# EXPLANATORY STATEMENT - HOTEL ORDER #43

## Explanatory Statement and Findings of the Rent Guidelines Board In Relation to 2013-14 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 43, Effective October 1, 2013 through and including September 30, 2014.[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 Chapter 97 of the Laws of 2011, it is the responsibility of the Rent Guidelines Board to establish guidelines for hotel increases. Hotel Order Number 43, adopted on June 20, 2013, applies to stabilized hotel units occupied by non-transient tenants.

Hotel Order Number 43 provides for an allowable increase of **0%** over the lawful rent actually charged and paid on September 30, 2013 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 43. 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 14, April 4, 18 and 25, and May 30, 2013 following public notices. On April 30, the Board adopted proposed rent guidelines for hotels, apartments, and lofts.

A public hearing was held on June 13, 2013 to hear comments on the proposed rent adjustments for rent stabilized hotels and apartments. The hearing was held from 10:00 a.m. to 7:50 p.m. The Board heard testimony from approximately 15 hotel tenants and tenant representatives, one hotel owner, and one public official. One speaker read into the record written testimony from a public official. In addition, the Board's office received approximately 10 written statements from eight tenants and two public officials. On June 20, 2013, the guidelines set forth in Hotel Order Number 43 were adopted.

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

– "The conditions that warranted last year's 0% vote remain essentially unchanged: SRO tenants continue to struggle while buildings designated for residential use by rent-stabilized tenants are increasingly used for other purposes."

– "SROs are housing of last resort for low-income people who would otherwise be homeless. Thousands of hard-working people as well as a disproportionate number of elderly and disabled people call an SRO their home. If the economic situation is difficult for low-income New Yorkers, it is dire for most residents of SROs. Many rely on SSI, disability pensions, food stamps and other similar resources as their sole source of income. Tenants routinely report incomes as low as $10,000 per year. For many, the affordability of their SRO home means the difference between having a roof over their head and being homeless. With vacancy rates in apartments costing below $800 at just 1.1% and homelessness already at a nightly average of over 43,295 persons per night – a 14.6% increase over last year – the City cannot afford to increase rents on what is one of the last sources of truly affordable housing for low-income New Yorkers."

– "As the Board knows, 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. Homeless rates continue to climb and the City continues to suffer a poverty rate higher than the national average. A rental increase for SRO tenants would only exacerbate these problems. SRO owners, on the other hand, continue to find profitable operating strategies, such as renting to transient guests and institutional tenants that will not be affected by a rental increase."

– "We respectfully request that the Rent Guidelines Board decline to approve a rent increases for SRO units. SRO owners are not dependent upon the rents paid by the dwindling permanent tenant population to cover their overhead and make a profit. However, even the smallest rent increase will have a devastating impact upon tenants and will further exacerbate the City's homelessness crisis."

– "Today, we are seeking relief from any more rent increases, the horrors becoming homeless through the owners utilization of tactic described, by taking tenants to housing court unwarrantedly. We are seeking a justifiable end to warehousing SRO units, and also from the burden as economical outcasts from owners who profit handsomely as recipients of financial housing subsidies from Human Resources and from financial tax breaks."

– “As a tenant, I want to share with you the importance of preserving **the hotel proviso** so that you do not someday forget about us….Rent stabilized tenants get their repairs done last and we have observed our services significantly decrease over the years. As our numbers dwindle in the remaining hotels throughout the city, our voices weaken….As the number of homeless families rise, our city cannot begin to recover from this economic depression. The elimination of affordable housing by annual rent increases displaces families and counteracts whatever small progress we have made in reducing the unemployment rate. The expression, one step forward and two steps back, comes to mind.”

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

– “These units are subject to SRO rent guidelines. This has created a severe hardship in that alternate years there is a zero percent increase allowed for these SROS, and on alternate years for these units there is also a zero percent rent increase allowed for units in this building because of the stipulation in the rent guidelines that if permanent rent stabilized or rent controlled tenants constitute fewer than 85% of all units in the building used as a home, residential sleeping place, there will also be a zero percent rent increase. Therefore, for these four apartments, there are presently no rent increases ever allowed, on any of them, for existing tenants.”

