

# THE CITY RECORD

WEDNESDAY, JULY 6, 1983

## THE CITY OF NEW YORK RENT GUIDELINES BOARD

Hotel Order No. 13 - Rent Levels for Hotel Units, July 1, 1983 through June 30, 1984.

PURSUANT TO THE AUTHORITY VESTED IN IT BY THE RENT STABILIZATION LAW of 1969 and Chapter 576 of the Laws of 1974, implemented by Resoluitbn 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 and the applicable Laws of 1983, 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, 1983.

### 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. With respect to any tenants who have no lease or rental agreement, the level of fair rent increase granted herein shall be effective as of one year from the date of the tenant's commencing occupancy, or as of one year from the date of the last level of fair rent increase charged to the tenant, whichever is later. 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, 1983 upon expiration of such lease or rental agreement, but in no event prior to one year from the commencement date of the expiring lease, unless the parties have contracted to be bound by this Order as of July 1, 1983, or a subsequent date. 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, 1983, shall be four (4) per cent.

## Hotel Order #13

New Tenancies

The Rent Guidelines Board provisionally adopted the following for new tenancies subject to the implementation of new legislation enacted but not signed into law as of the date of this Order.

Where a hotel dwelling unit becomes vacant, the level of rent increase governing a new tenancy commencing on or after the effective date of the new legislation through June 30, 1984 is:

- for those units which have had a new tenancy commencing on or after July 1, 1978, the same level over rentals charged on June 30, 1983 as that set forth above for levels of fair rent increases.
- for those units which have had no new tenancy commencing on or after July 1, 1978, the same plus 5% over rentals charged on June 30, 1983.

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, 1983. 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 YY51-5.0a 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. However, this provision may be modified by the appropriate agency subject to the implementation of new legislation enacted but not signed into law as of the date of this Order.

Dated: June 29, 1983

Filed with the City Clerk: June 29, 1983

  
Marvin Markus, Chairman  
Rent Guidelines Board

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WEDNESDAY, AUGUST 10, 1983

## 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. 13, Effective July 1, 1983 Through and Including June 30, 1984.\***

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. 13, adopted on June 23, 1983, applies to stabilized hotel units occupied by non-transient tenants.

Hotel Order No. 13 provides for an allowable increase of four (4) percent over the lawful rent actually charged and paid on June 30, 1983. Said increase allowance shall be effective for a twelve month period commencing on July 1, 1983 and ending on June 30, 1984. The order does not limit rental levels for commercial spaces, non-stabilized residential units, or transient units in hotel stabilized buildings during the guideline period. The Order also contains provisions for a tiered vacancy allowance dependent upon when the last vacancy occurred. The Board took this action based on legislation, which provided for guideline levels for vacancies to be established by the RGB, passed by the New York State Legislature which had not been signed into law by the Governor on the date the RGB adopted Hotel Order 13. The proposed legislation has since been enacted as Chapter 448 of the Laws of 1983. Upon the effective date of this law, the allowable increase for a new lease shall be the same as for a renewal lease, unless the last new tenancy commenced prior to July 1, 1978, in which case the allowable increase shall be the same as for a renewal lease plus an additional 5% above the prior tenant's rent.

### Background

The Board conducted two public hearings, after full notice, on June 6, 1983 and June 7, 1983 to gather testimony from the public on the issue of rent increases for stabilized hotel units. The hearing of June 7, 1983 was held in the evening to permit working people to speak. Approximately thirty persons testified at the hearings on the subject of stabilized hotel rent increases. Public meetings of the Board were held on May 20 and 27, and June 3, 13, 17 and 23rd, 1983 following public notice. At the meeting of May 27, data concerning the stabilized hotel sector was presented and discussed. On June 23, 1983 the guidelines set forth in Hotel Order No. 13 were adopted.

The Board's decision is based upon material gathered from a number of sources, including the Price Index of Operating Costs for Hotel Stabilized Units in New York City April 1982-April 1983 prepared by the Rent Guidelines Board Staff and the 1983 Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City, prepared by Urban Systems Research & Engineering, Inc. The Board also received testimony from the Mayor's Office of SRO Housing, and reports and submissions by hotel owners and tenants.

