



Property Management: Governor Cuomo implements extensive amendments to Rent Stabilization Code on January 8th

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On January 8th, after an extensive period of proposed amendments to the Rent Stabilization Code, governor Cuomo's office revealed the changes were officially implemented. Despite rounds of hearings and extensive testimony from individuals and organizations on all sides of the issues, the administration adopted the codes with few if any changes incorporated.

Absent the legislative power and will to implement many of the changes, the executive branch decided to overstep its constitutional authority to attempt to enforce new legislation through executive code amendments. Despite numerous amendments lacking any significant purpose to even assist tenants, the codes were adopted nonetheless.

While the amendments go into effect immediately a few require new forms and implementation assistance by the Department of Housing and Community Renewal before they can be fully implemented. In short order, here are some of the more significant code changes.

The official authorization and adopting of a Tenant Protection Unit, a DHCR department charged with prosecutorial power, despite not allowing owners any rights of due process. Although the legislative branch had rejected funding on several occasions, the administration formally introduced the office into the RSC. The office issues subpoenas and determines findings and leaves no opportunity for an owner to challenge the finding as the finding does not have an official order.

An owner is now required to provide to the first tenant in a deregulated apartment an exit notice, explaining the old rent and how the apartment became deregulated in addition to a copy of the exit rent registration.

An owner must explicitly state a preferential rent in a new tenant's lease in order to protect that rent on lease renewals. Relying on rent registrations will not be sufficient. Although many owners have in practice ensured this till now, often buildings are purchased which had tenants with preferential rents who did not originally sign such riders.

An owner applying for a building wide Major Capital Improvement (MCI) must ensure that the building does not have any "Immediately Hazardous" code enforcement violations. Such a violation will result in the application being rejected immediately. This is a difficult amendment as often code violations are tenant caused and the absence of resolving these issues can cause the owner thousands and thousands of dollars in benefits promised by the legislature.

New lease riders are now required which will have greater detail as to how legal rents are calculated, including details of any individual apartment improvements (IAs) performed which resulted in an increased rent. Tenants have the right to request detailed information backup regarding the IAs.

One code amendment attempts to codify what many courts have held recently, essentially

eviscerating the long standing, legislation allowing for a 4 year rule. Now if the rent cannot be determined 4 years back, or someone or their uncle simply believes "fraud" was involved, the rent will be lowered to a comparable unit in the building or based on some arbitrary amount DHCR determines. Several other amendments to the 4 year rule essentially render it nearly useless.

Amazingly, the governor added an amendment which eliminates the requirement of a tenant to notify an owner of a service issue before they can file a reduction of services complaint. This seemingly will result in thousands more complaints to DHCR, complaints which they do not have the staff to handle. The idea that a tenant need not tell the owner about an issue first is truly maddening. Another item recently amended through court hearings which has now been codified is that a holdover tenant who remains after their lease expiration will automatically become a month to month tenant. Thousands of legal cases will now have to be initiated to fight tenants who just choose not to sign a renewal. An owner will simply have no real choice on what to do in this case. Deemed leases are officially dead.

Owners will no longer be able to simply amend rent registrations. They will need to go through an administrative proceeding which will result in notice to the tenant. The increased bureaucracy will no doubt result in waiting periods and inefficient administration.

Owners should familiarize themselves with the new code amendments and ensure that they incorporate them into their standard operating procedures. Despite the unfair nature of some of them and the possible illegal process of incorporating them into the code, for now, owners have no choice but to follow along.

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