– “There is no other situation in housing where rent can be frozen like this while expenses continue to increase based upon market conditions. The present SRO guidelines were not primarily established for small, residential buildings like this, but for much larger hotel buildings, and rooming houses. We’re asking that small units like this, buildings consisting of eight units, that you consider that these units… be granted the same type of rent stabilization increases as the general rent stabilized units on the market and further that the stipulation prohibiting any rent increase on these apartments, based upon the rent regulated makeup of the building be eliminated, again, for small buildings like this.”

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

– “The average SRO tenant now pays 50% or more of his/her income towards rent, and they have very little left over for basic necessities. Yet this kind of housing, sometimes using shared facilities, is desperately needed in our city. Most of these buildings have a mixture of regulated and “other” uses – such as hotel, city referrals (DHS) and many more – on the premises, and I respectfully urge the RGB to decline to approve any rent increase for these units, as you have done in the past.”

– “Unless the Rent Guidelines Board significantly reduces or eliminates these increases they will have a devastating impact on the lives of millions of low- and middle-income residents who are struggling in this slow-growth economy. I am here today to request that the Board freeze rent increases for all regulated rental units, including Class A Hotels, Single Room Occupancy Buildings, and Rooming Houses. ”

– “Therefore I urge the RGB impose a freeze on rents for all rent regulated apartments as well as for lofts, hotels, rooming houses, single room occupancy buildings and lodging houses.”

## 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 *2013 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 25, 2013. Guest speakers representing hotel tenants included Daniel L. Parcerisas, 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 Community Center. There were no guest speakers representing hotel landlords at this meeting.

### FINDINGS OF THE RENT GUIDELINES BOARD

#### Rent Guidelines Board Research

The Rent Guidelines Board based its determination on its consideration of the oral and written testimony noted above, as well as upon its consideration of statistical information prepared by the RGB staff set forth in these findings and the following reports:

(1) *2013 Mortgage Survey Report*, March 2013 (An evaluation of recent underwriting practices, financial availability and terms, and lending criteria);

(2) *2013 Income and Affordability Study,* April 2013 (Includes employment trends, housing court actions, changes in eligibility requirements and public benefit levels in New York City);

(3) *2013 Price Index of Operating Costs,* April 2013 (Measures the price change for a market basket of goods and services which are used in the operation and maintenance of stabilized hotels);

(4) *2013 Housing Supply Report*, May 2013 (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 2012,* May 2013 (A report quantifying all the events that lead to additions to and subtractions from the rent stabilized housing stock).

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

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

The Hotel Price Index includes separate indices for each of three categories of rent stabilized hotels (due to their dissimilar operating cost profiles) and a general index for all stabilized Hotels. The three categories of hotels are: 1) "traditional" hotels — a multiple dwelling which has amenities such as a front desk, maid or linen services; 2) Rooming Houses — a multiple dwelling other than a hotel with thirty or fewer sleeping rooms; and 3) single room occupancy hotels (SROs) — a multiple dwelling in which one or two persons reside separately and independently of other occupants in a single room.

The Price Index for all stabilized Hotels rose 7.4% this year, a significantly higher increase than the 3.7% rise in 2012. The Price Index for Hotels was 1.5 percentage points higher than the increase in costs measured in the Apartment Price Index. Significant disparities between the Hotel Index and the Apartment Index were seen in the Taxes and Utilities components. Taxes for Hotels increased at a higher pace (5.8%) than the increase for apartments (2.6%). Furthermore, the increase in Utilities for all types of Hotels was 7.9%, versus the 6.3% rise for apartment buildings.

In addition to the changes in costs in Taxes and Utilities mentioned above, increases were seen in the remaining Hotel cost components. The highest increase was seen in Fuel Oil costs, which make up 16% of the PIOC for hotels, rising 19.8%. Insurance also witnessed a significant increase, with costs growing 7.1%. More moderate increases were seen in the remaining components. Contactor Services increased 3.5%, Labor by 3.1% and Administrative Costs rose 2.4%. Parts and Supplies and Replacement Costs, which carry very little weight in the Hotel Index, rose 4.1% and 0.1%, respectively.

