

EXPLANATORY STATEMENT - HOTEL ORDER #47

Explanatory Statement and Findings of the Rent Guidelines Board In Relation to 2017-18 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 47, Effective October 1, 2017 through and including September 30, 2018.¹

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 47, adopted on June 27, 2017, applies to stabilized hotel units occupied by non-transient tenants.

Hotel Order Number 47 provides for an allowable increase of **0%** over the lawful rent actually charged and paid on September 30, 2017 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 47. 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.

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

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 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 30; April 13 and 20, and May 25, 2017 following public notices. On April 25, the Board adopted proposed rent guidelines for hotels, apartments, and lofts.

Five public hearings were held on June 5, June 8, June 12, June 14, and June 19, 2017 to hear comments on the proposed rent adjustments for rent stabilized hotels and apartments. The hearings were held from 5:40 p.m. to 10:00 p.m. on June 5, 5:20 p.m. to 8:00 p.m. on June 8,

5:15 p.m. to 10:30 p.m. on June 12, 2:15 p.m. to 8:00 p.m. on June 14, and from 5:20 p.m. to 9:40 p.m. on June 19. The Board heard testimony from approximately four hotel tenants and tenant representatives, one hotel owner, and one public official. In addition, the Board's office received approximately seven written statements from tenants and tenant representatives, no hotel owners, and one public official. On June 27, 2017, the guidelines set forth in Hotel Order Number 47 were adopted.

Selected Oral and Written Testimony from Tenants and Tenant Groups:

- “Last year the Board voted for a 0% rent increase for SROs. The basic economic realities of SRO tenants and owners have not changed in the last 12 months. MFY therefore supports the position that the Board should decline to approve a rent increase for 2017-2018.”
- “SROs are housing of last resort for poor New Yorkers. They are the safety net at the bottom of the market that keeps thousands of people off the street and out of shelters. Unfortunately, this safety net is steadily fraying. When we testified before this body last year, over 60,000 people in New York City were sleeping in homeless shelters each night. Unfortunately, this grim statistic remains unchanged. SRO tenants are amongst New York City's poorest residents, and a rent increase for SROs would likely push more of these tenants out of their homes and into the shelter system.”
- “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.”
- “Thank you for considering the plight of New York City's remaining residential hotel and SRO tenants, and for not voting to approve an unwarranted rent increase, which prevents further homelessness.”
- “This data really does bear out what we've argued that the rent increases are not warranted because there's so much money being generated to sustain these buildings very profitably through the non-stabilized rentals.”

Selected Oral and Written Testimony from Owners and Owner Groups:

- “I have nine people living for free for seven years. I've hired eight attorneys. I've taken them to court. I've gone through the process. And then I hear about rent stabilized and increases and I'm like, these people are living for free. I would pick nine people that just came up here, if nine have come yet, and allow them to live in my building and never raise their rent again if I could displace the ones that are in my building.”
- “So, how do I balance this out? How do you balance this out? Something's terribly wrong. There's a system set up and you can't have small homeowners on the same criteria as

big landlords that take advantage of union members that are living on fixed income. How do you balance it? So, I'm here to say that there's something terribly wrong. We have to think outside the box and start humanizing the job you have before you because I stand here as someone that sees both sides very clearly and something must be done to help these in the audience, and to help small landlords that would want to help and assist hard-working people that just want to pay rent and live in a city that they love and that they grow in and that they contribute to."

Selected Oral and Written Testimony from Public Officials:

– "I commend the Board for keeping SRO rents at the same level for another year. SRO tenants are a particularly vulnerable segment of the rent-stabilized population, with many aging tenants relying on fixed income in a housing market without comparable housing. I urge the Board to finalize its proposed 0% for SRO units."

