

EXPLANATORY STATEMENT - HOTEL ORDER #45

Explanatory Statement and Findings of the Rent Guidelines Board In Relation to 2015-16 Lease Increase Allowances for Hotels Under the Jurisdiction of the Rent Stabilization Law

Explanatory Statement and Findings of the Rent Guidelines Board Concerning Increase Allowances for Hotel Units Under the Jurisdiction of the Rent Stabilization Law, Pursuant to Hotel Order Number 45, Effective October 1, 2015 through and including September 30, 2016.¹

Pursuant to the authority vested in it by the Rent Stabilization Law of 1969 and the Emergency Tenant Protection Act of 1974, implemented by Resolution Number 276 of 1974 of the New York City Council, and extended by the Rent Act of 2015, it is the responsibility of the Rent Guidelines Board to establish guidelines for hotel increases. Hotel Order Number 45, adopted on June 29, 2015, applies to stabilized hotel units occupied by non-transient tenants.

Hotel Order Number 45 provides for an allowable increase of 0% over the lawful rent actually charged and paid on September 30, 2015 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.

SPECIAL NOTE

In the past the Board has adopted rent increases to the rent stabilized hotel universe. In recent years, when increases were granted, the Board adopted a proviso that was designed to deny owners from taking these increases under certain conditions. Since the Board voted a 0% increase for all classifications of rent stabilized hotels, this proviso is not included in Hotel Order 45. In event that increases are considered for subsequent Hotel Orders, at such time the current members of the Rent Guidelines Board urge future Boards to consider reinstating this proviso or some form thereof. Below is the proviso and explanatory language previously adopted in Hotel Order 41:

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 permanent rent stabilized or rent controlled tenants paying no more than the legal regulated rent, at the time that any rent increase in this Order would otherwise be authorized, constitute fewer than **85%** of all units in a building that are used or occupied, or intended, arranged or designed to be used or occupied in whole or in part as the home, residence or sleeping place of one or more human beings.

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

The following outlines the Rent Guidelines Board's intent of the above proviso:

The Board's intention for the meaning of this proviso is that ALL dwelling units in the hotel, whether occupied, vacant, rented to tourists, transients, contract clients, students or other non-permanent tenants, or to permanent rent stabilized tenants, be counted in the denominator of the calculation. The only type of units in the hotel that may be excluded from the denominator are units that are used as stores or for similar business purposes such as a doctor's office. The numerator of the calculation is the number of units occupied by permanent rent stabilized or rent controlled tenants.

Here are two examples. One: a hotel has 100 units and 2 stores. 32 units are rented to permanent rent stabilized tenants, 10 are vacant and 58 are rented to transients and tourists. The calculation is as follows, the denominator is 100 and the numerator is 32. This calculation results in an occupancy percentage of LESS than 85% under the formula (32%) and an increase CANNOT be taken for the permanent stabilized tenants.

Two: a hotel has 150 units, 2 of which are used by a dentist and a doctor for their businesses, 8 are rented to tourists, 5 are vacant and 135 are occupied by permanent rent stabilized tenants. The denominator would be 148 and the numerator would be 135. This calculation results in an occupancy percentage of GREATER than 85% under the formula (91%) and an increase CAN be taken for the permanent stabilized tenants.

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 12, April 2, 16 and 23, and May 28, 2015 following public notices. On April 29, the Board adopted proposed rent guidelines for hotels, apartments, and lofts.

Four public hearings were held on June 8, June 11, June 15, and June 18, 2015 to hear comments on the proposed rent adjustments for rent stabilized hotels and apartments. The hearings were held from 2:00 p.m. to 7:25 p.m. on June 8, 5:00 p.m. to 9:05 p.m. on June 11, 5:00 p.m. to 7:45 p.m. on June 15, and from 5:00 p.m. to 9:15 p.m. on June 18. The Board heard testimony from approximately 5 hotel tenants and tenant representatives, no hotel owners, and one public official. In addition, the Board's office received approximately 10 written statements from tenants and tenant representatives, one hotel owner, and one public official. On June 29, 2015, the guidelines set forth in Hotel Order Number 45 were adopted.

Selected Oral and Written Testimony from Tenants and Tenant Groups:

- “SROs are housing of last resort for low-income people who would otherwise be homeless. Thousands of hard-working people as well as a disproportionate number of elderly and disabled people call an SRO their home. If the economic situation is difficult for low-income New Yorkers, it is dire for most residents of SROs. Many rely on SSI, disability pensions, food stamps and other similar resources as their sole source of income. Tenants routinely report incomes as low as \$10,000 per year. For many, the affordability of their SRO home means the difference between having a roof over their head and being homeless.”
- “Rent increases for tenants cannot be justified in SRO buildings that are not fully occupied by permanent rent-stabilized tenants or where the building's income is dependent primarily on sources other than its rent rolls. Many SRO buildings earn the vast majority of their income from sources other than renting to permanent rent-stabilized tenants. Rental income from permanent tenants pales in comparison to income from lucrative contracts with City agencies to house the homeless, illegally-operated tourist hotels and the student dormitory operations that are present in many SROs. In the instances where there are no such operations, rental income could be increased by simply returning to the market all the warehoused units that currently sit vacant.”
- “SRO Owners, on the other hand, continue to exploit profitable operating strategies, such as renting to transient guest and institutional tenants that will not be affected by the rent increases set by [the] Rent Guidelines Board. Furthermore, while even a slight increase to SRO rents can have a devastating impact on their very low income tenants, the benefit conferred to SRO owners would be negligible.”
- “The majority of SRO tenants live below the poverty line. They pay an unconscionable percentage of the little income they have toward rent. Since the mid-1990s, SRO tenant's rent burdens have actually increased as rent increases have far outstripped income growth. The average SRO tenant now pay around 50% of his/her income toward rent and approximately one-quarter to one-third pay in excess of 70%.”
- “We respectfully request that the Rent Guidelines Board decline to approve a rent increase for SRO units. SRO owners are not dependent upon the rents paid by the dwindling permanent tenant population to cover their overhead and make a profit. However, even the smallest rent increase will have a devastating impact upon tenant and will further exacerbate the City's homelessness crisis.”
- “Rents have continued to rise over the years, and have contributed to the increase in homelessness. Oftentimes, tenants must choose whether to pay rent or put food on the table.

Tenants in all categories are struggling, and it would be corrupt to bless these landlords with an annual increase. ”

Selected Oral and Written Testimony from Owners and Owner Groups:

- “In my opinion, SRO STABILIZED BUILDING OWNERS have been discriminated against for far too many years; therefore, I am asking your esteemed intervention in this serious and important matter.”

- “The RENT GUIDELINES BOARD should consider the fact that whenever there are Buildings Operations Increases Demands from CON EDISON, PETRO OIL, WATER & SEWER DEPARTMENT ETC., including all the other NECESSARY OPERATING PERMITS which are mandated by the New York City Housing Laws and Regulations, definitely SRO OWNERS MUST COMPLY.”

- “Consequently, the ongoing practice of RENT INCREASE EXEMPTIONS BY THE RENT GUIDELINES BOARD, SRO OWNERS suffer tremendous financial hardship and emotional stress year after year.”

Selected Oral and Written Testimony from Public Officials:

- “Finally, I want to thank the Board for taking the position of maintaining a rent freeze on all SRO buildings. SRO units are home to many of the city’s most vulnerable low-income tenants who cannot bear any rent increases. The Board’s decision will help protect the diminishing supply of SRO housing.”

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 *2015 Price Index of Operating Costs*, prepared by the staff of the Rent Guidelines Board, reports and testimony submitted by owner and tenant groups relating to the hotel sector, and reports submitted by public agencies. The Board heard and received written testimony from invited guest speakers on April 23, 2015. Guest speakers representing hotel tenants included Dan Evans, from the Goddard-Riverside SRO Law Project, Brian Sullivan from the SRO Law Project at MFY Legal Services, and Larry Wood from the Goddard Riverside Law Project and Family Council. There were no guest speakers representing hotel landlords at this meeting.

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. *2015 Mortgage Survey Report*, March 2015 (An evaluation of recent underwriting practices, financial availability and terms, and lending criteria);
2. *2015 Income and Affordability Study*, April 2015 (Includes employment trends, housing court actions, changes in eligibility requirements and public benefit levels in New York City);
3. *2015 Price Index of Operating Costs*, April 2015 (Measures the price change for a market basket of goods and services which are used in the operation and maintenance of stabilized hotels);
4. *2015 Housing Supply Report*, May 2015 (Includes information on the conversion of Hotels to luxury apartments and transient use, 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,
5. *Changes to the Rent Stabilized Housing Stock in NYC in 2014*, May 2015 (A report quantifying all the events that lead to additions to and subtractions from the rent stabilized housing stock).

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

Price Index of Operating Costs for Rent Stabilized Hotel Units

The Hotel Price Index includes separate indices for each of three categories of 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) "traditional" hotels — a multiple dwelling which has amenities such as a front desk, maid or linen services; 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 reside separately and independently of other occupants in a single room.

The Price Index for all stabilized Hotels declined 0.2% this year, a 6.6 percentage point drop from the 6.4% rise in 2014. It is important to note that the Hotel PIOC was not re-weighted using the RPIE data. However, in order to maintain symmetry between indices, the expense items were aligned to the seven components now used in the Apartments PIOC. The realignment of the hotel expenditure items had no impact on the change in the overall PIOC, and would have still been -0.2% if the old components were used. As a result, the 2015 Hotel PIOC can be compared to previous price indices.

This year, the Hotel Fuel component declined 19.9%, due to significant declines in the cost of fuel oil and natural gas costs used for heating hotel buildings in NYC. The Fuel component accounts for nearly a quarter of the entire Hotel Index. The remaining six components witnessed cost increases, with Taxes having the highest rise of 8.7%, followed by Insurance at 7.2%. More moderate increases were seen in Labor Costs (4.2%), Maintenance (3.1%), Administrative Costs (2.9%) and Utilities (1.2%). See the table on the next page for changes in costs and prices for all rent stabilized hotels from 2014-2015.

