EXPLANATORY STATEMENT - APARTMENT ORDER #37

Explanatory Statement and Findings of the Rent Guidelines Board In Relation to 2005-06 Lease Increase Allowances for Apartments and Lofts under the Jurisdiction of the Rent Stabilization Law[1]

Summary of Order No. 37

The Rent Guidelines Board (RGB) by Order No. 37 has set the following maximum rent increases for leases subject to renewal on or after October 1, 2005 and on or before September 30, 2006 for **apartments** under its jurisdiction:

LEASE RENEWALS - WHERE HEAT IS PROVIDED OR REQUIRED TO BE PROVIDED TO A DWELLING UNIT BY AN OWNER FROM A CENTRAL OR INDIVIDUAL SYSTEM AT NO CHARGE TO THE TENANT

1 Year	2 Years
2.75%	**5.5%**

LEASE RENEWALS - WHERE HEAT IS NEITHER PROVIDED NOR REQUIRED TO BE PROVIDED TO A DWELLING UNIT BY AN OWNER FROM A CENTRAL OR INDIVIDUAL SYSTEM

1 Year	2 Years
2.25%	**4.5%**

VACANCY ALLOWANCE

The vacancy allowance is now determined by a formula set forth in the State Rent Regulation Reform Act of 1997 and in Chapter 82 of the Laws of 2003, not by the Orders of the Rent Guidelines Board.

SUPPLEMENTAL ADJUSTMENT

There shall be **no supplemental adjustment** for apartments renting below any specified amount for renewal leases.

There shall be **no equalization allowance** for apartments continuously occupied for a specified period of time for renewal leases.

SUBLET ALLOWANCE

The increase landlords are allowed to charge when a rent stabilized apartment is sublet by the primary tenant to another tenant on or after October 1, 2005 and on or before September 30, 2006 shall be **10%**.

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

ADJUSTMENTS FOR LOFTS

For **Loft units** to which these guidelines are applicable in accordance with Article 7-C of the Multiple Dwelling Law, the Board established the following maximum rent increases for increase periods commencing on or after October 1, 2005 and on or before September 30, 2006. No vacancy allowance or low rent allowance is included for lofts.

1 Year	2 Years
2.25%	**4.5%**

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

Any increase for a renewal lease may be collected no more than once during the guideline period governed by Order No. 37.

SPECIAL GUIDELINES

Leases for units subject to rent control on September 30, 2005 that subsequently become vacant and then enter the stabilization system are not subject to the above adjustments. Such newly stabilized rents are subject to review by the State Division of Housing and Community Renewal (DHCR). In order to aid DHCR in this review the Rent Guidelines Board has set a special guideline of whichever is greater:

1. **50%** above the maximum base rent, or

2. The Fair Market Rent for existing housing as established by the United States Department of Housing and Urban Development (HUD) for the New York City Primary Metropolitan Statistical Area pursuant to Section 8(c) (1) of the United States Housing Act of 1937 (42 U.S.C. section 1437f [c] [1]) and 24 C.F.R. Part 888, with such Fair Market Rents to be adjusted based upon whether the tenant pays his or her own gas and/or electric charges as part of his or her rent as such gas and/or electric charges are accounted for by the New York City Housing Authority.

Such HUD-determined Fair Market Rents will be published in the Federal Register, to take effect on October 1, 2005.

All rent adjustments lawfully implemented and maintained under previous apartment Orders and included in the base rent in effect on September 30, 2005 shall continue to be included in the base rent for the purpose of computing subsequent rents adjusted pursuant to this Order.

Background of Order No. 37

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

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

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

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

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

Material Considered by the Board

Order No. 37 was issued by the Board following two public hearings, seven public meetings, its review of written submissions provided by the public, and a review of research and memoranda prepared by the Board's staff. A total of approximately 21 written submissions were received at the Board's offices from many individuals and organizations including public officials, owners and owner groups, and tenants and tenant groups. The Board members were provided with copies of public comments received by the **June 15, 2005** deadline. All of the above listed documents were available for public inspection.

Open meetings of the Board were held following public notice on March 29, April 12, April 22, May 2, and June 2, 2005. A written transcription or audio recording was made of all proceedings. On **May 3, 2005**, the Board adopted proposed rent guidelines for apartments, lofts, and hotels.

Public hearings were held on **June 14, 2005** and **June 16, 2005** pursuant to Section 1043 of the New York City Charter and Section 26-510(h) of the New York City Administrative Code. Testimony on the proposed rent adjustments for rent-stabilized apartments and lofts was heard from 4:00 p.m. to 9 p.m. on June 14, 2005 and from 10:00 a.m. to 8 p.m. on June 16, 2005. Testimony from members of the public speaking at these hearings was added to the public record. The Board heard testimony from approximately 117 apartment tenants and tenant representatives, 29 apartment owners and owner representatives and 20 public officials. On **June 21, 2005** the guidelines set forth in Order No. 37 were adopted.

PRESENTATIONS BY HOUSING EXPERTS INVITED BY MEMBERS OF THE BOARD

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

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

Meeting Date / Name	*Affiliation*
March 29, 2005:	Staff presentation, *2005 Mortgage Survey*
	Guest Speakers
1. Professor Vicki Been	Director, Furman Center for Real Estate and Urban Policy

April 12, 2005:	Staff presentation, *2005 Income and Affordability Study*	
	Guest Speakers	
1. Harold Shultz	Special Counsel, NYC Dept. of Housing Preservation and Development	
2. Mark Levitan	Senior Policy Analyst, Community Service Society	

April 22, 2005: Staff presentations
2005 Price Index of Operating Costs

	Guest Speakers
1. Gregory Kern	Director for Leased Housing, NYC Housing Authority

May 2, 2005: Staff presentation, *Prelim Findings of the 2005 Income & Expense Study*
Invited Testimony from Groups Representing Owners and Tenants

