

THE CITY RECORD

WEDNESDAY, JULY 7, 1982

RENT GUIDELINES BOARD - Hotel Order #12

THE CITY OF NEW YORK RENT GUIDELINES BOARD

Hotel Order No. 12-Rent Levels for Hotel Units,
July 1, 1982 Through June 30, 1983.

PURSUANT TO THE AUTHORITY VESTED IN IT BY THE RENT STABILIZATION Law of 1969 and Chapter 576 of the Laws of 1974, implemented by Resolution No. 276 of 1974 of the New York City Council and extended by Chapter 203 of the Laws of 1977, and further extended by Chapter 383 of the Laws of 1981, the Rent Guidelines Board hereby establishes and adopts the following guidelines for levels of fair rent increase over lawful rents charged and paid on June 30, 1982.

Applicability

This Order shall apply to all units in buildings subject to the Hotel Section of the Rent Stabilization Law, as amended, or Chapter 576 of the Laws of 1974 and occupied by a non-transient hotel tenant. The level of fair rent increase granted herein shall be effective as of the anniversary of the tenant's commencing occupancy with respect to any such tenants who have no lease or rental agreement. This anniversary date will also serve as the effective date for all subsequent Rent Guidelines Board Hotel Orders, unless the Board shall specifically provide otherwise in the Order. Where a lease or rental agreement is in effect, this Order shall govern the rent increase collectible on or after July 1, 1982 upon expiration of such lease or rental agreement, unless the parties have contracted to be bound by this Order as of July 1, 1982, or a subsequent date. But, in no event shall there be more than one guidelines increase during the term of one guideline period.

As regards any unit for which an increase pursuant to this Order is collectible, demand for such increase shall be made within 90 days of the date of this Order or its effective date, whichever is later, or the increase may only be collected prospectively. That portion of the increase that is to be collected retroactively shall be collectible from a tenant in monthly installments, each installment not to exceed one-half of the monthly increase permitted under this Order. Where the rental period is other than monthly, installments for rental periods prior to the date the increase was demanded shall be prorated accordingly.

Guideline For Rent Increases

The level of fair rent increases over the lawful rent actually charged and paid on June 30, 1982, shall be two (2) per cent.

Additional Charges

It is expressly understood that the rents increased under the terms of this Order are intended to compensate in full for all services provided without extra charge to the statutory date for the particular hotel dwelling unit or at the commencement of the tenancy if subsequent thereto. No additional charges may be made to a tenant for such services, however such charges may be called or identified.

Excluded Units

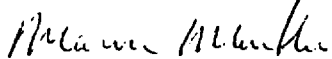
This increase shall not apply where forty (40) per cent or more of the dwelling units in a hotel are vacant and unoccupied on June 30, 1982. In such case the owner will not be allowed the increase unless he can prove to the satisfaction of the Conciliation and Appeals Board that he has attempted in good faith to rent said units.

Special Guidelines

Pursuant to Section YY51-5.0e of the Rent Stabilization Law and Chapter 576 of the Laws of 1974, special guidelines relating to adjustment of initial legal regulated rents are inapplicable to hotel dwelling units.

Dated: June 30, 1982

Filed with the City Clerk: June 30, 1982


Marvin Markus, Chairman
Rent Guidelines Board

THE CITY RECORD

TUESDAY, AUGUST 31, 1982

RENT GUIDELINES BOARD

Explanatory Statement and Findings of the Rent Guidelines Board Concerning Increase Allowances for Hotel Units Under the Jurisdiction of the Rent Stabilization Law, Pursuant to Hotel Order No. 12, Effective July 1, 1982 Through and Including June 30, 1983.

Pursuant to the Rent Stabilization Law of 1969 and Chapter 576 of the Laws of 1974, implemented by Resolution No. 276 of 1974 of the New York City Council and extended by Chapter 203 of the Laws of 1977 and further extended by Chapter 383 of the Laws of 1981, it is the responsibility of the Rent Guidelines Board to establish guidelines for hotel rent increases. Hotel Order No. 12, adopted on June 25, 1982, applies to stabilized hotel units occupied by non-transient tenants.

Hotel Order No. 12 provides for an allowable increase of two (2) per cent over the lawful rent actually charged and paid on June 30, 1982. Said increase allowance shall be effective for a twelve month period commencing on July 1, 1982 and ending on June 30, 1983. The Order does not limit rental levels for commercial spaces, non-stabilized residential units, transient units or vacancy leases to new tenants of hotel stabilized units during the guideline period.

