

RSA Reporter

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RGB Sets Highest Preliminary Ranges in Nearly a Decade

RSA Fighting for More as Board Ignores Critical Data

Although the Rent Guidelines Board (RGB) all but guaranteed the highest rent guideline increases since 2013, the still tenant-friendly Board ignored critical data that shows alarming trends in the rent-stabilized housing stock that justified even higher increases.

During the virtual Preliminary Vote on May 5th, the RGB approved the following preliminary guidelines for rent-stabilized apartments and lofts for leases commencing between October 1, 2022 and September 30, 2023:

For a **one-year lease**, a range between **2%** and **4%**

For a **two-year lease**, a range between **4%** and **6%**

A Special Guideline for decontrolled apartments equal to **Maximum Base Rent (MBR) + 27%**

A **0%** increase for all classes of hotels, rooming houses and Single Room Occupancies (SRO's)

The motion for these ranges was made by RGB Chairman David Reiss and was approved by a vote of five-to-four with all Public Members voting in favor of it. The RGB Owner Representatives, Robert Ehrlich and Christina Smyth, made a motion for ranges of 4.5% to 6.5% for a one-year lease and 6.5% to 8.5% for a two-year lease. However, as expected, that motion was defeated seven-to-two. Tenant Members Sheila Garcia and Adán Soltren proposed guideline ranges of -1% to 1% for a one-year lease and 0% to 1.5% for a two-year lease. That motion was declined by a vote of six-to-three, with Public Member Christian Gonzalez-Rivera voting in favor of it.

Despite the RGB's very own distressing data that suggested a one-year guideline of no less than 4.5% when factoring in alarming levels of inflation, the Board, which is still comprised of holdover members appointed by the previous administration, once again ignored their own commensurate/recommended ranges. Though these preliminary ranges are the highest approved in nearly 10

years, it is clear that Chairmen Reiss and other Board Members who were appointed by former Mayor Bill de Blasio are still emphasizing tenant affordability rather than focusing on adequate guideline increases needed to properly preserve rent-stabilized apartments. We must now fight and advocate for the highest possible increases this year.

The Board has announced that public testimony, as well as the Final Vote, will once again be held in person for the first time since 2019. There will be two public hearings on June 13th in Queens and on June 15th in the Bronx. The Final Vote will then be held in Manhattan on June 21st. Unlike the last eight years when our voices were completely shut out by a politicized process spearheaded by de Blasio, it seems as if the Board is at least once again acting independently of City Hall and are, at a minimum, somewhat concerned with the alarming data provided by RGB reports.

As a result, this is a legitimate opportunity to testify before the Board and outline all of the financial struggles you have been dealing with through the pandemic, the 2019 rent laws, and the three rent freezes and inadequate guidelines approved by this Board over the last eight years. There is no question that RSA members were intimidated to testify while de Blasio was in office, particularly when most years seemed to be a predetermined outcome well before the Final Vote. We assure you that is not the case anymore and owners are encouraged to get out and testify at these hearings once again. This Board must hear about your struggles and the importance of high rent increases.

On pages four through six we have once again provided information on how to register to testify or submit testimony, as well as tips and guidance on what you should highlight in your testimony. Every single owner testimony is crucial this year and the entire Board must hear about how critical the highest guideline increases in a decade are. ■

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PRESIDENT'S MESSAGE



Joseph Strasburg

RGB Misses the Mark, Now We Must Fight

Although former Mayor Bill de Blasio is no longer calling the shots behind the scenes with regard to the Rent Guidelines Board (RGB), holdover appointees made by the previous administration are having a direct impact on the direction in which the Board is voting this year.

The Board's very own data recommended that when factoring in record-levels of inflation this year, guideline ranges should have commenced no lower than 4.5% for the one-year guideline. Ahead of the Preliminary Vote in early May, RSA testified before the Board and stated on the record that any guideline range below the RGB's recommended ranges would expedite the deterioration of the City's aging rent-stabilized housing stock. However, in what has now become tradition at the RGB, particularly due to holdover appointees from de Blasio, those recommendations were once again deliberately ignored.

It is true that this year's preliminary ranges will more than likely result in the highest guideline increases in nearly a decade, but by no means does that indicate a victory for our industry. Any time there were guideline increases over the last nine years, pro-tenant Public Members on the Board always succeeded when advocating for the lower end of the preliminary ranges. This year, we must do everything in our power to avoid that.

The data presented by RGB staff throughout this year's deliberations should have been more than enough evidence to show that three rent freezes, inadequate guideline increases, and poor housing policy have had a detrimental impact on the City's aging, affordable housing stock. In addition to the damage that has been done already, the Board must now consider even more alarming trends that have developed since their vote: inflation continues to rise in the New York City area (particularly on goods and services), the Water Board is mulling a near-five percent increase on water rates, and tax assessments will drastically increase just 10 days after the RGB holds their Final Vote.

