EXPLANATORY STATEMENT - HOTEL ORDER #49

Explanatory Statement and Findings of the Rent Guidelines Board In Relation to 2019-20 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 49, Effective October 1, 2019 through and including September 30, 2020.[1]

Pursuant to the authority vested in it by the Rent Stabilization Law of 1969 and the Emergency Tenant Protection Act of 1974, implemented by Resolution Number 276 of 1974 of the New York City Council, and extended by the Housing Stability and Tenant Protection Act of 2019, it is the responsibility of the Rent Guidelines Board to establish guidelines for hotel increases. Hotel Order Number 49, adopted on June 25, 2019, applies to stabilized hotel units occupied by non-transient tenants.

Hotel Order Number 49 provides for an allowable increase of **0%** over the lawful rent actually charged and paid on September 30, 2019 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 rent charged for a new tenancy may not exceed the rent charged on September 30, 2019.

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 49. In the 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 April 5, 18 and 25; and May 16, 2019 following public notices. On May 7, the Board adopted proposed rent guidelines for hotels, apartments, and lofts.

Four public hearings were held on June 11, June 13, June 18, and June 20, 2019 to hear comments on the proposed rent adjustments for rent stabilized hotels and apartments. The hearings were held from 5:30 p.m. to 10:00 p.m. on June 11, 5:10 p.m. to 8:00 p.m. on June 13, 5:30 p.m. to 9:20 p.m. on June 18, and from 5:15 p.m. to 9:55 p.m. on June 20. The Board heard testimony from approximately 14 hotel tenants and tenant representatives, one hotel owner, and one public official. In addition, the Board's office received approximately four written statements from tenants and tenant representatives, one hotel owner, and no public officials. On June 25, 2019, the guidelines set forth in Hotel Order Number 49 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 to afford rent while buildings designated for residential use by rent-stabilized tenants are increasingly used for other purposes which generate significant profits in these building. We hop our testimony today will convince the Board to vote for a 0% rent increase for tenants of SROs again this year."

– "Rent increases for tenants cannot be justified in SRO buildings that are not fully occupied by permanent rent-stabilized tenants or where the building's income is dependent primarily on sources other than renting to permanent rent-stabilized tenants. Rental income from permanent tenants is often dwarfed by the staggering profits these landlords make from illegally-operated tourist hotels, student dormitories, and lucrative contracts with City agencies. In the instances where there are no such operations, rental income could be increased simply by returning the warehoused, vacant units to market."

– "While the City's increase in funding for civil legal services can help low-income tenants defend against a landlord's attempts to evict them, only the RGB can keep SRO tenants' rents at affordable levels. This means freezing SRO rents. A 0% increase for SROs will contribute to the preservation of a desperately needed portion of the housing stock, which fits squarely into the Mayor's plan of preserving 120,000 units of affordable housing. As the price at the bottom of the housing market inches up, more and more New Yorkers will slowly be priced out of all housing in the City, and will be forced into homelessness."

– "I'm here on behalf of SRO tenants and I want to thank you for zero guidelines for the remaining SRO tenants in the stock and I really hope you listen to the tenants who come out today."

– "The Tempo Hotel (formerly the Commander Hotel)...has been downsized to 201 total units of which only 63 are occupied by statutory, permanent, rent stabilized hotel tenants. Many of the tenants are elderly, disabled, unemployed, and low-income….Tenants in my building have been through much over the years but we have endured. In part, this has been due to the RGB granting zero or modest increases with provisos, thereby keeping our rents affordable. Thank you for considering the plights of New York City's remaining residential hotel and SRO tenants, and for not voting to approve an unwarranted rent increase, which prevents further homelessness"

Selected Oral and Written Testimony from Owners and Owner Groups:

– "It is apparent that there is a definite intention to discriminate against owners of rent stabilized SRO properties. The rationale appears to be that owners of these properties are renting to transient occupants and thereby supplementing their income. In an effort to "punish" such activity the Rent Guidelines Board has permitted no rent increases in the majority of the hotel orders published since 2004. However, this approach incentives owners of traditional stabilized SROs to remove units from the stabilized inventory in order to avoid the discriminatory decisions of the Rent Guidelines Board. Depriving owners of the resources to maintain their buildings will not improve or even allow maintenance of the housing stock. Our experience with NYCHA confirms this."

– "There is no justification to treat owners of predominately stabilized SRO properties any differently than the owners of ordinary rent stabilized apartment buildings. The Rent Guidelines Board should recognize this fact and adopt an order making up for prior discrimination as well as putting predominately stabilized SRO properties on equal footing with ordinary rent stabilized apartment buildings."

– "I specifically propose that the 2019/2020 Hotel Order covering renewal leases in SROs that are predominately rent stabilized permit rent increases similar to those allowed in rent stabilized apartment buildings. In addition, the Rent Guidelines Board should permit vacancy increases of 20% upon vacancy of a stabilized SRO unit. This will be only a small step in restoring fairness in the regulatory scheme governing stabilized SRO buildings."

