



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

Policy Statement 90-1 (February 8, 1990)

Effect of Rent Reduction
Orders on Maximum Base
Rent (MBR) Increases

This policy statement is being issued to clarify the effect of a rent reduction order for failure to maintain services on MBR increases. A rent reduction order may be issued after an application has been filed, but before an MBR increase is granted. In such cases, tenants and owners have faced conflicting instructions since the rent reduction order disallows all future increases until service is restored, but the MBR calculation chart allows for service reductions to be factored into the MBR increase.

Under the MBR system, owners must certify that they are maintaining all essential services. These are defined as heat during the part of the year when required by law, hot water, cold water, superintendent services, maintenance of front or entrance door security (including, but not limited to, lock and buzzer), garbage collection, elevator service, gas, electricity and other utility services to both public and required private areas and "such other services when failure to provide and/or maintain such would constitute a danger to the life or safety of, or would be detrimental to the health of the tenant or tenants." In addition, owners must certify that they "have and will continue to maintain essential services".

Therefore, a rent reduction order for failure to maintain an essential service, as defined above, will bar the collectability of any subsequent increase in the Maximum Collectable Rent (MCR) after the effective date of the rent reduction order, until a rent restoration order has been issued. However, if the rent reduction has been granted for a failure to provide a service which is not listed above and cannot be considered detrimental to the health of the tenant(s), then the MCR increase, into which the rent reduction has been calculated, will be collectible.

DHCR's orders reducing the Maximum Legal Regulated Rent (Forms RO-30 and RO-31) currently do not distinguish between a failure to provide an essential service or a nonessential service. In the future, orders will be issued based on the above listed definition, to eliminate the discrepancies between them and MBR orders. Rent decrease orders for a failure to maintain services, currently in effect for rent controlled apartments, which do not distinguish between a failure to provide an essential or a nonessential service, bar the collectability of any subsequent MCR increase, until an order has been issued restoring the rent.

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