SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RICHMOND

---x

KENILWORTH HOLDINGS, LLC, 21-45 23RD ST. LLC, 39-12 62ND ST. LLC, 42-59 BOWNE ST. LLC, 1369 COLLEGE LLC, 593 PARK PLACE MANAGEMENT INC., 43RD STREET ASSOCIATES LLC,

Petitioners-Plaintiffs,

-against –

NEW YORK CITY RENT GUIDELINES BOARD,

Respondent-Defendant.

---x

NOTICE OF MOTION TO INTERVENE

Index No. 85199/2026

(Hon. Ralph J. Porzio)

PLEASE TAKE NOTICE, that upon the annexed affirmation of James B. Fishman, attorney for the Proposed Intervenors, dated August 14, 2026, the affidavit of the Proposed Intervenor Elisa Blynn, sworn to on August 13, 2026, the affidavit of the Proposed Intervenor Magali R. Rivera Ubidia, sworn to on August 12, 2026, the affidavit of the Proposed Intervenor Raymuda Vazquez, sworn to on August 12, 2026, the affidavit of the Proposed Intervenor Masseil Santos Mota, sworn to on August 13, 2026, the affidavit of the Proposed Intervenor Abundio Gonzalez sworn to on August 13, 2026, the affidavit of Susan Sussman, President of Proposed Intervenor Central Park Gardens Tenants' Association, Inc., sworn to on August 13, 2026, the affidavit of Elsia Vasquez, Executive Director of the Proposed Intervenor P.A.'L.A.N.T.E. Harlem, dated August 13, 2026, the affidavit of Edwin Torres, President of the Proposed Intervenor Hamilton Heights Tenant Association, dated August 13, 2026, the affidavit of Timothy Collins, Former Executive Director of the New York City Rent Guidelines Board dated August 14, 2026, the affidavit of Andy Friedman dated August 14, 2026, the Proposed Intervenors' within Verified Answer to the Petition, the within memorandum of law in support of the instant motion, the within memorandum of law in opposition to the Petition and upon all the proceedings heretofore had herein, a motion will be made to this Court, before the Honorable

Ralph J. Porzio, Supreme Court of the State of New York, in and for the County of Richmond, IAS Part 10, Room 430 at the County Courthouse located at 26 Central Avenue, Staten Island, NY 12401, on the 21st day of August 2026 at 2:45 in the afternoon or as soon thereafter as counsel may be heard, for an Order pursuant to CPLR §7802 (d) and/or §1013 granting the motion of the proposed intervenors to intervene in this action as Respondents and to file the annexed proposed opposition to Petitioner-Plaintiffs' order to show cause and annexed proposed verified answer to Petitioners-Plaintiffs' petition herein and granting such other and further relief as the Court may deem just and proper.

Dated: August 14, 2026
New York, NY

Yours, etc.

James B. Fishman

JAMES B. FISHMAN
Fishman Law Group, PLLC
950 Third Avenue, Suite 2600
New York, NY 10022
212 897-58740
jfishman@fishmanlaw.nyc

SAMUEL J. HIMMELSTEIN
CAITRIONA FOX
VANESSA VECCHIARELLO
Himmelstein, Gribben & Joseph, LLP
15 Maiden Lane, 17th Floor
New York, NY 10038
212 349-3000
shimmelstein@hmgdj.com

Attorneys for Proposed Intervenors

TO:

Attorneys for Plaintiffs-Petitioners

ROSENBERG & ESTIS, P.C.
Gary Rosenberg Deborah Riegel Zachary Rothken
11 Grand Central East
New York, NY 10017
212-867-6000
grosenberg@rosenbergestis.com

driegel@rosenbergestis.com
zrothken@rosenbergestis.com

DECHERT LLP
Randy Mastro
Tamer Mallat
Three Bryant Park
1095 Avenue of the Americas
New York, NY 10036
Telephone: 212-698-3500
randy.mastro@dechert.com
tamer.mallat@dechert.com

Attorneys for Respondents-Defendants.
STEVEN BANKS
Corporation Counsel of the City of the New York
100 Church Street, Room 5-178
New York, New York 100071
reiss@law.nyc.gov
(212)-356-2116

Attorneys for Proposed Intervenors
New York State Tenants And Neighbors and
Metropolitan Council On Housing

THE LEGAL AID SOCIETY
Edward Josephson, Director, Law Reform Unit
Pavita Krishnaswamy, Supervising Attorney
Ellen Davidson, Staff Attorney
Robert Desir, Staff Attorney
49 Thomas Street, 5th Floor
New York, NY 10013 Phone: (646) 581-7506
rrdesir@legal-aid.org

LEGAL SERVICES NYC

Carolyn Norton
Melissa Banks
Jeremiah Schlottman
40 Worth Street, 6th Floor
New York, NY 10013 646-442-3575
norton@lsnyc.org

All Via NYSCEF

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RICHMOND
____x
KENILWORTH HOLDINGS, LLC, 21-45 23RD ST. LLC, 39-12 62ND ST. LLC, 42-59 BOWNE ST. LLC, 1369 COLLEGE LLC, 593 PARK PLACE MANAGEMENT INC., 43RD STREET ASSOCIATES LLC,

Petitioners-Plaintiffs,

-against –

NEW YORK CITY RENT GUIDELINES BOARD,

Respondent-Defendant.

Index No. 85199/2026

(Hon. Ralph J. Porzio)
____X

AFFIRMATION OF JAMES B. FISHMAN

JAMES B. FISHMAN, an attorney duly admitted to practice before the Courts of the State of New York, affirms, pursuant to CPLR §2106 the truth of the following under penalty of perjury, which may include a fine or imprisonment, that the foregoing is true and understands that this document will be filed in an action in a court of law.

1. I am the principal of Fishman Law Group, PLLC, attorney for the Proposed Intervenors Elisa Blynn, Masseil Santos Mota, Magali R. Rivera Ubidia, Raymuda Vazquez and Abundio Gonzalez (the "Proposed Individual Intervenors") Proposed Tenant Association Intervenors Central Park Gardens Tenants' Association, Inc., P.A.'L.A.N.T.E. Harlem and the Hamilton Heights Tenant Association (the "Proposed Tenant Association Intervenors"), (collectively, "The Proposed Intervenors).

2. This affirmation, together with the affidavits of each of the Proposed Intervenors, together with the within memorandum of law, is offered in support of the motion of

the Proposed Intervenors for an Order pursuant to CPLR §7802 (d) and/or §1013 granting the motion of the Proposed Intervenors to intervene in this action as Respondents and to file the annexed proposed opposition to Petitioner-Plaintiffs' order to show cause and the annexed proposed verified answer to Petitioners-Plaintiffs' petition herein and granting such other and further relief as the Court may deem just and proper.

3. Attached hereto, and in further support of the motion, is the August 13, 2026 affirmation of Timothy L. Collins, the former Executive Director of the New York City Rent Guidelines Board ("RGB") together with his April 22, 2026 Submission to the RGB in connection with Rent Guidelines Board Order No. 58, attached thereto as Exhibit A.

4. Also attached hereto, and in further support of the motion is the August 13, 2026 affidavit of Andrew Friedman, a Certified Data Scientist, who performed an analysis of the data provided to and considered by the RGB in connection with Order No. 58.

WHEREFORE, it is respectfully requested that the Court issue an order granting the motion of the Proposed Intervenors to intervene in this action, dismissing the Petition, and denying all relief to Petitioners-Plaintiffs and granting such other relief as may be just.

Dated: New York, NY
August 14, 2026

James B. Fishman

JAMES B. FISHMAN

PROPOSED ANSWER TO PETITION

COLLINS AFFIRMATION

AND RGB SUBMISSION

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RICHMOND
--X

Index No.: **85199/2026**

Kenilworth Holdings LLC, 21-45 23rd St. LLC, 39-12 62nd St. LLC, 42-59 Bowne St. LLC, 1369 College LLC, 593 Park Place Management Inc., 43rd Street Associates LLC,

Petitioners-Plaintiffs,

Affirmation in Support of Motion to Intervene and in Opposition

-against-

New York City Rent Guidelines Board,

Respondent-Defendant.
--X

Timothy Collins, affirms the following pursuant to CPLR 2106:

1. I affirm this 13th day of August, 2026, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, except as to matters alleged on information and belief and as to those matters I believe them to be true, and I understand that this document may be filed in an action or proceeding in a court of law.
2. I make this affirmation in support of the instant motion which seeks intervention on behalf of tenant organizations P.A.'L.A.N.T.E. Harlem, Central Park Gardens Tenants' Association, Inc., Hamilton Heights Tenants Association and individuals, Raymunda Vazquez, Massiel Santos Mota, Magali R. Rivera Ubidia, Abundio Gonzalez and Elisa Blynn in answer to the complaint and opposition to the petition.
3. The sum and substance of this affirmation will show that, on average, not only have owners achieved very large increases in net operating incomes over time after adjusting for inflation (as the RGB staff has reported), but even if all non-RGB related increases are

removed from the analysis, RGB increases and vacancy allowances alone have been sufficient to "keep owners whole" by covering the cost of all cost increases and more than preserving NOI from the effects of inflation.

4. I served as executive director and counsel to the New York City Rent Guidelines Board ("RGB") from 1988 through 1994. I authored *An Introduction to the Rent Guidelines Board and the Rent Stabilization System*, which has been updated by RGB staff (most recently in November of 2025) and is available on the RGB website at: An Introduction to the NYC Rent Guidelines Board and the Rent Stabilization System – Rent Guidelines Board. That reference work is cited eleven times in the Petition (Petition at footnotes 26, 27, 29, 32-36, 41, 42 and 255, and accompanying text).

5. The accompanying affirmation of Andy Friedman speaks to the quality, consistency and reliability of RGB research, with an additional focus on longitudinal data. (Friedman Affirm ¶7-27) The Friedman affirmation further addresses the deployment of misleading and manipulated data by the Petitioners to baselessly attack the RGB data. (Friedman Affirm at ¶28-40) Finally, the Friedman affirmation refutes the Petitioners' various demands to modify the RGB' consistent and proper reporting of operating cost profiles based upon the proportion of rent stabilized units in a set of buildings (Friedman Affirm at ¶41-46); varying levels of debt service (Friedman Affirm at ¶47-53); and sensitivity to the economic implications of statutory changes under the Housing Stability and Tenant Protection Act of 2019 (Friedman Affirm at ¶54-55).

6. Here I will discuss a special report (Exhibit A) which analyzes the long-term relationship between operating and maintenance costs ("O&M") and building incomes, and the RGB's function in stabilizing that relationship.

7. The difference between O&M and building income is referenced as net operating income or "NOI". The changing ratio of O&M to building income, along with the inflation adjusted value of NOI, are central indicators of the financial health and sustainability of the housing stock.

8. The primary data set from which most of the analysis is drawn is referred to as the Annualized Commensurate Adjustment table (page 13 of Exhibit A). For the last several years the "ACA" table has been updated annually by the RGB staff to ensure it is consistent with their databases.

9. This analysis addresses one major point of concern and touches upon some caveats about the changing nature of the housing stock and how that might affect the reliability of operating cost profiles.

10. The RGB staff independently assesses growth of NOI over time. In the most recent Income and Expense Report NOI was reported as being 56.6% higher (in constant 2024 dollars), than in 1990. (2026 I&E Report 2026-IE-Study-Final.pdf at page 12) That figure includes all sources of income - deregulated apartments, major capital improvement increases and individual apartment improvement rent increases.

11. In order to focus more closely on the impact of RGB guidelines (and vacancy allowances which were, until 1997 established by the RGB), for over 12 years I have presented the ACA analysis which compares actual expense data with the rent increases authorized by the RGB and vacancy allowances (a weighted average taking into account the prevalence of one and two-year lease renewals and turnover rates). The full details of this analysis are included in Exhibit A - SUBMISSION TO THE RENT GUIDELINES BOARD IN CONNECTION WITH RGB ORDER NUMBER 58.

12. The central finding of the report is summarized at page 5:

> As for the substantive impact of the RGB orders over time, based on current data it is clear that had the Board authorized cumulative rent increases of 240.65% over the thirty-five year period since 1990, owners would have been kept "whole" for both operating cost increases and the effects of inflation on net incomes, and rent stabilized tenants would have been protected against excessive and unwarranted rent increases. (See ACA Table, 2nd to last column "Necessary Rent Increases")
>
> In fact, the Board authorized rent increases of 247.32% over this period. (See ACA Table, last column - "Impact of RGB Rent Index, Cumulative") (Note that these figures eliminate the base of 100 used in the table, hence the difference between 340.65 and 240.65% as well as 347.32 and 247.32%.)

13. The analysis begins in 1990 because that was the first year the RGB obtained access to income and expense data from the Department of Finance.

14. There are a few startling revelations contained in the table:

- In 2008 owners would have needed cumulative rent increases of 107.75% to be kept whole (again to cover operating cost increases and to protect NOI from inflation). In fact, they were given 108.36% in cumulative increases. In other words, as of 2008 the RGB had perfectly calibrated its rent adjustments to cover costs and protect real net income.

- By authorizing a series of sharp rent increases during the Great Recession when rents were generally flat or falling nationwide (see RGB Orders 40-45 board orders chart 57) the excess between what was needed to keep owners whole and what was authorized by the RGB grew from less than one percent to over 39% (by 2015 the commensurate figure was 143.14% and cumulative approved increases reached 182.29%).

- That excess persisted through 2020 when the gap reached over 40%. (by 2020 the commensurate figure was 171.49% and cumulative approved increases reached 211.53%).

15. It took over ten years for the RGB to begin to restore the balance and some of the excess persists. In short, what happened here is that during one of the most difficult economic

periods in the last century, billions of dollars in excessive rent increases were extracted from rent stabilized tenants and funneled to landlords.

16. Again, with the exception of post 1997 vacancy allowances which were fixed by statute, those increases did not include statutory increases such as major capital improvement increases or increases following vacancy deregulation.

17. Those excessive rent increases along with the statutory increases created what was perhaps the city's greatest housing affordability crisis since the Great Depression.

18. According to successive triennial HVS reports (Housing Vacancy Survey), in 2008 rent stabilized households spent an average of 31% of household income on gross rent. By 2011 average rent burdens had risen to 35%. In 2014, 2017 and 2021 average rent burdens reached or exceeded 36% - all record levels. See intro_update-11-2025 final page 66, Table III. These hardships were the direct result of the RGB's past excesses. During this same period homelessness more than doubled. 2026-IA.pdf page 22. Only now are we again approaching the 30% median rent burden figure.

19. Past rent adjustments are baked into current rent levels and are therefore a legitimate – indeed necessary and material – consideration in the RGB's deliberations.

20. Nowhere do the Petitioners address these long term, substantive developments. This appears to be a deliberate and material omission in their pleadings.

21. There are two further observations mentioned in the 2026 submission worthy of note here.

22. As set forth at page 4 of the submission (Exhibit A):

> …. in order to better refine and clarify conditions within the rental housing industry and to generate more public confidence in the rent setting process, the Board must take a closer look at two variables:
>
> - the relative aging of the housing stock and the normal effect this has on operating cost to rent ratios; and

- the general profitability of stabilized buildings as an investment as determined by relative changes in sales prices over the long term, including comparisons with rising values of multi-family property in unregulated urban housing markets.

23. With respect to aging, as the submission explains, although no precise data is available, it is clear that the average age of the city's stabilized stock has increased over the nearly six decades of rent stabilization. One consequence of aging in an unregulated market is rising operating cost to rent ratios over time. Older buildings simply cost more to maintain.

24. Petitioners sound alarms over projected increases in O&M to rent ratios over time. (Petition at ¶140) But such changes are a function of age and normal market factors and modest increases in the ratio over time should not be characterized by landlords as a product of unreasonably low guidelines. Indeed, the O&M to rent ratio has been virtually flat throughout the period of rent stabilization while it should have risen modestly over time. (See 2026 Apartment ES Table 7, page 27, column 3)

25. As to the issue of sales prices, the real return on investment in rent stabilized housing is a function not simply of annual NOI but appreciation in value and growth in equity over time. The RGB has never thoroughly examined this issue, and the small group of buildings represented by Petitioners is woefully inadequate to begin to address this. Without such information, it is impossible to assess the impact of the full regulatory environment on investment returns.

26. Notably, that regulatory environment includes not only limits on rents but also constraints on supply that place upward pressure on rents and increase the value of existing structures. New York City does not have a normal housing market (and really hasn't had a normal

market for well over a century). For that reason both the state and city have supported various forms rent regulation in 92 of the last 106 years.[1]

The RGB Properly Used Department of Finance Data

27. Although addressed in the accompanying affirmation of Andy Friedman (at ¶28-40), it is important to reiterate that the Petitioners' objections to the RGB's use of Department of Finance expense data (Petition at ¶303 through ¶321) are misleading and (by way of selective disclosure) manipulative.

28. Petitioners claim that "the Department of Finance cost-capping methodology locks recognized expenses up to 64.0% of modeled income for outer-borough regulated building types from fiscal year 2024 forward, regardless of actual costs". (Petition at ¶321) This is a startling assertion which, at first glance, appears to have some depth.