Background

The Board conducted two public hearings, after full public notice, on June 7, 1982 and June 10, 1982 to gather testimony from the public on the issue of rent increases for stabilized hotel units. The hearing of June 10, 1982 was held in the evening to permit working people to speak. Twenty persons testified at the hearings on the subject of stabilized hotel rent increases. Public meetings of the Board were held on May 21 and 26, and June 14, 18 and 25th, 1982 following public notice. At the meeting of May 26, data concerning the stabilized hotel sector was presented and discussed. On June 25, 1982, the guidelines set forth in Hotel Order No. 12 were adopted.

As with previous Orders, the Board's decision is based upon material gathered from a number of sources, including the report on the Economic Condition of the Residential Hotel Industry in the City of New York: 1980-81 prepared by the accounting firm of Laventhol & Horwath for the Metropolitan Hotel Industry Stabilization, Association, Inc. (METHISA), the 1982 Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City, prepared by Urban Systems Research & Engineering, and information as provided by the Mayor's Office of SRO Housing and the Law Project. The Board also heard testimony from the City's Office of Crisis Intervention Services and the Mayor's Office of SRO Housing.

According to statistical information produced by METHISA as of December 31, 1981 there were 244 registered hotels with 28,942 registered units; METHISA reported that 66 of these hotels had very few registered units, had new owners, were in the process of rehabilitation or vacancy for reconstruction, or had been terminated from membership since January 1, 1982, leaving a balance of 178 registered hotels containing 24,823 registered units. The sample survey of 46 hotels containing 7,577 registered units upon which the Laventhol & Horwath Report (L&H Report) is based was conducted to provide the Board with as much data as possible on the operating cost characteristics of hotel stabilized units. The sample consists only of hotels with substantial numbers of stabilized units whose fiscal calendars end in the last third of the year that returned questionnaires in time for inclusion in the L&H Report.

*This Explanatory Statement explains the actions taken by the Board members on individual points and reflects the general views of those voting in the majority. It is not meant to summarize all of the viewpoints expressed.

Hotels in different areas of Manhattan and one in Brooklyn are represented in the sample.

The data contained in the Laventhol & Horwath report were analyzed by the staff of the Rent Guidelines Board using several different methods. Table 1 summarizes the analyses prepared by the staff at the request of the Board. Both price and cost (expenditure), change analyses were prepared.

TABLE 1

Alternative Methods of Determining Rent
Adjustments for Hotel Units

1.	1980-81 Weighted Price Increase Approach (Laventhol & Horwath) Rent adjustment using 1980 weights and operating ratio of .764: 10.94%
2.	1980-81 Weighted Cost Increase Approach (Laventhol & Horwath) Rent adjustment using 1980 weights and operating ratio of .764: 10.71%
3.	Overall Mean Cost Increase (Staff calculation using L&H data) Rent adjustment using operating ratio of .764: 10.71%
4.	Overall Median Cost Increase (Staff calculations using L&H data) Rent adjustment using operating ratio of .764: 8.81%
5.	1980-81 Cost Increase for Total Sample (same as 2, but not weighted) Rent adjustment using operating ratio of .764: 8.08%
6.	1981-82 Percentage Change in Price Index of Operating Costs Using Price Change Information From USR&E, L&H Report & PSC Rate Schedule Rent Adjustment Using Operating Ratio of .764: 5.3%

For each analysis, the operating cost weights were derived from the pattern of dollar expenditures for 1980 and 1981 for the hotels covered in the Laventhol & Horwath report. Price and expenditure change data were compared with corresponding figures from independent sources, including Urban Systems Research & Engineering, Inc. and the Public Service Commission.

The possible rental adjustments for Alternatives 1 through 6 in Table 2 were calculated by multiplying various measures of operating cost change by the 1981 ratio of operating costs to rent of .764 reported in the Laventhol & Horwath report for the sample of 46 buildings. The measures of operating cost change used for each of the six alternatives were derived as follows:

1. For the 1980-81 Weighted Price Increase Approach the percentage increases from 1980 to 1981 in the price of eight categories of operating costs were weighted by the relative importance of each component and summed to derive a 14.3% change in costs, as shown in Table 2.
2. For the 1980-81 Weighted Cost Increase Approach the percentage increases from 1980 to 1981 in the cost of eight categories of operating cost were weighted by the relative importance of each component and summed to derive a 10.7% change in costs as shown in Table 3.
3. For the overall Mean Cost Increase Approach, staff calculated the percentage change from 1980 to 1981 in operating costs from data in Laventhol & Horwath for each of the 46 buildings covered in the report and divided by the number of buildings in the sample to derive a mean percentage change in costs of 10.7%.
4. For the Overall Median Cost Increase Approach the staff located the median value in the range of percentage changes in costs described in 3 above to derive a median percentage change in costs of 8.9%.
5. For the 1980-81 Cost Increase For The Total Sample the sum of the costs reported in Laventhol & Horwath for the sample of 46 buildings for 1980 and 1981 were compared by staff to derive a percentage increase of 10.5%.
6. For this alternative the percentage changes from 1981 to 1982 in the price of eight categories of operating costs were weighted by the relative importance of each component and summed to derive a 6.9% change in costs. Price change information for each of the components was derived from various sources as shown in Table 4.

