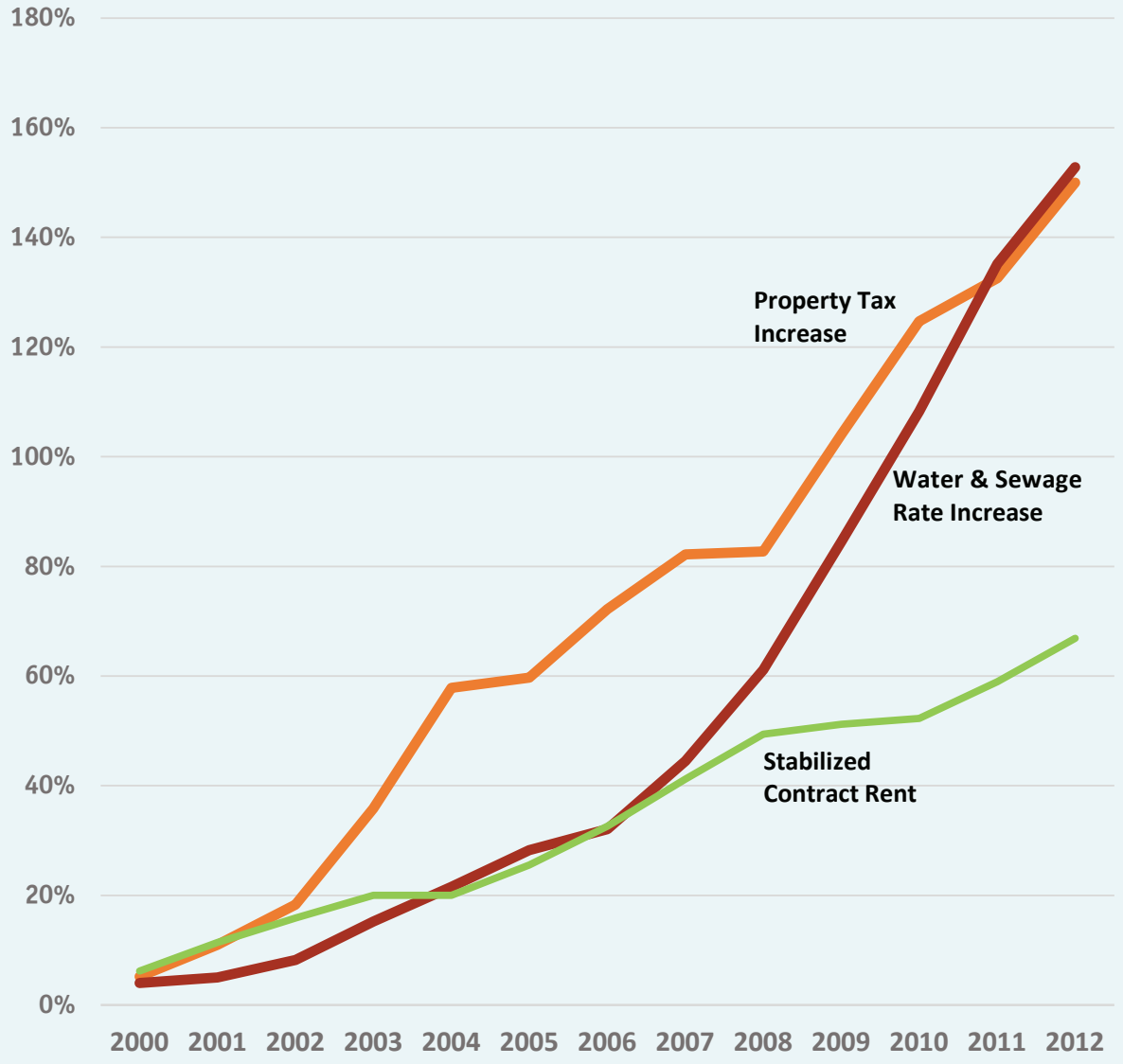
Cumulative City Tax and Water Increases Outpace Rent Increases 2000-2012



Source: RGB Price Index of Operating Costs, Income and Expense Study - 2000-2014

Comments on the Preliminary Rent Guidelines for Order 46

June 2014

RSA We House New York
Rent Stabilization Association

Joseph Strasburg, President
Jack Freund, Executive Vice President

RSA

Members of the Rent Guidelines Board:

On behalf of our 25,000 members who own and manage the majority on New York City's nearly one million rent regulated apartments, we submit this document in support of our request for final rent guidelines substantially higher than the proposed preliminary range.

Buildings operating costs continue to escalate, by an average of 6.2% per year, primarily as a result of increases in real estate taxes and water charges. Rent increases enacted by the RGB in recent years have averaged only 3.4%, half the increase in operating costs.

Yet rental owners face the prospect of unprecedentedly low guidelines this year, perhaps even a zero rent increase. We are now in unchartered waters. And the potential for catastrophe is not hyperbole.

Final rent guidelines within the preliminary range would result in deteriorating living conditions for tenants, financial instability of rent stabilized properties, and the loss of affordable apartments. These results would stymie Mayor de Blasio's housing plan to build and preserve 200,000 units of affordable housing.

The role of the RGB has been cast as one of balancing the interests of owners and tenants. This was not the intention of the Rent Stabilization Law nor is it a feasible goal. The role of the RGB is to set reasonable rent levels that allow owners to maintain their properties while also protecting tenants from the unlimited rent increases available in the unregulated market.

Nor is there any rational basis for shifting even more of the increase in building operating costs to owners. We find that the majority of stabilized tenants benefit from rent-to-income ratios that are much lower than the City or national averages. These households can well afford a reasonable rent increase. We also find that at least thirty percent of rent stabilized buildings are operating at a loss or are economically marginal. The workforce housing provided by these buildings may be lost without reasonable rent increases.