29. The claim fails to note one critical qualifier: The cap of expenses for assessment purposes (the "Max Expense Ratio Cap") does not include property taxes as an expense item. See Property Assessments - DOF definition of "Operating Expenses" under "Assessment Definitions" ("All expenses related to operating a property except the principal and interest of a loan or mortgage and business expenses of the owner. *Property taxes are omitted for assessment purposes*." emphasis added.)

30. Eliminating property taxes is no small adjustment. Property taxes make up 27.5% of all costs for this class (pre-1974 buildings) – see 2026-IE-Study-Final.pdf page 28, table 6. If property taxes were included in the operating expense base, the 64% cap rises to over 88% - meaning that the DOF would only be cutting off buildings where operating costs

[1] Timothy L. Collins, N.Y.C. Rent Guidelines Board, An Introduction to the New York City Rent Guidelines Board and the Rent Stabilization System 27 (2025), https://rentguidelinesboard.cityofnewyork.us/wp content/uploads/2025/11/Intro_2025.pdf/. pages 19-39.

exceed 88% of rent. This is a far less significant cut-off point and is clearly designed to eliminate fraud, mistakes and statistical outliers. While the idea of a cap on recognizing expenses only up to 64% of income seems startling, a cap on expenses effectively beyond 88% is much ado about nothing.

31. The Petitioners' data on this issue is derived from a submission by the Furman Center to the RGB on March 26, 2026. The Furman Center's own comparative chart before the implementation of the Max Expense Ratio Cap shows that properties in this category were almost non-existent. Compare charts at pages 16 (2019) and 17 (2025) of the Furman Submission to the RGB: Microsoft PowerPoint - RGB Testimony_ Rent Stabilization - 3_26_2026_HR_v2 (1).pptx The consequence was only a slight uptick of buildings reporting a 64% ratio of operating costs to rental income where the cap was applied. (Id. page 17).

32. Thus, when property taxes are removed from expenses (reflected in both charts), O&M to income ratios drop precipitously. Indeed, for the most recent group the Furman Center posts a mean O&M to Rent Ratio of 45.8% and a median ratio of 45.7% (again for pre-74 units) Microsoft PowerPoint - RGB Testimony_ Rent Stabilization - 3_26_2026_HR_v2 (1).pptx (page 17) – ratios well below the averages reported by the RGB (which include property taxes on the expense side). See 2026-IE-Study-Final.pdf page 20.

33. The RGB Income and Expense data does not eliminate property taxes for the purpose of analyzing O&M costs or O&M to rent ratios.

34. In sum, the expense cap raised as a major data objection by Petitioners is of little or no significance.

35. The final major data objection is equally selective and infirm. The Petitioners complain that "the Board … applies a further 3.07% downward reduction to figures already capped — a double compression that stopped tracking rising costs during the very period costs were rising most acutely." (Petition at ¶321). This adjustment is actually a reduction of the adjustment which preceded it: an 8% downward adjustment based on actual audit data gathered by the Department of Finance to ensure the expense figures used by the RGB were accurate. See 2026-IE-Study-Final.pdf page 9.

36. The explanation for the adjustment was conspicuously omitted by the Petitioners. The adjustment was long thought necessary to ensure owners seeking tax avoidance did not distort reliable operating cost profiles. See Rent Stabilized Housing in NYC – Summary of RGB Research 1992 book.pdf pages 39-44.

37. In short, the RGB gathered and relied upon reliable expense information, and employed conservative adjustments to data known to contain errors and outliers (based on previous audits). While Petitioners may disagree with data and analysis which doesn't serve their agenda, the RGB can hardly be said to have acted irrationally in managing this information. Indeed, had the data problems underlying the need for this adjustment been ignored, tenant interests may have cried foul and credibly charged the RGB with acting irrationally.

38. For all of the foregoing reasons, your affirmant respectfully requests that the instant motion for intervention be granted and that the Petition be dismissed.

Dated: New York, New York
August 13, 2026

Tim Collins

Timothy L. Collins

Exhibit A

SUBMISSION TO THE RENT GUIDELINES BOARD IN CONNECTION WITH RGB ORDER NUMBER 58

Timothy L. Collins

April 22, 2026

Introduction

Thank you for giving me this opportunity to address the Board and allow me to offer a special welcome to all the new appointees: Chair, Chantella Mitchell and members, Lauren Melodia, Brandon Mancilla, Sina Sinai, Maksim Wynn and Sagar Sharma.

At the outset – and as I have done for many years – I commend the Board's staff for outstanding work on the 2026 reports. You are fortunate to have a very smart and seasoned team. They produce increasingly informative reports which have become primary sources for housing analysts and policy makers in New York and around the country. Most importantly, the RGB staff has long been fiercely dedicated to following the facts, wherever they may lead, and to let the Board set policy.

As some of you know I served as the Board's counsel and executive director from 1987 to 1994 and periodically worked as a consultant on various projects until 2001. During the latter period I drafted the first edition of *An Introduction to the Rent Guidelines Board and the Rent Stabilization System* which has since been updated by the staff and is posted on the Board's website.

After a few years away, I began appearing before the board as an advocate for reform – primarily to encourage the Board to become more active in policy issues beyond rent setting. In those years Albany was moving towards gradual deregulation. High rent vacancy deregulation was causing tens of thousands of affordable apartments to be lost each year and incentivizing landlords to aggressively seek evictions. At the time, local control or "home rule" offered some stability.

At an appearance on June 1, 2006, I was invited by tenant representatives to be heard on that issue. After being seated at the witness table and ready to speak, the Chair at the time used a parliamentary maneuver to stop my testimony. When I objected to what seemed like an undemocratic squelching of debate and began to step away, the Chair said "get the f__ out!". True story - see RGB Boss Explodes Over Home-Rule Resolution - The Tenant I am happy to say that I did receive an apology from that chair and in recent years, my relations with successive chairs have been much more cordial.

In the years following that incident, state-imposed vacancy deregulation continued and the Board sought to hasten the end of rent regulation by engaging in what I described as a "march to the market". The consequences were disastrous.

Vacancy deregulation, coupled with grossly excessive rent guidelines in the 2008-2014 period sent rent burdens skyrocketing to unprecedented levels. According to the City's periodic Housing and Vacancy Survey ("HVS") in 2008 rent stabilized households spent an average of 31% of household income on gross rent. By 2011 average rent burdens had risen to 35%. In 2014, 2017 and 2021 average rent burdens reached or exceeded 36%. It literally took eight years of tapping the breaks to get those rent burdens closer to 30% of income – a long-recognized standard for affordability. We do not know where those burdens will be when the next HVS report arrives next year. What we do know is that among the million rent stabilized households, more than one in four are severely rent burdened, spending over 50% of their incomes on rent.

In those earlier years – at the heart of the Great Recession and prior to a change in Board membership under Mayor de Blasio – I began vigorously calling for rent freezes. I was, frankly, outraged by the direction the Board had taken.

As always, and throughout this period landlords were claiming that they weren't making enough money to cover their expenses – that they were constantly being short changed by the Board's guidelines.

In the interest of testing that claim with precise data I compared actual changes in operating costs, net operating incomes and the rent increases authorized by the Board. As explained in greater detail below, on the cost side I used operating cost changes derived from Department of Finance tax filing data. I also adjusted net operating income for inflation. On the rent side I used the Board's own rent index which includes composite figures for one-and-two year guidelines along with vacancy allowances (until discontinued in 2019).

Utilizing an excel spreadsheet, I was able to track these changes over time. In recent years, the RGB staff updated the table and made a few technical adjustments to ensure accuracy. I have described the table as the Annualized Commensurate Analysis or "ACA" table.

What follows is an update of prior year's testimony focusing on the ACA table which is included herewith at the last page.

The ACA Table

The ACA table describes the rent increases needed to ensure owners have been fully compensated for operating cost increases since 1990 (the first year the RGB received income and expense data from the Department of Finance). Factored into those calculations are adjustments which also ensure owners' net operating income ("NOI") is protected against the effects of inflation. This is a highly conservative (owner friendly) approach to commensurate rent adjustments over time.

Reviewing the rent adjustments produced by the various commensurate formulas in this year's (2026) PIOC report (at page 11) makes clear that any approach which seeks to preserve NOI against inflation generally results in the highest rent increases. Viewed in isolation, this year's PIOC produces a benchmark "NOI adjusted" commensurate adjustment of 4.5% for one-year leases and an 8.5% increase for two-year leases. These figures illustrate the startlingly pro-owner nature of this approach to guideline increases. As I will explain, over time, the Board has cumulatively exceeded rent increases suggested by this pro-landlord formula.

The ACA table compares increases in operating costs and the effects of inflation on NOI with the guidelines adopted by the RGB, including vacancy allowances (promulgated each year by the RGB until 1997 and by statutory formula until 2019 when the allowances were eliminated). The comparison of cost changes with the RGB rent index is rendered even more conservative by cutting out recognition of rising owner income through statutory deregulation, major capital improvement increases, individual apartment increases and other sources of increasing income.

The purpose is to determine if the guidelines adopted by the RGB, along with previously permitted vacancy allowances, have been sufficient to "keep owners whole" in terms of preserving the inflation adjusted value of net operating income (all other things being equal). It was purposefully constructed to eliminate the influence of statutory changes on rent levels and focus on the impact of the decisions of the Board alone.

Notably, while the RGB's 2026 income and expense study shows a 56.6% increase in NOI from 1990 to 2024 after adjusting for inflation (2026 I&E Report at page 12), the growth in NOI through annual guideline and vacancy allowance increases alone (as used in the ACA table) is much lower - but still significantly higher than needed to keep owners whole.

Summary of Findings

Research Concerns

As I have urged in prior submissions, in order to better refine and clarify conditions within the rental housing industry and to generate more public confidence in the rent setting process, the Board must take a closer look at two variables:

1) the relative aging of the housing stock and the normal effect this has on operating cost to rent ratios; and

2) the general profitability of stabilized buildings as an investment as determined by relative changes in sales prices over the long term, including comparisons with rising values of multi-family property in unregulated urban housing markets.

Both concerns remain.

It appears that the rent stabilized housing stock is, on average, significantly older than it was when income and expense data was first gathered in 1990. There is evidence from a variety of studies and sources to show that older housing generally has higher operating cost ratios. In this year's I&E Study (page 20), the median citywide adjusted operating cost to income ratio was reported at 61.7% while the ratio for pre-74 buildings alone was 67.8% - a full six percent difference. The gap between pre-74 and post-73 buildings is undoubtedly even greater. Older buildings simply cost more to operate.

Given the increased average age of the stabilized stock one would expect the citywide ratio to rise over time. Yet the citywide average of approximately 62% is precisely where the ratio stood at the outset of stabilization – 57 years ago - suggesting a level of long-term overcompensation.

With respect to sales price data, it is important to note that the sales prices tracked in the annual mortgage survey are not sufficiently representative of the rent stabilized stock to draw any precise or reliable conclusions. A representative sample of rent stabilized buildings should be selected and analyzed for changing sales prices (of the same building) over many decades. The mortgage survey compares sales prices in buildings that happen to be sold or refinanced in a given year, with a wholly different sample that happened to be sold or refinanced in the next year. While interesting, the table tracking sales prices in this year's Mortgage Survey (at page11) cannot be relied upon as a reliable measure of market changes. It more likely reflects changes in the types of buildings being sold.

Notwithstanding the lack of precise data, it is safe to say that sales prices have declined since the adoption of the Housing Protection and Stability Act of 2019 ("HSTPA"). That correction was actually long overdue. Excessive guidelines and vacancy deregulation policies in effect for many years had created a speculative bubble – a bubble that produced exceedingly harsh rent burdens.

One of the primary legislative goals of the HSTPA was to address "severe disruption of the rental housing market" resulting from the "deregulation of housing accommodations upon vacancy" which resulted in "speculative and profiteering practices and has brought about the loss of vital and irreplaceable affordable housing for working persons and families." HSTPA Part D, Section 1. The decline in sales prices since 2019 provides evidence that the legislative goal to arrest and reverse profiteering has been successful.

Substantive Impact of RGB Orders

As for the substantive impact of the RGB orders over time, **based on current data it is clear that <u>had</u> the Board authorized cumulative rent increases of 240.65% over the thirty five year period since 1990, owners would have been kept "whole" for both operating cost increases and the effects of inflation on net incomes, and rent stabilized tenants would have been protected against excessive and unwarranted rent increases. (See ACA Table, 2nd to last column "Necessary Rent Increases")**

In fact, the Board authorized rent increases of 247.32% over this period. (See ACA Table, last column - "Impact of RGB Rent Index, Cumulative") (Note that these figures eliminate the base of 100 used in the table, hence the difference between 340.65 and 240.65% as well as 347.32 and 247.32%.)

While rent guidelines have been lower over the past ten years, they have failed to fully ameliorate excesses accumulated from prior years, contributing to a continuation of excessive rent burdens, displacement and homelessness.

Long term windfalls for the owners of stabilized buildings overwhelm the significance of any short term economic changes facing owners this year, including cost increases of

5.3% reported in the annual price index of operating costs.

The Mandate of the RGB

When considered as a whole, the Declaration of Emergency and mandated considerations compel the Board to attempt to construct or to simulate normal market rents where abnormal conditions prevail. The Board's job is to even the playing field.

This is no easy task – but the Board has plenty of tools at hand.

Certainly, a review of changes in operating costs is essential. As costs go up, so generally, do rents. The RGB has recognized that the two major instruments available for measuring costs have serious limitations. The first of these – the income and expense (I&E) data available from the Department of Finance – suffers from a lag in reporting of over one year.[1] The second instrument, the annual price index of operating costs ("PIOC"), is a measure of hypothetical market basket of goods which still continues to overstate actual operating cost changes (as evidenced by the more reliable I&E data).[2]

As the RGB staff reported in the 2026 I&E Report (page 15):

> The PIOC grew by 5.7% from 2023 to 2024, the same period as a 4.2% increase in I&E costs, a 1.5 percentage point difference. From 1990-91 to 2023-24, overall nominal costs measured in the PIOC increased at a greater rate, 334.2%, compared to RPIE data, which grew 267.1% over this period.

Moreover, because it is viewed in isolation, without current data on owner income, the PIOC has chronically presented a misleading portrait of the overall health of the real estate industry.

A review of cost changes is incomplete without a review of changes in rents. For that we have the income data from the Department of Finance (which again suffers from a time

[1] Some criticism has also been raised that the I&E data does not cover smaller buildings (with less than 11 units). That is a valid concern regarding cross-sectional findings but probably of limited or no impact when examining longitudinal changes which we are concerned with here. There is little reason to assume that the rate of cost changes in small vs large buildings is significantly different in any given year.

[2] See *Comparing the PIOC and the RGB Income and Expense Study,* Hudson, 3/21/14. "In the second half [of the period from 1992 – 2012] the estimated rate for the PIOC is 6.2% annually and the I&E is 4.3%."

lag) as well as the RGB's own rent index – a mathematical projection which factors in the prevalence of one and two-year leases, vacancy allowances and the applicable rent guidelines. Unfortunately, the rent index has never been formally used by the RGB to counteract the one-sided picture provided by the PIOC. I have attempted to address that by presenting what owners have needed to be "kept whole" and what the RGB has authorized in actual rent increases.

The O&M to Rent/Income Ratio

The central and clearly the most important product of all the measures presented to the Board is the operating cost to rent or income ratio (the "O&M to rent ratio") and changes in that ratio over time. Other things being equal, if the O&M to rent ratio remains flat owners have been "kept whole" for operating cost changes. If it falls, owners will see a gain in net operating income. If it rises, operating costs will eat up a larger portion of each rent dollar collected. Absent other factors, a stable O&M to rent ratio is an indication that the Board is holding a steady course.[3]

If that course permits **cost push** inflationary factors – like oil, labor or insurance costs – to be recaptured in rent increases, the Board is simulating normal market conditions. But if that course permits the City's exceptional **demand pull** inflationary pressures to force rents up – that is rent increases driven by an abnormal imbalance between supply and demand – then the Board is departing from its mission to establish rents that might otherwise prevail in a normal market, a market where greater housing opportunities exist as measured by higher vacancy rates.

Given the finding of a vacancy rate of 1.41% citywide in the 2023 Housing and Vacancy Survey, there is no question that the City continues to confront a highly pressured housing market.

How the O&M Ratio Has Changed Over the Years

Based on a 1993 RGB staff study, which constructed an estimate of a mean O&M to Rent/Income ratio for the pre-war stock derived from extensive work by George Sternlieb in 1967, the true O&M to Income ratio estimate (Sternlieb combined rent and income)

[3] I again note that, given the aging of the housing stock, holding the O&M to rent ratio flat may be artificially protecting owners from the natural consequences of aging of the housing stock which should produce a gradual rise in the ratio over time.

fell into a range from .65 to .70. The estimated mean ratio for the post-war (1947 or later) stock was .55 based upon contract rents.[4] Given the relative portion of the pre and post war units, the overall O&M to rent ratio at the outset of rent stabilization was assumed to be .62 (conservatively applying the lower of the range [.65] for the pre-war units which now constitute about three quarters of the stabilized stock).

In sum, using the best evidence available (and applying conservative assumptions) we can assume that at the time rent stabilization was first implemented in 1969 the average landlord in New York City was spending about 62 cents of rent and income collected on operating costs, keeping about 38 cents as net operating income (for capital improvements, financing costs and operating profits).