– "You guys have basically frozen SRO rents for the last 20 years. And let me tell you something, the SRO units have been frozen, there's no such thing as a vacancy increase. It's always been frozen for the last 20 years. If the rent was $500 20 years ago, it's $500 today. There's no way of surviving. Insurance goes up, and I'll give you a perfect example. Insurance for my SRO that I have, went from $90,000 to $270,000 in one year. These buildings are going to go down faster than the Titanic. And it's something that you guys have a responsibility, for the people, to increase some of these rents so they can survive."

Selected Oral and Written Testimony from Public Officials:

– "And I also want to thank the Board. I understand that the gentleman previously who owns SROs, but most SRO units have also market in them and they should not have any increase at all. Zero for SROs."

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 *2019 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, 2019. Guest speakers representing hotel tenants included Stephanie Storke, from the Goddard-Riverside SRO Law Project, Brian Sullivan from MFY Legal Services, Inc., and Larry Wood from the Goddard Riverside Law Project.

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. *2019 Mortgage Survey Report*, April 2019 (An evaluation of recent underwriting practices, financial availability and terms, and lending criteria);

2. *2019 Income and Affordability Study,* April 2019 (Includes employment trends, housing court actions, changes in eligibility requirements and public benefit levels in New York City);

3. *2019 Price Index of Operating Costs,* April 2019 (Measures the price change for a market basket of goods and services which are used in the operation and maintenance of stabilized hotels);

4. *2019 Housing Supply Report*, May 2019 (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 2018,* May 2019 (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.nyc.gov/rgb, and are also available at the RGB offices, 1 Centre St., Suite 2210, New York, NY upon request.

Price Index of Operating Costs for Rent Stabilized Hotel Units

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

The Price Index for all rent stabilized Hotels increased 5.5% this year, a 1.6 percentage point difference from the 3.9% rise in 2018.

This year there were increases in all seven of the PIOC Hotel components. The Fuel component witnessed the highest increase, rising 13.8%. The Fuel component accounts for just over 15% of the entire Hotel Index. The remaining six components witnessed more moderate cost increases, with Insurance Costs rising 6.0%, Labor Costs 4.4%, Taxes 4.9%, Maintenance 2.4%, Administrative Costs 1.8%, and Utilities 1.5%. See the table on the next page for changes in costs and prices for all rent stabilized hotels from 2018-2019.

Among the different categories of Hotels, the index for "traditional" hotels increased 4.7%, Rooming Houses by 6.2%, and SROs by 6.4%

Percent Change in the Components of the Price Index of Operating Costs March 2018 to March 2019, By Hotel Type and All Hotels

Item Description	All Hotels	Hotel	Rooming House	SRO
TAXES	4.9%	3.6%	6.4%	6.0%
LABOR COSTS	4.4%	4.3%	4.3%	5.0%
FUEL	13.8%	13.4%	15.3%	14.4%
UTILITIES	1.5%	0.9%	3.2%	0.4%
MAINTENANCE	2.4%	2.3%	2.8%	2.6%
ADMINISTRATIVE COSTS	1.8%	1.4%	3.2%	2.8%
INSURANCE COSTS	6.0%	6.0%	6.0%	6.0%
ALL ITEMS	**5.5%**	**4.7%**	**6.2%**	**6.4%**

Source: *2019 Price Index of Operating Costs*

Changes in Housing Affordability

Preliminary results from the 2017 Housing and Vacancy Survey were released in February of 2018, and showed that the vacancy rate for New York City is 3.63%. Approximately 44% of renter households in NYC are rent stabilized, with a vacancy rate of 2.06%. The survey also shows that the median household income in 2016 was $44,560 for rent stabilized tenants, versus $47,200 for all renters. The median gross rent for rent stabilized tenants was also lower than that of all renters, at $1,375 versus $1,450 for all renters. And rent stabilized tenants saw a median gross rent-to-income ratio of 36.0% in 2017, compared to 33.7% for all renters.[2]

NYC's economy in 2018 showed many strengths as compared with the preceding year. Positive indicators include growing employment levels, which rose for the ninth consecutive year, increasing 1.9% in 2018.[3] The unemployment rate also fell, declining by 0.5 percentage points, to 4.1%, the lowest level recorded in at least the last 43 years.[4] Gross City Product (GCP) also increased for the ninth consecutive year, rising in inflation-adjusted terms by 3.0% in 2018.[5] Also during 2018, the number of non-payment filings in Housing Court fell by 4.7%, calendared cases by 10.5%,[6] and tenant evictions by 13.9%.[7] There was also a decrease in cash assistance caseloads of 2.8%, while SNAP caseloads fell 3.6% and Medicaid enrollees fell 7.8%.[8] Inflation also rose at a slightly slower pace, with the Consumer Price Index rising 1.9% in 2018, 0.1 percentage points slower than 2017.[9] In addition, following two years of stagnation, inflation-adjusted wages rose during the most recent 12-month period for which

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2 "Selected Initial Findings of the 2017 New York City Housing and Vacancy Survey." NYC Department of Housing Preservation and Development. February 9, 2018.
3 NYS Dept. of Labor; http://www.labor.state.ny.us; Data accessed March 2019. Data is revised annually and may not match data reported in prior years.
4 NYS Dept. of Labor; http://www.labor.state.ny.us; Data accessed March 2019. Data is revised annually and may not match data reported in prior years.
5 Data from the NYC Comptroller's Office as of March, 9 GCP figures are adjusted annually by the New York City Comptroller's Office. The figures in this report are the latest available estimate from that office, based on inflation adjusted 2012 chained dollars.
6 Civil Court of the City of New York data.
7 NYC Department of Investigation, Bureau of Auditors data.
8 New York City Human Resources Administration. HRA Charts: http://www.nyc.gov/html/hra/html/facts/charts.shtml
9 Bureau of Labor Statistics; http://www.bls.gov; Data accessed March, 2019.

data is available (the fourth quarter of 2017 through the third quarter of 2018), rising 3.5% over the corresponding time period of the prior year.[10]

Negative indicators include personal bankruptcy filings, which rose 8.2% in New York City in 2018.[11] In addition, homeless levels rose for the tenth consecutive year, although at a slowing rate, by 0.9%.[12]

The most recent numbers, from the fourth quarter of 2018 (as compared to the fourth quarter of 2017), show many positive indicators, including cash assistance levels down 1.5%; SNAP recipients down 3.5%; GCP rising, by 3.0% in real terms; employment levels up 1.7%; the unemployment rate down 0.3 percentage points; and in Housing Court, the number of cases heard (calendared) down 3.2%[13] and the number of non-payment filings down 2.7%[14] However, homeless rates were up 1.0% during the fourth quarter of 2018.

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 2011.

Percentage Changes in the Consumer Price Index
for the New York City - Northeastern New Jersey Metropolitan Area, 2011-2019
(For "All Urban Consumers")

	2011	2012	2013	2014	2015	2016	2017	2018	2019
1st Quarter Avg.[15]	2.0%	2.7%	2.1%	1.4%	-0.2%	0.7%	2.5%	1.6%	1.5%
Yearly Avg.	2.8%	2.0%	1.7%	1.3%	0.1%	1.1%	2.0%	1.9%	NA

Source: U.S. Bureau of Labor Statistics.

Effective Rates of Interest

The Board took into account current mortgage interest rates and the availability of financing and refinancing. It reviewed the staff's *2019 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*.

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10 NYS Dept. of Labor; http://www.labor.state.ny.us; Data accessed March 2019. Data is revised annually and may not match data reported in prior years.
11 Administrative Office of the U.S. Courts; https://www.uscourts.gov/ statistics-reports/caseload-statistics-data-tables; Accessed March, 2019.
12 Data from the Policy & Planning Office of the NYC Department of Homeless Services (DHS), DHS daily reports, DHS Data Dashboard Tables, and monthly Citywide Performance Reporting reports. Note that in addition, the NYC Department of Housing Preservation and Development, the NYC Department of Youth and Community Development, and the NYC Human Resources Administration also operate emergency shelters, which house approximately 5,000 persons per night, which is not included in the totals presented in this report.
13 This data is obtained from the Civil Court of the City of New York, which cannot provide exact "quarterly" data. The Court has 13 terms in a year, each a little less than a month long. This data is for terms 10-13, which is from approximately the middle of September through the end of the year. It is compared to the same period of the prior year.
14 See Endnote 13.
15 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.

2019 Mortgage Survey[16] Average Interest Rates and Points for New and Refinanced Permanent Mortgage Loans 2010-2019										
New Financing of Permanent Mortgage Loans, Interest Rate and Points										
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2018
Avg. Rates	6.3%	5.8%	4.6%	4.4%	4.9%	4.3%	4.0%	4.3%	4.8%	4.7%
Avg. Points	0.79	0.61	0.63	0.59	0.54	0.70	0.42	0.44	0.44	0.38
Refinancing of Permanent Mortgage Loans, Interest Rate and Points										
	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Avg. Rates	6.3%	5.7%	4.7%	4.4%	4.9%	--*	--*	--*	--*	--*
Avg. Points	0.83	0.61	0.63	0.40	0.50	--*	--*	--*	--*	--*

Source: 2010–2019 *Annual Mortgage Surveys*, RGB.
* Questions specific to refinancing are no longer asked on the survey.