Among the different categories of Hotels, the index for "traditional" hotels increased 7.5%, Rooming Houses (RH) by 6.1% and SROs by 7.7%.

**Percent Change in the Components of the Price Index of Operating Costs**
**March 2012 to March 2013, By Hotel Type and All Hotels**

| Spec # | Item Description | Hotel | RH | SRO | All Hotels |
|---|---|---|---|---|---|
| 101 | TAXES, FEES, & PERMITS | 6.7% | 1.8% | 6.4% | 5.8% |
| 205-206, 208-216 | LABOR COSTS | 3.1% | 3.0% | 3.0% | 3.1% |
| 301-303 | FUEL | 19.9% | 21.0% | 18.6% | 19.8% |
| 401-407, 409-410 | UTILITIES | 9.1% | 2.9% | 7.8% | 7.9% |
| 501-509, 511-516, 518 | CONTRACTOR SERVICES | 3.5% | 2.8% | 3.8% | 3.5% |
| 601-608 | ADMINISTRATIVE COSTS | 2.5% | 2.3% | 2.4% | 2.4% |
| 701 | INSURANCE COSTS | 7.1% | 7.1% | 7.1% | 7.1% |
| 801-816 | PARTS AND SUPPLIES | 3.6% | 5.5% | 4.4% | 4.1% |
| 901-904, 907-911 | REPLACEMENT COSTS | -0.1% | 0.5% | 0.7% | 0.1% |
| | **ALL ITEMS** | **7.5%** | **6.1%** | **7.7%** | **7.4%** |

Source: *2013 Price Index of Operating Costs*

### CHANGES IN HOUSING AFFORDABILITY

Results from the 2011 Housing and Vacancy Survey were released last year, and showed that the vacancy rate for New York City is 3.12%. Approximately 45% of renter households in NYC are rent stabilized, with a vacancy rate of 2.63%. The survey also shows that the median household income in 2010 was $37,000 for rent stabilized tenants, versus $38,447 for all renters. The median gross rent for rent stabilized tenants was also lower than that of all renters, at $1,160 versus $1,204 for all renters. And rent stabilized tenants saw a median gross rent-to-income ratio of 34.9% in 2011, compared to 33.6% for all renters.

Looking at New York City's economy during 2012, it showed both strengths and weaknesses as compared with the preceding year. Positive indicators include growing employment levels, which rose for the third consecutive year, increasing 2.1% in 2012. Gross City Product also increased for the third consecutive year, rising in real terms by 2.2% in 2012. In addition, the rate of inflation also slowed, down to 2.0% from 2.8% in 2011, and housing court non-payment filings fell 1.5%.

Negative indicators included a 4.0% increase in evictions, despite the number of non-payment filings in Housing Court declining. In addition, cash assistance levels increased for the fourth consecutive year, increasing by 0.9% between 2011 and 2012. The number of Supplemental Nutrition Assistance Program (SNAP) recipients also rose, increasing for the tenth consecutive year, by 0.7% in 2012. In addition, homelessness rose over 2011 levels, increasing to an average of more than 43,000 persons a night, a 14.6% increase. Inflation- adjusted wages also decreased 4.5% during the most recent 12-month period (the fourth quarter of 2011 through the third quarter of 2012). And the unemployment rate rose slightly, following a decrease in the prior year, rising 0.2 percentage points, to 9.2%.

The most recent numbers, from the fourth quarter of 2012 (as compared to the fourth quarter of 2011), show that homeless levels were up 19.0%, SNAP recipients were up 2.3%, and cash assistance levels were up 1.6%. However, both non-payment housing court filings and calendared court cases1 fell, by 4.8% and 2.7% respectively, employment levels were up 1.6%, unemployment rates fell by 0.43 percentage points, and real GCP rose by 2.8%.