With access to the Department of Finance I&E data we can more reliably gauge how the O&M ratio has changed over the past two decades. In this year's I&E report (page 10), the RGB staff found that the O&M ratio in 2024 was 61.7%. The ratio witnessed a general decline since 2008 when it stood at 64.3%. (Notably these are the "adjusted" ratios, with the 2024 figure using the method described at page 9 of this year's I&E Report.)

In short, notwithstanding the aging of the housing stock as well as the profound pressures of a pandemic related recession (both of which should have caused a natural and significant rise in the O&M to income ratio), the ratio is basically where it was over fifty years ago. This is another powerful indicator that owners have been more than "kept whole" throughout the period of rent stabilization.

Net Operating Income

Looking at the O&M ratio from the income side and considering the factors which fueled owner overcompensation during the recession which began in 2008, when nearly every other investment in the nation was in decline, rent stabilized housing in New York City witnessed a significant increase in net operating income – rising from 35.7% of each rent dollar collected in 2008 to 39.4% in 2014. That rise was clearly fueled by excessive and unjustified RGB approved rent increases - a deliberate "march to the market" at a time when tenants were in dire need of effective protections.

---

[4] These points are summarized in *Introduction to the NYC RGB*, Appendix K, Staff Memo dated May 13, 1999.

Notwithstanding far more reasonable rent adjustments over the past twelve years, net operating income actually continued to rise to 41.8% in 2016 dropping back only to 38.3% as of 2024.

This is clear and unequivocal evidence that owners have continued to do very well – riding on the substantial gains made during the very hard years of the Great Recession and continuing through the economic downturn of 2020/21.

Despite an aging housing stock and declining tenant incomes which should have caused the O&M ratio to rise and net operating incomes to decline during those critical years, the actions of the RGB and the operation of various statutory deregulation provisions sent the ratio sharply down and net operating incomes significantly up. It is therefore completely unsurprising that the RGB staff now reports that owner net operating incomes are 56.6% higher (in constant 2024 dollars), than in 1990. (2026 I&E Report at page 12)

With thirty-four years of data on actual income and expenses, we can answer the question: "What rent increases were necessary to keep owners 'whole' in terms of rising operating costs and the effects of inflation on net operating income?" Using the RGB's rent index, we can compare this answer with what the RGB actually authorized in rent increases.

A Fair Measure of the Impact of RGB Guidelines

Why can't we simply compare rent increases with operating cost increases?

To compare rent increases with operating cost increases is to implicitly suggest that rents should rise at a comparable rate to operating costs. But if operating costs are rising faster than inflation, that approach would cause the net operating income portion of rent to rise at a higher rate than inflation. There is no reason why owner net operating incomes should rise faster than inflation. That approach would result in unwarranted windfall profits.

It is clear that operating costs have risen faster than inflation over the past 35 years (since the RGB first gained access to I&E data). In fact, according to the Board's table 7 (from last year's explanatory statement for Order #57) operating costs have risen 252% ($1,343/$382) since 1990. Over the same period (3/90 to 3/26) the CPI has risen only 157%. In short, operating costs have risen substantially faster than the CPI. Had rent increases been pegged to the rate of change in operating costs alone, owners would have nearly doubled increases to their net operating incomes resulting in a massive and unwarranted windfall. Owners have repeatedly obfuscated this basic economic fact by complaining in several forums – without clarification or justification – that they have been shortchanged by rent adjustments which failed to keep up with operating cost changes.

To find out what kind of RGB increase is needed to keep owners whole, we need to multiply the percentage increase for operating costs by the O&M ratio. The product of that calculation may then be added to the annual CPI multiplied by the NOI portion of rent collections. Thus, if operating costs rose by 5% that figure could be multiplied by the O&M ratio (say 60%) resulting in product of 3% and this is the amount needed to increase rents to cover operating costs while keeping NOI constant in nominal dollars. Then, we could add the product of the CPI times the NOI ratio (e.g. 3% times 40%) to produce the amount needed to adjust NOI for inflation (here 1.2%). Adding the two products gives us the overall rent increase needed to keep owners whole for changes in operating costs and to protect income from inflation. In this example the total would be a 4.2%. This is an annualized version of the RGB staff's commensurate rent formula which I have referred to as an "annualized commensurate increase".

These calculations have been done for each year since 1990. The most recent seven years have been updated and checked by the RGB staff to ensure consistency with RGB generated data points. A table of these calculations is attached on the last page.

Isolating the Effects of the RGB Orders on Rent Increases from Other Income Sources

The utilization of the RGB staff rent index is what is most critical here**.** That index is a projection constructed from the actual RGB guidelines, the prevalence of one and two year leases and the number of vacancies each year. It is as close to a pure reflection of the intended impact of the RGB guidelines on rents as one can get. It ignores changes in income from unregulated and commercial units, and from preferential rents (rents charged below legal maximums).

Doing these calculations results in a 240.65% cumulative increase in the annualized commensurate since 1990 and a 247.32% cumulative increase in the RGB rent index over the same period. (These percentages are obtained by deducting the base of 100 from the bottom figures in each of the two last columns on the ACA Table.)

This means that the increases authorized by the RGB since 1990 (starting in 1991) exceeded the amounts needed to keep owners whole in all respects by over 7% cumulatively.

Again, this figure is predictably less than the 56.6% growth in the inflation adjusted value of net operating income found by the RGB staff. One would expect actual owner income to be rising relative to the increases authorized by the RGB because of the increasing prevalence (until mid 2019) of unregulated "market rate" apartments in the stock and larger major capital improvement increases.

There are, as always, some complications. We know, for example, that the number of preferential rents and collection and vacancy losses have changed over time. Consequently, not all rent increases authorized by the RGB are collected. I can also add from experience that the presence of illegally inflated rents is also a significant factor which is not quantified in our comparisons. This should not change the analysis here, however, because we are asking and answering a simple question:

Has the RGB authorized rent increases that are sufficient to cover changes in operating costs and preserve net operating income against the effects of inflation?

We can safely answer that, over the long term, increases in regulated rents authorized by the RGB have significantly exceeded both operating costs and increases needed to protect net operating income from the effects of inflation.

Data Shortcomings

One final point on data shortcomings: There is only one group that has the power to provide precise data on income and profits and that is the owners themselves. The chronic failure of the real estate industry to disclose actual profit levels or to voluntarily provide income and expense data should not be lightly dismissed. The industry has utterly failed to produce key evidence under their primary control. As a result, all inferences with respect to the reliability of the limited evidence and arguments they do produce should be drawn against them. What the RGB typically witnesses when owners do present evidence of losses is selective cherry picking of buildings, time frames and data. By contrast, tenant household incomes and rent burdens are tracked with high levels of precision in the HVS and through various measures in the RGB's Income and Affordability reports.

Lastly, there are legitimate concerns about distressed properties – properties where costs appear to exceed income. Assuming the accuracy of these reports (effecting about 9% of the stabilized stock) the source of the distress is all important and the RGB has no reliable measure of it. Is it high collection losses in some areas? In that case the problem is affordability. Rent increases will not resolve non-payment problems and may make them worse. Is it a large number of temporary vacancies – or warehousing? In that case it is often a transitory loss. If the source of distress is low guidelines, why are these owners not applying for hardship rent increases with DHCR?

In short, the adoption of large rent increases to address distress may actually do very little to solve the problem (which is likely a wage/income driven affordability problem). Moreover, applying across-the-board rent increases to address problems in less than one tenth of the stabilized stock would unduly and arbitrarily burden the entire universe of stabilized tenants.

Conclusion

For nearly twenty years I have presented data that compellingly supports a rent freeze. While the Board did “tap the brakes” at times over the past ten years, they did so too lightly and too slowly. On balance, owners are still overcompensated. Tenants are still victims of speculative practices and profiteering. A rent freeze continues to be fully warranted – not as a matter of good politics, but as a matter of meeting statutory obligations in good faith.

Dated: New York, New York
April 22, 2026

Respectfully submitted,

Tim Collins

Timothy Collins

Year	% Increase in Cost	Audited Cost-to- income Ratio	COST*O&M Ratio	CPI Increase	NOI Ratio	NOI*CPI	Annual "Necessary" Increases (Cost*O&M Ratio) + (NOI*CPI)	RGB Rent Index (renewal guidelines + vacancy increases)	"Necessary" Rent Increases, Cumulative (starts at 100)	Impact of RGB Rent Index, Cumulative (starts at 100)
									100	100
1991	3.4%	0.63	0.02134	4.55%	0.37	0.01694	3.83%	4.10%	103.83	104.10
1992	4.2%	0.63	0.02645	3.59%	0.37	0.01329	3.97%	3.73%	107.95	107.97
1993	2.1%	0.62	0.01311	3.00%	0.38	0.01127	2.44%	3.07%	110.59	111.28
1994	2.5%	0.61	0.01516	2.39%	0.39	0.00942	2.46%	2.88%	113.31	114.49
1995	2.5%	0.59	0.01483	2.53%	0.41	0.01028	2.51%	3.07%	116.15	118.00
1996	5.4%	0.60	0.03249	2.90%	0.40	0.01156	4.41%	4.51%	121.27	123.32
1997	1.9%	0.58	0.01113	2.34%	0.42	0.00979	2.09%	5.21%	123.80	129.74
1998	1.5%	0.56	0.00862	1.64%	0.44	0.00724	1.59%	3.68%	125.77	134.51
1999	3.5%	0.55	0.01904	1.96%	0.45	0.00886	2.79%	3.76%	129.28	139.57
2000	8.4%	0.56	0.04751	3.11%	0.44	0.01360	6.11%	4.19%	137.18	145.42
2001	4.8%	0.56	0.02688	2.52%	0.44	0.01103	3.79%	4.97%	142.38	152.65
2002	6.9%	0.57	0.03957	2.57%	0.43	0.01094	5.05%	4.48%	149.57	159.49
2003	12.5%	0.62	0.07764	3.07%	0.38	0.01163	8.93%	4.13%	162.92	166.08
2004*	7.3%	0.62	0.04525	3.54%	0.38	0.01345	5.87%	5.47%	172.48	175.18
2005	6.0%	0.65	0.03925	3.86%	0.35	0.01354	5.28%	4.61%	181.59	183.26
2006	4.1%	0.63	0.02588	3.76%	0.37	0.01380	3.97%	4.26%	188.80	191.06
2007	5.2%	0.62	0.03213	2.83%	0.38	0.01066	4.28%	4.18%	196.88	199.05
2008	6.4%	0.64	0.04129	3.90%	0.36	0.01392	5.52%	4.68%	207.75	208.36
2009	0.1%	0.63	0.00051	0.44%	0.37	0.00164	0.22%	7.46%	208.19	223.89
2010	0.9%	0.62	0.00557	1.71%	0.38	0.00649	1.21%	5.21%	210.70	235.56
2011	4.1%	0.62	0.02501	2.85%	0.38	0.01089	3.59%	3.68%	218.27	244.24
2012	3.2%	0.60	0.01935	1.97%	0.40	0.00777	2.71%	4.39%	224.19	254.95
2013	5.0%	0.61	0.03026	1.68%	0.39	0.00660	3.69%	4.12%	232.45	265.45
2014	5.6%	0.61	0.03380	1.32%	0.39	0.00521	3.90%	4.06%	241.52	276.24
2015	1.1%	0.59	0.00618	0.13%	0.41	0.00052	0.67%	2.19%	243.14	282.29
2016	2.4%	0.58	0.01369	1.08%	0.42	0.00450	1.82%	1.64%	247.56	286.93
2017	4.5%	0.59	0.02684	1.96%	0.41	0.00797	3.48%	1.92%	256.18	292.45
2018	5.8%	0.61	0.03534	1.91%	0.39	0.00753	4.29%	2.43%	267.16	299.55
2019	3.3%	0.60	0.02015	1.65%	0.40	0.00654	2.67%	2.46%	274.29	306.92
2020	-2.8%	0.60	-0.01701	1.71%	0.40	0.00681	-1.02%	1.50%	271.49	311.53
2021	5.2%	0.62	0.03261	3.32%	0.38	0.01253	4.51%	0.76%	283.74	313.91
2022	6.1%	0.63	0.03846	6.10%	0.37	0.02264	6.11%	2.04%	301.08	320.30
2023	3.8%	0.62	0.02363	3.82%	0.38	0.01446	3.81%	2.44%	312.55	328.13
2024	4.2%	0.62	0.02597	3.79%	0.38	0.01454	4.05%	2.45%	325.21	336.17
2025**	5.6%	0.62	0.03472	3.38%	0.38	0.01276	4.75%	3.31%	340.65	347.32

*Estimate for percentage increase in costs

** Estimates in the percentage increase in cost, audited cost-to-income ratio and NOI ratio

Source: Annual RGB Income and Expense and Price Index of Operating Cost Studies, U.S. Bureau of Labor Statistics, and annual RGB Explanatory Statements.

Note: Beginning with the 2023 I&E Study (2021 data), due to a methodological change in how costs are adjusted, the Audited Cost-to-Income ratio is now referred to as the Adjusted Cost-to-Income ratio.

SUBMISSION TO THE RENT GUIDELINES BOARD
IN CONNECTION WITH RGB ORDER NUMBER 58

Timothy L. Collins

April 22, 2026

Introduction

Thank you for giving me this opportunity to address the Board and allow me to offer a special welcome to all the new appointees: Chair, Chantella Mitchell and members, Lauren Melodia, Brandon Mancilla, Sina Sinai, Maksim Wynn and Sagar Sharma.

At the outset – and as I have done for many years – I commend the Board's staff for outstanding work on the 2026 reports. You are fortunate to have a very smart and seasoned team. They produce increasingly informative reports which have become primary sources for housing analysts and policy makers in New York and around the country. Most importantly, the RGB staff has long been fiercely dedicated to following the facts, wherever they may lead, and to let the Board set policy.

As some of you know I served as the Board's counsel and executive director from 1987 to 1994 and periodically worked as a consultant on various projects until 2001. During the latter period I drafted the first edition of *An Introduction to the Rent Guidelines Board and the Rent Stabilization System* which has since been updated by the staff and is posted on the Board's website.

After a few years away, I began appearing before the board as an advocate for reform – primarily to encourage the Board to become more active in policy issues beyond rent setting. In those years Albany was moving towards gradual deregulation. High rent vacancy deregulation was causing tens of thousands of affordable apartments to be lost each year and incentivizing landlords to aggressively seek evictions. At the time, local control or "home rule" offered some stability.

At an appearance on June 1, 2006, I was invited by tenant representatives to be heard on that issue. After being seated at the witness table and ready to speak, the Chair at the time used a parliamentary maneuver to stop my testimony. When I objected to what seemed like an undemocratic squelching of debate and began to step away, the Chair said "get the f__ out!". True story - see RGB Boss Explodes Over Home-Rule Resolution - The Tenant I am happy to say that I did receive an apology from that chair and in recent years, my relations with successive chairs have been much more cordial.

In the years following that incident, state-imposed vacancy deregulation continued and the Board sought to hasten the end of rent regulation by engaging in what I described as a "march to the market". The consequences were disastrous.

Vacancy deregulation, coupled with grossly excessive rent guidelines in the 2008-2014 period sent rent burdens skyrocketing to unprecedented levels. According to the City's periodic Housing and Vacancy Survey ("HVS") in 2008 rent stabilized households spent an average of 31% of household income on gross rent. By 2011 average rent burdens had risen to 35%. In 2014, 2017 and 2021 average rent burdens reached or exceeded 36%. It literally took eight years of tapping the breaks to get those rent burdens closer to 30% of income – a long-recognized standard for affordability. We do not know where those burdens will be when the next HVS report arrives next year. What we do know is that among the million rent stabilized households, more than one in four are severely rent burdened, spending over 50% of their incomes on rent.

In those earlier years – at the heart of the Great Recession and prior to a change in Board membership under Mayor de Blasio – I began vigorously calling for rent freezes. I was, frankly, outraged by the direction the Board had taken.

As always, and throughout this period landlords were claiming that they weren't making enough money to cover their expenses – that they were constantly being short changed by the Board's guidelines.

In the interest of testing that claim with precise data I compared actual changes in operating costs, net operating incomes and the rent increases authorized by the Board. As explained in greater detail below, on the cost side I used operating cost changes derived from Department of Finance tax filing data. I also adjusted net operating income for inflation. On the rent side I used the Board's own rent index which includes composite figures for one-and-two year guidelines along with vacancy allowances (until discontinued in 2019).

Utilizing an excel spreadsheet, I was able to track these changes over time. In recent years, the RGB staff updated the table and made a few technical adjustments to ensure accuracy. I have described the table as the Annualized Commensurate Analysis or "ACA" table.

What follows is an update of prior year's testimony focusing on the ACA table which is included herewith at the last page.

The ACA Table

The ACA table describes the rent increases needed to ensure owners have been fully compensated for operating cost increases since 1990 (the first year the RGB received income and expense data from the Department of Finance). Factored into those calculations are adjustments which also ensure owners' net operating income ("NOI") is protected against the effects of inflation. This is a highly conservative (owner friendly) approach to commensurate rent adjustments over time.