We do recognize that housing affordability is a concern but point out that rising rent burdens is a nation-wide trend resulting from broad structural economic changes.[1] RGB actions alone cannot mitigate housing affordability problems, certainly not without threatening the living conditions of tenants and jeopardizing future investments in the City's rental stock.

Affordability concerns can be properly addressed by many of the social welfare initiatives announced or already undertaken by the current City Administration, without placing a public burden solely on the backs of rental property owners.

Contents

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The NYC Rental Market

New York City's rental market is the most heavily regulated and subsidized rental market in the nation. These regulations and subsidies impact the data and considerations before the RGB and must be factored into the final rent guidelines determination.

While the City's housing market is predominated by rentals (68% of all housing units are rental) it is not commonly acknowledged that the majority of rental apartments (61%) are either rent regulated or income restricted. Since a minority of rental apartments (39%) are free market rentals and the only apartments generally available to apartment seekers their median rents are approximately 30% higher than overall rents in the City ($1,369 vs. $1,050 for stabilized rentals) and are likely to climb disproportionately higher. To the extent that these free market units are included in average rents or average rates of rent increase, that data should be discounted in the consideration of rent increases for rent stabilized apartments. However, to a large extent, fair market rentals exist with the stabilized stock and cannot

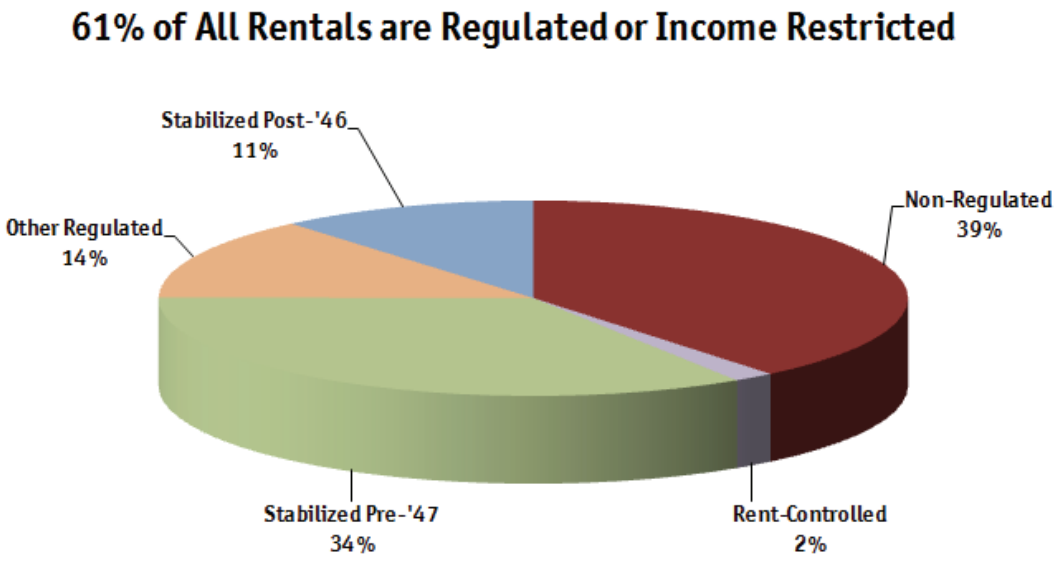

Figure 1
Source: U.S. Bureau of the Census, 2011 New York City Housing and Vacancy Survey

easily be excluded. These fair market units are primarily the result of 421a new construction projects which are stabilized but enter the system with extremely high rent levels. These new units distort average rents, rates of rent increase and also affect computation such as Net Operating Income for all stabilized apartments. To get a true picture of the affordable stabilized housing stock it is essential the RGB staff make efforts in the future to identify and isolate such projects in its regular data reporting projects.

The RGB should also be aware that the supply of subsidized housing may also be greater than it appears to be based on data from the NYC Housing and Vacancy Survey (HVS). The 2011 HVS counted 297,620 units in the "Other Regulated" category which includes HUD regulated as well as City and State subsidized housing. However, an analysis of subsidized and income-restricted housing conducted by NYU's Furman Center in 2011 counted nearly 500,000 such units in what was considered to be a preliminary and not inclusive survey.

It is possible that the Furman Center count is overestimated to the extent that some housing projects may benefit from more than one subsidy source. On the other hand, there is a clear undercount in the sense that SCRIE benefits, many other rental assistance programs and other smaller housing subsidy programs are not included.

All in all, it appears likely that one out of four rental units in the City are income-restricted units or benefit from one rental subsidy program or another. This is an extraordinary

1 of 4 Rental Units in NYC is Subsidized

SUBSIDY TYPE	# OF UNITS
SHIP Properties (HUD-Financed, Mitchell-Lama, LIHTC)	171,544
Public Housing	178,017
Tenant based Section 8 Vouchers	123,843
Senior Citizen and Disability Rent Increase Exemptions	64,478
Total Subsidized Units	**538,152**

Figure 2
Source: Furman Center, State of the New York City's Subsidized Housing, 2011
NYC Department of Finance, Annual Report on Tax Expenditures, 2014

level of rent subsidy and is significant in at least two ways. First, it is a recognition that there is an enormous amount of income-based need for rental assistance and, two, it reflects the recognition that it is the role of government to fulfill those housing needs either through subsidized housing or rental assistance.

The predominance of small buildings is another aspect of the stabilized market that is often ignored. Of the 45,000 rent stabilized apartment buildings in New York City approximately 60% are in buildings with less than 20 units (based on interpolations of 2011 HVS data). Approximately one-third of rent stabilized buildings are in buildings with 10 or fewer units (based on NYC RPIE data). These smaller buildings contain at least 40% of the total number of stabilized apartments, but they are under-represented in some of the critical data the RGB reviews, especially in the income and expense data which bears a disproportionate weight in this year's deliberations.

