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# Tenant Inquilino

Housing for people, not profit

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Metropolitan Council on Housing  
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PERIODICAL

## Rent-Controlled Tenants Win! State's Top Court Protects MBR Formula

By Jenny Laurie

In a fabulous victory for tenants, the New York State Court of Appeals, the state's highest court, ruled in favor of keeping a new Maximum Base Rent formula which has resulted in lower rent increases for rent-controlled apartments.

The court decision, on December 20, means that the majority of rent-controlled tenants—who pay the ceiling rents for their apartments, and who have been held in a state of anxious waiting since 1997—can continue paying the lower increases without fear of whopping retroactive charges.

"The decision is a great relief," says Stephen Dobkin, of Collins, Dobkin and Miller, who represented Met Council and argued the case at the Court of Appeals. "A decision in favor of the landlords in this case would have been a disaster for the many rent-controlled tenants who really would not have been able to afford the increases." The victory is a testament to the political power of the seniors living in rent-controlled apartments and to the great legal work of Dobkin and other lawyers who worked on the case.

### Local Law 70 of 1997

This decision caps a four-year court battle that began when the New York City Council changed the formula used to calculate increases for rent-controlled apartments. Landlord groups sued, claiming that the change was a violation of the Urstadt Law. They argued that the new formula, by cutting into their profits, was more stringent than the previous formula. The Urstadt Law, passed in 1971 as a companion to vacancy decontrol under the guidance of Charles Urstadt, Gov. Nelson Rockefeller's housing commissioner and a major city

landlord, prohibits cities or towns from passing any laws that are more stringent, or regulate more housing, than the state laws.

### The DHCR Role

The fight over the seemingly tiny piece of an obscure formula goes back even farther, to 1986, when the state Division of Housing and Community Renewal began using a different section of the state's Real Estate Property Law to determine the formula it used once every two years to set ceiling rents. The change was done in order to conform to the state tax law, which made the reference in the formula obsolete.

For 10 years, the change made no difference in the rent increases, but in 1996, the old formula would have produced an increase of 32.4%, while the new formula produced an increase of 3%.

Landlords had been accustomed to MBR factors so high that they were always guaranteed their 7.5% increases in the Maximum Collectible Rent (the MBR is the ceiling rent; the MCR is the actual rent, which goes up by 7.5% per year unless it reaches the MBR). Once the owners saw that they might not get their automatic 7.5% per year, they quietly went to Albany and sued the DHCR. The DHCR lost the lawsuit and reverted to the old formula.

### City Council Saves the Day

1997 was, coincidentally, the year that the rent laws were up for renewal, and politicians, including the mayor and the members of the City Council, were under intense pressure from tenants who had been scarred by the changes in the laws rammed through by pro-landlord Republicans in

the state legislature. There had also been attention on the Council for pro-landlord changes it had made to the laws in 1993. At the end of the summer, in one of the few pro-tenant moves of his career, Council Speaker Peter Vallone pushed a bill through the Council (which had enacted the original MBR law in 1970), which changed back to the one which produced the lower increasezzzzzz.

Less than 24 hours after Mayor Giuliani signed the bill, the landlords were back in court to challenge it. Met Council, along with other tenant groups, intervened in the case, along with the city Corporation Counsel, representing the City Council. As the case was appealed up through the courts, Met Council worked to apply political pressure on Governor George Pataki to

*continued on page 8*

## Tenants to Return to Court Jan. 25 to Challenge Rent-Code Changes

By Dave Powell

On Dec. 10, over 60 tenants and their allies showed up at Brooklyn Criminal Court to support a lawsuit challenging recent changes to the state's Rent Stabilization Code. A pre-court picket drew close to two dozen tenants, while more waited up to a half-hour in line to get into the building. After getting past the metal detectors and learning that the room for the opening arguments had been changed, tenants were informed that the hearing had been postponed.

Because both sides had submitted last-minute briefs, Judge Richard Rivera postponed opening arguments, so as to have time to adequately review

the briefs. Lawyers representing tenants saw the postponement as a positive indication that Rivera was reviewing the merits thoroughly. The tenant picket and presence, called by Met Council, also got the issue some much-needed media attention; Channel 11, WNYC radio, the *New York Post*, the *Daily News* and the *Brooklyn Papers* all dispatched reporters.

The lawsuit, filed by various groups including Met Council, alleges that the state Division of Housing Community Renewal (DHCR) overstepped its authority by making drastic code changes without the approval of the state Legislature, sufficient public input, or impact

studies. Although the case is a state Supreme Court case, overcrowding at the Brooklyn Supreme Court building has forced the case to be heard at the neighboring Criminal Court. The change of venue appears to be incidental, but the symbolism of trying Governor George Pataki's DHCR in Criminal Court is not lost on tenants.

The new code gives landlords unprecedented loopholes for overcharging and removing apartments from rent stabilization, by replacing "legal registered rent" with "legal regulated rent," implying that a rent is whatever the landlord charges, regardless of what is registered with

DHCR. Another provision in the new code limits the amount a primary tenant can charge a roommate, to a "proportionate" share of the legal regulated rent, usually 50%. The new restrictions place real hardship on poor, elderly and

disabled tenants on fixed incomes, who often rely on roommates to make ends meet. A tenant accepting greater than 50% of the total rent under this provision may face eviction.

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## Met Council Endorses Krueger for State Senate in Feb. 12 Special Election

by Kenny Schaeffer

Gov. George Pataki has called a special election for February 12 to fill the State Senate seat on Manhattan's East Side vacated by Roy Goodman, the last of the Rockefeller generation of Republicans. Goodman has accepted a position in Mayor Mike Bloomberg's administration.

Housing and hunger advocate Liz Krueger—who challenged Goodman in 2000 with strong tenant support, and narrowly lost after disputed absentee ballots were counted—is facing Republican Assemblymember John Ravitz. Krueger, a nationally recognized policy expert, presented compelling testimony at the Rent Guidelines Board in the last two years against the "poor tax" sur-

charge on low-rent apartments, which was finally defeated by a 5-4 vote in 2001.

"Unlike John Ravitz, whose party has devastated rent and eviction protections and intends to continue in 2003, I have fought to preserve and extend tenant protections," Krueger declared.

"Tenants in the 26th District need a real friend in Albany, not a Republican voting with the anti-tenant majority," added East Side district leader and Waterside Tenant Association president Steve Smollens.

The entire state legislature, as well as Pataki, is up for election this November, and the state's

rent-stabilization law is due to expire the following June, although efforts are under way to raise the issue this year, before the election.

Two years ago, Goodman trumpeted his supposed pro-tenant record in full-page ads and mass mailings to the district, which has a high concentration of tenants from Stuyvesant Town to the Upper East Side. It will be much more difficult for Ravitz to capitalize on this appeal, because as a member of the Republican Assembly minority, he has had little impact on legislation. Ravitz is expected to spend \$2 million, and to break Bloomberg's record of \$72 per

vote set in November.

State Senator Eric Schneiderman, head of the campaign to wrest control of the upper house from Republican Majority Leader Joseph Bruno, calls the February 12 special election "a huge race that could affect the balance of power in the Senate as we go into the 2002 campaign cycle and as we prepare for the battles over rent regulation in the coming year. Liz Krueger is one of the best candidates I've ever seen and a great advocate for tenants."

To help, contact [lizforsenate@aol.com](mailto:lizforsenate@aol.com) or call the campaign at (212) 988-2270.