Reviewing the rent adjustments produced by the various commensurate formulas in this year's (2026) PIOC report (at page 11) makes clear that any approach which seeks to preserve NOI against inflation generally results in the highest rent increases. Viewed in isolation, this year's PIOC produces a benchmark "NOI adjusted" commensurate adjustment of 4.5% for one-year leases and an 8.5% increase for two-year leases. These figures illustrate the startlingly pro-owner nature of this approach to guideline increases. As I will explain, over time, the Board <u>has cumulatively exceeded rent increases suggested by this pro-landlord formula</u>.

The ACA table compares increases in operating costs and the effects of inflation on NOI with the guidelines adopted by the RGB, including vacancy allowances (promulgated each year by the RGB until 1997 and by statutory formula until 2019 when the allowances were eliminated). The comparison of cost changes with the RGB rent index is rendered even more conservative by cutting out recognition of rising owner income through statutory deregulation, major capital improvement increases, individual apartment increases and other sources of increasing income.

The purpose is to determine if the guidelines adopted by the RGB, along with previously permitted vacancy allowances, have been sufficient to "keep owners whole" in terms of preserving the inflation adjusted value of net operating income (all other things being equal). It was purposefully constructed to eliminate the influence of statutory changes on rent levels and focus on the impact of the decisions of the Board alone.

Notably, while the RGB's 2026 income and expense study shows a 56.6% increase in NOI from 1990 to 2024 after adjusting for inflation (2026 I&E Report at page 12), the growth in NOI through annual guideline and vacancy allowance increases alone (as used in the ACA table) is much lower - but still significantly higher than needed to keep owners whole.

Summary of Findings

Research Concerns

As I have urged in prior submissions, in order to better refine and clarify conditions within the rental housing industry and to generate more public confidence in the rent setting process, the Board must take a closer look at two variables:

1) the relative aging of the housing stock and the normal effect this has on operating cost to rent ratios; and

2) the general profitability of stabilized buildings as an investment as determined by relative changes in sales prices over the long term, including comparisons with rising values of multi-family property in unregulated urban housing markets.

Both concerns remain.

It appears that the rent stabilized housing stock is, on average, significantly older than it was when income and expense data was first gathered in 1990. There is evidence from a variety of studies and sources to show that older housing generally has higher operating cost ratios. In this year's I&E Study (page 20), the median citywide adjusted operating cost to income ratio was reported at 61.7% while the ratio for pre-74 buildings alone was 67.8% - a full six percent difference. The gap between pre-74 and post-73 buildings is undoubtedly even greater. Older buildings simply cost more to operate.

Given the increased average age of the stabilized stock one would expect the citywide ratio to rise over time. Yet the citywide average of approximately 62% is precisely where the ratio stood at the outset of stabilization – 57 years ago - suggesting a level of long-term overcompensation.

With respect to sales price data, it is important to note that the sales prices tracked in the annual mortgage survey are not sufficiently representative of the rent stabilized stock to draw any precise or reliable conclusions. A representative sample of rent stabilized buildings should be selected and analyzed for changing sales prices (of the same building) over many decades. The mortgage survey compares sales prices in buildings that happen to be sold or refinanced in a given year, with a wholly different sample that happened to be sold or refinanced in the next year. While interesting, the table tracking sales prices in this year's Mortgage Survey (at page11) cannot be relied upon as a reliable measure of market changes. It more likely reflects changes in the types of buildings being sold.

Notwithstanding the lack of precise data, it is safe to say that sales prices have declined since the adoption of the Housing Protection and Stability Act of 2019 ("HSTPA"). That correction was actually long overdue. Excessive guidelines and vacancy deregulation policies in effect for many years had created a speculative bubble – a bubble that produced exceedingly harsh rent burdens.

One of the primary legislative goals of the HSTPA was to address "severe disruption of the rental housing market" resulting from the "deregulation of housing accommodations upon vacancy" which resulted in "speculative and profiteering practices and has brought about the loss of vital and irreplaceable affordable housing for working persons and families." HSTPA Part D, Section 1. The decline in sales prices since 2019 provides evidence that the legislative goal to arrest and reverse profiteering has been successful.

Substantive Impact of RGB Orders

As for the substantive impact of the RGB orders over time, **based on current data it is clear that <u>had</u> the Board authorized cumulative rent increases of 240.65% over the thirty five year period since 1990, owners would have been kept "whole" for both operating cost increases and the effects of inflation on net incomes, and rent stabilized tenants would have been protected against excessive and unwarranted rent increases. (See ACA Table, 2nd to last column "Necessary Rent Increases")**

In fact, the Board authorized rent increases of 247.32% over this period. (See ACA Table, last column - "Impact of RGB Rent Index, Cumulative") (Note that these figures eliminate the base of 100 used in the table, hence the difference between 340.65 and 240.65% as well as 347.32 and 247.32%.)

While rent guidelines have been lower over the past ten years, they have failed to fully ameliorate excesses accumulated from prior years, contributing to a continuation of excessive rent burdens, displacement and homelessness.

Long term windfalls for the owners of stabilized buildings overwhelm the significance of any short term economic changes facing owners this year, including cost increases of

5.3% reported in the annual price index of operating costs.

The Mandate of the RGB

When considered as a whole, the Declaration of Emergency and mandated considerations compel the Board to attempt to construct or to simulate normal market rents where abnormal conditions prevail. The Board's job is to even the playing field.

This is no easy task – but the Board has plenty of tools at hand.

Certainly, a review of changes in operating costs is essential. As costs go up, so generally, do rents. The RGB has recognized that the two major instruments available for measuring costs have serious limitations. The first of these – the income and expense (I&E) data available from the Department of Finance – suffers from a lag in reporting of over one year.[1] The second instrument, the annual price index of operating costs ("PIOC"), is a measure of hypothetical market basket of goods which still continues to overstate actual operating cost changes (as evidenced by the more reliable I&E data).[2]

As the RGB staff reported in the 2026 I&E Report (page 15):

> The PIOC grew by 5.7% from 2023 to 2024, the same period as a 4.2% increase in I&E costs, a 1.5 percentage point difference. From 1990-91 to 2023-24, overall nominal costs measured in the PIOC increased at a greater rate, 334.2%, compared to RPIE data, which grew 267.1% over this period.

Moreover, because it is viewed in isolation, without current data on owner income, the PIOC has chronically presented a misleading portrait of the overall health of the real estate industry.

A review of cost changes is incomplete without a review of changes in rents. For that we have the income data from the Department of Finance (which again suffers from a time

[1] Some criticism has also been raised that the I&E data does not cover smaller buildings (with less than 11 units). That is a valid concern regarding cross-sectional findings but probably of limited or no impact when examining longitudinal changes which we are concerned with here. There is little reason to assume that the rate of cost changes in small vs large buildings is significantly different in any given year.

[2] See *Comparing the PIOC and the RGB Income and Expense Study,* Hudson, 3/21/14. "In the second half [of the period from 1992 – 2012] the estimated rate for the PIOC is 6.2% annually and the I&E is 4.3%."

lag) as well as the RGB's own rent index – a mathematical projection which factors in the prevalence of one and two-year leases, vacancy allowances and the applicable rent guidelines. Unfortunately, the rent index has never been formally used by the RGB to counteract the one-sided picture provided by the PIOC. I have attempted to address that by presenting what owners have needed to be "kept whole" and what the RGB has authorized in actual rent increases.

The O&M to Rent/Income Ratio

The central and clearly the most important product of all the measures presented to the Board is the operating cost to rent or income ratio (the "O&M to rent ratio") and changes in that ratio over time. Other things being equal, if the O&M to rent ratio remains flat owners have been "kept whole" for operating cost changes. If it falls, owners will see a gain in net operating income. If it rises, operating costs will eat up a larger portion of each rent dollar collected. Absent other factors, a stable O&M to rent ratio is an indication that the Board is holding a steady course.[3]

If that course permits **cost push** inflationary factors – like oil, labor or insurance costs – to be recaptured in rent increases, the Board is simulating normal market conditions. But if that course permits the City's exceptional **demand pull** inflationary pressures to force rents up – that is rent increases driven by an abnormal imbalance between supply and demand – then the Board is departing from its mission to establish rents that might otherwise prevail in a normal market, a market where greater housing opportunities exist as measured by higher vacancy rates.

Given the finding of a vacancy rate of 1.41% citywide in the 2023 Housing and Vacancy Survey, there is no question that the City continues to confront a highly pressured housing market.

How the O&M Ratio Has Changed Over the Years

Based on a 1993 RGB staff study, which constructed an estimate of a mean O&M to Rent/Income ratio for the pre-war stock derived from extensive work by George Sternlieb in 1967, the true O&M to Income ratio estimate (Sternlieb combined rent and income)

[3] I again note that, given the aging of the housing stock, holding the O&M to rent ratio flat may be artificially protecting owners from the natural consequences of aging of the housing stock which should produce a gradual rise in the ratio over time.

fell into a range from .65 to .70. The estimated mean ratio for the post-war (1947 or later) stock was .55 based upon contract rents.[4] Given the relative portion of the pre and post war units, the overall O&M to rent ratio at the outset of rent stabilization was assumed to be .62 (conservatively applying the lower of the range [.65] for the pre-war units which now constitute about three quarters of the stabilized stock).

In sum, using the best evidence available (and applying conservative assumptions) we can assume that at the time rent stabilization was first implemented in 1969 the average landlord in New York City was spending about 62 cents of rent and income collected on operating costs, keeping about 38 cents as net operating income (for capital improvements, financing costs and operating profits).

With access to the Department of Finance I&E data we can more reliably gauge how the O&M ratio has changed over the past two decades. In this year's I&E report (page 10), the RGB staff found that the O&M ratio in 2024 was 61.7%. The ratio witnessed a general decline since 2008 when it stood at 64.3%. (Notably these are the "adjusted" ratios, with the 2024 figure using the method described at page 9 of this year's I&E Report.)

In short, notwithstanding the aging of the housing stock as well as the profound pressures of a pandemic related recession (both of which should have caused a natural and significant rise in the O&M to income ratio), the ratio is basically where it was over fifty years ago. This is another powerful indicator that owners have been more than "kept whole" throughout the period of rent stabilization.

Net Operating Income

Looking at the O&M ratio from the income side and considering the factors which fueled owner overcompensation during the recession which began in 2008, when nearly every other investment in the nation was in decline, rent stabilized housing in New York City witnessed a significant increase in net operating income – rising from 35.7% of each rent dollar collected in 2008 to 39.4% in 2014. That rise was clearly fueled by excessive and unjustified RGB approved rent increases - a deliberate "march to the market" at a time when tenants were in dire need of effective protections.

---

[4] These points are summarized in *Introduction to the NYC RGB*, Appendix K, Staff Memo dated May 13, 1999.

Notwithstanding far more reasonable rent adjustments over the past twelve years, net operating income actually continued to rise to 41.8% in 2016 dropping back only to 38.3% as of 2024.

This is clear and unequivocal evidence that owners have continued to do very well – riding on the substantial gains made during the very hard years of the Great Recession and continuing through the economic downturn of 2020/21.

Despite an aging housing stock and declining tenant incomes which should have caused the O&M ratio to rise and net operating incomes to decline during those critical years, the actions of the RGB and the operation of various statutory deregulation provisions sent the ratio sharply down and net operating incomes significantly up. It is therefore completely unsurprising that the RGB staff now reports that owner net operating incomes are 56.6% higher (in constant 2024 dollars), than in 1990. (2026 I&E Report at page 12)

With thirty-four years of data on actual income and expenses, we can answer the question: "What rent increases were necessary to keep owners 'whole' in terms of rising operating costs and the effects of inflation on net operating income?" Using the RGB's rent index, we can compare this answer with what the RGB actually authorized in rent increases.

A Fair Measure of the Impact of RGB Guidelines

Why can't we simply compare rent increases with operating cost increases?

To compare rent increases with operating cost increases is to implicitly suggest that rents should rise at a comparable rate to operating costs. But if operating costs are rising faster than inflation, that approach would cause the net operating income portion of rent to rise at a higher rate than inflation. There is no reason why owner net operating incomes should rise faster than inflation. That approach would result in unwarranted windfall profits.

It is clear that operating costs have risen faster than inflation over the past 35 years (since the RGB first gained access to I&E data). In fact, according to the Board's table 7 (from last year's explanatory statement for Order #57) operating costs have risen 252% ($1,343/$382) since 1990. Over the same period (3/90 to 3/26) the CPI has risen only 157%. In short, operating costs have risen substantially faster than the CPI. Had rent increases been pegged to the rate of change in operating costs alone, owners would have nearly doubled increases to their net operating incomes resulting in a massive and unwarranted windfall. Owners have repeatedly obfuscated this basic economic fact by complaining in several forums – without clarification or justification – that they have been shortchanged by rent adjustments which failed to keep up with operating cost changes.

To find out what kind of RGB increase is needed to keep owners whole, we need to multiply the percentage increase for operating costs by the O&M ratio. The product of that calculation may then be added to the annual CPI multiplied by the NOI portion of rent collections. Thus, if operating costs rose by 5% that figure could be multiplied by the O&M ratio (say 60%) resulting in product of 3% and this is the amount needed to increase rents to cover operating costs while keeping NOI constant in nominal dollars. Then, we could add the product of the CPI times the NOI ratio (e.g. 3% times 40%) to produce the amount needed to adjust NOI for inflation (here 1.2%). Adding the two products gives us the overall rent increase needed to keep owners whole for changes in operating costs and to protect income from inflation. In this example the total would be a 4.2%. This is an annualized version of the RGB staff's commensurate rent formula which I have referred to as an "annualized commensurate increase".

These calculations have been done for each year since 1990. The most recent seven years have been updated and checked by the RGB staff to ensure consistency with RGB generated data points. A table of these calculations is attached on the last page.

Isolating the Effects of the RGB Orders on Rent Increases from Other Income Sources

The utilization of the RGB staff rent index is what is most critical here. That index is a projection constructed from the actual RGB guidelines, the prevalence of one and two year leases and the number of vacancies each year. It is as close to a pure reflection of the intended impact of the RGB guidelines on rents as one can get. It ignores changes in income from unregulated and commercial units, and from preferential rents (rents charged below legal maximums).

Doing these calculations results in a 240.65% cumulative increase in the annualized commensurate since 1990 and a 247.32% cumulative increase in the RGB rent index over the same period. (These percentages are obtained by deducting the base of 100 from the bottom figures in each of the two last columns on the ACA Table.)

This means that the increases authorized by the RGB since 1990 (starting in 1991) exceeded the amounts needed to keep owners whole in all respects by over 7% cumulatively.

Again, this figure is predictably less than the 56.6% growth in the inflation adjusted value of net operating income found by the RGB staff. One would expect actual owner income to be rising relative to the increases authorized by the RGB because of the increasing prevalence (until mid 2019) of unregulated "market rate" apartments in the stock and larger major capital improvement increases.

There are, as always, some complications. We know, for example, that the number of preferential rents and collection and vacancy losses have changed over time. Consequently, not all rent increases authorized by the RGB are collected. I can also add from experience that the presence of illegally inflated rents is also a significant factor which is not quantified in our comparisons. This should not change the analysis here, however, because we are asking and answering a simple question:

Has the RGB authorized rent increases that are sufficient to cover changes in operating costs and preserve net operating income against the effects of inflation?

We can safely answer that, over the long term, increases in regulated rents authorized by the RGB have significantly exceeded both operating costs and increases needed to protect net operating income from the effects of inflation.

Data Shortcomings

One final point on data shortcomings: There is only one group that has the power to provide precise data on income and profits and that is the owners themselves. The chronic failure of the real estate industry to disclose actual profit levels or to voluntarily provide income and expense data should not be lightly dismissed. The industry has utterly failed to produce key evidence under their primary control. As a result, all inferences with respect to the reliability of the limited evidence and arguments they do produce should be drawn against them. What the RGB typically witnesses when owners do present evidence of losses is selective cherry picking of buildings, time frames and data. By contrast, tenant household incomes and rent burdens are tracked with high levels of precision in the HVS and through various measures in the RGB's Income and Affordability reports.

Lastly, there are legitimate concerns about distressed properties – properties where costs appear to exceed income. Assuming the accuracy of these reports (effecting about 9% of the stabilized stock) the source of the distress is all important and the RGB has no reliable measure of it. Is it high collection losses in some areas? In that case the problem is affordability. Rent increases will not resolve non-payment problems and may make them worse. Is it a large number of temporary vacancies – or warehousing? In that case it is often a transitory loss. If the source of distress is low guidelines, why are these owners not applying for hardship rent increases with DHCR?

In short, the adoption of large rent increases to address distress may actually do very little to solve the problem (which is likely a wage/income driven affordability problem). Moreover, applying across-the-board rent increases to address problems in less than one tenth of the stabilized stock would unduly and arbitrarily burden the entire universe of stabilized tenants.

Conclusion

For nearly twenty years I have presented data that compellingly supports a rent freeze. While the Board did "tap the brakes" at times over the past ten years, they did so too lightly and too slowly. On balance, owners are still overcompensated. Tenants are still victims of speculative practices and profiteering. A rent freeze continues to be fully warranted – not as a matter of good politics, but as a matter of meeting statutory obligations in good faith.

