

## 2004 Apartment & Loft Order #36

June 17, 2004

**Order Number 36 - Apartments and Lofts**, rent levels for leases commencing **October 1, 2004** through **September 30, 2005**.

NOTICE IS HEREBY GIVEN PURSUANT TO THE AUTHORITY VESTED IN THE NEW YORK CITY RENT GUIDELINES BOARD BY THE RENT STABILIZATION LAW OF 1969, as amended, and the Emergency Tenant Protection Act of 1974, as amended, implemented by Resolution No 276 of 1974 of the New York City Council and extended by Chapter 82 of the Laws of 2003, and in accordance with the requirements of Section 1043 of the New York City Charter, that the Rent Guidelines Board (RGB) hereby **adopts** the following levels of fair rent increases over lawful rents charged and paid on **September 30, 2004**. These rent adjustments will apply to rent stabilized apartments with leases commencing on or after **October 1, 2004** and through **September 30, 2005**. Rent guidelines for loft units subject to Section 286 subdivision 7 of the Multiple Dwelling Law are also included in this order.

### ADJUSTMENT FOR RENEWAL LEASES (APARTMENTS)

Together with such further adjustments as may be authorized by law, the annual adjustment for renewal leases for apartments shall be:

Where heat **is** provided or required to be provided to a dwelling unit by an owner from a central or individual system **at no charge** to the tenant, the adjustments are as follows:

For a **one-year** renewal lease commencing on or after **October 1, 2004** and on or before **September 30, 2005**:  $3\frac{1}{2}\%$

For a **two-year** renewal lease commencing on or after **October 1, 2004** and on or before **September 30, 2005**:  $6\frac{1}{2}\%$

Where heat is neither provided nor required to be provided to a dwelling unit by an owner from a central or individual system, the adjustments are as follows:

For a **one-year** renewal lease commencing on or after **October 1, 2004** and on or before **September 30, 2005**: 3.0%

For a **two-year** renewal lease commencing on or after **October 1, 2004** and on or before **September 30, 2005**: 6.0%

These adjustments shall also apply to dwelling units in a structure subject to the partial tax exemption program under Section 421a of the Real Property Tax Law, or in a structure subject to Section 423 of the Real Property Tax Law as a Redevelopment Project.

VACANCY ALLOWANCE FOR APARTMENTS

No **vacancy allowance** is permitted except as provided by sections 19 and 20 of the Rent Regulation Reform Act of 1997 as extended by Chapter 82 of the Laws of 2003.

SUPPLEMENTAL ADJUSTMENT

There shall be **no supplemental adjustment** for apartments renting below any specified amount for renewal leases.

There shall be **no equalization allowance** for apartments continuously occupied for a specified period of time for renewal leases.

ADDITIONAL ADJUSTMENT FOR RENT STABILIZED APARTMENTS SUBLET UNDER SECTION 2525.6 OF THE RENT STABILIZATION CODE

In the event of a sublease governed by subdivision (e) of section 2525.6 of the Rent Stabilization Code, the allowance authorized by such subdivision shall be **10%**.

ADJUSTMENTS FOR LOFTS (UNITS IN THE CATEGORY OF BUILDINGS COVERED BY ARTICLE 7-C OF THE MULTIPLE DWELLING LAW)

The Rent Guidelines Board **adopts** the following levels of rent increase above the "base rent", as defined in Section 286, subdivision 4, of the Multiple Dwelling Law, for units to which these guidelines are applicable in accordance with Article 7-C of the Multiple Dwelling Law:

For **one-year** increase periods commencing on or after **October 1, 2004** and on or before **September 30, 2005**:  $2\frac{1}{2}\%$

For **two-year** increase periods commencing on or after **October 1, 2004** and on or before **September 30, 2005**:  $5\frac{1}{2}\%$

VACANT LOFT UNITS

No Vacancy Allowance is permitted under this Order. Therefore, except as otherwise provided in Section 286, subdivision 6, of the Multiple Dwelling Law, the rent charged to any tenant for a vacancy tenancy commencing on or after **October 1, 2004** and on or before **September 30, 2005** may not exceed the "base rent" referenced above plus the level of adjustment permitted above for increase periods.

FRACTIONAL TERMS

For the purposes of these guidelines any lease or tenancy for a period up to and including one year shall be deemed a one year lease or tenancy, and any lease or tenancy for a period of over one year and up to and including two years shall be deemed a two-year lease or tenancy.

## ESCALATOR CLAUSES

Where a lease for a dwelling unit in effect on May 31, 1968 or where a lease in effect on June 30, 1974 for a dwelling unit which became subject to the Rent Stabilization Law of 1969, by virtue of the Emergency Tenant Protection Act of 1974 and Resolution Number 276 of the New York City Council, contained an escalator clause for the increased costs of operation and such clause is still in effect, the lawful rent on **September 30, 2004** over which the fair rent under this Order is computed shall include the increased rental, if any, due under such clause except those charges which accrued within one year of the commencement of the renewal lease. Moreover, where a lease contained an escalator clause that the owner may validly renew under the Code, unless the owner elects or has elected in writing to delete such clause, effective no later than **October 1, 2004** from the existing lease and all subsequent leases for such dwelling unit, the increased rental, if any, due under such escalator clause shall be offset against the amount of increase authorized under this Order.

## SPECIAL ADJUSTMENTS UNDER PRIOR ORDERS

All rent adjustments lawfully implemented and maintained under previous apartment orders and included in the base rent in effect on **September 30, 2004** shall continue to be included in the base rent for the purpose of computing subsequent rents adjusted pursuant to this Order.

## SPECIAL GUIDELINE

Under Section 26-513(b)(1) of the New York City Administrative Code, and Section 9(e) of the Emergency Tenant Protection Act of 1974, the Rent Guidelines Board is obligated to promulgate special guidelines to aid the State Division of Housing and Community Renewal in its determination of initial legal regulated rents for housing accommodations previously subject to the City Rent and Rehabilitation Law which are the subject of a tenant application for adjustment. The Rent Guidelines Board hereby **adopts** the following Special Guideline:

For dwelling units subject to the Rent and Rehabilitation Law on **September 30, 2004**, which become vacant after **September 30, 2004**, the special guideline shall be the greater of:

- (1) **50%** above the maximum base rent, or
- (2) The Fair Market Rent for existing housing as established by the United States Department of Housing and Urban Development (HUD) for the New York City Primary Metropolitan Statistical Area pursuant to Section 8(c) (1) of the United States Housing Act of 1937 (42 U.S.C. section 1437f [c] [1] ) and 24 C.F.R. Part 888, with such Fair Market Rents to be adjusted based upon whether the tenant pays his or her own gas and/or electric charges as part of his or her rent as such gas and/or electric charges are accounted for by the New York City Housing Authority.

Such HUD-determined Fair Market Rents will be published in the Federal Register, to take effect on **October 1, 2004**.

#### DECONTROLLED UNITS

The permissible increase for decontrolled units as referenced in Order 3a which become decontrolled after **September 30, 2004**, shall be the greater of:

- (1) **50%** above the maximum base rent, or
- (2) The Fair Market Rent for existing housing as established by the United States Department of Housing and Urban Development (HUD) for the New York City Primary Metropolitan Statistical Area pursuant to Section 8(c) (1) of the United States Housing Act of 1937 (42 U.S.C. section 1437f [c] [1] ) and 24 C.F.R. Part 888, with such Fair Market Rents to be adjusted based upon whether the tenant pays his or her own gas and/or electric charges as part of his or her rent as such gas and/or electric charges are accounted for by the New York City Housing Authority.

Such HUD-determined Fair Market Rents will be published in the Federal Register, to take effect on **October 1, 2004**.

#### CREDITS

Rentals charged and paid in excess of the levels of rent increase established by this Order shall be fully credited against the next month's rent.

#### STATEMENT OF BASIS AND PURPOSE

The Rent Guidelines Board is authorized to promulgate rent guidelines governing apartment units subject to the Rent Stabilization Law of 1969, as amended, and the Emergency Tenant Protection Act of 1974, as amended. The purpose of these guidelines is to implement the public policy set forth in Findings and Declaration of Emergency of the Rent Stabilization Law of 1969 (§26-501 of the N.Y.C. Administrative Code) and in the Legislative Finding contained in the Emergency Tenant Protection Act of 1974 (L.1974 c. 576, §4 [§2]).

The Rent Guidelines Board is also authorized to promulgate rent guidelines for loft units subject to Section 286 subdivision 7 of the Multiple Dwelling Law. The purpose of the loft guidelines is to implement the public policy set forth in the Legislative Findings of Article 7-C of the Multiple Dwelling Law (Section 280).

Dated: June 17, 2004

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Marvin Markus  
Chair  
New York City Rent Guidelines Board