

RENT STABILIZATION DUE DILIGENCE

For Multifamily Buildings

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RENT STABILIZATION DUE DILIGENCE FOR MULTIFAMILY BUILDINGS

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I. INTRODUCTION

When I wrote the first version of this booklet in 2015, I was trying so hard to get clients to avail themselves of this Rent Stabilization Due Diligence (“RSDD”) service, which I was certain would be valuable to them. At first, no one understood what I was talking about, “*Rent Stabilization Due Diligence? But I already have an engineer inspecting the building...?!*” “*Rent Stabilization Due Diligence? But seller will not give me copies of the leases...?!*” Finally, a couple of millennials new to multifamily said to me, “*You know that analysis thing you keep trying to get us to do... will you do it for this building we are purchasing in Bushwick...*” Of course, I did it for free...

Since then, I have done about 300 RSDD analysis (as of the time of this writing in 2019), for purchasers (pre contract, during due diligence periods, and after closing), families transitioning buildings between generations, banks. I have rendered this service for 160 unit projects all the way down to two-unit buildings. What was once a hard-sell engagement, is now ubiquitous in my practice, and, indeed, in the industry. Recently, I am being called on by seller’s counsel, to evaluate the RSDD work of purchasers. The fun never ends when you’re me!

II. MULTIFAMILY BUILDINGS ARE NOT JUST BRICKS AND MORTAR; THEY ARE TENANCIES

The old saying goes that the three most important things about real estate are: location, location, and location. Keeping that rule in mind, one should add a rule about the three other most important things about multifamily real estate in New York City, and those things are: *the tenancies, the tenancies, and the tenancies*. A building's value is a function of the tenancies.

How do you know, before you buy a piece of multifamily real estate in New York City, that the tenancies are what the seller says they are? That the allegedly “free-market” units are *really* deregulated? That the Rent Stabilized unit’s rents are legal? That the tenant, whom, seller tells you will be easy to evict over non-primary residence, really can be? How, for that matter, *can the seller be sure?*

EXAMPLE

Two gals in Brooklyn bought an eight-family building with only three Rent Stabilized apartments occupied. One of the occupied Rent Stabilized apartments

was clearly not being used by the tenant as his primary residence. In fact, the tenant lived elsewhere and he was using the apartment solely as an office for his party-planning business.

The new owners were excited to start a case against this tenant. But they could not! The tenant's Rent Stabilized lease had long ago expired. You can ONLY do a non-primary residence case by first sending what is known as a "Golub Notice", a special notice of non-renewal that can only be tendered between 150 and 90 days of the lease expiration. If there is NO LEASE, the lease can't end. NO ENDING DATE means no Golub Period. NO GOLUB PERIOD means NO NON-PRIMARY RESIDENCE CASE. The only thing these new owners could do was to send this tenant, who was so clearly not living there, a new Rent Stabilized lease and wait two more years, until 90 to 150 days before the next lease expiration, to do a non-primary residence case!

This would have been detected if these gals had run a proper Rent Stabilization Due Diligence Analysis.

Children have the same problem understanding their multifamily buildings when they inherit multifamily real estate from their parents. Banks have the same problems when lending on multifamily assets.

Tenants have rent regulatory status problems too. How is a tenant to know if their free market tenancy is actually subject to Rent Stabilization? As with all my publications, this booklet has something for tenants as well – see below § Rent Stabilization Coverage Analysis for Tenants.

III. WHY IS IT SO HARD TO TELL IF AN APARTMENT IS SUBJECT TO RENT STABILIZATION?

There is no official list somewhere that definitively tells the world which apartments are subject to Rent Stabilization and which are not. The New York State Division of Housing and Community Renewal ("DHCR") has jurisdiction over matters relating to Rent Stabilization and the DHCR maintains some records. But the records the DHCR maintains contain information that is largely self-reported by landlords and that is not controlling with regard to an apartment's Rent Stabilization status. Therefore, year after year, a landlord can report to the DHCR that an apartment is "permanently exempt", but that does not make it so.

Moreover, a current or former tenant may have signed a document acknowledging that an apartment is not subject to Rent Stabilization. But this, also, does not make it so. Parties may not contract out of Rent Stabilization coverage. See RSC § 2520.13 (Waiver of benefit void); *Drucker v. Mauro*, 30 A.D.3d 37 (1st Dept 2006) (“It is well settled that the parties to a lease governing a rent-stabilized apartment cannot, by agreement, incorporate terms that compromise the integrity and enforcement of the Rent Stabilization Law.”)