SRO Housing and Airbnb Rentals

Conversion of single room occupancy (SRO) buildings also continued over the past year. SRO owners may convert SRO housing to other uses after obtaining a "Certificate of No Harassment" from HPD. For the third consecutive year, the number of approved certificates fell, from 92 in 2017 to 83 in 2018, a decrease of 9.8%.[17]

Efforts are also underway to ensure that SROs are used for permanent housing rather than as transient hotels. As of May 1, 2011, laws were newly passed strengthening the City's ability to crack down on housing being used illegally for transient occupancy. Transient occupancy is now clearly defined as stays of fewer than 30 days.[18] Governor Cuomo signed a bill in October of 2016 that further increased the fine for illegally advertising short- term rentals to as much as $7,500.[19]

Between May of 2011 and April of 2019, approximately 16,000 violations were issued to illegal hotel operators (including private apartments, hostels, and SROs). This includes more than 3,000 violations issued between May, 2018 and April, 2019), a decrease from the approximately 3,500 violations over the same time period of the prior year.[20]

The effect in NYC of Airbnb and other short- term rental companies, which facilitate short-term and vacation rentals worldwide, continues to be studied by various City agencies and interest groups. Two 2018 reports (explored in depth in the 2018 Housing Supply Report) found that

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16 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.
17 NYC Department of Housing Preservation and Development.
18 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.
19 "Cuomo signs bill that deals huge blow to Airbnb," New York Post, October 21, 2016.
20 Office of the Criminal Justice Coordinator, Mayor's Office of Special Enforcement. Complete April 2019 data was not yet finalized as of the publication of this report. Inclusive of data through approximately April 23, 2019.

Airbnb both removes permanent housing from NYC's housing stock, and increases rents.[21] In an effort to curb the influence of companies like Airbnb (and other short- term rental companies), NYC continues to push for additional legislation and oversight of these companies. A law which was passed last July would require online home-sharing sites to disclose to the Mayor's Office of Special Enforcement, on a monthly basis, all listings within NYC. The data would include the identities and addresses of the hosts, and companies would be subject to a $1,500 fine for each listing not disclosed. The law was intended to go into effect in February of this year, but in January a federal judge issued a preliminary injunction of the law on constitutional grounds.[22]

A 2019 report from the School of Urban Planning at McGill University (an update to one of the aforementioned 2018 reports; see Endnote 21) analyzed the effect the currently blocked short-term rental disclosure regulations would have on the NYC rental market.[23] Starting with a baseline of August 31, 2018 (when the report found that there were 30.6% more units renting for 120 nights or more as compared to the previous year, or a total of 9,000 such listings), the authors found that without new regulations, over the next year the number of housing units taken off the market would increase by an additional 1,800 units (to 10,800); average daily listings would increase 0.8%, to 57,300; 68% of listing revenue would be earned from illegal reservations; rent would increase for permanent tenants by an aggregate of $8.6 million (with a $60 million increase over three years); and commercial operators would manage 18.5% of all entire-home listings (up from 16.7% today).

Using San Francisco as a guide (where more stringent regulations went into place in January of 2018), the report predicts that with the new regulations there would be an average daily listing decline of 46% (to 31,000); 8,700 housing units would come back into the permanent market; rental vacancy rates would increase, especially in those neighborhoods most popular on listing sites; rent would decrease by an aggregate of $19 million (and by $130 million over three years); and illegal revenue would decrease by 69%.

OTHER RELEVANT INFORMATION

The NYS Division of Housing and Community Renewal released a memo to the Board dated April 17, 2019 in which they outline information from their registration database relating to Hotels/SROs/Rooming Houses. The following is an excerpt from that memo (Pages 3-4):

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21 See the *2018 Housing Supply Report* for more information on the following two reports: "The High Cost of Short-Term Rentals in New by York City," by David Wachsmuth, David Chaney, Danielle Kerrigan, Andrea Shillolo, and Robin Basalaev-Binder (McGill University), January 30, 2018 and "The Impact of Airbnb on NYC Rents," NYC Comptroller's Office, April 2018.

22 "Judge Blocks New York City Law Aimed at Curbing Airbnb Rental," New York Times, January 3, 2019.

23 "The Impact of New Short-term Rental Regulations on New York City," by David Wachsmuth Jennifer Combs and Danielle Kerrigan (McGill University), January, 2019.

10. What is the total number of SRO/Hotel units registered with the DHCR in 2018? How many of these units are rent stabilized? How many are temporarily and permanently exempt? How many are registered as transient? How many as vacant?

Rent Stabilized Units	**10,524**
Vacant Units	**1,310**
Temporary Exempts Units	**4,549**
***of these 2,778 are Transient Units**	
Permanent Exempt Units	**97**
Total Number of Units	**16,480**

11. What is the total number of SRO/Hotel units registered with the DHCR on an annual basis from 2009-2018?

- **In 2012 the total number of units registered was 19,757**
- **In 2013 the total number of units registered was 17,792**
- **In 2014 the total number of units registered was 18,787**
- **In 2015 the total number of units registered was 18,322**
- **In 2016 the total number of units registered was 16,996**
- **In 2017 the total number of units registered was 16,469 and**
- **In 2018 the total number of units registered was 16,480**

12. What is the average and median rent for rent stabilized SRO/Hotel units in 2018?

- **The average rent stabilized rent for SRO/Hotel units in 2018 is $1,324; the median rent is $1,195.**

On April 22, 2019, staff released a memo to the Board analyzing hotel data contained in the NYS Division of Housing and Community Renewal's 2017 and 2018 apartment and building registration databases. Below is the memo in its entirety.