The RGB does have some economic data about these smaller buildings. We know, for instance, that smaller buildings have relatively smaller incomes, higher costs and therefore high operating ratios, but there has been no attempt by the RGB staff to weigh its data accordingly. Gathering and evaluating data on the City's most vulnerable affordable housing stock should be a priority for future RGB research.

Another significant factor barely mentioned in RGB staff reports is the fact that the majority of the City's rent stabilized housing stock is old and growing older. 62% of the stabilized stock was built more than 55 years ago. 38% was built more than 75 years ago.

60% OF RENT REGULATED APARTMENT BUILDINGS CONTAIN LESS THAN 20 UNITS.

Source: Based on interpolations of 2011 HVS data[2]

This aging housing stock requires even greater maintenance and repair costs. But the PIOC measures a "constant quality of goods and services" and therefore fails to measure the increased costs associated with aging housing.

In addition, aging housing requires capital improvements to replace building systems such as plumbing, electric and building facades. These costs are not captured in RPIE statements and result in greatly exaggerated Net Operating Income.

The RGB Must Establish Reasonable Rents

The RGB commonly considers itself to be a body that balances the interests of tenants and owners as it formulates allowable level of annual rent increase. This practice is injurious to the economic health of the housing industry and is inconsistent with the historic role of the RGB and its legislative mandate.

Moreover, this practice does nothing to rationalize a system in which rent burdened tenants become more burdened while those tenants who benefit from the system receive ever greater benefits.

The rent stabilization system was created in 1969 in the context of the pre-existing rent control system, which was widely acknowledged as a failure. Rent control failed because it did not provide for regular across-the-board rent increases and, as a result, housing conditions deteriorated steadily.[3]

Rent stabilization was created as an antidote to rent control primarily in the sense that it would provide for regular across-the-board rent increases necessary to maintain and preserve the housing stock, while still protecting tenants from market rate rent increases (which were extremely high at that time in response to inflationary pressures).

The Rent Stabilization Law (RSL) was also distinguished from the Maximum Base Rent (MBR) system for rent controlled apartments which sought to assure profitability on an individual building basis. Established at the same time as the MBR system, the RSL made no attempt to address or regulate "profitability". Recent attempts to gauge profitability and use it as a basis for rent guideline deliberations have no basis in the law or in regulatory history.

The legislative mandate of the RGB (reprinted nearby) is therefore brief and to the point: the RGB is to consider a variety of factors relevant to the housing industry and to promulgate guidelines that will allow owners to maintain and preserve the existing housing stock in the face of rising operating costs. The legislative mandate consists of only one paragraph containing 224 words. Not one of these words mentions tenants, housing affordability or the need to balance the interests of the affected parties.[4]

The tenant advocacy community continues to introduce housing affordability as a consideration diametrically opposed to the interests of owners and the housing stock. Despite the clear language of the legislative mandate and the historical context in which the rent stabilization system was created, the tenant advocacy community has managed to bring popular pressure to bear and turn the RGB rent setting process into a circus in which competing interests vie to influence the rent setting decisions of the RGB.

The balancing of tenant and owner interests has worked a grave injustice to the City's housing stock. Rent guidelines have generally been set at a fraction of the increase in operating costs. In the past ten years, for example, the one-year rent guideline has averaged just 54% of the increase in operating costs as measured by the Price Index. This has particularly negative effects on the large percentage of the stabilized stock which is contained in smaller buildings with little turnover and no ability to invest in major capital improvements.

§26-510 Rent Guidelines Board

b. The rent guidelines board shall establish annually guidelines for rent adjustments, and in determining whether rents for housing accommodations subject to the emergency tenant protection act of nineteen seventy-four or this law shall be adjusted shall consider, among other things (1) the economic condition of the residential real estate industry in the affected area including such factors as the prevailing and projected (i) real estate taxes and sewer and water rates (ii) gross operating maintenance costs (including insurance rates, governmental fees, cost of fuel and labor costs), (iii) costs and availability of financing (including effective rates of interest), (iv) over-all supply of housing accommodations and over-all vacancy rates, (2) relevant data from the current and projected cost of living indices for the affected area, (3) such other data as may be made available to it. Not later than July first of each year, the rent guidelines board shall file with the city clerk it findings for the preceding calendar year, and shall accompany such finding with a statement of the maximum rate or rates of rent adjustment, if any, for one or more classes of accommodations subject to this law, authorized for leases or other rental agreements commencing on the next succeeding October first or within the twelve months thereafter. Such findings and statement shall be published in the City Record.

We continue to believe that fair rents are those that compensate owners for the increase in costs necessary to maintain their buildings as measured by the Price Index. Those rents will also be fair to tenants in that tenants are shielded from the unlimited rent increases that would be available in the free market and subject to only those rent increases determined to be necessary by the RGB.

In this submission we will argue that the hardships experienced by tenants and owners cancel out each other, and that the level of rent increase should therefore be determined solely by the general level of cost increases. We will also argue that even this year's relatively high 5.7% increase in the Price Index measure of cost increases is inadequately low because it is based on a broad average and fails to measure many costs imposed on property owners.