## 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 2005.

**Percentage Changes in the Consumer Price Index for the New York City - Northeastern New Jersey Metropolitan Area, 2005-2013 (For "All Urban Consumers")**

| | 2005 | 2006 | 2007 | 2008 | 2009 | 2010 | 2011 | 2012 | 2013 |
|---|---|---|---|---|---|---|---|---|---|
| 1st Quarter Avg.[2] | 4.1% | 3.4% | 2.9% | 3.7% | 1.3% | 2.1% | 2.0% | 2.7% | 2.1% |
| Yearly Avg. | 3.9% | 3.8% | 2.8% | 3.9% | 0.4% | 1.7% | 2.8% | 2.0% | - |

Source: U.S. Bureau of Labor Statistics.

[2] 1st Quarter Average refers to the change of the CPI average of the first three months of one year to the average of the first three months of the following year.

### EFFECTIVE RATES OF INTEREST

The Board took into account current mortgage interest rates and the availability of financing and refinancing. It reviewed the staff's *2013 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*.

| ***2013 Mortgage Survey*[3]** **Average Interest Rates and Points for New and Refinanced Permanent Mortgage Loans 2004-2013** | | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| New Financing of Permanent Mortgage Loans, Interest Rate and Points | | | | | | | | | | |
| | **2004** | **2005** | **2006** | **2007** | **2008** | **2009** | **2010** | **2011** | **2012** | **2013** |
| Avg. Rates | 5.8% | 5.5% | 6.3% | 6.3% | 5.8% | 6.5% | 6.3% | 5.8% | 4.6% | 4.4% |
| Avg. Points | 0.67 | 0.56 | 0.44 | 0.61 | 0.47 | 0.62 | 0.79 | 0.61 | 0.63 | 0.59 |
| Refinancing of Permanent Mortgage Loans, Interest Rate and Points | | | | | | | | | | |
| | **2004** | **2005** | **2006** | **2007** | **2008** | **2009** | **2010** | **2011** | **2012** | **2013** |
| Avg. Rates | 5.7% | 5.5% | 6.3% | 6.2% | 5.8% | 6.5% | 6.3% | 5.7% | 4.7% | 4.4% |
| Avg. Points | 0.60 | 0.56 | 0.44 | 0.61 | 0.44 | 0.62 | 0.83 | 0.61 | 0.63 | 0.40 |

Source: 2004–2013 *Annual Mortgage Surveys*, RGB.

### HOTEL CONVERSION

Conversion of single room occupancy (SRO) buildings also continued over the past year. SRO owners may convert SRO housing to other uses after obtaining a "Certificate of No Harassment" (CONH) from HPD. After seven consecutive years of decline, approved CONH applications rose in 2012, up 23.0% from 100 CONH in 2011 to 123 in 2012.[4] Efforts are also underway to ensure that SROs are used for permanent housing rather than as transient hotels. As of May 1, 2011, laws were newly passed strengthening the City's ability to crack down on housing being used illegally for transient occupancy. Transient occupancy is now clearly defined as stays of less than 30 days, and between May of 2011 and April of 2012 1,820 violations (ranging from $800 to $2,000) were issued to illegal hotel operators.[5] Approximately 2,415 violations have been issued since,[6] and late last year, the City Council strengthened this law even further, increasing fines to up to $25,000 for repeat offenders.[7] Among the illegal hotel operators that the City has targeted is a company that it accused of offering short-term stays in permanent residential apartments in nearly 50 different locations in Manhattan and Brooklyn.[8] While the lawsuit continues, in February of 2013 the Supreme Court of New York County preliminarily ruled in favor of the City and issued an injunction against the company, barring it from operating or advertising hotel units.[9]

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3 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.

4 NYC Department of Housing Preservation and Development.

5 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.

6 Office of the Criminal Justice Coordinator, Mayor's Office of Special Enforcement. Inclusive of data through April 30, 2013.

7 "Illegal Hotel Fines Could Skyrocket," The Real Deal. September 12, 2012.

8 "Mayor Bloomberg Announces Suit Against Major Operator of Illegal Hotels as Part of the City's Crackdown on Unsafe and Illegal Tourist Accommodations in New York City," Mayor's Office Press Release. October 23, 2012.

