



KATHY HOCHUL  
Governor

# Homes and Community Renewal

RUTHANNE VISNAUSKAS  
Commissioner/CEO

**PRELIMINARY STANDARD ADJUSTMENT FACTOR REPORT**  
**FOR THE 2022/2023 MAXIMUM BASE RENT CYCLE**  
**FOR RENT CONTROLLED HOUSING UNITS IN NEW YORK CITY**

**October 19, 2021**

**PREFACE**

The rents in rent-controlled apartments in New York City are governed by the Maximum Base Rent (MBR) system. This system is based on a mathematical formula for computing the maximum rent levels for each controlled apartment in the City. This theoretical MBR represents an approximation of the actual income required to operate the housing unit under current costs, including an 8.5% return on the equalized assessed value. The MBR is adjusted every two years to reflect changes in economic conditions.

This report presents the economic and statistical data that will be the basis for determining the Standard Adjustment Factor (SAF) for the 2022/2023 MBR cycle. The factor will then be applied to previously calculated MBRs, thus establishing the MBRs that will be in effect in 2020 and 2021.

The report is organized as follows:

- I. Executive Summary
- II. Background
- III. Derivation of the 2022/2023 Standard Adjustment Factor and Changes in Individual Cost Components
- IV. Impact of Individual Cost Components
- Appendix: Statistical Tables

## **I. EXECUTIVE SUMMARY**

The preliminary SAF for the 2022/2023 MBR Cycle is 11.4%. The SAF for the 2020/2021 cycle was 9.5%. Prior to establishing the SAF for the 2022/2023 MBR Cycle, a public hearing will be held for the purpose of collecting information from interested parties. The NYS Division of Housing and Community Renewal's Office of Rent Administration (ORA) will consider all the information received from the public hearing before establishing the SAF for the 2022/2023 MBR Cycle.

The 2022/2023 SAF reflects changes in the assumed MBRs of a sample of 867 buildings with rent-controlled apartments from 2019 to 2021. The factor was determined by calculating the median of the percentage change in each of the sample's building wide MBRs. The mathematical formula that determines the MBR is derived from four cost components (operation and maintenance expenses; real estate taxes; water and sewer charges and an allowance for vacancy and collection losses), as well as a return on capital value allowance and commercial income. The relative importance of each component varies, with operation and maintenance costs accounting for 45.70% of the 2022/2023 MBR and the allowance for losses pegged at 1% of the MBR.

The 11.43% median increase in the MBR reflects a similar rise in its various expense components, ranging from the low of 4.04% for water and sewer charges to the high of 15.04% for the return on capital value allowance. It should be noted that the -3.18% decrease in commercial income has an inverse effect on the SAF. Specifically, a percentage decrease in the commercial income component results in a higher total SAF. Likewise, a percentage increase result in a lower total SAF.

It should be noted the 2019 **Housing Stability and Tenant Protection Act (HSTPA)** impacts the formula for calculating Maximum Collectible Rent (MCR) increases. The 5-year averaging of 1-year rent guidelines results in significantly lower annual increases in the MCR than the prior formula, which allowed up to a 7.5% annual increase in the MCR over 2 years until the MBR is reached. This averaging formula results in only a 1.00% increase in the MCR for 2022. Therefore, the new formula significantly impacts the relationship between the MBR and MCR going forward.

**TABLE I:**  
**MEDIAN CHANGES IN THE MBR AND ITS COMPONENTS**  
**FROM 2020/2021 TO 2022/2023**

**II.**

<b><u>MBR Component</u></b>	<b><u>Median Change</u></b>
Operation and Maintenance Allowance	+ 12.48%
Return on Capital Value Allowance	+ 15.04%
Real Estate Taxes	+ 8.41%
Water and Sewer Charges	+ 4.04%
Commercial Income	- 3.18%
Maximum Base Rent	+ 11.43%

**BACKGROUND**

The rent control program in New York City dates back over seventy years to the Federal imposition of wage and price controls in 1943 as a wartime anti-inflation measure. When Federal controls lapsed, New York State enacted the Emergency Housing Rent Control Law due to the continuing tight housing market. Generally, the rent control program applies to buildings constructed before February 1947 and containing apartments in which the tenant has been in continuous occupancy since June 30, 1971.