Among the different categories of Hotels, the index for “traditional” hotels increased 3.2%, while Rooming Houses and SROs witnessed declines in costs of 1.2% and 3.9%, respectively.

**Percent Change in the Components of the Price Index of Operating Costs
March 2014 to March 2015, By Hotel Type and All Hotels**

| Item Description | Hotel | RH | SRO | All Hotels |
|----------------------|-------------|--------------|--------------|--------------|
| TAXES | 11.9% | 4.7% | 6.2% | 8.7% |
| LABOR COSTS | 4.5% | 4.1% | 4.1% | 4.2% |
| FUEL | -19.0% | -19.4% | -23.1% | -19.9% |
| UTILITIES | 1.5% | 0.9% | 1.1% | 1.2% |
| MAINTENANCE | 3.1% | 2.7% | 3.1% | 3.1% |
| ADMINISTRATIVE COSTS | 2.7% | 3.4% | 3.4% | 2.9% |
| INSURANCE COSTS | 7.2% | 7.2% | 7.2% | 7.2% |
| ALL ITEMS | 3.2% | -1.2% | -3.9% | -0.2% |

Source: 2015 Price Index of Operating Costs

Changes in Housing Affordability

Preliminary results from the 2014 Housing and Vacancy Survey were released in February of 2015, and showed that the vacancy rate for New York City is 3.45%. Approximately 47% of renter households in NYC are rent stabilized, with a vacancy rate of 2.12%. The survey also shows that the median household income in 2013 was \$40,600 for rent stabilized tenants, versus \$41,500 for all renters. The median gross rent for rent stabilized tenants was also lower than that of all renters, at \$1,300 versus \$1,325 for all renters. And rent stabilized tenants saw a median gross rent-to-income ratio of 36.4% in 2014, compared to 33.8% for all renters.²

Looking at New York City’s economy during 2014, it showed many strengths as compared with the preceding year. Positive indicators include growing employment levels, which rose for the fifth consecutive year, increasing 3.0% in 2014.³ The unemployment rate also fell, declining by 1.6 percentage points, to 7.2%.⁴ Gross City Product (GCP) also increased for the fifth consecutive year, rising in real terms by 3.1% in 2014.⁵ In addition, inflation-adjusted wages rose by 2.1% during the most recent 12-month period (the fourth quarter of 2013 through the third quarter of 2014)⁶, and inflation slowed slightly.⁷ The number of non-payment filings in

² Selected Initial Findings of the 2014 New York City Housing and Vacancy Survey, NYC Dept. of Housing Preservation and Development, February 9, 2015.

³ NYS Dept. of Labor; <http://www.labor.state.ny.us>; Data accessed March 2015. Data is revised annually and may not match data reported in prior years.

⁴ NYS Dept. of Labor; <http://www.labor.state.ny.us>; Data accessed March 2015. Data is revised annually and may not match data reported in prior years.

⁵ Data from the NYC Comptroller’s Office as of March, 2015. GCP figures are adjusted annually by the New York City Comptroller’s Office. The figures in this report are the latest available estimate from that office, based on inflation adjusted 2009 chained dollars.

⁶ NYS Dept. of Labor; <http://www.labor.state.ny.us>; Data accessed March 2015. Data is revised annually and may not match data reported in prior years.

⁷ Bureau of Labor Statistics; <http://www.bls.gov>; Data accessed March, 2015.

Housing Court fell by 3.4%,⁸ while evictions fell by 6.9%.⁹ And public assistance caseloads fell for the first time since 2008, by 3.9%,¹⁰ while Supplemental Nutrition Assistance Program (SNAP) caseloads fell for the first time since 2002, by 5.6%.¹¹

Negative indicators include a 4.0% increase in the number of non-payment cases “calendared” in housing court,¹² as well as the sixth consecutive year of increase in homeless levels, which rose to an average of more than 54,000 persons a night, an increase of 9.5% over 2013 levels.¹³

The most recent numbers, from the fourth quarter of 2014 (as compared to the fourth quarter of 2013), show that homeless levels were up 10.8%, cash assistance levels were up 0.7%, and the number of calendared cases in Housing Court were up 2.7%.¹ However, most indicators were positive, with employment levels up 2.6%, the unemployment rate down 1.9 percentage points, non-payment housing court filings down 11.3%, and SNAP recipients down 5.6%. Fourth quarter GCP also rose, by 2.6% in real terms, and inflation was lower than that of the last quarter of 2013, rising by 0.8%, as compared to 1.3%.

Consumer Price Index

The Board reviewed the Consumer Price Index. The table that follows shows the percentage change for the NY-Northeastern NJ Metropolitan area since 2007.

| Percentage Changes in the Consumer Price Index for the New York City - Northeastern New Jersey Metropolitan Area, 2007-2015 (For "All Urban Consumers") | | | | | | | | | |
|---|------|------|------|------|------|------|------|------|-------|
| | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 |
| 1st Quarter Avg. ¹⁴ | 2.9% | 3.7% | 1.3% | 2.1% | 2.0% | 2.7% | 2.1% | 1.4% | -0.2% |
| Yearly Avg. | 2.8% | 3.9% | 0.4% | 1.7% | 2.8% | 2.0% | 1.7% | 1.3% | - |

Source: U.S. Bureau of Labor Statistics.

