

FACT SHEET



Andrew M. Cuomo, Governor

A PUBLICATION OF NEW YORK STATE
DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION

#13 Fuel Cost Adjustment

The New York City Rent Control Law allows separate rent adjustments based on the changes, up or down, in the prices of various types of heating fuels. The rent adjustment will be based on fuel price changes between the beginning and end of the prior year. Only tenants in rent controlled apartments located in NYC are subject to this Fuel Cost Adjustment.

Under the Fuel Cost Adjustment Program, owners must certify that they are maintaining and will continue to maintain all "essential services". For purposes of the Program, these services include, but are not limited to, 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 other utilities and services vital to life, health and safety.

Therefore, a rent reduction order for failure to maintain an essential service, as defined above, will bar the collectibility of any increase in the fuel cost passalong after the effective date of the rent reduction order, until a rent restoration order has been issued. If essential services are restored, and an order is issued by the DHCR restoring the rent, the fuel cost adjustment will automatically become effective on the date the rent restoration becomes effective. However, if the rent reduction is for a failure to maintain heat or hot water, the owner is still barred from collecting the fuel cost adjustment for a period of twelve months following the effective date of the restoration order. If the rent reduction has been granted for failure to provide a service which is not listed above and cannot be considered detrimental to the health of the tenant(s), then the fuel cost adjustment will be collectible. The rent reduction order issued by the DHCR will indicate if the reduction is for failure to provide an essential service.

Buildings that have not qualified for Maximum Base Rent increases may be eligible for Fuel Cost Adjustments.

To obtain the rent increase as of January 1st, the owner must file online with DHCR, and serve upon each eligible tenant, the "*Owner's Report, Certification, and Notice of Fuel Cost Adjustment Eligibility*" (DHCR Form RA-33.10), within 60 days after DHCR releases the fuel consumption and price change standards.

Fuel cost adjustments are retroactive to January 1st of each year provided the owner files the Report within sixty days after DHCR releases the fuel consumption and price change standards. For Reports filed with DHCR after the sixty day period, the increase is prospective. Where an owner obtained one or more fuel cost increases previously and the price of fuel decreases, the owner must file a timely report or the entire fuel cost adjustment will be suspended for that present year. The annual Fuel Cost Adjustments, upward or downward, are cumulative. Decreases in fuel costs can cancel out previous increases. In addition, the cumulative fuel cost adjustment can fall to below-zero levels. While under such circumstances the landlord would not be obligated to refund any monies to a tenant, the owner would not be entitled to collect any fuel cost adjustments in future years until the full effect of the fall of the cumulative fuel cost adjustment to a below-zero level was offset by subsequent price increases.

The above-referenced service and filing must be done even when there is a rent reduction in effect for failure to maintain essential services barring collection of the adjustment. The rent adjustment is collectible when the tenant and DHCR are served with the completed report forms and schedules, and all outstanding rent reductions for failure to maintain essential services are restored, by order of the DHCR, for that tenant. The fuel cost adjustment increase, in the event of a service restoration, will become effective on the date the rent restoration becomes effective (taking into account any additional above-referenced twelve-month suspension, where the rent reduction was for failure to provide heat and hot water).

If the tenant believes that the owner's request for the fuel cost rent increase is inaccurate or unjustified, the tenant may challenge the increase. The tenant should first contact the owner and attempt to resolve the disagreement, keeping in mind that if differences remain, the tenant has no more than thirty five days after receipt of the owner's Report to file the "Tenant's Challenge to Owner's Report and Certification of Fuel Cost Adjustment and Eligibility" (FCA), (DHCR Form RAC-2202.13).

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

Queens

92-31 Union Hall Street
6th Floor
Jamaica, NY 11433
(718) 739-6400

Lower Manhattan

25 Beaver Street
5th Floor
New York, NY 10004

Upper Manhattan

163 W. 125th Street
5th Floor
New York, NY 10027

Brooklyn

55 Hanson Place
7th Floor
Brooklyn, NY 11217

Bronx

1 Fordham Plaza
4th Floor
Bronx, NY 10458