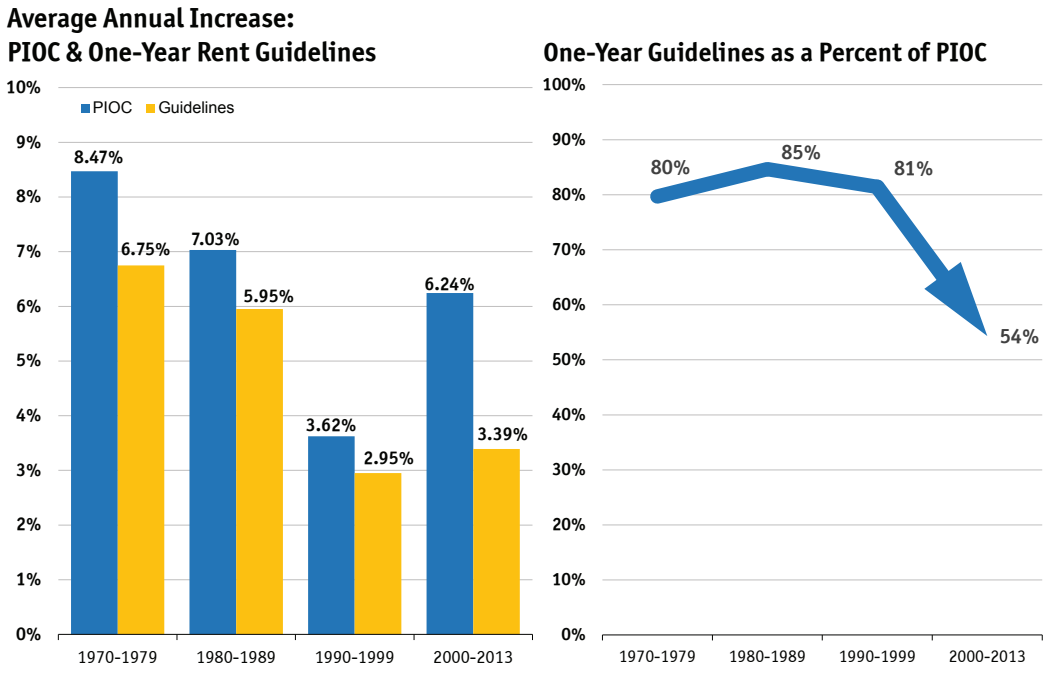

Figure 3
Source: RGB PIOC Reports and Final Guidelines 1970-2013

The Economic Condition of Stabilized Housing

This year, the headline numbers on the property owners' side of the scale are a 31% increase in "profit" from 1990 to 2012 and a 9.6% increase in "profit" from 2011-2012 which are used in support of a call for a rent freeze. The headline numbers are misleading if not meaningless. They mask the fact that even a large percentage increase on a minimal level of NOI will still result in an economically marginal building. The real headline numbers should focus on the fact that 10% of stabilized buildings have expenses which exceed their income and the fact that 30% of stabilized buildings are so economically marginal that they cannot support the debt needed to make necessary improvements to an old and aging housing stock.

Profitability Cannot Be Measured with Existing Tools

The RGB staff Income and Expense Study makes it clear that the RGB does not have the tools to measure profitability of stabilized properties: "changes in profitability ...require an individualized examination of return on capital placed at risk."[5] The Study then proceeds to use net operating income (NOI) as a proxy for profitability.

But NOI is seriously deficient as proxy for profitability and greatly exaggerates whatever profit there may be. NOI as derived from Real Property Income and Expense Statements (RPIE) filed by owners with the City's Department of Finance does not account for the cost of financing properties, nor does is account for the cost of capital improvements, many of which are mandated by government requirements. On the other, RPIEs contain all manner of income whether derived from residential income, commercial income or income from accessory uses.

The exclusion of legitimate operating and financing costs and the inclusion of all sources of income greatly exaggerates NOI for stabilized properties. Moreover, commercial income is averaged over all rent stabilized properties even though only 15% of stabilized properties benefit from commercial income.

In addition, the RPIE sample used to calculate NOI, while large, is not representative. Buildings with less than 11 units are not required to file income and expense forms. As a result, the building sample used for the NOI analysis excludes two-thirds of all rent stabilized buildings that house approximately one-third of all stabilized units. We know that these smaller buildings have lower rents, higher operating costs and higher operating ratios than larger stabilized buildings. If the analysis of RPIE were weighted to include these buildings, NOI would likely be lower than in the current analysis.

NOI growth is further obfuscated since the headline numbers are calculated as an average for all rent stabilized apartments. As the RGB "Changes" report makes clear, there are substantial additions and subtractions from the stabilized housing stock each year. These changes include the addition of 421a, 421c and J-51 substantial rehabilitation projects which enter the market as new properties with healthy economics, often with extremely high rents, and generally with no or very low property tax burdens. These buildings will exhibit large NOI and may substantially affect the overall average. In the future, the RGB should make every effort to isolate these properties in the RPIE Study and gauge the health of the market for only those properties that have been subject to the depredations of the rent stabilization system for a significant period of time.

NOI Should be Calculated for Buildings Not Apartments

Even with a poor measure of profitability, it is apparent that regulated multi-family housing is a marginal business. For the first time this year, the RGB Income and Expense Study has incorporated an Appendix Table #8 which arrays building operating ratios by decile and is shown in **Figure 4**. In contrast to the report on "distressed" properties, **Figure 4** shows that 10% of stabilized properties have operating costs which exceed their income.[6] Even more disturbing is the finding that 30% of stabilized properties have expenses that total at least 83% of rental income. Buildings with such high operating cost ratios are economically marginal in the sense that they cannot possibly support the level of financing necessary to fund necessary improvements in an old and aging housing stock.