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 *2017 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 20, 2017. 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 owners 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. *2017 Mortgage Survey Report*, March 2017 (An evaluation of recent underwriting practices, financial availability and terms, and lending criteria);
2. *2017 Income and Affordability Study*, April 2017 (Includes employment trends, housing court actions, changes in eligibility requirements and public benefit levels in New York City);
3. *2017 Price Index of Operating Costs*, April 2017 (Measures the price change for a market basket of goods and services which are used in the operation and maintenance of stabilized hotels);
4. *2017 Housing Supply Report*, May 2017 (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 2016, May 2017* (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, 1 Centre St., Suite 2210, 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 rent stabilized Hotels. The three categories of hotels are: 1) "traditional" hotels — a multiple dwelling that 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 rent stabilized Hotels increased 6.3% this year, a 10.2 percentage point increase from the 3.8% decline in 2016. It is important to note that the Hotel PIOC was not reweighted using the most current Real Property Income and Expense (RPIE) data. However, in order to maintain symmetry between indices, the expense items were aligned to the seven components now used in the Apartment PIOC. The realignment of the hotel expenditure items had no impact on the change in the overall PIOC, which would have remained 6.3% if the old alignments were used.

This year, the Hotel Fuel component rose 18.1%, due to significant increases in the cost of fuel oil and natural gas used for heating hotel buildings in NYC. The Fuel component accounts for over 12% of the entire Hotel Index. Five of the remaining six components witnessed cost increases, with Insurance Costs having the highest rise of 8.0%, followed by Taxes at 6.4%. More moderate increases were seen in Labor Costs (4.7%), Administrative Costs (2.6%), and Maintenance (1.3%). Costs fell in the Utilities component, by 1.7%.

Among the different categories of Hotels, the index for "traditional" hotels increased 6.2%, Rooming Houses by 5.2%, and SROs by 7.0%.

**Percent Change in the Components of the Price Index of Operating Costs
March 2016 to March 2017, By Hotel Type and All Hotels**

Item Description	All Hotels	Hotel	Rooming House	SRO
TAXES	6.4%	6.3%	6.0%	6.9%
LABOR COSTS	4.7%	4.2%	5.0%	5.1%
FUEL	18.1%	17.5%	17.6%	20.9%
UTILITIES	-1.7%	-0.5%	-3.3%	-1.9%
MAINTENANCE	1.3%	1.1%	1.9%	0.6%
ADMINISTRATIVE COSTS	2.6%	2.4%	3.3%	3.2%
INSURANCE COSTS	8.0%	8.0%	8.0%	8.0%
ALL ITEMS	6.3%	6.2%	5.2%	7.0%

Source: 2017 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 36.2% in 2014, compared to 33.6% for all renters.²

Looking at NYC's economy during 2016, it showed many strengths as compared with the preceding year. Positive indicators include growing employment levels, which rose for the seventh consecutive year, increasing 2.0% in 2016.³ The unemployment rate also fell, declining by 0.5 percentage points, to 5.2%.⁴ Gross City Product (GCP) also increased for the seventh consecutive year, rising in real terms by 2.9% in 2016.⁵ The number of non-payment filings in Housing Court fell by 0.4%, and the number of cases heard in Housing Court fell 5.4%.⁶ Supplemental Nutrition Assistance Program (SNAP) caseloads also fell, for the third consecutive year, by 0.7%.⁷

Negative indicators include the eighth consecutive year of increase in homeless levels, which rose to an average of almost 59,000 persons a night, an increase of 2.8% over 2015 levels.⁸

² The New York City Housing and Vacancy website: <https://www.census.gov/housing/nychvs/>.

³ NYS Dept. of Labor; <http://www.labor.state.ny.us>; Data accessed March 2017. 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 2017. Data is revised annually and may not match data reported in prior years.

⁵ Data from the NYC Comptroller's Office as of March, 2017. 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 Civil Court of the City of New York data.

⁷ New York City Human Resources Administration. HRA Charts (SNAP Recipients): <http://www.nyc.gov/html/hra/html/facts/charts.shtml>

⁸ Data from the Policy & Planning Office of the NYC Dept. of Homeless Services (DHS), DHS daily reports, and monthly Citywide Performance Reporting reports. Note that the NYC Department of Housing Preservation and Development, the

Cash assistance caseloads also rose, by 2.4% over 2015 levels.⁹ Inflation is also on the rise, with a 1.1% increase during 2016, compared to just 0.1% during 2015.¹⁰ Evictions also rose during 2016, increasing by 0.5%.¹¹