⁸ Civil Court of the City of New York data.

⁹ NYC Department of Investigation, Bureau of Auditors data.

¹⁰ New York City Human Resources Administration. HRA Charts (Cash Assistance Recipients): <http://www.nyc.gov/html/hra/html/facts/charts.shtml>

¹¹ New York City Human Resources Administration. HRA Charts (SNAP Recipients): <http://www.nyc.gov/html/hra/html/facts/charts.shtml>

¹² Civil Court of the City of New York data.

¹³ Data is a mix from the Policy & Planning Office of DHS, reports generated pursuant to Local Law 37 of 2011, and monthly Citywide Performance Reporting reports. Note that the NYC Department of Housing Preservation and Development, the NYC Department of Youth and Community Development, and the NYC Human Resources Administration also operate emergency shelters, which house approximately 5,000 persons per night.

¹⁴ 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.

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 *2015 Mortgage Survey Report* of lending institutions. The table below gives the reported rate and points for the past ten years as reported by the *Mortgage Survey*.

| 2015 Mortgage Survey ¹⁵ | | | | | | | | | | |
|--|------|------|------|------|------|------|------|------|------|------|
| Average Interest Rates and Points for New and Refinanced Permanent Mortgage Loans 2005-2014 | | | | | | | | | | |
| New Financing of Permanent Mortgage Loans, Interest Rate and Points | | | | | | | | | | |
| | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 |
| Avg. Rates | 6.3% | 6.3% | 5.8% | 6.5% | 6.3% | 5.8% | 4.6% | 4.4% | 4.9% | 4.3% |
| Avg. Points | 0.44 | 0.61 | 0.47 | 0.62 | 0.79 | 0.61 | 0.63 | 0.59 | 0.54 | 0.70 |
| Refinancing of Permanent Mortgage Loans, Interest Rate and Points | | | | | | | | | | |
| | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 | 2014 | 2015 |
| Avg. Rates | 6.3% | 6.2% | 5.8% | 6.5% | 6.3% | 5.7% | 4.7% | 4.4% | 4.9% | --* |
| Avg. Points | 0.44 | 0.61 | 0.44 | 0.62 | 0.83 | 0.61 | 0.63 | 0.40 | 0.50 | --* |

Source: 2006–2015 *Annual Mortgage Surveys*, RGB.

* Questions specific to refinancing are no longer asked on the survey.

Hotel Conversion

Conversion of single room occupancy (SRO) buildings also continued over the past year. SRO owners may convert SRO housing to other uses after obtaining a “Certificate of No Harassment” (CONH) from HPD. Following two consecutive years of increase, approved CONH applications fell, down 16.3% from 129 CONH in 2013 to 108 in 2014.¹⁶

Efforts are also underway to ensure that SROs are used for permanent housing rather than as transient hotels. As of May 1, 2011, laws were newly passed strengthening the City’s ability to crack down on housing being used illegally for transient occupancy. Transient occupancy is now clearly defined as stays of less than 30 days, and between May of 2011 and April of 2012 1,820 violations (ranging from \$800 to \$2,000) were issued to illegal hotel operators (including private apartments, hostels, and SROs).¹⁷ More than 4,400 violations have been issued since (including 1,076 between May 1, 2014 and April 30, 2015),¹⁸ and in late 2012, the City Council strengthened this law even further, increasing fines to up to \$25,000 for repeat offenders.¹⁹

¹⁵ Institutions were asked to provide information on their "typical" loan to rent stabilized buildings. Data for each variable in any particular year and from year to year may be based upon responses from a different number of institutions.

¹⁶ NYC Department of Housing Preservation and Development.

¹⁷ Mayor Bloomberg Announces Results of City’s Efforts to Curb Dangerous Illegal Hotels in New York City After State Legislation Enhances Enforcement Abilities.” Mayor’s Office Press Release 157-12. April 27, 2012.

¹⁸ Office of the Criminal Justice Coordinator, Mayor’s Office of Special Enforcement. Inclusive of data through April 30, 2015.

¹⁹ “Illegal Hotel Fines Could Skyrocket,” The Real Deal. September 12, 2012.

In an effort to stop illegal hotel rentals, the NYS Attorney General (AG), at the end of May, 2014, announced a data sharing agreement with Airbnb, a company who facilitates short-term rentals in private residences. Airbnb agreed to provide the AG's office with anonymous information about their "host's" rental activities and if the AG can identify illegal activity within one year from receipt of the data, Airbnb will provide the identity of the hosts.²⁰

The AG's office used this data to publish a report in October of 2014 detailing Airbnb rental activity. In part, the report found that of the more than 35,000 listings analyzed, up to 72% were illegal. The report also found that a disproportionate number of units were being rented out by commercial users, as opposed to private homeowners or renters. While 94% of Airbnb hosts offered at most two unique units during the study period, the other 6% of hosts offered hundreds of unique units for rent, comprising 36% of all bookings and 37% of all revenue. The AG's office also found that at least 200 of these units were being used as illegal hostels, and that 4,600 units were being booked for stays of three months a year or more (including 2,000 of these that were rented for at least six months of the year). Most rentals were found to be in Manhattan and Brooklyn, with only 3% of the total revenue made by hosts emanating from rentals in Queens, Staten Island, or the Bronx.²¹

OTHER RELEVANT INFORMATION

On May 22, 2015, staff released a memo to the Board analyzing hotel data contained in the NYS Division of Housing and Community Renewal's 2014 apartment and building registration databases. Below is the memo in its entirety.