Operating Costs to Income Ratio by Decile

	# OF BUILDINGS	10%	20%	30%	40%	50%	60%	70%	80%	90%	100%
CITYWIDE	14,897	0.49	0.54	0.58	0.63	0.67	0.71	0.76	0.83	0.94	42.59

Figure 4
Source: 2014 Income and Expense Study, Appendix #8

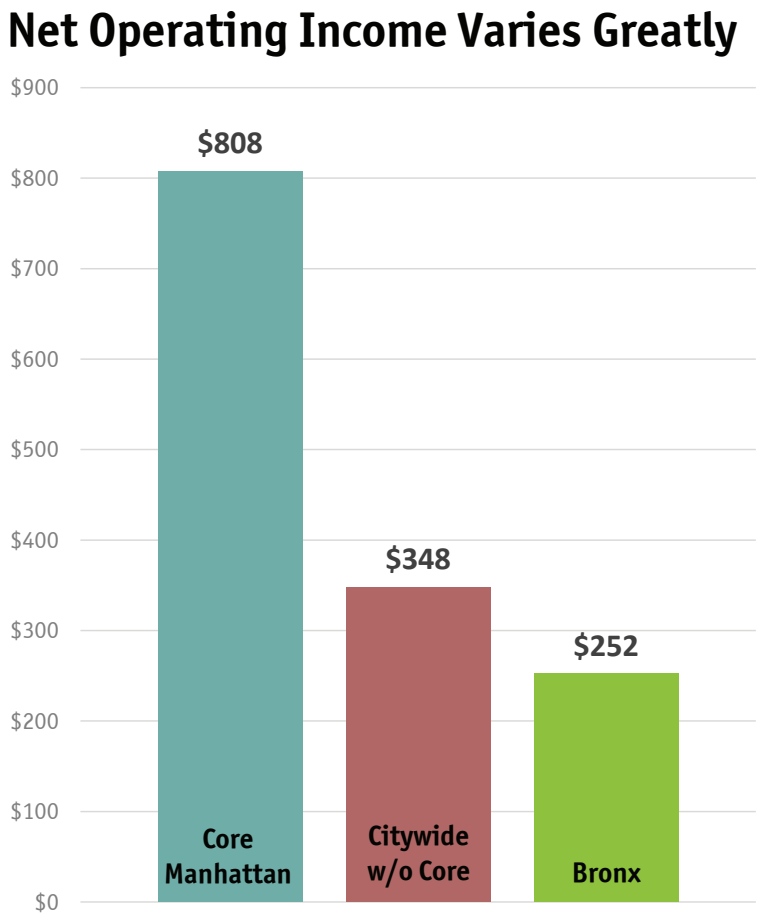

Figure 5
Source: RGB 2014 Income and Expense Study

In the future, RGB Income and Expense reports should seek additional data based on building rather than apartment ratios. It really makes no sense to talk about apartment operating ratios except in the sense that every apartment should be generating at least enough revenue to sustain itself. Rental property owners operate buildings, not individual apartments, and the viability of these properties hinges on the financials of the building as a whole, not on some abstracted average based on individual apartments.

More important than the operating ratio for rental properties is the absolute dollar value of NOI they produce. The staff report makes it clear that there is a vast difference between NOI in the Manhattan core and NOI for the majority of affordable rent stabilized units in the outer boroughs. As indicated in **Figure 5**, while average NOI in core Manhattan is $808 per month, NOI in the other boroughs ranges from $252 in the Bronx to $386 in Queens.

It is important to note that the majority of stabilized buildings have minimal NOI even

before the payment of any mortgage costs So, for example, a sixteen-unit building in the Bronx would have an annual NOI of $48,384 before the payment of mortgage costs. To conflate these distinctions by constructing a hypothetical average building City-wide, as is done in the Income and Expense Report, with an annual NOI of $237,500 is a disservice to the impartial interests of the RGB.

Similarly, to represent the inflation-adjusted increase in NOI as a 31.5% increase over a two-decade period is a further obfuscation of the health of the housing industry. If we represent this same figure as a year-over-year change as in the graph in **Figure 6**, we can see that the 1.4% annual increase in NOI reflects an industry that has flat-lined economically. If we further compare the increase in NOI to the increase in profitability for many large U.S. corporations, we can easily see that housing investments are simply not competitive with other investment options.

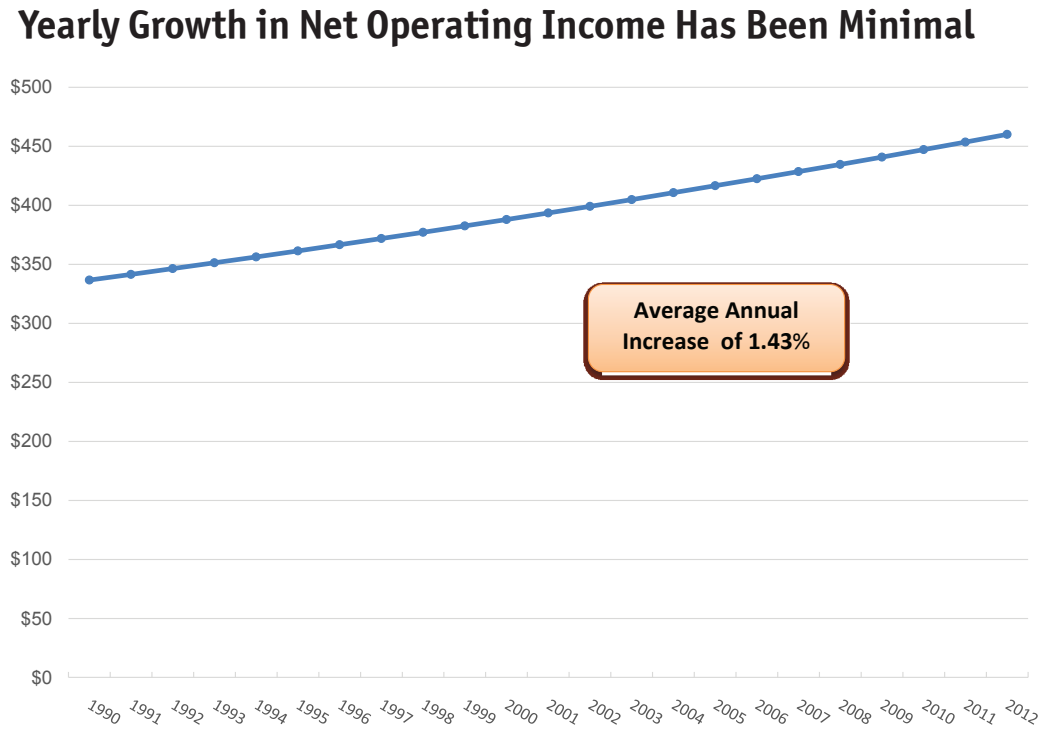

Figure 6
Source: RGB 2014 Income and Expense Study

Affordability Concerns Cannot Be Addressed by a Rent Freeze or Inadequate Rent Increases