In addition, inflation-adjusted wages remained flat during the most recent 12-month period for which data is available (the fourth quarter of 2015 through the third quarter of 2016), rising just 0.1%.¹²

The most recent numbers, from the fourth quarter of 2016 (as compared to the fourth quarter of 2015), show that homeless levels were up 4.6%; cash assistance levels were up 0.7%; SNAP recipients were up 0.4%; and the number of cases heard in Housing Court were up 7.9%.¹ However, many fourth quarter indicators were positive, with employment levels up 1.2%, the unemployment rate down 0.5 percentage points, the number of non-payment filings in Housing Court down 2.2%, and fourth quarter GCP rising, by 1.8% in real terms.

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 2009.

Percentage Changes in the Consumer Price Index for the New York City - Northeastern New Jersey Metropolitan Area, 2009-2017 (For "All Urban Consumers")									
	2009	2010	2011	2012	2013	2014	2015	2016	2017
1st Quarter Avg. ¹³	1.3%	2.1%	2.0%	2.7%	2.1%	1.4%	-0.2%	0.7%	2.5%
Yearly Avg.	0.4%	1.7%	2.8%	2.0%	1.7%	1.3%	0.1%	1.1%	NA

Source: U.S. Bureau of Labor Statistics.

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 *2017 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*.

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.

⁹ New York City Human Resources Administration. HRA Charts (Cash Assistance Recipients): <http://www1.nyc.gov/site/hra/about/facts.page#charts>

¹⁰ Bureau of Labor Statistics; <http://www.bls.gov>; Data accessed March, 2017.

¹¹ NYC Department of Investigation, Bureau of Auditors data.

¹² NYS Dept. of Labor; <http://www.labor.state.ny.us>; Data accessed March 2017. Data is revised annually and may not match data reported in prior years.

¹³ 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.

2017 Mortgage Survey¹⁴
Average Interest Rates and Points for
New and Refinanced Permanent Mortgage Loans 2008-2017

New Financing of Permanent Mortgage Loans, Interest Rate and Points										
	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Avg. Rates	5.8%	6.5%	6.3%	5.8%	4.6%	4.4%	4.9%	4.3%	4.0%	4.3%
Avg. Points	0.47	0.62	0.79	0.61	0.63	0.59	0.54	0.70	0.42	0.44
Refinancing of Permanent Mortgage Loans, Interest Rate and Points										
	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
Avg. Rates	5.8%	6.5%	6.3%	5.7%	4.7%	4.4%	4.9%	--*	--*	--*
Avg. Points	0.44	0.62	0.83	0.61	0.63	0.40	0.50	--*	--*	--*

Source: 2008–2017 *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” from HPD. Following an increase of 52.8% in 2015, the number of approved certificates fell slightly, from 165 in 2015 to 162 in 2016, a decrease of 1.8%.¹⁵

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 fewer 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).¹⁶ More than 7,500 violations have been issued since April of 2012 (including more than 1,600 between May, 2016 and April, 2017).¹⁷

Governor Cuomo signed a bill in October of 2016 that increased the fine for illegally advertising short-term rentals to as much as \$7,500.¹⁸ As reported in May of 2017, 16 buildings had received a total of 139 violations under the new law, including 104 first violations (at \$1,000 each) and 35 second violations (at \$5,000 each). The bulk of the violations were imposed on one owner (with three upper Manhattan SRO buildings), a total of 89 first and second violations, equaling \$234,000.¹⁹

¹⁴ 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.

¹⁵ NYC Department of Housing Preservation and Development.

¹⁶ 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.

¹⁷ “Office of the Criminal Justice Coordinator, Mayor’s Office of Special Enforcement. Inclusive of data through April 8, 2017.

¹⁸ “Cuomo signs bill that deals huge blow to Airbnb,” New York Post, October 21, 2016.

¹⁹ “No Landlords Fined in Airbnb Hot Spot Since City Crackdown Began,” DNA Info, May 12, 2017.

