

FACT SHEET

ETPA



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 RENT INCREASES FOR MAJOR CAPITAL IMPROVEMENTS (MCI)

When owners make improvements or installations to a building subject to the ETPA or Emergency Housing Rent Control laws, they may be permitted to increase the rent based on the actual, verified cost of the improvement.

To qualify as an Major Capital Improvement (MCI), the improvement or installation must:

1. be for other than ordinary repairs;
2. be for the operation, preservation and maintenance of the building; and,
3. directly or indirectly benefit all tenants of the building.

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."

When an owner submits an MCI rent increase application to the Division of Housing and Community Renewal (DHCR), they notify the tenants as well. Tenants then have an opportunity to respond to the owner's application. The owner may either keep a copy of the application on the premises so that tenants can examine it or, a copy with supporting documentation will be available at DHCR for tenant review. The tenants' responses are considered by DHCR prior to a final determination.

DHCR will issue an order either granting an increase in whole, in part, or denying the increase. DHCR computes the rent increase for an ETPA or rent controlled apartment based upon a seven-year period of amortization of the verified costs of the MCI. The rent increase is a permanent addition to the legal regulated rent and does not drop off after the seven year period. The tenant's increase is based upon a per room amount. No increase may be charged or collected unless and until DHCR issues an order approving the increase. If DHCR gives that approval after the lease period is underway, the lease should contain a rider alerting the tenant to the pending application and specifically describing the improvement. If that statement is not present in the lease, the owner cannot charge for the MCI until the lease is renewed.

In addition, unless specifically ordered by DHCR, an owner cannot collect an MCI from a tenant for whom DHCR has determined that "required services" are not being maintained; or from a tenant who has a rent reduction order in place. No MCI rent increase will be approved if a building-wide service reduction order is in effect, unless the owner has filed for a restoration and a determination issued. Also, if DHCR has an outstanding finding of harassment, they will not grant an increase.

A senior citizen with a valid Senior Citizen Rent Increase Exemption (SCRIE) is exempt from paying the MCI over the amount of their exemption.

For **ETPA and Emergency Housing Rent Control** apartments outside New York City, the rent increase collectible in any one year may not exceed 15% of the tenant's rent. No increases are retroactive unless the order specifically provides otherwise.

For more information or assistance, call or visit your local District Rent Offices.

Nassau
50 Clinton St. 6th Fl.
Hempstead, NY 11550
(516) 481-9494

Westchester
55 Church St.
White Plains, NY 10601
(914) 948-4434

Rockland
94-96 North Main St.
Spring Valley, NY 10977
(914) 425-6575