

George E. Pataki
Governor



Joseph B. Lynch
Acting Commissioner

New York State Division of Housing and Community Renewal
92-31 Union Hall Street
Gertz Plaza
Jamaica, New York 11433

October 14, 1997

Your letter of August 28 to Assistant Commissioner Seavey has been referred to the undersigned for reply. You requested clarification of DHCR's policy regarding the collectibility of the temporary retroactive portion of a Major Capital Improvement (MCI) rent increase.

For rent stabilized apartments in New York City, in any 12-month period from the date of collectibility established by the order, the collection of the permanent and temporary retroactive increase combined shall not exceed 6 percent of the individual apartment rent listed on Supplement 2 (Schedule of Monthly Rental Income) of the MCI application. Any amount exceeding these limits will be collectible in future 12-month periods and shall not exceed 6 percent of the rent listed on Supplement 2 in any subsequent 12-month period. The permanent rent increase is to be collected first. The 6 percent limit also includes any MCI increase directed by any other DHCR order in effect.

The methodology you suggested in your letter is not correct. The correct methodology is illustrated in the following example.

An order granting an MCI increase was issued on August 27, 1995 with a retroactive effective date of November 1, 1993. The "collectible date" is, therefore September 1, 1995. The permanent MCI increase is \$18.00 per month and the retroactive amount is also \$18.00 per month. The tenant's rent in September, 1993 when the MCI application was filed, was \$500.00 per month. 6 percent of that amount is \$30.00 per month. Since the permanent MCI increase is

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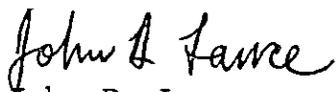
\$18 00 per month the difference between the \$18 00 permanent increase and the amount of the 6 percent limitation \$30 00 may be applied toward the retroactive increase Thus for the first year September 1 1995 through August 31 1996 the owner may charge \$18 00 per month for the permanent increase plus \$12 00 per month for the retroactive increase or a total of \$30 00 per month the amount of the 6 percent limitation

Commencing with the second year September 1 1996 through August 31 1997 another 6 percent increase may be charged Since the \$18 00 prospective increase has already become a permanent part of the legal regulated rent the entire 6 percent limitation (\$30 00) may be applied toward the retroactive amount The period of retroactivity is 22 months (November 1 1993 through August 31 1995) and the total retroactive amount due is \$396 00 (\$18 00 X 22 months) As \$144 00 of this amount was paid during the first year (\$12 00 X 12 months) there is a balance due of \$252 00 which if allocated over the second year at \$30 00 per month will be paid as follows \$30 00 per month for each month from September 1 1996 through April 30 1997 and \$12 00 for May 1997

We trust that we have fully answered your inquiry

Very truly yours

Charles Goldstein
Associate Counsel


by John D. Lance
Assistant Attorney

CG JDL adh

cc Darryl J Seavey
(COL 425 / DS 80 4)