancy allowance formula under the Rent Reform Act of 1997.

### **Effects of Rent Regulation on Economic and Racial Integration (pp. 71 - 76)**

This extensive review found that “there is no statistical evidence of a relationship between rent regulation and economic or racial integration” but does “not conclusively negate the possibility that, under some circumstances, rent regulation may promote or facilitate greater economic and racial integration.” The report relies upon extensive economic and ethnicity information available from the 1987 Housing and Vacancy Survey. Utilizing various statistical measures, the report found no significant variations in integration levels resulting from the relative proportion of rent stabilized units in 53 sub-borough areas.

## **1993**

### **A Review of Change in Income and Expenses, 1967-1991 (pp. 33-44)**

This extensive report examines the effects of over twenty years of rent stabilization on the net operating incomes of regulated buildings. It is fully updated and the same issues are analyzed in a 1999 staff memo included herein at Appendix K and K1. The key findings in that memo were previously noted at pages 96 to 97.

### **Tax Arrears in Rent Stabilized Buildings, 1993 (pp. 50-54)**

This brief report analyzes the characteristics of buildings in distress as indicated by excessive tax arrears (3+ quarters in arrears). It discloses that the arrearage problem reflects “the ongoing financial deterioration of the worst-off buildings” insofar as many of the buildings were chronic delinquents. About 80% were built before 1929. They had slightly higher operating costs than average (driven by higher fuel and repair costs), and lower rent collections. Average tenant incomes in these buildings was about 25% lower than the average for all stabilized households. Average rents were 10% below the average for comparably sized buildings and 20% below the average

for all buildings. Buildings with arrears also tended to be “over-mortgaged” insofar as they carried debt levels that were difficult to service given their rent rolls.

**The NYC Housing and Vacancy Survey: A Ten Year Retrospective (1981-91)**  
(pp. 62-76)

This extensive report covers developments in the housing market during the 1980's including new construction, household incomes, rents, affordability, vacancies, demographics of tenant households, and housing and neighborhood quality. One of the more notable findings with respect to the operations of the RGB is that during this period “[r]ent increases outpaced the RGB's Price Index of Operating Costs by a fair margin. The ten year change in the PIOC was 71% compared to an 85% increase in rents.”

**1994**

**Tax Arrears in Rent Stabilized Buildings, 1994** (pp. 48-58)

Expanding upon the work started in 1993, this report includes a survey of owners of buildings with 3+ quarters in tax arrears. For those owners, the study reveals “vacancy and collection losses to be a severe problem” with “nearly 20% of the potential monthly rent roll” being “uncollected, 6% due to vacancy and 13.5% due to collection losses.” When asked what single city initiative would most improve the profitability of their buildings, 40% favored lower property and water & sewer rates; 30% favored a “fairer and more efficient housing court” and only 25% favored higher rent guidelines. With respect to the actions of the Rent Guidelines Board, two-thirds of the owners responding indicated that targeted guidelines for low rent apartments or small buildings, as opposed to general guideline increases, would most improve their profit levels. This report is particularly helpful in understanding conditions in distressed housing and the concerns of owners.

**Rent Skewing in Rent Stabilized Buildings** (pp. 62-65)

Rent skewing is a way of describing substantial differentials in rent for comparable units. One of the more significant problems with most rent regulation systems is that rent adjustments tend to impose relatively higher rents on newcomers. Allocating rent adjustments in an even-handed way is a difficult task. In this 1994 report, the RGB staff found that “length of occupancy” discounts occur in both regulated and unregulated rental housing. The annual discounts tenants receive are about the same. Nonetheless, rent stabilized tenants generally had deeper overall discounts due to the fact that they tended to occupy their apartments about twice as long as unregulated tenants. Thus, for example, in Manhattan the annual longevity rent discount received by both regulated and unregulated tenants averaged 2.6% per year. Still rent

stabilized tenants in Manhattan stayed in their apartments 8.9 years on average, compared to 4.2 years for unregulated tenants. This resulted in an average longevity discount of 23.4% for stabilized tenants, and only a 10.7% average discount for unregulated tenants. The longevity discounts for the other boroughs are far less pronounced. (Brooklyn: 14.8% stabilized; 14.2% unregulated / Queens: 16.2% stabilized; 11.0% unregulated.) In the Bronx, unregulated apartments actually witnessed larger longevity discounts (11.4% - stabilized; 12.1% unregulated). In sum, the RGB staff found that because stabilization tends to produce longer-term tenancies, greater longevity discounts (and skewing) are generally found.