It is very important to keep in mind that a court or the DHCR can look back as far as they want to determine whether an apartment is subject to Rent Stabilization. While a rent overcharge claim is subject to a four-year look back period, a claim for improper destabilization is not. *72A Realty Associates v. Lucas*, 28 Misc.3d 585 (N.Y. City Civ. Ct., 2010), *Affirmed as Modified by 72A Realty Associates v. Lucas* 32 Misc.3d 47, (AT1st 2011), *Affirmed as Modified by 72A Realty Associates v. Lucas*, 101 A.D.3d 401, (1st Dept. 2012); *Gersten v. 56 7th Avenue LLC*, 88 AD3d 189 (1st Dept. 2013).

How do you ever get a definitive answer on an apartment’s Rent Stabilization status? With some exceptions, the last word on whether an apartment is Rent Stabilized is in the hands of the courts or the DHCR. Until a judge is satisfied that an apartment is not Rent Stabilized, the matter is always, in some measure, unsettled.

Why is this so complicated? Because it is. There are many statutes and mountains of case law, stretching back to the 1970’s, that, when woven together, make up the rent regulatory scheme in New York City. Often enough the various courts and agencies do not agree with one another on vital topics (think High Rent Vacancy Deregulation under J-51 or the *Altman* case); and when the authorities do not agree, it takes years for their disputes to percolate up to the New York’s highest court for a definitive answer. There are rules, and exceptions to the rules, and exceptions to the exceptions to the rules. And it’s getting harder all the time...

IV. WHAT IS RENT STABILIZATION DUE DILIGENCE? -- SOME FAQ'S

A. What, exactly, do you look at in a Rent Stabilization Due Diligence Analysis?

There are four broad categories of things that Michelle Itkowitz looks at in a Rent Stabilization Due Diligence ("RSDD").

1. Are there any general problems that would stymie a landlord and tenant proceeding, should one be necessary? Or that would give rise to liability of the landlord to tenant? If so, how can the landlord fix the problem?
2. Are there any problems with the Rent Stabilized tenancies? Is the leasing correct? Are the registrations correct? Are there overcharges?
3. Are the free-market tenancies really free market, or are they really Rent Stabilized? [Illegal deregulations are everywhere.](#)
4. Is the owner (or prospective owner or lender) making any wrong assumptions? A big part of Michelle's work in RSDD is testing a client's assumptions about the property.

B. When does a Rent Stabilization Due Diligence Analysis get performed?

We refer to the process as "Due Diligence", but we can perform the analysis before a contract is entered into, during a due diligence period, or long after a property is purchased.

I often get hired for these gigs when a property is being handed from one generation to another.

C. Who hires you for Rent Stabilization Due Diligence Analysis?

We have performed this service for purchasers, sellers, owners, and lenders.

We also frequently work closely with corporate counsel, real estate transactional counsel, and trusts and estate counsel who bring us in to consult on the rent regulatory aspects of their matters.

D. Wait?! I already do “due diligence”, what are you adding?

Michelle and her team can look at a building and see it in a way that an engineer, architect or tax or transactional lawyer cannot. We see what is at the heart of the building – the tenancies and the ability of those tenancies to create or to stymie revenue generation. If your due diligence protocol does not include highly experienced landlord and tenant counsel, then you are missing a huge piece of due diligence. You hire an engineer so you can know that the bricks and mortar are sound. Why wouldn't you hire a landlord and tenant litigator with tremendous experience to tell you whether the tenancies are sound?

E. What kind of report do I get? How long is it? What does it look like? Can I ask follow up questions for no extra charge?

Your Itkowitz PLLC Rent Stabilization Due Diligence report will be written in plain language. I seldom do a RSDD under thirty pages. I have never gone over sixty. The RSDD Report will contain:

- A detailed fact section.
- Sections devoted to educating you on the law.
- Analysis sections, which apply the law to your particular facts.
- Conclusions with respect to each apartment, supported by facts and law and explained clearly; I will be assigning a numerical percentage of likelihood to my conclusions.
- A table of contents and an executive summary.