9 http://law.justia.com/cases/new-york/other-courts/2013/2013-ny-slip- op-23054.html. February 13, 2013.

## OTHER RELEVANT INFORMATION

**On June 4, 2013, staff released a memo to the Board analyzing hotel data contained in the NYS Division of Housing and Community Renewal's 2012 apartment and building registration databases. Below is the memo in its entirety.**

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

Note that when staff was analyzing this data, they found some irregularities in the way certain large buildings were being registered. These buildings were registered as "rooming houses" by the owner, but upon a detailed inspection were found by staff to be rent stabilized apartment buildings, and not rooming houses. A **minimum** of two owners, registering a total of 2,389 units in 13 buildings (12 in Manhattan, and one in Brooklyn), were found to be incorrectly registering their buildings as rooming houses with DHCR.[10] The same 13 buildings were incorrectly registered with DHCR in 2011, and data from these buildings was included in the memo released on June 12, 2012. Data from these 13 buildings *will not* be included in this memo, and therefore data from this year cannot be compared to data from last year's memo. Please see Appendix 1, attached at the end of this memo, for updated 2011 data, which can be used for comparison purposes.

In 2012, 521 buildings, which were identified by owners as hotels, registered units with DHCR, 15 less than in 2011.[11] Within these 521 buildings, 16,263 individual apartment registrations were filed (999 more than in 2011). Owners identified a total of 10,483 of the registered units as being "rent stabilized" and the balance (5,780 units) were identified as being either "permanently exempt," "temporarily exempt," or "vacant." Of these 521 buildings, 46 (8.8% of the total) consisted entirely of exempt and/or vacant units. In addition, 207 buildings (39.7% of the total buildings) contain less than 85% permanently stabilized units.

Building owners/managers were asked to identify which of their units were temporarily or permanently exempt from rent stabilization laws. In 2012, 45 units were reported as being permanently exempt (0.3% of the total number of registered hotel units), while 3,777 units were reported as temporarily exempt (23.2% of the total number of registered hotel units). The most commonly reported reason for being temporarily exempt is "Hotel/SRO (Transient)" status, as was the classification given to 3,034 (80.3%) of the temporarily exempt units. Less common was "Not Prime Residence" (244 units, or 6.5%) and "Owner Occupancy/Employee" (232 units, or 6.1%). Among permanently exempt units, 16 (35.6% of these units) were reported as being deregulated due to High Rent/Vacancy or High Rent/High Income Decontrol, with the rest reported as being deregulated due to owner occupancy, "hotel room renting," substantial rehabilitation, rent control and a few other isolated reasons. In general, units that are temporarily exempt are either rented at what the market will bear, for as little as one night, or rented to

[10] Note that there are a minimum of 13 buildings incorrectly registered by owners as hotels in the 2012 DHCR database. Staff cannot check every record for discrepancies, but are fairly confident that due to the size of these buildings (comprising 13% of all owner-identified hotel units), that any additional incorrect data will not significantly skew the analysis. Staff also intends to report these discrepancies to DHCR for their review.

[11] All data in this memo is based on owner-reported information as reported to DHCR in their 2012 registration database.

government agencies, not-for-profit organizations, or universities as temporary housing. In addition, 1,958 units (12.0% of total units) were registered with DHCR as "Vacant."

The analysis starts by looking at the reported legal rents of those units identified as "rent stabilized" by building owners. The legal rents are the maximum amount that a landlord is able to charge to tenants (or government agencies subsidizing tenants), but do not necessarily reflect what a tenant is actually paying. Owners can choose to charge tenants a lower rent than legally allowed (known as a "preferential rent") and owners are also asked to provide DHCR with data for subsidized tenants, whose "actual" rents are the rents actually paid out of pocket by tenants, with the balance being made up by various government agencies and programs. See the tables below for detailed information on legal, preferential, and actual rents paid by rent stabilized hotel tenants.

