

# **EXPLANATORY STATEMENT - HOTEL ORDER #34**

## **Explanatory Statement and Findings of the Rent Guidelines Board In Relation to 2004-05 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 34, Effective October 1, 2004 through and including September 30, 2005.<sup>1</sup>

Pursuant to the authority vested in it by the Rent Stabilization Law of 1969 and the Emergency Tenant Protection Act of 1974, implemented by Resolution Number 276 of 1974 of the New York City Council, and extended Chapter 82 of the Laws of 2003, it is the responsibility of the Rent Guidelines Board to establish guidelines for hotel increases. Hotel Order Number 34, adopted on June 17<sup>th</sup>, 2004, applies to stabilized hotel units occupied by non-transient tenants.

Hotel Order Number 34 provides for an allowable increase of **0%** over the lawful rent actually charged and paid on September 30, 2004 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 provisos that were 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, these provisos are not included in Hotel Order 34. 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 adopt and reinstate these provisos. These provisos and explanatory language are as follows:

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

- 1) If 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 **75%** 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 was read and entered into the public record of the June 17<sup>th</sup> meeting to outline 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*

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

*excluded from the denominator are units that are used as stores or for similar business purposes such as doctor's offices. 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 75% 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, 20 are vacant and 120 are occupied by permanent rent stabilized tenants. The denominator would be 148 and the numerator would be 120. This calculation results in an occupancy percentage of GREATER than 75% under the formula (81%) and an increase CAN be taken for the permanent stabilized tenants.*

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

## **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 April 13<sup>th</sup>, 20<sup>th</sup>, 27<sup>th</sup>, and April 30<sup>th</sup> and June 3<sup>rd</sup>, 2004 following public notices. On May 10<sup>th</sup>, the Board adopted proposed rent guidelines for hotels, apartments, and lofts.

One public hearing was held on June 15<sup>th</sup>, 2004 to hear comments on the proposed rent adjustments for rent stabilized hotels and apartments. The hearing was held from 10:00 a.m. to 10:00 p.m. The Board heard testimony from 31 hotel tenants and tenant representatives, no hotel owners and owner representatives and 7 public officials. In addition, the Board's office received approximately 26 written statements from owners and owner groups, tenants and tenant groups,

and public officials. On June 17<sup>th</sup>, 2004, the guidelines set forth in Hotel Order Number 34 were adopted.

### **Oral and Written Testimony from Owners and Owner Groups:**

- “I ask for an 8% increase across-the-board (WITH NO RESTRICTIONS) for these [all hotel] categories.”
- “The main issue at hand is the “PROVISO”. As I previously discussed with you, due to inequities in the past, many property owners were either forced to diversify or just “give up”. I believe we owe the owners who stayed and attempted to keep their buildings and tenants should be rewarded...not punished.”
- “As we had previously discussed, the cost of these services [switchboard, linens, security, and housekeeping] have escalated greatly since those owners were able to take an increase. Along with these services, come the union increases, which includes salary raises of 4% per year, scholarship and education funds, insurance, annuities, pensions, etc. While union costs are escalating, increases from the City have not been forthcoming.”

### **Oral and Written Testimony from Tenants and Tenant Groups:**

- “SRO tenants generally maintain their subsistence-level incomes at jobs that pay minimum wage (or sadly less in some cases) or struggle to survive on fixed incomes that are getting progressively lower. While an increase of two or three percent may seem inconsequential for those of us fortunate enough to be able to sustain a higher standard of living, such increases will stretch these residents’ already inelastic incomes beyond the breaking point, forcing more and more of them out onto the street and causing their low-income housing to disappear forever. Because of their low incomes and the fact that most SRO tenants are single adults often without families to fall back on, this is the population most at risk for becoming homeless.”
- “The majority of SRO tenants have fixed incomes, and many struggle to be able to pay both their rent and afford the basic necessities. Conversely, hotel and lodging house owners saw their industry grow last year, and still do not depend on the comparatively small population of permanent SRO tenants to reap significant profit. As we do each year, we appear before you today to report on the fragile state of SRO housing and its tenants, and to urge you to grant SRO landlords no increase for the coming year.”
- “I strongly recommend the establishment of a Mayor’s Committee on fairness in housing, that will guarantee no rent increases imposed on tenants who reside in buildings with a history of discrimination, harassment, violations, false self-certifications, and owing the City money in fines and unpaid taxes. Until this is effect the Rent Guidelines Board should vote ZERO increases for all tenants Citywide. We want the RGB to keep the proviso of 75% intact.”
- “Without the proviso my entire salary would go to rent. There would be nothing left to support my neighborhood merchants, barely enough for food. If you want to maintain the economic health of the City you must support the proviso.”
- “Don’t send a message that you don’t care about affordable housing for low to moderate income tenants. Do the right thing this year [0% increase]. Tenants depend on this housing because it’s affordable and they depend on you to keep it that way.”
- “As a tenant since 1995 in a rent stabilized apartment...I strongly urge you to deny any rent increase to my landlords. For the past 23 years they have been getting rich by driving tenants

like myself out of our homes in order to replace us with homeless people for whom the city government shells out \$3,000 every 28 days for a single room or apartment. In November 2001 [hotel management] signed a contract with HASA, a division of New York Human Resources Administration, to provide emergency temporary housing. Since that time, they have made \$12 million by intentionally engaging in an illegal campaign of harassment to force rent-stabilized tenants out of their homes....I implore you to freeze these criminal slumlords' rents."

### **Oral and Written Testimony from Public Officials:**

– “Single Room Occupancy (SRO) buildings and residential hotels continue to constitute an important part of the rent-stabilized housing stock. SRO owners derive the bulk of their income from their transient guests, not from their permanent tenants. While a rent increase would have a minimal affect [sic] on the total income of these landlords, such an increase would have a very large impact on the incomes of tenants living in SROs. The Rent Guidelines Board should NOT issue any rent increase for permanent tenants of hotels, rooming houses, and lodging houses.”

– “Any SRO rent increase is unsupportable. As anyone who has witnessed the conditions of most SRO housing knows, it is housing of last resort. For a person with a low income, even a small increase could mean the difference between being on the street or being in a [sic] one’s own room. It is good to see that the Board has proposed rent increases for SROs that range from 0-2%. The Board should not approve any SRO rent increase, in order to protect vulnerable housing for those who need it most, and who can least afford to pay more.”

– “I am here to urge the Rent Guidelines Board to vote to freeze the rents or not to increase them beyond a bare minimum. I also urge this Board to vote against any longevity tax or surcharge for the rents of rent stabilized apartments, lofts, Single Room Occupancy (SRO) units and hotels. Based on the findings of this Board, including the continued loss of jobs in this City, the rise in unemployment, homelessness, and the continued increase in rent to income ratios, it is clear that such a vote is necessary to protect not only the tenants but also the City’s financial base.”

– “On their behalf [rent stabilized tenants in my district], and for tenants Citywide, I urge the Board to impose an immediate freeze on rent increases for apartments, lofts, and SROs....I also urge the Board to pass a similar freeze for SRO tenants, approving the 0% increase at the bottom of the proposed range. This Board has an opportunity to shape New York City as a truly diverse and habitable place. You have the power to preserve housing for middle and working class people. Conversely, you also have the power to further divide New York City into the haves and have-nots....The only acceptable outcome of the Board’s vote is no new increases.”

### **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 2004 Price Index of Operating Costs for Hotel Stabilized Units in New York City, prepared by the staff of the Rent Guidelines Board, reports and testimony submitted by owner and tenant groups relating to the hotel sector, and reports submitted by public agencies. The Board heard testimony from invited guest speakers on April 30<sup>th</sup>, 2004. Guest speakers representing hotel tenants included Terry Poe, Tenant Organizing Supervisor, from the Goddard-Riverside Community Center’s West Side SRO Law Project and Christopher Schwartz, Staff Attorney, from the East Side SRO Law Project of MFY Legal Services. The guest speakers representing hotel landlords were Robert Eberhart, Owner and Manager of the SRO property located at 208 East 85<sup>th</sup> Street, who also spoke on behalf of Helen Maurizio, Executive Director, Associated Hotels and Motels of Greater New York.

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

The Price Index for all stabilized Hotels increased 6.2% this year, 9.8 percentage points lower than the 16.0% increase found the year before. The Price Index for Hotels was just 0.7 percentage point lower overall than the increase in costs measured in the Apartment Price Index. The primary differences between the increase in the Hotel Index and the Apartment Price Index was in the Tax and Utilities components. The increase in taxes for all types of Hotels was 18.6% overall versus 16.2% in apartment buildings. Utility costs decreased in Hotels by 5.0%, compared to the 0.8% increase for apartments. The difference was due primarily to electricity costs, which decreased in both indexes, but are weighted more heavily in Hotels than in apartments.

Prices in all other components in the Hotel Index had similar changes in rates to the same components in the Apartment Index. Labor Costs increased more rapidly in Hotels (5.2%) versus the 4.5% rise in apartments. Hotels tend to employ more non-union labor than apartment buildings, and non-union labor costs increased at a higher rate than unionized labor costs did this year. Conversely, the rates for Contractor Services did not rise as quickly in Hotels (2.9%) as they did in apartments (4.1%) this year. Because the Contractor Services component is less important in the Hotel Index (accounting for about 9% of the weight) than in the Apartment Index (about 14% of the weight), the lower increase in maintenance rates did not offset the overall Hotel Index significantly. Fuel decreased at a lower rate in the Hotel Index (-2.3%) compared to the 2.8% decrease for apartments.

Changes in these components caused the Price Index for all stabilized Hotels to increase at a similar rate to the Price Index for all stabilized buildings. See the table on the following page for changes in costs and prices for all rent stabilized hotels from 2003-04.

Among the different categories of Hotels, the index for “traditional” hotels increased 7.2%, the index for Rooming Houses increased 5.4%, and SROs increased by 4.4%. The differences between these indices are primarily due to the increased weight placed on the Tax component for “traditional” hotels. (See Appendices 4 and 7)

There was diversity among hotel subgroups in tax expense this year, as real estate taxes increased in “traditional” stabilized hotels by 16.9%, by 20.5% in SROs, and by 17.5% in Rooming Houses. The lower increase in tax burden found for “traditional” hotels this year was caused by the lower tax rate for Hotels (7.6% compared to 9.0% and 9.2% for SROs and Rooming Houses), and a discount in tax bills from exemptions (-1.8%), that was larger than the discount found for SROs (-0.1%) and the almost negligible impact of exemptions on Rooming Houses (0.05%).

### Percent Change in the Components of the Price Index of Operating Costs April 2003 to April 2004, By Hotel Type and All Hotels

Spec #	Item Description	Hotel	RH	SRO	All Hotels
101	TAXES, FEES, & PERMITS	1.1691	1.1745	1.2047	1.1863
205-206, 208-216	LABOR COSTS	1.0499	1.0553	1.0569	1.0520
301-303	FUEL	0.9806	1.0024	0.9485	0.9771
401-407, 409-410	UTILITIES	0.9532	0.9237	0.9586	0.9499
501-509, 511-516, 518	CONTRACTOR SERVICES	1.0251	1.0336	1.0378	1.0291
601-608	ADMINISTRATIVE COSTS	1.0434	1.0427	1.0422	1.0430
701	INSURANCE COSTS	1.1470	1.1470	1.1470	1.1470
801-816	PARTS AND SUPPLIES	1.0133	1.0094	1.0108	1.0122
901-904, 907-911	REPLACEMENT COSTS	1.0044	1.0047	1.0051	1.0046
	<b>ALL ITEMS</b>	<b>1.0722</b>	<b>1.0539</b>	<b>1.0440</b>	<b>1.0616</b>

## VOTE

The vote of the Rent Guidelines Board on the adopted motion pertaining to the provisions of Order Number 34 was as follows:

	<u>Yes</u>	<u>No</u>	<u>Abstentions</u>
<b>Guidelines for Hotels</b>	6	3	-

Dated: June 30, 2004

Filed with the City Clerk: July 1, 2004

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Marvin Markus, Chair  
Rent Guidelines Board

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