Since 2007, Rent Guidelines Board staff has periodically[24] analyzed registration data[25] filed with New York State Homes and Community Renewal (HCR) by owners of hotels and rooming houses.[26] This memorandum sets forth staff's most recent analysis, which includes data on rent levels for rent stabilized units in rooming houses and hotels identified from HCR registration filings for 2017 and 2018.[27]

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[24] Previous memos are from June 4, 2007; June 4, 2009; June 12, 2012; June 4, 2013; May 22, 2015; June 12, 2017, and May 31, 2018 which analyzed hotel registration data filed with the NYS Homes and Community Renewal (HCR) in 2005, 2008, 2011, 2012, 2014, 2015/2016, and 2016/2017, respectively.

[25] Each year owners are required to provide HCR with listings of every rent stabilized unit in their buildings, including the rent level and whether the unit is currently rent stabilized, vacant, or permanently or temporarily exempt.

[26] Single Room Occupancy (SRO) residence is not a category available for registration. SRO residences would most commonly be registered as a hotel.

[27] Because the 2018 registration data is not final, two years of registration data were examined to capture buildings that may not appear in the 2018 data due to late registration. Note also that HCR registration filings may not reflect a complete count of hotels and rooming houses, as not all owners register their buildings, may register late, or may fail to correctly identify a building as a hotel or rooming house.

The basis for the 2019 analysis are those buildings identified as rooming houses or hotels in a memo dated June 12, 2017, the first memo utilizing a new methodology which attempted to correct for registration errors in HCR data.[28] At that time, staff identified and reported data on 174 rooming houses and 83 hotels. For the 2019 analysis, staff searched the two most recent HCR registration files for the same group of buildings identified in the 2017 memorandum.[29] This analysis identified 140 rooming houses and 72 hotels for which information, including available rent data, is provided below.

Rooming Houses

Staff identified 140 rooming house buildings in the 2017 and 2018 HCR registration files, a decrease from the 148 identified in the 2018 memo and 174 identified in the 2017 memo.[30] These 140 buildings contained a total of 3,641 housing units.[31] By category, 2,589 (71.1%) of these units were registered as "rent stabilized" (indicating that they were occupied by a rent stabilized tenant at the time of registration). HCR files contain rent information for 2,587 of these units. With respect to the remaining units, 612 units (16.8%) are reported as "temporarily exempt;" 433 units (11.9%) as "vacant;" and seven units (0.2%) as "permanently exempt." Among the temporarily exempt units, the most common reason given for the exemption is "Hotel/SRO (Transient)" (53.9% of temporarily exempt units). The second most common reason is "Not Prime Residence" (29.4% of temporarily exempt units), followed by "Owner/Employee Occupied" (16.0% of temporarily exempt units). The remaining 0.7% of units are classified as either "Commercial/Professional" or "Other." Of the 140 buildings identified for this analysis, 24 (17.1%) consist entirely of exempt and/or vacant units (384 units or 10.5% of total units). In addition, 77 of these 140 buildings (55.0%) contain less than 85%[32] permanently stabilized units. These 77 buildings contain 1,303 units (35.8% of total units).

Table 1 shows the number of rent stabilized rooming house units and buildings that registered legal rents with HCR in 2017/2018. Legal rents are the maximum amount that an owner can charge to tenants (or potentially to government agencies subsidizing tenants), but do not necessarily reflect what a tenant is actually paying. Table 1 also provides the median and average legal rents for these units, Citywide.

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[28] It is important to note that prior to 2017, staff had relied on owners to provide correct information regarding the type of building being registered. In some cases, staff individually examined selected records with especially high rent levels to determine if the building was in fact a hotel or rooming house, and then omitted these records from the analysis if it was found to be incorrectly registered. However, as a general rule, staff used the building type information reported by owners without any secondary checks. The 2017 analysis attempted to compile a more accurate list of rooming houses and hotels by individually researching those buildings which self-identified as such and eliminating those buildings that were more likely to be Class A apartment buildings. The full methodology for that process is outlined in the June 12, 2017 memo.

[29] Rent data was used from 2018 registration files where available, and from 2017 only if the building was not registered in 2018.

[30] Using the list of buildings identified in 2017 as a starting point, staff searched the most recent HCR registration records, from 2018 (as released to the RGB in March of 2019), for the 174 buildings identified in the 2017 memo. A total of 125 buildings that were previously identified as rooming houses were contained in the most recent registration filings available to staff. Another 15 buildings were matched with 2017 registration data. A total of 34 buildings could not be located in either registration file. Staff did not research whether any new rooming house buildings may have been registered in 2018.

[31] Registration records were not checked against other sources in regard to the number of housing units. Note that while some owners may register all their units, regardless of regulation status, others may register only those that are rent stabilized.

[32] The proviso in RGB Hotel Order 41, the last time the Board granted a renewal lease increase, limited permitted increases to rooming houses with at least 85% permanently rent stabilized occupancy. Note that if the owner has not registered every unit in the building with HCR (as they may not with unregulated units), the percentage of buildings that are 85% or more rent stabilized could be inflated.

