

Cost of Compliance Remains Hidden & Unacknowledged Drain on Apartment Buildings

Economics has been called “the dismal science” because it insists that data and numbers guide how society addresses both present problems and predicted future difficulties. In a world in which there are never enough resources to meet always growing needs, economists rarely have good news.

Or, as our parents used to warn us, money doesn’t grow on trees.

The Rent Guidelines Board, under the Eric Adams administration, has made a partial return to data focused deliberations which, after years of de Blasio attacks on stabilized building owners, has been an important adjustment. Looking ahead to the next several months, RSA will again be a leading voice at the RGB.

But now is the time to focus on, and publicize, the costs that are not considered by the RGB. This isn’t willful ignorance on their part, the laws that empower their decision-making authority don’t allow for it. Which is why a significant part of RSA’s yearly testimony to the RGB details those costs and asks for them to be considered when voting on increases for one- and two-year stabilized leases.

For 2024, we’re starting this work with an early focus on what we’re talking about when we say “cost of compliance,” why those numbers keep growing and also — perhaps — a path forward in getting them properly accounted for when building owners insist that there simply isn’t a nickel left to pay for more government mandates.

The below regulations each require compliance. All of these are mandates and none of them are optional. All of them have costs attached. These costs include — but are not limited to — additional labor, professional services, tens to hundreds of thousands of dollars in plumbing and wiring and remediation and brick work, administrative time and ongoing monitoring and interaction with government agencies. These compliance costs add up and are a regular, repeating and always-increasing drain on building income.

- Local Law 97 of 2019 (Climate Mobilization Act Compliance)
- Local Law 152 of 2016 (Gas Piping Inspections)
- Local Law 87 (Energy Audits and Retro-Commissioning)
- Local Law 84 (Benchmarking) + 2019 Amendment
- Local Law 11 of 1998 (Façade Inspections)
- Local Law 55 of 2018 (Mold & Indoor Allergen Removal)
- Local Law 31 of 2020 (XRF Lead Paint Inspections)
- Local Law 1 of 2004 (Lead Hazard Reduction)
- Local Law 69 of 2017 (Bedbug History)
- Local Law 10 of 2008 (Section 8 Processing)
- Local Law 77 of 2015 (Regulation of Cooling Towers)
- Local Law 32 of 2023 (Conversion to Natural Gas or Electric; No. 4 to No. 2 heating oil)
- Sanitation regulations requiring overtime to place trash out at later time
- NYC Fire Department Fire Safety Notice Requirements
- NYC Fire Department Monthly Sprinkler Inspections
- DEP Recycling Regulation Costs
- DEP Annual Backflow Prevention Device Inspections
- New York State DEC Oil Tank Registration Fees

- DOB Standpipe Sprinkler Coding
- DHCR Annual Registration Fees
- Code Enforcement Re-inspection Fees
- Third-Party Elevator Inspections
- Lead paint certifications for workers in the building
- DOF Annual Preparation of Income and Expense Reports

It’s jarring to see them all listed in one place. These are all familiar to you.

The costs attached to each of these are real but policymakers enact these regulations without considering the cost. Even for policy goals that are important, the economic aspect is still present, especially for stabilized buildings in which income (rent) is capped at artificially low levels.

Consider Local Law 97, which mandates buildings over a certain size undertake energy efficient upgrades in order to reduce carbon emissions. This may include transitioning to fully electric HVAC systems, energy conserving lighting, use of specialized paints and exteriors, computerized monitoring of building systems and other upgrades. Each of these have a dollar amount attached. Each require consultants and expert vendors. Each need financing, since the economic life of buildings have been wrecked by state policies and regulations.

But who will lend the money needed to do Local Law 97 work? Banks and other lenders, aware of the work these environmental conservation laws require, have created dedicated funds in this space but mandating the work did not change the underlying math. Unless those funds are grants or fully forgivable loans, there is not enough money in buildings to responsibly borrow.

All the mandates listed above remain in place and each one makes it harder to pay for all the others. It’s unsustainable.

Many years ago, private and parochial schools in New York complained to the State Education Department about administrative requirements that, though sensible in larger public schools, were unnecessary in the generally smaller and more intimate setting of independent and parochial schools. Some of these non-public schools went as far as suing New York to get back money that the time and effort to fulfill unnecessary administrative tasks cost the schools. The state eventually paid the schools.

Perhaps stabilized building owners – the private providers of public benefit – have a path to explore in insisting that the cost of compliance be paid, in full or in part, by those issuing the mandate. Or building owners get a dollar-for-dollar tax credit or deduction representing the cost of compliance.

We need to start quantifying the cost of compliance in a way that supports asking for help we deserve and need. We need to attach real numbers to these mandates, from across the entire city, so we can insist on some sort of reimbursement or adjustment.

Can you imagine the size of that invoice? ■