Dated: New York, New York
April 22, 2026

Respectfully submitted,

Tim Collins

Timothy Collins

Year	% Increase in Cost	Audited Cost-to- income Ratio	COST*O&M Ratio	CPI Increase	NOI Ratio	NOI*CPI	Annual "Necessary" Increases (Cost*O&M Ratio) + (NOI*CPI)	RGB Rent Index (renewal guidelines + vacancy increases)	"Necessary" Rent Increases, Cumulative (starts at 100)	Impact of RGB Rent Index, Cumulative (starts at 100)
									100	100
1991	3.4%	0.63	0.02134	4.55%	0.37	0.01694	3.83%	4.10%	103.83	104.10
1992	4.2%	0.63	0.02645	3.59%	0.37	0.01329	3.97%	3.73%	107.95	107.97
1993	2.1%	0.62	0.01311	3.00%	0.38	0.01127	2.44%	3.07%	110.59	111.28
1994	2.5%	0.61	0.01516	2.39%	0.39	0.00942	2.46%	2.88%	113.31	114.49
1995	2.5%	0.59	0.01483	2.53%	0.41	0.01028	2.51%	3.07%	116.15	118.00
1996	5.4%	0.60	0.03249	2.90%	0.40	0.01156	4.41%	4.51%	121.27	123.32
1997	1.9%	0.58	0.01113	2.34%	0.42	0.00979	2.09%	5.21%	123.80	129.74
1998	1.5%	0.56	0.00862	1.64%	0.44	0.00724	1.59%	3.68%	125.77	134.51
1999	3.5%	0.55	0.01904	1.96%	0.45	0.00886	2.79%	3.76%	129.28	139.57
2000	8.4%	0.56	0.04751	3.11%	0.44	0.01360	6.11%	4.19%	137.18	145.42
2001	4.8%	0.56	0.02688	2.52%	0.44	0.01103	3.79%	4.97%	142.38	152.65
2002	6.9%	0.57	0.03957	2.57%	0.43	0.01094	5.05%	4.48%	149.57	159.49
2003	12.5%	0.62	0.07764	3.07%	0.38	0.01163	8.93%	4.13%	162.92	166.08
2004*	7.3%	0.62	0.04525	3.54%	0.38	0.01345	5.87%	5.47%	172.48	175.18
2005	6.0%	0.65	0.03925	3.86%	0.35	0.01354	5.28%	4.61%	181.59	183.26
2006	4.1%	0.63	0.02588	3.76%	0.37	0.01380	3.97%	4.26%	188.80	191.06
2007	5.2%	0.62	0.03213	2.83%	0.38	0.01066	4.28%	4.18%	196.88	199.05
2008	6.4%	0.64	0.04129	3.90%	0.36	0.01392	5.52%	4.68%	207.75	208.36
2009	0.1%	0.63	0.00051	0.44%	0.37	0.00164	0.22%	7.46%	208.19	223.89
2010	0.9%	0.62	0.00557	1.71%	0.38	0.00649	1.21%	5.21%	210.70	235.56
2011	4.1%	0.62	0.02501	2.85%	0.38	0.01089	3.59%	3.68%	218.27	244.24
2012	3.2%	0.60	0.01935	1.97%	0.40	0.00777	2.71%	4.39%	224.19	254.95
2013	5.0%	0.61	0.03026	1.68%	0.39	0.00660	3.69%	4.12%	232.45	265.45
2014	5.6%	0.61	0.03380	1.32%	0.39	0.00521	3.90%	4.06%	241.52	276.24
2015	1.1%	0.59	0.00618	0.13%	0.41	0.00052	0.67%	2.19%	243.14	282.29
2016	2.4%	0.58	0.01369	1.08%	0.42	0.00450	1.82%	1.64%	247.56	286.93
2017	4.5%	0.59	0.02684	1.96%	0.41	0.00797	3.48%	1.92%	256.18	292.45
2018	5.8%	0.61	0.03534	1.91%	0.39	0.00753	4.29%	2.43%	267.16	299.55
2019	3.3%	0.60	0.02015	1.65%	0.40	0.00654	2.67%	2.46%	274.29	306.92
2020	-2.8%	0.60	-0.01701	1.71%	0.40	0.00681	-1.02%	1.50%	271.49	311.53
2021	5.2%	0.62	0.03261	3.32%	0.38	0.01253	4.51%	0.76%	283.74	313.91
2022	6.1%	0.63	0.03846	6.10%	0.37	0.02264	6.11%	2.04%	301.08	320.30
2023	3.8%	0.62	0.02363	3.82%	0.38	0.01446	3.81%	2.44%	312.55	328.13
2024	4.2%	0.62	0.02597	3.79%	0.38	0.01454	4.05%	2.45%	325.21	336.17
2025**	5.6%	0.62	0.03472	3.38%	0.38	0.01276	4.75%	3.31%	340.65	347.32

*Estimate for percentage increase in costs

** Estimates in the percentage increase in cost, audited cost-to-income ratio and NOI ratio
Source: Annual RGB Income and Expense and Price Index of Operating Cost Studies, U.S. Bureau of Labor Statistics, and annual RGB Explanatory Statements.

Note: Beginning with the 2023 I&E Study (2021 data), due to a methodological change in how costs are adjusted, the Audited Cost-to-Income ratio is now referred to as the Adjusted Cost-to-Income ratio.

FRIEDMAN AFFIRMATION

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RICHMOND

-- x

KENILWORTH HOLDINGS LLC, 21-45 23RD ST. LLC, 39-12 62ND ST. LLC, 42-59 BOWNE ST. LLC, 1369 COLLEGE LLC, 593 PARK PLACE MANAGEMENT INC., and 43RD STREET ASSOCIATES LLC,

Petitioners-Plaintiffs,

-against-

NEW YORK CITY RENT GUIDELINES BOARD,

Respondent-Defendant.

-- x

AFFIRMATION OF ANDREW FRIEDMAN

Index No. 85199/2026

ANDREW FRIEDMAN affirms the following pursuant to CPLR 2106:

1. I affirm this 13th day of August, 2026, under the penalties of perjury under the laws of New York, which may include a fine or imprisonment, that the foregoing is true, except as to matters alleged on information and belief and as to those matters I believe it to be true, and I understand that this document may be filed in an action or proceeding in a court of law.

2. I hold a Masters in Data Science from Northwestern University and have 7 years of experience as a data professional. My curriculum vitae is annexed hereto. I have also volunteered as a member of the Housing Data Coalition, a group of individuals and organizations who collaborate on their use of public data to further housing justice in New York City.

3. I submit this affirmation in support of the motion for intervention by proposed intervenors P.A.'L.A.N.T.E. Harlem, Central Park Gardens Tenants' Association, Inc., Hamilton Heights Tenants Association and individuals, Raymunda Vazquez, Massiel

Santos Mota, Magali R. Rivera Ubidia, Abundio Gonzalez and Elisa Blynn, and in opposition to the Verified Petition and Complaint.

4. I am not compensated for this work. I offer no opinions on questions of law.

5. In preparing this affirmation I reviewed, among other materials: the Petition; the Board's 2026 Income and Expense Study (Mar. 26, 2026) (the "2026 I&E Study")[1]; the Board's 2026 Price Index of Operating Costs (Apr. 9, 2026) (the "2026 PIOC Report")[2]; the Board's 2026 Mortgage Survey Report (Apr. 9, 2026) (the "2026 Mortgage Survey")[3]; the Board's 2026 Income and Affordability Study (Apr. 16, 2026) (the "2026 I&A Study")[4]; the Explanatory Statement and Findings for Apartment & Loft Order No. 58 (the "Explanatory Statement")[5]; the written statements of Board members released at the June 25, 2026 final vote[6]; the resignation statement of Board member Christina Smyth (June 25, 2026)[7]; the NYU Furman Center's February 2026 report series on segments of the rent-stabilized stock[8]; the Community Preservation Corporation's 2026 NYC portfolio

[1] N.Y.C. Rent Guidelines Bd., 2026 Income and Expense Study (Mar. 26, 2026), https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2026/03/2026-IE-Study-Final.pdf.
[2] N.Y.C. Rent Guidelines Bd., 2026 Price Index of Operating Costs (Apr. 9, 2026), https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2026/04/2026-PIOC.pdf.
[3] N.Y.C. Rent Guidelines Bd., 2026 Mortgage Survey Report (Apr. 9, 2026), https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2026/04/2026-MSR.pdf.
[4] N.Y.C. Rent Guidelines Bd., 2026 Income and Affordability Study (Apr. 16, 2026), https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2026/04/2026-IA.pdf.
[5] N.Y.C. Rent Guidelines Bd., Explanatory Statement and Findings, Apartment & Loft Order No. 58 (June 25, 2026), https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2026/06/2026-Apartment-ES.pdf; see also Apartment & Loft Order No. 58, https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2026/06/2026-Apt-Order-58.pdf.
[6] The statement of owner member Maksim Wynn, quoted below, is available at Statement by Maksim Wynn, Owner Member, N.Y.C. Rent Guidelines Bd. (June 25, 2026), https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2026/06/Maksim-Wynn-statement.pdf.
[7] Letter from Christina Smyth to the N.Y.C. Rent Guidelines Board (June 25, 2026), annexed to the Petition as Exhibit B.
[8] NYU Furman Ctr., Understanding Different Segments of New York City's Rent-Stabilized Housing Stock (Feb. 19, 2026), https://furmancenter.org/publication/understanding-different-segments-of-new-york-citys-rent-stabilized-housing-stock/ (the "Overview brief"); NYU Furman Ctr., Data Brief: Legacy 90%+ Rent-Stabilized Properties (Feb. 19, 2026), https://furmancenter.org/publication/data-brief-legacy-90-rent-stabilized-properties/ (the "Legacy 90%+ brief").

data brief[9]; and various testimony presented to the Board at its thirteen 2026 public meetings and hearings, which the Board posts on its YouTube channel[10].

6. The Petition contains a number of arguments that the data and methodological choices of the Rent Guidelines Board ("RGB") were manipulated to increase landlords' apparent incomes or to depress landlords' apparent costs. In fact, a review of the methods and data before the Board, and a longitudinal review of how the RGB has approached such methodological questions for decades, establish that the RGB's 2026 guideline cycle utilized methodological decisions that were both sound as a technical matter and consistent with longstanding RGB practice. Furthermore, where the Board's methods have changed in recent years, the changes have operated in owners' favor.

I. The Data Before the RGB Supported a 0% Increase as One of a Range of Rational Determinations

7. Before examining the Petition's specific methodological claims, it is necessary to describe what the record before the Board affirmatively showed, because such a review flatly undercuts the Petition's main theory — that a rational Rent Guidelines Board could not determine that a rent freeze was appropriate from the record before it without manipulation.

8. Over the full span of the Board's longitudinal data, owner income (which the RGB measures as "gross income"[11]) has grown substantially faster than owner costs

[9] NYC Rent Stabilized Portfolio Data Brief, Community Preservation Corporation (2026), https://communityp.com/wp-content/uploads/2026/04/CPC-NYC-Portfolio-Data-Brief-2026-final2.pdf
[10] Rent Guidelines Board Videos, Youtube.com, https://www.youtube.com/@RentGuidelinesBoard/videos
[11] Rent collections plus commercial and ancillary income, as reported on owners' Real Property Income and Expense ("RPIE") filings (2026 I&E Study at 15).

("operating and maintenance (O&M) costs"[12]). Gross income minus O&M costs is a building's "Net Operating Income," or NOI.

9. From 1990 through 2024, NOI in buildings containing stabilized units rose 56.6% after inflation, increasing in 28 of the 33 measured years and declining in only five (2026 I&E Study, longitudinal series at 12). The 2024 data shows NOI increasing a nominal 6.2% and a real 2.2%, the third consecutive annual increase (2026 I&E Study at 4).

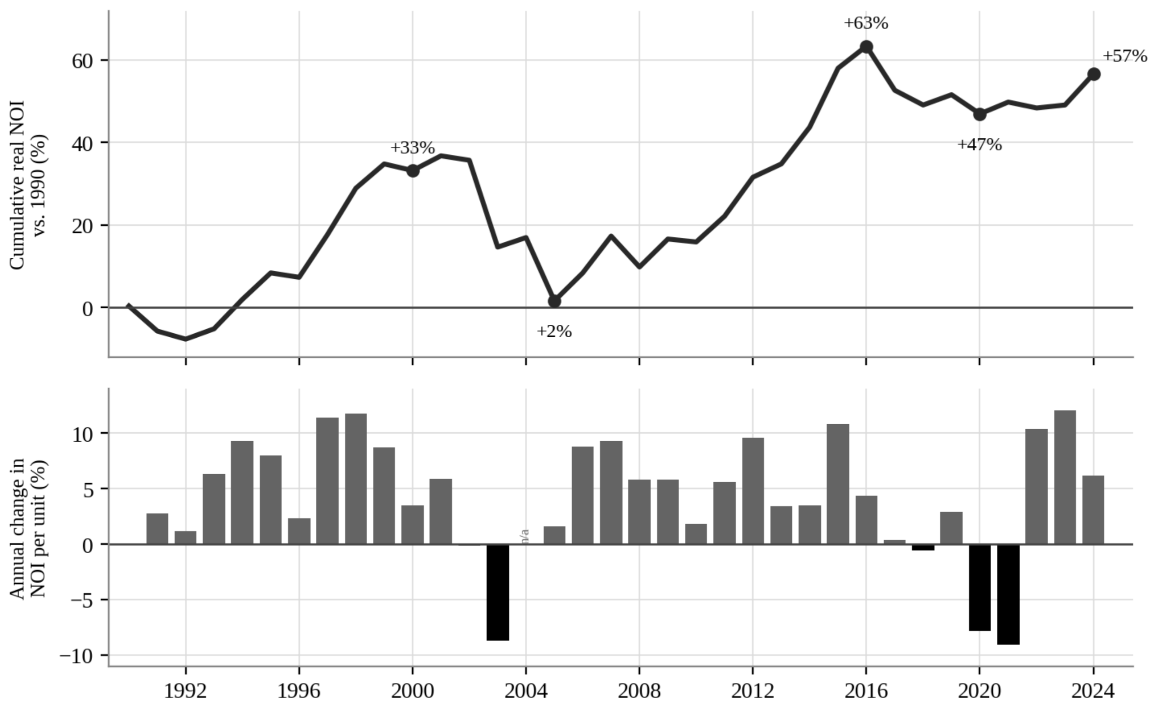


Figure 1. *Top: cumulative inflation-adjusted NOI per unit relative to 1990, from the Board's published series (2026 I&E Study at 12). Bottom: annual change in average monthly NOI per unit, 1990–2024 (2003–04 not reported by the Board). Sources: 2026 I&E Study at 12, 18; I&E Studies 2011–2025.*

10. The data set includes any building with a single stabilized unit, and the inclusion of these mixed-use buildings risks inflating income. However, the 2026 I&E Study demonstrates that NOI growth persists through disaggregation by the share of units in a building that

[12] The eight reported expense categories — taxes, maintenance, administration, labor, utilities, insurance, fuel, and miscellaneous — exclude debt service and other financing costs (2026 I&E Study at 5).

are stabilized. NOI rose 4.0% in buildings more than 50% stabilized, 3.5% in buildings more than 80% stabilized, and 2.4% in buildings that are 100% stabilized (2026 I&E Study at 4). Growth was slower in the most heavily regulated segments, but each tranche of the stabilized stock nonetheless earned more in 2024 than in 2023.[13] The one negative figure in the disaggregation is geographic, not regulatory: NOI declined 0.1% in the Bronx (id.).

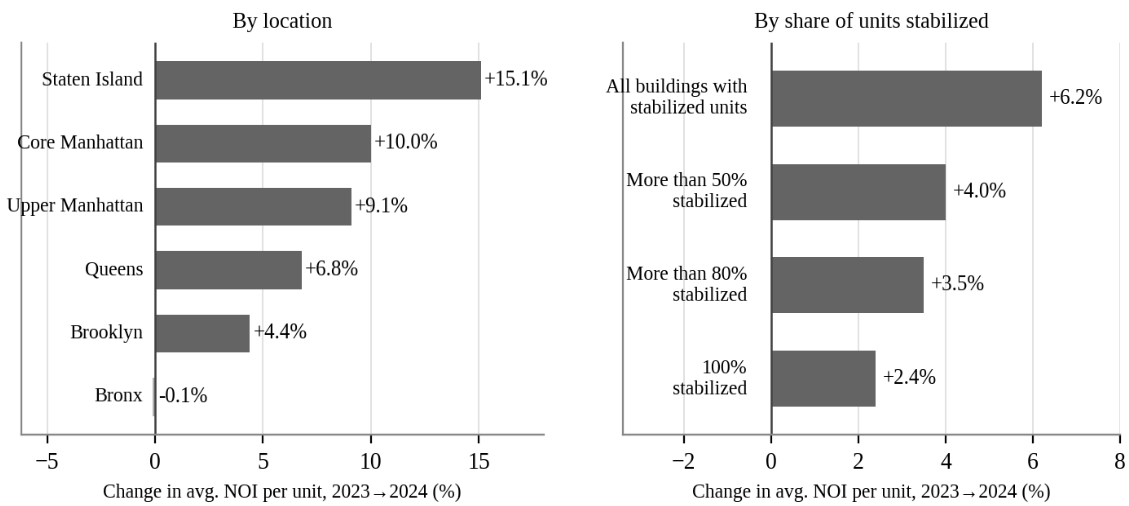


Figure 2. *Change in average NOI per unit, 2023–2024, disaggregated two ways: by location (left) and by the share of a building's units that are rent stabilized (right). Every stabilization tranche is positive; the only negative figure in either cut is geographic. Source: 2026 I&E Study at 4.*

11. Distressed buildings are those whose reported costs exceed their gross income. Building distress was 13.9% in 1990, fell as low as 4.9% in 2016, rose to 9.8% in the 2022 pandemic aftermath, and has since declined for two consecutive years, to 9.2% (2026 I&E Study at 9). Financing conditions were easing in parallel: average rates on new multifamily mortgages fell 0.59 percentage points to 6.13%, the second consecutive

[13] The Petition presents these same tranche figures as though the Board concealed them (Pet. ¶¶ 122–123); as discussed in § II.C below, they appear on page 4 of the study the Board itself published.

annual decline, with maximum loan-to-value ratios rising and non-performing loans falling to 3.1% (2026 Mortgage Survey at 4, 8).