	Owner group testimony:
1. Jack Freund	Executive Vice President, Rent Stabilization Association
2. Patrick Siconolfi	Executive Director, Community Housing Improvement Project
3. Chris Athineos	Vice President, Small Property Owners of New York
4. Marolyn Davenport	Senior Vice President, Real Estate Board of New York
5. Frank Anelante	Principal, Lemle & Wolfe, Inc.
6. Joshua Sarett	ALC Environmental, Inc. (Lead-based Paint Abatement Company)
7. Michael Schmelzer	Principal, Tyrax Realty Management
	Tenant group testimony:
1. Timothy L. Collins, Esq.,	Collins, Dobkins and Miller
2. Patrick Markee	Senior Policy Analyst, Coalition for the Homeless
3. Lindsey Davis	Organizer, Coalition for the Homeless
4. Ed Ott	Director of Public Policy, NYC Central Labor Council
5. Rev. Mark Hallinan	Facilitator, East Side Congregations for Housing Justice
6. Rev. Robert Arce	Pastor, St. Margaret Mary Church, Mount Hope Neighborhood of the Bronx
7. Hilda Chavis	Board Member, Northwest Bronx Community and Clergy Coalition
8. Regina Shanley	Tenant, Sunnyside, Queens
9. James Parrott	Chief Economist and Deputy Director, Fiscal Policy Institute
10. Matthew Chachère	Co-counsel, NYC Coalition to End Lead Poisoning
11. Andrew Goldberg	Co-counsel, NYC Coalition to End Lead Poisoning
12. Terry Poe	Community Organizing Supervisor, West Side S.R.O. Law Project
13. Chris Schwartz	Staff Attorney, East Side SRO Law Project

June 2, 2005: Staff presentations
2005 Housing Supply Report
Changes to the Rent Stabilized Housing Stock in NYC in 2004

	NYS Division of Housing and Community Renewal (DHCR) testimony
1. Paul Roldan	Deputy Commissioner, Office of Rent Administration, DHCR
2. David Cabrera	Acting General Counsel, DHCR
3. Gerald Garfinkle	Bureau Chief of Overcharge/Luxury Decontrol, DHCR

SELECTED EXCERPTS FROM ORAL AND WRITTEN TESTIMONY FROM TENANTS AND TENANT GROUPS[2]

Comments from tenants and tenant groups included:

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

"A large percentage of the income level in the Northwest Bronx is low- to moderate-income, with many living as a single parent or a special needs household or on a fixed income such as pensions, disability, and/or earning minimum wage, maintaining overcrowded quarters in desperate need of repair. Many are paying well over the 30% of their income in rents, some as high as 50% or better. With the costs of living increasing and wages remaining stagnant, the reality for many is pure hardship. The unaffordability of rents due to MCIs, preferential rents, illegal rent increases, vacancy allowances, individual apartment improvements, is worsened with the lease renewal increases annually….This Board, the Rent Guidelines Board, has gone on record stating that it looks at other factors in addition to the Price Index when determining annual rent increases. I think the time is appropriate now to include affordability. It's time for the tenants to have some relief, such as a rent freeze, a 0% rent increase."

"We urge the members of the Rent Guidelines Board to vote for a rent freeze this year. The high guidelines passed by the board in the last two years have been brutal for the low and moderate income tenants living in rent stabilized housing….More poor people live in rent stabilized apartments than in public or subsidized housing. Because there is so little new affordable housing added to the stock each year compared to the need, this affordable rent stabilized housing must be preserved….The rent stabilization laws, and this Rent Guidelines Board, are the only things protecting the half million households in the bottom half from further displacement and hardship."

"Every year we are subjected to the lament of landlords that they can't meet their costs under rent stabilization. In fact, as *Crain's New York* has documented, the ownership of rent-regulated buildings is one of the hottest sectors in the real estate market. Players in the market are driving up the cost of rental buildings as they anticipate receiving rent hikes conjoined with renovations that will push their units past the $2000 threshold necessary for decontrol….It's clear that for the last three years the Rent Guidelines Boards has been very attentive to the needs of landlords. It's imperative therefore for the Board to give that same level of attention to our tenants. The hardworking New Yorkers struggling to meet rising rental costs are often forced into overcrowded apartments and to face the real risk of homelessness. All we're asking the Rent Guidelines Board to do is to do the right thing, to give tenants real relief from excessive rental increases."

"Every indicator before the New York City Rent Guidelines Board leads to the conclusion that rents for rent-stabilized apartments should be frozen this year, that landlords of rent-stabilized properties are doing quite well and tenants whose homes are in rent-stabilized apartments are struggling to make ends meet. It is time – high time – the Rent Guidelines Board members pay attention to the question of affordability, and consider whether the rent increases you adopt are affordable to rent-stabilized tenants, whether these rent increases are burdensome to tenant households. The huge rent hikes of the last two years have created financial hardship for many rent-stabilized tenants. It's time for a rent freeze. It's time tenants caught a break from this board."

SELECTED EXCERPTS FROM ORAL AND WRITTEN TESTIMONY FROM OWNERS AND OWNER GROUPS[3]

Comments from owners and owner groups included:

"This year, the RGB must approve rent guidelines at the high end of the proposed range of increases, and certainly no lower than last year's guidelines, in order to meet its legal mandate and prevent further deterioration in housing economics….In the past two years, the RGB has approved rent increases substantially below the PIOC, and substantially below the historical levels of commensurate rent increase adjustments. These low guidelines may have been approved in the hope that cost increases would mitigate or in the belief that rental housing economics was strong enough to absorb cost increases usually passed on to tenants. The evidence now shows that any such hope or belief is unrealistic as the gap between rental income and operation expenses continue to narrow. Unless a series of significant guideline increases are approved by the RGB any remaining profitability in rental housing will soon evaporate."