The headline numbers on tenant affordability are greatly exaggerated and mask the fact that the majority of stabilized renters pay just 21% of their income for rent, well-below the Federal 30% standard.

We argue (a) the affordability crisis is of national scope resulting from structural changes in the American economy and not susceptible to broad remediation at the local level; (b) the affordability numbers are exaggerated and non-representative because they do not take rent subsidies into account and do not reflect the typical stabilized renter; (c) even if rents were frozen, the rent burden on tenants would not be alleviated but they would be subject to slowly deteriorating living conditions as owners try to shoulder the burden of increased building operating costs.

Every year, at least some Public Members of the RGB discuss the need to balance the interests of tenants and owner. Owners understand these comments to mean that the rent increases otherwise necessary to meet increases in building operating costs are being reduced in order to ensure that rents remain affordable to tenants.

The concept of balancing the interests of owners and tenants through the rent guideline process is deficient in two ways. First, this notion misconceives the mandate of the RGB, which is to provide property owners with the rent increases necessary to maintain and preserve the stabilized housing stock. The protection provided to tenants under the legislative scheme is that tenants will be subject to only those increases necessary to maintain the housing stock and not to the potentially much larger increases that would be available to owners under free market conditions.

Second, the concept of balancing interests is predicated on the notion that a large number of tenants are overly rent burdened and that limitations on rent increases will alleviate these burdens. These notions are fatally flawed. Several analyses have concluded that the New York City Housing and Vacancy Survey (HVS) raw income data overstates the number of rent burdened households. For example, every HVS

reports that approximately 10% of stabilized households spend more than 100% of their income on rent. Clearly, households cannot spend more than all of their income on rent over a sustained period of time.

Fortunately, there is data available to correct the headline numbers and provide more accurate estimates of the real housing burden for stabilized renters. The NYC Housing and Vacancy Survey reports gross rents and contract rents, but also out-of-pocket rent which represents the amount of rent a tenant actually pays when they also receive one of the many forms of rental assistance available in New York City.

Figure 7, compares gross rent, contract rent, and out-of-pocket rents for stabilized renters. It illustrates that all stabilized renters have a rent burden of only 27.7% compared to the commonly cited burden of 32% for contract rent. Thus the rent burden for stabilized renter is almost 14% lower than commonly cited and is lower than average rent burden all renters across the country. That's a pretty good deal for renters living in what is usually considered one of the most expensive cities in the U.S.

But the rent burden story gets even better. New York City has a relatively high poverty rate of approximately 21% with approximately 40% of stabilized renters falling below the eligibility levels for Section 8 rental assistance. About one of four Section 8 eligible stabilized renters receives a Section 8 subsidy and the median out-of-pocket rent burden for those renters is just 23% (**Figure 8**). The real rent burden is borne by the Section 8 eligible renters who do not have a rent subsidy and therefore have a median out-of-pocket rent ratio of 58%. Obviously, a great deal more housing subsidy is needed if the affordability problem is to be resolved.

The majority of stabilized renters who have incomes above the Section 8 eligibility

Out-of-pocket Rents Reflect True Rent Burden

RENTERS	OUT -OF-POCKET PERCENT OF INCOME	CONTRACT PERCENT OF INCOME	GROSS PERCENT OF INCOME	UNITS
All Stabilized	27.7%	32%	35.2%	916,524

Figure 7
Source: 2011 Housing and Vacancy Survey

Majority of Stabilized Tenants Have Low Rent Burdens

RENTERS WITH INCOME	AVERAGE OUT OF POCKET % OF INCOME	MEDIAN INCOME	TOTAL UNITS
Above HUD Section 8 Minimum	21%	$65,000	495,135
Below HUD Section 8 Minimum	48%	$17,652	408,787
Subsidized	23%	$12,168	119,155
Non-Subsidized	58%	$20,000	289,632

Figure 8
Source: 2011 Housing and Vacancy Survey

thresholds have out-of-pocket rent ratios of only 21%. This is the universe of renters who might be characterized as middle income and clearly demonstrates that there is no "housing affordability crisis" among the City's middle income stabilized renters. These middle class renters are doing far better than the average renter nation-wide.

Many analyses over the years have pointed out deficiencies in data sources that have resulted in exaggerated estimates of rent burdens.

An analysis by the Citizens Housing and Planning Council (CHPC) in 2003 pointed out that the HVS does not include public subsidies as income. Therefore, some households which receive Section 8 subsidies or live in City or Federally subsidized housing are reported to have rent to income ratios in excess of 50% even though that cannot be true.

Similarly, the Community Service Society acknowledged the inadequacies of the HVS income data and analyzed the data simply by eliminating extreme income data at both the high and low ends of the range.[7] That analysis found that that the percentage of stabilized households with rent burdens in excess of 50% dropped from 23% to 12%.

Most recently, a study by the City Comptroller found that "Rent subsidies lower the number of very low income households (earning $20,000 or less) who pay more than 50% of their income in rent from 500,000 to 380,000."[8]

It is high time that RGB staff reports recognized the availability of more accurate rent burden data and conducted analysis to provide more accurate information about high burdens.

