



Operational Bulletin 84-4 (November 13, 1984)

***Major Capital Improvements / Substantial
Rehabilitation / Increased Services and Equipment***

This Operational Bulletin relates to the processing of rent increases applications filed by landlords based upon building-wide major capital improvements, substantial rehabilitation and increased services and new equipment pursuant to the provisions of Section 33.1 (9NYCRR 2202.3a and 9NYCRR 2102.3) of the Rent and Eviction Regulations, Section 34.1 (NYCRR 2502.4) of the Tenant Protection Regulations and Sections 41 and 20C(1) of the Rent Stabilization Code.

The District Rent Administrator shall grant a rent adjustment pursuant to appropriate regulations if it is determined that:

- 1) a) The landlord and tenant by mutual voluntary agreement, subject to approval by the Division, agree to a substantial increase of dwelling space or an increase in the services, new furniture, new furnishings or new equipment provided in the housing accommodations; which agreement may be established by prescribed application form or by corroborative proof of such earlier agreement.
- b) There has been an increase in the rental value of the housing accommodations as a result of a substantial rehabilitation of the building or housing accommodations therein which materially adds to the value of the property or appreciably prolongs its life, excluding ordinary repairs, maintenance and replacements; and that the legal regulated rent has not been adjusted prior to the application based in whole or part upon the grounds set forth in the application; or
- c) There has been a major capital improvement required for the operation, preservation or maintenance of the structure; and that the legal regulated rent has not been adjusted prior to the application based in whole or part upon the grounds set forth in the application.
- 2) The cost of such work has been adequately substantiated by submission of copies of contracts, invoices, cancelled checks, and other pertinent documents which might be required; and
- 3) That all other requirements for the granting of such rent increases have been met.

The District Rent Administrator shall determine:

- a) That an installation constitutes a major capital improvement if it is (1) building-wide, (2) deemed depreciable under the Internal Revenue Code, (3) structural in nature, (4) an improvement to the building or to the building stock, (5) and required for the operation, preservation or maintenance of the structure.

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The original document which contains signatures of authorization is on file at DHCR's Office of Rent Administration.



- b) That an installation constitutes a substantial rehabilitation of a building or housing accommodation if it will materially add to the value of the property or appreciably prolong its life, exclusive of ordinary repairs, maintenance, and replacements.
- c) That there has been a substantial increase of dwelling space or an increase in services, new furniture, new furnishings, or new equipment provided to the housing accommodation on written consent of the tenant (in occupancy). However, the landlord shall be entitled to collect the increase for new equipment when installed subject to the approval of the District Rent Administrator. Increases for improvements or new equipment in vacant apartments do not require prior approval by the District Rent Administrator, but may be challenged or objected to by a tenant at any time after occupancy.

Computation of Rent Adjustment

A) 60 Month Period of Amortization (Building-Wide)

The rent adjustment granted by the District Rent Administrator applicable to rent stabilized and rent controlled apartments shall be computed based upon a 5 year (60 months) period of amortization of the verified reasonable cost of the major capital improvement(s) or substantial rehabilitation.

B) 40 Month Period of Amortization (Apartment only)

The rent adjustment granted by the District Rent Administrator applicable to rent stabilized and rent controlled apartments shall be computed based upon a 40 month period of amortization of the verified reasonable cost, including cost of installation, for an increase in the services, new furniture, new furnishings, new equipment or improvements provided to the housing accommodation.

*Limitation on Amount of Rent
Increase Collectible in a 12 month period*

In order to carry out the mandate of the Statute, Regulations, and Code against unreasonably high rent increases, the District Rent Administrator shall limit the amount of building-wide rent increases based upon major capital improvement(s) and substantial rehabilitation *to be collected* in any 12 month period commencing on the effective date of the rent increase to 15% of the rent. In such cases as the District Rent Administrator deems appropriate, the 15% limitation may be waived.

In a case where the appropriate rent increase is determined to be an amount greater than 15% of the rent, the District Rent Administrator shall order the owner to collect 15% of the rent in the first 12 month period, and defer collection of the balance to subsequent 12 month periods depending on the amount of the rent increase granted.

In rent stabilized apartments in New York City, as required by Section 40 of the Rent Stabilization Code, major capital improvement increases are retroactive to 30 days after the completion of the filing of the application. Any arrears which accrued as a result of the issuance of an order after the 30 day effective period, shall be spread forward in future years so as not to exceed the 15% limitation in any 12 month period.

Lease renewals which include the major capital improvement increase shall be based upon the total increase granted, exclusive of arrears.

However, such lease agreement may contain language which provides that in addition to the rent required in the lease the tenant shall pay any arrears not to exceed 15% in any 12 month period and when such arrears have been repaid, the rent reserved in the lease shall be the only collectible rent. In the event that a vacancy occurs prior to the full collection of the major capital improvement increase, the new tenant shall pay the full amount of the increase in addition to any vacancy or guideline increase ordered by the New York City Rent Guidelines Board.

Installation of New Prime Windows

The installation of new prime windows (not just the addition of storm windows), building-wide, constitutes a major capital improvement pursuant to appropriate regulations warranting a rent increase. In cases where the old windows were more than 25 years old, the District Rent Administrator shall grant a rent increase based upon the full substantiated cost of the new windows.

In those cases where the old windows were between 15 and 25 years old, the District Rent Administrator may grant a rent increase based upon the full substantiated cost of the new windows if the District Rent Administrator determines that the replacement windows were necessary; or, regardless of the age of the windows, the District Rent Administrator shall grant a rent increase based on 50% of the substantiated cost of the new windows if the replacements were for energy conservation purposes.

Cosmetic Improvements

The District Rent Administrator shall allow the reasonable substantiated cost of a cosmetic improvement in the computation of a rent increase based upon a major capital improvement only if the cosmetic improvement was done within 6 months and was directly related to the major capital improvement included in the owner's application. For example, if an owner installs new mailboxes in the inner lobby and a new intercom system in the vestibule, then the District Rent Administrator shall allow the substantiated cost of painting and plastering the inner lobby and vestibule provided that the cost of such work was included in the owner's application. As seen from this example, *the major capital improvement must be completed prior to or contemporaneous with the commencement of the work for the cosmetic improvements.*

The cosmetic improvement must:

- a) Improve, restore or preserve the quality of the structure;
- b) Represent an expenditure equal to at least 10% of the total operating and maintenance expenses for the most recent full calendar year or the most recent fiscal year or any 12 consecutive months ending not more than 90 days prior to the filing of the application; and
- c) Must have been completed within 6 months of the completion of the major capital improvement.