The enactment in 1970 of New York City Local Law No. 30 created the MBR system. It has been the most significant revision of the NYC rent control program over the past fifty (50) years. However, with the 2019 **Housing Stability and Tenant Protection Act (HSTPA)**, the calculation methodology of the Maximum Collectible Rent (MCR) increases have changed. These changes have made the MCR less relevant to the MBR. Specific information concerning these changes are indicated below. The MBR formula is based on the economics of operating pre-1947 residential buildings. The formula, which establishes maximum rents for each rent-controlled apartment considers operating expenses, an allowance for return on capital value and commercial income.

The original MBR for most rent-controlled units was computed for 1972 in accordance with Amendment No.33 to the Rent and Eviction Regulations, which was adopted on December 22, 1971. From 1973 to 1983, New York City's Department of Housing Preservation and Development (HPD) computed the MBR's SAF. The New York State Omnibus Housing Act of 1983 transferred the responsibility for administering rent control from HPD to the NYS Division of Housing and Community Renewal (DHCR) beginning April 1, 1984. The 2022/2023 SAF will be the nineteenth (19th) to be issued by DHCR.

The latest official number of rent controlled units, based on **Selected Initial Findings of the 2017 New York City Housing and Vacancy Survey (HVS)**, published on February 9, 2018 is 21,751. Also, the sample of rent controlled buildings selected by HPD for the 1974/1975 MBR cycle had decreased from 1,241 buildings to 371 in 1997. Therefore, for the 2000/2001 MBR cycle, DHCR instituted a new sample based on MBR filings by property owners in the previous cycle. Since then, the sample has decreased from 6,363 to 867 buildings, all of which have filed for the last eleven cycles.

For owners to receive rent increases for rent controlled units they must file MBR applications. Because of this incentive, the universe of buildings with rent-controlled units in New York City will closely approximate those buildings filing MBR applications. Thus, owners of such properties that did not file applications for the 2020/2021 cycle were excluded from the population from which the sample was drawn. Buildings have also been excluded from the data set because complete statistical information (i.e., year of construction; number of units; number of rooms; assessed valuation; water and sewer charges, etc.) was unobtainable from the various computerized databases.

Per the 2019 **HSTPA**, the methodology for calculating the annual Maximum Collectible Rent (MCR) increase has changed. Specifically, the prior method of increasing the MCR up to 7.5% per year has been replaced by averaging the previous five 1-year rent guidelines, as promulgated by the NYC Rent Guidelines Board. This will result in an average annual rent increase of 1.0% for calendar year 2022. The increase for calendar year 2023 will be determined during 2022.

The intent of the 2019 **HSTPA** change in the MCR calculation formula is to reduce the probability of significant annual rent increases for NYC rent controlled tenants under the MBR program. For the 2022/2023 cycle, if the MBR increases by 11.5% over the 2020/2021 cycle, the annual MCR increases for 2022 and 2023 will be significantly lower than during prior cycles.

Other portions of the MBR program remain the same as before. To be eligible for increases, the building must meet all MBR certification requirements. Thus, the owner must be providing all essential services and the building must have no outstanding NYC Department of Housing Preservation and Development's (HPD) Division of Code Enforcement (DCE) rent-impairing code violations. In addition, all owners must spend specified amounts of the building's annual rental income on operation and maintenance expenses, to qualify for a MBR Order of Eligibility.

**TABLE II:**  
**IMPLEMENTED AND CUMULATIVE STANDARD**  
**ADJUSTMENT FACTORS SINCE 1974/1975**

YEAR	IMPLEMENTED SAF	CUM SAF
1974	8.5%	8.5%
1976	22.0%	32.4%
1978	9.0%	44.3%
1980	10.0%	58.7%
1982	11.0%	76.2%
1984	7.5%	89.4%
1986	11.5%	111.2%
1988	16.4%	145.8%
1990	8.0%	165.5%
1992	10.8%	194.1%
1994	14.7%	237.4%
1996	3.0%	247.5%
1998	3.8%	260.7%
2000	4.3%	276.2%
2002	10.5%	315.7%
2004	17.2%	387.2%
2006	8.2%	427.1%
2008	6.0%	458.8%
2010	12.9%	530.9%
2012	7.8%	580.1%
2014	8.3%	636.5%
2016	9.6%	707.2%
2018	7.4%	766.9%

2020	9.5%	849.3%
2022	11.4%	957.5%

**III. DERIVATION OF THE 2022/2023 STANDARD ADJUSTMENT FACTOR AND CHANGES IN INDIVIDUAL COST COMPONENTS.**

**A. The Determination of the MBR Standard Adjustment Factor**

The 2022/2023 11.4% MBR SAF was computed by determining the percentage change from 2019 to 2021 for each building’s MBR. Table 1 in the Appendix provides both graphic and tabular descriptions of the distribution of the MBR's percentage change among the sample's 867 buildings. It clusters the extreme values of the sample's observations at each end and details the distribution of the remaining buildings at 1% intervals.

