

FACT SHEET



George E. Pataki, Governor
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DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION

#22 Maximum Base Rent Program (MBR) *Questions and Answers for Owners*

The Maximum Base Rent Program affects housing conditions in New York City rent controlled apartments. The program helps ensure that apartments under rent control provide enough income for their maintenance and for building improvements.

New York City Local Law 30 of 1970 stipulates that Maximum Base Rents be established for rent controlled apartments according to a formula calculated to reflect real estate taxes, water and sewer charges, operating and maintenance expenses, return on capital value and vacancy and collection loss allowance. The Maximum Base Rent (MBR) is updated every two years by a factor that incorporates changes in these operating costs.

Who is eligible for the MBR program? How do you file?

Owners with rent controlled apartments may qualify for MBR rent increases by filing the following forms with DHCR.

1. *Violation Certification* (DHCR Form VC) certifying that all rent-impairing violations, and 80% of all non rent-impairing violations, on record as of January 1 of the year preceding each two year MBR cycle (e.g. 1991, 1993) or six months before filing if the forms are filed after June of the relevant odd year are cleared, corrected or abated. The NYC Department of Housing Preservation and Development, Division of Code Enforcement (NYC HPD/DCE), determines the nature and number of violations on the buildings.
2. *Operation and Maintenance and Essential Services Certification* (DHCR Form OMESC) certifying that the owner made payments and/or incurred obligations to pay at least 90% of the expense allowance for the operation and maintenance of the building and that the owner is maintaining and will continue to maintain all essential services.

3. When the above certifications are filed, the owner will be billed by the Division of Housing and Community Renewal (DHCR) for the MBR fee for each rent controlled apartment.

After the owner removes the requisite violations, certifies the O&M expenditures, and pays the fee, DHCR issues an *MBR Order of Eligibility* to the owner and each rent controlled tenant. The order authorizes the owner to calculate, on official forms, the Maximum Collectible Rents and Maximum Base Rents for each rent controlled apartment.

The effective date of the MBR increase is either January 1 of the applicable year if forms were timely filed, or 6 months after filing the VC or 3 months after filing the OMESC, whichever is later.

How much will a tenant have to pay?

The rent that rent controlled tenants actually pay is called the Maximum Collectible Rent (MCR). The MCR generally is less than the MBR. By law, the MCR cannot be increased by more than 7.5% per year for each year of the two year MBR cycle unless there are Major Capital Improvements or individual apartment rent increases. For example, if a tenant's rent (MCR) on 12/31/93 was \$400, and the MBR was \$450, then on 1/1/94 (effective date of MBR) the rent (MCR) would rise 7.5% to \$430 and the MBR ceiling would rise by 14.7% (the 1994/95 MBR factor) to \$516.15. On 1/1/95, the MBR would remain the same (since MBR's cover a two year period), but the MCR would rise by another 7.5% to \$462.25.

Where issuance of an order results in a retroactive rent increase, the tenant may choose between making a lump sum payment or paying in installments equal to the number of months of the retroactive rent increase.

How does an owner begin collection of the increase?

Collectibility of the MBR increase depends upon:

1. DHCR issuance of an MBR Order of Eligibility to the owner and to each rent controlled tenant.
2. Owner serving the tenant with a *Notice of Increase in MBR and MCR Computation* (DHCR Form RN 26S or RN 26). This notice accompanies the owner's Order of Eligibility.
3. Owner filing with DHCR a completed Master Building Rent Schedule listing the MBRs and MCRs for all rent controlled apartments.

How does a tenant or owner challenge an MBR Order?

Owners or tenants may challenge Maximum Base Rent Orders by filing *Challenge Re: Maximum Base Rent Order* (DHCR Form RA-94 MBR). Tenants may also challenge waivers granted by NYC HPD/DCE inspectors on the same form.

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

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163 W. 125th Street
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