According to statistical information provided by the Metropolitan Hotel Industry Stabilization Association, Inc. (METHISA) as of December 31, 1982 there were 260 registered hotels and SRO properties containing 28,000 registered units; there were also 550 registered rooming houses containing 6,141 registered units. (Correspondence from Mr. Harold Weingarten dated May 27, 1983).

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.

The Price Index of Operating Costs For Hotel Stabilized Units: April 1982-April 1983 ("1983 Hotel Price Index") provides a measure of operating costs changes for hotels that is similar to The Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City prepared by the consulting firm Urban Systems Research and Engineering, Inc. ("USR&E") for use by the Rent Guidelines Board in its deliberations on annual guidelines for stabilized apartments. Such an index reflects changes in operating costs attributable to changes in the price of specified goods and services used in operating and maintaining stabilized properties. Data on changes in the price of some components of operating cost were derived from primary sources such as collective bargaining agreements between two labor unions and two hotel industry associations in New York, New York City Department of Finance records of real estate taxes billed, Board of Estimate Resolutions establishing water and sewer rates, and public utility rate schedules. For other components of operating cost, insurance, fuel oil, administrative costs and repair and maintenance costs, price change data reported by USR&E in its 1983 Price Index for apartments was used; this data was collected by USR&E through sample surveys of the vendors of those items. To construct the 1983 Hotel Price Index the percentage changes in each of the components of operating costs were weighted according to their relative importance as a percentage of operating costs among stabilized hotels and SRO's; these weights were based on 1981 expenditure data collected by the accounting firm of Laventhol and Horwath for a sample of 46 properties and reported in Laventhol and Horwath, Economic Condition of the Residential Hotel Industry in The City of New York, 1968-1982, R. 10.

The percentage change from April 1982 to April 1983 in The Hotel Price Index was 5.8%. Table 1 displays the change in the eight components of operating costs weighted by their relative importance. A discussion of each of the eight components follows the Table.

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Table 1  
**PERCENTAGE CHANGE IN THE PRICE INDEX OF OPERATING COSTS FOR BUILDINGS SUBJECT TO THE HOTEL STABILIZATION LAW**  
 April 1982 - April 1983

<u>Index Category</u>	<u>Percentage Change</u>	<u>Percentage of Operating Costs* (Weight)</u>	<u>Weighted Percentage Change**</u>
ALL ITEMS	5.8%	100.0%	5.8%
Labor	8.4	40.9	3.4
Fuel Oil	-11.5	8.1	-.9
Water & Sewer	24.3	1.3	.3
Electricity	1.6	8.8	.1
Insurance	4.7	2.2	.1
Real Estate Taxes	5.3	9.8	.5
Administrative Costs	12.0	14.0	1.7
Repair & Maintenance	3.7	14.9	.6

\*Source: Laventhol and Horwath, Economic Condition of The Residential Hotel Industry in The City of New York: 1968-1982, P. 10.

\*\*Derived by multiplying the percentage change for each index component by the corresponding percentage of operating costs divided by 100.

Labor

The 8.4% increase in labor costs was the major contributor to the change in the all items index. This represents the change in the cost of wages, fringe benefits and payroll tax items for employees in hotel stabilized buildings covered by two collective bargaining agreements: one, between The Hotel Association of New York City, Inc. and the New York Hotel and Motel Trades Council, AFL-CIO, the other between Associated Hotels and Motels, Inc. and Local 144, Hotel and Allied Services Union, AFL-CIO. (The latter agreement had expired May 31, 1982 and was under negotiation as The Board was meeting in June 1983; the calculations for labor take into account an interim agreement to pay an increase of \$15.00 per week retroactive to June 1, 1982.)

Fuel

The 11.5% decrease in the fuel oil component was derived from the price relatives for the three grades of oil, No. 2, No. 4, and No. 6 reported by USRAE, which were averaged to reflect the relative importance of each grade among stabilized hotels.

Water and Sewer

Water and sewer costs increased 24.3% reflecting a 10.5% increase in metered water rates as of July 1, 1982 and a 65% increase in sewer rent at the same time.

Electricity

The 1.6% increase in electricity costs reflects a .7% decline in the cost of master metered service (under which electricity is redistributed to individual units) under one service classification and a 2.8% increase in the cost of master metered service under another service classification.

Insurance

The 4.6% increase in the insurance component was derived from the insurance price relative reported by USRAE. This was determined to be the best available proxy measure of the change in the cost of this component among buildings in the hotel stabilized sector.

