



SPECIAL RULES

Please note that in HUD Section 236 assisted developments, the rent increase process includes an additional notification and comment period prior to the submission of the housing company's request for a rent increase. HCR's rent determination is subject to further approval by HUD, prior to an order of the Commissioner becoming effective.

For rent increases in HUD Insured Developments [Section 223f or 221d(4)], the HCR process described above is not followed. The increase is processed by HCR, subject to HUD's final approval following only the HUD prescribed process.

For Limited Dividend (PHFL, Article 4) Developments, in addition to the above HCR process for Mitchell-Lama developments, a formal hearing is required, rather than a meeting, at the completion of the 30-day written comment period, with the proceedings recorded in a transcript. Final decisions cannot be made by HCR on the application before a review of the transcript.



OFFICE OF HOUSING OPERATIONS
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Overview of MITCHELL-LAMA RENT INCREASE PROCESS



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SETTING MITCHELL-LAMA RENTS

Under the NYS Private Housing Finance Law (PHFL), the HCR Commissioner is required to set rents at the minimum amount sufficient to meet all of the housing company's financial obligations.

HCR's rent increase process requires the submission every two years (biennially) of a housing company's operating budget to HCR to determine whether rent revenues are sufficient to meet the housing company's expenses.

If the budget projections point to a shortfall, the housing company can petition the agency for a rent increase.

BUDGET

HCR regulations require that, every two years, Mitchell-Lama housing companies must prepare a two year, line item budget in a format prescribed by HCR. The budget takes the following items into account:

- ◆ The revenues of the company;
- ◆ Projected operating expenses (management, payroll, repairs, maintenance, taxes, insurance, etc.);
- ◆ Repayment of the mortgage and other debt;
- ◆ Capital expenditures and reserve provisions; and
- ◆ The payment of a limited return on equity to the owners (where applicable).

The latest actual results of operation are shown along with the projections for the two ensuing years on a line item basis.

If the budget shows that the current existing rents, together with all other income of the development, are not sufficient to meet **all** the financial obligations of the company, the owners should submit an application to HCR for a rent increase.

RENT INCREASE APPLICATION

The rent increase application includes a narrative describing the development and the reason why the owner thinks the increase is needed. It also shows the amount of rent increase being requested by the housing company on a per-room-per-month basis. The detailed projection showing an insufficiency in income is submitted in support of the application.

HCR staff reviews the application and projections and formulates HCR's preliminary two-year projections. If these preliminary projections differ from the housing company's projections, HCR may accept the housing company's projection or propose a different rent increase amount.

PUBLIC COMMENTS PERIOD & FINAL DECISION

Before any final decision is made on the increase, notice of the increase, together with the housing company's application and projections, and HCR's preliminary projections are served on the residents.

Residents are given an opportunity to review the application and projections (including HCR's preliminary projections) and submit comments in writing to

HCR. In the case of rental developments, specific funds of the development are made available for the tenants association to engage the services of a Certified Public Accountant to review the projections and respond on behalf of the residents.

After the conclusion of the comment period, for cooperatives and rentals, a meeting is scheduled during which residents and their representatives have an opportunity to discuss the proposed rent increase with representatives of the housing company and HCR. The notice of a potential rent increase establishes the 30-day comment deadline, time and place of the meeting.

HCR staff completes a final review of the entire record (including comments received and any updated financial information) and prepares summary memoranda and analyses including, where needed, revisions to the preliminary schedules.

HCR accountants and housing management representative(s), supervisors and management-level staff meet with the Assistant and Deputy Commissioners to review each application and arrive at a decision on the final disposition of the application. At this meeting, all aspects of the record assembled are discussed, including the impact of the proposed increase on the residents as well as conditions at the development prior to implementation of the rent increase.

The HCR Commissioner's Order is issued stating the amount of the rent increase approved and is served on all the residents.