This Rent Stabilization Due Diligence process is about more than just getting a report. The due diligence process is an interactive and iterative one. Once your team gets the Rent Stabilization Due Diligence Analysis, they can take time to digest the information. Then you can ask questions. If you provide us with additional information, then we will update the analysis accordingly.

I like to say that, after every RSDD engagement with me, the client is a better real estate professional. You grow with me. You can't help but learn when we engage in the due diligence process

F. Will your conclusions be guaranteed?

No. Due diligence is not insurance; it is due diligence. I will be assigning a numerical percentage of likelihood to my conclusions, which will never be 100% (because laws change and documents can be incorrect, etc.). I not a partner in your building, and the risk remains yours.

G. What do you charge for Rent Stabilization Due Diligence?

I generally charge a flat rate of \$5k for 10 units or under. After that, I charge \$500 per additional unit up to 20 units. After that, I charge \$250/unit.

Yes...you need me to look at the empty and/or free market apartments (i.e. the ones seller is telling you are free market) just as much as you need me to look at the units that are Rent Stabilized. Dollars for doughnuts, at least half of the allegedly free-market units are not. Here is a link to my most recent article about [Illegally Deregulated Rent Stabilized Apartments](#).

The largest project I ever did had 160 units; that kind of project gets priced a little differently.

H. There are services out there run by non-lawyers who claim to perform “due diligence” on the Rent Stabilized tenancies and they are WAY cheaper than what you charge Michelle. Why shouldn’t I use them?

Go ahead.

V. INFORMATION NEEDED TO CONDUCT A RENT STABILIZATION DUE DILIGENCE

A. Items Needed to Conduct Rent Stabilization Due Diligence

The list of things I need to conduct a Rent Stabilization Due Diligence is constantly evolving. I understand that it is unlikely that you will give me all of the below. The more information you do provide me with, however, the better the analysis will be.

1. Contract of sale or proposed contract (if pre-closing).
2. If the deal closed and there were escrows held at closing or any post-closing agreements regarding tenancies, I really need them.
3. ALL current leases and their lease chains – for example: if the original lease was 10 years ago and there have been renewals every year since then – I need the original lease and all renewals and all riders attached to all parts of the lease.
4. Any correspondence with tenants.
5. The DHCR Rent Roll Registration Printout for the entire building going back to 1984.
6. The DHCR Printout on cases, active and closed, for the building – this is called a “Cases By Building Report” – VERY important!
7. If there were MCI’s (Major Capital Improvements) I need the DHCR orders that support them.
8. If there were IAI’s (Individual Apartment Improvements) I need: (a) work orders (b) receipts marked paid (c) cancelled checks (d) affidavits from contractors (e) before and after pictures.
9. The Painting Registry for the building.
10. If a super is in an apartment, the written employment agreement.

11. Full files on any litigation with tenants, past or present, at DHCR, in the Courts, or at any agency, or at least I would like a “Litigation List” – a list of cases with their courts and index nos.
12. If there are violations, I need to know the status of clearing them.
13. If there is a certificate of occupancy NOT online with DOB, I need it.
14. If there were recent tenant buyouts conducted by the last/current owner – I want the paperwork on the buyout.
15. Investigator reports.
16. Are there cameras in the building?
 - Where?
 - Were they set up by a private investigator or a camera firm?
 - Who is in charge of them?
 - How often do they overwrite themselves?
 - Motion sensitive or continuous?
17. Last three checks every tenant paid with.
18. If tenants get Section 8, I need the “HAP” contract, or if they receive any type of government subsidy, SCRIE, etc. I need the paperwork.
19. Is there a Tenant Association? If so, I need whatever information is available on the TA.
20. All J-51 and/or 421-a paperwork associated with the building, past or present.

B. The seller will not give us access to the material; you would have to go look at it in their conference room. Is that ok?

No, that is not ok and there is no price you can pay me to travel to look at the material.

You MUST get me the source documents via a secure online DropBox.

I do NOT travel to seller's conference room to review dusty files. *It's 2019 people* – have the secretary accurately scan everything and put it in DropBox.

