



*Policy Statement 89-9 (August 28, 1989)*

***Sponsor Representations, in Cooperative or Condominium Offerings,  
to Bear Cost of MCIs: Effect on Entitlement to MCI Increases***

The Rent Stabilization Code Section 2522.4 (a) (9) states that DHCR shall not grant a Major Capital Improvement (MCI) application, to the extent that, after a plan for the conversion of a building to a cooperative or condominium ownership is declared effective, such improvement is paid for out of the cash reserve fund of the cooperative conversion or condominium association. Nothing in this paragraph (9) shall prevent an owner from applying for, and the DHCR from granting an increase for such improvement to the extent that the cost thereof is otherwise paid for by an owner.

The DHCR has several MCI applications from sponsors of converted buildings in which the offering plan states that an improvement or improvements will be made at the sponsor's "sole expense" or "sole cost and expense". The agency has received correspondence from the State of New York Department of Law stating, "This representation can only be interpreted to mean that no non-purchasing tenant would bear any responsibility" for the improvement. The Department of Law regards the owner who makes a statement such as this in an offering plan as ineligible to recover the cost of the subject improvement in an MCI increase.

After reviewing the applications along with the offering plans, the Division of Housing and Community Renewal concurs with the Department of Law's interpretation of the phrase "sole cost and expense". Any MCI application for a cooperative or condominium converted building, where the offering plan includes this (or similar) language without additional exclusionary language relating to an MCI application, will be denied to the extent that the costs for the improvements mentioned are included in the application.

***Elliot G Sander***  
*Deputy Commissioner  
for Rent Administration*

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*The original document which contains signatures of authorization is on file at DHCR's Office of Rent Administration.*

