

# 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

## #24 Major Capital Improvements (MCI) *Questions and Answers for Owners*

### What is an MCI?

When owners make improvements or installations to a building subject to the rent stabilization or rent control laws, they may be permitted to increase the rent based on the actual, verified cost of the improvement.

To qualify as an MCI, the improvement or installation must:

1. meet depreciation standards of the Internal Revenue Code other than for ordinary repairs;
2. be for the operation, preservation and maintenance of the building;
3. directly or indirectly benefit all tenants; and,
4. meet the requirements set forth in the Division of Housing and Community Renewal's (DHCR) useful life schedule.

To be eligible for a rent increase, the MCI must be a new installation and not a repair to old equipment. For example, an owner may receive an MCI increase for a new boiler or a new roof but not for a repaired or rebuilt one. Some procedures qualify as MCI's as well, such as "pointing" and "waterproofing" a building. The NYC Rent Stabilization Code (RSC) includes a partial list of installations that qualify for MCI rent increases. The RSC also stipulates that applications for MCI rent increases must be filed within two years of the installation. The two year statute of limitations does not apply to applications filed prior to implementation of the RSC, on May 1, 1987.

### Who may apply for a MCI rent increase?

Owners of rent regulated buildings may apply for an increase upon completion and payment for the installation or improvement and application or procurement of all required approvals and/or certificates of operation. No increase will be issued

until final approvals are received. In the event that payment is not complete at the time of filing due to a loan or an installment agreement, that documentation must be included in the application. DHCR will return incomplete applications prior to docketing.

### Will violations affect the granting of an MCI?

DHCR will not grant an owner an increase, in whole or in part, if the owner is not maintaining all required services, or if any immediately hazardous violations are outstanding from any municipality, county, State or Federal law relating to the maintenance of such services. (Certain tenant-caused violations may be excepted.) DHCR may grant an application upon condition that such services will be restored within a reasonable time. No MCI rent increase will be approved if there is an outstanding building-wide service reduction order in effect, unless the owner filed for a restoration and DHCR issued a positive determination.

### Who should file for cooperatives/condominiums?

If a cooperative/condominium corporation has rent regulated tenants and is eligible to file for an MCI increase, the application must be filed by the managing agent of the corporation and all proprietary lessees (shareholders) who have rent regulated tenants including the sponsors, or it must be filed by a proprietary lessee on behalf of and with the written consent of all proprietary lessees with rent regulated tenants. Applications will not be accepted from individual apartment owners on their own behalf.

### How does an owner apply for an MCI and what kind of documentation is needed?

An owner must file an *OWNER'S APPLICATION FOR RENT INCREASE BASED ON MAJOR CAPITAL IMPROVEMENTS* (DHCR form RA-79) available from DHCR Borough Offices or from the main office in Gertz Plaza, 92-31 Union Hall St. Jamaica, NY 11433.

The completed application must contain:

1. an itemized list of the work performed;
2. a certification of the cost of the work;
3. proof of payment of the certified work;
4. a sworn affidavit that all the work certified was performed in compliance with all building, zoning, and safety laws;
5. copies of all necessary approvals from applicable government agencies for the work done;
6. an affirmation of maintenance of services and a schedule of monthly rents.

An owner must file the application no later than two years after the completion of the installation or improvement.

### **How should the cost records for the MCI be kept?**

In order to speed processing, owners are strongly urged to pay for all MCI costs by check. If cash payments are made for allowable MCI expenses, they must be supported by adequate documentation. Evidence would include: signed paid receipts, a contractor's affidavit, bank records, itemized IRS tax returns, financial books and records for the building, and original estimates, bids or contracts. Where the owner fails to submit any evidence of payment, the claimed cost of the item will be disallowed.

### **How does DHCR process an MCI application?**

After DHCR docketed an application, they notify the tenants of the rent increase request and give them an opportunity to comment. The owner must either keep a copy of the application on the premises so that tenants can examine it, or a copy of the application with all supporting documentation will be available at DHCR for tenant review. DHCR will review the application, consider the comments by tenants and may request additional documentation or schedule an inspection of the building if deemed necessary. When tenants provide comments, they are instructed to comment on building and apartment problems pertaining to the MCI as specifically as possible.

In the event that 75% of the tenants in occupancy agree in writing to the owner's request for the MCI increase, DHCR will process the application on an expedited basis.

Expedited applications are usually processed within 90 days, unless any tenant raises relevant objections requiring an investigation.

When processing is complete, DHCR will issue an order either granting an increase for the total amount or a partial amount, or denying the request. Tenants will be notified by DHCR of the amount of the increase per room and the terms and conditions of the increase.

### **When does an MCI rent increase become effective?**

For rent stabilized apartments in NYC, the MCI rent increase granted is generally effective as of the first rent payment date 30 days after the tenant is notified by DHCR that a complete application was filed. For all other regulated apartments, the increase takes effect on the first rent payment date after the issuance of the order granting the increase.

### **How much of an MCI rent increase over base rent can you expect?**

For rent stabilized apartment in NYC, the rent increase collectible in any one year may not exceed 6% of the tenant's rent, as listed on the schedule of monthly rental income filed with the owner's application, for the **permanent prospective** increase, and another 6% of that listed rent for the **temporary retroactive portion**. The tenant is not required to pay the retroactive portion in a lump sum but can pay it in equal monthly installments.

**Retroactive payments** are those amounts owed between the effective date and the issue date of the DHCR order granting the MCI. They apply only to rent stabilized tenants and represent a temporary increase until the full amount is paid.

Prospective payments are those amounts owed as of the first rent payment date after the order is issued. These payments reflect a permanent rent increase now a part of the base rent. Both retroactive and prospective increase are based on the increase per room as listed on the MCI application.

For all rent controlled apartments and stabilized apartments outside NYC, the permanent increase collectible in any one year may not exceed 15% of the tenant's rent as of the issue date of the order. There is no retroactive portion.

A senior citizen with a valid Senior Citizen Rent Increase Exemption (SCRIE) is exempt from paying any portion of the MCI increase that would raise their total rent to over 1/3 of their total disposable income.

However, any increase in the security deposit resulting from the MCI rent increase must be paid by *SCRIE* participants.

**Can an owner get an MCI if they have already received a J-51 from the City of New York?**

If the owner of apartments in New York City receives a tax abatement (J-51) for the MCI, the rent increase is offset by a portion of the value of the tax abatement. For rent controlled apartments in these buildings the MCI increase is offset by 2/3 for the length of the tax benefit. For work begun after June 28, 1988 in rent stabilized apartments, the rent increase is offset 50% for the length of the tax benefit.

**How do tenants and owners challenge or request a review of the MCI order?**

After receipt of DHCR's order regarding the MCI application, parties are entitled to file a Petition for Administrative Review (PAR) requesting that further consideration be given to additional facts related to the order. Until DHCR issues the PAR order, all prospective rental increases can be collected as calculated in the MCI order. Generally, all retroactive rental increases will be stayed automatically until completion of the review by DHCR. PARs must be filed on *Petition for Administrative Review (DHCR form RAR-2)*. PARs must be filed within 33 days outside of New York City and for rent control cases statewide. For rent stabilization cases in NYC, PARs must be filed within 35 days. [See Fact Sheet on Petition for Administrative Review.]

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

**Central**

92-31 Union Hall St. 4th Fl.  
Jamaica, NY 11433  
(718) 739-6400

**Lower Manhattan**

156 William Street  
9th Floor  
NY, 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 St.  
5th Floor  
NY, 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 St.  
Spring Valley, NY 10977

**Westchester County**

55 Church Street  
White Plains, NY 10601