

THE CITY RECORD

TUESDAY, JULY 3, 1984

HOTEL ORDER NO. 14 - Rent Levels for Hotel Units, July 1, 1984 through June 30, 1985

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 and Chapter 403 of the Laws of 1983, amended by Chapter 448 of the 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, 1984.

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 established 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 applicable on or after July 1, 1984 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, 1984, or a subsequent date.

Guideline for Rent Increases

The level of fair rent increases over the lawful rent actually charged and paid on June 30, 1984 shall be zero (0) per cent.

New Tenancies

For any hotel dwelling unit which is voluntarily vacated by the tenant thereof, the level of rent increase governing a new tenancy shall be the same as the guideline for rent increases set forth above.

Additional Charges

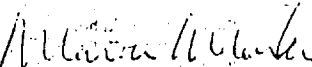
It is expressly understood that the rents collectible under the terms of this Order are intended to compensate in full for all services provided without extra charge to the statutory date for the particular hotel dwelling unit or at the commencement of the tenancy if subsequent thereto. No additional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

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, subject to Chapter 448 of the Laws of 1983 as administered by the appropriate agency.

Dated: June 27, 1984

Filed with the City Clerk: June 27, 1984


Marvin Markus, Chairman
Rent Guidelines Board

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TUESDAY, AUGUST 14, 1984

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. 14, Effective July 1, 1984 Through and Including June 30, 1985.*

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 and Chapter 403 of the Laws of 1983, amended by Chapter 448 of the Laws of 1983, it is the responsibility of the Rent Guidelines Board to establish guidelines for hotel increases. Hotel Order 14, adopted on June 25, 1984, applies to stabilized hotel units occupied by non-transient tenants.

Hotel Order No. 14 provides for an allowable increase of zero (0) percent over the lawful rent actually charged and paid on June 30, 1984. Said increase allowance shall be effective for a twelve month period commencing on July 1, 1984 and ending on June 30, 1985. 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 provides that for any hotel dwelling unit which is voluntarily vacated by the tenant thereof, the level of rent increase governing a new tenancy shall be the same as the guideline for rent increases set forth above, that is zero (0) percent.

Background

The Board conducted two public hearings, after full notice, on June 4, 1984 and June 6, 1984 to gather testimony from the public on the issue of rent increases for stabilized hotel units. The hearing of June 6, 1984 was held in the evening to permit working people to speak. Approximately twenty three persons testified at the hearings on the subject of stabilized hotel rent increases. Public meetings of the Board were held on May 21, June 1, 11, 18 and 25th, 1984 following public notice. At the meeting of June 1, data concerning the stabilized hotel sector was presented and discussed. On June 25, 1984 the guidelines set forth in Hotel Order No. 14 were adopted.

Of the twenty-three persons who testified at the public hearings on the subject of stabilized hotel rent increases, twenty-two represented tenants and one represented owners. The Hotel Industry was represented by the attorney for The Metropolitan Hotel Industry Stabilization Association, Inc. In addition the Board received written testimony from the Mayor's Office of SRO Housing and reports and submissions on behalf of hotel tenants and owners.

Among the comments the Board received from those representing tenants were:

- that no rent increase and no vacancy allowance is warranted;
- that any additional rent increases will cause further homelessness;
- tenants in stabilized hotel units do not receive hotel services to which they are entitled;
- stabilized hotel units are not properly maintained and heat, hot water and electricity are frequently not available;
- many hotel units are warehoused by the owners for eventual conversion to expensive coops ;
- harassment of tenants by owners is widespread in stabilized hotel units;

*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.

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- until 1983 under the law hotels had the benefit of market rent upon vacancy, a benefit still reflected in current rents for many units;
- many hotels pay real estate taxes as apartment houses;
- a State Department of Social Services funded study of SRO tenants in 1979 found that 85% had incomes under \$3,000, 75% were unemployed and a large portion received some kind of social welfare benefits.
- many hotels have commercial and transient tenants that are not covered by rent stabilization;
- the RGB staff report relies on data that are not representative of hotel stabilized units.

Comments from owners included:

- the Board should grant an increase of 9% this year;
- complaints regarding services should have no bearing on the Board's decision;
- the elimination of free market rentals upon vacancy has resulted in severe financial losses to the industry;
- the Board's failure to grant adequate rent increases in past years has resulted in fewer residential hotels each year;
- hotel owners should be encouraged to continue their operations rather than be driven to convert their buildings for other uses.

Material Considered By Board

In addition to oral and written testimony the Board's decision is based upon material gathered from a number of sources, including the 1984 Price Index of Operating Costs for Hotel Stabilized Units in New York City, prepared by the Rent Guidelines Board Staff and the 1984 Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City, prepared by Urban Systems Research & Engineering, Inc.

According to statistical information provided by the Metropolitan Hotel Industry Stabilization Association, Inc. (METHISA) as of March 30, 1984 there were 240 registered hotels and SRO properties containing 27,950 registered units; there were also 530 registered rooming houses containing 6,530 registered units. (Correspondence from Mr. Harold Weingarten dated June 1, 1984).

Price Index For Hotels

The 1984 Price Index of Operating Costs For Hotel Stabilized Units ("1984 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 a market basket of specified goods and services used in operating and maintaining stabilized properties. Data on changes in the price of the components of operating cost were derived from primary and secondary sources. Among the primary sources were collective bargaining agreements between labor unions and 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 costs, insurance, fuel oil, administrative costs and repair and maintenance costs, price change data reported by USR&E in its 1984 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 1984 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, which consisted of hotels and SRO's and did not include rooming houses; and reported in Laventhol & Horwath, Economic Condition of the Residential Hotel Industry in The City of New York: 1968-1982, p.10.

