

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

May 19, 2009

Your March 30, 2009 letter to Greg Frewer was directed to my office for a reply.

Enclosed for your review is a previously issued opinion letter (COL-9005) which addresses your inquiry.

I trust this information is of assistance to you.

Sincerely,

A handwritten signature in cursive script, appearing to read "B. Falbo".

Bruce Falbo
Bureau Chief
Rent Information Bureau

BF/lc
COL-2550



STATE OF NEW YORK
DIVISION OF HOUSING AND COMMUNITY-RENEWAL
OFFICE OF RENT ADMINISTRATION
GERTZ PLAZA, 92-31 UNION HALL ST.
JAMAICA, NY 11433

MARIO M. CUOMO, GOVERNOR
DONALD M. HALPERIN, COMMISSIONER

December 17, 1993

This is in response to your letter of September 27, 1993 in which you request a legal opinion on the following issues:

- 1) whether an owner may, as a condition of renting a rent stabilized unit, require a tenant to carry renter's insurance;
- 2) whether the cost of renter's insurance would be considered rent.

With respect to Issue (1), in my view, the answer is no. I reach this conclusion for the following reasons:

RSC Section 2525.2(a) provides as follows:

(a) The legal regulated rents and other requirements provided in this Code shall not be evaded, either directly or indirectly, in connection with the renting or leasing or the transfer of a lease for housing accommodations by requiring the tenant to pay, or obligate himself or herself for membership or other fees, or by modification of the practices relating to payment of commissions or other charges, or by modification of the services furnished or required to be furnished with the housing accommodations, or otherwise. (Emphasis added.)

Also, it would appear that requiring a tenant to carry renter's insurance would be violative of RSC Section 2525.3(a), which provides as follows:

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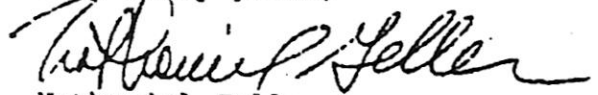
(a) No owner or other person shall require a tenant or prospective tenant to purchase or lease, or agree to purchase or lease, furniture or any other personal property, including, but not limited to, shares to an apartment prior to the acceptance for filing by the Attorney General of a plan of cooperative conversion, as a condition of renting housing accommodations. (Emphasis added.)

The term "personal property" certainly includes insurance policies, as that term is expressly defined to include stock certificates. Moreover, pursuant to Rent Stabilization Law ("RSL") Section 26-510 (b)(1)(ii), the owner's insurance costs are among the factors considered by the New York City Rent Guidelines Board in establishing annual guidelines for rent adjustments. Thus, the annual guideline rates promulgated by the Board should reflect an allowance for insurance costs incurred by owners. In light of this provision of the RSL, a requirement that tenants must purchase renter's insurance would appear to be inequitable.

I trust that I have responded fully to your inquiry and I apologize for the delay.

Finally, please be advised that this opinion letter does not represent an official agency determination of the issues described above, and is non-binding on the Office of Rent Administration. An official determination may be issued only at such time as a DHCR proceeding has been instituted, and all affected parties have been afforded notice in accordance with agency rules and procedures.

Very truly yours,



Nathaniel Geller
Assistant Deputy Counsel

NG:ce
cc: Gary Turk
Deputy Counsel

COL-9005