C. The Goal of a Rent Stabilization Due Diligence

In order to properly conduct a Rent Stabilization Due Diligence, I must know the client's GOAL for the building. The following are examples of typical goals:

- Run the building as a Rent Stabilized multifamily asset; raising the rent roll organically when the opportunities to do so present themselves – via all legal rent increases, including but not limited to NYC Rent Guidelines Board annual and vacancy increases, Individual Apartment Improvement increases, and Major Capital Improvement increases.
- The building is part of a development site assemblage.
- Owner wants to de-tenant the building, make significant building-wide improvements, and then bring tenants back into the building at a legally justifiable rents.

VI. RENT STABILIZATION DUE DILIGENCE AND SMALL BUILDINGS

In the case of a two-unit building in Brooklyn, I am often engaged by transactional attorneys to make sure that the home is not actually subject to Rent Stabilization. There are a number of reasons that an under-six-unit building might be subject to Rent Stabilization, and in my practice, I see it all the time. Here are three reasons:

- Receipt of a tax benefit, either presently or in the past.
- The building is actually part of a horizontal multiple dwelling.
- The number of units in the building. If a building was built before 1974 and contains six or more units, then the apartments therein are Rent Stabilized unless certain exceptions apply. Well-established appellate case law holds that this is so even if the building in question had less than six units in 1974, but subsequent to 1974, six units were created in the building – EVEN IF THOSE UNITS WERE ILLEGAL, EVEN IF THEY EMPTY, EVEN IF THEY WERE SUBSEQUENTLY REMOVED. *Wilson v. One Ten Duane Street Realty Co.*, 123 A.D.2d 198 (1st dep’t 1987).

VII. SUBSTANTIAL REHABILITATION ANALYSIS

This is a sub-product of Rent Stabilization Due Diligence, which I am calling “Substantial Rehabilitation Analysis”. We analyze a building to see whether it qualifies as Substantial Rehabilitation, a Rent Stabilization term-of-art.

There is an exemption from Rent Stabilization based upon Substantial Rehabilitation of a building built before 1974, governed by Rent Stabilization Code § 2527.11 and § 2520.11(e) and by DHCR Operational Bulletin 95-2, which sets forth the position of the DHCR regarding the circumstances under which the agency will find that a building has been substantially rehabilitated. In general, for substantial rehabilitation a landlord needs to be able to prove that:

- When the construction project commenced the building was in substandard and seriously deteriorated condition and the Building was at least eighty percent (80%) vacant of residential tenants.
- All of the walls, floors, and ceilings:

- in the common areas must be replaced *and*
- in the apartments must be replaced or made as new.

- One-hundred percent (100%) of more than 75% of the applicable Building-wide apartment systems contained on the list in DHCR Operational Bulletin 95-2 at I(A) have been completely replaced with new systems.

- All Building systems comply with all applicable building codes and requirements.

This all needs to be proven by admissible and highly detailed proof. Litigating a Substantial Rehabilitation case is like litigating construction litigation. Therefore, this topic requires a highly specialized analysis.

VIII. SAMPLE SECTION FROM A RENT STABILIZATION DUE DILIGENCE ANALYSIS FOR A PROSPECTIVE MULTIFAMILY PURCHASE

Below are five actual sections of a Rent Stabilization Due Diligence Analysis letter, which was 30 pages long, that Michelle Itkowitz prepared for a client, before the client purchased a building. We have redacted the sections throughout to remove any information that would identify the client or the subject building.

EXECUTIVE SUMMARY

Please read the entire letter; please do not only read this summary. Here is a chart that summarizes my findings:

APARTMENT	CONCLUSION
2L	85% chance current rent is legal and there is no overcharge
2R	15% chance properly deregulated (85% chance apartment is still Rent Stabilized and has overcharge liability)
3L	90% chance current rent is legal and there is no overcharge
3R	15% chance properly deregulated (85% chance apartment is still Rent Stabilized and has overcharge liability)
4L	90% chance current rent is legal and there is no overcharge
4R	Legally regulated rent since February 1, 2018 is \$1,680 based on a DHCR Rent Reduction Order; repair must be effectuated and DHCR Rent Restoration Order secured or rent may never legally go over \$1,680.

The current owner bought this Building in 2014. In an attempt to make it look better for “the flip”, they likely illegally deregulated two of the units. The other four units are in decent shape from a rent regulatory perspective.

