

FACT SHEET



David A. Paterson, Governor

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DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION

#22 Maximum Base Rent Program (MBR) *Questions and Answers for Owners*

The Maximum Base Rent Program affects housing conditions in New York City rent controlled apartments. The program helps ensure that apartments under rent control provide enough income for their maintenance and for building improvements.

New York City Local Law 30 of 1970 stipulates that Maximum Base Rents be established for rent controlled apartments according to a formula calculated to reflect real estate taxes, water and sewer charges, operating and maintenance expenses, return on capital value and vacancy and collection loss allowance. The Maximum Base Rent (MBR) is updated every two years by a factor that incorporates changes in these operating costs.

Who is eligible for the MBR program? How do you file?

Owners with rent controlled apartments may qualify for MBR rent increases by filing the following forms with the Division of Housing and Community Renewal (DHCR):

1. *Violation Certification* (DHCR Form VC) certifying that all rent-impairing violations, and 80% of all non rent-impairing violations, on record as of January 1 of the year preceding each two year MBR cycle (e.g. 2003, for the 2004-2005 cycle) or six months before filing if the forms are filed after June of the relevant odd year are cleared, corrected or abated. The NYC Department of Housing Preservation and Development, Division of Code Enforcement (NYC HPD/DCE), determines the nature and number of violations on the buildings, and DHCR evaluates the owner's evidence of violation correction.

2. *Operation and Maintenance and Essential Services Certification* (DHCR Form OMESC) certifying that the owner made payments and/or incurred obligations to pay at least 90% of the expense allowance for the operation and maintenance of the building and that the owner is maintaining and will continue to maintain all "essential services". "Essential services," for purposes of eligibility for MBR increases, 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.

3. When the above certifications are filed, the owner will be billed by DHCR for the MBR fee for each rent controlled apartment.

After the owner removes the requisite violations, certifies the O&M expenditures, and pays the fee, DHCR issues an *MBR Order of Eligibility* to the owner and each rent controlled tenant. The order authorizes the owner to calculate, on official forms, the Maximum Collectible Rents and Maximum Base Rents for each rent controlled apartment.

The effective date of the MBR increase is either January 1 of the applicable year if forms were timely filed, or 6 months after filing the VC or 3 months after filing the OMESC, whichever is later.

How much will a tenant have to pay?

The rent that rent controlled tenants actually pay is called the Maximum Collectible Rent (MCR). The MCR generally is less than the MBR. By law, the MCR cannot be increased by more than 7.5% per year for each year of the two year MBR cycle unless there are Major Capital Improvements or individual apartment rent increases. For example, if a tenant's rent (MCR) on 12/31/01 was \$600, and the MBR was \$700, then on 1/1/02 (effective date of MBR) the rent (MCR) would rise 7.5% to \$645 and the MBR ceiling would rise by 10.5% (the 2002-03 MBR factor) to \$773.50. On 1/1/03, the MBR would remain the same (since MBRs cover a two-year period), but the MCR would rise by another 7.5% to \$693.38.

Where issuance of an order results in a retroactive rent increase, the tenant may choose between making a lump sum payment or paying in installments equal to the number of months of the retroactive rent increase.

A rent reduction order for failure to maintain an essential service, as defined above, will bar the collectibility of any subsequent increase in the 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 under "essential services" and cannot be considered a danger to the life or safety of, or detrimental to the health of the tenant(s), then the MCR increase, with the rent reduction included in the calculations, will be collectible.

Collection of fuel cost adjustments (FCAs) may also be precluded where essential services are not maintained

(see Fact Sheet #13 on Fuel Cost Adjustments (FCAs).

For more information or assistance, call the DHCR Rent InfoLine, or visit your Borough Rent Office.

How does an owner begin collection of the increase?

Collectibility of the MBR increase depends upon:

1. DHCR issuance of an MBR Order of Eligibility to the owner and to each rent controlled tenant.
2. Owner serving the tenant with a *Notice of Increase in MBR and MCR Computation* (DHCR Form RN-26S or RN-26). This notice accompanies the owner's Order of Eligibility.
3. Owner filing with DHCR a completed Master Building Rent Schedule listing the MBRs and MCRs for all rent controlled apartments.

How does a tenant or owner challenge an MBR Order?

Owners or tenants may challenge Maximum Base Rent Orders by filing *Challenge Re: Maximum Base Rent Order* (DHCR Form RA-94 MBR).

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