[3] Sources: Submissions by owner groups and testimony by owners

“I am here today to urge you to vote for guideline increases that keep with your mission and purpose as members of the Rent Guidelines Board, i.e. to preserve and maintain rental housing for renters in New York. This year more than ever we need guideline increases that will cover our expenses. I emphasize it this year because of the requirements of Local Law 1 with respect to making apartments lead-safe on turnover….It is our job to comply and it is your job to pass adequate guideline increases to cover the costs.”

“I urge the Rent Guidelines Board to set realistic rent increases which reflect today’s substantially increased costs. The preliminary numbers proposed by the Board are not high enough to keep owners whole. We need reasonable guidelines that reflect not only this year’s increases but uncompensated cost increases from last year as well. I urge the RGB to pass substantially larger rent increases for the coming year than it did last year. Our aging housing stock will only fall into disrepair without rent increases to cover expenses increases. At the very least, increases at the top of the range under consideration are essential to maintain our housing.”

“Tenant leaders convinced you that the low rent adjustment was a “poor tax.” Yet it’s that group that’s not paying its fair share. Many long-term tenants are not impoverished…just lucky. Reconsider the low rent adjustment as well as higher guidelines.”

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

Comments from public officials included:

“While owner’s costs have decreased this past year, a conservative estimate puts their profits at a level of 35% over the past three years. Do they really need another increase? The onerous 20% vacancy allowance plus other bonuses permitted under the renewal of the rent law in 1997, has escalated regulated rentals in my district to approximately $750-$850 per month for a one bedroom apartment and $900-$1250 per month for a two bedroom apartment. This vacancy allowance has de facto eliminated and deregulated formerly affordable housing….There is now no affordable place to move to. A tenant living in a slum building or one living in a well kept property are now paying identical legal market rents without any owner accountability as to the level of services provided….I, therefore, respectfully demand that this board, with courage, establish and restore some semblance of equity in the land-lord tenant relationship and vote for a zero increase effective 10/1/05.”

“We have somehow gotten to a point where a substantial rent increase every year is considered a matter of course. It’s time to remind ourselves that, while tenants are struggling to keep their heads above water, landlords are profiting. The extent to which they are profiting certainly varies from year to year, but no landlord will have to cut back on groceries or prescription drugs if rents do not go up. On the other hand, thousands of tenants will face just such hardships if the proposed increases are approved.”

“Two years ago, the board called for increases of 4.5 percent and 7.5 percent, and last year increases of 3.5 percent and 6.5 percent, which landlords claimed was necessary because of rising expenses. But the cost of living expenses of tenants are rising faster than their incomes, and while the incomes of constituents are daily decreasing, landlords continue to make tremendous profits. My question is, in light of this economic imbalance, how can any board member justify further rent increases at this time?...A rent freeze is of utmost importance to maintain the character of our neighborhoods and ensure that people who have lived here for decades can remain.”

“I am here today to advocate that the Rent Guidelines Board members pay attention to the question of affordability, meaning whether the rent increases they adopt are affordable to rent-stabilized tenants. The huge rent hikes of the last two years – 4.5/7.5 percent two years ago, and 3.5/6.5 percent last year – have created financial hardship for lots of rent-stabilized tenants in the City. The City has learned the hard way that the federal government is not prepared to provide any assistance toward building a larger base of affordable housing. Thus, the city and state governments need to step in and provide support, both to tenants

[4] Sources: Submissions by public officials.

and landlords….Because of the unrelenting housing affordability crisis, the Rent Guidelines Board should hold the line on rents this year."

FINDINGS OF THE RENT GUIDELINES BOARD

RENT GUIDELINES BOARD RESEARCH

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

(1) *2005 Mortgage Survey Report*, March, 2005, (An evaluation of recent underwriting practices, financial availability and terms, and lending criteria);

(2) *2005 Income and Expense Study*, June, 2005, (Based on income and expense data provided by the Finance Department, the *Income and Expense Study* measures rents, operating costs and net operating income in rent stabilized buildings);

(3) *2005 Tenant Income and Affordability Study,* April, 2005, (Includes employment trends, housing court actions, changes in eligibility requirements and public benefit levels in New York City);

(4) *2005 Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City,* April, 2005, (Measures the price change for a market basket of goods and services which are used in the operation and maintenance of stabilized buildings);

(5) *2005 Housing Supply Report*, June, 2005, (Includes new housing construction measured by certificates of occupancy in new buildings and units authorized by new building permits, tax abatement and exemption programs, and cooperative and condominium conversion and construction activities in New York City); and,

(6) *Changes to the Rent Stabilized Housing Stock in NYC in 2004,* June 2005, (A report quantifying all the events that lead to additions to and subtractions from the rent stabilized housing stock).

2005 PRICE INDEX OF OPERATING COSTS FOR RENT STABILIZED APARTMENT HOUSES IN NEW YORK CITY

The *2005 Price Index of Operating Costs For Rent Stabilized Apartment Houses in New York City* found a 5.8% increase in costs for the period between April, 2004 and April, 2005.

This year, the PIOC for rent stabilized apartment buildings increased by 5.8%, 1.1 percentage points below the PIOC percent change from the year before (6.9% in 2004). The PIOC was driven upward by increases in fuel (20.0%) and escalating insurance costs (8.9%) and utilities costs (8.4%). These increases were offset by relatively small increases in the major component of taxes (1.2%) and low to moderate increases in the remaining five cost components that ranged from 2.6% to 4.5%. See Table 1 for changes in costs and prices for all rent stabilized apartment buildings from 2004-05.

The "core" PIOC, which excludes the erratic changes in fuel oil, natural gas and electricity costs, is useful for analyzing long-term inflationary trends. The core PIOC rose by 3.7% this year, was just slightly lower than the growth in the Consumer Price Index (CPI) (3.86%), by less than .2 percentage points.[5]

[5] The average CPI-U for All Urban Consumers, New York-Northeastern New Jersey for the year from April 2003 to March 2004 (199.2) compared to the average for the year from April 2004 to March 2005 (206.9) rose by 3.86%. This is the latest available CPI data and is roughly analogous to

Table 1 details the expenditure weights, the percentage change and weighted percentage change by component for the 2005 Price Index.