This memo is an update to staff memos released June 4, 2007, June 4, 2009, June 12, 2012, and June 4, 2013, which analyzed hotel registration data filed with the NYS Division of Housing and Community Renewal (DHCR) in 2005, 2008, 2011, and 2012, respectively. Staff members recently analyzed the 2014 DHCR registration database for data related to hotels, SROs, and rooming houses (hereafter referred to only as "hotels").

In 2014, 529 buildings identified by owners as hotels registered units with DHCR, eight more than in 2012.²² Within these 529 buildings, 14,554 individual apartment registrations were filed (1,709 less than in 2012). Owners identified a total of 9,080 of the registered units as being "rent stabilized" (1,381 less than in 2012) and the balance (5,474 units) were identified as being either "permanently exempt," "temporarily exempt," or "vacant." Of these 529 buildings, 52 (9.8% of the total) consisted entirely of exempt and/or vacant units. In addition, 214 buildings (40.5% of the total buildings) contain less than 85% permanently stabilized units. These 214 buildings contain 1,662 rent stabilized units, 18.3% of the total stabilized units.

Building owners/managers were asked to identify which of their units were temporarily or permanently exempt from rent stabilization laws. In 2014, 112 units were reported as being permanently exempt (0.8% of the total number of registered hotel units). Among permanently exempt units, 59 (52.6% of these units) were reported as being deregulated due to High Rent/Vacancy or High Rent/High Income Decontrol, with the rest reported as being deregulated

²⁰ "Airbnb Will Hand Over Host Data to New York," NY Times, May 21, 2014.

²¹ "Airbnb in the City," NYC Attorney General, October 2014 and press release, "A.G. Schneiderman Releases Report Documenting Widespread Illegality Across Airbnb's NYC Listings; Site Dominated by Commercial Users," October 16, 2014.

²² All data in this memo is based on owner-reported information as reported to DHCR in their 2014 registration database.

due to substantial rehabilitation and a few other isolated reasons. There were also 3,772 units reported as temporarily exempt (25.9% of the total number of registered hotel units). The most commonly reported reason for being temporarily exempt is “Hotel/SRO (Transient)” status, as was the classification given to 2,533 (67.2%) of the temporarily exempt units. Less common was “Not Prime Residence” (837 units, or 22.5%, a sharp increase from 6.5% in 2012) and “Owner Occupancy/Employee,” “Other,” and “Commercial/Professional.” In general, units that are temporarily exempt are either rented at what the market will bear, for as little as one night, or rented to government agencies, not-for-profit organizations, or universities as temporary housing. In addition, 1,590 units (10.9% of total units) were registered with DHCR as “Vacant.”

The analysis starts by looking at the reported legal rents of those units identified as “rent stabilized” by building owners. The legal rents are the maximum amount that a landlord is able to charge to tenants (or government agencies subsidizing tenants), but do not necessarily reflect what a tenant is actually paying. Owners can choose to charge tenants a lower rent than legally allowed (known as a “preferential rent”) and owners are also asked to provide DHCR with data for subsidized tenants, whose “actual” rents are the rents actually paid out of pocket by tenants, with the balance being made up by various government agencies and programs. As noted in Footnote #22, all data is owner-reported and cannot be verified for accuracy.

See the tables below for detailed information on legal, preferential, and actual rents paid by rent stabilized hotel tenants.

Table 1 shows the number of rent stabilized units and buildings that registered legal rents with DHCR in 2014. It also provides the median and mean legal rents for these units, by borough, and Citywide. These rents reflect the maximum amount that owners could charge for their units, as of April 2014.

Table 1: 2014 Median and Mean “Legal” Rents for Units Identified as Rent Stabilized (excludes exempt and vacant units)

| <i>Borough</i> | <i># of Stabilized Units</i> | <i># of Stabilized Buildings</i> | <i>Median Legal Rent</i> | <i>Mean Legal Rent</i> |
|-------------------------|------------------------------|----------------------------------|--------------------------|------------------------|
| Bronx | 859 | 52 | \$1,109 | \$1,135 |
| Brooklyn | 1,393 | 132 | \$1,161 | \$1,153 |
| Manhattan ²³ | 5,881 | 225 | \$1,037 | \$1,281 |
| Queens | 865 | 63 | \$1,250 | \$1,312 |
| Staten Island | 82 | 5 | \$796 | \$847 |
| Citywide | 9,080 | 477 | \$1,106 | \$1,246 |

Source: 2014 DHCR Building and Apartment Registration filings

²³ In the 2013 version of this memo, Manhattan figures included a hotel in Manhattan with close to 200 rent stabilized units, almost all with legal rents in excess of \$4,000 (which skewed the median and mean legal rents upwards). An endnote (Endnote #3 of the June 4, 2013 memo) was included in that memo explaining that this particular hotel had not registered units in the prior year, so data should be compared between the two years with caution. This particular hotel registered no hotel units in 2014. This may be the case for other buildings as well, but data was not analyzed with regards to this.