There is no single rate of change in building wide MBRs for each of the 867 buildings in the sample. The most relevant measure of central tendency, the 11.43% median, rounded to 11.4% was used to determine the SAF. The median is less likely than the mean to be affected by extreme atypical percentage changes in the values of individual building MBRs.

**B. Operation and Maintenance**

The operation and maintenance (O&M) expense allowance increased by 12.48% from 2019 to 2021. This expense allowance is determined by a formula designed to reflect an amount necessary to maintain a building in proper condition. The New York City RAND Institute developed the formula based on statistical analysis of operation and maintenance expenditures in 1967 for units in a sample of well-maintained buildings that would fall under the jurisdiction of the MBR system. The components of operation and maintenance expenditures covered by this formula are labor; fuel and utilities; maintenance; improvements; administrative costs and insurance. Two formulas were provided; one for "normal payroll" buildings, and the other for "high payroll" buildings which are defined as having had a payroll more than \$200 per apartment in 1967.

1967 O&M cost per "normal payroll" unit =

\$180.30

+ (\$ .24 x number of units)

+ (\$49.78 x average rooms per unit)

+ (\$ 1.46 x building age, i.e., 1967 - year of construction).

1967 O&M cost per "high payroll" unit =

\$213.78

- + (\$ .06 x number of units)
- + (\$87.05 x average rooms per unit)
- + (\$ 1.99 x building age, i.e., 1967 - year of construction)
- + per-unit payroll more than \$200.00.

For the 2022/2023 update of the SAF, the O&M component for each building was determined by using the above formulas. The following data sources were used:

1. The number of units in each building and its year of construction were derived from the NYC Department of Finance (DOF) assessed valuation files.
2. The average number of rooms in each building was derived from DHCR's database for annual apartment registrations.
3. To update the 1967 calculations, DHCR has been using the yearly reports on the "Price Index of Operating Costs for Rent Stabilized Apartment Houses in New York City" published by NYC's Rent Guidelines Board. The most recent adjusted data from these studies is shown under "PERCENTAGE CHANGES" in Table III below. Accordingly, appropriate multipliers were derived for each formula's 1967 amounts.

**TABLE III: 2021 O&M CALCULATION PROCEDURES**

<b><u>COST COMPONENTS</u></b>	<b><u>2019-2020</u></b>	<b><u>2020-2021</u></b>	<b><u>2019-2021</u></b>
<b>Fuel (no increase)</b>	0.00%	0.00%	0.00%
<b>Utilities (no heat)</b>	1.58%	2.10%	3.71%
<b>Labor</b>	3.15%	2.84%	6.08%
<b>Maintenance</b>	4.84%	3.08%	8.07%
<b>Administrative</b>	3.53%	-0.74%	2.76%
<b>Insurance</b>	16.53%	18.77%	38.40%

**THE TWO MODELS' DOLLAR AMOUNTS FOR SELECTED YEARS**

COST COMPONENTS	1967 O&M		2019 O&M		2021 O&M	
	NORMAL PAYROLL	HIGH PAYROLL	NORMAL PAYROLL	HIGH PAYROLL	NORMAL PAYROLL	HIGH PAYROLL
Fuel (no increase)	\$61.66	\$81.44	\$493.87	\$493.87	\$493.87	\$493.87
Utilities (no heat)	\$44.34	\$58.56	\$215.27	\$582.60	\$223.26	\$604.23
Labor	\$99.00	\$0.00	\$1,415.27	\$0.00	\$1,501.31	\$0.00
Maintenance	\$135.00	\$207.00	\$1,958.20	\$2,914.78	\$2,116.21	\$3,149.98
Replacements*	\$37.00	\$44.00	---	---	---	---
Administrative	\$56.00	\$84.00	\$775.00	\$1,055.11	\$796.42	\$1,084.27
Insurance	\$31.00	\$30.00	\$1,283.26	\$1,127.15	\$1,776.07	\$1,560.00
<b>TOTAL</b>	<b>\$427.00</b>	<b>\$461.00</b>	<b>\$6,140.87</b>	<b>\$6,173.51</b>	<b>\$6,907.14</b>	<b>\$6,892.35</b>
<b>TWO YEAR CHANGE</b>					1.1248	1.1164
<b>CHANGE FROM 1967</b>					14.9830	14.9509

**NOTE:**

For high payroll buildings, the applicable portion of labor costs was multiplied by the appropriate cost increase factor. The factor was 1.061 for the 2019 to 2021 period or 17.497 for the 54-year period beginning in 1967. In 2015, the NYC Rent Guidelines Board's **Price Index of Operating Costs** updated the Maintenance category to include items previously in the *Replacements* category.