### CORRECTION

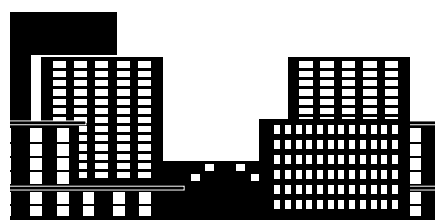
In the December 2001 *Tenant/Inquilino*, an article we reprinted from *City Limits Weekly*, "State Court Paints New Face on Lead-Poisoning Cases," incorrectly quoted Matthew Chachere, an attorney representing lead-poisoned children in a class-action suit challenging New York City's failure to enforce its lead-paint laws. The article quoted Chachere as saying that the city's 1999 lead law "requires that parents explicitly inform the building owner within a month after moving in that a child is living in the apartment. Chachere and others say this places too much burden on the parents."

"I have never complained about the requirement that parents inform owners about the presence of children," Chachere says. "What I did say was entirely different: That Local Law 38 basically exempts landlords from responsibility for lead hazards unless tenants complain about them, and that this shifting of the burden of knowledge of lead hazard from landlords to tenants is unfair."

*Tenant/Inquilino* regrets the error.

### Mexico City Ends Rent Freeze

New York tenants will soon be able to learn what can happen when laws that protect tenants are weakened or done away with. La Jornada reported Jan. 2 that a "reform" to the tenant laws of Mexico City that may make it possible to carry out massive evictions of tenants in apartments where the rent has been frozen took effect recently. It is feared that 510,000 families, mainly in the Cuauhtémoc borough where the majority of people are middle- to low-income, will be evicted in the near future.



Met Council recently received a very generous donation of \$10,000 in memory of Benice Diamond. Benice was a longtime member of Met Council who died a couple of years ago after a lifetime of political and tenant activism.

Benice was born in Poland in 1906 and came to New York as a young child. She led an activist's life on the Lower East Side, in the civil-rights movement, the anti-war movement, and on campaigns organized by her union, the Communication Workers of America. Like many women of her generation and background, she lived frugally, and so was able to leave a


substantial amount of money for the support of her favorite organizations.

At the end of her life, Benice



was very active in her building on Ludlow Street—fighting against the landlord who repeatedly tried to take advantage of the tenants, who were all, except Benice, recent immigrants. Met Council activists remember Benice as a tiny woman with a will of steel and who kept together a tenants' association, despite language barriers, with wit, kindness, and enormous perseverance.

Met Council and the tenant movement lost a great person when Benice died. We are very grateful for her bequest, which will allow us to carry on the work that was so important to her.



Scott Sommer hosts Met Council's

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# EL INQUILINO HISPANO

## ¡Ganan inquilinos de renta controlada! El tribunal más alto del estado protege la fórmula de MBR

Por Jennie Laurie  
Traducido por Lightning Translations

En una victoria contundente para los inquilinos, la corte de apelaciones del estado de Nueva York, la cual es el tribunal más alto del estado, falló a favor de mantener una nueva fórmula de renta base máxima (MBR, por sus siglas en inglés) que resultó en incrementos de renta más bajos para los apartamentos de renta controlada.

La decisión de la corte del 20 de diciembre significa que la mayoría de los inquilinos con renta controlada que pagan la renta

tope para sus apartamentos, y a quienes han mantenido en una ansiosa espera desde 1997, pueden continuar pagando los incrementos más bajos sin temor a que aumenten los cargos retroactivos descontroladamente.

“La decisión es un gran alivio,” dice Stephen Dobkin, de Collins, Dobkin y Miller, quienes representaron a Met Council y respondieron al caso en la corte de apelaciones. “Una decisión a favor de los caseros en este caso hubiera

resultado en un desastre para los muchos inquilinos con renta controlada quienes en verdad no hubieran sido capaces de pagar los incrementos.” La victoria demuestra el poder político de las personas de mayor edad que viven en apartamentos de renta controlada y el gran trabajo legal de Dobkin y otros abogados que trabajaron en el caso.

### Ley Local 70 de 1997

Esta decisión puso fin a una batalla legal de cuatro

años, que comenzó cuando el concejo de la ciudad de Nueva York cambió la fórmula usada para calcular incrementos a los apartamentos de renta controlada. Los caseros presentaron una demanda, reclamando que el cambio fue una violación de la ley Urstadt. Ellos argumentaron que la nueva fórmula, al reducir sus ganancias, era más rigurosa que la fórmula anterior. La ley Urstadt, aprobada en 1971 como acompañante al descontrol de los

apartamentos desocupados bajo la dirección de Charles Urstadt, comisionado de vivienda del gobernador Nelson A. Rockefeller y un importante casero en la ciudad, prohíbe a las ciudades o municipalidades aprobar cualquier ley que sea más rigurosa, o que regule más la vivienda, que las leyes estatales.

**El papel de la DHCR**  
La lucha sobre la aparen-

*pasa a la página 4*

## Los Ajustes de la “Junta de Regulación de Renta” de la Ciudad de Nueva York (Orden No. 32)

Para los contratos de apartamentos de Renta Estabilizada que comienzan el 1ro. de octubre de 2001 hasta el 30 de septiembre de 2002, incluyendo las concesiones de Pataki adoptadas por la Legislatura Estatal el 19 de junio de 1997

Los topes de renta que aparecen en el cuadro son los incrementos máximos que los dueños de edificios pueden cobrar legalmente por los apartamentos de renta estabilizada en la ciudad de Nueva York. Son válidos para todos los contratos que comienzan dentro del período de doce meses a partir del 1ro. de octubre de 2001. Los incrementos de alquiler basados en las pautas para la renovación del contrato de 1 o 2 años pueden cobrarse solamente una vez durante el período cubierto por dichas pautas, y deben ser aplicados a la renta legal estabilizada para el 30 de septiembre de 2000. Las cantidades que aparecen en el cuadro y los incrementos para los apartamentos vacíos no se aplican a los apartamentos que estaban sujetos a renta controlada en aquella fecha. No se permite el cargo adicional también conocido como el «impuesto de pobres.»

**Los Contratos para Apartamentos Vacíos o Nuevos** En junio de 1997, el gobernador George Pataki, al intentar destruir la regulación de rentas, forzó cambios que les dieron a los caseros una sobrepaga muy grande por los apartamentos vacíos. Una cláusula de la “Reforma al Acta de Regulación de Renta” de 1997 permite que los nuevos alquileres sean incrementados en un porcentaje obligatorio: 20% para un contrato de dos años, y por un contrato de 1 año, 20% de incremento menos la diferencia en el tope de renovación para los contratos de 1 y 2 años. La nueva ley permite también incrementos adicionales para los apartamentos vacíos donde no se habían cobrado incrementos por desocupación por ocho años o más.

**Sobrecargos de Renta** Los inquilinos deben estar al tanto de que muchos caseros van a aprovecharse de la complejidad de estas regulaciones y subvenciones, así como del poco conocimiento de los inquilinos

del historial de renta de sus apartamentos, para cobrar un alquiler ilegal. Una vez que el inquilino haya tomado posesión del apartamento, puede escoger entre llenar un formulario de queja de sobrecargo de renta con la oficina de la División de Vivienda y Renovación Comunal (DHCR), o disputar la cantidad de la renta en la corte de vivienda de la ciudad para que se determine cuál es el alquiler legal.

Si un posible inquilino da muestras de conocer sus derechos, lo más probable es que el casero no firmará ningún contrato con tal inquilino. Los caseros evitan contratar con inquilinos que les pueden dar problemas. El sobrecargo de alquiler es muy común. Todos los inquilinos deben luchar contra posibles sobrecargos. Obtenga y llene un formulario *Form RA-89* con la oficina de DHCR para determinar el alquiler correcto en los archivos oficiales. Llame a la DHCR a (718) 739-6400 para obtener un formulario.