The Board also took into consideration the 2.8% increase in operating costs for rent stabilized apartments from 1981 to 1982 reported by USR&E.

Explanatory Statement
Hotel Order No. 12

TABLE 2

Summary of Weighted Price Increases for
the Residential Hotel Industry: 1980-81

Category	1980 Weight	% Increase 1980-81	1980-81 Weighted Price Index
Payroll	42.3	14.4%	6.0%
Real Estate Taxes	9.0	13.3	1.20
Fuel	7.6	16.4	1.25
Steam	.7	32.9	.23
Electricity	7.2	31.3	2.40
W&S	1.4	-	-
Insurance	2.4	11.3	.27
Other*	29.4	9.8	2.88
Total	100.0		14.32%
Operating Ratio			.764
Percent rent increase			10.94%

*Includes former categories of repairs and maintenance, laundry linen, replacement and other operating costs.

Source: Laventhol & Horwath, 1982 Report.

TABLE 3

Summary of Weighted Cost Increases
for the Residential Hotel Industry: 1980-81

Category	1980 Weight	1980-81 % Increase*	1980-81 Weighted Cost Index
Payroll	42.3	9.81	4.15
Real Estate Taxes	9.0	10.93	.98
Fuel	7.6	6.48	.49
Steam	.7	-	-
Electricity	7.2	22.60	1.61
W & S	1.4	1.89	.26
Insurance	2.4	.12	.03
Other	29.4	10.73	3.15
Total	100.0		10.69
Operating Ratio			.764
Percent rent increase			8.17%

*This represents the percentage increase in the aggregate expenditures for the sample.

Source: Laventhol and Horwath, 1982 Report.

Explanatory Statement
Hotel Order No. 12

TABLE 4

1981-82 Percentage Change in Price Index of
Operating Costs for Hotels Using Price Change
Information from USR&E, L&H Report and P&C
Rate Schedule.

Category	1981 Weights*	1981-82 Percentage Change**	1981-82 Weighted Percentage Change
Payroll and related costs	40.9%	10.9%	4.5
Fuel	8.1	-8.0	-7
Electricity	8.8	71.2	7.2
Water and Sewerage	1.3	0	0
Insurance	2.2	0	0
Real Estate Taxes	9.0	11.1	1.3
Other Operating Costs	28.9	10.3	3.0
Total	100.0		6.9
Operating Ratio (from Laventhol & Horwath 1982 Report)			7.64
Percent rent increase			5.3

*Laventhol & Horwath 1982 Report, Exhibit, I, P. 8.

**Note on Sources of Price Change Data

Labor

Information on wage rates and payroll and fringe benefits for union contracts with the Hotel Association of N.Y.C. and Metropolitan Hotels & Motels reported in Laventhol & Horwath 1982 Report, & 1981 Report Schedules A-2 and A-3 were used. Weekly wages as of April 1981 and April 1982 were determined and 1981 and 1982 fringe benefits at the percentages reported in the 1982 L&H report were added. The two categories of wages and payroll were then weighted equally following the approach in Schedule A-1 of the 1982 Laventhol & Horwath report. L&H reports an 11.5% increase from 1981 to 1982, reflecting July 1 wage rates.

Fuel

The price index for #6 fuel oil from USR&E's report was used. According to the Laventhol & Horwath report (Schedule B) this is the appropriate fuel type for hotel stabilized buildings.

Electricity

Using Con Edison rates and fuel adjustment figures for April 1981 and April 1982 and the hypothetical consumption level given by Laventhol & Horwath (3,000 kw demand, 1,200,000 kWh energy), the change in monthly electric current costs is from \$141,614 to \$124,693 (before taxes), a decrease of \$18,921 or 13.2%. (Staff calculation from Con Edison rate schedules for S.C. No. 9, effective April 16, 1981 and March 5, 1982 and fuel adjustments for April 1981 and April 1982 as reported in the 1981 and 1982 Laventhol & Horwath Report).

Water and Sewerage

The Laventhol & Horwath and USR&E reports agree that there was no change in water and sewerage costs from 1981 to 1982.

Insurance

The percentage change of .1% in insurance costs from 1980 through 1981 for the sample of 46 buildings covered in the 1982 Laventhol & Horwath report, Exhibit 2, page 6, has been used. This was thought to be preferable to the USR&E insurance component index (4.6%) which is based on a survey of stabilized apartment buildings.