Table 1 shows the number of rent stabilized units and buildings that registered legal rents with DHCR in 2012. It also provides the median and mean legal rents for these units, by borough, and Citywide. These rents reflect the maximum amount that owners could charge for their units, as of April 2012.

**Table 1: 2012 Median and Mean "Legal" Rents for Units Identified as Rent Stabilized (excludes exempt and vacant units)**

| *Borough* | *# of Stabilized Units* | *# of Stabilized Buildings* | ***Median** Legal Rent* | ***Mean** Legal Rent* |
|---|---|---|---|---|
| Bronx | 771 | 40 | $1,123 | $1,082 |
| Brooklyn | 2,947 | 155 | $1,081 | $1,216 |
| Manhattan[12] | 5,779 | 210 | $993 | $1,409 |
| Queens | 898 | 66 | $1,298 | $1,511 |
| Staten Island | 66 | 4 | $812 | $837 |
| **Citywide[13]** | **10,461** | **475** | **$1,065** | **$1,336** |

Source: 2012 DHCR Building and Apartment Registration filings

[12] Note that there was one large building in Manhattan (more than 200 units) in which 81% of units were registered as "rent stabilized" with DHCR, all but six of which had legal rents in excess of $4,000 a month (up to as much as $7,500 a month). This particular building registered all of their units as "temporarily exempt" in 2011, which means that rent figures from these units were not reported or analyzed in data from last year's memo (see Appendix 1). For comparison purposes, had this building been left out of the 2012 analysis, the median legal rent in Manhattan would be $958, and the mean legal rent would be $1,293. Note that staff cannot investigate every record, and this may or may not be the only building with such a discrepancy.

[13] Excluding the Manhattan building noted in footnote #12, the median Citywide legal rent would be $1,050 and the mean legal rent would be $1,271.

Table 2 illustrates the median and mean "preferential" rents for the over one-quarter (31.5%) of *rent stabilized* units that reported charging one. Also shown is the percentage difference from the median and mean legal rents of *just those units with reported preferential rents*. The median Citywide legal rent for these units is $1,359 and the mean legal rent is $1,535.

**Table 2: 2012 Median and Mean "Preferential" [14] Rents for Units Identified as Rent Stabilized (excludes exempt and vacant units)***

| *Borough* | *# of Stabilized Units* | ***Median*** | | ***Mean*** | |
|---|---|---|---|---|---|
| | | *Preferential Rent* | *% Difference from Legal Rent*** | *Preferential Rent* | *% Difference from Legal Rent*** |
| Bronx | 286 | $988 | -27% | $940 | -38% |
| Brooklyn | 1,220 | $1,085 | -26% | $1,051 | -28% |
| Manhattan | 1,473 | $807 | -31% | $840 | -42% |
| Queens | 312 | $1,208 | -49% | $1,287 | -42% |
| Staten Island | 2 | $654 | -46% | $654 | -46% |
| **Citywide** | **3,293** | **$998** | **-27%** | **$969** | **-37%** |

Source: 2012 DHCR Building and Apartment Registration filings

*Excludes units where the "preferential" rent reported is equal to, or more than, the reported "legal" rent.

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

[14] Upon a close examination of the DHCR apartment registration file, 208 units in five buildings (one in Brooklyn, two in Manhattan, and two in Queens) were found to have erroneously registered all the "preferential" rents in their buildings as "actual" rents. In these 208 cases, the "actual" rent that they registered was either $1,129, $1,166, or $1,183 (which were the HUD Fair Market Rent levels for studio apartments in 2010-2013, respectively. These building owners identified their tenants as receiving subsidies from a variety of government programs, including principally Shelter Plus and Section 8. By knowing that these tenants were part of government subsidy programs, we can infer that they actually paid significantly less than the HUD Fair Market Rent a month (although the owner did receive this amount through a combination of payments from the tenant and the government). As such, the records of these 203 units were altered to make the relevant HUD FMR the "preferential" rent, while the "actual" rent field was modified to be blank, as we do not know the true out of pocket rents for these tenants. Absent these modifications, the means and medians reported in Tables 2-4 would be somewhat different. Note that the balance of units in the DHCR registration files may or may not have been registered correctly. DHCR registration files are submitted by owners, and staff cannot verify the accuracy of every record. For the purposes of this memo, we are assuming that all other registrations were accurate.