A report released in June of 2016 by Housing Conservation Coordinators and MFY Legal Services analyzed Airbnb listings from 2015 to ascertain whether short-term rentals affect the supply of housing in NYC.²⁰ The report focuses on what they call “impact listings,” those listings that are for entire homes or apartments; are booked for fewer than thirty days and more than once per month; and appear to be listed for commercial purposes (by hosts with multiple units for at least three months of the year, or with single units, but for more than six months of the year). Of the more than 51,000 unique Airbnb listings during 2015, the study identified 8,058 impact listings, more than 90% of which are in Manhattan or Brooklyn. They found that while the average daily revenue for all Airbnb listings was \$160 a night, the average for impact listings was \$222. They estimate that holding all else constant, had all the impact listings to be brought back to the residential rental market as vacant units, the number of vacant units in NYC would increase 10% (including a 21% increase in Manhattan) and the overall vacancy rate would rise from 3.6% to 4.0% (and up to 4.7% in Manhattan).

OTHER RELEVANT INFORMATION

The NYS Division of Housing and Community Renewal released a memo to the Board dated May 24, 2017 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):

12. What is the total number of SRO/Hotel units registered with the DHCR in 2016? 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	11,764
Vacant Units	1,589
Temporary Exempts Units	3,464
*of these 2,272 are Transient Units	
Permanent Exempt Units	179
Total Number of Units	16,996

13. What is the total number of SRO/Hotel units registered with the DHCR on an annual basis from 2009-2016?

- 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
- In 2014 the total number of units registered was 18,787
- In 2015 the total number of units registered was 18,322
- In 2016 the total number of units registered was 13,175

²⁰ “Shortchanging New York City: The Impact of Airbnb on New York City’s Housing Market.” Prepared by BJH Advisors LLC for Housing Conservation Coordinators Inc. and MFY Legal Services, June 2016.

14. What is the average and median rent for rent stabilized SRO/Hotel units in 2016?

- **The average rent stabilized rent in buildings due to SRO/Hotel is \$2,348; the median rent is \$1,251.**

15. 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.**

On June 12, 2017, staff released a memo to the Board analyzing hotel data contained in the NYS Division of Housing and Community Renewal’s 2015 and 2016 apartment and building registration databases. Below is the memo in its entirety.

To help members of the Rent Guidelines Board (RGB) set renewal lease adjustments for different classifications of rent stabilized hotels, the Board’s staff analyzed 2015 and 2016 hotel registration data filed by owners with the NYS Division of Housing and Community Renewal (DHCR) in 2015 and 2016. Specifically, staff analyzed recent data regarding rent levels in hotels, rooming houses, and Single Room Occupancy (SRO) residences. Similar RGB hotel memos have been released in the past, starting in June 2007.²¹

Each year owners are required to provide DHCR with listings of every rent stabilized unit in their buildings, including the rent level and whether the unit is currently rent stabilized, vacant, or permanently or temporarily exempt. Owners also provide details on the type of building from a list of possible choices – including Multiple Dwelling A or B, Hotel, and Rooming House (“SRO” is not a category available for registration).

It is important to note that in previous memos staff had relied on owners to provide the correct status of the type of building being registered. Some exceptions were noted, when staff individually examined select records with especially high rent levels to determine if the building was in fact a hotel or rooming house, and then omitted these records from the analysis if it was found to be an incorrect registration. However, for virtually all records, registration data was used as supplied by owners without any secondary checks.

²¹ Previous memos are from June 4, 2007; June 4, 2009; June 12, 2012; June 4, 2013; and May 22, 2015 which analyzed hotel registration data filed with the NYS Division of Housing and Community Renewal (DHCR) in 2005, 2008, 2011, 2012, and 2014 respectively.

After a more in-depth examination of hotel DHCR records, staff determined that there seemed to be a number of errors in the registration data and staff could not rely solely on the building status supplied by owners/managers²². Therefore, staff took a multi-pronged approach to more accurately identify hotels and rooming houses, with different approaches for identifying hotels versus rooming houses. The approaches are outlined in detail in each of the "Rooming House" and "Hotel" sections that follow. Unlike previous memos, the focus is solely on 2015/2016 registration data, and comparisons are not made to previous years to provide longitudinal data. In addition, unlike previous memos, where a single analysis was done for any building registered as a hotel or rooming house, this memo provides separate analyses for hotels and rooming houses. A summary of data for rooming houses and hotels combined is provided in Tables 9 and 10 at the end of this memo.