Table 1: 2017/2018[33] Median and Average "Legal" Rents for Rooming House Units Identified as Rent Stabilized (excludes exempt and vacant units)

	# of Stabilized Units	*# of Stabilized Buildings*	*Median Legal Rent*	*Average Legal Rent*
Citywide	2,587	116	$1,157	$1,073

Source: 2017 and 2018 HCR Building and Apartment Registration filings

Table 2 presents information with respect to median and average "preferential" rents reported for 30% of *rent stabilized* rooming house units. Preferential rents are rents that owners voluntarily choose to charge to tenants, which are lower than legal rents.

Table 2: 2017/2018[34] Median and Average "Preferential" Rents for Rooming House Units Identified as Rent Stabilized (excludes exempt and vacant units)

	# of Stabilized Units	***Median***		***Average***	
		*Preferential Rent**	*% Difference from Legal Rent***	*Preferential Rent**	*% Difference from Legal Rent***
Citywide	779	$872	-39%	$801	-41%

*Only for those units reporting a preferential rent.
**Refers to the legal rents of just those units that reported preferential rents.
Source: 2017 and 2018 HCR Building and Apartment Registration filings

Table 3 presents the median and average "actual" rents reported for 42% of *rent stabilized* rooming house units. These are the rents that are paid by tenants out of pocket, with the balance being paid by government programs such as Section 8, Shelter Plus or SCRIE. Also shown is the percentage difference from the median and average legal rents of *just those units with reported actual rents*. Theoretically, the owners of the 1,077 units reporting actual rents can receive the difference between the actual and legal rents from government programs, and in fact, 78% of these units do not report any "preferential" rents, suggesting that in most cases owners do receive the full legal rent for these units. The median Citywide *legal* rent for these units is $1,202 and the average *legal* rent is $1,169. Not reported here are detailed statistics for the 241 units that report both actual and preferential rents (which would indicate that the owners of these units *do not* receive the full legal rent). The Citywide median *preferential* rent for these 241 units is $909 and the average *preferential* rent is $968.

Table 3: 2017/2018[35] Median and Average "Actual" Rents for Rooming House Units Identified as Rent Stabilized (excludes exempt and vacant units)

	# of Stabilized Units	***Median***		***Average***	
		*Actual Rent**	*% Difference from Legal Rent***	*Actual Rent**	*% Difference from Legal Rent***
Citywide	1,077	$242	-80%	$442	-62%

*Only for those units reporting an actual rent.
**Refers to the legal rents of just those units that reported actual rents.
Source: 2017 and 2018 HCR Building and Apartment Registration filings.

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33 2018 data used whenever available.
34 2018 data used whenever available.
35 2018 data used whenever available.

Table 4 shows median and average "rent received," which uses a combination of preferential and legal rents to identify the rent actually being collected by owners of rent stabilized rooming houses. For the purposes of this table, "rent received" is defined as the legal rent, unless a preferential rent is registered, in which case the preferential rent is used.

Table 4: 2017/2018[36] Median and Average "Rent Received" Rents for Rooming House Units Identified as Rent Stabilized (excludes exempt and vacant units)

	# of Stabilized Units	***Median** "Rent Received"**	***Average** "Rent Received"**
Citywide	2,587	$870	$906

*"Rent Received" refers to the preferential rent (if one is provided), or the legal rent (if a preferential rent is not provided)
Source: 2017 and 2018 HCR Building and Apartment Registration filings

Table 5 provides a longitudinal analysis[37] of 96 buildings (with rent information, 116 total) that registered in both 2018 and 2017. The median and average rents of this group of buildings in both years are presented below.

Table 5: 2018 Longitudinal Citywide Rent Data for Rooming House Units Identified as Rent Stabilized (excludes exempt and vacant units)

	Legal Rent	*Preferential Rent*	*Actual Rent*	*"Rent Received"**
# of Units	2,301	614	933	2,301
Median 2016	$1,126.67	$872.00	$238.00	$872.00
Median 2017	$1,150.00	$872.00	$242.00	$856.72
% Change (Median)	*2.1%*	*0.0%*	*1.7%*	*-1.8%*
Average 2016	$1,030.66	$775.11	$430.56	$891.93
Average 2017	$1,057.88	$787.97	$457.05	$902.19
% Change (Average)	*2.6%*	*1.7%*	*6.2%*	*1.2%*

*"Rent Received" refers to the preferential rent (if one is provided), or the legal rent (if a preferential rent is not provided)
Source: 2017 and 2018 HCR Building and Apartment Registration filings)

<u>Hotels</u>

The 2017 and 2018 HCR registration files contained 72[38] buildings that could be identified as hotels, a decrease from the 74 identified in the 2018 memo and the 83 identified in the 2017 memo.[39] According to HCR records, these buildings contained a total of 6,178 units of