Table 1

2004-05 Percentage Changes in Components of *the Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City*[6]			
Item	Expenditure Weights	2004-05 Percentage Δ	2004-05 Weighted Percentage Δ
Taxes	28.34%	1.24%	0.35 %
Labor Costs	14.68	3.50	0.51
Fuel Costs	9.81	20.01	1.96
Utility Costs	14.64	8.41	1.23
Contractor Services	13.32	4.48	0.60
Administrative Costs	7.62	3.97	0.30
Insurance Costs	9.14	8.89	0.81
Parts & Supplies	1.71	2.56	0.04
Replacement Costs	0.73	3.09	0.02
All Items	**100.00**	**-**	**5.84**

Source: *2005 Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City.*
Note: The Δ symbol means change.

Local Law 63/ Income & Expense Review

Following computerization of I&E filings, the sample size for the I&E study has been greatly increased to over 12,000 buildings. This is the thirteenth year that staff has been able to obtain longitudinal data in addition to cross-sectional data. The RGB staff found the following average monthly (per unit) operating and maintenance (O&M) costs in 2004 Real Property Income and Expense (RPIE) statements for the year 2003:

Table 2

2005 Income and Expense Study Average Monthly Operating and Maintenance Costs Per Unit[7]			
	Pre '47	**Post '46**	**All Stabilized**
Total[8]	**$590**	**$706**	**$618**

Source: *Updated Findings of the 2005 Income and Expense Study*, from 2004 Real Property Income and Expense filings for 2003, NYC Department of Finance.

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

If we assume that an audit of this year's income and expense data would yield similar findings to the 1992 audit, one would expect the average O&M cost for stabilized buildings to be $567, rather than $618. As a result, the following relationship between operating costs and residential rental income was suggested by the Local Law 63 data:

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the 'PIOC year', which for the majority of components compares the most recent point-to-point figures from April to April, monthly cost-weighted figures from May to April, or the two most recent fiscal year bills.

6 Totals may not add due to weighting and rounding.

7 Totals may not add due to weighting and rounding.

8 Individual categories of operating and maintenance costs were not reported in the *Updated Findings of the 2005 Income and Expense Study.*

Table 2(a)

2003 Operating Cost to Rent/Income Ratio Adjusted to 1992 Audit					
	O&M Costs[9]	Rent	O&M to Rent Ratio	Income	O&M to Income Ratio
All stabilized	$567	$816	0.69	$912	0.62
Stabilized Pre'47	$542	$763	0.71	$858	0.63
Stabilized Post'46	$649	$985	0.66	$1,084	0.60

Source: *Updated Findings of the 2005 Income and Expense Study*, from 2004 Real Property Income and Expense filings for 2003, NYC Department of Finance.

FORECASTS OF OPERATING AND MAINTENANCE PRICE INCREASES FOR 2005-06

In order to decide upon the allowable rent increases for two-year leases, the Rent Guidelines Board considers price changes for operating costs likely to occur over the next year. In making its forecasts the Board relies on expert assessments of likely price trends for the individual components, the history of changes in prices for the individual components and general economic trends. The Board's projections for 2005-06 are set forth in Table 3, which shows the Board's forecasts for price increases for the various categories of operating and maintenance costs.

Table 3

Year-to-Year Percentage Changes in Components of the Price Index of Operating Costs: Actual 2004-05 and Projected 2005-06		
	Price Index 2004-05	Projected Price Index 2005-06
Taxes	1.2%	12.7%
Labor Costs	3.5	3.3
Fuel Costs	20.0	6.7
Utility Costs	8.4	2.0
Contractor Services	4.5	4.5
Administrative Costs	4.0	4.4
Insurance Costs	8.9	7.9
Parts & Supplies	2.6	1.2
Replacement Costs	3.1	1.1
Total (Weighted)	**5.8%**	**6.7%**

Source: *2005 Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City*, which includes the 2006 PIOC Projection.

Overall, the PIOC is expected to grow by 6.7% from 2005 to 2006, with projected increases in every PIOC component. The three most volatile components, Fuel, Insurance Costs, and Utilities, are projected to rise 6.7%, 7.9%, and 2.0% respectively. Taxes are projected to increase 12.7% due to an increase in the tax rate and billable assessments for Class Two properties. Contractor Services (4.5%) and Administrative Costs (4.4%) are expected to rise at nearly the same rate while Labor Costs are projected to increase by 3.3%. The core PIOC is projected to rise more rapidly than the overall PIOC, by 7.2%.

COMMENSURATE RENT ADJUSTMENT

Throughout its history, the Rent Guidelines Board has used a formula, known as the commensurate rent adjustment, to help determine annual rent guidelines for rent stabilized apartments. In essence, the "commensurate" combines various data concerning operating costs, revenues, and inflation into a single

[9] Overall O&M expenses were adjusted according to the findings of an income and expenses audit conducted by the Department of Finance in 1992. The unadjusted **O&M to Rent** ratios would be 0.76 (All), 0.77 (Pre-47), and 0.72 (Post-46), respectively. The unadjusted **O&M to Income** ratios would be 0.68 (All), 0.69 (Pre-47), and 0.65 (Post-46).

measure indicating how much rents would have to change for net operating income (NOI) in stabilized buildings to remain constant. The different types of "commensurate" adjustments described below are primarily meant to provide a foundation for discussion concerning prospective guidelines.

In its simplest form, the commensurate rent adjustment is the amount of rent change needed to maintain landlords' current dollar NOI at a constant level. In other words, the formula provides a set of one-and two-year renewal rent increases or guidelines that will compensate owners for the change in prices measured by the PIOC and keep net operating income "whole."

The first commensurate method is called the "Net Revenue" approach. While this formula takes into consideration the types of leases actually signed by tenants, it does not adjust landlords' NOI for inflation. The "Net Revenue" formula is presented in two ways, first adjusting for the mix of lease terms and second, adding an assumption for stabilized apartment turnover and the impact of revenue from vacancy increases. Under the "Net Revenue" formula, a guideline that would preserve NOI in the face of this year's 5.8% increase in the PIOC is 4.25% for a one-year lease and 8.0% for a two-year lease. Guidelines using this formula and adding assumptions for the impact of vacancy increases on revenues when apartments experience turnover are 2.5% for one-year leases and 4.5% for two-year leases.

The second commensurate method considers the mix of lease terms while adjusting NOI upward to reflect general inflation, keeping both O&M and NOI constant. This is commonly called the "CPI-Adjusted NOI" formula. A guideline that would preserve NOI in the face of the 3.81% increase in the Consumer Price Index (see Endnote 1) and the 5.8% increase in the PIOC is 6.5% for a one-year lease and 10.5% for a two-year lease. Guidelines using this formula and adding the estimated impact of vacancy increases are 4.0% for one-year leases and 7.0% for two-year leases.

The original formula that has been in use since the inception of the Rent Guidelines Board is called the "traditional" commensurate adjustment. The "traditional" commensurate yields 3.6% for a one-year lease and 5.9% for a two-year lease, given the increase in operating costs of 5.8% found in the 2005 PIOC and the projection of a 6.7% increase next year.

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

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

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

Finally, it is important to note that only the "traditional" commensurate formula uses the PIOC projection and that this projection is not used in conjunction with or as part of the "Net Revenue" and "CPI-Adjusted NOI" formulas. As stated previously, all three formulas attempt to compensate owners for the adjustment in their operating and maintenance costs measured each year in the PIOC. The "Net Revenue" and the "CPI-Adjusted NOI" formulas attempt to compensate owners for the adjustment in O&M costs by using only the known PIOC change in costs (5.8%). The traditional method differs from the other formulas in that it uses both the PIOC's actual change in costs as well as the projected change in costs (6.7%). If the change in projected costs, which may not be an accurate estimate of owner's costs, is added to the "Net Revenue" and "CPI-Adjusted NOI" formulas, the resulting guidelines will likely over- or under-compensate for the change in costs.

Each of these formulae may be best thought of as a starting point for deliberations. The other Rent Guidelines Board annual research reports (e.g. the *Mortgage Survey Report* and the *Income and Expense Study*) and testimony to the Board can be used to modify the various estimates depending on these other considerations.

On May 3, 2005 the staff of the Rent Guidelines Board released a memo to Board members with updated commensurate rent adjustments. The text of that memo follows:

The release of the *Preliminary Findings of the 2005 Income and Expense Study* saw an increase in the O&M to Income ratio. In the 2005 PIOC we calculated the commensurate rent increase using a ratio of 62.5%, the unadjusted ratio from the *2004 Income and Expense Study*, the most current data we had. In the preliminary findings of the 2005 I&E data we now know the unadjusted O&M to income ratio is 67.1%. If we use this new ratio in the formulas the commensurate rent adjustments change as follows:

"Net Revenue" Commensurate Adjustment

	1-Year Lease	2-Year Lease
2005 PIOC	4.25%	8.0%
Revised	4.5%	8.5%

"Net Revenue" Commensurate Adjustment with Vacancy Increase

	1-Year Lease	2-Year Lease
2005 PIOC	2.5%	4.5%
Revised	2.5%	4.75%

"CPI-Adjusted NOI" Commensurate Adjustment

	1-Year Lease	2-Year Lease
2005 PIOC	6.5%	10.5%
Revised	6.75%	10.5%

"CPI-Adjusted NOI" Commensurate Adjustment with Vacancy Increase

	1-Year Lease	2-Year Lease
2005 PIOC	4.0%	7.0%
Revised	4.25%	7.25%

"Traditional" Commensurate Adjustment

	1-Year Lease	2-Year Lease
2005 PIOC	3.6%	5.9%
Revised	3.9%	6.3%

Consideration of Other Factors

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

EFFECTIVE RATES OF INTEREST

The Board took into account current mortgage interest rates and the availability of financing and refinancing. It reviewed the staff's *2005 Mortgage Survey* of lending institutions. Table 4 gives the reported rate and points for the past nine years as reported by the mortgage survey.

Table 4

2005 Mortgage Survey[10] Average Interest Rates and Points for New and Refinanced Permanent Mortgage Loans 1997-2005									
New Financing of Permanent Mortgage Loans, Interest Rate and Points									
	1997	1998	1999	2000	2001	2002	2003	2004	2005
Avg. Rates	8.8%	8.5%	7.8%	8.7%	8.4%	7.4%	6.2%	5.8%	5.5%
Avg. Points	1.34	1.02	1.01	0.99	0.99	0.79	0.81	0.67	0.56
Refinancing of Permanent Mortgage Loans, Interest Rate and Points									
	1997	1998	1999	2000	2001	2002	2003	2004	2005
Avg. Rates	8.4%	8.5%	7.2%	8.6%	8.0%	7.4%	6.2%	5.7%	5.5%
Avg. Points	1.15	0.99	0.92	1.01	1.06	0.83	0.78	0.60	0.56

Source: 1997–2005 *Annual Mortgage Surveys*, RGB.

CONDITION OF THE RENT STABILIZED HOUSING STOCK

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

Table 5

City-Owned Properties in Central Management Occupied and Vacant Building Counts, Fiscal Years 1997-2004								
	1997	1998	1999	2000	2001	2002	2003	2004
Occupied Bldgs.	2,484	2,232	1,905	1,730	1,203	919	610	373
Vacant Bldgs.	1,139	1,021	869	805	633	524	367	275

Source: NYC Department of Housing Preservation and Development, Office of Property Management.

[10] 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.

Table 6

Number of Cooperative / Condominium Plans[11] Accepted for Filing, 1996-2004									
	1996	**1997**	**1998**	**1999**	**2000**	**2001**	**2002**	**2003**	**2004**
New Construction	16	34	69	50	87	145	136	190	268
Conversion Non-Eviction	8	4	40	12	9	12	14	10	22
Conversion Eviction	1	1	0	27	9	2	15	0	0
Rehabilitation	10	37	48	30	15	13	20	18	18
Total	**35**	**76**	**157**	**119**	**120**	**172**	**185**	**218**	**308**
Subtotal:									
HPD Sponsored Plans	0	21	24	26	8	2	15	0	6

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

CONSUMER PRICE INDEX

The Board reviewed the Consumer Price Index. Table 7 shows the percentage change for the NY-Northeastern NJ Metropolitan area since 1998.

Table 7

Percentage Changes in the Consumer Price Index for the New York City - Northeastern New Jersey Metropolitan Area, 1998-2005 (For "All Urban Consumers")								
	1998	**1999**	**2000**	**2001**	**2002**	**2003**	**2004**	**2005**
1st Quarter Avg.[12]	1.6%	1.5%	3.0%	2.8%	2.3%	3.2%	2.8%	4.1%
Yearly Avg.	1.6%	2.0%	3.1%	2.5%	2.6%	3.1%	3.5%	--

Source: U.S. Bureau of Labor Statistics.

CALCULATING OF THE CURRENT OPERATING AND MAINTENANCE EXPENSE TO RENT RATIO

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

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

The first problem with "Table 14" is that the calculation does not account for the changes in the housing stock and market factors which have certainly affected the relationship between rents and operating costs to some degree. Next, for the purpose of measuring the relationship between legal regulated rents and operating cost changes, the usefulness of "Table 14" is also limited. The rent index contained in the table

[11] The figures given above for eviction and non-eviction plans include those that are abandoned because an insufficient percentage of units were sold within the 15-month deadline. In addition, some of the eviction plans accepted for filing may have subsequently been amended or resubmitted as non-eviction plans and therefore may be reflected in both categories. HPD sponsored plans are a subset of the total plans.

[12] 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. In previous Explanatory Statements, the numbers reported were a March-to-March comparison.

does not adjust for administrative rent increases (MCI's and Apartment Improvement increases) and rents charged below established guidelines (preferential).

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

Staff's research suggests that the PIOC may have overstated actual cost increases from 1970 to 1982. However, from 1989-90 to 2002-03, the I&E rose 91% and the adjusted PIOC also rose 91%. What remains clear, however, is that "Table 14," in its current form, presents a highly misleading picture of the changing relationship of operating costs to rents over time.

Table 8 (Formerly Table 14)[13]

Calculation of Operating and Maintenance Cost Ratio For Rent Stabilized Buildings from 1970 to 2005

Period	Percent O&M[14] Increase	O&M Index	Period	Percent Rent[15] Increase	Rent Index	O&M/Rent Ratio
4/1/70-3/31/71	-	55	7/1/71-6/30/72	-	100	0.55
4/1/71-3/31/72	5.7	58.14	7/1/72-6/30/73	5.4	105.40	0.55
4/1/72-3/31/73	7.9	62.73	7/1/73-6/30/74	5.4	111.09	0.56
4/1/73-3/31/74	15.5	72.45	7/1/74-6/30/75	5.64	117.36	0.62
4/1/74-3/31/75	6.5	77.16	7/1/75-6/30/76	5.62	123.95	0.62
4/1/75-3/31/76	8.8	83.95	7/1/76-6/30/77	5.33	130.56	0.64
4/1/76-3/31/77	6.9	89.74	7/1/77-6/30/78	5.49	137.73	0.65
4/1/77-3/31/78	0.6	90.28	7/1/78-6/30/79	4.23	143.55	0.63
4/1/78-3/31/79	10.4	99.67	7/1/79-6/30/80	7.73	154.65	0.64
4/1/79-3/31/80	17.0	116.61	7/1/80-9/30/81	10.28	170.55	0.68
4/1/80-3/31/81	14.6	133.64	10/1/81-9/30/82	10.11	187.79	0.71
4/1/81-3/31/82	2.8	137.38	10/1/82-9/30/83	3.52	194.40	0.71
4/1/82-3/31/83	2.6	140.95	10/1/83-9/30/84	4.93	203.98	0.69
4/1/83-3/31/84	6.3	149.83	10/1/84-9/30/85	5.82	215.86	0.69
4/1/84-3/31/85	5.4	157.92	10/1/85-9/30/86	6.55	229.99	0.69
4/1/85-3/31/86	6.4	168.03	10/1/86-9/30/87	6.18	244.21	0.69
4/1/86-3/31/87	2.1	171.56	10/1/87-9/30/88	5.87	258.54	0.66
4/1/87-3/31/88	6.4	182.54	10/1/88-9/30/89	6.39	275.06	0.66
4/1/88-3/31/89	6.7	194.77	10/1/89-9/30/90	6.16	292.01	0.67
4/1/89-3/31/90	10.9	216.00	10/1/90-9/30/91	4.15	304.13	0.71
4/1/90-3/31/91	6.0	228.96	10/1/91-9/30/92	3.93	316.08	0.72
4/1/91-3/31/92	4.0	238.12	10/1/92-9/30/93	3.11	325.91	0.73
4/1/92-3/31/93	4.7	249.31	10/1/93-9/30/94	2.93	335.46	0.74
4/1/93-3/31/94	2.0	254.30	10/1/94-9/30/95	2.73	344.62	0.74
4/1/94-3/31/95	0.1	254.55	10/1/95-9/30/96	4.10	358.74	0.71

[13] Source: Price Index of Operating Costs 1970 – 2004, NYC Housing and Vacancy Surveys.