However, even when we adjust rent burden numbers to be more realistic, there are still substantial numbers of households with high rent burdens. The majority of these rent burdened have very low incomes (other high burden households have relatively high incomes and have made a conscious choice to allocate a larger percentage of their income for housing of a particular type or location).

The housing burden problems of low income households cannot be solved by the private market. The problem for these households is not high rents, but low incomes. Many low income households cannot afford to pay any rent whatsoever. Trying to resolve these income limitations by depriving property owners of necessary rent increases will only lead to housing deterioration and reduced living standards for tenants.

Building Operating Costs Have Increased: The PIOC vs. the RPIE

The validity of the PIOC is questioned every year by tenant advocates but this year marks the first time that the challenge has been joined by RGB Staff in the form of a report from an independent consultant to the RGB.[9] That report coupled with a memorandum from Staff recalculating the PIOC [10] based on RPIE data may result in a downward spiral in the PIOC which could pull the City's affordable housing stock down the drain.

While these analyses are very academic, the concern is very pragmatic. The PIOC forms the basis for the commensurate rent adjustments calculated each year by RGB staff. The commensurate rent adjustments result in a range of rent increases intended to keep owners whole.

The RGB in the past has used these ranges as a basis for its considerations. Unfortunately, the final rent guidelines generally fall into the bottom of the possible range of rent increases (**Figure 9**).

This year's preliminary guideline range barely touches this year's commensurate range. This appears to mark the demise of the PIOC as a benchmark for the the consideration of reasonable rent increases.

The RGB staff has calculated that re-weighting the PIOC based on actual expenditures reflected in RPIE statements would shift this year's PIOC from 5.7% down to 5.2%. This does not, on the surface, appear to be a large difference, but the downward shift of the PIOC could continue over time.

The PIOC can be viewed as a measure of how much owners should be increasing their operating cost spending if they have unlimited revenue. Of course, with rent increases limited to approximately half of the increase in operating costs, owners do not have unlimited resources to expend and so the expenditures reported in the RPIE statements reflect what owners can actually afford to spend on their buildings.

1-year Guideline Increases Have Fallen Well Below the PIOC and Barely Within the Commensurate Ranges

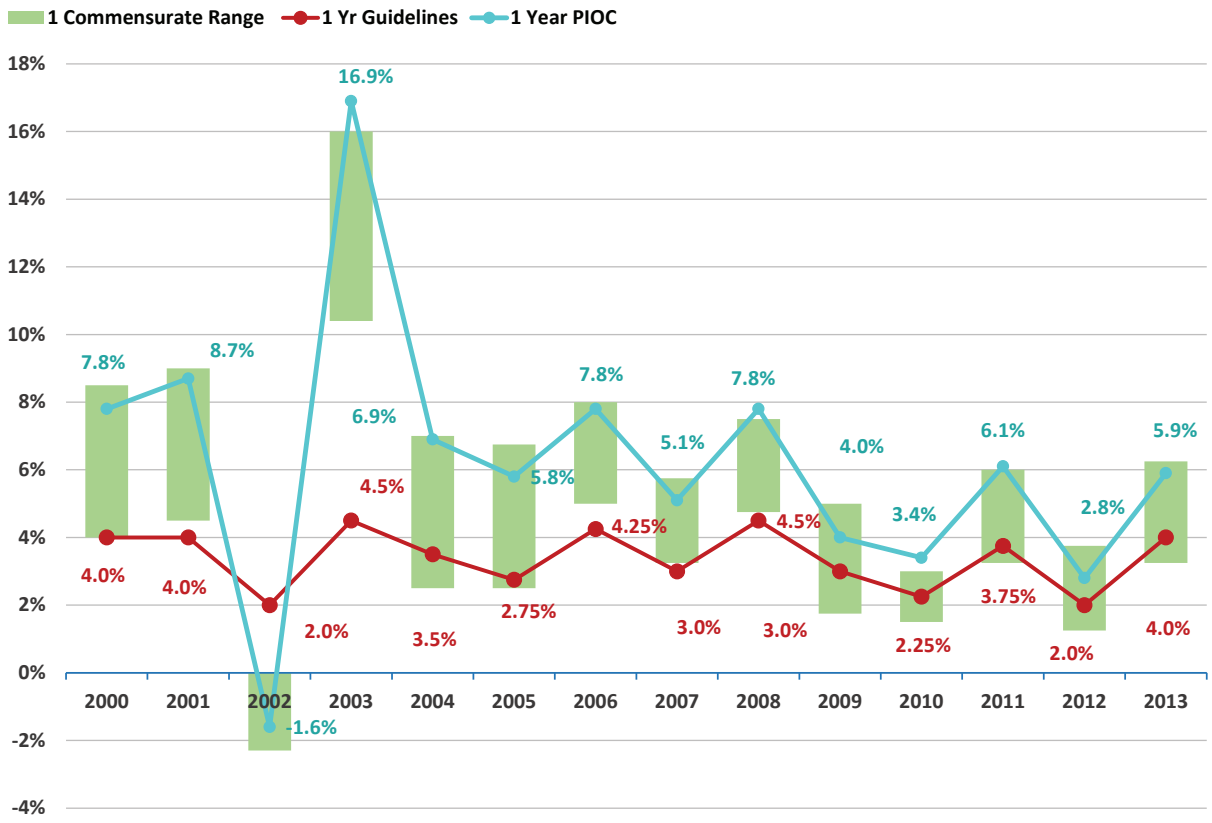

Figure 9
Source: RGB Final Guidelines and Staff Memoranda 2000-2013

The PIOC and RPIE are therefore two distinct measures: the PIOC measures what owners should spend while the RPIE measures what owners can afford to spend. Conflating these two measures would obfuscate their differences and result in a downward spiral in both measures.