Rooming Houses

As with past memos, rooming house average and median legal, preferential, and actual rent will be provided, as well as the average and median "rent received," which is the amount actually received by the owner of the building, whether from the tenant or from outside sources such as subsidy programs. However, a longitudinal analysis, showing the change in rents from year to year, will not be provided. In addition, in past hotel memos, data was analyzed by borough. Because many more records were omitted from the analysis than in previous years, and almost two-thirds of the units and more than half of the rooming houses that contain these units are in Manhattan, a borough breakdown would be unreliable. Therefore only Citywide averages and medians are provided herein.

To identify rooming houses, staff relied almost entirely on DHCR registration data, but limited the analysis to those buildings which were registered as both "Multiple Dwelling B"²³ and "Rooming House," and omitted those records that were also noted as "421-A" (as these are unlikely to be rooming houses). Staff examined records for both 2015 and 2016²⁴ (as the 2016 registration database is not yet final) to find as many records as possible for analysis. Just less than 20% of the buildings identified are from the 2015 database, with the remaining from the 2016 database. In addition, any building with an average rent of more than \$1,000 a month was manually investigated to determine whether the building was in fact a rooming house by researching the building using the Housing Preservation and Development (HPD) online building registration database to determine if it contain "Class B" units. Note that there is no way to be 100% certain of a building's regulation status. In general, if the building had average rents of more than \$1,000 a month, but had "Class B" units registered with HPD, it was left in the analysis. If units were not registered as being "Class B," the records were removed from the analysis.

In 2015 and 2016, 174 unique buildings registered as Class B Rooming Houses.²⁵ These buildings contained a total of 4,206 units of housing (per DHCR registration filings)²⁶. By

²² A Class A rent stabilized apartment building incorrectly registered as a hotel or rooming house, especially one with high rent levels, will skew the average and median rent levels of what are being reported as rents for "hotel" units.

²³ A class B multiple dwelling is a multiple dwelling which is occupied, as a rule, transiently, as the more or less temporary abode of individuals or families who are lodged with or without meals. This class includes hotels, lodging houses, rooming houses, boarding houses, boarding schools, furnished room houses, lodgings, club houses, and college and school dormitories.

²⁴ Data from the 2016 registration file was used wherever possible. As this file is not yet finalized, data from 2015 was supplemented to provide as many possible records for analysis.

²⁵ See prior paragraph for which buildings were included in this analysis. Note that six buildings that registered as rooming houses were treated as hotels in this memo, because their building classification was that of a hotel.

²⁶ Individual records were not checked against other sources in regard to the number of housing units. Also note that while some owners may register all their units, regardless of regulation status, others may register only those that are rent stabilized.

category, 2,811 (66.8%) of these units (including 2,808 with rent information) were registered as “rent stabilized” (indicating that they were occupied by a rent stabilized tenant at the time of registration); 750 (17.8%) as “vacant;” 624 (14.8%) as “temp exempt;” and 21 (0.5%) as “permanently exempt.” Among the temporarily exempt units, the most common reason given for the exemption is “Hotel/SRO (Transient),” with 53.2% of the temporarily exempt units providing this reason. Second most common is “Not Prime Residence,” with 23.6% of the temporarily exempt units providing this reason, followed closely by “Owner/Employee Occupied,” with a share of 22.0%. Of these 174 buildings, 25 (14.4% of the total buildings) consist entirely of exempt and/or vacant units (8.8% of the total units, or 371 units). In addition, 94 buildings (54.0% of the total buildings) contain less than 85%²⁷ permanently stabilized units. These 94 buildings contain 1,786 units, 42.5% of the total stabilized units.

The analysis starts by looking at the reported legal rents of those rooming house units identified as “rent stabilized” by building owners. The legal rents are the maximum amount that a landlord can charge to tenants (or government agencies subsidizing tenants), but do not necessarily reflect what a tenant is actually paying.

Table 1 shows the number of rent stabilized rooming house units and buildings that registered legal rents with DHCR in 2015/2016. It also provides the median and average legal rents for these units, Citywide. These rents reflect the maximum amount that owners could charge for their units, as of April 2015 or April 2016 (depending on which registration file was analyzed).

