



September 9, 2020

RuthAnne Visnauskas  
Commissioner and Chief Executive Officer  
New York State Homes and Community Renewal  
38-40 State Street  
Albany, NY 12207

VIA EMAIL

Dear Commissioner Visnauskas:

We write to express our concerns with Operational Bulletin 2020-1, Reasonable Cost Schedule, dated June 16, 2020, which DHCR issued pursuant to the requirements of the Housing Stability and Tenant Protection Act of 2019 (HSTPA). We believe many of the proposed allowable costs to be inconsistent with current law or other DHCR guidance, and we believe that the Bulletin improperly provides for a waiver of the costs specified in the proposed Schedule, as discussed below.

We have also been informed by organizations representing tenants that some of the costs listed on the proposed Schedule significantly exceed those that have been approved for similar projects in the past. In order to ensure that the proposed Schedule appropriately protects tenants from unnecessary or unreasonable expenses while covering reasonable and necessary expenses, we urge DHCR to publish the data and estimates that were used to determine the costs listed.

Additionally, despite the fact that the HSTPA extended counties across the state the ability to opt into rent regulation, the proposed Schedule makes no geographical distinction in allowable maximum costs. Given that rates charged by contractors in New York City can be up to twice the rates charged in other areas of the state, DHCR should consider creating a series of alternative cost schedules for each area to more fairly reflect local costs.

The proposed Schedule also includes items that appear not to qualify as MCIs under current law. For example, pressure washing is not IRS depreciable and therefore should

not qualify as an MCI. Other items appear to contravene the HSTPA, which states: “no increase shall be approved for group work done in individual apartments that is otherwise not an improvement to an entire building” (Emergency Tenant Protection Act 576/74 §10-b (2)). These items include:

- Apartment doors and door locks
- Electrical wiring
- Outlets and circuit breaker panels inside apartments
- Bathroom GFI outlets
- Windows inside apartments (unless they’re being upgraded to meet energy efficiency standards)

Perhaps these items would qualify as Individual Apartment Improvements (IAIs), but they should not qualify as MCIs.

Additionally, several items appearing on the proposed Schedule contradict guidance in DHCR fact sheets and should not be MCIs or IAIs, including:

- A/C brackets (see DHCR Fact Sheet #44)
- Window Child Guards (see Fact Sheets #25 and #44, which permit a one-time \$10 surcharge only)
- Caulking, which is general maintenance and should not qualify as an MCI

Finally, the Bulletin provides significant opportunity for a building owner to obtain a waiver of their duty to comply with the proposed Schedule, meaning that tenants could still face unforeseen costs outside the scope of what is contemplated in the Schedule or the HSTPA. Specifically, the Bulletin contemplates a waiver if a building owner claims costs that “are necessarily and appropriately priced higher than” those included in the Schedule or when “use of the Schedule will cause an undue hardship, and the use of alternative procedures are appropriate to the interests of the owner, the tenants, and the public.”

We believe that these waiver provisions are inconsistent with the statutory requirement enacted in the HSTPA, which states that the “schedule of reasonable costs ... shall set a ceiling for what can be recovered through a temporary major capital improvement increase, based on the type of improvement and its rate of depreciation.” The statutory language does not appear to authorize DHCR to waive this requirement based on the circumstances of an individual building owner.

As the representatives of hundreds of thousands of rent-regulated tenants, we urge you to delay the finalization of the proposed Reasonable Cost Schedule, make the report upon which these costs were determined available for public review, and engage in further discussion to address the issues we have raised. As written, the proposed Schedule would negatively impact rent-regulated tenants and undermine the intent of the HSTPA.

Thank you for your consideration of our request. Should you wish to discuss this matter, please do not hesitate to contact any of us directly or via Andra Stanley in Senator Kavanagh's office at 212-298-5565 or Kendall Jacobsen in Senator Hoylman's office at 518-455-2451.

Sincerely,



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Chair, Senate Committee on Judiciary  
27<sup>th</sup> Senate District



Brian Kavanagh  
Chair, Senate Committee on Housing  
26<sup>th</sup> Senate District



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