**La Apelación de la Renta de Mercado Justa** Otro tipo de sobrecargo ocurre frecuentemente cuando se vacía un apartamento que previamente estaba sujeto a

renta controlada y se alquila con renta estabilizada. La Junta de Regulación de Renta (RGB) establece anualmente lo que ellos llaman el “Tope Especial de la Renta de Mercado Justa,” el cual es empleado por la DHCR para bajar las rentas de mercado injustas de los inquilinos que llenan el formulario llamado “Apelación a la Renta Justa de Mercado” (FMRA). Según la Orden 32, es la Renta de Mercado Justa de HUD o un 150% sobre la renta base máxima. Ningún inquilino de un apartamento de renta estabilizada que fue descontrolado el 1ro de abril de 1984 o después debe dejar de poner a prueba la llamada “Renta Legal Inicial Regulada” (renta de mercado) que los caseros cobran cuando hay descontrol del apartamento. Use el formulario de DHCR *Form RA-89*. Indique claramente que su queja es tanto una queja de “Apelación a la Renta Justa de Mercado” como de “sobrecargo.” La corte de vivienda no puede tomar decisión sobre una Apelación de Renta de Mercado. Apartamentos vacíos que antes estaban controlados en edificios que se han convertido en cooperativas o con-

dominios no se vuelven estabilizados y no satisfacen los requisitos para la Apelación de la Renta Justa de Mercado.

**Exención de Incrementos para las Personas de Mayor Edad:** Las personas de 62 años o más que viven en apartamentos estabilizados y cuyos ingresos familiares anuales son de \$20,000 o menos, y que pagan (o enfrentan un incremento de alquiler que los forzaría a pagar) una renta de un tercio o más de sus ingresos, pueden tener derecho al programa de Exención de Incrementos para las Personas de Mayor Edad (SCRIE, por sus siglas en inglés), si aplican al Departamento de la Ciudad de Nueva York Sobre las Personas de Mayor Edad, cuya dirección es: SCRIE Unit, 2 Lafayette Street, NY, NY 10007. Si el alquiler actual de un inquilino que tiene derecho a este programa sobrepasa un tercio del ingreso, no se lo puede reducir, pero es posible evitar incrementos de alquiler en el futuro. Obtenga el formulario de SCRIE por llamar al (212) 442-1000.

**Unidades de Desván (Lofts)** Los incrementos legales sobre la renta base para las unidades

de desván son de un 3 por ciento por un contrato de un año y un 5 por ciento por un contrato de dos años. No se permiten incrementos para las unidades de desván vacías.

**Hoteles y Apartamentos de una Sola Habitación** Lo establecido es un 2% para los apartamentos de hotel de Clase A, casas de habitaciones, hoteles de clase B (de 30 habitaciones o más), hoteles de una sola habitación, y las casas de habitaciones (Clase B, 6-29 cuartos), sobre la renta legal que se pagaba el 30 de septiembre de 2001. No se permiten incrementos para apartamentos vacíos. Lo incremento estipulado no se puede cobrar a menos que un 70 por ciento de las unidades en el edificio sean ocupadas por inquilinos permanentes de renta estabilizada o controlada, pagando rentas reguladas legales. Además, no se permiten incrementos si el casero ha omitido de darle al nuevo ocupante una copia de los Derechos y Responsabilidades de los Dueños e Inquilinos de Hoteles.

**La Desregulación de Rentas Altas y Altos Ingresos (1)** Los apartamentos que legalmente se alquilan por \$2,000 o más por mes y que se desocuparon entre el 7 de julio de 1993 y el 1ro. de octubre de 1993, o en o desde el 1ro de abril de 1994 son sujetos a la desregulación. (2) La misma desregulación se les aplica, para el mismo período establecido en (1), a los apartamentos que legalmente pagan \$2,000 o más mensualmente aunque no se desocupen, si el ingreso total de la familia es más de \$175,000 en los dos años consecutivos previos. Para cumplir los requisitos de esta segunda forma de desregulación, el casero tiene que enviarle un formulario de certificación de ingreso al inquilino entre el 1ro de enero y el 1ro de mayo, así como someter dicho formulario al DHCR y conseguir su aprobación.

Tipo de Contrato	Renta Legal Actual	Contrato de 1 Año	Contrato de 2 Años	
Renovación del Contrato	Más de \$500	4%	6%	
	\$500 o menos (Alquileres de \$215 o menos se alzan a \$215 después de aplicarse los aumentos)	4%	6%	
Contratos para Apartamentos Vacíos	Más de \$500	Incrementos por desocupación cobrados en los últimos 8 años	18%	20%
		Incrementos por desocupación no cobrados en los últimos 8 años	0.6% por el número de años desde el último incremento por estar vacío, más el 18%	0.6% por el número de años desde el último incremento por estar vacío, más el 20%
	Menos de \$300	Incrementos por desocupación cobrados en los últimos 8 años	18% + \$100	20% + \$100
		Incrementos por desocupación no cobrados en los últimos 8 años	0.6% por el número de años desde el último incremento por estar vacío, + 18% + \$100	0.6% por el número de años desde el último incremento por estar vacío, + 20% + \$100
	Renta de \$300 a \$500	Incrementos por desocupación cobrados en los últimos 8 años	18% o \$100, lo que sea mayor	20% o \$100, lo que sea mayor
		Incrementos por desocupación no cobrados en los últimos 8 años	0.6% por el número de años desde el último incremento por estar vacío, mas 18%, o \$100, lo que sea mayor	0.6% por el número de años desde el último incremento por estar vacío, mas 20%, o \$100, lo que sea mayor

## Plomo

viene de la página 3

temente pequeña parte de una oscura fórmula se remonta aun más atrás, a 1986, cuando la División de Vivienda y Renovación de Comunidades estatal (DHCR, por sus siglas en inglés) comenzó a utilizar una diferente sección de la ley de propiedad de bienes raíces del estado para determinar la fórmula que se usó una vez cada dos años al establecer límites de rentas. El cambio se hizo para conformar con un cambio en la ley de impuestos del estado, la cual hizo la referencia en la fórmula obsoleta.

Durante 10 años, el cambio no causó diferencia en los incrementos de renta, pero en 1996 la vieja fórmula hubiera producido un incremento de 32.4 por ciento, mientras que la nueva fórmula produjo un incremento del 3 por ciento. Los caseros habían estado acostumbrados a que los factores de MBR fueran tan altos que siempre se les garantizaba un incremento de 7.5 por ciento en la Renta Máxima Cobrable (MCR,

por sus siglas en inglés; MBR es la renta tope y el MCR es la renta real que sube 7.5 por ciento al año a menos que alcance a la MBR). Una vez que los propietarios se percataron que posiblemente no obtendrían su 7.5 por ciento automático al año, se dirigieron discretamente a Albany y presentaron una demanda contra la DHCR. La DHCR perdió la demanda y revirtió la fórmula como lo exigía la ley (artículo 12a).

### El concejo municipal al rescate

1997 fue, por casualidad, el año en que venció el término de las leyes de renta y se les sometió a los políticos, incluyendo el alcalde y los miembros del concejo municipal, a la intensa presión de los inquilinos que habían sido afectados por los cambios en las leyes que republicanos a favor de los caseros hicieron aprobarse a la fuerza en el congreso estatal. También había llamado la atención los cambios a favor de los caseros hechos por el concejo municipal

en 1993. A final del verano en unos de sus pocos movimientos a favor de los inquilinos, el vocero del concejo Peter Vallone impulsó un proyecto de ley en el concejo (que había aprobado la ley MBR original en 1970), la cual cambió la fórmula del artículo 12a al de 12.

Menos de 24 horas después de que el alcalde había firmado el proyecto de ley, los caseros volvieron a la corte para impugnarlo. Met Council y otras organizaciones de inquilinos intervino en el caso, junto con el Asesor Municipal (Corporation Counsel), representando al concejo municipal. Mientras el caso se apelaba en los tribunales, Met Council se esforzó para presionar políticamente al gobernador a hacer que la DHCR defendiera el cambio. Miles de personas mayores llamaron al gobernador para recordarle que él había hecho una promesa especial a los ancianos durante la batalla que se desató en la renovación de las leyes de renta de 1997, de que ellos no serían afectados.

### Los ancianos en la lucha

Cerca de 50,000 apartamentos se encuentran bajo control de renta. Los inquilinos tienen un promedio de 70 años de edad, con ingresos menores a \$15,000 al año. Aunque sean una población vulnerable, no están indefensos políticamente, y en 1997 estaban enfurecidos.

Estos inquilinos, quienes ya se encontraban activos y bien informados, se asustaron cuando recibieron avisos de la DHCR en 1997, primero a mitad de septiembre, diciéndoles que los caseros habían ganado su primera demanda y que la MBR sería de 32.4 por ciento y no el 3 por ciento que habían re-

cibido originalmente. Esto significaba que miles de ellos que pagaban rentas a la MBR tope tendrían que pagar 7.5 por ciento retroactivamente por 1996 y 1997 en lugar del aumento de 3 por ciento para 1996 y ningún aumento para 1997. Luego recibieron un aviso diciéndoles que la nueva MBR corregida del 32.4 por ciento se suspendería pendiente el resultado de un caso en la corte.

A esas alturas, los inquilinos con renta controlada no tenían razón alguna para confiar en el gobernador George Pataki, después que él había prometido proteger a los ancianos y al mismo tiempo había permitido que las leyes de renta se debilitaran y había permitido que la agencia estatal se defendiera débilmente en la primera demanda contra la MBR. Los inquilinos sabían que había una motivación principal detrás de la acción de los caseros y el trabajo de la DHCR: sacar de sus apartamentos a los inquilinos con renta controlada para que los caseros pudieran descontrolar los apartamentos y elevar las rentas, en muchos casos de \$1,000 o más. Pero gracias a la presión de estos inquilinos, el concejo municipal aprobó la ley local 70 de 1997 y la DHCR, en los últimos argumentos de la demanda, abandonó la batalla legal (claudicando por la presión de ambos lados).

La decisión es una gran victoria para quienes están a favor de debilitar las restricciones impuestas por la ley Urstadt. Esta ley, escrita para acorralar al concejo municipal de 1971, que apoyaba a los inquilinos, desde entonces ha puesto a los inquilinos en las manos del congreso estatal, a favor de los caseros. Pero esta decisión podría permitir otros cambios: "El concejo municipal podría hacer otros cambios en las leyes de renta siempre y cuando estos cambios reflejen el propósito original de las leyes," dice Dobkin.

Pero por ahora, los inquilinos pueden disfrutar su triunfo. La decisión, emitida por la juez en jefe Judith Kaye, está tan bien escrita que puede ser comprendida por el lector neófito, ya que explica claramente la historia del caso y de las regulaciones de renta.

Quien desea leer la decisión puede obtenerla (en inglés) en: <http://www.tenant.net/Alerts/MBR/164opn01.txt>.

No se ha emitido todavía el factor de la MBR del 2002/2003, pero se ha programado provisionalmente una audiencia en la primera semana de febrero. Los inquilinos de renta controlada deben planear para acudir. Para más información, llama al (718) 262-4717.

## No se quede helado: ¡ORGANÍZESE!

La ley requiere que su casero proporcione calefacción y agua caliente a las temperaturas siguientes, desde el 1ro de octubre hasta el 31 de mayo:

Desde las 6 a.m. hasta las 10 p.m.: Si la temperatura afuera es de menos de 55 grados, la temperatura dentro debe ser al menos de 68 grados en todo el apartamento.

Desde las 10 p.m. hasta las 6 a.m.: Si la temperatura afuera es de menos de 40 grados, la temperatura dentro debe ser al menos de 55 grados en todo el apartamento.

Se tiene que proporcionar agua caliente a un mínimo de 120 grados en el grifo las 24 horas del día, todo el año.

Si su casero no mantiene estas temperaturas mínimas, usted debe:

- \* Comenzar una "Acción HP" (HP Action) en la Corte de Vivienda. Pida una inspección por orden de la corte y una Orden de Corrección (Order to Correct)
- \* Llamar al Buro Central de Quejas (Central Control Bureau) de la ciudad de Nueva York al (212) 824-4328 inmediatamente, para documentar la violación del casero. Llame repetidamente. Se supone que un inspector vendrá eventualmente, aunque a veces no lo haga.
- \* Exhortar a los otros inquilinos en el edificio a llamar al Central Complaint. Todos deben llamar repetidamente, al menos una vez al día, todos los días en que tenga problemas con la calefacción.
- \* Comprar un buen termómetro para afuera y adentro, para documentar las fechas exactas, las horas, y las temperaturas, tanto afuera como adentro, mientras tenga problemas con la calefacción. Esta documentación es su evidencia
- \* Llamar a la División de Vivienda y Renovación Comunal del Estado de Nueva York (DHCR, por sus siglas en inglés) al (718) 739-6400, y pedir que le envíen el formulario de Queja de Calefacción y Agua Caliente. Llene el formulario y consigne la

participación de todos los inquilinos en su edificio que pueden firmarlo. Reclame una orden para restaurar la calefacción y el agua caliente, y que se reduzcan y congelen (idisculpe lo de "congelen") todas las rentas.

- \* Necesitarán una fuerte asociación de inquilinos para obligar al casero a proporcionar la calefacción y el agua caliente. Escriban y llamen al casero para demandar las reparaciones y aceite. Prepárense para una huelga de renta (sobre todo con asesoría legal)—de relámpago si es necesario.

Las leyes sobre la calefacción establecen también:

- \* Que el Departamento de Reparaciones de Emergencia de la ciudad le proporcione la calefacción si el casero no lo hace. (No se siente en un bloque de hielo—otra vez, idisculpe!—mientras espere que lo haga.)
- \* Una multa de \$250 al casero por cada día que se produzca la violación. (Pero la verdad es que la Corte de Vivienda raras veces impone las multas, y mucho menos las cobra).
- \* Una multa de \$1,000 al casero si algún aparato de control automático se instala en la caldera para mantener la temperatura por debajo del mínimo legal.
- \* Si el tanque de combustible de la caldera está vacío, los inquilinos tienen el derecho de comprar su propio combustible después de haber pasado 24 horas sin calefacción y también sin obtener ninguna respuesta del casero. Esto no se aplica si la caldera está rota y necesita tanto reparación como combustible.

**¡Cuidado!** ¡proteja su dinero! Si los inquilinos deciden comprar el combustible, hay que seguir los procedimientos legales cuidadosamente. Consiga la ayuda y el consejo de un organizador de inquilinos. La existencia de leyes de calefacción y agua caliente vigentes no garantiza que el gobierno las implemente. No se quede helado por esperar que la ciudad o el estado actúe. ¡Organízes!



## En breve Ciudad México pone fin a rentas congeladas

En poco tiempo, los inquilinos de Nueva York podrán aprender lo que puede pasar cuando las leyes que protegen a los inquilinos son debilitadas o eliminadas. Según reportó La Jornada (2 de enero de 2002), recientemente entró en vigor una reforma a la ley inquilinaria de la ciudad de México, por la cual se pueden efectuar desalojos masivos de habitantes en viviendas con renta congelada. Se teme que en estos días serán desalojadas 510,000 familias, principalmente de la delegación Cuauhtémoc, donde la mayoría de la gente es de ingresos medios y bajos.

