



New York State
Division of Housing and Community Renewal
Office of Rent Administration

New York City Rent Stabilization Code

Advisory Opinion 91-1 (March 27, 1991)

Multi-Tier Rent Orders

This Advisory Opinion is issued pursuant to Section 2527.11 of the Rent Stabilization Code (“Code”).

Code section 2521.1(m) provides:

(m) Notwithstanding any other provision of this Code, except as provided in paragraph (2) below, governmental agencies or public benefit corporations may enter into an agreement with the DHCR, which shall be incorporated into an order of the DHCR, setting forth the conditions under which:

- (1) projects receiving assistance or financing from such agencies may register higher and lower initial legal rents for units subject to occupancy and rent restrictions by such agencies, which rents may then be adjusted pursuant to the RSL and this Code, and shall not be subject to the proceedings described in section 2522.3 of this Title (Fair Market Rent Appeals); or
- (2) projects whose rentals were previously regulated under the PHFL or any other state or federal law, other than the RSL or the City Rent Law, upon the date when such regulation ends, may register higher and lower initial legal rents for units which have been subject to occupancy and rent restrictions pursuant to such laws, which rents may then be adjusted pursuant to the RSL and this Code, and shall not be subject to the proceedings described in section 2522.3 of this Title (Fair Market Rent Appeals). Where the DHCR was the agency regulating rentals pursuant to the PHFL, such terms and conditions shall be incorporated into an order of the DHCR.

Such agreement or order shall also set forth the conditions under which the higher and lower legal regulated rents may be charged, with due consideration of equities as set forth in section 2522.7 of this Title (Consideration of Equities).

Paragraph one of subdivision (m) relates to those low and moderate income projects being developed today which are financed from multiple funding sources, each with its own statutory rent, income and time limitations, and which require that more than one legal regulated rent be established. The governmental agencies responsible for the development of these projects apply to the DHCR for an order permitting project owners to register all legal regulated rents established by the governmental agencies, and setting forth the conditions under which one

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



or another tier of the legal regulated rent or a capped rent below one or another tier may be charged. (A capped rent may be required if collectible rents are tied to income streams adjusted periodically by other than guidelines board orders; for example, shelter allowances adjusted by legislation or percentages of median income as determined by HUD.) Under this section, all such rent tiers, once established, are subject to adjustment pursuant to rent guidelines board and DHCR orders.

Some of the funding sources which may require registration of more than one legal regulated rent, the current administering agencies and time limitations include:

- 1) Housing Trust Fund, administered by DHCR (15-30 year rent restriction);
- 2) Homeless Housing Assistance Program (“HHAP”), administered by the State Department of Social Services (State financial assistance in the form of grants, loans or loan guarantees pursuant to a minimum 7-year contract);
- 3) Federal Low Income Housing Tax Credits, administered by HPD or DHCR (15-30 year rent restriction);
- 4) Federal Housing Development Action Grants (“HoDAG”), administered by HPD (20-year rent restriction);
- 5) Tax Exempt Bonds issued by the New York State Housing Finance Agency (“HFA”) or New York City Housing Development Corporation (“HDC”); (varies, depending upon bond issuance dates - minimum 10 years to length of bond term or Section 8 contract term);
- 6) Low interest loans authorized under the Private Housing Finance Law, administered by HPD (regulated rents in perpetuity);
- 7) Municipal Assistance Corporation (“MAC”) Subsidies, administered by Housing Assistance Corporation (“HAC”); (approximately 30-year rent restriction);
- 8) Administrative Code section 11-243 (formerly J-51-2.5) Tax Benefits, administered by HPD (12-32) year rent restriction with a 20-year abatement);
- 9) Real Property Tax Law Section 421-a Tax Incentives, administered by HPD (10-year, 15-year or 25-year rent restriction).

Some conditions under which an owner may be permitted by the project agency to charge a different tier include:

- 1) Termination of a subsidy payment, tax benefit or income stream, such as a shelter allowance; or
- 2) Change in the income of the current tenant.

Paragraph (2) of subdivision (m) relates to projects which are subject to regulation by other governmental agencies and which become subject to rent stabilization upon termination of such other governmental agency’s regulation. Under certain conditions, upon such termination, more than one legal regulated rent may be necessary, for example, to preserve an existing low-income tenancy.

Instructions for Registration of Multi-Tier Rents

An owner authorized, pursuant to a DHCR Multi-Tier Rent Order, to register more than one rent for a housing accommodation subject to occupancy and rent restrictions established by a governmental agency or public benefit corporation should complete the DHCR Initial Apartment Registration Form and include in the item entitled, "Legal Registered Rent on the Date the Apartment Became Subject to the Omnibus Housing Act of 1983" (Item 14 on the Initial Apartment Registration (form RR-1 rev. 6-87)), all legal regulated rents authorized by the agency/corporation for the housing accommodation as of the date of initial occupancy or rent restructuring, whether the rent is paid weekly or monthly, and the Multi-Tier Rent Order docket number.

In the item entitled, "Actual Rent Paid" (Item 15a on the Initial Apartment Registration (form RR-1 rev. 6-87)), the owner should indicate the actual rent paid on the date of initial occupancy or rent restructuring as authorized by the agency/corporation. In the item entitled, "Reason for Difference Between Actual and Legal Registered Rent" (Item 15b on the registration form), the owner should specify either, (a) "Authorized Tier" - if the rent paid is one of the legal registered rents indicated in Item 14, or (b) "Authorized Other Rent" - if the rent paid is a capped rent required by the agency/corporation.

A copy of the DHCR Multi-Tier Rent Order should be submitted with the Initial Registration form. The procedure for the annual registration is the same, except that the inclusion of a copy of the Multi-Tier Rent Order is not required.

Upon subsequent renewals, all legal regulated rents shall be adjusted in accordance with the applicable rent guidelines increases and any other rent increases authorized pursuant to Code Section 2522.4

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for Rent Administration