If the PIOC is artificially reduced to reflect actual expenditures, then guidelines will trend lower and owners will have less to spend on their buildings. The reduced expenditures by owners will be reflected in RPIE statements and will result in lower PIOCs. Lower PIOCs and reduced expenditures will spiral down into an abyss.

We urge the RGB to maintain these two indexes separately. There is, after all, not a vast gulf between the two measures. The RGB staff memo states that the RPIE growth in expenditures measured 5.2% per year from 1999-2012, while the PIOC measured 6.1% annual growth. Both measures therefore agree that operating costs for stabilized buildings have grown substantially greater than the overall rate of inflation as measured by the CPI.

Rent Guideline Proposals

The RSA is calling for the following rent guidelines this year:

- 6% for a one-year lease
- 9.5% for a two-year lease
- a minimum rent of $950 per month
- a sublet allowance of 10%
- a Special Guideline of the MBR + fuel adjustments + 100%

The justifications for these proposals, briefly, are:

- The one-year 6% guideline is pegged to the 5.7% PIOC and is just slightly higher than the "CPI-adjusted NOI" commensurate rent adjustment calculated by RGB Staff. This is a minimal request which does not provide for any "catch-up" for previously inadequate guidelines nor does it provide for the many mandated costs not included in the PIOC.

- The two-year 9.5% increase is proposed to keep rent increases affordable at less than double digits. In years with lower PIOCs we usually suggest that the two year increase be twice the one year increase in order to discourage two year leases which generally result in rents that lag the increase in building operating costs.

- A minimum rent of $950 is proposed based on the $881 average monthly operating cost for stabilized apartments in 2012 calculated in the RGB 2014 Income and Expense Study. This is increased by the 2013 and 2014 PIOC but does not include any cost for financing. It is only reasonable that every stabilized apartment cover at least its share of building operating costs.

- Tenants are allowed by statute to charge sub-tenants an additional 10% of the rent. Owners have traditionally been allowed to collect the additional 10% from the prime tenant to cover the administrative cost of subletting and its potential liability costs. There is no reason that tenants should be allowed to profiteer from their stabilized leases.

- The Special Guideline is used to provide a threshold or safe harbor of rent levels that will be approved by DHCR if a newly established stabilized rent in a formerly rent controlled apartment is challenged by the incoming tenant. De-controlled apartments are supposed to enter stabilization at fair market rents. Reducing the Special Guideline threshold increases the number of cases subject to DHCR adjudication and limits the fair market rents to which owners are entitled. The Special Guideline has been limited in several ways over the years and we propose restoring it to a realistic level.

RGB Research Proposals

We summarize here several proposals for future RGB Staff research contained in this Submission which we believe will help the RGB shed light on the various issues which it considers each year.

With regard to housing affordability analysis:

1. The staff should take cognizance of the availability of out-of-pocket rent data available in the HVS in order to clarify rent burdens experienced by tenants.

2. Staff should consider filtering tenant income data as it does with RPIE data by removing upper and lower bounds.

3. The value of income transfers to tenants should be taken into account. For instance, a report by the City Comptroller cited the $2.5 billion provided to New York City residents each year by the various City, State and Federal Earned Income Tax Credit programs, which are not included in other income surveys. [11]

With regard to income and expense analysis:

1. The RPIE data should be analyzed with the exclusion of recently built and tax subsidized projects such 421a, 421c, and J-51. Such newly developed projects are not characteristic of the older stock of stabilized buildings and exhibit much more favorable economics.

2. The RPIE data should be analyzed on a building level, not a unit level.

3. NYC tax lien sales data should be compiled as an indicator of the level of distress in the rental market.

4. The PIOC should be maintained as a measure of increased cost independent of the RPIE expense data.

5. The real esate tax component of the PIOC should be calculated as a median increase per building rather than an aggregate increase on the tax levy.

Endnotes

1 America's Rental Housing: Evolving Markets and Needs, Joint Center for Housing Studies of Harvard University, December 9, 2013

2 * Estimated building counts derived by assuming average building at mid-point of each range

TOTAL UNITS	CONTROLLED UNITS	STABILIZED UNITS	TOTAL REGULATED BUILDING (ESTIMATE)*
5	365	2,508	575
6 to 9	2,902	133,345	18,166
10 to 12	2,391	37,939	3,666
13 to 19	2,726	65,706	4,277
20 to 49	9,160	317,070	13,315
50 to 99	12,206	235,390	3,301
100 to 199	2,556	102,139	698
200 or more	1,006	53,820	--
Total Units	38,374	960,870	43,998

Source: 2011 Housing and Vacancy Study

3 Rental Housing In New York City, The New York City Rand Institute, February, 1970

4 Some have pointed to Section 26-510 b (2) as the legislative mandate for consideration of housing affordability, citing the reference therein to consumer based inflation measures. However, this could also be construed as referring to the use of the CPI as a measure of owners' increased cost in lieu of the PIOC which had not yet been established when the RSL was enacted.

5 2014 RGB Income and Expense Study, pg 7

6 This Table is not discussed in the text of the Study, and there has been no attempt to explain the discrepancy.

7 "Housing Hardship and Rent Burdens Among Poor New Yorkers" April 12, 2005

8 The Growing Gap: New York City's Housing Affordability Challenge, April 2014

9 Comparing the Price Index of Operating Costs (PIOC) and the RGB Income and Expense Study Dr. James F. Hudson, March 21, 2014

10 Memorandum dated April 24, 2014, Calculating the Price Index of Operating Costs (PIOC) Using Component Weights

11 Fighting Poverty and Expanding Opportunity: The Earned Income Tax Credit in NYC, Office of the NYC Comptroller, May 2014