

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1997**

No. 73

Introduced by the Speaker (Council Member Vallone), Council Members Spigner, Michels, Freed, Duane, Miller, Fields, Koslowitz, Berman, Clark, Cruz, DeMarco, Malave-Dilan, Eisland, Fisher, Foster, Harrison, Henry, Linares, Marshall, McCaffrey, O'Donovan, Perez, Pinkett, Povman, Rivera, Robinson, Robles, Ruiz, Warden, Watkins, Wooten, Lasher, DiBrienza, Weiner, Williams, Eristoff and Dear (in conjunction with the Mayor). Passed under a Message of Necessity from the Mayor.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to the establishment of maximum rents.

Be it enacted by the Council as follows:

Section 1. Legislative findings. In 1970, the city council enacted local law 30 which made fundamental reforms in computing rent increases for residential dwellings subject to the New York city rent and rehabilitation law (rent control). Included among these reforms was the establishment of the maximum base rent formula, which is used today to compute the maximum rent that may be charged for a rent controlled apartment for the ensuing two-year period.

The maximum base rent formula is based upon several cost components plus an eight and one-half percent return on capital value, where "capital value" is defined as equalized assessed valuation using the special state equalization ratio established pursuant to article 12-A of the New York state real property tax law (RPTL). At the time of local law 30's enactment, the only other official equalization measurement in existence was the article 12 (RPTL) state equalization rate, which, like the article 12-A special state equalization ratio, provided an equalization ratio of assessments to market values for all taxable real property situated in New York city. Although the article 12 state equalization rate and the article 12-1. Special state equalization ratio were numerically similar at that time, the council selected the article 12-A special state equalization ratio for computing capital value. It is the council's understanding that, at the time, the article 12-A special state equalization ratio closely and more accurately reflected the current market values of all taxable real property in New York city so as to provide the best possible measurement for computing "capital value".

However, since the enactment of local law 30 the city has altered the way in which it assesses property. Beginning in 1981 with the state legislature's enactment of chapter 1057, all properties in the city of New York were classified into one of four classes, with class one consisting of residential dwellings of three units or less, class two consisting of multiple dwellings of four units or more, class three consisting of utility property and class four consisting of all other property not designated as class one, two or three, predominantly commercial. Under this class structure system, class two residential property is assessed at a substantially higher percentage of the fair market value than class one. Because the article 12-A special state equalization ratio reflects the average assessment ratio for *all* four classes of property, using it to compute equalized assessed valuation for class one and class two properties only, produces distorted values for each of these classes. More specifically, using the article 12-A special state equalization ratio to compute equalized assessed valuation artificially inflates the capital values for class two properties resulting in a doubling of the statutory eight and one-half percent return on capital value, while at the same time, it artificially decreases the capital values for class one properties, resulting in a return on capital value that is less than half of the statutory rate. In light of the statutory eight and one-half percent return on capital value, the unforeseen result of a return on a distorted measure of capital value, described above, is contrary to the obvious intent of local law 30.

In 1989, the New York state division of housing and community renewal, which also acknowledged the gross inequity and unintended consequence that results from the utilization of the article 12-A special state equalization ratio, began using the more appropriate ratio, the article 12 tax class ratio, and continued to do so to the present. Since the creation of the class structure system the state has provided a separate ratio of assessed value to market value for each class of property. The council finds that the article 12 tax class ratio provides a more accurate measure of the value of properties for a particular class than the article 12-A special state equalization ratio because the article 12 tax class ratio measures the value of those properties within that particular class as opposed to the article 12-A special state equalization ratio which measures the value of all real property within the city, including one-, two- and three-family dwellings, utility property and commercial property, for the purpose of establishing the city's constitutional tax and debt limits.

By requiring the appropriate tax class ratio established pursuant to article 12 to be used in calculating equalized assessed valuation, this local law fulfills the obvious intent of the council in a way that fairly serves both landlords and tenants.

§ 2. The first paragraph of paragraph 3 of subdivision a of section 26-405 of the administrative code of the city of New York is amended to read as follows:

(3) The city rent agency shall establish maximum rents to be effective January first, nineteen hundred seventy-two by dividing the maximum gross building rental from all housing accommodations in the property whether or not subject to or exempt from control under this chapter by the number of such accommodations, after giving consideration to such factors as may be prescribed by formula, such as size and location of housing accommodations and number of rooms. Such maximum gross building rental shall be computed on the basis of real estate taxes, water rates and sewer charges and an operation and maintenance expense allowance, a vacancy allowance not in excess of two

per cent, and a collection loss allowance, both as prescribed by such agency, and an eight and one-half per centum on capital value. The operating and maintenance expense allowance shall include provisions for the cost of fuel, utilities, payroll, maintenance repair, replacement reserves and miscellaneous charges attributed to the property, excluding mortgage interest and amortization, and may be varied by the agency for different types of charges depending on such factors as the year of construction, elevator or nonelevator buildings, and the average number of rooms per individual housing accommodation in the building. Capital value shall be equalized assessed valuation [as] *based upon the appropriate tax class ratio which is established pursuant to article [twelve-A] twelve of the real property tax law.* Where the property receives income from sources other than such housing accommodations, the taxes, water and sewer charges and the capital value attributed to the portion consisting of housing accommodations shall be in the same ratio of the total taxes, water and sewer charges (where not computed separately) and the total capital value as the gross income from such portion consisting of housing accommodations bears to the total gross income from the property, as prescribed by the agency.

§ 3. Notwithstanding any other provision of this local law, the standard adjustment factor for the 1996/97 maximum base rent cycle shall be computed in accordance with the provisions of section 2 of this local law.

§ 4. If any clause, sentence, paragraph, section or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§ 5. This local law shall take effect immediately.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on September 18, 1997, and approved by the Mayor on September 30, 1997.

CARLOS CUEVAS, City Clerk, Clerk of the Council

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW § 27

Pursuant to the provisions of Municipal Home Rule Law § 27, I hereby certify that the enclosed local law (Local Law 73 of 1997, Council Int. No. 1037-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on September 18, 1997: 42 FOR, 1 AGAINST.

Was approved by the Mayor on September 30, 1997.

Was returned to the City Clerk on October 1, 1997.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel