EXPLANATORY STATEMENT - APARTMENT ORDER #34

Explanatory Statement and Findings of the Rent Guidelines Board In Relation to 2002-03 Lease Increase Allowances for Apartments and Lofts under the Jurisdiction of the Rent Stabilization Law[1]

Summary of Order No. 34

The Rent Guidelines Board (RGB) by Order No. 34 has set the following maximum rent increases for leases subject to renewal on or after October 1, 2002 and on or before September 30, 2003 for **apartments** under its jurisdiction:

LEASE RENEWALS

1 Year	2 Years
2%	**4%**

VACANCY ALLOWANCE

The vacancy allowance is now determined by a formula set forth in the State Rent Regulation Reform Act of 1997, not by the Orders of the Rent Guidelines Board.

SUBLET ALLOWANCE

The increase landlords are allowed to charge when a rent stabilized apartment is sublet by the primary tenant to another tenant on or after October 1, 2002 and on or before September 30, 2003 shall be **10%**.

ADJUSTMENTS FOR LOFTS

For **Loft units** to which these guidelines are applicable in accordance with Article 7-C of the Multiple Dwelling Law, the Board established the following maximum rent increases for increase periods commencing on or after October 1, 2001 and on or before September 30, 2002. No vacancy allowance or low rent allowance is included for lofts.

1 Year	2 Years
1%	**2%**

The guidelines do not apply to hotel, rooming house, and single room occupancy units that are covered by separate Hotel Orders.

Any increase for a renewal lease may be collected no more than once during the guideline period governed by Order No. 34.

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

SPECIAL GUIDELINES

Leases for units subject to rent control on September 30, 2002 that subsequently become vacant and then enter the stabilization system are not subject to the above adjustments. Such newly stabilized rents are subject to review by the State Division of Housing and Community Renewal (DHCR). In order to aid DHCR in this review the Rent Guidelines Board has set a special guideline of whichever is greater:

1. **50%** above the maximum base rent as it existed or would have existed, 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, 2002.

All rent adjustments lawfully implemented and maintained under previous apartment Orders and included in the base rent in effect on September 30, 2002 shall continue to be included in the base rent for the purpose of computing subsequent rents adjusted pursuant to this Order.

Background of Order No. 34

The Rent Guidelines Board is mandated by the Rent Stabilization Law of 1969 (Section 26-510(b) of the NYC Administrative Code) to establish annual guidelines for rent adjustments for housing accommodations subject to that law and to the Emergency Tenant Protection Act of 1974. In order to establish guidelines the Board must consider, among other things:

(1) the economic condition of the residential real estate industry in the affected area including such factors as the prevailing and projected (i) real estate taxes and sewer and water rates, (ii) gross operating and maintenance costs (including insurance rates, governmental fees, cost of fuel and labor costs), (iii) costs and availability of financing (including effective rates of interest), (iv) overall supply of housing accommodations and overall vacancy rates;

(2) relevant data from the current and projected cost of living indices for the affected area;

(3) such other data as may be made available to it.

The Board gathered information on the above topics by means of public meetings and hearings, written submissions by the public, and written reports and memoranda prepared by the Board's staff. The Board calculates rent increase allowances on the basis of cost increases experienced in the past year, its forecasts of cost increases over the next year, its determination of the relevant operating and maintenance cost-to-rent ratio, and other relevant information concerning the state of the residential real estate industry.

Material Considered by the Board

Order No. 34 was issued by the Board following one public hearing, seven public meetings, its review of written submissions provided by the public, and a review of research and memoranda prepared by the Board's staff. A total of 24 written submissions were received at the Board's offices from many individuals and organizations including public officials, owners and owner groups, and tenants and tenant groups. The Board members were provided with copies of public comments received by the **June 25th, 2002** deadline. All of the above listed documents were available for public inspection.

Open meetings of the Board were held following public notice on March 26th, April 16th, April 23rd, April 30th, and June 4th, 2002. A written transcription or audio recording was made of all proceedings. On **May 20th, 2002**, the Board adopted proposed rent guidelines for apartments, lofts, and hotels.

A public hearing was held on **June 26th, 2002** pursuant to Section 1043 of the New York City Charter and Section 26-510(h) of the New York City Administrative Code. Testimony on the proposed rent adjustments for rent-stabilized apartments and lofts was heard from 1:15 p.m. to 6:00 p.m., and from 8:15 p.m. to 10:00 p.m. on June 26th, 2002. Testimony from members of the public speaking at these hearings was added to the public record. The Board heard testimony from 79 apartment tenants and tenant representatives, 32 apartment owners and owner representatives and 10 public officials. On **June 27th, 2002** the guidelines set forth in Order No. 34 were adopted.

PRESENTATIONS BY HOUSING EXPERTS INVITED BY MEMBERS OF THE BOARD

Each year the staff of the New York City Rent Guidelines Board is asked to prepare numerous reports containing various facts and figures relating to conditions within the residential real estate industry. The Board's analysis is supplemented by testimony from industry and tenant representatives, housing experts, and by various articles and reports gathered from professional publications.

Listed below are the other experts invited and the dates of the public meetings at which their testimony was presented:

Meeting Date / Name	*Affiliation*
March 26th, 2002:	Staff presentation, 2002 Mortgage Survey
1. Steven Schleider	Senior Vice President, Valuation Division Koeppel Tener Real Estate Services
April 16th, 2002:	Staff presentation, 2002 Income & Expense study Panel presentation on publication "*State of New York City's Housing and Neighborhoods 2001*"
1. Michael Schill	Professor, Center for Real Estate and Urban Policy, NYU
2. Glynis Daniels	Professor, Center for Real Estate and Urban Policy, NYU
April 23rd, 2002:	Staff presentations, 2002 Income & Affordability study; 2002 Price Index of Operating Costs
1. Harold Schultz	Special Counsel, HPD
April 30th, 2002:	Invited Testimony from Groups Representing Owners and Tenants <u>Owner group testimony:</u>
1. Jack Freund	Executive Vice President, Rent Stabilization Association
2. Dan Margulies	Executive Director, Community Housing Improvement Program
3. Jimmy Silber	Vice President – Small Property Owners of New York
4. Michael Schmelzer	Principal – Tryax Realty Management
	<u>Tenant group testimony:</u>
1. Michael McKee	Associate Director, New York State Tenants & Neighbors Coalition
2. James Parrott	Chief Economist and Deputy Director – Fiscal Policy Institute

3. David Robinson	Senior Staff Attorney, Housing/Special Projects – Legal Services for NY
4. Wasim Lone	Director of Community Organizing, Pratt Area Community Council
5. Monica Santana	Centro de Trabajadores
6. Patrick Markee	Senior Policy Analyst, Coalition for the Homeless
June 4th, 2002	Staff presentations, 2002 Housing Supply Report
1. Paul Roldan	Deputy Commissioner of Rent Administration, NYS Division of Housing and Community Renewal (DHCR)
2. David Cabrera	Deputy Counsel/Assistant Commissioner, DHCR
3. Claudia Justy	Bureau Chief of SCORE/Assistant Commissioner, DHCR
	Panel presentation on costs in non-profit housing and financing structures
1. Carol Lamberg	Executive Director, Settlement Housing Fund
2. Adam Weinstein	President and CEO, Phipps Houses
3. Lydia Thom	Director of Housing and Finance, Enterprise Foundation

SELECTED EXCERPTS FROM ORAL AND WRITTEN TESTIMONY FROM OWNERS AND OWNER GROUPS[2]

Comments from owners and owner groups included:

"The Rent Guidelines Board's Price Index of Operating Costs for 2002 showed a decrease of 1.6%. This decrease, while surprising to many, is clearly accounted for by a temporary 37% decrease in fuel costs, an unexpected 10% decrease in utility costs, and the resulting downward pressure of these components on the Index. In stark contrast, the "core" Price Index, excluding these highly unstable fuel and utility components (which have already begun to rise), measured a 5.4% increase."

"Based on the recession that ensued in 2001, and the devastation wreaked on the City economy by the events of 9/11, the economic condition of the real estate industry has deteriorated further. Insurance costs have spiraled upward at an alarming rate. While rent levels and collections have been reduced, operating margins continue to contract as operating costs, including fuel at this point, increase. Against this background, the Board should base renewal guidelines on the sobering 5.4% increase in the "core" Price Index. This year, even more so than in past years, the Rent Guidelines Board must continue to steer a level course of adjustment for renewal guidelines."

"The question, of course, is why the Price Index overstates fuel savings. The first, and probably most important, is that most buildings run their boilers for hot water all winter regardless of outside temperature. …Also, to some degree, a year with high fuel prices tends to result in the price index overweighing fuel the next year, and exaggerating the effects of any decrease in both the categories of fuel and utilities….It seems clear that the projections for property taxes and insurance are both low….Similarly, on insurance, the staff projection defies logic."

"To the extent that RGB members wish to balance the economic needs of the housing stock versus those of tenants, they should be aware that the notion of an affordability crisis has been greatly exaggerated. The notion of an affordable housing crisis in New York City is based on two perceptions: first, that one quarter of New York City renters pay more than 50% of their income for rent, and second, that middle income households cannot afford to live in New York City. Both perceptions are wrong."

SELECTED EXCERPTS FROM ORAL AND WRITTEN TESTIMONY FROM TENANTS AND TENANT GROUPS[3]

Comments from tenants and tenant groups included:

[2] Sources: Submissions by owner groups and testimony by owners
[3] Sources: Submissions by tenant groups and testimony by tenants.

"Tenants & Neighbors calls emphatically for a rent rollback for one- and two-year leases. The facts before you are simple, straightforward and overwhelmingly in favor of a rollback. Tenants & Neighbors has never before called for rent rollbacks. In some years we have recommended a rent freeze, and in other years we have recommended moderate rent increases. The design of the rent guidelines system is to allow landlords to maintain roughly the same Net Operating Income from year to year, by allowing rent increases sufficient to maintain NOI. But the RGB has so greatly exceeded this standard, and Net Operating Income has therefore increased so much, that a rollback in rents must take place in fairness to the hard-pressed renters of New York City."

"In the last decade, average Net Operating Income has increased by ten percent. Landlords are ten cents on the dollar better off than they were ten years ago. How are landlords doing? In terms of long-term trends, very well. In short-term trends, fabulously well. How are tenants doing? In 1970, the average rent/income ratio for stabilized tenants was 22 percent. In 1999, it was 30 percent."

"Over the last decade, New York City has lost over 510,000 affordable apartments, and the gap between median rents and renter household income has widened dramatically. One in four renter households pays more than half of its income in rent, and New York City lacks some 400,000 affordable apartments for poverty-level families and individuals….One major cause for the growing shortage of affordable housing, the rise in severe housing problems among New York City renters, and record homelessness is the accelerating erosion of affordable rental housing due to excessively high rent increases. Therefore, the Coalition for the Homeless opposes any annual rent increase on rent-regulated apartments this year, and instead urges the Rent Guidelines Board to roll back rents on all rent-regulated housing units."

"This is the worst year economically for New York City since 1992, and in the wake of the economic dislocation after September 11, a particularly lean year for low- and moderate-income New Yorkers. It may take at least two to three years before New York recovers the jobs that have been lost over the past 16 months. It is also likely that the wages and income of low-income New York City residents will remain under intense pressure for the next few years."

SELECTED EXCERPTS FROM ORAL AND WRITTEN TESTIMONY FROM PUBLIC OFFICIALS[4]

Comments from public officials included:

"The Rent Guidelines Board must put an end here and now to its annual determination that rents have to go up. This board should make history this year by ordering rent reductions. It is the right thing to do. For the first time in history, the Board has before it a negative Price Index of Operating Costs. The evidence before this Board provides ample basis to reduce apartment rents. Furthermore, the City's economy would benefit from rent reductions. Such a stimulus to the economy would serve a much needed public interest."

"I oppose any increase in rents. In fact, I believe that a rollback in rents would be appropriate. Over the last four years, landlords have made record profits on residential real estate – estimates are as high as 40% and, for the first time in history, your own price index is negative, including a 35% decrease in fuel costs."

"I cannot begin to describe the impact that these proposed excessive rent hikes have on the affordable housing stock in my district. The reality is that these rent hikes continue to erode affordable housing and cause widespread community destabilization by driving out long-time residents in our community. Once again, I stand before you, expressing my concerns over this year's proposed rent increases. It baffles me how the RGB can continue to ignore their mandate of protecting tenants from receiving unfair and unreasonable rent increases."

[4] Sources: Submissions by public officials.

"Make no mistake a housing emergency exists throughout the five boroughs and the preservation of rent regulations and the end of high vacancy decontrol is essential to this city. I believe that the 2% and 4% increases for 1-year and 2-year lease renewals are unfair and not appropriate at this time. According to the 2002 Price Index of Operating Costs, landlords of these stabilized apartments are actually spending less this year than last year – 1.6% less. This is the first time that this has happened since 1969 when the study began. How can the RGB justify raising the rent 2% and 4% if operating costs have fallen?"

"Free market conditions and the rules of supply and demand do not apply to the NYC rental market. The RGB was established in 1969 to set rent guidelines that counteract the effects of an acute housing shortage. This shortage still exists – according to the 1999 Housing and Vacancy Survey, the vacancy rate is 3.19% A vacancy rate of less than 5% creates abnormal market conditions. The RGB's mission is to construct or simulate 'normal' or 'fair' rent levels in a market driven by chronic scarcity and instability."

RENT GUIDELINES BOARD RESEARCH

The Rent Guidelines Board also based its determination on its consideration of the following reports and information prepared by the RGB's staff:

(1) *2002 Mortgage Survey Report*, March, 2002, (An evaluation of recent underwriting practices, financial availability and terms, and lending criteria);

(2) *2002 Owner Income and Expense Study*, April, 2002, (Based on income and expense data provided by the Finance Department, the Income and Expense Study measures rents, operating costs and net operating income in rent stabilized buildings);

(3) *2002 Tenant Income and Affordability Study,* April, 2002, (Includes employment trends, housing court actions, changes in eligibility requirements and public benefit levels in New York City);

(4) *2002 Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City,* April, 2002, (Measures the price change for a market basket of goods and services which are used in the operation and maintenance of stabilized buildings);

(5) *2002 Housing Supply Report*, June, 2002, (Includes 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,

The Board also examined the 1999 New York City Housing and Vacancy Survey data on vacancy rates. The information showed that the vacancy rate for stabilized units was lower in 1999 (3.19%) than it was in 1996 (4.01%).

2002 PRICE INDEX OF OPERATING COSTS FOR RENT STABILIZED APARTMENT HOUSES IN NEW YORK CITY

The 2002 Price Index of Operating Costs For Rent Stabilized Apartment Houses in New York City found a negative –1.6% decrease in costs for the period between April, 2001 and April, 2002.

This year, the PIOC for rent stabilized apartment buildings decreased by 1.6%, more than ten percentage points down from the year before (8.7% in 2001). The PIOC has been performed since 1969 — this is the first time that the overall Price Index has been negative in the history of the survey. This year's percent change is a small decrease, largely the result of a major decline in fuel and utility prices in reaction to the extremely high fuel price increases of the past two years (33% and 55%), along with utility prices which are dependent on fuel. In constant dollars, the fuel price is roughly the same as it was in 1998. Among the seven components unaffected by energy prices, changes in prices and costs ranged from the steep rise in insurance costs (16.5%) and in real estate taxes (6.6%) to the slight decline in replacement costs (-0.6%). This year, operating costs in rent stabilized apartment buildings decreased by 1.6% versus last year's PIOC projection of an increase of 2.1%. The sharp decline in fuel and utilities costs contributed the most to the variance between the 2002 projection and the actual 2002 PIOC.

In recent years the "core" rate has fluctuated between approximately 2% and 4%. The "core" rate moved upward from 2.1% in 1994 to 2.4% in 1995, and to 3.1% in 1996. The rate dropped slightly to 3.0% in 1997, fell further to 2.3% in 1998, then rose to 2.5% in 1999, by 3.8% in 2000 and by 4.0% in 2001. The "core" rose this year by 5.4%, and slightly outpaced growth in the Consumer Price Index (CPI), which grew by 2.5% from the year April 2000 to March 2001 to April 2001 to March 2002.

Overall, the PIOC is expected to grow by 6.4% from 2002 to 2003 due to a 4.6% projected increase in taxes and utilities, moderate projected growth in Labor Costs, Contractor Services and Administrative Costs, a 17.6% projected increase in Fuel and a 16.4% estimated rise in Insurance Costs. The core PIOC is projected to rise less rapidly than the overall PIOC, by 5.2% as the energy-related costs that are predicted to rise sharply are eliminated.

Table 1 details the expenditure weights, the percentage change and weighted percentage change by component for the 2002 Price Index.

Table 1

2001-02 Percentage Changes in Components of the Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City[5]

Item	Expenditure Weights	2001-02 Percentage	2001-02 Weighted Percentage
Taxes	24.50%	6.63%	1.62 %
Labor Costs	16.04	4.03	0.65
Fuel Costs	11.63	-36.09	-4.20
Utility Costs	16.29	-9.94	-1.62
Contractor Services	14.46	3.85	0.56
Administrative Costs	8.17	4.64	0.38
Insurance Costs	5.99	16.50	0.99
Parts & Supplies	2.05	0.94	0.02
Replacement Costs	0.88	-0.60	-0.01
All Items	**100.00**	**-**	**-1.61**

Source: 2002 Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City.

Local Law 63/ Income & Expense Review

Following computerization of I&E filings, the sample size for the I&E study has been greatly increased to over 10,000 buildings. This is the eleventh year that staff has been able to obtain longitudinal data in addition to cross-sectional data. The RGB staff found the following average monthly (per unit) operating and maintenance (O&M) costs in 2001 Real Property Income and Expense (RPIE) statements for the year 2000:

[5] Totals may not add due to weighting and rounding.

Table 2

2002 Income and Expense Study Average Monthly Operating and Maintenance Costs Per Unit[6]			
	Pre '47	Post '46	All Stabilized
Taxes	$97	$137	$108
Labor	56	102	68
Fuel	55	45	53
Utilities	50	59	53
Maintenance	102	92	100
Administration	61	67	62
Insurance	23	18	22
Miscellaneous	38	40	38
Total	**$482**	**$563**	**$503**

Source: 2002 Income and Expense Study, from 2001 Real Property Income and Expense filings for 2000, NYC Department of Finance.

In 1992, the Board benefited from the results of audits conducted on a stratified sample of 46 rent stabilized buildings by the Department of Finance. Audited income and expense figures were compared to statements filed by owners. On average the audits showed an 8% over reporting of expenses. The categories, which accounted for nearly all of the expense over reporting, were maintenance, administration, and "miscellaneous." The largest over reporting was in miscellaneous expenses.

If we assume that an audit of this year's income and expense data would yield similar findings to the 1992 audit, one would expect the average O&M cost for stabilized buildings to be $462, rather than $503. As a result, the following relationship between operating costs and residential rental income was suggested by the Local Law 63 data:

Table 2(a)

2002 Operating Cost to Rent/Income Ratio Adjusted to 1992 Audit					
	O&M Costs[7]	Rent	O&M to Rent Ratio	Income	O&M to Income Ratio
All stabilized	$462	$744	0.62	$822	0.56
Stabilized Pre'47	$443	$693	0.64	$768	0.58
Stabilized Post'46	$517	$885	0.58	$972	0.53

Source: 2002 Income and Expense Study, from 2001 Real Property Income and Expense filings for 2000, NYC Department of Finance.

FORECASTS OF OPERATING AND MAINTENANCE PRICE INCREASES FOR 2002-03

In order to decide upon the allowable rent increases for two-year leases, the Rent Guidelines Board considers price changes for operating costs likely to occur over the next year. In making its forecasts the Board relies on expert assessments of likely price trends for the individual components, the history of changes in prices for the individual components and general economic trends. The Board's projections for 2002-03 are set forth in Table 3, which shows the Board's forecasts for price increases for the various categories of operating and maintenance costs.

[6] Totals may not add due to weighting and rounding.

[7] Overall O&M expenses were adjusted according to the findings of an income and expenses audit conducted by the Department of Finance in 1992. The unadjusted O&M to rent ratios would be 0.68 (All), 0.69 (Pre-47), and 0.64 (Post-46), respectively. The unadjusted O&M to Income ratios would be 0.61 (All), 0.63 (Pre-47), and 0.58 (Post-46).

Table 3

Year-to-Year Percentage Changes in Components of the Price Index of Operating Costs: Actual 2001-02 and Projected 2002-03		
	Price Index 2001-02	**Projected Price Index 2002-03**
Taxes	6.6%	4.6%
Labor Costs	4.0	3.6
Fuel Costs	-36.1	17.6
Utility Costs	-9.9	4.6
Contractor Services	3.9	4.0
Administrative Costs	4.6	4.2
Insurance Costs	16.5	16.4
Parts & Supplies	0.9	1.2
Replacement Costs	-0.6	0.8
Total (Weighted)	**-1.6%**	**6.4%**

Source: 2002 Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City, which includes the 2003 PIOC Projection.

Taxes

Property taxes comprise roughly a quarter of the PIOC. From the mid-1980s to the early 1990s, taxes often rose faster than the overall PIOC. From 1993-99, slower increases in tax rates and falling or stable assessments meant that taxes increased more slowly than they had in the prior period. However, the current trend of rising assessments, including the 7.5% increase in assessments found in FY 2002, indicate that the effects of New York City's economic recovery are now being felt in the Tax component.

Class Two properties include rent stabilized apartments, co-ops and condominiums. Within this category, rent stabilized dwellings are classified as either "rental buildings" or "4-10 unit family buildings." Based on the preliminary tax roll, the Finance Department forecasts billable assessments (the assessed value of a property on which tax liability is based) for rental buildings to increase by 9.6%, while billables for 4-10 family buildings are expected to increase by 6.6% in FY 2003. However, preliminary assessments are slightly imprecise because following the release of the tentative assessment roll each year, a small percentage of appraisals are contested and overall final assessments are generally reduced.

After adjusting for estimated changes in the class levy share, the value of exemptions, the tax rate, the value of abatements, and contested assessments, it is estimated that tax costs to owners will grow by 5.5% and 2.6% respectively for rentals and 4-10 unit properties. Once these tax class categories are combined according to their proportion of the stabilized stock and distribution by borough, average property tax bills for rent stabilized buildings, which are predominantly classified as "rental" buildings, are estimated to increase by 4.6% in the next fiscal year.

Projection for April '02 to April '03

Taxes 4.6%

Labor-Based Components
(Contractor Services, Labor Costs, and Administrative Costs)

Labor based components in the PIOC include Labor Costs, comprising the wages and benefits of building maintenance workers (e.g. superintendents, porters, etc.), Contractor Services, which primarily covers the work of plumbers and painters, and Administrative Costs, which is almost entirely comprised of management, legal, and accounting fees.

Contracts for both the Westchester County (formerly 32E which serves the Bronx) and the New York City chapters of Union Local 32B-32J were negotiated through 2003 so exact projections of the rate change in wages could be calculated. All other projected labor increases are based on a geometric nine-year average.

Wages for members of Local 32B-32J in the Bronx will rise 2.7% while wages for New York City Local 32B-32J are predicted to rise 3.2% for superintendents and 3.3% for handypersons and others. By combining these increases with the remaining items in the Labor Costs component, an increase of 3.6% is projected in labor costs for the coming year.

Increases in Contractor Services and Administrative Costs are projected by averaging the growth rates observed in each component over the past three years. The cost of Contractor Services has been variable in the recent past and based on a three-year average is projected to increase by 4.0% next year. In comparison, gains in Administrative Costs have been fairly constant since 1991 and are estimated to rise by 4.2% in the next year.

Projection for April '02 to April '03

Administrative Costs……..4.2%
Contractor Services………4.0%
Labor Costs……..………...3.6%

Fuel Costs

The cost of fuel oil depends heavily on volatile weather patterns as well as political and economic variables that cannot be reliably predicted. Given these difficulties (and barring unforeseen natural or geo-political events), the cost of oil heating in New York City is estimated to increase by 17.6% in the coming year following this year's significant cost decrease.

Assuming that annual temperatures in 2003 return to the most recent five-year average for Central Park, New York City (see Endnote 2), which would be about 13% colder than the weather experienced in 2001-02, the commensurate increase in demand for heating fuels will in turn increase the cost of fuel oil to building owners.

In sum, based on current U.S. Energy Information Administration (EIA) forecasts, rising fuel prices and accelerated fuel consumption brought about by "normal" weather conditions, are estimated to increase fuel oil heating costs to owners of stabilized buildings in New York City by 17.6% in the next year.[8]

Projection for April '02 to April '03

Fuel Costs………………………17.6%

[8] Source: "Short-Term Energy Outlook," March 2002. U.S. Energy Information Administration, Department of Energy.

Utility Costs

In the PIOC, the costs of electricity, natural gas, water and sewer service, purchased steam and telephone service are grouped as Utilities. Water and sewer costs alone account for about 50% of the component this year, while electricity and gas comprise another 47% of the utility category (15% and 32% respectively). Steam and telephone prices constitute the remainder of the Utilities component (3%).

Next year, the overall cost of utilities is estimated to rise by 4.6%. The bulk of this growth will come from the estimated increases in water and sewer charges (a 6.5% increase is proposed by the Water Board for the coming fiscal year) and the cost of natural gas (a 4.1% increase according to EIA price estimates and an assumed return to the five-year average weather pattern). The projected increase in water and gas costs is lowered by more moderate estimated gains in the cost of purchased steam (1.7%) and electricity (0.1%).

In total, weighted changes in water and sewer charges, electricity, steam, telephone and natural gas costs, are projected to cause Utilities to rise by 4.6% in 2003.

Projection for April '02 to April '03

Utilities……………………………4.6%

Insurance Costs

Insurance Costs for rent stabilized buildings increased sharply by 16.5% in 2002 up from the growth of 4.9% the year before. This variable component showed an increase of 0.7% in 2000, an increase of 3.5% in 1999 and a decrease of 1.5% in 1998. Based on data gathered in this year's Owner's Survey for increases found in policies renewed after October 1, 2001 and a nine-year geometric average, a 16.4% increase is estimated over the coming year.

Projection for April '02 to April '03

Insurance Costs……….16.4%

Parts and Supplies

The Parts and Supplies component has usually played a very small role in the PIOC, comprising slightly more than 2% of the index in 2002. Over the past ten years there has been very modest growth in this component ranging from 0.8% to 2.2%. This trend should extend to 2003 when the cost of Parts and Supplies is estimated to increase by 1.2%.

Projection for April '02 to April '03

Parts and Supplies…………1.2%

Replacement Costs

This component accounted for about one percent of the entire Price Index in 2002. Over the past year, Replacement Costs decreased by 0.6%. Although the 15-year trend of growth in Replacement Costs reversed in 2002, these costs should rise by an estimated 0.8% over the next year.

Projection for April '02 to April '03

Replacement Costs…………..0.8%

COMMENSURATE RENT ADJUSTMENT

Throughout its history, the Rent Guidelines Board has used a formula, known as the commensurate rent adjustment, to help determine annual rent guidelines for rent stabilized apartments. In essence, the "commensurate" combines various data concerning operating costs, revenues, and inflation into a single measure indicating how much rents would have to change for net operating income (NOI) in stabilized buildings to remain constant. The different types of "commensurate" adjustments described below are primarily meant to provide a foundation for discussion concerning prospective guidelines.

In its simplest form, the commensurate rent adjustment is the amount of rent change needed to maintain landlords' current dollar NOI at a constant level. A formula which has been in use since the inception of the Rent Guidelines Board (which is called the "traditional" commensurate adjustment) yields 0% for a one-year lease and 0% for a two-year lease[9], given the decrease in operating costs of 1.6% found in the 2002 PIOC, and the projection of a 6.4% increase next year.[10]:

One Year Lease	Two Year Lease
0%	0%

As a means of compensating for cost changes, this "traditional" commensurate rent adjustment has two major flaws. First, although the formula is supposed to keep landlords' current dollar income constant, the formula does not consider the mix of one- and two-year lease renewals. Since only about three-fifths of leases are renewed in any given year, with a preponderance of leases having a two-year duration, the formula does not necessarily accurately estimate the amount of income needed to compensate landlords for O&M changes.

A second flaw of the "traditional" commensurate formula is that it does not consider the erosion of landlords' income by inflation. By maintaining current dollar NOI at a constant level, adherence to the formula may cause profitability to decline over time. However, such degradation is not an inevitable consequence of using the "traditional" commensurate formula.[11]

Two alternatives to the "traditional" commensurate method have been used by the Rent Guidelines Board. The first, called the "Net Revenue" approach, adjusts for the mix of lease terms. While this takes into consideration the types of leases actually signed by tenants, it does NOT adjust landlords' NOI for inflation.

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9 Under this formula there is no increase in revenue required, since there was a decrease in costs. Thus, the adjustments for both one- and two-year leases are set at 0%.

10 The collectability of legally authorized adjustments is assumed. Calculating the "traditional" commensurate rent adjustment requires an assumption about next year's PIOC. In this case, the 6.4% PIOC projection for 2003 is used.

11 Whether profits will actually decline depends on the level of inflation, the composition of NOI (i.e. how much is debt services and how much is profit), changes in tax laws, and interest rates.

The “Net Revenue” formula is presented in two ways, first adjusting for the mix of lease terms and second, adding an assumption for stabilized apartment turnover and the impact of vacancy increases. Under the **“Net Revenue”** formula, a guideline that would preserve NOI in the face of this year's 1.6% decrease in the PIOC, is **–2.25% for a one-year lease and –1.0% for a two-year lease**. Guidelines using this formula and adding assumptions for the impact of **vacancy** increases on revenues when apartments experience turnover are **–5.0% for one-year leases and –3.5% for two-year leases**.

Another alternative to the “traditional” commensurate considers lease terms while adjusting NOI upward to reflect general inflation, keeping both O&M and NOI constant. This is commonly called **the “CPI-Adjusted NOI” formula**. A guideline which would preserve NOI in the face of the 2.5% increase in the Consumer Price Index[12] and the 1.6% decrease in the PIOC is **0% for a one-year lease and 0% for a two-year lease[13]**. Guidelines using this formula and adding the estimated impact of **vacancy increases are –3.5 for one-year leases and –1.75 for two-year**.[14]

All of these methods have their limitations. The “traditional” commensurate formula is artificial and does not consider the impact of lease terms or inflation on landlords’ income. The “Net Revenue” formula does not attempt to adjust NOI based on changes in interest rates or deflation of landlord profits. The “CPI-Adjusted NOI” formula inflates the debt service portion of NOI, even though interest rates have been generally falling, rather than rising over recent years. Including a consideration of the amount of income owners receive on vacancy assumes both that vacancy increases are charged and collected, and that turnover rates are constant across the City.

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[12] The average CPI-U for All Urban Consumers, New York-Northeastern New Jersey for the year from April 2000 to March 2001 (183.8) compared to the average for the year from April 2001 to March 2002 (188.3) rose by 2.5%. This is the latest available CPI data and is roughly analogous to the 'PIOC year', which for the majority of components compares the most recent point-to-point figures from April to April, monthly cost-weighted figures from May to April, or the two most recent fiscal year bills.

[13] Under this formula there is no increase in revenue required, since there was a decrease in costs. Thus, the adjustments for both one- and two-year leases are set at 0%.

[14] The following assumptions were used in the computation of the commensurates: (1) The required change in landlord revenue is 61% of the 2002 PIOC decrease of 1.6%, or –1.0%. The 61% figure is the most recent ratio of average operating costs to average income in stabilized buildings. (2) For the “CPI-Adjusted NOI” commensurate, the increase in revenue due to the impact of inflation on NOI is 39% times the latest 12-month increase in the CPI ending March 2002 (2.5%) or 1.0%. (3) These lease terms are only illustrative. Other combinations of one- and two-year guidelines could produce the adjustment in revenue. (4) Assumptions regarding lease renewals and turnover were derived from the 1999 Housing and Vacancy Survey. (5) For the commensurate formulae including a vacancy assumption, the 12.0% median increase in vacancy leases found in the 1998 Recent Movers Study was used.

Consideration of Other Factors

Before determining the guideline, the Board considered other factors affecting the rent stabilized housing stock and the economics of rental housing.

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 *2002 Mortgage Survey* of lending institutions. Table 4 gives the reported rate and points for the past nine years as reported by the mortgage survey.

Table 4

2002 Mortgage Survey[15]
Average Interest Rates and Points for
New and Refinanced Permanent Mortgage Loans 1994-2002

New Financing of Permanent Mortgage Loans, Interest Rate and Points									
	1994	**1995**	**1996**	**1997**	**1998**	**1999**	**2000**	**2001**	**2002**
Avg. Rates	8.6	10.1	8.6	8.8	8.5	7.8	8.7	8.4	7.4
Avg. Points	1.2	1.28	1.32	1.34	1.02	1.01	0.99	0.99	0.79
Refinancing of Permanent Mortgage Loans, Interest Rate and Points									
	1994	**1995**	**1996**	**1997**	**1998**	**1999**	**2000**	**2001**	**2002**
Avg. Rates	8.6	10.1	8.5	8.4	8.5	7.2	8.6	8.0	7.4
Avg. Points	1.1	1.25	1.21	1.15	0.99	0.92	1.01	1.06	0.83

Source: 1994–2002 Annual Mortgage Surveys, RGB.

CONDITION OF THE RENT STABILIZED HOUSING STOCK

The Board reviewed the number of buildings being taken by the City through its *in rem* actions and the number of units that are moving out of the rental market due to cooperative and condominium conversion.

Table 5

Summary Data of *In Rem* Vestings[16]
of Occupied Multiple Dwellings, Fiscal Years 1995-2002

	1995	**1996**	**1997**	**1998**	**1999**	**2000**	**2001**	**2002**
Titles Vested	17	2	0	0	0	0	0	0
Total Units	(240)	(49)	(0)	(0)	(0)	(0)	(0)	(0)

Source: NYC Department of Housing Preservation and Development, Office of Property Management. 1996 marks the first year the City implemented its anti-abandonment and modified *in rem* foreclosure policies that include sales of tax liens.

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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 Data for FY 2002 reflects the number of titles vested during the first 4 months of the fiscal year. 2002 marks the seventh year the City implemented its anti-abandonment and modified *in rem* foreclosure policies that include sales of tax liens.

Table 6

Number of Cooperative / Condominium Plans[17] Accepted for Filing, 1993-2001									
	1993	**1994**	**1995**	**1996**	**1997**	**1998**	**1999**	**2000**	**2001**
New Construction	37	14	17	-	33	69	50	87	145
Non-Eviction Plans	4	10	9	-	4	40	12	9	12
Eviction Plans	2	11	5	-	0	0	27	9	2
Rehabilitation	-	45	56	-	-	48	30	15	13
Total	**58**	**80**	**87**	**33**	**37**	**157**	**119**	**120**	**172**
Subtotal:									
HPD Sponsored Plans	15	48	41	-	-	24	26	8	2

Source: New York State Attorney General's Office, Real Estate Financing.

CONSUMER PRICE INDEX

The Board reviewed the Consumer Price Index. Table 7 shows the percentage change for the NY-Northeastern NJ Metropolitan area since 1995.

Table 7

Percentage Changes in the Consumer Price Index for the New York City - Northeastern New Jersey Metropolitan Area, 1994-2001 (For "All Urban Consumers")								
	1995	**1996**	**1997**	**1998**	**1999**	**2000**	**2001**	**2002**
1st Quarter Avg.	1.9%	3.5%	2.5%	1.3%	1.4%	3.4%	2.7%	2.5%
Yearly Avg.	2.5%	2.9%	2.3%	1.6%	2.0%	3.1%	2.5%	-

Source: U.S. Bureau of Labor Statistics.

CALCULATING OF THE CURRENT OPERATING AND MAINTENANCE EXPENSE TO RENT RATIO

Each year the Board estimates the current average proportion of the rent roll which owners spend on operating and maintenance costs. This figure is used to ensure that the rent increases granted by the Board compensate owners for the increases in operating and maintenance expenses. This is commonly referred to as the O&M to rent ratio.

Over the first two decades of rent stabilization, the change in the O&M to rent ratio contained in Table 8 (hereinafter, referred to as "Table 14" - its past designation) was updated each year to reflect the changes in operating costs as measured by the PIOC and changes in rents as measured by staff calculations derived from guideline increases. Over the years, some Board members and other housing experts have challenged the price index methodology and the soundness of the assumptions used in calculating the O&M to rent ratio in "Table 14". Several weaknesses in the table have been acknowledged for some time.

The first problem with "Table 14" is that the calculation does not account for the changes in the housing stock and market factors which have certainly affected the relationship between rents and operating costs to

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[17] 1993 figures include conversions of commercial structures to residential cooperatives and the rehabilitation of vacant residential structures, while 1994 through 2001 rehabilitation plans are a separate category. The figures given above for eviction and non-eviction plans include those that are abandoned because an insufficient percentage of units were sold within the 15 month deadline. In addition, some of the eviction plans accepted for filing may have subsequently been amended or resubmitted as non-eviction plans and therefore may be reflected in both categories. HPD sponsored plans are a subset of the total plans. For 1996, information on specific types of cooperative / condominium plans filed was unavailable.

some degree.   Next, for the purpose of measuring the relationship between legal regulated rents and operating cost changes, the usefulness of "Table 14" is also limited. The rent index contained in the table does not adjust for administrative rent increases (MCI's and Apartment Improvement increases) and rents charged below established guidelines (preferential).

The operating cost index contained in the table is more troublesome. The .55 base contained in the table reflects an estimate concerning nearly all post-war units. The vast majority of stabilized units (about 7 out of 10) are now in pre-war buildings, which had higher O&M ratios in 1970. The cost index was adjusted (departing from the PIOC) in the 1970's in an attempt to accommodate for this influx of pre-war buildings into the stabilized sector. This attempt was misguided. The rent index reflects changes in rents initially in the post-war sector - so adjustments to the cost index to reflect the influx of pre-war units' results in a one-sided distortion of the changing relationship between costs and rents.

Staff's research suggests that the PIOC may overstate actual cost increases. While most of this bias occurred in the 1970 - 1982 period, recent comparative evidence from the Income and Expense studies suggests that a gradual overstatement of operating costs may still occur under the PIOC. From 1990-91 to 1999-2000, the I&E rose 41% while the adjusted PIOC rose 39%, a difference of two percentage points. Since this longitudinal analysis covers only a nine-year period, a conclusive statement on this pattern cannot be made at this time. What remains clear, however, is that "Table 14," in its current form, presents a highly misleading picture of the changing relationship of operating costs to rents over time.

Table 8 (Formerly Table 14)

Calculation of Operating and Maintenance Cost Ratio For Rent Stabilized Buildings from 1972 to 2002						
Period	Percent O&M[18] Increase	O&M Index	Period	Percent Rent[19] Increase	Rent Index	O&M/Rent Ratio
4/1/70-3/31/71	-	55	7/1/71-6/30/72	-	100	0.55
4/1/71-3/31/72	5.7	58.14	7/1/72-6/30/73	5.4	105.40	0.55
4/1/72-3/31/73	7.9	62.73	7/1/73-6/30/74	5.4	111.09	0.56
4/1/73-3/31/74	15.5	72.45	7/1/74-6/30/75	5.64	117.36	0.62
4/1/74-3/31/75	6.5	77.16	7/1/75-6/30/76	5.62	123.95	0.62
4/1/75-3/31/76	8.8	83.95	7/1/76-6/30/77	5.33	130.56	0.64
4/1/76-3/31/77	6.9	89.74	7/1/77-6/30/78	5.49	137.73	0.65
4/1/77-3/31/78	0.6	90.28	7/1/78-6/30/79	4.23	143.55	0.63
4/1/78-3/31/79	10.4	99.67	7/1/79-6/30/80	7.73	154.65	0.64
4/1/79-3/31/80	17.0	116.61	7/1/80-9/30/81	10.28	170.55	0.68
4/1/80-3/31/81	14.6	133.64	10/1/81-9/30/82	10.11	187.79	0.71
4/1/81-3/31/82	2.8	137.38	10/1/82-9/30/83	3.52	194.40	0.71
4/1/82-3/31/83	2.6	140.95	10/1/83-9/30/84	4.93	203.98	0.69
4/1/83-3/31/84	6.3	149.83	10/1/84-9/30/85	5.82	215.86	0.69
4/1/84-3/31/85	5.4	157.92	10/1/85-9/30/86	6.55	229.99	0.69
4/1/85-3/31/86	6.4	168.03	10/1/86-9/30/87	6.18	244.21	0.69
4/1/86-3/31/87	2.1	171.56	10/1/87-9/30/88	5.87	258.54	0.66
4/1/87-3/31/88	6.4	182.54	10/1/88-9/30/89	6.39	275.06	0.66
4/1/88-3/31/89	6.7	194.77	10/1/89-9/30/90	6.16	292.01	0.67
4/1/89-3/31/90	10.9	216.00	10/1/90-9/30/91	4.15	304.13	0.71
4/1/90-3/31/91	6.0	228.96	10/1/91-9/30/92	3.93	316.08	0.72
4/1/91-3/31/92	4.0	238.12	10/1/92-9/30/93	3.11	325.91	0.73
4/1/92-3/31/93	4.7	249.31	10/1/93-9/30/94	2.93	335.46	0.74
4/1/93-3/31/94	2.0	254.30	10/1/94-9/30/95	2.73	344.62	0.74
4/1/94-3/31/95	0.1	254.55	10/1/95-9/30/96	4.10	358.74	0.71
4/1/95-3/31/96	6.0	269.82	10/1/96-9/30/97	5.72	379.26	0.71
4/1/96-3/31/97	2.4	276.30	10/1/97-9/30/98	3.66	393.16	0.70
4/1/97-3/31/98	0.1	276.58	10/1/98-9/30/99	3.71	407.75	0.68
4/1/98-3/31/99	0.03	276.65	10/1/99-9/30/00	3.91	423.70	0.65
4/1/99-3/31/00	7.8	298.23	10/1/00-9/30/01	5.04	445.04	0.67
4/1/00-3/31/01	8.7	324.18	10/1/01-9/30/02	4.78[20]	466.29	0.70
4/1/01-3/31/02	-1.6	318.99	10/1/02-9/30/03	3.61[21]	483.10	0.66

[18] Estimate of percentage increases are based on the Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City for the relevant year and adjustments made by the Rent Guidelines Board; detailed explanations are available in the individual Explanatory Statements of the Board.

[19] For explanation of the derivation of individual percentage rent increases see the Explanatory Statements of the Board's previous Orders.

[20] The **4.78%** increase in rent roll estimated for leases signed during the period 10/1/01-9/30/02 under Order 33 reflects the following: (1) Renewal guidelines are estimated to contribute a **1.167%** and **1.757%** increase in the rent roll with 29.2% of all units experiencing a one-year lease signing (4%) and 29.3% of all units experiencing two-year lease signings (6%). These figures are derived from the 1999 Housing and Vacancy Survey (HVS), Table 10058 which gives reported lease terms. "Less than one year" was assumed to be a one-year lease and "More than one year" and "More than two years" were assumed to be a two-year lease. These figures for renewal leases (33% of stabilized households have a one-year lease and 67% have two-year leases) were reduced by the turnover rate of 12.3%, derived from the average households who moved in the 1999 HVS (125,134 is the average number of stabilized households that moved annually1996-98) and taken as percentages of all stabilized lease signers (1,020,588); (2) the vacancy allowance of 15.1%, which is the mean increase found on vacancy in the *1998 Recent Mover Survey* is estimated to increase overall rent rolls by **1.851%** when multiplied by the HVS turnover rate (12.3%), which estimates the percentage of rent stabilized units that will enter into vacancy leases under Order 33.

[21] The **3.61%** increase in rent roll estimated for leases signed during the period 10/1/02-9/30/03 under Order 34 reflects the following: (1) Renewal guidelines are estimated to contribute a **0.584%** and **1.171%** increase in the rent roll with 29.2% of all units experiencing a one-year lease signing (4%) and 29.3% of all units experiencing two-year lease signings (6%). These figures are derived from the 1999 Housing and Vacancy Survey (HVS), Table 10058 which gives reported lease terms. "Less than one year" was assumed to be a one-year lease and "More than one year" and "More than two years" were assumed to be a two-year lease. These figures for renewal leases (33% of stabilized households have a one-year lease and 67% have two-year leases) were reduced by the turnover rate of 12.3%, derived from the average households who moved in the 1999 HVS (125,134 is the average number of stabilized households that moved annually1996-98) and taken as percentages of all stabilized lease signers (1,020,588); (2) the vacancy allowance of 15.1%, which is the mean increase found on vacancy in the *1998 Recent Mover Survey* is estimated to increase overall rent rolls by **1.851%** when multiplied by the HVS turnover rate (12.3%), which estimates the percentage of rent stabilized units that will enter into vacancy leases under Order 34.

For years the staff has expressed serious reservations about the usefulness and accuracy of "Table 14". With current longitudinal income and expense data staff has constructed a new and far more reliable index, using 1989 as a base year. Except for the most recent year and the coming year, this new index measures changes in building income and operating expenses as reported in annual income and expense statements. The second to last year in the table will reflect actual PIOC increases and projected rent changes. The last year in the table - projecting into the future - will include staff projections for both expenses and rents. The proposed new index is in Table 9.

While we believe this to be a more reliable index, it is not without limitations. First, as noted, for the past and coming year the index will continue to rely upon the price index and staff rent and cost projections. Second, while the new table looks at the overall relationship between costs and income, it does not measure the specific impact of rent regulation on that relationship. This new table is listed below as Table 9.

Table 9

Revised Calculation of Operating and Maintenance Cost Ratio for Rent Stabilized Buildings from 1989 to 2002			
	Average Monthly O & M Per d.u.[22]	Average Monthly Income Per d.u.	Average O & M to Income Ratio
1989	$370 ($340)	$567	.65 (.60)
1990	$382 ($351)	$564	.68 (.62)
1991	$382 ($351)	$559	.68 (.63)
1992	$395 ($363)	$576	.69 (.63)
1993	$409 ($376)	$601	.68 (.63)
1994	$415 ($381)	$628	.66 (.61)
1995	$425 ($391)	$657	.65 (.59)
1996	$444 ($408)	$679	.65 (.60)
1997	$458 ($421)	$724	.63 (.58)
1998	$459 ($422)	$755	.61 (.56)
1999	$464 ($426)	$778	.60 (.55)
2000	$503 ($462)	$822	.61 (.56)
2001[23]	$547 ($502)	$858	.64 (.59)
2002[24]	$538 ($494)	$900	.60 (.55)
2003[25]	$573 ($526)	$939	.61 (.56)

Source: RGB Income and Expense Studies, 1989-2002, Price Index of Operating Costs 1992 - 2002, RGB Rent Index for 1992 - 2002 (see Table 8).

CHANGES IN HOUSING AFFORDABILITY

The year 2001 will be most significantly remembered for the tragedy that occurred on September 11th. Beyond the immediate human toll and consequences, the economic impact on NYC has only begun to be felt in the economic indices that measure the City's well being. The City's fiscal health has also been affected by the emergence of a local and nationwide recession early in the year, of whose length and severity are not yet fully known. The annual statistics reported here do not entirely reflect the significant job loss that occurred in the last quarter of the year, but do show a worsening economy. The year 2001 saw an increase in the unemployment rate, from 5.7% to 6.1%. Reflecting this, the number of jobs fell 21,000 in 2001, after significant job increases since the mid-1990s. New York City's Gross City Product (GCP), which measures the total value of goods and services produced, also declined (by 0.2%) for the first time since 1991. The rate of homelessness also worsened, with a record number of homeless children and adults staying in city-run homeless shelters by the end of 2001.

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22 Operating and expense data listed is based upon unaudited filings with the Department of Finance. Audits of 46 buildings conducted in 1992 suggest that expenses may be overstated by 8% on average. See Rent Stabilized Housing in New York City, A Summary of Rent Guidelines Board Research 1992, pages 40-44. Figures in parentheses are adjusted to reflect these findings.

23 Estimated expense figure includes 2000 expense estimate updated by the staff PIOC projection for the period from 4/1/00 through 3/31/01 (3.8%). Income includes income estimate for 2000 updated by staff estimate based upon renewal guidelines and choice of lease terms for a period from 4/1/00 through 3/31/01 (4.38% - i.e., the 10/1/99 to 9/30/2000 rent projection (3.91) times (.583), plus the 10/1/00 to 9/30/01 rent projection (5.04) times (.417)).

24 Estimated expense figure includes 2001 expense estimate updated by the staff PIOC projection for the period from 4/1/01 through 3/31/02 (2.1%). Income includes income estimate for 2001 updated by staff estimate based upon renewal guidelines and choice of lease terms for a period from 4/1/01 through 3/31/02 (4.93% - i.e., the 10/1/00 to 9/30/01 rent projection (5.04) times (.583), plus the 10/1/00 to 9/30/01 rent projection (4.78) times (.417)).

25 Estimated expense figure includes 2002 expense estimate updated by the staff PIOC projection for the period from 4/1/02 through 3/31/03 (6.4%). Income includes income estimate for 2002 updated by staff estimate based upon renewal guidelines and choice of lease terms for a period from 4/1/02 through 3/31/03 (4.29% - i.e., the 10/1/01 to 9/30/02 rent projection (4.78) times (.583), plus the 10/1/01 to 9/30/02 rent projection (3.61times (.417)).

BUILDINGS WITH DIFFERENT FUEL AND UTILITY ARRANGEMENTS

The Board was also informed of the circumstances of buildings with different fuel and utility arrangements including buildings that are master metered for electricity and that are heated with gas versus oil, and where heat is not a service provided by the owner but is paid for separately by tenants (see Table 10). Under some of the Board's Orders in the past, separate adjustments have been established for buildings in certain of these categories where there were indications of drastically different changes in costs in comparison to the generally prevailing fuel and utility arrangements. This year the Board made no distinction between guidelines for buildings with different fuel and utility arrangements under Order 34.

Table 10

Changes in Price Index of Operating Costs for Apartments in Buildings with Various Heating Arrangements, 2001-02, and Commensurate Rent Adjustment

Index Type	2001-02 Price Index Change	One-Year Rent Adjustment Commensurate With Adjusted O&M to Income Ratio of .61
All Dwelling Units Individually Metered for Electricity:	-1.61%	-1.0%*
Pre 1947	-3.17	-2.0
Post 1946	-0.57	-0.4
Oil Used for Heating	-2.72	-1.7
Gas Used for Heating	-1.30	-0.8
Master Metered for Electricity:	-0.94	-0.6

Source: RGB's 2002 Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City.
* The reported one-year traditional commensurate rent adjustment was 0% because the calculated traditional one-year adjustment was –1.0 and the calculated two-year was +1.0, the same as 0% and 0%.

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

Section 286 sub-division 7 of the Multiple Dwelling Law states that the Rent Guidelines Board "shall annually establish guidelines for rent adjustments for the category of buildings covered by this article." In addition, the law specifically requires that the Board, "consider the necessity of a separate category for such buildings, and a separately determined guideline for rent adjustments for those units in which heat is not required to be provided by the owner, and may establish such separate category and guideline."

In 1986, Abt Associates Inc. conducted an expenditure study of loft owners to construct weights for the Loft Board's index of operating costs and to determine year-to-year price changes. In subsequent years, data from the PIOC for stabilized apartments was used to compute changes in costs and to update the loft expenditure weights. This is the procedure used this year.

The increase in the Loft Index this year was 1.4%, three percentage points higher than the increase for apartments. This difference is explained by the fact that while fuel and utility costs decreased, by 38.3% and 8.4% respectively, these costs are less important for lofts than for apartments and placed less downward pressure on the Loft Index.

This year's guidelines for lofts are: **1%** for a one-year lease and **2%** for a two-year lease.

Table 11

Changes in the Price Index of Operating Costs for Lofts from 2001-02	
	Loft O & M Price Index Change
All Buildings	1.4%

Source: 2002 Price Index of Operating Costs for Rent Stabilized Lofts in New York City.

Special Guidelines for Vacancy Decontrolled Units Entering the Stabilized Stock

Pursuant to Section 26-513(b) of the New York City Administrative Code, as amended, the Rent Guidelines Board establishes a special guideline in order to aid the State Division of Housing and Community Renewal in determining fair market rents for housing accommodations which enter the stabilization system. This year, the Board set the guidelines at the greater of the following:

(1) 50% above the Maximum Base Rent paid by the last tenant, 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.

The Board concluded that for units formerly subject to rent control, either an increase to rent levels reflecting the Fair Market Rent guidelines established by the U.S. Department of Housing and Urban Development (HUD), or 150% above the maximum base rent was a desirable minimum increase. Notably, the HUD guidelines differentiate minimum rents on the basis of bedroom count.

Increase for Units Receiving Partial Tax Exemption Pursuant to Section 421 and 423 of the Real Property Tax Law

The guideline percentages for 421-A and 423 buildings were set at the same levels as for leases in other categories of stabilized apartments.

This Order does not prohibit the inclusion of the lease provision for an annual or other periodic rent increase over the initial rent at an average rate of not more than 2.2 per cent per annum where the dwelling unit is receiving partial tax exemption pursuant to Section 421-A of the Real Property Tax Law. The cumulative but not compound charge of up to 2.2 per cent per annum as provided by Section 421-A or the rate provided by Section 423 is in addition to the amount permitted by this Order.

Vacancy Allowance

As of June 15, 1997, Vacancy Allowances are now determined by a formula set forth in the Rent Regulation Reform Act of 1997.

Sublet Allowance

The increase landlords are allowed to charge under Order 34 when a rent stabilized apartment is sublet by the primary tenant to another tenant on or after October 1, 2001 and on or before September 30, 2002 shall be **10%**.

Votes

The votes of the Board on the adopted motion pertaining to the provisions of Order 34 were as follows:

	Yes	No	Abstentions
Guidelines for Apartment Order #34	7	2	-

Dated: June 28, 2002
Filed with the City Clerk: July 1, 2002

Marvin Markus, Chair
Rent Guidelines Board

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