Table 2 illustrates the median and mean “preferential” rents for the over one-quarter (29.0%) of *rent stabilized* units that reported charging one. Also shown is the percentage difference from the median and mean legal rents of *just those units with reported preferential rents*. The median Citywide *legal* rent for these units is \$1,386 and the mean *legal* rent is \$1,545.

Table 2: 2014 Median and Mean “Preferential”²⁴ Rents for Units Identified as Rent Stabilized (excludes exempt and vacant units)*

| Borough | # of Stabilized Units | Median | | Mean | |
|-----------------|-----------------------|-------------------|--------------------------------|-------------------|--------------------------------|
| | | Preferential Rent | % Difference from Legal Rent** | Preferential Rent | % Difference from Legal Rent** |
| Bronx | 276 | \$1,004 | -28% | \$942 | -33% |
| Brooklyn | 616 | \$1,183 | -12% | \$1,048 | -25% |
| Manhattan | 1,549 | \$872 | -37% | \$772 | -52% |
| Queens | 184 | \$1,191 | -31% | \$1,248 | -30% |
| Staten Island | 8 | \$623 | -14% | \$726 | -26% |
| Citywide | 2,633 | \$906 | -35% | \$888 | -43% |

Source: 2014 DHCR Building and Apartment Registration filings

*Only for those units reporting a preferential rent.

**Refers to the legal rents of just those units that reported preferential rents.

Table 3 shows the median and mean “actual” rents paid by a reported 33.2% of *rent stabilized* hotel tenants. These are the rents that are paid by tenants out of pocket, with the balance being paid by government programs such as Section 8, Shelter Plus or SCRIE. Also shown is the percentage difference from the median and mean legal rents of *just those units with reported actual rents*. Theoretically, the owners of the 3,018 units reporting actual rents can receive the difference between the actual and legal rents from government programs, and in fact, 70% of these units do not report any “preferential” rents, implying that in most cases owners do receive the full legal rent for these units. The median Citywide *legal* rent for these units is \$1,240 and the mean *legal* rent is \$1,507. Not reported here are detailed statistics for the 892 units that report both actual and preferential rents (which would indicate that the owners of these units *do not* receive the full legal rent). The Citywide median *preferential* rent for these 892 units is \$962 and the mean *preferential* rent is \$1,005.

²⁴ Upon a close examination of the DHCR apartment registration file, 180 units in three buildings (two in Brooklyn, and one in Queens) were found to have erroneously registered all the “preferential” rents in their buildings as “actual” rents. In these 180 cases, the “actual” rent that they registered was either \$1,191, or \$1,183 (which were the HUD Fair Market Rent levels for studio apartments in FY 2012 and 2014, respectively). These building owners identified their tenants as receiving subsidies from a variety of government programs, including principally Shelter Plus and Section 8. By knowing that these tenants were part of government subsidy programs, we can infer that they actually paid significantly less than the HUD Fair Market Rent a month (although the owner did receive this amount through a combination of payments from the tenant and the government). As such, the records of these 180 units were altered to make the relevant HUD FMR the “preferential” rent, while the “actual” rent field was modified to be blank, as we do not know the true out-of-pocket rents for these tenants. Absent these modifications, the means and medians reported in Tables 2-4 would be somewhat different. Note that the balance of units in the DHCR registration files may or may not have been registered correctly. DHCR registration files are submitted by owners, and staff cannot verify the accuracy of every record. For the purposes of this memo, we are assuming that all other registrations were accurate.

Table 3: 2014 Median and Mean “Actual”²⁵ Rents for Units Identified as Rent Stabilized (excludes exempt and vacant units)*

| <i>Borough</i> | <i># of Stabilized Units*</i> | <i>Median*</i> | | <i>Mean*</i> | |
|-----------------|-------------------------------|-------------------------|---------------------|-------------------------|---------------------|
| | | <i>Actual Rent Paid</i> | <i>Legal Rent**</i> | <i>Actual Rent Paid</i> | <i>Legal Rent**</i> |
| Bronx | 379 | \$233 | -83% | \$377 | -74% |
| Brooklyn | 304 | \$294 | -72% | \$443 | -60% |
| Manhattan | 2,224 | \$235 | -80% | \$419 | -73% |
| Queens | 84 | \$594 | -59% | \$730 | -51% |
| Staten Island | 27 | \$229 | -73% | \$239 | -72% |
| Citywide | 3,018 | \$239 | -81% | \$424 | -72% |

Source: 2014 DHCR Building and Apartment Registration filings

* Excludes units where the “actual” rent reported is equal to, or more than, the reported “legal” rent, and only includes those units reporting an “actual” rent.