Table 1: 2015/2016²⁸ Median and Average “Legal” Rents for Rooming House Units Identified as Rent Stabilized (excludes exempt and vacant units)

	<i># of Stabilized Units</i>	<i># of Stabilized Buildings</i>	<i>Median Legal Rent</i>	<i>Average Legal Rent</i>
Citywide	2,808	149	\$914	\$1,007

Source: 2015 and 2016 DHCR Building and Apartment Registration filings

Table 2 illustrates the median and average “preferential” rents for the 23% of *rent stabilized* rooming house units that reported charging one. Preferential rents are rents that owners voluntarily choose to charge to tenants, which are lower than legal rents.

Table 2: 2015/2016²⁹ Median and Average “Preferential” Rents for Rooming House Units Identified as Rent Stabilized (excludes exempt and vacant units)*

	<i># of Stabilized Units</i>	<i>Median</i>		<i>Average</i>	
		<i>Preferential Rent*</i>	<i>% Difference from Legal Rent**</i>	<i>Preferential Rent*</i>	<i>% Difference from Legal Rent**</i>
Citywide	643	\$864	-39%	\$756	-42%

Source: 2015 and 2016 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.

²⁷ The threshold for a 0% increase under previous provisos to the Hotel order, which allowed for increases in buildings with at least 85% permanently rent stabilized occupancy. If the owner has not registered every unit in the building with DCHR (as they may not with unregulated units), the percentage of buildings that are 85% or more rent stabilized could be inflated.

²⁸ 2016 data used whenever available.

²⁹ 2016 data used whenever available.

Table 3 shows the median and average “actual” rents paid by a reported 29% of *rent stabilized* rooming house 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 average legal rents of *just those units with reported actual rents*. Theoretically, the owners of the 818 units reporting actual rents can receive the difference between the actual and legal rents from government programs, and in fact, 82% 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 \$1,202 and the average *legal* rent is \$1,184. Not reported here are detailed statistics for the 147 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 147 units is \$883 and the average *preferential* rent is \$894.

Table 3: 2015/2016³⁰ Median and Average “Actual” Rents for Rooming House Units Identified as Rent Stabilized (excludes exempt and vacant units)*

	# of Stabilized Units	Median		Average	
		Actual Rent*	% Difference from Legal Rent**	Actual Rent*	% Difference from Legal Rent**
Citywide	818	\$242	-80%	\$503	-57%

Source: 2015 and 2016 DHCR Building and Apartment Registration filings

*Only for those units reporting an actual rent.

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

Table 4 shows median and average “rent received,” which uses a combination of preferential and legal rents to identify the rent actually being collected by owners of rent stabilized rooming houses. 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: 2015/2016³¹ Median and Average “Rent Received” Rents for Rooming House Units Identified as Rent Stabilized (excludes exempt and vacant units)*

	# of Stabilized Units	Median “Rent Received”*	Average “Rent Received”*
Citywide	2,808	\$843	\$882

Source: 2015 and 2016 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)

Hotels

As with past memos, hotel average and median legal, preferential, and actual rent will be provided, as well as the average and median “rent received,” which is the amount actually received by the owner of the building. However, a longitudinal analysis, showing the change in rents from year to year, will not be provided. In past hotel memos, data was analyzed by borough. Because there are fewer records to work with, and virtually all buildings with hotel

³⁰ 2016 data used whenever available.

³¹ 2016 data used whenever available.

units are in Manhattan, a borough breakdown would be unreliable, so a Citywide total is provided.

To identify hotels, staff relied both on DHCR registration data as well as data regarding building class contained in Department of Finance records. Each record that was noted in the tax records used in the *Price Index of Operating Costs Survey* as having a "hotel" building class was individually investigated to determine its status. Then additional records which were identified as being hotels in the 2015 and 2016 DHCR registration data were also investigated. Approximately 16% of the buildings identified are from the 2015 database, with THE REMAINING from the 2016 database. Unlike the data for the rooming houses, where we relied solely on DHCR data for unit counts, staff researched two additional sources of unit counts. Each hotel building was researched both with registration records from HPD, as well as internet sites, such as Expedia and Hotels.com (or the individual websites of the hotels which had one). Unfortunately, the data often did not correlate, so staff generally used the highest of the figures (whether DCHR, HPD, or the travel websites) to estimate an actual unit count in these buildings.