Seller claims that Apartments 2R and 3R were High Rent Vacancy Deregulated. This is very likely NOT true. As I demonstrate in detail below, each alleged deregulation would have required the current owner to have recently spent approximately \$50k – \$60k per apartment. As we see below, there has been virtually no activity regarding this building at DOB. Work of this magnitude does not happen without a permit and, as I demonstrate below, IAI’s are undergoing heightened scrutiny. The fact that you were not given the “buffer tenant’s”

(concept explained in detail below) leases is suspicious. There is no evidence that the current tenants, the first deregulated tenants, got HRVD-N forms as they were supposed to, which I explain the significance of below. All of this begs the issue regarding the post-June 15, 2015 change in the rent laws, explained in detail below. Here, there were no Rent Stabilized tenants paying the Deregulation Threshold (“DRT”), therefore, even if seller had all of the above-referenced documentation, the units would likely not be deregulated.

If you intend to complete this transaction, I provide you below with a list of items you must ask for from seller regarding Apartments 2R and 3R.

Below I discuss why I suspect one of the two ground-floor stores has been illegally converted to a residence.

Finally, as discussed within, there are a few documents that we need from DHCR regarding an overcharge and possible MCI’s, in order to have a more complete understanding of this building.

LAW YOU NEED TO KNOW: HRVD-N’s

As of 2014, the Rent Stabilization Code, at 9 NYCRR § 2520.11(u), requires an owner to provide the first tenant of an apartment deregulated pursuant to High Rent Vacancy Deregulation with a notice (HRVD-N) created by DHCR, which details the last legal regulated rent, the reason for deregulation, and calculations of the rent qualifying for deregulation. The notice must also contain a statement that the last legal regulated rent or maximum rent may be verified by contacting DHCR.

This is a relatively new requirement and there does not seem to be a penalty built into the statute for not complying with the requirement. Thus, the question arises as to whether utilizing the HRVD-N’s (as we will see below was done in this case) is an advantage in the future for an owner if and when a free market tenant challenges the deregulation status.

We see only one case that references the HRVD-N – *Poppler v Nine & C. LLC*, 2018 N.Y. Slip Op. 30817[U], 5, 10–11 [Sup Ct, New York County 2018]. In *Poppler*, an overcharge case, the HRVD-N was only mentioned in passing. Although there are no direct cases concerning HRVD-N, there are some cases concerning the filing of an RR-1 (another DHCR form, which must be filed when a unit *enters* Rent Stabilization) that are informative. For example, in *Cent. Park S. Assoc. v Haynes*, *Cent. Park S. Assoc. v Haynes*, 171 Misc 2d 463, 467 [Civ Ct, Ny Cty 1996], the court stated that service of an RR-1 is not dispositive on the status of an apartment.

Thus, there is no reason to think that filing the HRVD-N means that an apartment is automatically protected from having its regulatory status questioned. Nevertheless, the presence of the HRVD-N could be a powerful help to an owner if, in the future, a free market tenant challenges a deregulation status. Appellate courts credit anything that should have alerted a tenant or former tenant to the change in regulatory status when deciding whether or not to look back beyond the four-year statute of limitations for an overcharge. *72A Realty Assoc. v Lucas*, 101 AD3d 401 [1st Dept 2012] (No fraud that justified looking back beyond the four-year statute of limitations because tenant, who did not challenge the regulatory status upon moving in, had plenty of notice of the shift in regulatory status upon moving in, including: information in the lease; a notice informing them that the apartment was now exempt from Rent Stabilization because of High Rent Vacancy Decontrol; and the exempt status of the apartment was a matter of public record because it was on file with DHCR.)

APARTMENT 2R

Seller claims that Apartment 2R was High Rent Vacancy Deregulated. This is very likely untrue.

As per the DHCR Report, Tenant P had a lease from September 2014 through August 2016 for \$1616 per month. Apparently, P left early. Then we see a lease for Tenant W from December 2015 through February 2017. Actually, the date of W lease seem a little weird because there are no dates listed for her lease on the 2017 section of the DHCR Report. In any event, this would have required the

current owner to have spent nearly \$50k on apartment 3R. See my figures below:
[REDACTED]

As we saw in the Facts section above, there has been virtually no activity regarding this building at DOB. Work of this magnitude does not happen without a permit and, as you will recall from the above High Rent Vacancy Deregulation legal section of this letter, IAI's are undergoing heightened scrutiny.

