

David A. Paterson  
Governor



Deborah VanAmerongen  
Commissioner

**New York State Division of Housing and Community Renewal**  
Office of Rent Administration  
Gertz Plaza  
92-31 Union Hall Street  
Jamaica, NY 11433

January 16, 2009

This is in response to your request for an agency opinion.

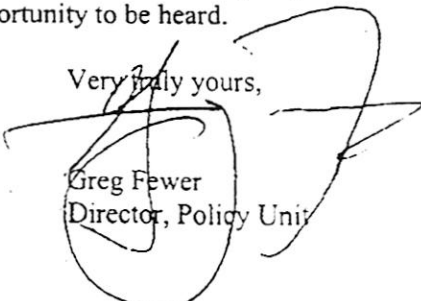
In your letter, you inquire whether combining two or more vacant units in a rent regulated SRO building and significantly altering the units (adding kitchens, bathrooms, living room and bedroom) would warrant the resulting apartment being considered a new apartment sufficient to justify a first rent. You also inquire whether the owner is required to complete any forms or applications for permission to charge a first rent and whether any notification to the DHCR would be required.

A first rent may be charged where the outer dimensions or perimeter walls of a vacant apartment have been significantly altered and where the apartment, in its prior state, has essentially ceased to exist, thereby rendering its rental history inapplicable. Where two or more housing accommodations are combined, the owner is generally entitled to a first rent. However, whether a particular alteration would qualify an apartment for a first rent cannot be definitively established through the opinion letter process. The owner need not file any forms or applications for permission to charge a first rent. However, the owner must comply with DHCR's rent registration requirements and a tenant could challenge the first rent by filing an overcharge complaint, in which case the owner would have to prove entitlement to it.

We trust we have answered your inquiry.

Please be advised that this opinion letter is not a substitute for a formal agency order issued upon prior notice to all parties, such parties having been afforded an opportunity to be heard.

Very truly yours,

  
Greg Fewer  
Director, Policy Unit

GF:MM:lp  
cc: Deputy Commissioner Torres  
OL #2492