12. The Board's annual Price Index of Operating Costs ("PIOC") report includes a set of "commensurate rent adjustment" guideline recommendations, three approaches to compensating owners for changes in price while holding NOI constant. The PIOC Reports themselves, in 2026 and previous editions for decades, have presented these commensurate calculations as illustrative translations of cost changes, *not* express recommendations (2026 PIOC Report at 11–12). The divergence between the PIOC and owners' reported costs is documented in the Board's own studies: from 1990 to 2024, the PIOC compounded to an increase of 334.2%, while the costs owners actually reported in RIPEs grew 267.1% (2026 I&E Study at 15).

13. The Board has often adopted guidelines below the commensurate values over the past decade: 0% in 2015 and 2020, increases below 1.6% from 2017 through 2019, and, in 2016, a 0% guideline adopted when the formulas actually indicated rent *reductions* (RGB Apartment Orders Nos. 47–52; PIOC Reports 2015–2020)[14]. The 0% increase in 2026 is not even the lowest adopted guideline relative to the commensurate. In 2003, after the PIOC rose 16.9%, the commensurate indicated a one-year increase of 10.4% or greater (2003 PIOC Report at 11–12)[15]. The RGB nonetheless adopted a one-year guideline of 4.5% (Apartment Order No. 35), 5.9 percentage points below the recommended value, a shortfall nearly twice the 3.4-point gap the Petition challenges here. In that decade of

[14] All Apartment & Loft Orders and Explanatory Statements cited in this affirmation (Nos. 35, 40–53, and 58) are available at N.Y.C. Rent Guidelines Bd., Apartment/Loft Orders & Explanatory Statements, https://rentguidelinesboard.cityofnewyork.us/rent-guidelines/apartment-loft-orders-explanatory-statements/.

[15] N.Y.C. Rent Guidelines Bd., 2003 Price Index of Operating Costs (Apr. 25, 2003), https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2019/08/2003-PIOC.pdf.

pivoting away from the commensurate guidance, the Board's research showed inflation-adjusted NOI increase from 34.4% above its 1990 level to 56.6% above 1990 (2026 I&E Study at 12).

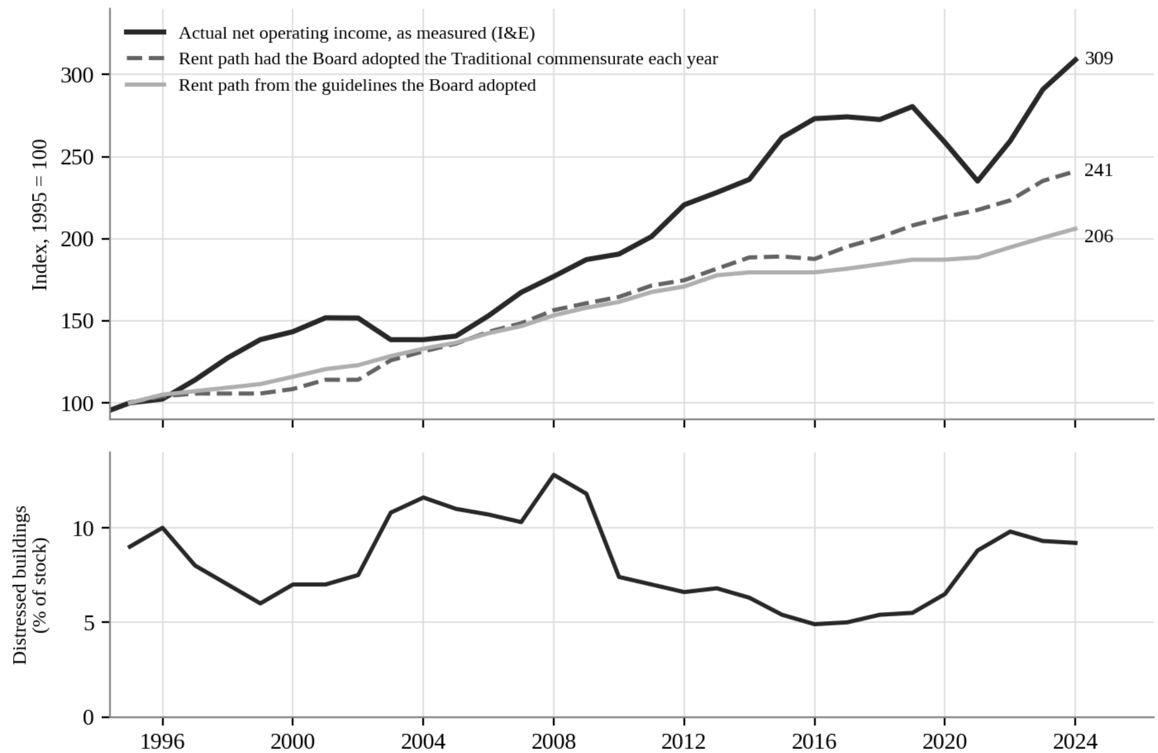


Figure 3. *What the Board's formulas called for, what it adopted, and what actually happened. The commensurate is a rent adjustment, not a forecast of income: the Traditional formula reports the guideline that would have held operating costs at their existing share of rent. The upper panel therefore compares two rent paths — one compounding the commensurate figures, one compounding the guidelines actually adopted — against the Board's measured net operating income (1995 = 100). The adopted path ran persistently below the commensurate path, and net operating income rose above both. The lower panel shows the share of buildings whose reported costs exceeded gross income. Sources: RGB Apartment & Loft Orders; PIOC Reports, 1996–2024; I&E Studies. Commensurate calculations are published from the 1996 PIOC Report forward; guideline figures are dated to the Board's cycle year and income figures to the RPIE income year.*

14. Building distress fell to a record low of 4.9% in 2016 during that era, rose to 9.8% in the pandemic aftermath, and has declined in each of the two years since, to 9.2%, still well below its 13.9% level in 1990 (2026 I&E Study at 9).

15. While eschewing values calculated to keep NOI flat, growth persists partially because the Board's decision only applies to renewal leases. Building revenue can also grow through, among other mechanisms, vacancy leases and turnover. According to the 2026 I&E Study, the collected rents have increased by 267.7% since 1990, while guideline-based rent growth through renewal increases only grew by 215.0%. This is a gap of more than 50 percentage points attributable to revenue channels the renewal guideline does not control (2026 I&E Study at 7).[16] A freeze on renewal increases therefore does not freeze building revenue writ large, and the record before the Board showed exactly that: in the most recent year, collected rents grew 4.8% and total revenue 4.9% (2026 I&E Study at 4) — both above the guideline increases in effect.

16. Building distress fell to a record low of 4.9% in 2016 during that era, rose to 9.8% in the pandemic aftermath, and has declined in each of the two years since, to 9.2%, still well below its 13.9% level in 1990 (2026 I&E Study at 9). The segment of buildings that are distressed is real, but it is small, identifiable, and structurally mismatched to the remedy the Petition prescribes. In 2024, 1,628 buildings — 9.2% of all buildings containing stabilized units that filed RPIEs — reported O&M costs exceeding gross income (2026 I&E Study at 9). A renewal guideline, by contrast, is a uniform instrument: it raises the

[16] The record supports more than one cumulative measure of rent growth since 1990, and they answer different questions. The 2026 I&E Study publishes three of them side by side in a single table: rents owners actually collected (RPIE), up 267.7%; legal registered rents (HCR), up 269.2%; and the RGB Rent Index, up 215.0% (2026 I&E Study at 7). The first measures what owners received, the second what they were entitled to charge, and the third — the measure used above — what the Board's own guidelines contributed to contract rents. A different kind of measure again asks not how much rents rose but whether the increases the Board authorized were sufficient to cover operating-cost growth while holding net operating income constant; and such a measure will produce a different total still if it counts mechanisms lying outside the Rent Index — most importantly the vacancy allowances the Board itself set through Apartment Order No. 28 (1996), after which its orders provided that "[n]o vacancy allowance is permitted except as provided by sections 19 and 20 of the Rent Regulation Reform Act of 1997" (Apartment Order No. 29). These are not competing estimates of a single quantity, and divergence among them is not inconsistency. Each is defined by what it counts; the figures used in this affirmation are the Board's own published series, identified by name at each use.

permissible rent in every stabilized building alike. More than nine of every ten buildings receiving a guideline increase would therefore be buildings that are not distressed. For the healthy majority, whose real NOI has been rising (¶ 7), the increase is simply a windfall, while the distressed minority is concentrated, per the Furman Center and the owner-side witnesses, in pre-1974, heavily stabilized buildings housing the stock's lowest-income, most rent-burdened tenants, precisely where an authorized increase would raise bills on the tenants least likely to afford them.

17. The Board's owner member made the collectibility point quantitative. Explaining his vote for the 0% guideline, Maksim Wynn stated that "the data this board has reviewed suggests that for buildings with income to expense issues, increasing legal rents may, counterintuitively, decrease income," and illustrated the arithmetic:

> "If this board raises the rent 2% for 1-year leases, and that causes a single additional household in the median 16-unit building to stop paying rent, that will result in a 6.25% decrease in annual rental income, or roughly a 4.25% net decrease"

(Wynn Statement, June 25, 2026). His conclusion was not that no intervention was needed, but that the distressed segment "need[s] a decrease in expenses as well as an increase in the availability of capital" (id.).

18. That diagnosis was not Mr. Wynn's alone. The owner-side witnesses who spoke most directly to the kind of distress this section describes — buildings whose operating costs exceed their income — located the remedy on the expense side rather than in the guideline. The New York Apartment Association, the source of the Petition's distressed-building estimate, defined the segment by "very low averaging rents and an unsupportable business" and by being "cash flow negative" (K. Burgos, Apr. 23, 2026

morning session at 31:26). The Small Property Owners of New York quantified where that cash-flow problem originates: “our property taxes have gone up 14% since 2019. Insurance, 118%. heating oil … at 32% … and then water and sewer at 20% … which makes up 74% of all of our OPEX” (J. Torres, id. at 1:01:06) — that is, on owners’ own accounting, roughly three-quarters of operating expense consists of taxes, insurance, fuel, and water, none of which a renewal guideline reaches. And when the Chair asked the Real Estate Board of New York whether the distressed segment required a different adjustment, its witness answered that “[p]re-1974 needs a lot more than just the RGB, but the RGB is what we have today” (B. Gerhards, id. at 1:37:01).

19. The Furman Center — whose research the Petition invokes (Pet. ¶¶ 128–130) — concluded that “efforts to preserve and invest in these buildings must be tailored to their circumstances, whether that be through code enforcement, capital repairs, targeted subsidies, revenue enhancements, property tax adjustments, and other policies,” urging that the City and State act “while keeping affordability for current tenants at the center of any policy response” (Furman Center, Overview brief; Legacy 90%+ brief). And former member Christina Smyth — whose resignation letter the Petition attaches as Exhibit B — directed her proposed remedy to Albany, not to the guideline: she asked the Governor to “lead the changes in state law that protect tenants and, at the same time, let owners make the repairs and investments this housing needs,” through a vacant-apartment mechanism that, in her words, “does not raise the rent on a single current tenant” (Smyth Letter, June 25, 2026). Whatever their disagreements about the 2026 guideline itself, no participant with expertise in the distressed segment identified across-the-board renewal increases as the cure for that distress.

20. In fact, using the guideline mechanism to eliminate building distress would be the other side of the coin from using it to eliminate evictions. No one would argue that the Board could, or should, set renewal guidelines low enough to eliminate the roughly 15,000 residential evictions executed each year (¶ 20): the circumstances that lead a household to eviction — an income shock, an illness, arrears accumulated for reasons unconnected to the current rent level — are too varied to be addressed through the price of a renewal lease. The same is true, in mirror image, of building distress. The record attributes distress to variables the renewal guideline cannot reach: acquisition debt taken on at pre-2019 valuations, expense shocks concentrated in insurance and utilities, and collections shortfalls among the lowest-income tenants (¶¶ 24–25; § II.D). A rate-setting instrument that applies uniformly to every renewal lease citywide is the wrong tool for either tail of the distribution — and a Board that declined to use it that way, in either direction, was exercising exactly the judgment its statute contemplates.

21. Beyond owner finances, The Rent Stabilization Law directs the Board to consider, among other factors, “relevant data from the current and projected cost of living indices” for the City (N.Y.C. Admin. Code § 26-510(b)). The tenant-side data before the Board in 2026 were unambiguous, with 51.6% of all New York City renter households paying at least 30% of household income toward gross rent, 28.8% paying half or more, and the median rent-to-income ratio sitting at 30.9% (2026 I&A Study at 15). The share of households paying at least 30% of income ranged from 46.2% in Manhattan to 61.2% in the Bronx, with severe burdens (50% or more of income) reaching 37.1% of Bronx renter households (id.). Incomes were moving the wrong way at the bottom of the distribution: from 2023 to 2024, real household incomes *fell* in the two lowest renter quintiles (−1.7%

and −1.5%) while rising only in the upper three (id. at 16–17) — and the gap between the City's top and bottom household-income quintiles, 33.08 to 1, was the widest of any large city in the country (id. at 16) Worse still, the 2023 Housing and Vacancy Survey's found that the citywide net rental vacancy rate stood at 1.41% and 0.98% among rent stabilized units, the lowest since the survey began in 1965, and far below the 5% threshold at which rent regulation would lapse (2026 I&A Study at 12).

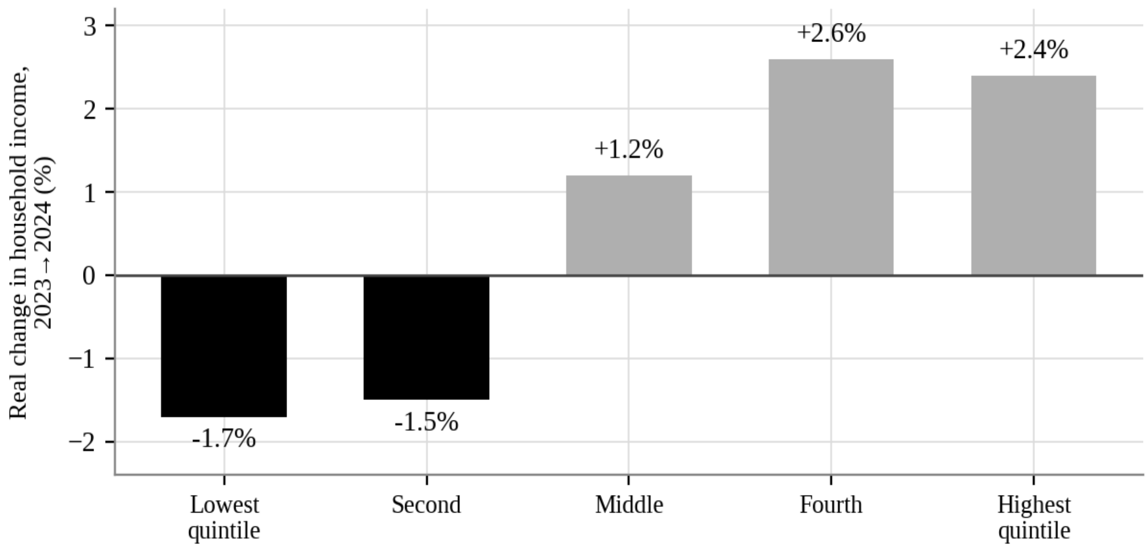
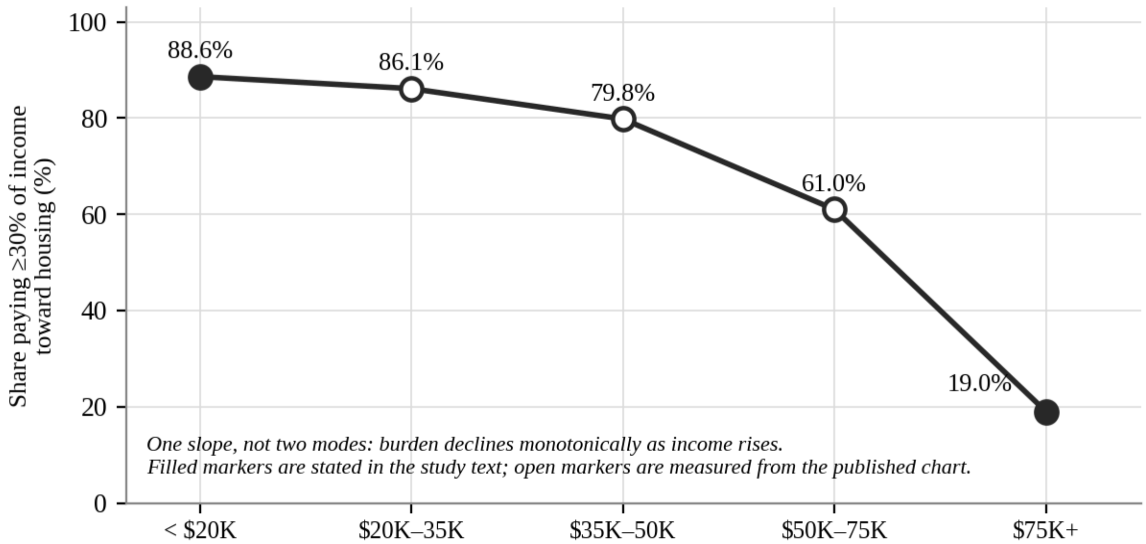


Figure 4. *Real change in household income by renter income quintile, 2023–2024. Source: 2026 I&A Study at 16–17.*

22. The I&A Study references the Census Bureau's 2024 American Community Survey ("ACS") for more context on the relationship between household income and rent. Tenants paying more than 30% of household income to rent are considered "rent burdened", and the trends around this statistic are grim: 88.6% of renters earning less than $20,000 are rent burdened, compared to only 19% of households with $75,000 of income. The interim quintiles are still quite high, as demonstrated in Figure 5.