Furthermore, the fact that you were not given the W lease is suspicious. W was what we call the "buffer" tenant, the Deregulation Threshold Tenant (see High Rent Vacancy Deregulation legal section above). In other words, because W paid over \$2,734, the tenant after her is considered deregulated. When you see a buffer tenant who stayed one term, you should be suspicious that she never really existed.

Moreover, there is no evidence that the current tenant, L, the first deregulated tenant, got an HRVD-N form as she was supposed to (see legal section above on this document).

Therefore, if the current tenant, L, wanted to question whether she was regulated, it would be easy to do because the deregulation was so recent.

If you intend to complete this transaction, you need to ask seller for the following for this unit:

- Regarding the alleged work:
 - Cancelled check(s) (front and back) contemporaneous with the completion of the work or proof of electronic payment;
 - Invoice receipt marked paid in full contemporaneous with the completion of the work;
 - Signed contract agreement;
 - Contractor's affidavit indicating that the installation was completed and paid in full; and
 - Before and after photos.
- W's leasing documents.

- A copy of the HRVD-N served on L, if any.

All of this begs the issue regarding the post-June 15, 2015 change in the rent laws that we discussed extensively in the legal section above. Here, there was no Rent Stabilized tenant paying the DRT, therefore, even if seller had all of the above-referenced documentation, the unit would likely not be deregulated.

I give it a Fifteen Percent (15%) chance that 2R was properly deregulated. In other words, there is an Eighty Five Percent (85%) chance that 2R is still Rent Stabilized and is subject to an overcharge.

APARTMENT 4L

On 4L, I started running the rent analysis spreadsheet when the current tenant came in in 2002, 17 years ago. If one proceeds from 2002, there is no overcharge.

If, however, one begins from 1984 and goes forward, there is a large overcharge, because there is an unexplained jump between 1996 and 1997 when tenant N came into occupancy. My opinion is, however, that a court or DHCR would not look back that far in the event of an overcharge claim. See the above legal section on Rent Overcharges and the four-year look back period, which can only be overcome by a colorable claim of fraud.

Based upon the foregoing, I give it a Ninety Percent (90%) chance that the rent for Apartment 2R is legal.

APARTMENT 4R

Law You Need To Know: Rent Stabilized Tenants Can File a DHCR “Application For A Rent Reduction Based Upon Decreased Services In An Individual Apartment”

Rent Stabilized tenants may file with the DHCR an “Application for a Rent Reduction Based Upon Decreased Services in an Individual Apartment” (“a Decreased Services Proceeding”).¹

If the evidence indicates that landlord failed to maintain required services, the DHCR can issue a written order that directs the landlord to restore services and reduces the rent for the apartment, a “Rent Reduction Order”. The Rent Reduction Order will stay in effect until the landlord applies to DHCR and receives a “Rent Restoration Order” that finds that services have been restored.

In such orders, the tenant is also authorized to reduce their rent in accordance with the Rent Reduction Order. The Rent Reduction Order generally bars further rent increases for Rent Stabilized tenants until DHCR issues a Rent Restoration Order. The Rent Stabilization Code further prohibits the collection of vacancy lease rent increases and the collection of the portion of a Major Capital Improvement rent increase that becomes collectible after the Rent Reduction Order is issued. Such increases will become collectible, prospectively only, from the effective date of the DHCR Rent Restoration Order.

Apartment 4R and the Rent Reduction Order

If you run the math from the beginning on Apartment 4R, there is no overcharge (see charts enclosed with this letter).

This apartment would have been the simplest story to tell in this Building, but for the June 1, 2018 Order Reducing Rent for Rent Stabilized Tenant Due to Decreased Services, bearing Docket No. GM210129S, which held:

¹ See DHCR Fact Sheet #14 <http://www.nyshcr.org/Rent/FactSheets/orafac14.pdf>.

II...Based upon a complete review of the record, the DHCR finds: Services Not Maintained: Floor/Covering Kitchen...

III...The legal regulated rent is reduced to the level in effect prior to the most recent guidelines increase for the tenant's lease which commenced before the effective date of this Order...

No...rent increases may be collected after the effective date of this rent reduction Order...until a rent restoration order has been issued.

IV. Effective Date: 2/1/2018

[Emphasis supplied.]