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

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

Table 8 (Formerly Table 14) Continued

Calculation of Operating and Maintenance Cost Ratio For Rent Stabilized Buildings from 1970 to 2005						
Period	Percent O&M Increase	O&M Index	Period	Percent Rent Increase	Rent Index	O&M/Rent Ratio
4/1/95-3/31/96	6.0	269.82	10/1/96-9/30/97	5.72	379.26	0.71
4/1/96-3/31/97	2.4	276.30	10/1/97-9/30/98	3.66	393.16	0.70
4/1/97-3/31/98	0.1	276.58	10/1/98-9/30/99	3.71	407.75	0.68
4/1/98-3/31/99	0.03	276.65	10/1/99-9/30/00	3.91	423.70	0.65
4/1/99-3/31/00	7.8	298.23	10/1/00-9/30/01	5.04	445.04	0.67
4/1/00-3/31/01	8.7	324.18	10/1/01-9/30/02	4.78	466.29	0.70
4/1/01-3/31/02	-1.6	318.99	10/1/02-9/30/03	3.61	483.10	0.66
4/1/02-3/31/03	16.9	372.90	10/1/03-9/30/04	5.72	510.72	0.73
4/1/03-3/31/04	6.9	398.63	10/1/04-9/30/05	4.75[16]	534.96	0.75
4/1/04-3/31/05	5.8	421.91	10/1/04-9/30/05	4.22[17]	557.54	0.76

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

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

[16] The **4.75%** increase in rent roll estimated for leases signed during the period 10/1/04-9/30/05 under Order 36 reflects the following: (1) Renewal guidelines are estimated to contribute a **1.052%** and **1.960%** increase in the rent roll with 30.1% of all units experiencing a one-year lease signing (3.5%) and 30.2% of all units experiencing two-year lease signings (6.5%). These figures are derived from the 2002 Housing and Vacancy Survey (HVS), Table 58, which gives reported lease terms. "Less than one year" was assumed to be a one-year lease and "More than one year" and "More than two years" were assumed to be a two-year lease. These figures for renewal leases (33% of stabilized households have a one-year lease and 67% have two-year leases) were reduced by the turnover rate of 9.6%, derived from the average households who moved in the 2002 HVS (95,239 is the average number of stabilized households that moved annually1999-2001) and taken as percentages of all stabilized lease signers (988,393); (2) the vacancy allowance of 18.0%, which is the median vacancy increase found in the 2001 annual DHCR rent registration data for apartments is estimated to increase overall rent rolls by **1.734%** when multiplied by the HVS turnover rate (9.6%), which estimates the percentage of rent stabilized units that will enter into vacancy leases under Order 36.

[17] The **4.22%** increase in rent roll estimated for leases signed during the period 10/1/05-9/30/06 under Order 37 reflects the following: (1) Renewal guidelines are estimated to contribute a **0.827%** and **1.658%** increase in the rent roll with 30.1% of all units experiencing a one-year lease signing (2.75%) and 30.2% of all units experiencing two-year lease signings (5.5%). These figures are derived from the 2002 Housing and Vacancy Survey (HVS), Table 58, which gives reported lease terms. "Less than one year" was assumed to be a one-year lease and "More than one year" and "More than two years" were assumed to be a two-year lease. These figures for renewal leases (33% of stabilized households have a one-year lease and 67% have two-year leases) were reduced by the turnover rate of 9.6%, derived from the average households who moved in the 2002 HVS (95,239 is the average number of stabilized households that moved annually1999-2001) and taken as percentages of all stabilized lease signers (988,393); (2) the vacancy allowance of 18.0%, which is the median vacancy increase found in the 2001 annual DHCR rent registration data for apartments is estimated to increase overall rent rolls by **1.734%** when multiplied by the HVS turnover rate (9.6%), which estimates the percentage of rent stabilized units that will enter into vacancy leases under Order 37.

Table 9

Revised Calculation of Operating and Maintenance Cost Ratio for Rent Stabilized Buildings from 1989 to 2006			
	Average Monthly O & M Per d.u.[18]	Average Monthly Income Per d.u.	Average O & M to Income Ratio
1989	$370 ($340)	$567	.65 (.60)
1990	$382 ($351)	$564	.68 (.62)
1991	$382 ($351)	$559	.68 (.63)
1992	$395 ($363)	$576	.69 (.63)
1993	$409 ($376)	$601	.68 (.63)
1994	$415 ($381)	$628	.66 (.61)
1995	$425 ($391)	$657	.65 (.59)
1996	$444 ($408)	$679	.65 (.60)
1997	$458 ($421)	$724	.63 (.58)
1998	$459 ($422)	$755	.61 (.56)
1999	$464 ($426)	$778	.60 (.55)
2000	$503 ($462)	$822	.61 (.56)
2001	$531 ($488)	$868	.61 (.56)
2002	$570 ($524)	$912	.63 (.57)
2003	$618 ($567)	$912	.68 (.62)
2004[19]	$661 ($607)	$953	.69 (.64)
2005[20]	$699 ($642)	$1,004	.70 (.64)
2006[21]	$746 ($685)	$1049	.71 (.65)

Source: RGB *Income and Expense Studies*, 1989-2005, *Price Index of Operating Costs* 1992 - 2005, RGB Rent Index for 1992 - 2006 (see Table 8).