Table 3 shows the median and mean “actual” rents paid by a reported 27.9% 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 included are the mean and median *legal* rents of just those apartments reporting “actual” rents. Theoretically, the owners of the 2,921 units reporting actual rents can receive the difference between the actual and legal rents from government programs, and in fact, 74% of these units do not report any “preferential” rents, implying that in most cases owners do receive the full legal rent for these units. Not reported here are detailed statistics for the 755 units that report both actual and preferential rents (which would indicate that these units *do not* receive the full legal rent). The Citywide median preferential rent for these 755 units is $814 and the mean preferential rent is $895.

**Table 3: 2012 Median and Mean “Actual” [15] Rents for Units Identified as Rent Stabilized (excludes exempt and vacant units)***

| *Borough* | *# of Stabilized Units* | ***Median*** | | ***Mean*** | |
|---|---|---|---|---|---|
| | | *Actual Rent Paid* | *Legal Rent*** | *Actual Rent Paid* | *Legal Rent*** |
| Bronx | 221 | $228 | $1,440 | $357 | $1,605 |
| Brooklyn | 392 | $292 | $975 | $424 | $993 |
| Manhattan | 2,234 | $255 | $1,171 | $479 | $1,612 |
| Queens | 74 | $587 | $1,480 | $688 | $1,407 |
| Staten Island | 0 | -- | -- | -- | -- |
| **Citywide** | **2,921** | **$262** | **$1,166** | **$468** | **$1,523** |

Source: 2012 DHCR Building and Apartment Registration filings
* Excludes units where the “actual” rent reported is equal to, or more than, the reported “legal” rent.
**Refers to the legal rents of just those units that reported actual rents.

[15] See footnote #14.

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

**Table 4: 2012 Median and Mean "Rent Received" [16] for Units Identified as Rent Stabilized (excludes exempt and vacant units)**

| *Borough* | *# of Stabilized Units* | ***Median** "Rent Received"** | ***Mean** "Rent Received"** |
|---|---|---|---|
| Bronx | 771 | $902 | $868 |
| Brooklyn | 2,947 | $1,004 | $1,044 |
| Manhattan[17] | 5,779 | $875 | $1,253 |
| Queens | 898 | $1,200 | $1,191 |
| Staten Island | 66 | $812 | $820 |
| **Citywide[18]** | **10,461** | **$957** | **$1,158** |

Source: 2012 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)

[16] See footnote #14.
[17] Excluding the large building in Manhattan that registered all their apartments as temporarily exempt in 2011 (See footnote #12), the median rent received in Manhattan would have been $852 and the mean rent received would have been $1,132.
[18] Excluding the Manhattan building noted in footnote #12, the median Citywide rent received would be $950 and the mean rent received would be $1,090.

## Appendix 1 – Updated 2011 DHCR Hotel Registration Data

Table 1 shows the number of rent stabilized units and buildings that registered legal rents with DHCR in 2011. It also provides the median and mean legal rents for these units, by borough, and Citywide. These rents reflect the maximum amount that owners could charge for their units, as of April 2011.

**Table 1: 2011 Median and Mean "Legal" Rents for Units Identified as Rent Stabilized (excludes exempt and vacant units)**

| *Borough* | *# of Stabilized Units* | *# of Stabilized Buildings* | ***Median** Legal Rent* | ***Mean** Legal Rent* |
|---|---|---|---|---|
| Bronx | 1,023 | 48 | $1,063 | $1,094 |
| Brooklyn | 3,068 | 161 | $1,026 | $1,143 |
| Manhattan | 4,896 | 201 | $895 | $1,019 |
| Queens | 718 | 65 | $1,200 | $1,195 |
| Staten Island | 102 | 7 | $831 | $817 |
| **Citywide** | **9,807** | **482** | **$983** | **$1,076** |

Source: 2011 DHCR Building and Apartment Registration filings

Table 2 illustrates the median and mean "preferential" rents for the over one-quarter (27.6%) of rent stabilized units that reported charging one. Also shown is the percentage difference from the median and mean legal rents of just those units with reported preferential rents. The Citywide median legal rent for these units is $1,291 and the mean legal rent is $1,335.