23. **Figure 5.** *Share of renter households paying at least 30% of income toward housing, by income bracket, 2024 (all NYC renters, ACS). Source: 2026 I&A Study at 15–16. Endpoints are stated in the study text; the three intermediate values are measured from the published chart (shown as open markers).*

24. The ACS population contains all renters, while the Housing and Vacancy Survey disaggregates stabilized and market-rate tenants and can provide more insight into the finances of stabilized renters. Stabilized tenants have materially lower median incomes — approximately $60,000, against $70,000 for renters and $90,800 in market rentals (2023 Housing and Vacancy Survey, as reported in the 2026 I&A Study at 12). Additionally, 45.5% of rent stabilized households were rent burdened measured against contract rent, against 40.6% of tenants in market rentals (2024 I&A Study at 14). So, the all-renter distribution understates the burden concentration inside the stabilized stock that the Board actually regulates.

25. The consequences of that burden appear in the same study. Residential evictions rose 9.7% in 2025, from 13,766 to 15,105, and the fourth consecutive annual increase. Eviction rates rose fastest, increasing 11.8% in buildings containing rent-stabilized units,

which accounted for approximately 62% of all units with an executed eviction (2026 I&A Study at 24–25). By borough, approximately 38.2% of the evictions in buildings containing rent-stabilized units occurred in the Bronx, the borough where rent burdens are also highest (¶ 17), followed by 24.0% in Brooklyn, 20.7% in Manhattan, 15.9% in Queens, and 1.2% in Staten Island (2026 I&A Study at 24–25). These are, of course, among the tenants on whom a renewal-rent increase would have operated.

26. The Petition repeatedly invokes the economic disparity between stabilized and market-rate tenants as evidence that a single citywide value is poor policy (Pet. ¶¶ 13, 147, 329). But stabilization is a property of the unit, not its tenant, and a tenant's income is an aggregate correlate of which unit they happen to occupy — not a causal relationship the guideline is designed to track.

27. A board reading its own two long series on owner income and renter burden together could rationally conclude that guideline restraint had coincided with relieved tenant hardship without widespread owner harm, and that the 2026 data — burdens still elevated, low-quintile incomes falling, NOI rising for a third consecutive year — called for the same approach. Furthermore, on this record — building income rising in every disaggregated tranche (¶ 9; § II.C), distress falling (¶ 10), credit easing (¶ 11), collected revenue outrunning guidelines (¶ 16), and a majority of all renter households rent-burdened (¶ 17; 2026 I&A Study at 15) — a 0% renewal guideline was a well-justified choice *within* the data.

II. The Petition's Specific Allegations of Data Manipulation Are Not Correct

28. Petitioners make a number of broadly worded attacks based on the Rent Guidelines Board's composition, appointments, and the rhetoric of individual members. However,

Sections V and VI of the Petition (¶¶ 99–154), which house the actual substance of the Petition's data-related allegations, all challenge methods and practices that have been in place for years or even decades. Though the Petitioners disagree with them, they have clear justifications in sound data science that are apparent upon even cursory review of the RGB's own publications.

A. The RGB Cannot Be Said to Have "Ignored" Cost Data It Published

29. The Petition's first data-related charge is that the Board ignored evidence of rising costs. The PIOC rose 5.3%, with costs projected to rise a further 4.1%. Then, fifteen days before the final vote, the NYC Water Board adopted a 6% increase in water and sewer rates for Fiscal Year 2027. The Petition asserts "the Explanatory Statement makes no reference" to this increase (Pet. ¶¶ 8, 99–105).

30. Of course, the PIOC is a value measured and published by the Board itself, using the instrument it has used for decades. The 5.3% figure is computed by the same annual index, presented at a public meeting, and addressed in the Explanatory Statement. A figure an agency computes, publishes, and debates has not been "ignored." The Petition breaks out individual cost centers, and their percent increases (Pet. ¶ 101) to demonstrate their hardship, but uses the Board's own publications as evidence.

31. The only specific measure the Petition accuses the RGB of ignoring is an increase in the Water Board's water rates higher than the PIOC's projections. They assert the RGB's "Explanatory Statement makes no reference to the June 2026 decision and no adjustment to the 1.7% projection." Pet. ¶ 105. But this is both substantively misleading and factually wrong. The Water Board adjusts rates every year, typically in late spring effective July 1, after the April close of the PIOC's measurement window, and the PIOC

incorporates each year's adjustment in the following cycle by design. (2026 PIOC Report at 14). This year's PIOC accordingly measured the prior adjustment of 3.7% (id., App. 2), and next year's will measure the 6% FY2027 adjustment. The statute's directive to consider "prevailing and projected" water rates (N.Y.C. Admin. Code § 26-510(b)) is met the same way every year: through the PIOC's measured figures and its published projections, whose own accuracy the Board tracks and reports annually (2026 PIOC Report at 10, noting last year's projection error of 0.5 percentage points).

32. Furthermore, the Explanatory Statement *does* reference the increase: its testimony excerpts quote a witness stating, "Just two days ago, the water commission board increased water rates by 6%. Last year, it was less than 3.5%. Those costs have to be borne" (Explanatory Statement at 10). Also, the increase is small in guideline terms: water and sewer charges account for 66% of the Utilities component, which carries a 10.9% weight in the PIOC (2026 PIOC Report at 8), roughly 7.2% of the total index. The 6% adjustment adds approximately 0.4 percentage points to the following year's PIOC, less than 0.2 points more than the adjustment already measured.

B. Petitioners' Allegation of a "Double Haircut" to Landlords' Expenses Conflates Independent Adjustments and Omits RGB's Consideration of Unadjusted Figures

33. The Petition alleges that owner expenses are suppressed twice: first by a Department of Finance ("DOF") assessment model that "will not recognize expenses above" a 64% expense-to-income ceiling for certain building types (Pet. ¶ 117), and second by "a further 3.07% reduction" applied in the 2026 I&E Study (Pet. ¶ 118), a "double-reduction methodology" the Petition calls structural (Pet. ¶ 119). In so doing, the Petition objects, in essence, to the Board's declining to accept the owners' own self-reported expense figures

at face value. However, almost every part of the “double haircut” premise is demonstrably false.

34. The first reduction alleged by the Petition simply does not happen. While the DOF does cap recognized expenses in its tax-assessment models, the Board does not use these values. It primarily uses raw data provided by the owners, unaltered by the DOF. The confusion appears to stem from the Petition’s misinterpretation of a paragraph from the 2026 I&E Study, which states “The RPIE data provided to the RGB by the DOF includes records that have had income and expenses adjusted by the DOF” (2026 I&E Study at 9). This statement is taken out of context from a longer passage addressing recent changes in the Board’s statistical methods, and the “data” referenced does not refer to the data used to calculate the rent guidelines in question.

35. The Petition’s error almost certainly traces to a similar error by the NYU Furman Center, in the testimony the Petition cites. However, RGB Staff corrected this error on the record during the testimony of the Furman Center witness Mark Willis at the March 26, 2026 RGB Meeting. After Willis asserted that using DOF-capped expenses leads the RGB data to overstate owner income (as NOI), Board staff interrupts to say that “the data in the I&E is not adjusted … it’s the raw data reported by owners.”[17] RGB staff also pointed out that in their own report, unlike the DOF datasets of which Willis complained, there are buildings with expense ratios far higher than the 64% cap, which would not appear if RGB used DOF’s adjusted numbers. Willis retreated to a weaker point, that DOF-capped

[17] The exchange appears in the Board's posted video of its March 26, 2026 public meeting at 1:18:51 through approximately 1:21:00. N.Y.C. Rent Guidelines Bd., Public Meeting of March 26, 2026, https://www.youtube.com/watch?v=xXbBWeIu20g&t=4731 *see also* https://www.youtube.com/watch?v=xXbBWeIu20g&t=7755 (follow-up discussion of the same issue).

expenses lead to higher tax-assessments — a far cry from the wholesale "double haircut" Petitioners have alleged.

36. The Petition is correct about the second reduction, and the RGB did reduce owner expenses by 3.07% in its analysis. But this adjustment is a systemic method to account for overstating expenses, recomputed annually with contemporary data. The amount of adjustment is calculated by comparing the weighted average expenses for a subset of "clean" buildings whose accounting has been validated, and the weighted average expenses for the full data set. This year, the value for the full data set was found to be 3.07% higher than the control group, so the Board adjusted its figures accordingly.

37. The 3.07% figure is incidentally the RGB's smallest since it started adjusting expenses in 1992. In that year, an audit of 46 properties found that O&M costs stated in RPIE filings were "generally inflated by about 8%" (2026 I&E Study at 9). The Board then applied that reduction without recalculation for three decades.

38. The form of the Board's adjustment changed three studies ago, in the 2023 I&E Study, when staff replaced the flat percentage that had been used since 1992 with an annually recomputed, empirically derived figure. Contrary to the Petition's "systematic" suppression narrative (Pet. ¶ 119), the change to a dynamic annual adjustment has operated entirely in owners' favor. The value has declined every year, from 8% to 4.94%, 4.41%, 4.25%, and now 3.07%. The current method recognizes 4.93 percentage points *more* owner expense than the one it replaced (2026 I&E Study at 9; accord 2024 and 2025 I&E Studies)[18].

[18] N.Y.C. Rent Guidelines Bd., 2024 Income and Expense Study (Mar. 28, 2024), https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2024/03/2024-IE-Study.pdf; N.Y.C. Rent Guidelines Bd., 2025 Income and Expense Study (Mar. 27, 2025), https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2025/03/2025-IE-Study.pdf.

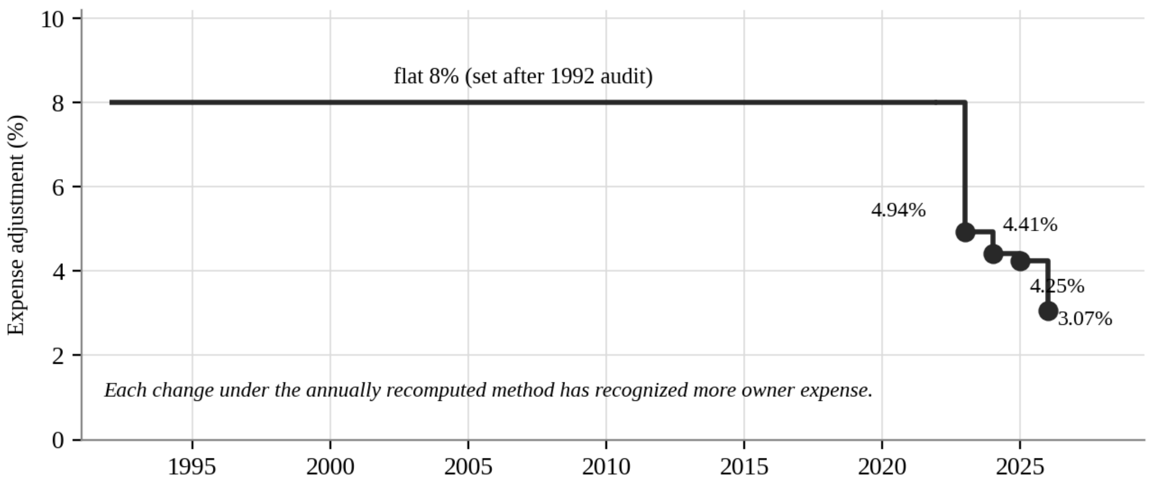


Figure 7. *The expense adjustment has declined every year under the annually recomputed method. Source: 2026 I&E Study at 9; prior I&E Studies.*

39. Above all, the 2026 I&E Study publishes the unadjusted figures next to the adjusted ones, and the Board's conclusion is unchanged under either. With the adjustment, the 2024 cost-to-income ratio is 61.7%; without it, 63.6% (2026 I&E Study at 10). And on the year-over-year movement that actually bears on a rent guideline: "Examining unadjusted expense data, both the Cost-to-Income and Cost-to-Rent ratios fell by the same 0.4 percentage points from 2023 to 2024" (2026 I&E Study at 16). The Board's distress metric is likewise computed from *reported* costs: 1,628 buildings — 9.2% of the total — had "reported O&M costs that exceeded gross income," down from 9.3% the prior year and from 13.9% in 1990 (2026 I&E Study at 9, 16). A reader who credits every dollar owners reported, with no adjustment at all, reads the same result off the same pages: costs falling as a share of income, and distress declining. The Petition labels as a "structural" defect a feature that does not change any conclusion attached to it.

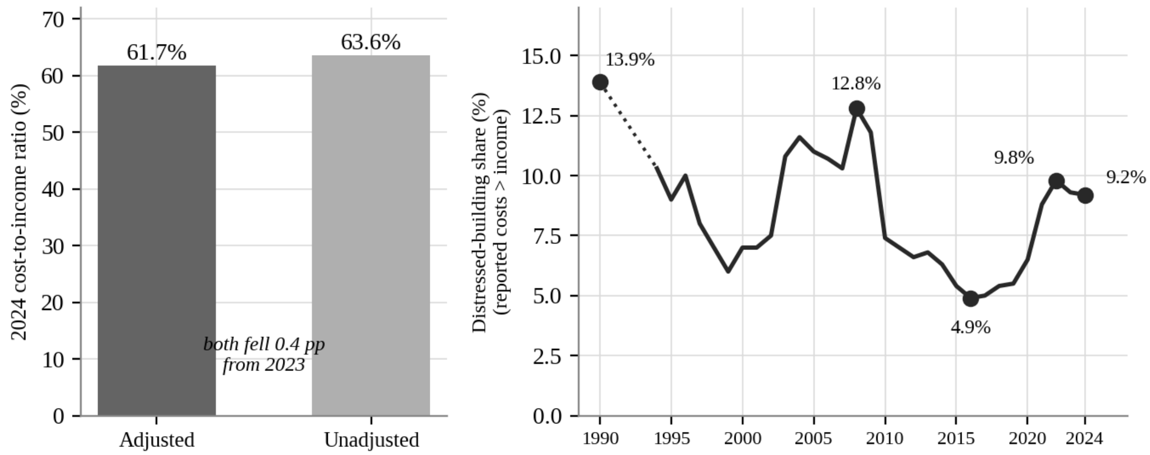


Figure 8. *The conclusion is unchanged without the adjustment. Left: 2024 cost-to-income ratio, adjusted vs. unadjusted, both down 0.4 percentage points from 2023 (2026 I&E Study at 10, 16). Right: distressed-building share, annual, as reported in successive I&E Studies (each study reports the income year two years prior; 1990 value per the 2026 I&E Study at 9; 1991–93 not separately published — dotted segment).*

40. The Petition's implied alternative to adjusting costs is crediting every self-reported dollar at face value. This would rest the Board's cost measures on precisely the unverified filings that the 1992 audit and DOF's screens exist to correct. Sound practice does not treat tax-motivated self-reports as ground truth; it benchmarks them, discloses the adjustment, and publishes the unadjusted figures alongside for verifiability. That is what the Board does.

C. The Petition's Objections to the Inclusion of "Mixed-use Buildings" in NOI Calculations Dramatically Oversimplify the Board's Analysis

41. The Petition argues that the 2026 I&E Study's finding that NOI rose 6.2% is unreliable because the dataset "includes any building containing at least one rent-stabilized unit, including buildings where a significant share of apartments are unregulated and generate market-rate income" (Pet. ¶ 122), and that the Board therefore rested its decision on an inflated "headline figure." The Petition repeatedly cites the alleged inflation of this "headline figure" as a basis for finding the Board's final determination arbitrary. This

assertion misunderstands both what the RGB measures and how it makes use of those measurements.