[36] 2018 data used whenever available.
[37] Note that unlike Tables 1-4, which rely on a combination of two years' worth of data to report a single median or average rent figure, the longitudinal analysis relies solely on comparing 2018 data to 2017 data. All but nine of the rooming houses registered in 2018 were also registered in 2017.
[38] Five of these "buildings" filed more than one registration with HCR, for adjacent addresses (a total of 11 records, treated here as five records). They are generally considered to be a single building, and are treated as such in this analysis.
[39] Using the list of buildings identified in 2018 as a starting point, staff searched the most recent HCR registration records available to staff, from 2018 (as released to the RGB in March of 2019), for the 83 buildings identified in the 2017 memo. A total of 68 buildings that were previously identified as rooming houses were contained in the most recent registration filings available to staff. Another four buildings were matched with 2017 registration data. A total of 10 buildings could not be located in either registration file. Staff did not research whether any new hotel buildings may have been registered in 2017.

housing.[40] Of the units registered with HCR, 2,241 (36.3%) were registered as "rent stabilized." Rent information was provided for 2,237 of these units. Of the remaining units, 3,536 (57.2%) were registered as "temporarily exempt"; 393 (6.4%) as "vacant;" and eight (0.1%) as "permanently exempt." With respect to temporarily exempt units, the most common reason given for this status is "Hotel/SRO (Transient)" (78.1%). The second most common reason provided for temporarily exempt status is "Not Prime Residence" (16.5%). With respect to the remaining temporarily exempt units, the reasons for exemption are almost entirely "other" or "owner- or employee-occupied." Of these 72 buildings, six (8.3%) consist entirely of exempt and/or vacant units (320 units or 5.2% of total units). In addition, 40 buildings (55.6%) contain less than 85% permanently stabilized units.[41] These 40 buildings contain 4,581 units, or 74.2% of the total units registered with HCR.

HCR registration files provided to the RGB provide information only for hotel units that owners register, which may or may not accurately reflect the total number of units in the building. Staff therefore researched two additional sources of information to determine the number of units in registered hotels.[42] For each hotel building, staff researched both registration records from the Department of Housing and Preservation Development (HPD), as well as internet sites, such as Expedia and Hotels.com, and the individual websites of the hotels, where available. In many cases, the unit count data from these different sources was inconsistent. For purposes of this analysis, staff has generally used the highest of the figures (whether HCR, HPD, or the travel or hotel websites) to estimate an actual unit count in these buildings. Taking this approach, staff found that these 72 buildings contained an *estimated* total of 16,148 units of housing. As a proportion of this higher number of units, units registered as "rent stabilized" are 13.9% of the total (versus 36.3% of the registered HCR units). As a proportion of the higher number of units, 67 buildings (93.1% of the total buildings) contain less than 85% permanently stabilized units.[43] These 67 buildings contain 15,292 units, or 94.7% of the total units.

Table 6 shows the number of rent stabilized units and buildings that registered legal rents with HCR in 2017/2018. Legal rents are the maximum amount that an owner can charge to tenants (or to government agencies subsidizing tenants), but do not necessarily reflect what a tenant is actually paying. The table also provides the median and average legal rents for these units, Citywide.

Table 6: 2017/2018[44] Median and Average "Legal" Rents for Hotel Units Identified as Rent Stabilized (excludes exempt and vacant units)

	# of Stabilized Units	*# of Stabilized Buildings*	***Median** Legal Rent*	***Average** Legal Rent*
Citywide	2,237	68	$745	$1,083

Source: 2017 and 2018 HCR Building and Apartment Registration filings

[40] Note that while some owners may register all their units, regardless of regulation status, others may register only those that are rent stabilized.
[41] The proviso in RGB Hotel Order 41, the last time the Board granted a renewal lease increase, limited permitted increases to hotels with at least 85% permanently rent stabilized occupancy. If the owner has not registered every unit in the building with HCR (as they may not with unregulated units), the percentage of buildings that are 85% or more rent stabilized could be inflated.
[42] Note that this analysis was not undertaken for rooming houses.
[43] See footnote 41.
[44] 2018 data used whenever available.

Table 7 presents the median and average "preferential" rents reported for 13% of *rent stabilized* units. Preferential rents are rents that owners voluntarily choose to charge to tenants, which are lower than legal rents.

Table 7: 2017/2018[45] Median and Average "Preferential" Rents for Hotel Units Identified as Rent Stabilized (excludes exempt and vacant units)

	# of Stabilized Units	***Median***		***Average***	
		*Preferential Rent**	*% Difference from Legal Rent***	*Preferential Rent**	*% Difference from Legal Rent***
Citywide	282	$538	-60%	$613	-74%

*Only for those units reporting a preferential rent.
**Refers to the legal rents of just those units that reported preferential rents.
Source: 2017 and 2018 HCR Building and Apartment Registration filings

Table 8 shows the median and average "actual" rents reported for 21% of *rent stabilized* hotel units. These are the rents that are paid by tenants out of pocket, with the balance being paid by government programs such as Section 8, Shelter Plus or SCRIE. Also shown is the percentage difference from the median and average legal rents of *just those units with reported actual rents*. Theoretically, the owners of the 462 units reporting actual rents can receive the difference between the actual and legal rents from government programs, and in fact, 86% of these units do not report any "preferential" rents, suggesting that in most cases owners do receive the full legal rent for these units. The median Citywide *legal* rent for these units is $745 and the average *legal* rent is $849. Not reported here are detailed statistics for the 63 units that report both actual and preferential rents (which would indicate that the owners of these units *do not* receive the full legal rent). The median Citywide *preferential* rent for these units is $897 and the average *preferential* rent is $901.