In 2015 and 2016, 83³² unique buildings registered or were found to be Hotels in the DHCR database.³³ These buildings contained a total of 6,730 units of housing (per DHCR registration filings)³⁴. Of just those units registered with DHCR, 3,428 of these units (50.9%) were registered as "temp exempt; 2,378 (35.3%) as "rent stabilized" (2,377 of which had rent information); 767 (11.4%) as "vacant;" and 157 (2.3%) as "permanently exempt." Among the temporarily exempt units, the most common reason given for this status is "Hotel/SRO (Transient)," with 60.6% of the temporarily exempt units providing this reason. Second most common is "Not Prime Residence," as 32.1% of these records are noted. Almost all other records are noted as being "other" or owner- or employee-occupied as the reason for the exemption. Of these 83 buildings, 11 (13.3% of the total buildings) consist entirely of exempt and/or vacant units (9.1% of the total units, or 610 units). In addition, 30 buildings (36.1% of the total buildings) contain less than 85% permanently stabilized units.³⁵ These 30 buildings contain 3,795 units, 56.4% of the total units registered with DHCR.

As noted above, staff also used outside resources to try to find the total number of units in each of these 83 hotel buildings. Notably, according to this data, which is only an estimate, these buildings contained a total of 17,841 units of housing, 165.1% more than the number of units registered with DHCR. As a proportion of this higher number of units, units registered as "rent stabilized" are 13.3% of the total (versus 35.3% of the registered DHCR units). As a proportion of these higher number of units, 60 buildings (72.3% of the total buildings) contain less than 85% permanently stabilized units.³⁶ These 60 buildings contain 13,956 units, 78.2% of the total units in these buildings.

The analysis starts by looking at the reported legal rents of those hotel units identified as "rent stabilized" by building owners. The legal rents are the maximum amount that a landlord can

³² Five of these "buildings" filed more than one registration with DHCR, for adjacent address (a total of 11 records, treated here as five records). They are generally considered to be a single building, and are treated as such in this analysis.

³³ See prior paragraph for which buildings were included in this analysis.

³⁴ Individual records were not checked against other sources in regard to the number of housing units. Also note that while some owners may register all their units, regardless of regulation status, others may register only those that are rent stabilized.

³⁵ The threshold for a 0% increase under previous provisos to the Hotel order, which allowed for increases in buildings with at least 85% permanently rent stabilized occupancy. If the owner has not registered every unit in the building with DCHR (as they may not with unregulated units), the percentage of buildings that are 85% or more rent stabilized could be inflated.

³⁶ See footnote 35.

charge to tenants (or government agencies subsidizing tenants), but do not necessarily reflect what a tenant is actually paying.

Table 5 shows the number of rent stabilized units and buildings that registered legal rents with DHCR in 2015/2016. It also provides the median and average legal rents for these units, Citywide. These rents reflect the maximum amount that owners could charge for their units, as of April 2015 or April 2016 (depending on which registration file was analyzed).

Table 5: 2015/2016³⁷ Median and Average “Legal” Rents for Hotel Units Identified as Rent Stabilized (excludes exempt and vacant units)

	<i># of Stabilized Units</i>	<i># of Stabilized Buildings</i>	<i>Median Legal Rent</i>	<i>Average Legal Rent</i>
Citywide	2,377	75	\$745	\$1,119

Source: 2015 and 2016 DHCR Building and Apartment Registration filings

Table 6 illustrates the median and average “preferential” rents for the 12% of *rent stabilized* units that reported charging one. Preferential rents are rents that owners voluntarily choose to charge to tenants, which are lower than legal rents.

