

# FACT SHEET



George E. Pataki, Governor  
Joseph H. Holland, Commissioner

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

## #6 Fair Market Rent Appeals

In NYC, when a tenant moves out of a rent controlled apartment, the apartment becomes decontrolled. If that apartment is in a building built before January 1, 1974 containing six or more units, it becomes rent stabilized. The owner must register the unit with the NYS Division of Housing and Community Renewal (DHCR) by completing the *Initial Apartment Registration*, (DHCR Form RR-1) and must provide the tenant with a copy by certified mail. The owner may charge the first stabilized tenant a rent negotiated between them, which is subject to the tenant's right to file a "Fair Market Rent Appeal" (FMRA).

An FMRA is a challenge to that negotiated rent, and it must be filed by the tenant within ninety days after the notice to the tenant of the initial legal registered rent. This notice is accomplished when the owner properly serves the tenant with the initial registration (DHCR Form RR-1) within ninety days of the commencement of the occupancy. If the tenant challenges this initial legal registered rent and the rent is found to be excessive, the rent as adjusted by DHCR will become the Adjusted Initial Legal Rent, or the Legal Regulated Rent. If the appeal is denied or if no appeal is filed within the ninety-day period, then the negotiated initial legal registered rent becomes the lawful rent, not subject to challenge. All future rent increases, whether for a renewal or vacancy lease, are subject to limitations provided under the Rent Stabilization Law.

The formula for determining FMRA consists of averaging the greater of the maximum collectible rent or maximum base rent under rent control as adjusted by the Special Guidelines for determining Fair Market Rent Appeals promulgated each year by the NYC Rent Guidelines Board, with the rents of qualifying comparable apartments, updated if appropriate. To the average of these two factors, an adjustment is added for any new equipment installed in the apartment. The FMRA procedure is specifically described in Section 2522.3 of the Rent Stabilization Code.

Orders determining Fair Market Rent Appeals in which the legal rent is established at an amount lower than that being paid by the tenant usually direct the owner to make the refund of any excess rent to the tenant in cash, check, or money order. The owner may, however, credit the refund against future rents over a period of up to six months. If the required refund is greater than six months' rent, the tenant at his or her option may continue to credit the rent until the refund is fully credited, or request the owner to refund any balance outstanding at the end of the six-month period. Unlike "overcharge" cases, the penalties of treble damages and interest may not be imposed on an owner in Fair Market Rent Appeal cases.

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

**Central**  
92-31 Union Hall Street  
4th Floor  
Jamaica, NY 11433  
(718) 739-6400

**Lower Manhattan**  
156 William Street  
9th Floor  
New York, NY 10038  
South side of 110th St. and below

**Brooklyn**  
250 Schermerhorn St.  
3rd Floor  
Brooklyn, NY 11201

**Bronx**  
1 Fordham Plaza  
2nd Floor  
Bronx, NY 10458

**Upper Manhattan**  
163 W. 125th Street  
5th Floor  
New York, NY 10027  
North side of 110th St. and above

**Staten Island**  
60 Bay Street  
7th Floor  
Staten Island, NY 10301

**Nassau County**  
50 Clinton Street  
6th Floor  
Hempstead, NY 11550

**Rockland County**  
94-96 North Main Street  
Spring Valley, NY 10977

**Westchester County**  
55 Church Street  
White Plains, NY 10601