### Hotline Volunteers Needed!

Our phones are ringing off the hook! Met Council is looking for people to counsel tenants on our hotline. We will train you! The hotline runs on Mondays and Wednesdays from 1:30-5 PM. If you can give one afternoon a week for this crucial service to the tenant community, call Dave at (212) 979-6238 x6.

## CHARAS EVICTED

### Seven Arrested as Sheriffs Seize Building for Developer

**Charas, a Lower East Side community arts center, was evicted Dec. 27, after more than three years of fighting their building's sale to developer Gregg Singer. Tenant/Inquilino spoke with Susan Howard, who organized much of the resistance.**

**TENANT/INQUILINO:** We were shocked when we heard that Charas/El Bohio community center was evicted, and that you and six other activists were arrested in the process. What happened?

Susan Howard: Well, we were initially served with a 72-hour notice of eviction on Dec. 14. We fully expected to be evicted before a scheduled court date of Dec. 18. Fortunately, we had a large community presence and demonstration on Dec. 17, which I believe stopped the sheriff from evicting us before we got to court.

*Why was the sheriff's office involved? Doesn't the city marshal handle landlord-tenant evictions?*

I think the new owner, Gregg Singer, had connections with the Giuliani administration, and wanted to evict us before he left office. The sheriffs don't follow the same regulations as the marshals. They can evict on a 72-hour notice instead of a six-day notice. City marshals also have a policy of not evicting tenants between Dec. 14 and Jan. 1. We were actually evicted during Giuliani's farewell speech.

*So you made it to court on Dec. 18. What was the outcome?*

The court date was another example of the injustice Charas has experienced in the 3 1/2-year battle against the sale and eviction. We had filed a motion to request more time to find a new location, as well as to try and move 22 years of archives and arts materials from the building. We also hoped more time would move us into the next administration, and were in the process of reaching out to Bloomberg's transition team to try and get help in stopping our eviction. We were scheduled in Civil Court for oral argu-

ments at 2:15 p.m., but at 2:10 our lawyers were handed a written opinion by the Appellate Term, which ordered our judge, Saralee Evans, not to grant us any further stay of eviction. It was outrageous. We appealed their decision, but were denied a stay pending appeal. The only consolation we got from the Civil Court was a six-day notice of eviction instead of a three-day notice, so we had three more days to move out.

*Three whole days. What did you do with that time?*

First, we had a Christmas party, sort of a "going away but not giving up" party.



Fenced off, but the signs remain.

Then, we planned a demonstration and civil disobedience. We wanted to make sure the public and the press witnessed the eviction of a community center for that of a private developer. Of course neither Gregg Singer nor Giuliani wanted any press, so the eviction watch began in earnest. We learned that the sheriff's office does not have to give out information on evictions, whereas the city marshals must tell you if you're scheduled for eviction the afternoon before. Clearly, the sheriff's office did not want us to know when they were coming.

*So you decided to stay and wait for the sheriff. When was Charas finally evicted, and what happened that day?*

By 10 a.m. on Dec. 27, most of us had decided that the eviction was not going to happen, and were hurrying off to work or sleep. Then at about 10:30, three people arrived and said that they were with a security company and were

there to look at the job. I realized they were waiting for the sheriff, and went to tell activists that were prepared to lock down on the front steps in an act of civil disobedience.

*What do you mean by "lock down"?*

We used four-foot-long cylinders made out of steel, chicken wire and red, white, and blue duct tape. We placed chains around our wrists, inserted our arms into the cylinders and chained our arms to each other from inside. Quickly, we had seven people chained and connected by four cylinders. On the outside of each cylinder we wrote the word "community." We had planned to lock down to an iron fence on the front steps, but the sheriff and police arrived within minutes, and we had no choice but to lock down where we were, inside the building on the first floor.

*What happened when the sheriff arrived?*

Some people heard helicopters first, and starting running over to Charas, I saw cops in riot gear, emergency-service personnel, Chief Allan Hoehl barking orders, sheriffs, the Manhattan South Task Force, and brass and patrolmen from the Ninth Precinct. Chief Hoehl was obviously irritated that we had managed to lock down, but had come prepared. They barricaded the streets, emptied out and searched the building, and then started to try and cut us out of the cylinders.

*So there weren't many people around when they finally arrived. How long did it take them to cut you out of the cylinders?*

It took a while, maybe an hour, to cut us, or in my case, force us out of the cylinders, cuff us, and slip us out the back door and into paddy wagons. We were then taken to the Ninth Precinct and charged with resisting arrest and obstruction of governmental administration. We were given desk appearance tickets and were released between four and nine hours later. We were given a court date of Jan. 31.

*Do you think you accomplished anything by your actions?*

I do. It was a very public eviction. We had a massive amount of press. Our eviction ran in a constant cycle on NY1, and Channel 7 ran our story right after Giuliani's farewell speech. The print press was pretty inaccurate, but Singer and Giuliani would have evicted us without notice if not for our actions.

*Is the battle to save Charas over?*

It's far from over. The building is restricted for

community facility use, and we as a community will make sure that it is. The day after our eviction, Gregg Singer erected a 10-foot fence around the property to keep us out. We are planning a demonstration sometime this month to bring attention to loss of our center and the lack of any plans for its use. Viva Charas! Viva Armando Perez!

*For more info or to keep in touch, go to [www.charas.org](http://www.charas.org).*



**The law requires your landlord provide heat and hot water at the following levels from October 1 through May 31:**

From 6 am to 10 pm: If the outside temperature falls below 55 degrees, the inside temperature must be at least 68 degrees everywhere in your apartment.

From 10 pm to 6 am: If the outside temperature falls below 40 degrees, the inside temperature must be at least 55 degrees everywhere in your apartment.

Hot water at a minimum 120 degrees at the tap must be provided 24 hours a day, year round.

**If your landlord does not maintain those minimum temperatures, you should:**

- \* Start an "HP action" in Housing Court. Ask for a court-ordered inspection and an Order to Correct.
- \* Call the New York City Central Complaints Bureau at (212) 824-4328 immediately to record the landlord's violation. Call repeatedly. An inspector should eventually come, although sometimes they don't.
- \* Get other tenants in your building to call Central Complaint. Everybody should call repeatedly, at least once every day the condition is not corrected.
- \* Buy a good indoor/outdoor thermometer and keep a chart of the exact dates, times, and temperature readings, inside and out, so long as the condition is not corrected. The chart is your evidence.
- \* Call the New York State Division of Housing and Community Renewal at (718) 739-6400 and ask them to send you their Heat and Hot Water complaint form. Get as many other apartments as

possible in your building to sign on, demanding an order restoring heat and hot water, and a reduction and freeze (pardon the expression!) in all the rents.

You'll need a strong tenant association to force the landlord to provide heat and hot water. Write and call the landlord and demand repairs or fuel.

Prepare to go on rent strike — but get legal advice first.

**The heat laws also provide for:**

- \* The city's Emergency Repair Department to supply your heat if the landlord does not. (Try waiting for this one!)
- \* A \$250 a day fine to the landlord for every day of violation. (But the Housing Court rarely imposes these fines, let alone collect them.)
- \* A \$1,000 fine to the landlord if an automatic control device is put on the boiler to keep the temperature below the lawful minimum.

If your boiler's fuel tank is empty, tenants have the right to buy their own fuel after 24 hours of no heat and no response from the landlord. But this provision does not apply if the boiler is broken and needs both repairs and fuel.

**Caution!** Protect your money! If you decide to buy fuel, you must follow special lawful procedures very carefully. You should get help and advice from a tenant organizer.

Because the heat and hot water laws are in the law books does not mean they are enforced by government. Don't freeze to death waiting for the city or state to act. Organize!

# DHCR

*continued from page 1*

Another provision in the new code allows landlords to charge “surcharges” for appliances like washing machines or services such as cable hook-ups.

