EXPLANATORY STATEMENT - HOTEL ORDER #42

Explanatory Statement and Findings of the Rent Guidelines Board In Relation to 2012-13 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 42, Effective October 1, 2012 through and including September 30, 2013.[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 42, adopted on June 21, 2012, applies to stabilized hotel units occupied by non-transient tenants.

Hotel Order Number 42 provides for an allowable increase of **0%** over the lawful rent actually charged and paid on September 30, 2012 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 42. 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 doctor's offices. The numerator of the calculation is the number of units occupied by permanent rent stabilized or rent controlled tenants.

Here are two examples. One: a hotel has 100 units and 2 stores. 32 units are rented to permanent rent stabilized tenants, 10 are vacant and 58 are rented to transients and tourists. The calculation is as follows, the denominator is 100 and the numerator is 32. This calculation results in an occupancy percentage of LESS than 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 22, April 5, 19 and 26, and May 31, 2012 following public notices. On May 1, the Board adopted proposed rent guidelines for hotels, apartments, and lofts.

Two public hearings were held on June 13 and June 18, 2012 to hear comments on the proposed rent adjustments for rent stabilized hotels and apartments. The hearings were held from 4:30 p.m. to 7:15 p.m. on June 13 and from 10:00 a.m. to 6:05 p.m. on June 18. Both hearings ended when all those who were in attendance who wished to testify did so and there were no additional speakers. Over the course of the public comment period, the Board heard testimony from approximately eight hotel tenants and tenant representatives, one hotel owner, and one public official. In addition, the Board's office received approximately 26 written statements from 25 tenants and one public official. On June 21, 2012, the guidelines set forth in Hotel Order Number 42 were adopted.

Selected Oral and Written Testimony from Tenants and Tenant Groups:

– "We are asking for a rent freeze this year after last year's 3% rent increase. For many tenants, SROs are a type of housing of last resort and any increase in rents will constitute an insurmountable hardship that is likely to result in homelessness."

– "A vast majority of SRO tenants are on SSI or disability pensions and rely on food stamps and other similar resources to supplement their income. Tenants routinely report incomes as low as $10,000 per year. For many, the affordability of their SRO home makes the difference between having a roof over their head and being homeless. With homelessness already at a nightly average of 38,000 person per night – a 4.4% 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."

– "SRO building owners who remove affordable housing units from the market through warehousing, use as illegal hotels or through other means should not be rewarded with rent increases. SRO landlords continue to make new and very lucrative use of their properties, while housing an ever-shrinking number of permanent tenants. They are contributing to the housing shortage in this city and should not be rewarded for it. It is simply a fallacy to pretend that SRO owners are struggling to make a profit."

– "The profitability of SRO buildings is not primarily based upon the rents owners collect from permanent tenants. Regulated rents serve only a small supplement to the revenues owners realize from the large number of SRO rooms that are rented outside the regulated system. Owners lawfully and unlawfully rent regulated SRO units to transients, tourists, and institutional lessees at rates that significantly exceed stabilized rents. The Illegal Hotel Law that was passed by the City Council in 2010 has not changed this reality."

– "Please do not increase the rent for hotels in NYC because the building owners have profited at the expense of their residents. A lot of money was made as a result of these daily rate hotel offers in residential buildings and now we (the tenants) are left with chronic bed bug problems, horribly stained carpets in all common areas and broken elevators with marked up walls due to the heavy traffic of suitcases being dragged in and out."

– "Over the years many units have been illegally warehoused in order to do away with their rent stabilization. Furthermore, if certificate of occupancy is changed it will cause decreases in service for SRO and Class A tenants. There are no laws or provisions to grandfather hotel tenants' services and rents. Tempo Hotel should absolutely not be granted a rent increase. We are counting on your integrity to vote against a rent increase for this building."

Selected Oral and Written Testimony from Owners and Owner Groups:

– "My expenses have gone up tremendously in the last five years. I'm certainly not compensated by any increases that were given in the guidelines. My property taxes have gone up 800%. The water and sewer bills have gone up 100%, and fuel costs…have gone up tremendously as well."

– "I understand that…I cannot increase the rent by the amount that my expenses have gone up. It's just not feasible….But I'm able to live with the increases that you're giving for the rent stabilized units….But for the SRO units, you need to catch up there. They cost more to maintain….Basically, I have to provide people a clean bathroom, take care of things in a much more intensive way than an apartment. I think it's just not fair that you would give less of an increase to an SRO unit than a rent stabilized unit."

