

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

July 8, 2009

Dear Mr. Silver:

This is in response to your letter, in which you seek our office's opinion of "the eligibility of an MCI rent increase when the item(s) installed are financed using a capital lease".

In general, the use of a capital lease to finance an installation for which the owner seeks an MCI rent increase, in and of itself, will not disqualify the item for approval.

However, terms of the capital lease would need to be carefully examined, particularly any section that specifies the remedies in the event of payment default. Language that provides for the return or repossession of the item could result in a denial of the MCI application, as it would subject the tenants to a permanent rent increase, for an item whose use could be prematurely terminated.

In addition, the financing terms of the agreement would need to be carefully reviewed to determine if all of the associated costs are eligible for approval.

I trust that I have answered your question as thoroughly as possible.

Sincerely,

A handwritten signature in black ink, appearing to read "B. Falbo". The signature is written in a cursive style with a large initial "B" and a long horizontal stroke extending to the right.

Bruce Falbo  
Bureau Chief  
Rent Information Bureau

BF/lc  
Log COL #2518