42. The universe the Petition attacks is the universe the study has always used. Since the Income and Expense series began in the 1990s, the 2026 I&E Study has been built from RPIE filings for buildings containing rent-stabilized units, producing the consistent longitudinal series, reaching back to 1990, described in § I. The same inclusive universe underlies the Board's other longitudinal instruments as well, including the PIOC and the 2026 Mortgage Survey. It is the same universe in which every prior board operated, including the boards that adopted the increases the Petition treats as rational. It is patently not a construction of the 2026 cycle.

43. The same universe is also the foundation for the statistic on which the Petition builds its affirmative case, citing the PIOC's own finding that "operating costs rose 5.3% in the most recent year" (Pet. ¶ 8). By the Board's published definition, the PIOC measures price changes for goods and services used in operating "buildings that contain rent stabilized units" (2026 PIOC Report at 4; 2026 I&E Study at 22 n.9). If including partially-stabilized buildings inflates measured income, it inflates measured costs by the same logic: mixed buildings' operating expenses (which the I&E data cannot split between regulated and unregulated units, 2026 I&E Study at 7) enter the expense aggregates exactly as their revenues enter the income aggregates.[19]

44. Furthermore, the 2026 I&E Study actually addresses the Petition's concern about market-rate units inflating NOI growth. On the same summary pages the Petition cites,

[19] I note that in the most recent year, expenses grew *faster* in post-1973 buildings, up 6.2%, than in pre-1974 buildings, up 3.7% (2026 I&E Study at 15) — meaning the aggregation the Petition complains of, applied consistently, flatters the owners' cost narrative more than the Board's income narrative.

the Board published a disaggregation by stabilization percentage: NOI growth of 6.2% citywide among all buildings with at least one stabilized unit; 4.0% among buildings 50% or more stabilized; 3.5% among buildings 80% or more stabilized; and 2.4% among buildings 100% stabilized (2026 I&E Study at 4). Confusingly, the Petition even quotes these same numbers (Pet. ¶ 123) *from the same study* as though they were a refutation. They are the Board's own published sensitivity analysis, and they still find consistent growth no matter how the buildings are grouped. In every tranche, including the fully-stabilized tranche that by construction contains no market-rate residential income, NOI *rose* in the most recent measured year. The composition question the Petition raises was thus asked and answered in the record itself, and the answer was adverse to the Petition: removing the allegedly contaminating buildings reduces the magnitude of NOI growth but does not change its direction.

[See Figure 2, § I supra — 2024 NOI growth by stabilization tranche, positive in every segment.]

45. The 2026 I&E Study likewise did not conceal the one geographic exception; it reported it. NOI declined 0.1% in the Bronx while rising in every other borough and in 93% of community districts (2026 I&E Study at 4).

46. Measuring income and costs over the same universe is not manipulation; it is the only design under which the two sides of the ledger can be compared at all, and it is how the Board has compared them for three decades.

D. The RGB Rationally Excludes Debt Service from NOI, as it Always Has

47. The Petition's distress evidence centers on debt: 32% of loans in the Community Preservation Corporation's ("CPC") surveyed NYC rent-stabilized portfolio carried a debt-service coverage ratio ("DSCR") below 1.0 in 2024, up from 26% in 2023 and 11%

in 2022 (Pet. ¶ 136), and "95% occupancy no longer guarantees 95% collection" (Pet. ¶ 137).

48. The exclusion the Petition challenges is as old as the measure itself. NOI has been defined as gross income less operating and maintenance costs, before debt service in every Income and Expense Study since the series began. Indeed, that consistency is what produces the continuous 1990–2024 series described in § I. It is also the standard definition of net operating income used throughout real-estate finance, in which debt service is a financing item, not an operating cost. Every modern board has measured owner finances on this same debt-agnostic basis, including every board that adopted the guideline increases the Petition endorses.

49. The Board uses NOI as a key metric specifically *because* it separates the cost of operating and maintaining a building from the cost paid to acquire it. NOI is a closed system in which the inputs (the cost of running the physical plant) and the outputs (tenant payments) are interdependent. Debt service, however, is a function of a much larger ecosystem of liquidity, leverage, and interest rates. Two identical buildings could have similar NOI but very different debt-service coverage ratios — one comfortably above 1.0 and the other below it — because one owner's mortgage is worse. To consider debt when setting rent guidelines would be to price the *financing*, not the *housing*. Furthermore, it would reward the most aggressive purchase underwriting with the largest rent increases. The Board's stated purpose is to prevent "unjust, unreasonable and oppressive rents" and to "forestall profiteering, speculation and other disruptive practices" (N.Y.C. Admin. Code § 26-501); tying guidelines to owners' capital-structure decisions would invert that purpose.

50. The Board's own 2026 Mortgage Survey series shows average multifamily interest rates of approximately 3.8% in 2021 — a record low — rising to approximately 6.7% by 2025 before easing (2026 Mortgage Survey, App. 5; accord 2026 Mortgage Survey at 4, 8, reporting new-loan rates of 6.13%, down 0.59 percentage points year over year, with maximum loan-to-value ratios rising and non-performing loans falling to 3.1%). Loans underwritten at the 2021 trough reprice into today's rates regardless of anything the Board does. It must be noted that CPC's figures describe a particular portfolio: CPC (with partners) services the failed Signature Bank's rent-stabilized loan book — a portfolio assembled by what CPC's own witness described to the Board as "aggressive" competition among lenders that "contributed [to] over leveraging those buildings" (Apr. 9, 2026 meeting video at 1:37:58, https://www.youtube.com/watch?v=avjtKgVUtgE&t=5878).

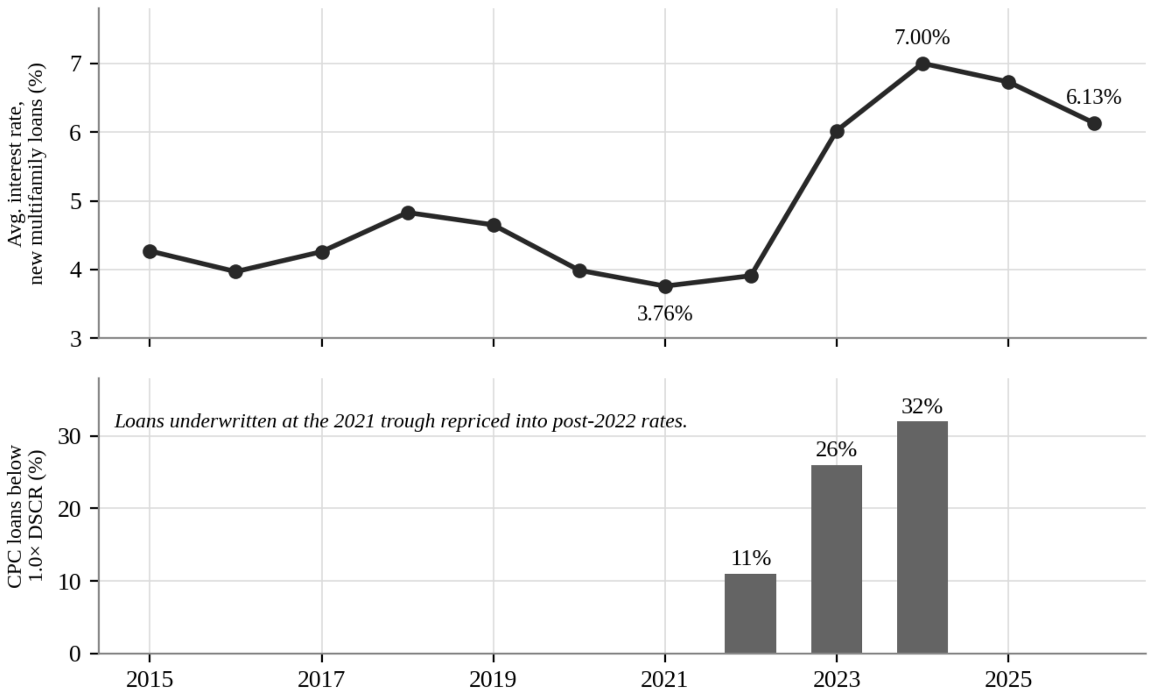


Figure 9. *The rate cycle explains the DSCR slide. Top: average interest rate on new multifamily mortgage loans (2026 Mortgage Survey at 9 and App. 5). Bottom: share of CPC's surveyed portfolio below 1.0× debt-service coverage (Pet. ¶ 136).*

51. The Petition evokes the CPC saying "95% occupancy no longer guarantees 95% collection" (Pet. ¶ 137) as a plain support for owner peril in the modern environment. But the quote cuts against the Petition's remedy, as it is a statement about *collections*: rent that is billed but not paid. A renewal-guideline increase raises what may be billed, but cannot urge non-paying households to pay. A building whose problem is collections, an increase does not translate to revenue. It can, however, decrease income if the rent bump tips a tenant into non-payment.

52. The Board's own *owner representative* Maksim Wynn presented this analysis when voting *for* the 0% order, using figures from an owner's own submission: a 21-unit fully-stabilized building billing roughly 90% of its legal rent roll and collecting roughly 90% of that, where a 2% increase that tipped a single additional average tenant into

nonpayment would produce "a 3% net decrease in income and a 26% decrease in net cash flow" (Wynn Statement; June 25, 2026 final vote video at 11:26, https://www.youtube.com/watch?v=cERCTVuTr50&t=686; accord Pet. ¶¶ 276–278, quoting the same statement). And when the Board's chair asked CPC — the Petition's own distress witness — what guideline level would be appropriate, its representative answered: "I don't think it is the RGB's job or the tenants['] job to bail out the lenders and the owners. So, I would never come in front of you as a lender and say, 'You've got to get coverage back up to 125 so we don't take losses.' That's what I want to do, but I can't. That's not responsible." (Apr. 9, 2026 meeting video at 1:49:37, https://www.youtube.com/watch?v=avjtKgVUtgE&t=6577.)

53. Taken together, the debt-side evidence in the record describes a financing cycle, not a guideline failure. The obligations that produce low coverage ratios were fixed when buildings were bought, financed, and refinanced; the rates that reprice those obligations are set in national credit markets; and the collection shortfalls that erode coverage reflect what tenants are able to pay. None of these is an input the Board controls, and the Petition's own witness on the subject told the Board so.

E. The Board Revised Its Own Arithmetic to Account for the 2019 Statutory Changes, and the Revision Ran in the Owners' Favor

54. Across the individual owner profiles, the Petition alleges that the freeze compounds a broader statutory squeeze. The Housing Stability and Tenant Protection Act of 2019, it says, "eliminated the vacancy bonus, capped improvement pass-throughs far below actual costs, and locked preferential rents in place for the life of a tenancy," while newer City mandates "impose additional costs … with no mechanism for recovery" (Pet. ¶¶ 219, 234; accord ¶ 214). The Petition describes the result as "a one-directional ratchet:

regulatory obligations are added, costs rise, [and] the regulated rent that is supposed to fund these obligations is held flat or frozen" (Pet. ¶ 219). The empirical premise beneath that characterization is that because the 2019 Act closed the channels through which regulated rents had previously risen faster than the guidelines, the renewal guideline is now the only instrument available to fund cost growth — so that a 0% adjustment is more consequential after 2019 than the same adjustment would have been before it.

55. The Petition's premise, however, carries a testable implication. If the renewal guideline were the only remaining instrument, the period since the 2019 Act should be the period in which owner income deteriorated. One-year guidelines in that period have been 1.5% or less in four of eight cycles — 1.5% in 2019, 0% in 2020, an effective 0.75% in 2021, and 0% in 2026 — with the intervening cycles between 2.75% and 3.25% (Apartment & Loft Orders Nos. 51–58). Over the same span the Board's measured series moved in the opposite direction: net operating income rose 10.4%, 12.1%, and 6.2% in the three most recent income years, real net operating income rose 2.2% in 2024, and the share of buildings whose reported costs exceed their gross income fell in two consecutive years, to 9.2% (¶¶ 8, 10; 2026 I&E Study at 4, 9, 18). These are descriptive series and not a causal model, and the claim is not that owners stand at a historic peak — as Figure 1 shows, inflation-adjusted net operating income ran well above its present level in the mid-2010s, fell through the pandemic, and has since only partially recovered. But across the years in which the loss of the other escalators is said to have made low guidelines untenable, the Board's series show recovery rather than deterioration even in the face of those very low guidelines.

F. Conclusion

56. For the foregoing reasons, I urge the Court to reject the Petition.

Dated: Brooklyn, New York
August 13th, 2026

ANDREW FRIEDMAN

III. Glossary

ACS	Annual community survey; yearly study conducted by the Census Bureau; collects detailed social, economic, housing, and demographic data
DOF	Department of finance
DSCR	Debt-service coverage ratio; measure of whether a building's income covers its mortgage
Gross Income	Rent collections plus commercial and ancillary income, as reported on owners' Real Property Income and Expense ("RPIE") filings
I&A	Income and Affordability; annual report by the RGB that examines economic conditions, tenant incomes, and housing affordability to help determine rent adjustments for stabilized apartments
I&E	Income and Expense; annual study which analyzes revenue, operating costs and net operating income for rent-stabilized buildings
NOI	Net operating income; gross income minus operating and maintenance costs
O&M	Operations and maintenance consist; eight reported expense categories (taxes, maintenance, administration, labor, utilities, insurance, fuel, and miscellaneous); excludes debt service and other financing costs
PIOC	Price index of operating costs; measures the changes in the cost of goods and services required to operate and maintain multi-family buildings; published annually by the RGB
REBNY	Real Estate Board of New York
RGB	Rent Guidelines Board
RPIE	Real property income and expense filing; income and expense information provided by property owners

Andrew Friedman

afriedman412@gmail.com • linkedin.com/in/afriedman412 • github.com/afriedman412

EDUCATION

M.S. in Data Science — Northwestern University *Dec 2025*
Certificate in Data Science — General Assembly, New York, NY *Jul 2018*
B.S. in Biology — Washington University in Saint Louis *Jun 2004*

EXPERIENCE

Founder / Engineer — Petey — Open-source PDF extraction framework *2026 – Present*
ML Engineer — Sludge — Investigative publication on money in politics, Collaborations with *The Guardian, MSNBC,* and others. *2022 – 2025*
Data Scientist — Center for Just Journalism *2022 – 2023*
Data Scientist — Remarkable AI (formerly Chatdesk) — Series A startup *2019 – 2022*
Tech Working Group Member — Brooklyn Eviction Defense – Mutual aid organization helping tenants across Brooklyn *2021*
Freelance Writer — Multiple platforms and publications *2012 – 2018*
Senior Research Technician — Ostrer Lab, NYU School of Medicine, New York, NY *2005 – 2007*

SELECTED PUBLICATIONS

"The Shape of Meaning: Model Sensitivity to Textual Perturbation." *Dec 2025*
Graduate Project
- Empirical study of NLP classifier stability under systematic input distortion. Scored ~28,000 text chunks for emotion, toxicity, and topic using pretrained model ensembles, then applied controlled perturbations (case and punctuation removal, token shuffling) and quantified signal degradation using embedding-space clustering metrics, Jensen-Shannon divergence, and Wasserstein distance.

"Major Media Outlets Can't Stop Describing Police Violence As 'Officer-Involved' Incidents." *Jan 2022*
HuffPost, with Brandon Soderberg, in partnership with The Garrison Project
https://www.huffpost.com/entry/police-violence-officer-involved-analysis-lapd_n_61df310fe4b0a26702885448
- Conducted corpus analysis of approximately 136,000 newspaper articles published between 2000 and 2021 across 35 major American newspapers, retrieved from the LexisNexis database, measuring frequency and rate of specified phrases over time. Tested for data completeness across sources and verified that excluding incomplete sources did not materially change results.

"Poorer Cities Spend More of Budget on Police, Even Where Crime Is Lower." *June 2020*
Sludge, with Mason Youngblood
https://readsludge.com/2020/06/26/poorer-cities-spend-more-of-budget-on-police-even-where-crime-is-lower/
- Assembled and analyzed an original dataset of municipal budgets from 473 U.S. cities across all 50 states, joined to U.S. Census demographic data, MIT Election Lab county voting data, and FBI/National Archive of Criminal Justice Data violent crime figures. Analysis used general linear modeling with AIC-based model selection, multinomial logistic regression for state-level effects, and resampling across 10,000 iterations to test robustness to sampling error.

"Structural Racism and Cannabis: Black Baltimoreans Still Disproportionately Arrested for Weed After Decriminalization." *Dec 2018*
Baltimore Fishbowl, with Brandon Soderberg and Ethan McLeod
https://baltimorefishbowl.com/stories/structural-racism-and-cannabis-black-baltimoreans-still-disproportionately-arrested-for-weed-after-decriminalization/
- Performed record linkage and statistical analysis of Baltimore Police Department arrest records against U.S. Census demographic data to measure racial disparity in cannabis possession enforcement following decriminalization. Cited by Baltimore State's Attorney Marilyn Mosby in her January 2019 announcement that her office would cease prosecuting cannabis possession cases.

"Mutations in MAP3K1 cause 46,XY disorders of sex development and implicate a common signal transduction pathway in human testis determination" *Dec 2010*
The American Journal of Human Genetics, Pearlman A, Loke J, Le Caignec C, et al. (incl. Friedman A)
https://pubmed.ncbi.nlm.nih.gov/21129722/
- Genetic study identifying mutations in the MAP3K1 gene as a cause of 46,XY disorders of sex development, using linkage analysis in affected families followed by functional validation in cultured cells.