It is simply impossible, just when factoring in the upcoming water

rate increase alone, for building owners to even begin keeping up with ever-increasing operating expenses with rent increases as low as 2% for one-year leases. As a result, it is incumbent upon our entire organization to push the RGB for more than they are even considering. It is not unheard of for the RGB to vote outside of their preliminary ranges and we must encourage them to do so. RSA staff will continue our advocacy behind the scenes, but this is where you, our membership, need to step up to the plate.

In this issue of the *RSA Reporter*, we have once again provided an in-depth breakdown of information that will help you navigate through the last month of this year's RGB process. This three-page spread will educate you on what you need to know and how to prepare to testify before the Board. The RGB will be holding public hearings in person for the first time in three years and this public forum is the best opportunity we could ask for to make sure your stories resonate. We must come out in numbers.

With de Blasio out of office and Mayor Eric Adams taking a hands-off approach to the RGB's decision-making process, we cannot let this opportunity pass to make our case for the rent increases you need to operate your buildings at a safe and healthy level. ***We look forward to seeing you at the public hearings!***

Third Billing Notice for 2022

Later in June, the third billing statement of the year will be mailed out and I encourage you to pay your membership dues in full if you have not done so already. Aside from our ongoing advocacy and all of the important news and guidance that we provide throughout the year, our various services, such as our 2022 Rent Registration Service, are critical resources that allow you to continue running your business in a smooth fashion.

If your yearly membership dues are not paid in full after this billing statement, your account will be temporarily deactivated and you will not be mailed the *RSA Reporter* or be sent any of our email blasts. Because of all of the critical and timely news that we provide, particularly with regard to building compliance requirements, you cannot afford to miss out on our membership outreach efforts! ■

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Good Cause Eviction Flame Might Be Extinguished...For Now

In the waning days of this year's legislative session in Albany, all signs were pointing to Good Cause Eviction being placed on the backburner before lawmakers returned home to their districts.

As we went to press with this month's issue of the *RSA Reporter*, it appeared increasingly likely that there was no appetite from the majority of Senators and Assembly Members to even consider passing some form of Good Cause Eviction this spring. Although bill sponsor Senator Julia Salazar and other Good Cause Eviction advocates continued last minute efforts to pass the bill throughout the end of May, it became clear that Governor Kathy Hochul and the Legislature had other legislative priorities before they departed Albany for the summer.

Throughout the month of May, RSA regularly met with State lawmakers to discuss their general position on Good Cause Eviction. For the most part, the consensus was that at best, the bill could never pass in its current form and many lawmakers, particularly those who represent districts outside of New York City, privately acknowledged that they were against any form of Good Cause Eviction. Senate Majority Leader Andrea Stewart-Cousins and Assembly Speaker Carl Heastie had publicly recognized over the

last few months that there was not enough support for the bill as it is currently written. Nevertheless, there were no known negotiations on amending the language as the session neared an end.

In addition to other timely legislative matters that needed to be resolved before the end of session on June 2nd, the new Senate and Congressional district lines issued by a court-appointed special master (*see page 11*) created political chaos. As a result, lawmakers, particularly those facing competitive primary challengers this summer, were eager to return to their districts to ramp up their re-election campaigns.

Please be advised that this is the most recent update that we had with regard to Good Cause Eviction as we wrapped up this issue of the *Reporter*. We will provide an additional update in the July/August issue. However, if this bill ultimately fails to pass in this year's legislative session, that does not mean that Good Cause Eviction is dead forever. We expect this bill to remain a hot topic for years to come, regardless of the political makeup of Albany following the November general election.

Be on the lookout for additional timely updates via RSA email blast. ■

DEP Proposes Highest Rate Increase Since Bloomberg Years

Rates Would Increase for All Building Classes Citywide

After the City Water Board approved a rate increase last year as property owners continued to reel from the impact of the COVID-19 pandemic, the City Department of Environmental Protection (DEP) has now proposed the largest water rate hike in nearly a decade.

At the Water Board hearing on April 29th, DEP made a formal presentation to the Board in a remote hearing that suggested that water rates need to increase by **4.9%** in order for the City's water infrastructure to continue operating at a sustainable level. DEP cited three economic factors faced by the City that ultimately led to this proposed rate hike: the balance of overdue customer bills (which is higher than before the pandemic), water consumption levels below the quantity of water used prior to the pandemic, and availability of collection tools, including reauthorization of the ability to sell liens secured by overdue water bills.

The Water Board approved a 2.76% rate increase last year to offset decreased operating revenues and a large spike in overdue bills and delinquent accounts. Although RSA strongly criticized this decision as a result of the ongoing financial impact of the pandemic, some form of a rate increase was ultimately expected after the Board voted to freeze rates in 2020 at the height of the pandemic. However, this year's proposed rate increase would be

the largest increase since the 5.6% rate hike in Fiscal Year (FY) 2014, which was former Mayor Michael Bloomberg's last year in office.