Real Estate Taxes

The percentage change of 5.3% in tax bills from April 1982 to April 1983 was calculated by comparing aggregate taxes billed in fiscal years 1982 and 1983 for 217 METRISA member properties. Of these properties, 332 had been reclassified from Class No. 2 residential to Class No. 4 commercial during the 1983 fiscal year and those properties were subject to an increase

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in the tax rate from \$8.95 per \$100 of assessed valuation to \$9.29 per \$100 of assessed valuation. The 3.3% increase in real estate taxes reflects the change in rate for these properties and change in taxable assessed valuation among both Class No. 2 and Class No. 4 properties.

Administrative Costs

The 12.0% increase in the index of administrative cost was derived from nine price relatives reported by USR&E for various items within this category. These price relatives were combined by averaging several of the items and then reweighting the price relatives in accordance with the distribution of expenditures for administrative costs among hotels.

Repairs and Maintenance

The 3.7% increase in repairs and maintenance costs reflects the change in the price reported by USR&E for parts and supplies, replacement costs, and contractor service items.

The Board considered the calculation, shown in Table 2, of the increase in rent that would be commensurate with the change in operating costs as indicated by the Hotel Price Index.

Table 2

Calculations of 1983 Potential Increase  
In Rent Commensurate With 1982-83 O&M  
Cost Increase For Hotel Stabilized Sector

	O&M Increase 1982-83	X	O&M Rent Ratio	=	Potential Increase for 1983
All Hotel Units	5.8*	X	.764**	=	4.43
Using Salary Increase Negotiated 6/2/83 /1	6.7	X	.764**	=	5.1

/1 According to information supplied by Mr. Harold Weingarten, Executive Director of METHISA, The Metropolitan Hotels and Motels Assoc, and Union Local 144 had agreed in the course of negotiations to a retroactive increase of \$10 per week as of December 1, 1982, which was not reflected in the RGB Staff, Price Index for Hotels.

\* As reported in Price Index of Operating Costs For Hotel Stabilized Units April 1982-April 1983, RGB Staff.

\*\* This is the reported percentage of rent spent on operating costs as reported in the Laventhol & Horwath Report, Economic Condition of The Residential Hotel Industry in the City of New York, 1968-1982.

After examining this information and taking into consideration the testimony of hotel tenants about lack of hotel services and the availability of market rents on vacancy, the Board, by a vote of 7-7, authorized an allowable increase of 4% for renewal leases.

Vacancy Allowance

On June 23, 1983, hotel stabilized units which were voluntarily vacated could be offered for rental at any price notwithstanding any permissible level of rent adjustment. The Rent Guidelines Board was advised by METHISA at its June 23rd Public Meeting that the New York State Legislature had passed a bill which would require hotel stabilized units to be offered for rental at the guideline level for vacancies established by the Rent Guidelines Board. The Governor signed this bill into law, Chapter 448 of the Laws of 1983, on July 15, 1983, and it becomes effective 30 days later.

The Rent Guidelines Board authorized a guideline for new tenancies subject to the implementation of the new legislation.

The Board established the allowable level of rent increase governing a new tenancy commencing on the effective date of the new law as follows:

- a) for those units which have had a new tenancy commencing on or after July 1, 1978, the same level over rentals charged on June 30, 1983, as that set forth above for levels of fair rent increases of
- b) for those units which have had no new tenancy commencing on or after July 1, 1978, the same plus 5% over rentals charged on June 30, 1983.

The Board believed that as a result of hotel stabilized units having had the advantage of market rents on vacancy since these units have been subject to the Rent Stabilization Law, either no or a small vacancy allowance was appropriate. Thus any unit in this sector which had a new tenancy within the preceding five years did not require an additional vacancy allowance under this guideline. However, where a unit had not been brought to market rate through a new tenancy within the past five years, a 5% allowance would be a means of compensating for the rise in costs, such as the cost of energy as affected by prevailing interest rates, while minimizing the burden on tenants in occupancy.

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The Board evaluated 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 applicability section of this Order contains language to prevent a tenant who moved in on or after July 1, 1982 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 to such a tenant.

Hotel Order No. 13 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 Order 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.



Dated August 5, 1983  
Filed August 5, 1983  
City Clerk, August 5, 1983

*Marvin Markus*  
Marvin Markus, Chairman  
Rent Guidelines Board