Table 8: 2017/2018[46] Median and Average "Actual" Rents for Hotel Units Identified as Rent Stabilized (excludes exempt and vacant units)

	# of Stabilized Units	***Median***		***Average***	
		Actual Rent	*% Difference from Legal Rent***	*Actual Rent*	*% Difference from Legal Rent***
Citywide	462	$326*	-56%	$502*	-41%

*Only for those units reporting an actual rent.
**Refers to the legal rents of just those units that reported actual rents.
Source: 2017 and 2018 HCR Building and Apartment Registration filings

Table 9 shows median and average "rent received," which uses a combination of preferential and legal rents to identify the rent actually being collected by owners of rent stabilized hotels. For the purposes of this table, "rent received" is defined as the legal rent, unless a preferential rent is registered, in which case the preferential rent is used.

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[45] 2018 data used whenever available.
[46] 2018 data used whenever available.

Table 9: 2017/2018[47] Median and Average "Rent Received" Rents for Hotel Units Identified as Rent Stabilized (excludes exempt and vacant units)

	# of Stabilized Units	***Median** "Rent Received"**	***Average** "Rent Received"**
Citywide	2,237	$718	$862

*"Rent Received" refers to the preferential rent (if one is provided), or the legal rent (if a preferential rent is not provided)
Source: 2017 and 2018 HCR Building and Apartment Registration filings

Table 10 provides a longitudinal analysis[48] of 59 hotel buildings (with rent information, 66 total) that registered in both 2017 and 2018. The median and average rents for this group of buildings are presented below.

Table 10: 2018 Longitudinal Citywide Rent Data for Hotel Units Identified as Rent Stabilized (excludes exempt and vacant units)

	Legal Rent	*Preferential Rent*	*Actual Rent*	*"Rent Received"**
# of Units	1,818	249	409	1,818
Median 2016	$744.83	$533.03	$336.00	$713.60
Median 2017	$744.83	$536.63	$328.00	$719.42
% Change (Median)	*0.0%*	*0.7%*	*-2.4%*	*0.8%*
Average 2016	$1,127.01	$611.70	$503.81	$862.66
Average 2017	$1,145.38	$617.35	$507.37	$877.15
% Change (Average)	*1.6%*	*0.9%*	*0.7%*	*1.7%*

*"Rent Received" refers to the preferential rent (if one is provided), or the legal rent (if a preferential rent is not provided)
Source: 2017 and 2018 HCR Building and Apartment Registration filings

Summary

In summary, while this memo cannot capture every rent stabilized hotel or rooming house in New York City, it provides information on the universe of registered units that are likely to be rent stabilized. Tables 11 and 12 summarize some of the data presented above.

Table 11 summarizes data on the regulatory status of rooming house and hotel units registered with HCR in 2017/2018.

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[47] 2018 data used whenever available.
[48] Note that unlike Tables 6-9, which rely on a combination of two years' worth of data to report a single median or average rent figure, the longitudinal analysis relies solely on comparing 2018 data to 2017 data. All but two of the Hotels registered in 2018 were also registered in 2017.

Table 11: 2017/2018[49] Rent Regulation Status of Registered Rooming Houses and Hotels

	*# of Units**	*Occupied Rent Stabilized*	*Vacant*	*Temporarily Exempt*	*Permanently Exempt*
Rooming Houses	3,641	2,589	433	612	7
Hotels	6,178	2,241	393	3,536	8
Rooming Houses and Hotels (combined)	9,819	4,830	826	4,148	15

*Includes only those units registered with HCR
Source: 2017 and 2018 HCR Building and Apartment Registration filings

Table 12 provides a summary of the legal and received rents for rooming houses and hotels, as well as the average and median rents of rooming houses and hotels combined.

Table 12: 2017/2018[50] Median and Average Legal Rent and "Rent Received" Rents for Rooming House and Hotel Units Identified as Rent Stabilized (excludes exempt and vacant units)

	# of Stabilized Units	***Median*** *Legal Rent*	***Average*** *Legal Rent*	***Median*** *"Rent Received"**	***Average*** *"Rent Received"**
Rooming Houses	2,587	$1,157	$1,073	$870	$906
Hotels	2,237	$745	$1,083	$718	$862
Rooming Houses and Hotels (combined)	4,824	$843	$1,078	$745	$886

*"Rent Received" refers to the preferential rent (if one is provided), or the legal rent (if a preferential rent is not provided)
Source: 2017 and 2018 HCR Building and Apartment Registration filings

[49] 2018 data used whenever available.
[50] 2018 data used whenever available.

VOTE

The vote of the Rent Guidelines Board on the adopted motion pertaining to the provisions of Order Number 49 was as follows:

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

Dated: June 25, 2019
Filed with the City Clerk: June 28, 2019

David Reiss
Chair
NYC Rent Guidelines Board

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