The Water Board held two public teleconference hearings at the end of May as we went to press with this issue of the *RSA Reporter*. We urged our membership via email blast to register to testify at these hearings and explain to the Board why such a high increase would be an incredible financial burden to property owners at this time. Though we expect our arguments to resonate with the Board, it is likely that the final approved rate will be similar to, if not the same, as the rate increase requested by DEP.

If there is any silver lining to this proposed rate increase, it has already given us great leverage with the Rent Guidelines Board (RGB). DEP made this recommendation one week before the Board held their Preliminary Vote on May 5th and although the preliminary guideline ranges are far lower than what we anticipated, we believe that the RGB is already alarmed by the fact that the Water Board is considering the highest rate increase in almost 10 years.

The Board is expected to vote on the final rate adjustment on **June 1st**. We will provide an update via email blast and in next month's issue of the *Reporter*. ■

HCR Confirms RSA's Guidance on ERAP Lease Renewals

In late April, HCR provided critical guidance with regard to how building owners should approach providing lease renewals to tenants who have received rent relief funds.

As you may have seen in the news over the last six weeks, there had been some conflicting reports over how building owners and tenants should proceed with any permissible rent increases on lease renewals if an owner had already received Emergency Rent Relief (ERAP) funds for a particular tenant.

In early April, State Attorney General Letitia James claimed that tenants who received ERAP funds were illegally being charged rent increases even though building owners cannot collect any rent increases for 12 months following the receipt of ERAP funds. RSA had previously interpreted the law to say that lease renewals can reflect any potential increase as long as the owner does not collect that increase for the 12-month period outlined by the ERAP statute.

HCR has now confirmed RSA's understanding of the law. To summarize, owners may offer a lease renewal with the legally allowable rent increases per the Rent Guidelines Board (RGB), but

HCR advises that the owner also communicate to the tenant that the owner will not collect a rent increase for the 12-month period set forth by the ERAP statute (which is the 12-month period which starts to run from the date the owner received the first payment from ERAP for that tenant). This information can be relayed in a rider or an explanation attached to the lease renewal explaining that the tenant will pay the monthly rent that was due at the time that the tenant applied (without incorporating any increase provided for in the lease) for the 12-month ERAP period.

Additionally, when registering the rent for these units, the legal rent provided for in the lease or lease renewal as of April 1, 2022 should be registered. However, HCR advises to input the lower rent being paid due to ERAP under "actual rent paid" (**please note, this is not a preferential rent**) and as for the reason lower rent is being paid, the owner should input "ERAP."

HCR's website now includes clarification on this matter under "Rents, Leases, and Registrations for ERAP Recipients." To view that landing page, please visit <https://on.ny.gov/3wbgprJ>. ■

Momentum Cools for Council's Latest Heating Requirement Bill

Many Council Members Grow Skeptical of Legislation

Although the City Council was expected to attempt an expedited enactment of a bill to amend the City's heating requirements law, we have learned that the proposal will now be sidelined indefinitely.

Over the last two months, we have provided updates on Council Member Crystal Hudson's **Intro. 115**, which would raise the minimum temperature that building owners are required to keep inside apartments during heat season to 70 degrees during the day and 66 degrees at night. The bill received a lukewarm response during a hearing in early April, particularly due to the various arguments that RSA raised over the legislation, such as its impact on fuel consumption and its impact on New York City being able to reach its greenhouse gas emissions goals.

Despite these legitimate concerns from RSA and other industrywide professionals, progressive members of the Council sought to make the bill a priority to pass in May. As a result, RSA launched a VoterVoice campaign during the first week of May so that our members could contact their local Council Member and urge them not to support Intro. 115. In just one week, the campaign generated hundreds of responses to nearly every Council Member. By mid-May, RSA learned that ranking members of the Council

decided that it was best to sideline the legislation for the time being. Echoing RSA's testimony, many Council Members raised concerns over the environmental impact that raising minimum temperatures would have on the City's greenhouse emissions goals, as well as an owner's ability to comply with Local 97 of 2019. As a result, the City will now conduct an updated environmental impact statement (EIS), which is similar to what they did before the City's heating requirements were amended just five years ago.

Though Intro. 115 will not gain any traction in the coming weeks as originally anticipated, the bill could very well receive momentum at any given time pending on when the EIS is completed. Contingent upon the results of the EIS, the bill could be completely amended rather than killed. In the meantime, it does not hurt to continue putting pressure on Council Members until we know for sure that the legislation has been killed for good.

We urge you to continue utilizing the VoterVoice campaign that we have designed specifically for Intro. 115. You can access it by visiting <https://bit.ly/3wohKdH>. We will keep you apprised of all upcoming developments with regard to this legislation in subsequent issues of the *RSA Reporter*, as well as in our weekly email blasts. ■