Although the changes were “codified” on Dec. 20, 2000, the DHCR has yet to issue bulletins explaining how they will be implemented. However, individual landlords have been trying out aspects of the new code. One Housing Court judge decided that a tenant who had charged her roommate more than 50% of the legal rent could be evicted, although that case is being appealed.

Other provisions of the new code make it harder for tenants to challenge major capital improvement (MCI) rent increases and to get reductions in rent for reductions in services. (If you are being taken to court or otherwise challenged by your landlord

over issues relating to the new code changes, contact Met Council.)

The one-sided and brazen severity of the code changes has led tenant advocates to conclude that they were written with, if not by, lobbyists for the real-estate industry. They represent the latest installment of Gov. Pataki’s career-long assault on rent regulation, and the over 2 million of us whom rely on it for protection. When he was elected governor in 1994, Pataki’s transition platform emphasized his vision for dismantling tenant protections. His subsequent transformation of DHCR, from a sometimes-fair agency to an openly pro-landlord unit, is known by virtually all tenants who have sought its assistance in recent years. Despite Pataki’s 1997 pledge to enact stronger harassment measures against landlords, the new code creates a provision allowing tenants to be evicted for

“harassing” their landlords.

Tenants will return to

Brooklyn Criminal Court on Friday, Jan. 25. For details, contact Dave Powell

at Met Council: (212) 979-6238, ext. 6.

## Save the Bronx Gardens



PS 29 kids after planting “bulbs of hope” in the Cabo Rojo community garden in the Melrose section of the Bronx. Activists are keeping vigil there, hoping to protect the garden from eviction. To get involved, call (917) 518-9987.

## HPD CODE VIOLATIONS ON LINE

Look up your building!

At long last, the HPD violations terminal is available on-line. If you go to the HPD Website listed below and follow the instructions, you should be able to get an up-to-date list of violations on a building.

[www.nyc.gov/html/hpd/html/data/hpd-online-portal.html](http://www.nyc.gov/html/hpd/html/data/hpd-online-portal.html)

## NYC Rent Guidelines Board Adjustments (Order No. 32)

for Rent Stabilized Leases commencing Oct. 1, 2001 through Sept. 30, 2002, including the Pataki vacancy bonuses adopted by the State Legislature on June 19, 1997

This rent guidelines table shows the maximum increases landlords in New York City can legally charge for rent stabilized apartments on all leases commencing in the twelve-month period beginning October 1, 2001. Increases in rent based on the 1- or 2-year renewal guidelines can be charged only once during the period covered by the guidelines, and must be applied to the legal stabilized rent on September 30, 2001. The above guidelines and vacancy bonuses do not apply to an apartment which was rent controlled on that date. There is no low rent supplement, aka poor tax, allowed.

**Sublease Allowance**  
Landlords can charge a 10 percent increase during the term of a sublease that commences during this guideline period.

### Vacancy Leases

In June 1997, Governor George Pataki, as a part of his efforts to destroy rent regulation, forced changes that gave landlords large vacancy bonuses. Provisions of his Rent Regulation Reform Act of 1997 allow the rents of apartments to rise by a statutory percentage: 20 percent for a 2-year lease, and 20 percent minus the difference between the 1- and 2-year renewal guidelines for 1-year leases. The new law also allows additional vacancy increases for apartments which have had no vacancy allowance in eight or more years.

### Rent Overcharges

Tenants should be aware that many landlords will exploit the complexities of these guidelines and bonuses, and the tenant’s unfamiliarity with the apartment’s rent history, to charge an illegal rent. The tenant can choose between filing an overcharge

Lease Type	Current Legal Rent	One-year Lease	Two-year Lease	
Renewal Leases	more than \$500	4%	6%	
	\$500 or less (Rents that are \$215 or less brought up to \$215 after increases applied)	4%	6%	
Vacancy leases	More than \$500	Vacancy allowance charged within last 8 years	18%	20%
		No vacancy allowance charged within last 8 years	0.6% times number of years since last vacancy allowance, plus 18%	0.6% times number of years since last vacancy allowance, plus 20%
	Less than \$300	Vacancy allowance charged within last 8 years	18% plus \$100	20% plus \$100
		No vacancy allowance charged within last 8 years	0.6% times number of years since last vacancy allowance, plus 18% plus \$100	0.6% times number of years since last vacancy allowance, plus 20% plus \$100
	Rent \$300 to \$500	Vacancy allowance charged within last 8 years	18% or \$100, whichever is greater	20% or \$100, whichever is greater
		No vacancy allowance charged within last 8 years	0.6% times number of years since last vacancy allowance, plus 18%, or \$100, whichever is greater	0.6% times number of years since last vacancy allowance, plus 20%, or \$100, whichever is greater

complaint with the Division of Housing and Community Renewal or challenging the rent in Housing Court to get a determination of the legal rent.

A prospective tenant who expresses knowledge of their rights will probably not be given a lease to sign. Landlords avoid renting to tenants who may be troublesome. Overcharging is very common. Every tenant should challenge possible overcharge. With DHCR, obtain and fill out *Form RA-89* to determine the correct rent from official records. Call DHCR at (718) 739-6400 to obtain the form.

### Fair Market Rent Appeal

Another type of overcharge frequently occurs at the time that a previously rent controlled apartment becomes vacant and is re-rented as a stabilized unit. The Rent Guidelines Board annually sets what they call the

“Special Fair Market Rent Guideline” that is used by DHCR to lower unfair market rents for tenants who file the Fair Market Rent Appeal (FMRA). Under Order 32, it is HUD Fair Market Rent or 150% above the maximum base rent. No stabilized tenant of an apartment that was decontrolled on or after April 1, 1984 should fail to challenge the so-called Initial Legal Regulated Rent (market rent) that landlords charge upon decontrol. Use DHCR *Form RA-89*. Indicate clearly that your complaint is both a complaint of “overcharge” and “Fair Market Rent Appeal.” The Housing Court cannot determine a Fair Market Rent Appeal. Formerly controlled vacant apartments in buildings converted to co-ops or condos do not become stabilized and are not eligible for a Fair Market Rent Appeal.

### Senior Citizen Rent Increase Exemption

Rent stabilized seniors, 62 years or older, whose disposable annual household income is \$20,000 or less and who pay (or face a rent increase that would cause them to pay) one-third or more of that income in rent may be eligible for a Senior Citizen Rent Increase Exemption (SCRIE) if they apply to the NYC Dept of the Aging, SCRIE Unit at 2 Lafayette Street, NY, NY 10007. If an otherwise eligible tenant’s current rent level is already above one-third of income, it cannot be rolled back, but future rent increases may be avoided. Obtain the SCRIE application form by calling (212) 442-1000.

### Loft Units

Legalized loft unit increases above the base rent are 1 percent for a one-year lease and 2

percent for two years. No vacancy allowance is permitted on vacant lofts.

### Hotels and SROs

The guideline is 2 percent above the legal rent paid on September 30, 2001, for Class A apartment hotels, lodging houses, Class B hotels (30 rooms or more), single room occupancy (SROs) hotels, and rooming houses (Class B, 6-29 rooms). No vacancy allowance is permitted. The guideline is not collectible unless 70% or more of the units in the building are occupied by permanent rent stabilized or controlled tenants paying legal regulated rents. Further, no increase is allowed when the landlord has failed to provide the new occupant a copy of the Rights and Duties of Hotel Owners and Tenants.