## **1995**

### **Distressed Housing** (pp. 49-56) (tax arrears and foreclosures)

These reports continue the Board's review of distressed housing. Most notable is the examination of tax foreclosure policies of 26 cities compiled from a survey taken by RGB staff. The survey found that few cities managed tax delinquent properties as New York has (i.e. seizing delinquent properties and managing them as a public sector landlord). Rather, “[n]early all [of the cities surveyed] attempt to retrieve as much revenue as possible from buildings in arrears through auctions, lien sales or, if necessary, demolition and subsequent sale of vacant lots.” In 1994 the City announced that it had stopped foreclosing (“vesting”) tax delinquent properties. By the time the RGB revisited this issue in 1996, the City began selling the tax liens of relatively healthy properties to investment banks. (See 1996 Report - Tax-Delinquent Property p. 76-77). More troubled buildings were deeded to third party buyers who were given various incentives and loans to improve the properties. The City's Department of Housing Preservation and Development also set up an “early warning” system to help responsible owners improve the financial and physical condition of their buildings to avoid tax foreclosure.

### **Small Buildings** (pp. 59-63)

This report examines the condition of small buildings in terms of rent levels operating costs, tax arrears, and tenant incomes. The report concludes that while “small buildings are not vastly different from large buildings in most respects, small buildings are slightly worse off than large buildings according to every variable we reviewed.” Small buildings have lower gross income and slightly higher expenses; they pay slightly higher property taxes relative to their total income; they have higher vacancy and collection losses; they tend to be older; they are more likely to have an owner living in them; their tenants have somewhat lower income and tend to move more frequently. The report also observes that these buildings are more vulnerable to

economic downturns. Indeed, three quarters of buildings falling into tax arrears have fewer than 20 units.

Notably the report does not examine the profitability of small buildings. To do so, RGB staff would have to examine the return on equity placed at risk by small building owners. While small buildings produce less income, it is also likely that they have lower per unit purchase prices. In short, apartments in small buildings generally tend (a broad generalization) to be at the lower end of the market and their economic conditions reflect that position.

## **1996**

### **Rent to Income Ratios - a comparison among large cities (pp. 66-68)**

The RGB staff utilized census bureau data to compare the relative cost of rental housing in New York City with 21 other large cities (those with at least 50,000 rental units). New York was found to have relatively high rents (exceeded by only six of the cities). However, because New Yorkers have higher average incomes, the median tenant household had a relatively low rent to income ratio. That is, while nationally, the median tenant household spent 31% of their income on rent, in New York the average was 28%. Three-quarters of the 21 cities listed had higher average rent to income ratios than New York.

### **1996 Tax Arrears Study (pp. 58-60)**

See note under 1995 - Distressed Housing

## **1997**

### **Summary of 1996 Housing and Vacancy Survey Data (Appendix D, pp. 94-111)**

This extensive statistical summary of data from the 1996 Housing and Vacancy Survey covers regulatory status, vacancy rates, economic characteristics (rents, incomes etc.), neighborhood quality and demographic characteristics of renter households. It is largely dated, but may be useful for historical comparisons. A complete analysis of the 1996 HVS was subsequently published by the Department of Housing Preservation and Development and is available to RGB members. A similar publication for the 1999 HVS should be available in 2001.

## **1998**

### **Recent Movers Study (pp. 56-68)**

This important study offers an initial glimpse of the effects of the luxury decontrol provisions of the Rent Reform Act of 1997. In an extensive survey of recent movers, the RGB staff found that rents rose 12%, on average, when a vacancy occurred - less than the 18% to 20%+ “minimum” allowed by law. This suggested that not all landlords were able to collect the increases and that regulated rents were already at or close to market in many areas. The study found a stark difference between the market in Manhattan south of 96th Street on the East Side and 110th Street on the West Side, and the other areas of the City. In the “core” area of Manhattan recent movers paid rent increases averaging 21% while recent movers in the Bronx paid 5%; in Brooklyn 8%; and in Queens 8%. The increases were attributed to both a strong economy as well as the legislative changes in 1997. The study also found that “vacancy decontrol” (where a vacancy occurs and lawful rents exceed \$2,000) was occurring almost exclusively in Manhattan.

