

### #8 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 Emergency Tenant Protection Act 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 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.

To be eligible for a rent increase, the MCI must be a new installation and not a repair. For example, an owner may receive an MCI increase for a new boiler or a new roof but not for a repaired or patched one. Some procedures qualify as MCI's as well, such as "pointing" and "waterproofing" a building.

#### 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.

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

The Division of Housing and Community Renewal (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. 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 restored the service 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) including that sponsors, if it must be filed by proprietary lessee on behalf of and with the written consent of all proprietary lessees. 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 District Offices or from the main office in Gertz Plaza, 92-31 Union Hall St., Jamaica, NY 11413.

### **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; and
6. an affirmation of maintenance of services and a schedule of monthly rents.

## **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.

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

For rent regulated apartments in ETPA Counties, the MCI rent increase is generally effective at the end of the current lease unless the lease contains a provision allowing for the increase during the term of the lease.

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

For rent controlled apartments statewide and for ETPA apartments, the permanent rent increase collectible in any one year may not exceed 15% of the tenant's rent, as of the issue date of the order, and there is generally no retroactive portion. A senior citizen with a valid Senior Citizen Rent Increase Exemption (SCRIE) is exempt from paying the MCI over the amount of their exemption.

## **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) [DHCR form RAR-2]* 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. PARs must be filed within 35 days outside of New York City and for rent control cases statewide.

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

**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