**Refers to the legal rents of just those units that reported actual rents.

To show rents that landlords are actually receiving for rent stabilized hotel units, Table 4 shows median and mean “rent received,” which uses a combination of preferential and legal rents to identify the rent actually being collected. For the purposes of this table, “rent received” is defined as the legal rent, unless a preferential rent is registered, in which case the preferential rent is used.

Table 4: 2014 Median and Mean “Rent Received”²⁶ for Units Identified as Rent Stabilized (excludes exempt and vacant units)

| <i>Borough</i> | <i># of Stabilized Units</i> | <i>Median “Rent Received”*</i> | <i>Mean “Rent Received”*</i> |
|-----------------|------------------------------|--------------------------------|------------------------------|
| Bronx | 859 | \$943 | \$987 |
| Brooklyn | 1,393 | \$1,050 | \$1,026 |
| Manhattan | 5,881 | \$850 | \$1,061 |
| Queens | 865 | \$1,238 | \$1,248 |
| Staten Island | 82 | \$796 | \$821 |
| Citywide | 9,080 | \$894 | \$1,064 |

Source: 2014 DHCR Building and Apartment Registration filings

*“Rent Received” refers to the preferential rent (if one is provided), or the legal rent (if a preferential rent is not provided)

An analysis was also done on a smaller sample of units that could be matched between the 2012 and 2014 DHCR registration databases. Of the 9,080 rent stabilized units in the 2014 registration database, 6,093 (67%) could be matched with 2012 data. For these units, the median and mean legal, preferential, actual, and “rent received” rents are reported in Table 5a, 5b, 5c, and 5d, for both 2012 and 2014. Due to the small number of units in some of the categories, interpret with caution.

²⁵ See footnote #24.

²⁶ See footnote #24.

Table 5a: Longitudinal Sample of 2012 and 2014 Median and Mean “Legal” Rents for Units Identified as Rent Stabilized (excludes exempt and vacant units)

| <i>Borough</i> | <i># of Stabilized Units</i> | | <i>Median Legal Rent</i> | | <i>Mean Legal Rent</i> | |
|-----------------|------------------------------|--------------|--------------------------|----------------|------------------------|----------------|
| | <i>2012</i> | <i>2014</i> | <i>2012</i> | <i>2014</i> | <i>2012</i> | <i>2014</i> |
| Bronx | 652 | 652 | \$1,080 | \$1,161 | \$1,077 | \$1,147 |
| Brooklyn | 582 | 582 | \$935 | \$1,053 | \$1,031 | \$1,096 |
| Manhattan | 4,289 | 4,289 | \$962 | \$1,105 | \$1,308 | \$1,391 |
| Queens | 508 | 508 | \$1,250 | \$1,323 | \$1,241 | \$1,333 |
| Staten Island | 62 | 62 | \$808 | \$866 | \$833 | \$917 |
| Citywide | 6,093 | 6,093 | \$1,015 | \$1,127 | \$1,247 | \$1,327 |

Source: 2012 and 2014 DHCR Building and Apartment Registration filings

Table 5b: Longitudinal Sample of 2012 and 2014 Median and Mean “Preferential” Rents²⁷ for Units Identified as Rent Stabilized (excludes exempt and vacant units)

| <i>Borough</i> | <i># of Stabilized Units</i> | | <i>Median Preferential Rent</i> | | <i>Mean Preferential Rent</i> | |
|------------------------------|------------------------------|--------------|---------------------------------|--------------|-------------------------------|--------------|
| | <i>2012</i> | <i>2014</i> | <i>2012</i> | <i>2014</i> | <i>2012</i> | <i>2014</i> |
| Bronx | 276 | 247 | \$988 | \$1,150 | \$929 | \$945 |
| Brooklyn | 251 | 268 | \$1,100 | \$1,073 | \$963 | \$944 |
| Manhattan | 1,181 | 1,259 | \$800 | \$875 | \$831 | \$771 |
| Queens | 108 | 120 | \$1,156 | \$1,191 | \$1,200 | \$1,245 |
| Staten Island* | -- | -- | -- | -- | -- | -- |
| Citywide²⁸ | 1,818 | 1,902 | \$866 | \$906 | \$886 | \$848 |

Source: 2012 and 2014 DHCR Building and Apartment Registration filings

*Too few records

²⁷ See footnote #24.

²⁸ Because some units did not report “preferential” rents in both 2012 and 2014, the median and mean rents presented are based on different sample sizes. For the 1,452 units Citywide that reported a “preferential” rent in both 2012 and 2014, the median “preferential” rent in 2012 was \$896 and was \$893 in 2014. The mean “preferential” rent for these units in 2012 was \$907, and was \$848 in 2014.

