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# New allowable rent stabilized lease increases can affect property valuation - by Anthony Forzaglia

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When it comes to real estate in the New York metropolitan area, government regulation can play a large role in the determination of value. One of the major government regulations affecting real property values is the rent stabilization law. Rent stabilization laws were enacted in New York State to deal with large increases in rents during the late 1960's.

Rent stabilization laws generally apply to buildings of six or more units built between February 1, 1947 and December 31, 1973, or built before 1947 (if leased after June 30, 1971). Some buildings will become subject to rent stabilization laws because they received various tax benefits during construction. Building units subject to rent stabilization laws have numerous regulations, including rent increases, building services, and the form and terms of leases. Rent stabilization laws are applicable to New York City through the Rent Stabilization Code and certain localities in Nassau, Westchester, Rockland and Ulster counties through the Emergency Tenant Protection Act (ETPA). Due to a 2019 change in the law, many of the available options to "deregulate" apartments and remove their stabilized status to make them "market apartments" were curtailed. This change was then followed by the pandemic and the effects of which on real estate values have been discussed and written about copiously.

Rent stabilization laws can have a significant effect on the valuation of real property due to their restriction on the amount of rent collectible by a landlord for units subject to stabilization. Since the valuation of income producing property is primarily based on the income capitalization approach (where a property's net operating income is capitalized at a rate of return), the gross income obtained from rents plays an important role. Thus, the lower the income received by the property (all else equal), the lower a property's value.

An important component of rent regulation for jurisdictions adopting rent stabilization laws is the Rent Guidelines Board. Within New York City, this board is made up of nine members appointed by the mayor, five representing the general public, with two members representing landlords and two members representing tenants. The Rent Guidelines Board uses data derived from building operating expenses, housing supply, and testimony at public hearings and meetings, in order to determine the appropriate percentage of rent increases for one- and two-year rent stabilized rental leases.

The Rent Guidelines Board in New York City recently made headlines in June when it voted to increase the allowable amount landlords can charge for lease renewals for rent stabilized units. Rents for one-year lease renewals were increased by 3.25% and those for two-year leases were increased by 5%. This followed a full rent freeze in 2020 and a partial rent freeze in 2021 on rent-stabilized units and was seen as a drastic measure to deal with the major disruptions caused by the COVID-19 pandemic.

This rent increase was met with displeasure from both landlords and tenants. Tenants decried the increase as too hefty, while landlords argued the increases did not cover their various building expenses.

The rental increases will allow property owners to increase rents on their rent stabilized units. It remains to be seen whether this allowance is commensurate with the increase in property assessments which the Department of Finance or other assessing authorities outside New York City may impose on rent stabilized properties. A potential increase in income from rent stabilized units does not necessarily mean that an assessor's determination of value will be fair. Therefore, it is most important to have a property tax attorney review the financials and assessment of your building to determine whether an over-assessment has occurred.

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