Selected Oral and Written Testimony from Public Officials:

– "I am here today to request that the Rent Guidelines Board freeze increases for all regulated rental units, including Class A Hotels, Single Room Occupancy Buildings, and Rooming Houses."

– "Nowhere is this ['a proviso that buildings with rent-regulated units as well as free market units should definitely be exempt from any RGB increase'] more important than in the Single Room Occupancy and residential hotels, where rent-regulated units are a critical segment of the city's housing stock available to low income New Yorkers. The average SRO tenant now pays 50% or more of his/her income for rent, and they have very little left over for basic necessities. Yet this kind of housing – sometimes shared facilities – is desperately needed in our city."

– "Most of these buildings – the few that are left – have a mixture of regulated and "other" uses – such as hotel, city referrals and the list goes on – 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."

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 *2012 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 26, 2012. Guest speakers representing hotel tenants included Daniel L. Parcerisas, from the Goddard-Riverside Community Center's West Side 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) *2012 Mortgage Survey Report*, March 2012 (An evaluation of recent underwriting practices, financial availability and terms, and lending criteria);

(2) *2012 Income and Affordability Study,* April 2012 (Includes employment trends, housing court actions, changes in eligibility requirements and public benefit levels in New York City);

(3) *2012 Price Index of Operating Costs,* April 2012 (Measures the price change for a market basket of goods and services which are used in the operation and maintenance of stabilized hotels);

(4) *2012 Housing Supply Report*, May 2012 (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 2011,* May 2012 (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 3.7% this year, a significantly smaller increase than the 7.6% rise in 2011. The Price Index for Hotels was 0.9 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 Tax and Utilities components. Taxes for Hotels increased at a higher pace (11.0%) than the increase for apartments (7.5%). In contrast, the decrease in Utilities for all types of Hotels was 9.1%, versus the 4.0% decline 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. Contactor Services increased 4.3% and Labor by 2.7% while Administrative Costs and Insurance rose at the same rate (2.5%). Fuel Oil costs, which make up roughly 16% of the PIOC for hotels, rose 1.4%. Parts and Supplies and Replacement Costs, which carry very little weight in the Hotel Index, rose 2.5% and 2.0%, respectively. See the table on this page for changes in costs and prices for all rent stabilized hotels from 2011-2012.

Among the different categories of Hotels, the index for "traditional" hotels increased 6.7%, which was higher than increases for both Rooming Houses (3.7%) and SROs (1.3%). The differences between these indices are due to the increased weight and more rapid increase in costs in the Tax component for "traditional" hotels.

Percent Change in the Components of the Price Index of Operating Costs March 2011 to March 2012, By Hotel Type and All Hotels

Spec #	Item Description	Hotel	RH	SRO	All Hotels
101	TAXES, FEES, & PERMITS	15.8%	8.2%	7.0%	11.0%
205-206, 208-216	LABOR COSTS	2.9%	2.4%	2.3%	2.7%
301-303	FUEL	1.3%	0.3%	2.6%	1.4%
401-407, 409-410	UTILITIES	-10.3%	0.6%	-11.5%	-9.1%
501-509, 511-516, 518	CONTRACTOR SERVICES	5.1%	3.6%	2.7%	4.3%
601-608	ADMINISTRATIVE COSTS	2.6%	2.2%	2.4%	2.5%
701	INSURANCE COSTS	2.5%	2.5%	2.5%	2.5%
801-816	PARTS AND SUPPLIES	1.7%	4.1%	3.2%	2.5%
901-904, 907-911	REPLACEMENT COSTS	1.8%	2.2%	2.3%	2.0%
	ALL ITEMS	**6.7%**	**3.7%**	**1.3%**	**3.7%**

Source: *2012 Price Index of Operating Costs*

CHANGES IN HOUSING AFFORDABILITY

Preliminary results from the *2011 Housing and Vacancy Survey* were released in February of this year, and show that the vacancy rate for New York City is currently 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 $38,500 for all renters. The median gross rent for rent stabilized tenants was also slightly 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 35.2% in 2011, compared to 33.8% for all renters.

Looking at New York City's economy during 2011, it showed both strengths and weaknesses as compared with the preceding year. Positive indicators include citywide unemployment rates decreasing to 9.0% during 2011, a 0.5 percentage point decrease from the prior year. In addition, employment levels grew, for the second year in a row, increasing 2.0% in 2011. Inflation-adjusted wages also increased 1.3% during the most recent 12-month period (the fourth quarter of 2010 through the third quarter of 2011). Gross City Product also increased for the second consecutive year, rising in real terms by 3.2% in 2011.