Real Estate Taxes

The percentage change of 10.9% in tax bills from Fiscal Year 1981 to Fiscal Year 1982 for the sample of 46 hotels in the 1982 Laventhol & Horwath report, Schedule G-2, page a, was used. This was considered more appropriate for estimating the real estate tax on hotels than the USR&E Taxes, Fees, and Permits component, which compared annual tax bills for stabilized apartment buildings only.

Other Operating Costs

This component covers residual operating costs not covered by other categories: the 1981-82 change in the USR&E Price Index components of Contractor Services, Administrative Costs, Parts & Supplies & Replacements Costs was used. The Laventhol and Horwath price change data for this component was the annual percentage change in the Consumer Price Index (schedule H) for New York and northeastern New Jersey of 8.8%.

After examining this information and taking into consideration the testimony of hotel tenants about lack of hotel services, the availability of market rents on vacancy and methodological problems with the Laventhol & Horwath survey including possible response bias, the Board, by a vote of 7-2, authorized an allowable increase of 2%.

In addition, the Board evaluated the extensive testimony of hotel tenants received during the Public Hearings. Many tenants cited abuses of the spirit if not the letter of the existing law.

The Board made several efforts to ameliorate the situation. One problem brought to the attention of the Board was the practice involving tenants who move into a unit at a market rent, only to find several months later on the effective date of the Board's Hotel Guideline Order that he or she is subject to a rent increase under the Order. To address this problem the applicability section of this Order contains language to prevent a tenant who moved in on or after July 1, 1981 from being charged a Guidelines Board Order increase prior to the tenant having been in occupancy for one year's time, and to make all future increases for such tenants collectible as of the anniversary date of the first permissible increase charged. The language in Hotel Order 12 is as follows:

"The level of fair rent increase granted herein shall be effective as of the anniversary of the tenant's commencing occupancy with respect to any such tenants who have no lease or rental agreement. This anniversary will also serve as the effective date for all subsequent Rent Guidelines Board Hotel Orders, unless the Board shall specifically provide otherwise in the Order."

With this new provision, the level of fair rent increase established by Order 12 shall be collectible from any hotel stabilized tenants who have no lease or rental agreement, as of one year from the last level of fair rent increase charged to such tenant, or as of one year from the date of the tenant's commencing occupancy, whichever is later. Levels of fair rent increase granted by all subsequent Rent Guidelines Board Hotel Orders shall be collectible from any such tenants who have no lease or rental agreement as of one year from the last level of fair rent increase charged to such tenant, or as of one year from the date of the tenant's commencing occupancy, whichever is later, unless the Board shall specifically provide otherwise in its Order. Where a lease or rental agreement is in effect, this Order shall govern the rent increase collectible on or after July 1, 1982 upon expiration of such lease or rental agreement, unless the parties have contracted to be bound by this Order as of July 1, 1982, or a subsequent date, in which case the

increase is collectible as of the date contracted for. But, in no event shall there be more than one guidelines increase during the term of one guideline period.

Hotel Order No. 12 will prevent an owner from not seeking the allowable increase under a Rent Guidelines Board Order for many months and then asking for the amount retroactively in a lump sum from the tenant. The new language places a 90 day time limit from the effective date of the Order, on asking for the new increases retroactively. It then spreads out the payments of the retroactively due increase in a manner designed to avoid undue hardship on the tenant.


The Board recognizes that the "Hotel" Sector consists of a wide variety of housing arrangements. The task of setting fair guidelines in this area is complicated by the conflicting equities of owners and tenants. The Board in its meetings and hearings received, weighed and debated all the information presented to it and has reflected its considered judgment in this Order.

The Board looked into the tax charged tenants in hotels and found the following: It is provided for by §V46-1.0 et seq. of the Administrative Code of the City of New York. It is a graduated tax based on the rent charged for the unit. It is not applicable to permanent residents. A permanent resident is any occupant of any room or rooms in a hotel for a least one hundred eighty consecutive days. The issue then centers upon the refund procedure (see §V46-7.0). The statute provides that an application to the Finance Administrator shall be made within one year from the payment of the tax.

This application may be made by the occupant, operator or other person who has actually paid the tax. Such application may also be made by an operator who has collected and paid over such tax to the Finance Administrator provided that the application is made within one year of the payment by the occupant to the operator, but no actual refund of moneys shall be made to such operator until he shall first establish to the satisfaction of the Finance Administrator, under such regulations as the Finance Administrator may prescribe, that he has repaid the occupant the amount for which the application for refund is made. The Board concluded that this was not an issue requiring any remedy but rather one of educating the public to the situation.

Finally, the Board took action to seek funding from the City for any independent consultant to conduct an economic study for hotel stabilized units, similar to the survey conducted this year by Urban Systems Research & Engineering, Inc. for stabilized apartments.

Dated: August 12, 1982
Filed with the City Clerk: August 12, 1982


Marvin Markus, Chairman
Rent Guidelines Board