CHANGES IN HOUSING AFFORDABILITY

For the first year since 2000, New York City's economy rose from recession, with declining unemployment rates and housing court filings, rising employment levels, and Gross City Product growing in every quarter of the year. Unemployment rates decreased for the first time in four years, declining 1.2 percentage points, to 7.1%. Total employment levels in the City increased 0.3%, and the City's Gross City Product increased by 2.4% in 2004, the fifth consecutive quarterly increase. Non-payment filings in Housing Court also decreased for the second consecutive year, falling 17.9%. But while the City technically moved from recession, a number of other economic indicators showed an opposite trend. Real wages declined by 1.5%, in addition to a 5.0% drop the previous year. The number of persons receiving public assistance increased during Fiscal Year 2004, as well as during the first four months of FY 2005. In addition, the number of homeless in City shelters remained at record numbers, especially among single adults. Housing and

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

[19] Estimated expense figure includes 2003 expense estimate updated by the PIOC for the period from 4/1/03 through 3/31/04 (6.9%). Income includes the income estimate for 2003 updated by staff estimate based upon renewal guidelines and choice of lease terms for a period from 4/1/03 through 3/31/04 (4.49% - i.e., the 10/1/02 to 9/30/03 rent projection (3.61) times (.583), plus the 10/1/03 to 9/30/04 rent projection (5.72) times (.417)).

[20] Estimated expense figure includes 2004 expense estimate updated by the PIOC for the period from 4/1/04 through 3/31/05 (5.8%). Income includes the income estimate for 2004 updated by staff estimate based upon renewal guidelines and choice of lease terms for a period from 4/1/04 through 3/31/05 (5.31% - i.e., the 10/1/03 to 9/30/04 rent projection (5.72) times (.583), plus the 10/1/04 to 9/30/05 rent projection (4.75) times (.417)).

[21] Estimated expense figure includes 2005 expense estimate updated by the staff PIOC projection for the period from 4/1/05 through 3/31/06 (6.7%). Income includes the income estimate for 2005 updated by staff estimate based upon renewal guidelines and choice of lease terms for a period from 4/1/05 through 3/31/06 (4.53% - i.e., the 10/1/04 to 9/30/05 rent projection (4.75) times (.583), plus the 10/1/05 to 9/30/06 rent projection (4.22) times (.417)).

Vacancy Survey (HVS) data published two years ago also confirms that the vacancy rate remains below the 5% threshold, at 2.94% citywide.

BUILDINGS WITH DIFFERENT FUEL AND UTILITY ARRANGEMENTS

The Board was also informed of the circumstances of buildings with different fuel and utility arrangements including buildings that are master-metered for electricity and that are heated with gas versus oil (see Table 10). Under some of the Board's Orders in the past, separate adjustments have been established for buildings in certain of these categories where there were indications of drastically different changes in costs in comparison to the generally prevailing fuel and utility arrangements. This year the Board made no distinction between guidelines for buildings with different fuel and utility arrangements under Order 37. However, the Board did make a distinction in guidelines for tenants who pay to heat their apartments as a separate expense from their rent.

Table 10

Changes in Price Index of Operating Costs for Apartments in Buildings with Various Heating Arrangements, 2004-05, and Commensurate Rent Adjustment

Index Type	2004-05 Price Index Change	One-Year Rent Adjustment Commensurate With Adjusted O&M to Income Ratio of .677
All Dwelling Units	5.84%	3.95%
Pre 1947	6.83	4.62
Post 1946	4.71	3.19
Oil Used for Heating	6.52	4.41
Gas Used for Heating	5.22	3.53
Master Metered for Electricity	5.82	3.94

Note: The O&M to Income ratio is from the *2005 Income and Expense Study*.
Source: RGB's *2005 Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City*.

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

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

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

The increase in the Loft Index this year was 5.2%, 0.6 percentage point lower than the increase for apartments. This difference is explained by the fact that Labor Costs for lofts increased by 2.2%, compared to 3.5% for apartments, and that Attorney fees, which rose 0.2%, are much more important for lofts than for apartments. These two disparities placed more downward pressure on the Loft Index.

This year's guidelines for lofts are: **2.25%** for a one-year lease and **4.5%** for a two-year lease.

Table 11

Changes in the Price Index of Operating Costs for Lofts from 2004-05	
	Loft O & M Price Index Change
All Buildings	5.2%

Source: *2005 Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City.*

Special Guidelines for Vacancy Decontrolled Units Entering the Stabilized Stock

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

(1) 50% above the Maximum Base Rent, or

(2) The Fair Market Rent for existing housing as established by the United States Department of Housing and Urban Development (HUD) for the New York City Primary Metropolitan Statistical Area pursuant to Section 8(c) (1) of the United States Housing Act of 1937 (42 U.S.C. section 1437f [c] [1]) and 24 C.F.R. Part 888, with such Fair Market Rents to be adjusted based upon whether the tenant pays his or her own gas and/or electric charges as part of his or her rent as such gas and/or electric charges are accounted for by the New York City Housing Authority.

The Board concluded that for units formerly subject to rent control, either an increase to rent levels reflecting the Fair Market Rent guidelines established by the U.S. Department of Housing and Urban Development (HUD), or 50% above the maximum base rent was a desirable minimum increase. Notably, the HUD guidelines differentiate minimum rents on the basis of bedroom count.

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

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

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

Vacancy Allowance

As of June 15, 1997, Vacancy Allowances are now determined by a formula set forth in the State Rent Regulation Reform Act of 1997 and in Chapter 82 of the Laws of 2003.

Supplemental Adjustment

There shall be **no supplemental adjustment** for apartments renting below any specified amount for renewal leases.

There shall be **no equalization allowance** for apartments continuously occupied for a specified period of time for renewal leases.

SUBLET ALLOWANCE

The increase landlords are allowed to charge under Order 37 when a rent stabilized apartment is sublet by the primary tenant to another tenant on or after October 1, 2005 and on or before September 30, 2006 shall be **10%**.

VOTES

The votes of the Board on the adopted motion pertaining to the provisions of Order #37 were as follows:

	Yes	No	Abstentions
Guidelines for Apartment Order #37	6	3	-

Dated: June 29, 2005
Filed with the City Clerk: July 1, 2005

Marvin Markus, Chair
Rent Guidelines Board

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