

FACT SHEET



George E. Pataki, Governor

A PUBLICATION OF NEW YORK STATE
DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION

#11 Rent Increases for Major Capital Improvements (MCI)

When an owner makes an improvement or installation to a building subject to the rent stabilization or rent control laws, the owner may be permitted to increase the rent based on the actual, verified cost of the improvement or installation.

To qualify as an MCI, the improvement or installation must:

1. be deemed depreciable under the Internal Revenue Code other than for ordinary repairs;
2. be for the operation, preservation and maintenance of the building;
3. directly or indirectly benefit all tenants; and,
4. meet the requirements set forth in the Division of Housing and Community Renewal's (DHCR's) useful life schedule, which is found in DHCR's Operational Bulletin 90-2, "Useful Life Schedule for Major Capital Improvements."

To be eligible for a rent increase, the MCI must be a new installation and not a repair to old equipment. For example, an owner may receive an MCI increase for a new boiler or a new roof but not for a repaired or rebuilt one. Some procedures qualify as MCI's as well, such as pointing and waterproofing. The New York City Rent Stabilization Code (RSC) provides that applications for MCI rent increases must be filed within two years of the installation.

When the owner submits an MCI rent increase application to DHCR, DHCR notifies the tenants and gives them an opportunity to submit objections to the application. The owner may either keep a copy of the application with supporting documentation on the premises so that tenants can examine it or, a copy with supporting documentation will be available at DHCR for tenant review. The tenants' responses are considered prior to a final determination.

DHCR will issue an order either granting an increase in whole or in part or denying the increase. DHCR computes the rent increase for a rent stabilized or rent controlled apartment based upon a seven-year period of amortization of the verified costs of the MCI. The rent increase is a permanent addition to the legal regulated rent and does not drop off after the seven-year period. The tenant's increase is based upon a per room amount. For the definition of a "room," refer to DHCR's Policy Statement 93-2, "Definition of Room for MCI Purposes."

No increase may be charged or collected unless and until DHCR issues an order approving the increase.

In addition, an owner cannot collect an MCI increase from a tenant for whom DHCR has determined that "required services" are not being maintained; or from a tenant who has received a rent reduction order before the issuance of the order granting an MCI rent increase. Where DHCR issues a rent reduction order, an owner may continue to collect an MCI rent increase that the owner began collecting before the rent reduction order was issued regardless of the effective date of the rent reduction order. For additional information, see DHCR's Operational Bulletin 95-1, "Collectibility of MCI/OI Increases Where the Rent is Reduced Because of Diminution of Services."

No MCI rent increase will be approved while a building-wide service reduction order is in effect. Also, if there is an outstanding finding of harassment, DHCR will not grant an increase for the affected apartment(s) and/or building(s).

For rent stabilized apartments in NYC, the rent increase collectible in any one year may not exceed 6% of the tenant's rent, as listed on the schedule of monthly rental income filed with the owner's application. Increases above the 6% cap can be spread forward to future years. How this annual 6% cap affects the collectibility of the temporary retroactive portion of the

MCI rent increase is addressed in each order granting the MCI rent increase. For all rent controlled apartments and for stabilized apartments outside NYC, the increase collectible in any one year may not exceed 15% of the tenant's rent as of the issue date of the order. There is no retroactive portion.

For rent stabilized apartments in NYC, the MCI rent increase is generally effective as of the first rent payment date 30 days after the tenants are served with the owner's application.

For all other regulated apartments, the increase takes effect on the first rent payment date after the issuance of the order granting the increase.

If the NYC apartment owner receives a "J-51" tax abatement for the major capital improvement, the rent increase is offset by a portion of the value of the tax abatement. For rent controlled apartments in buildings receiving a "J-51" tax benefit, the MCI increase is offset by 2/3 for the length of the tax benefit. For rent stabilized apartments in "J-51" buildings, the increase is offset 50% for the length of the tax benefit.

A senior citizen with a valid Senior Citizen Rent Increase Exemption (SCRIE) is exempt from paying any portion of the MCI increase that would raise his or her total rent to over 1/3 of the tenant's total disposable income. However, if the owner requests it, any increase in the security deposit resulting from the MCI rent increase must be paid by the SCRIE tenants.

If an apartment(s) is vacant or becomes vacant while the MCI application is pending, the owner must notify any incoming tenant that the tenant's rent will increase if the MCI application is approved. Failure to indicate this anticipated rent increase in the vacancy lease will result in no MCI increase being approved for this apartment until the lease is renewed. If an owner charges the increased rent without this proper notification, the owner risks overcharge penalties.

A vacancy lease clause that satisfactorily notifies an incoming tenant of a pending MCI application is one which provides, "Application for a major capital improvement rent increase has been filed with DHCR based upon the following work: _____, Docket # _____. Should DHCR issue an order granting the rent increase, the rent quoted in this lease will be increased."

If DHCR approves an application for a rent increase based on an MCI, the owner may charge the increase during the term of an existing lease only if the lease contains a clause specifically authorizing the owner to do so. A satisfactory lease clause would provide, "The rent established in this lease may be increased or decreased by an order of DHCR or the Rent Guidelines Board."

For more information or assistance, call the DHCR Rent InfoLine, or visit your Borough or County Rent Office.

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92-31 Union Hall Street
4th Floor
Jamaica, NY 11433
(718) 739-6400

Brooklyn
55 Hanson Place
7th Floor
Brooklyn, NY 11201

Upper Manhattan
163 W. 125th Street
5th Floor
New York, NY 10027
North side of 110th St. and above

Nassau County
50 Clinton Street
6th Floor
Hempstead, NY 11550

Westchester County
55 Church Street
White Plains, NY 10601

Lower Manhattan
156 William Street
9th Floor
New York, NY 10038
South side of 110th St. and below

Bronx
1 Fordham Plaza
2nd Floor
Bronx, NY 10458

Staten Island
60 Bay Street
7th Floor
Staten Island, NY 10301

Rockland County
94-96 North Main Street
Spring Valley, NY 10977