Negative indicators included a 7.7% increase in evictions, despite the number of "calendered" non-payment filings in Housing Court declining 0.8%. In addition, cash assistance levels increased for the third consecutive year, increasing by 0.4% between 2010 and 2011. The number of food stamp recipients also rose, increasing for the ninth consecutive year, by 4.9% in 2011. In addition, homelessness rose over 2010 levels, increasing to an average of almost 38,000 persons a night, a 4.4% increase.

The most recent numbers, from the fourth quarter of 2011 (as compared to the fourth quarter of 2010), show that homeless levels were up 8.4%, food stamp caseloads were up 1.5%, and non-payment housing court filings were up 5.5%. However, calendared non-payment housing court cases fell by 1.9%, employment levels were up 1.5%, unemployment levels remained at 9.0%, and GCP rose by 2.5%.

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 2004.

Percentage Changes in the Consumer Price Index for the New York City - Northeastern New Jersey Metropolitan Area, 2004-2012 (For "All Urban Consumers")									
	2004	2005	2006	2007	2008	2009	2010	2011	2012
1st Quarter Avg.[2]	2.8%	4.1%	3.4%	2.9%	3.7%	1.3%	2.1%	2.0%	2.7%
Yearly Avg.	3.5%	3.9%	3.8%	2.8%	3.9%	0.4%	1.7%	2.8%	-

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 *2012 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*.

2012 Mortgage Survey[3] Average Interest Rates and Points for New and Refinanced Permanent Mortgage Loans 2003-2012										
New Financing of Permanent Mortgage Loans, Interest Rate and Points										
	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Avg. Rates	6.2%	5.8%	5.5%	6.3%	6.3%	5.8%	6.5%	6.3%	5.8%	4.6%
Avg. Points	0.81	0.67	0.56	0.44	0.61	0.47	0.62	0.79	0.61	0.63
Refinancing of Permanent Mortgage Loans, Interest Rate and Points										
	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
Avg. Rates	6.2%	5.7%	5.5%	6.3%	6.2%	5.8%	6.5%	6.3%	5.7%	4.7%
Avg. Points	0.78	0.60	0.56	0.44	0.61	0.44	0.62	0.83	0.61	0.63

Source: 2003–2012 *Annual Mortgage Surveys*, RGB.

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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.

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.

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" from HPD. Certificates are down for the seventh consecutive year, falling to 100 in 2011, down from 107 in 2010, and more than 200 in each year from 2004-2006.[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]

OTHER RELEVANT INFORMATION

On June 12, 2012, staff released a memo to the Board analyzing hotel data contained in the NYS Division of Housing and Community Renewal's 2011 apartment and building registration databases. Below is the memo in its entirety.

This memo is an update to staff memos released June 4, 2007 and June 4, 2009, which analyzed hotel registration data filed with DHCR in 2005 and 2008, respectively. Staff members recently analyzed the 2011 DHCR registration database for data related to hotels, SROs, and rooming houses (hereafter referred to only as "hotels"). In 2011, 549 buildings, that were identified by owners as hotels, registered units with DHCR.[6] Within these 549 buildings, 17,663 individual apartment registrations were filed, 12,148 of which were identified by owners as being "rent stabilized" and the balance (5,515 units) were identified as being either "permanently exempt," "temporarily exempt," or "vacant." A total of 54 buildings (9.8% of the total) consisted entirely of exempt units.[7]

Building owners/managers were asked to identify which of their units were temporarily or permanently exempt from rent stabilization laws. In 2011, 97 units were reported as being permanently exempt (0.5% of the total number of registered rent stabilized hotel units), while 3,587 units were reported as temporarily exempt (20.3% of the total number of registered rent stabilized hotel units). The most commonly reported reason for being temporarily exempt is "Hotel/SRO (Transient)" status, as was the classification given to 2,880 (80.3%) units. Less common was "Not Prime Residence" (151 units, or 4.2%) and "Owner Occupancy/Employee" (239 units, or 6.7%). Among permanently exempt units, 71 (73.2%) were reported as being deregulated due to High Rent/Vacancy Decontrol, while just a few were reported as being deregulated due to substantial rehabilitation or other reasons. In general, units that are temporarily exempt are either rented at what the market will bear, for as little as one night, or

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[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] Note that in the memo released on June 4, 2009 (which analyzed 2008 DHCR hotel data), a total of 472 hotel buildings were reported as being registered with DHCR. As a point of clarification, 472 buildings could be matched to either Dept. of Finance or Dept. of Housing Preservation and Development data, which provided an outside source of the number of units in the building (and which were used in the analysis of most data provided in the memo). The number of hotel buildings actually registered in 2008 with DHCR was 549, the same as 2011.