The percentage change from April 1983 to April 1984 in The 1984 Hotel Price Index was 6.0%. 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 1983-April 1984

| <u>Index Category</u> | <u>Percentage Change</u> | <u>Percentage of Operating Costs* (Weight)</u> | <u>Weighted Percentage Change**</u> |
|-----------------------|--------------------------|--|-------------------------------------|
| ALL ITEMS | 6.0% | 100.0% | 6.0% |
| Labor | 6.7 | 42.4 | 2.8 |
| Administrative Costs | 6.2 | 14.7 | .9 |
| Repairs & Maintenance | 4.1 | 14.5 | .6 |
| Real Estate Taxes | 4.8 | 9.6 | .5 |
| Electricity | 4.3 | 8.3 | .4 |
| Fuel Oil | 9.6 | 6.8 | .6 |
| Insurance | 4.2 | 2.2 | .1 |
| Water & Sewer | 6.9 | 1.5 | .1 |

*Source: Laventhol & 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. Calculation was made using unrounded figures, so rounded figures in table might not add.

Labor

The 6.7% 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 three categories; those employees affiliated with the New York Hotel and Motel Trades Council, AFL-CIO, those affiliated with Local 144, Hotel and Allied Services Union, AFL-CIO and nonunion labor.

Fuel

The 9.6% increase 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 USR&E, which were averaged to reflect the relative importance of each grade among stabilized hotels.

Water & Sewer

Water and sewer costs increased 6.9% reflecting a 6.9% increase in metered water rates as of July 1, 1983 and the corresponding increase in sewer rent which continues to be charged at a rate of one half of water charges.

Electricity

The 4.3% increase in electricity costs reflects a 4.5% increase in the cost of master metered service (under which electricity is redistributed to individual units) under one service classification and a 4.3% increase in the cost of master metered service under another service classification.

Insurance

The 4.2% increase in the insurance component was derived from the insurance price relative reported by USR&E. 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.

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Real Estate Taxes

The real estate tax component increased by 4.8% between April 1983 and April 1984. This percentage was calculated by comparing aggregate taxes billed in fiscal years 1983 and 1984 for 225 METHISA member properties. In fiscal year 1984, 63% of the hotel stabilized properties were taxed at the Class #4 commercial rate of \$9.323 per hundred of assessed valuation and 37% at the Class #2 residential rate of \$9.057 per hundred of assessed valuation. Between fiscal 1983 and fiscal 1984, Class #2 properties had a tax increase of 3.1% while Class #4 properties had a 5.2% increase.

The Board invited Finance Commissioner Philip R. Michael and Assistant Commissioner William Block of the Real Property Assessment Bureau to its June 11 public meeting to address a variety of tax related topics. A major concern of the Board for the hotel sector was what criteria are used in determining whether a property is subject to the Class #2 residential tax rate or the Class #4 commercial tax rate. Commissioner Block stated that his Bureau uses the same criteria to judge whether or not a property is residential or hotel as was adopted by the Conciliation and Appeals Board, i.e., fifty-one percent of the tenants had to be receiving traditional hotel services; if an assessor found that traditional hotel services were not being provided, the property was classified as Class #2 residential for tax purposes.

Administrative Costs

The 6.2% 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 4.1% increase in repairs and maintenance costs reflects the change in the price relatives 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 1984 Potential Increase
In Rent Commensurate With 1983-84 O&M
Cost Increase For Hotel Stabilized Sector

| | O&M Increase 1983-84 | X | O&M Rent Ratio | = | Potential Increase for 1984 |
|-----------------|-------------------------|---|-------------------|---|-----------------------------------|
| All Hotel Units | 6.0* | | .76 | | 4.6 |

*As reported in 1984 Price Index of Operating Costs For Hotel Stabilized Units in New York City, by 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.

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Other Factors

Some members of the Board took note of "negative qualitative factors" which they found prevalent in this sector based on testimony and comments presented to the Board. These included failure to provide hotel services and other services as required by law, a lack of testimony from owners of hotel stabilized buildings on how well or poorly they are operating within the constraints of the rent adjustments previously authorized by the Board, the fact that many of the buildings registered as hotel stabilized are not classified as hotels by The Department of Finance for tax purposes, and that the classification of many buildings under the hotel stabilization section

of the law had been challenged pursuant to paragraph b of section YY51-3.1 of the N.Y. City Administrative Code as enacted by Chapter 403 of The Laws of 1983, and as a result some buildings had been reclassified as apartment buildings and there is ongoing administrative and judicial review of the issue of classification.

Based on its consideration of these factors and all of the information presented to it, the Board, by a vote of 5-4, authorized an allowable increase of zero (0) percent for renewals and new tenancies in hotel stabilized units.

The applicability section of this Order contains language to prevent a tenant who moved in on or after July 1, 1983 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. 14 does not contain two provisions that were included in previous Orders because they are not relevant given the allowable level of increase established under Order 14: one limited collectibility of increases demanded retroactively and the other provided that the guideline increase shall not apply where forty (40) percent or more of the dwelling units in a hotel are vacant and unoccupied unless the owner can prove that he has attempted in good faith to rent said units.

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.

Bibliography

- RGB Staff, 1984 Price Index of Operating Costs for Hotel Stabilized Units in New York City, May 1984.
- Urban Systems Research & Engineering, Inc. 1984 Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City.
- Laventhol and Horwath, Economic Condition of the Residential Hotel Industry in the City of New York: 1968-1982.
- N.Y.C. Department of Finance, Bureau of Real Property Assessment, "Study of Residential Apartment Houses in Tax Class Two."

Dated: August 8, 1984
Filed with the City Clerk: August 8, 1984


Marvin Markus, Chairman
Rent Guidelines Board