## **Meetings, Hearings and Administrative Procedures**

### ***Meetings***

The Board typically holds eight to ten meetings per year to discuss its research agenda, review staff reports and to hear testimony from invited guests including public officials, housing experts and industry and tenant representatives. In accordance with the Open Meetings Law every meeting of the Board must be open to the public, except when circumstances warrant executive sessions.<sup>153</sup> Public notice of any meeting scheduled at least one week in advance must be provided to the press and conspicuously posted in a public location at least 72 hours before the meeting. Notice of meetings scheduled less than one week in advance must be given, to the extent practicable, to the press, and publicly posted at a reasonable time before the meeting. The schedule of Board meetings is usually discussed and resolved in the early spring and is published in the City Record.

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

### ***Hearings***

The Rent Stabilization Law §26-510(h) (contained in Appendix A) along with the City Charter [discussed below] mandates annual hearings prior to the adoption of rent guidelines. Separate hearings are held for the apartment and hotel sectors. Notice of the hearings is provided in the City Record for eight days and at least once in a newspaper of general circulation at least eight days before the hearing. The hearings

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<sup>153</sup> A copy of the relevant portions of the Open Meetings Law is contained in Appendix W.

are usually held in mid-June just prior to the Board's July 1st deadline for promulgating new guidelines. Any person who wishes to testify has a legal right to do so, and the Board has traditionally allowed three minutes for each speaker, alternating between owner and tenant representatives. Speakers have also been permitted to register in advance of the hearings and pre-registered speakers are given priority in the order of speakers. The hearings usually begin with testimony from public officials invited by the Board.

### *Administrative Procedures*

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

### **Voting Meetings - Order of Business**

Two meetings are held each year for a vote on rent adjustments: the meeting to adopt proposed guidelines discussed above, and the meeting to adopt the final guidelines. While the Chair and the Board establish the order of business, a typical voting meeting will proceed as follows:

- ∞ Board members attention will be called to drafts of the apartment (and loft) orders in their folders. At the meeting on the proposed guidelines, these drafts will consist of the prior year's order with blank spaces where rent adjustments will be entered. This "boilerplate" language will usually be read into the record by the Chair. At the meeting to consider the "final" guidelines, members will have copies of the proposed orders.
- ∞ Prior to the meeting members will receive drafts of the Apartment and Loft Explanatory Statement and Findings and the Hotel Explanatory Statement and Findings. These documents will be adopted by the Board at this meeting, subject to being modified after the voting meeting per the Board's actions and instructions.

- ∞ The floor will be opened to proposals on apartment guidelines for one and two year leases as well as the Special Guideline for units leaving rent control and becoming stabilized (see pages 87 to 89 for a discussion of this guideline.) Other elements of rent adjustments such as supplemental increases for low rent apartments or a vacancy factor for sublets<sup>154</sup> may be “packaged” with the apartment guidelines. Votes are taken on each proposal in accordance with Roberts Rules, until at least five “yes” votes can be mustered for an apartment order. Generally, the language of the Order and the language for the Explanatory Statement and Findings are adopted within the same motion.
- ∞ Loft guidelines can be bundled with the apartment motion or considered separately in a like fashion.
- ∞ The next order of business is usually the “hotel” orders. Board members attention will then be called to the hotel orders and the process of reading into the record the boilerplate language will occur. There are five groups of hotel stabilized units: Class A and Class B hotels, rooming houses, SRO's and lodging houses. These groups may be addressed separately or together. Voting proceeds in the same fashion as for apartments. Once again, the language of the Hotel Order and the language for the Explanatory Statement and Findings are adopted within the same motion.
- ∞ Any special or new items of business may be introduced at any time, but any material change in the order of business will require a majority vote.
- ∞ A motion to adjourn will be taken.

## **Final Orders and Explanatory Statements**

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

The guidelines themselves go into effect for leases being renewed and vacancies occurring on or after October 1st of the same year, and on or before September 30th of the following year. Most hotel/SRO tenants do not have leases and

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<sup>154</sup> Note that since 1997 vacancy guidelines are prescribed by statute. The RGB retains the authority to increase rents where sublets occur as per the Rent Stabilization Code, section 2525.6(e).

pay the new rent immediately upon the effective date of the hotel guidelines—which is also October 1st.

The orders of the Board are final unless found to be unlawful by a court of competent jurisdiction. A 1991 court ruling indicates that any legal challenge to the Board's orders must be initiated within four months.<sup>155</sup>

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<sup>155</sup> See case #15, *supra* at page 43.