**Table 2: 2011 Median and Mean "Preferential" Rents for Units Identified as Rent Stabilized (excludes exempt and vacant units)***

| *Borough* | *# of Stabilized Units* | ***Median*** | | ***Mean*** | |
|---|---|---|---|---|---|
| | | *Preferential Rent* | *% Difference from Legal Rent*** | *Preferential Rent* | *% Difference from Legal Rent*** |
| Bronx | 353 | $809 | -38% | $834 | -43% |
| Brooklyn | 1,045 | $1,075 | -23% | $986 | -28% |
| Manhattan | 1,117 | $769 | -36% | $804 | -35% |
| Queens | 175 | $1,129 | -29% | $1,110 | -28% |
| Staten Island | 17 | $950 | -1% | $928 | -6% |
| **Citywide** | **2,707** | **$916** | **-29%** | **$899** | **-33%** |

Source: 2011 DHCR Building and Apartment Registration filings
*Excludes units where the "preferential" rent reported is equal to, or more than, the reported "legal" rent.
**Refers to the legal rents of just those units that reported preferential rents.

Table 3 shows the median and mean "actual" rents paid by a reported 27.4% 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 included are the mean and median legal rents of just those apartments reporting "actual" rents. Theoretically, the owners of the 2,686 units reporting actual rents can receive the difference between the actual and legal rents from government programs, and in fact, 77% of these units do not report any "preferential" rents, implying that in most cases owners do receive the full legal rent for these units. Not reported here are detailed statistics for the 631 units that report both actual and preferential rents (which would indicate that these units do not receive the full legal rent). The Citywide median preferential rent for these 631 units is $809 and the mean preferential rent is $857.

**Table 3: 2011 Median and Mean "Actual" Rents for Units Identified as Rent Stabilized (excludes exempt and vacant units)***

| *Borough* | *# of Stabilized Units* | ***Median*** | | ***Mean*** | |
|---|---|---|---|---|---|
| | | *Actual Rent Paid* | *Legal Rent*** | *Actual Rent Paid* | *Legal Rent*** |
| Bronx | 260 | $228 | $1,394 | $356 | $1,534 |
| Brooklyn | 464 | $238 | $919 | $370 | $988 |
| Manhattan | 1,878 | $224 | $964 | $365 | $1,042 |
| Queens | 83 | $606 | $1,350 | $630 | $1,254 |
| Staten Island | 1 | $689 | $1,179 | $689 | $1,179 |
| **Citywide** | **2,686** | **$228** | **$1,035** | **$374** | **$1,087** |

Source: 2011 DHCR Building and Apartment Registration filings
*Excludes units where the "actual" rent reported is equal to, or more than, the reported "legal" rent.
**Refers to the legal rents of just those units that reported actual rents.

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

**Table 4: 2011 Median and Mean "Rent Received" for Units Identified as Rent Stabilized (excludes exempt and vacant units)**

| *Borough* | *# of Stabilized Units* | ***Median*** *"Rent Received"** | ***Mean*** *"Rent Received"** |
|---|---|---|---|
| Bronx | 1,023 | $813 | $881 |
| Brooklyn | 3,069 | $950 | $1,013 |
| Manhattan | 4,896 | $821 | $920 |
| Queens | 718 | $1,129 | $1,092 |
| Staten Island | 102 | $825 | $806 |
| **Citywide** | **9,808** | **$900** | **$957** |

Source: 2011 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 43 was as follows:

| | Yes | No | Abstentions |
|---|---|---|---|
| **Guidelines for Hotels** | 7 | 2 | - |

Dated: June 21, 2013
Filed with the City Clerk: June 25, 2013

Jonathan L. Kimmel
Chair
NYC Rent Guidelines Board

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