**C. Return on Capital Value**

The return on capital value allowance remains at the statutory amount of 8.5% of the equalized assessed value for each building. The median percentage change for the return on capital value allowance was 15.04%. The distribution of return on capital value allowances percentage changes among the sample's buildings is shown in the Appendix Table 2.

Equalization utilizes Article 12 class ratios which vary according to the four tax classes into which the City's taxable real estate is divided:



1. Class 1 consists of 1, 2 and 3 family residential properties, small condominiums, and certain vacant land zoned for residential use;
2. Class 2 consists of all other residential property including cooperatives and condominiums;
3. Class 3 consists of utility company equipment and special franchises; and
4. Class 4 consists of all other real property, such as office buildings, factories, stores, hotels and lofts.

The appropriate tax class ratio for each of the sample's buildings was used to determine the return on capital value allowances. The sample's 867 properties fall into three tax classes, with the overwhelming majority (over 99%) being Class Two properties.

The 2020 class ratios (the latest available) are 6.00% for Class One, 45.00% for Class Two and 45.00% for Class Four. These percentages have not changed from the 2004 class ratios. It should be noted this data is obtained from the NYS Office of Real Property Tax Services.

#### **D. Real Estate Taxes**

Real estate taxes increased by 8.41% from 2019 to 2021. The real estate taxes billed for the 2019/2020 tax year were calculated for each building in the sample using its 2021/2022 assessed valuation, exemption and abatement information and tax rates. The data was obtained from the NYC Department of Finance's Information Technology (IT) Division in machine readable format. The distribution of real estate tax percentage changes among the sample's buildings is shown in the Appendix Table 3.

#### **E. Water and Sewer Charges**

Water and sewer charges increased by 4.04% from 2019 to 2021. The data for calculating changes in water and sewer charges was obtained from the NYC Department of Environmental Protection (DEP). Using DEP's computerized accounting data, each building's water and sewer charges were calculated. DEP's computerized records have been used since the City began switching from a standardized rate based on frontage to a system based on usage. The distribution of water and sewer charge percentage changes among the sample's buildings is shown in the Appendix Table 4.

#### **F. Vacancy and Collection Loss**

As prescribed in the Rent and Eviction Regulations, the vacancy and collection loss allowance was calculated at 1% of each building's MBR.

#### **G. Commercial Income**

The 2022/2023 sample's commercial incomes are derived from data obtained from the NYC Department of Finance's Real Property Income and Expense (RPIE) filings. Prior to the 2008/2009 MBR cycle, commercial income calculations were based solely on RPIE summary data. Beginning with the 2008/2009 cycle, RPIE data, while excluding building address information for confidentiality purposes, was more detailed, indicative, and

consequently more useful than the previous cycles' summary data.

This modification was the outcome of meetings held between the NYC Department of Finance's Property Division and DHCR staff during July 2007 which resulted in individualized commercial income data rates of change for the 3,672 buildings in the sample for the 2008/2009 cycle. This practice has been continued with the current sample for the 2022/2023 cycle.

**IV. IMPACT OF INDIVIDUAL COST COMPONENTS ON THE STANDARD ADJUSTMENT FACTOR**

The individual cost components of the MBR account for unequal portions of the total MBR. The importance of each component is shown by its “expenditure weight” for the years 1971, 2019 and 2021 in Table IV on the following page.

**TABLE IV: RELATIVE WEIGHTS OF THE MBR'S COST COMPONENTS' TOTALS**

COMPONENT	YEAR		
	1971	2019	2021
Operation and Maintenance	39.00	47.21	45.70
Return on Capital Value	42.40	29.22	30.53
Real Estate Taxes	14.90	17.61	17.64
Water and Sewer Charges	2.70	4.96	5.13
Vacancy and Collection Loss	1.00	1.00	1.00
TOTAL	100.00	100.00	100.00

## **APPENDIX: STATISTICAL TABLES**

- TABLE 1: Percent Changes in Maximum Base Rents 2020-2022
- TABLE 2: Percent Changes in Return on Capital Value 2018-2020
- TABLE 3: Percent Changes in Real Estate Taxes 2019-2021
- TABLE 4: Percent Changes in Water & Sewer Charges 2019-2021