Table 6: 2015/2016³⁸ Median and Average “Preferential” Rents for Hotel Units Identified as Rent Stabilized (excludes exempt and vacant units)*

	<i># of Stabilized Units</i>	<i>Median</i>		<i>Average</i>	
		<i>Preferential Rent*</i>	<i>% Difference from Legal Rent**</i>	<i>Preferential Rent*</i>	<i>% Difference from Legal Rent**</i>
Citywide	293	\$500	-63%	\$569	-76%

Source: 2015 and 2016 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 7 shows the median and average “actual” rents paid by a reported 13% 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 average legal rents of *just those units with reported actual rents*. Theoretically, the owners of the 300 units reporting actual rents can receive the difference between the actual and legal rents from government programs, and in fact, 79% 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 \$745 and the average *legal* rent is \$864. Not reported here are detailed statistics for the 62 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 62 units is \$897 and the average *preferential* rent is \$896.

³⁷ 2016 data used whenever available.

³⁸ 2016 data used whenever available.

Table 7: 2015/2016³⁹ Median and Average "Actual" Rents for Hotel Units Identified as Rent Stabilized (excludes exempt and vacant units)*

	# of Stabilized Units	Median		Average	
		Actual Rent	% Difference from Legal Rent**	Actual Rent	% Difference from Legal Rent**
Citywide	300	\$242*	-68%	\$286*	-67%

Source: 2015 and 2016 DHCR Building and Apartment Registration filings

*Only for those units reporting an actual rent.

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

Table 8 shows median and average "rent received," which uses a combination of preferential and legal rents to identify the rent actually being collected by owners of rent stabilized hotels. 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 8: 2015/2016⁴⁰ MEDIAN AND AVERAGE "RENT RECEIVED" RENTS FOR HOTEL UNITS IDENTIFIED AS RENT STABILIZED (EXCLUDES EXEMPT AND VACANT UNITS)*

	# of Stabilized Units	Median "Rent Received"*	Average "Rent Received"*
Citywide	2,377	\$700	\$891

SOURCE: 2015 AND 2016 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)

In summary, while this memo cannot capture every rent stabilized SRO, hotel, or rooming house in New York City, it provides information on units that are likely to be rent stabilized SROs, hotels, or rooming houses. **Table 9** summarizes data on the regulatory status of units registered with DCHR in 2015/2016. As noted in the introductory paragraphs to the Rooming House and Hotel sections, each building owner is asked to identify whether their apartments are occupied by a rent stabilized tenant, vacant, or temporarily or permanently exempt. That data is provided in each of those sections, and is summarized here, along with the regulation status of rooming houses and hotels combined.

Table 9: 2015/2016⁴¹ Rent Regulation Status of Registered Rooming Houses and Hotels

	# of Units*	Occupied Rent Stabilized	Vacant	Temporarily Exempt	Permanently Exempt
Rooming Houses	4,206	2,811	750	624	21
Hotels	6,730	2,378	767	3,428	157
Rooming Houses and Hotels (combined)	10,936	5,189	1,517	4,052	178

Source: 2015 and 2016 DHCR Building and Apartment Registration filings

*Includes only those units registered with DHCR

³⁹ 2016 data used whenever available.

⁴⁰ 2016 data used whenever available.

⁴¹ 2016 data used whenever available.

Table 10 provides a summary of the legal and received rents for rooming houses and hotels, as well as the average and median rents of rooming houses and hotels combined.

Table 10: 2015/2016⁴² Median and Average Legal Rent and "Rent Received" Rents for Rooming House and Hotel Units Identified as Rent Stabilized (excludes exempt and vacant units)

	# of Stabilized Units	Median Legal Rent	Average Legal Rent	Median "Rent Received"*	Average "Rent Received"*
Rooming Houses	2,808	\$914	\$1,007	\$843	\$882
Hotels	2,377	\$745	\$1,119	\$700	\$891
Rooming Houses and Hotels (combined)	5,185	\$782	\$1,057	\$745	\$886

Source: 2015 and 2016 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)

VOTE

The vote of the Rent Guidelines Board on the adopted motion pertaining to the provisions of Order Number 47 was as follows:

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

Dated: June 28, 2017

Filed with the City Clerk: June 30, 2017

Hon. Kathleen A. Roberts (Ret.)
 Chair
 NYC Rent Guidelines Board

⁴² 2016 data used whenever available.

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