### High-rent, High-income Deregulation

(1) Apartments legally renting for \$2,000 or more a month that became vacant from July 7, 1993 through October 1, 1993, or on April 1, 1994 and thereafter are subject to deregulation. (2) The same deregulation applies in the time periods set forth in (1) above to apartments legally renting for \$2,000 or more a month without their becoming vacant if the total household income exceeds \$175,000 in each of the prior two consecutive years. To be eligible for this second form of deregulation, the landlord must send an income certification form to the tenant between January 1 and May 1 and file it with and get the approval of DHCR.

## Giuliani's Legacy: Lower Crime, Higher Rents, Dancing Ban

By Steven Wishnia

"NO DANCING," reads the sign behind the bar. It's not some kitschy 19<sup>th</sup>-century relic. It's the law in New York City, as revived by our just-departed mayor, Rudy Giuliani.

Specifically, it's a Prohibition-era cabaret law that bans dancing in bars without a license for it. By the '60s, it was only used against gay bars, and that era ended after the June 27, 1969 raid on the Stonewall Inn. But Giuliani—lionized as the mayor who "saved" New York—resurrected it. In the summer of 1998, 70 cops invaded an East Village rock club to shut down a Saturday night dance party. Neighborhood bars have been fined \$1,500 because people were dancing to the jukebox.

So some of us who actually live here have a bit of a problem with Giuliani's canonization since September 11. All he did was act like a compassionate human being for a few weeks—granted, quite a feat for a man who announced his plans for divorce on TV before he told his wife—and people were calling him a hero.

"Racist" and "fascist" are not too strong words to describe him. Giuliani refused to meet with black or Latino elected officials—not the borough presidents of the Bronx or Manhattan, not leading members of the City Council—until after the 41-shot police killing of Amadou Diallo in 1999. The dancing ban was just one of his petty-fascist initiatives. A 1995 law makes it a misdemeanor for 20 or more people to be in a park without a permit—so far, it's only been

used against witches, rappers, and Lower East Side squatters. Police often almost outnumber protesters at demonstrations. When black supremacist Khalid Muhammad held a march in Harlem in 1998, Giuliani cut off subway service to the neighborhood.

Still, the city's establishment hailed him as the savior who tamed the "ungovernable" city, and Giuliani drew around 70% of the white vote in all three of his mayoral races. The biggest reason is that crime was dropped dramatically during his term. How much credit he deserves for that is debatable. The crime decrease is a national trend, and probably more due to the lower unemployment of the '90s, the decline in the crack trade, and simple police tactics like using computers to chart high-crime blocks, rather than to Giuliani's much-vaunted "quality of life" initiatives. But what those tactics—attacks on marijuana-smoking, the homeless, squeegee men, etc.—did accomplish was to ease white people's *perceptions* of crime. Some of Giuliani's most ardent defenders are the kind of white people who take cabs everywhere because they're scared to ride the subway.

Meanwhile, black New Yorkers supported Giuliani about as much as Jews supported Pat Buchanan. The map of mayoral voting patterns almost perfectly matches the city's racial map. Giuliani got over 80% of the vote in hardcore white areas like Bensonhurst in Brooklyn and Glendale in Queens, less than 15% in most black districts, and gener-

ally around one-third in Latino neighborhoods. (Despite the hype about nonwhite voters deserting Democrat Mark Green to elect Mike Bloomberg, this pattern largely held last November.)

White Giuliani supporters were perfectly content to accept a little police brutality as long as crime was down. He was easily re-elected less than three months after the much-publicized sexual assault and torture of Abner Louima. That support cracked slightly after the Diallo killing, and significantly after Patrick Dorismond was shot by another cop in March 2000 and Giuliani released the victim's sealed juvenile record.

By then, even white New Yorkers seemed weary of Giuliani's bullyhood. He proclaimed himself the patron of "civility," but couldn't disagree with someone without denouncing them as "jerky" or "intellectually dishonest." In late 1999, he made it illegal for homeless people to sleep on the streets, and moved to put their children into foster care. "If Giuliani had been mayor of Bethlehem," the Rev. Al Sharpton thundered at a Union Square rally that December, "they would have put the baby Jesus into foster care."

But like most bullies, he didn't stand up to those bigger than he. He slung insults at the city's public schools, but at one point actually asked the state for *less* school aid. When the Republicans in state government blocked renewal of the state's rent-control laws in 1997, threatening millions of city

residents with eviction, Giuliani tiptoed into Albany late on a Friday afternoon to whisper that he supported rent regulations.

Given his record on housing issues—he packed the city Rent Guidelines Board with anti-rent-control ideologues, and took millions in campaign money from landlords—repeal probably would have suited him fine. But especially in an election year, supporting it would have been political suicide. He endorsed the eventual compromise, which basically gutted controls on vacant apartments, and settled for using the rent board as a rubber stamp to impose the biggest increases possible without causing him political damage.

The result: The city's housing crisis, brewing ever since the greed-is-good speculation of the Reagan economy followed the massive building abandonment of the '70s, is now boiling. In the last four years it's become next to impossible to find an apartment for less than \$1,000 a month, outside a few neighborhoods.

Giuliani leaves a city that is safer from street crime, but blander and more ruthless. Muggings are down, but the music scene that once bred bebop, rap and the Ramones is deadlier than it's been in decades. Core Manhattan has become a yuppie playland of \$14 blue martinis, while in the rest of the city office cleaners and deli clerks live three to a room, and once-middle-class jobs like teaching and firefighting don't pay enough to cover a two-bedroom apartment.

## Appeals Court Overturns Eviction for Dog

Pet-owning tenants can breathe a little easier, thanks to a decision handed down last month by a state appeals court.

In a 4-1 ruling, the Appellate Division, First Department, overturned a lower-court decision in *Seward Park Housing Corp. v. Carol Cohen*, and rejected the eviction of a Lower East Side couple for violating the no-pet clause in their lease. The Appellate Division held that Max and Carol Cohen's landlord had not filed for eviction within 90 days of finding out about their dog, as required by city law.

More important, the court found that landlords are assumed to know that a tenant owns a pet if building employees, such as a superintendent or janitors, know that the pet is on the premises. "It really re-establishes the old standard that the landlord is held to constructive notice—that they should have known about it—instead of actual notice," says Karen Copeland, a lawyer who has represented numerous tenants in pet-eviction cases.

However, the decision only affects Manhattan and the Bronx, says Copeland; the appeals court covering Brooklyn, Queens, and Staten Island has ruled differently, and the issue may wind up in the state's highest court. Bradley Silverbush, a lawyer for the

landlord, told the *New York Law Journal* that his client will probably appeal, and has been urged to do so by members of the Rent Stabilization Association, the main landlord organization in the city.

The Cohens, who have lived in the Seward Park co-ops on Grand Street since 1960, acquired a puppy in September 1996, naming him Rocky. The landlord served an eviction notice in February 1997, five months later. The building's manager—the landlord's only

witness in the original trial—testified that he did not find out about the dog until three months before filing for eviction.

But in the decision, Justice John T. Buckley noted that security and maintenance workers frequently saw the Cohens walking Rocky in and around their building, and often played with him. "Common sense dictates that landlords will have an agent or employee checking the property regularly," Buckley wrote. "A review of the

facts in this case reveals that [the landlord] would have to close its eyes, cover its ears and hold its breath to have remained ignorant of the presence of the puppy."

Justice David Friedman dissented, arguing that that the ruling means landlords who do not live in a building "can no longer enforce no-pet clauses unless they hire employees whose function it is to actually visit the premises and ferret out lease violators."

—Steven Wishnia

## Court Rejects City's AIDS-Housing Contempt Appeal

In the last week of 2001, a state appeals court denied the Giuliani administration's request to appeal Judge Emily Goodman's decision finding the city in contempt of court for failing to house homeless people with AIDS.

Judge Goodman had found the city in contempt last May for violating a court order she issued in *Hanna v. Turner*, the 1999 case that guaranteed same-day emergency housing placements for homeless New Yorkers living with AIDS.