Table 5c: Longitudinal Sample of 2012 and 2014 Median and Mean “Actual” Rents²⁹ for Units Identified as Rent Stabilized (excludes exempt and vacant units)

| <i>Borough</i> | <i># of Stabilized Units</i> | | <i>Median Actual Rent</i> | | <i>Mean Actual Rent</i> | |
|------------------------------|------------------------------|--------------|---------------------------|--------------|-------------------------|--------------|
| | <i>2012</i> | <i>2014</i> | <i>2012</i> | <i>2014</i> | <i>2012</i> | <i>2014</i> |
| Bronx | 204 | 244 | \$232 | \$235 | \$372 | \$364 |
| Brooklyn | 101 | 112 | \$227 | \$235 | \$496 | \$419 |
| Manhattan | 1,920 | 2,088 | \$250 | \$237 | \$465 | \$436 |
| Queens | 67 | 69 | \$557 | \$557 | \$631 | \$684 |
| Staten Island* | -- | -- | -- | -- | -- | -- |
| Citywide³⁰ | 2,295 | 2,541 | \$250 | \$239 | \$463 | \$433 |

Source: 2012 and 2014 DHCR Building and Apartment Registration filings

*Too few records

Table 5d: Longitudinal Sample of 2012 and 2014 Median and Mean “Rent Received” Rents³¹ for Units Identified as Rent Stabilized (excludes exempt and vacant units)

| <i>Borough</i> | <i># of Stabilized Units</i> | | <i>Median “Rent Received”*</i> | | <i>Mean “Rent Received”*</i> | |
|-----------------|------------------------------|--------------|--------------------------------|--------------|------------------------------|----------------|
| | <i>2012</i> | <i>2014</i> | <i>2012</i> | <i>2014</i> | <i>2012</i> | <i>2014</i> |
| Bronx | 652 | 652 | \$843 | \$937 | \$827 | \$967 |
| Brooklyn | 582 | 582 | \$900 | \$952 | \$925 | \$946 |
| Manhattan | 4,289 | 4,289 | \$875 | \$872 | \$1,133 | \$1,130 |
| Queens | 508 | 508 | \$1,166 | \$1,191 | \$1,149 | \$1,221 |
| Staten Island* | 62 | 62 | \$808 | \$866 | \$815 | \$883 |
| Citywide | 6,093 | 6,093 | \$888 | \$910 | \$1,078 | \$1,100 |

Source: 2012 and 2014 DHCR Building and Apartment Registration filings

*“Rent Received” refers to the preferential rent (if one is provided), or the legal rent (if a preferential rent is not provided)

²⁹ See footnote #24.

³⁰ Because some units did not report “actual” rents in both 2012 and 2014, the median and mean rents presented are based on different sample sizes. For the 2,092 units Citywide that reported an “actual” rent in both 2012 and 2014, the median “actual” rent in 2012 was \$237 and was \$239 in 2014. The mean “actual” rent for these units in 2012 was \$444, and was \$453 in 2014.

³¹ See footnote #24.

The NYS Division of Housing and Community Renewal released a memo to the Board dated June 2, 2015 in which they outline information from their registration database relating to Hotels/SROs/Rooming Houses. The following is an excerpt from that memo (Pages 3-4):

11. What is the total number of SRO/Hotel units registered with the DHCR in 2014? How many of these units are rent stabilized? How many are temporarily and permanently exempt? How many are registered as transient? How many as vacant?

| | |
|--|---------------|
| Rent Stabilized Units | 12,810 |
| Vacant Units | 1,973 |
| Temporary Exempts Units | 3,889 |
| *of these 2,735 are Transient Units | |
| Permanent Exempt Units | 115 |
| Total Number of Units | 18,787 |

12. What is the total number of SRO/Hotel units registered with the DHCR in each of the following years: 2009, 2010, 2011, 2012 and 2013?

- **In 2009 the total number of units registered was 22,250**
- **In 2010 the total number of units registered was 22,587**
- **In 2011 the total number of units registered was 22,254**
- **In 2012 the total number of units registered was 21,473**
- **In 2013 the total number of units registered was 17,792**

13. What is the average and median rent for rent stabilized SRO/Hotel units in 2014?

- **The average rent stabilized rent in buildings due to SRO/Hotel is \$2,471; the median rent is \$1,316.**

14. When a hotel tenant files an overcharge complaint, does DHCR look at the number of units rented to permanent tenants per the RGB Order and how does DHCR calculate the number of units rented to permanent stabilized tenants?

- **Yes, where applicable. This requirement is not in every RGB Hotel Order. The onus is on the owner to prove the status of the subject units. A “permanent tenant” is defined in Fact Sheet #42 (Hotels, SROs and Rooming Houses) as an individual or his or her family member residing with such individual, who: (1) has continuously resided in the same building as a principal residence for a period of at least six months; or (2) who requests a lease of six months or more, which the owner must provide within 15 days; or (3) who is in occupancy pursuant to a lease of six months or more even if actual occupancy is less than six months.**

VOTE

The vote of the Rent Guidelines Board on the adopted motion pertaining to the provisions of Order Number 45 was as follows:

| | <u>Yes</u> | <u>No</u> | <u>Abstentions</u> |
|------------------------------|------------|-----------|--------------------|
| Guidelines for Hotels | 7 | - | 2 |

Dated: June 30, 2015

Filed with the City Clerk: July 1, 2015

Rachel D. Godsil
Chair
NYC Rent Guidelines Board

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