[7] All data in this memo is based on owner-reported information as reported to DHCR in their 2011 registration database.

rented to government agencies, not-for-profit organizations, or universities as temporary housing. In addition, 1,831 units were registered with DHCR as "Vacant."

In past memos, RGB staff has relied upon data provided by the Dept. of Finance and the Dept. of Housing Preservation and Development to ascertain the number of units actually present in rent stabilized hotels (as opposed to just the number that are registered). This data was used to analyze the proportion of units in buildings that were rent stabilized, per provisos in the guidelines that authorized increases only to those buildings that were being used predominately for permanent rent stabilized housing. For the purposes of this memo, staff has determined that too many inconsistencies occur in these outside sources to deem them reliable. Therefore, we rely solely on data provided in the 2011 DHCR building and apartment registration files, and will analyze data for *all* units registered as "rent stabilized[8]" in those files (as opposed to units in just those buildings that are less than 90% occupied by rent stabilized tenants, as per the proviso in the 2012 proposed guidelines for hotel units).

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 "preferential rent") and owners are also asked to provide DHCR on 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. 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 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: 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	3,252	162	$1,044	$1,426
Manhattan	7,023	213	$1,160	$2,315
Queens	718	65	$1,200	$1,195
Staten Island	102	7	$831	$817
Citywide	**12,118**	**495**	**$1,094**	**$1,895**

Source: 2011 DHCR Building and Apartment Registration filings

Table 2 illustrates the median and mean "preferential" rents for the over one-third (38.4%) 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*.

8 "Rent stabilized" refers to those hotel units that are identified as rent stabilized, as opposed to permanently exempt, temporarily exempt, or vacant.

Table 2: Median and Mean "Preferential" [9] 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	354	$809	-38%	$841	-42%
Brooklyn	1,233	$1,125	-21%	$1,333	-36%
Manhattan	2,871	$2,254	-41%	$2,335	-44%
Queens	175	$1,129	-29%	$1,110	-28%
Staten Island	17	$950	-1%	$928	-6%
Citywide	**4,650**	**$1,149**	**-28%**	**$1,905**	**-42%**

Source: 2011 DHCR Building and Apartment Registration filings
*Refers to the legal rents of just those units that reported preferential rents.

Table 3 shows the median and mean "actual" rents paid by one-quarter (23.7%) 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 2,877 units reporting actual rents can receive the difference between the actual and legal rents from government programs, and in fact, almost 80% 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 646 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 646 units is $809 and the mean preferential rent is $862.

Table 3: Median and Mean "Actual" [10] 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	2,069	$241	$940	$393	$1,112
Queens	83	$606	$1,350	$630	$1,254
Staten Island	1	$689	$1,179	$689	$1,179
Citywide	**2,877**	**$245**	**$1,032**	**$393**	**$1,134**

Source: 2011 DHCR Building and Apartment Registration filings;
*Refers to the legal rents of just those units that reported actual rents.

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[9] Upon a close examination of the DHCR apartment registration file, 175 units in three buildings (one each in Brooklyn, Manhattan, and Queens) were found to have erroneously registered almost all the "preferential" rents in their buildings as "actual" rents. In these 175 cases, the "actual" rent that they registered was $1,129, which was the HUD Fair Market Rent level for studio apartment in 2010/2011. 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 $1,129 a month (although the owner did receive this amount through a combination of payments from the tenant and the government). As such, these 175 units were altered to make $1,129 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.

[10] See footnote #9.

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: Median and Mean "Rent Received"[11] 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	3,253	$983	$1,141
Manhattan	7,023	$1,010	$1,559
Queens	718	$1,129	$1,092
Staten Island	102	$825	$806
Citywide	**12,119**	**$990**	**$1,356**

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 42 was as follows:

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

Dated: June 22, 2012
Filed with the City Clerk: June 27, 2012

Jonathan L. Kimmel
Chair
NYC Rent Guidelines Board

11 See footnote #9.

Bibliography

The City of New York Rent Stabilization Law of 1969 Section 26 - 501 et, seq.
Chapter 576 of the Laws of 1974 (The Emergency Tenant Protection Act).
Resolution Number 276 of 1974 of the New York City Council.
Chapter 203 of the Laws of 1977.
Chapter 933 of the Laws of 1977 (Open Meetings Law).
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Chapter 234 of the Laws of 1980.
Chapter 383 of the Laws of 1981.
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Chapter 403 of the Laws of 1983.
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