The case involved a lawsuit filed by Armen Merjian, senior staff attorney at Housing Works on behalf of 17 clients identified by the NYC AIDS Housing Network's human-rights monitors as representative of the hundreds of people

living with AIDS that the city left without emergency housing placements. The city tried to say that the relatively small number of affidavits filed did not show "substantial compliance." The appellate court, rightfully, understood that contempt was only filed after several months, a few widely publicized and attended public hearings, tons of media and hundreds of personally reported other cases of city HIV/AIDS Services Administration (HASA) clients being left out in the cold.

The 17 plaintiffs, homeless people living with HIV/AIDS—some of whom were left sleeping in the streets for four-day holiday weekends—will be financially com-

pensated for their suffering if the city either doesn't decide to appeal one last time, or if that appeal is also denied. As it stands now, Jason Turner, Giuliani's Human Resources Administration commissioner, is still held in contempt of the court decision.

The NYC AIDS Housing Network's (NYCAHN) HASA Human Rights Monitors continue to stand in front of the Amsterdam welfare center every single evening to ensure that the city continues to provide emergency housing placements and other entitlements.

For more info contact, NYCAHN at (718) 802-9540.

—Jen Flynn

# MBR

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have the DHCR defend the change. Thousands of seniors called the governor to remind him that he had made a special promise to seniors during the 1997 rent-law renewal fight that they would not be harmed.

### Seniors Take Action

About 50,000 apartments are under rent control. The tenants are on average 70 years old, with incomes below \$15,000 per year. While a vulnerable population, they are not politically powerless—and in 1997, they were in a rage.

Already organized and active, rent-controlled tenants were alarmed when they received notices from the DHCR in 1997—first in mid-September, telling them that the landlords had won their first lawsuit and the MBR would be 32.4%, not the 3% that they had received originally. That meant that thousands of them who paid rents at the ceiling MBR would have to pay—retroactively—7.5% increases for 1996 and 1997, instead of a 3% increase for '96 and none for '97. Then they received a notice telling them that the new revised MBR of 32.4% would be suspended, pending the outcome of a court case.

Rent-controlled tenants by that point had no reason to trust Pataki, after he had promised to protect seniors but had allowed the rent laws to be weakened, and had allowed the state housing

agency to weakly defend itself in the first MBR lawsuit. Tenants knew that there was one main motivation behind the landlords' action and the DHCR's work: getting rent-controlled tenants out of their apartments, which would then be decontrolled, enabling landlords to raise rents, in many cases by \$1,000 or more. But thanks to pressure from these tenants, the Council passed Local Law 70, and the DHCR, in the later rounds of the lawsuit, dropped out of the legal battle (bowing to pressure from both sides).

The decision is a great victory for advocates of pushing the Urstadt envelope. The law, written to corral the pro-tenant City Council of 1971, has put tenants in the hands of the pro-landlord state legislature ever since. But this decision might allow for other changes: "The City Council could make other changes in the rent laws, as long as those changes reflect the original intent of the laws," says Dobkin.

But for now, tenants can bask in the victory. The decision, written by Chief Judge Judith Kaye, is clear enough for the lay reader, and it explains clearly the history of the issue and of the rent regulations.

*People who want to read the decision can get it at: <http://www.tenant.net/Alerts/MBR/164opn01.txt>*

## Early February MBR Hearing

The MBR factor for 2002/2003 has not been released yet, but a hearing on the matter has been tentatively scheduled for the first week of February. Rent-controlled tenants should plan to attend.

For more information, call the DHCR at (718) 262-4717.

## METROPOLITAN COUNCIL ON HOUSING

Met Council is a citywide tenant union.

Our phones are open to the public Mondays and Wednesdays from 1:30 to 5:00 p.m.

We can briefly answer your questions, help you with organizing or refer you to other help.

# 212-979-0611

## If at first tenants don't succeed, we... Come BACK to Court!

In December, tenants came out for the first day of the lawsuit challenging Gov. Pataki's anti-tenant changes in the Rent Stabilization Code. The changes make it easier for landlords to evict and overcharge rent-stabilized tenants, make it harder for tenants to defeat unfair rent increases, and more.

We must show the judge and our fellow New Yorkers that this issue is important to us. If we prevail in Brooklyn, the anti-tenant changes could be stopped statewide.

So once again: Join us in court!

### Friday, January 25, 2002

**Brooklyn Criminal Court Building**  
120 Schermerhorn St.  
(between Smith & Boerum)

**Picket in Front of the Courthouse**  
9 - 9:30 a.m. SHARP!

**Pack the Courtroom (room 1002F)\***  
9:30 a.m. - 1 p.m.

SUBWAY: A/C/G to Hoyt/Schermerhorn, 1/2 to Hoyt St., or 1/2/4/5/N/R to Court St./Borough Hall

\*Give yourself an extra half-hour to get through the metal detectors. If our room is moved, ask where to find Judge Rivera's courtroom. Our case appears on the calendar as: *Brooklyn Housing & Family Services... vs. Joseph Lynch/DHCR*, Docket # 14191-01.

For more information, contact Met Council, (212) 979-6238 Ext. 6.

## WHERE TO GO FOR HELP

**LOWER EAST SIDE BRANCH at Cooper Square Committee**  
61 E. 4th St. (btwn. 2<sup>nd</sup> Ave. & Bowery)  
**Tuesdays ..... 6:30 pm**  
**Note:** This office closes for the month of August. It reopens Sept. 4, the first Tuesday of the month.

**CHELSEA COALITION ON HOUSING**  
Covers 14<sup>th</sup> St. to 30<sup>th</sup> St., 5<sup>th</sup> Ave. to the Hudson River.  
322 W. 17<sup>th</sup> St. (basement), CH3-0544  
**Thursdays ..... 7:30 pm**

**GOLES (Good Old Lower East Side)**  
525 E. 6<sup>th</sup> St. (btwn. Aves. A & B) Lower East Side tenants only, 212-533-2541.

**HOUSING COMMITTEE OF RENA**  
Covers 135<sup>th</sup> St. to 165<sup>th</sup> St. from Riverside Dr. to St. Nicholas Ave., 544 W. 157<sup>th</sup> St. (basement entrance).  
**Thursdays ..... 8 pm**

**LOWER MANHATTAN LOFT TENANTS**  
St. Margaret's House, Pearl & Fulton Sts., 212-539-3538  
**Wednesdays ..... 6 pm-7 pm**

**VILLAGE INDEPENDENT DEMOCRATS**  
26 Perry St. (basement), 212-741-2994  
**Wednesdays ..... 6 pm-7:30 pm**

**WEST SIDE TENANTS UNION**  
200 W. 72nd St. Room 63; 212-595-1274  
**Tuesday & Thursday ..... 2-5 pm**  
**Tuesday and Wednesday ... 6-7:45 pm**



## Join Met Council

Membership: Individual, \$25 per year; Low-income, \$15 per year; family (voluntary: 2 sharing an apartment), \$30 per year. Supporting, \$40 per year. Sustaining, min. of \$100 per year (indicate amount of pledge). For affiliation of community or tenant organizations, large buildings, trade unions, etc. call 212-979-6238.

My apartment is  controlled  stabilized  unregulated  other\_\_\_\_\_

I am interested in volunteering my time to Met Council. Please call me to schedule times and duties. I can  counsel tenants,  do office work,  lobby public officials,  attend rallies/protests.

Name \_\_\_\_\_

Address \_\_\_\_\_ Apt. No. \_\_\_\_\_

City \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

Home Phone Number \_\_\_\_\_

Send your check or money order with this form to:  
Metropolitan Council on Housing, 339 Lafayette St., NY, NY 10012