Therefore, working backwards: the Effective Date is February 1, 2018. The most recent guidelines increase commencing before February 1, 2018 was on September 1, 2016. The level in effect before the September 1, 2016 increase was the 2015–2016 rent, \$1,680.00

Therefore, 4R's legally regulated rent since February 1, 2018 is \$1,680.

Remember that the order bars further rent increases for Rent Stabilized tenants until DHCR issues a Rent Restoration Order. It is, therefore, imperative, if you purchase the Building, that you initiate steps to make the repair and obtain a Rent Restoration Order from DHCR as soon as possible. Do not ignore this obligation. In fact, you could suggest that Seller kick off the process as you move towards closing.

I repeat – if you do not obtain a DHCR Rent Restoration Order on Apartment 4R, the rent may *never* legally go over \$1,680.

[END OF SAMPLE RSDD]

IX. RENT STABILIZATION COVERAGE ANALYSIS FOR TENANTS

I get multiple inquiries from tenants who want to know if they are Rent Stabilized. There are very few places for tenants to find accurate and actionable answers to their questions. I am such a place. Therefore, I created Rent Stabilization Coverage Analysis for Tenants.² It is the same

² <http://www.itkowitz.com/rent-stabilization-coverage-analysis-for-tenants>.

high-level service I offer to landlords with my Rent Stabilization Due Diligence Analysis, but this is designed for tenants and delivered at a flat rate price.

If tenant is likely Rent Stabilized, she has different options for enforcing her rights. Some options are faster than others; some cost more than others; some are more aggressive than others. In general, tenant has the options of: going to DHCR; withholding rent, getting sued, and playing the situation out in Housing Court; suing for a declaratory judgment in Supreme Court; or doing nothing. In the Rent Stabilization Coverage Analysis I will cover separately the pros, cons, costs, time frames, and risks of each in detail.

ABOUT THE AUTHOR

Michelle Maratto Itkowitz is the owner and founder of Itkowitz PLLC and has been practicing landlord and tenant litigation (both complex-residential and commercial) in the City of New York for over twenty years. Michelle represents BOTH tenants and landlords and her core competencies include: Rent Stabilization and DHCR Matters; Rent Stabilization and Regulatory Due Diligence for Multifamily Properties; Rent Stabilization Coverage Analysis for Tenants; Sublet, Assignment, and Short Term Leasing Cases (like Airbnb); all kinds of Residential Tenant Representation; Good Guy Guaranty Litigation; Co-op Landlord and Tenant Matters; Loft Law Matters; De-Leasing Buildings for Major Construction Projects; Emotional Support Animals in No-Pets Buildings; and Co-Living.

Michelle publishes and speaks frequently on landlord and tenant law. The groups that Michelle has written for and/or presented to include: Lawline.com; Lorman Education Services CLE; Rosedale CLE; Clear Law Institute CLE; The New York State Bar Association, Real Property Section; The Women Attorneys in Real Estate Bas Association; The Association of the Bar of the City of New York; The Long Island Chapter of the National Appraisal Institute; The Columbia Society of Real Estate Appraisers; LandlordsNY; Thompson Reuters; The Cooperator; and Argo Management University for Boards.

Michelle regularly creates and shares original and useful content on landlord and tenant law, including via booklets, blogs, videos, and live presentations. As the “Legal Expert” for LandlordsNY.com, the first social platform exclusively for landlords and property managers, Michelle answers member's questions, guest blogs, and teaches. Michelle developed and regularly updates a seven-part continuing legal education curriculum for Lawline.com entitled "New York Landlord and Tenant Litigation". Over 20,000 lawyers have purchased Michelle's CLE classes on Lawline.com (a labor of love for which Michelle gets not a dime) and the programs have met with the highest reviews. Michelle co-authors a chapter on lease remedy clauses and guaranties for the New York State Bar Association, Real Property Section, Commercial Leasing Committee's treatise.

Michelle is immensely proud that Itkowitz PLLC was awarded its NYS Women Business Enterprise Certification by the Empire State Development Corp. Michelle's eponymous law firm is one of the largest women-owned law firms, by revenue, in the State.

Michelle is admitted to practice in New York State and the United States District Court for the Southern District of New York. She received a Bachelor of Arts in Political Science in 1989 from Union College and a Juris Doctor in 1992 from Brooklyn Law School. She began her legal career at Cullen & Dykman.



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