

What Is New Under DHCR? Nothing Good for the Landlord!

COUNSELS' CORNER

By *Kenneth J. Finger, Esq., Carl L. Finger, Esq., and Daniel S. Finger, Esq.*
Finger & Finger, Chief Counsel, Building & Realty Institute (BRI)



WHITE PLAINS – All owners of residential real estate covered by the rules and regulations of The Division of Housing and Community Renewal (DHCR) should be aware of recent amendments to the regulations.

The first major change, in 2012, was the creation of The Tenant Protection Unit (TPU), which has audited apartment owners for the improvements that were made to units in which increases were then claimed.

In addition, changes have now been made to the rules concerning Overcharges, Lease Riders, Major Capital Improvements (MCI's), Preferential Rents, Exit Notices and other requirements for filings placed upon landlords. The following is a summary of some of the major changes that will require more paperwork and will be more restrictive with regard to increases in rents.

Major Capital Improvements (MCI's)

Many landlords have been able to recoup the costs of Major Capital Improvements

(MCI's) and receive rent increases that help them to maintain the properties in good condition.

Of course there were regulations but now there are preliminary restrictions. A building with one or more certain violations will have the application rejected. The landlord may renew the application if the violation is removed within 60 days (or an extension thereof). It is suggested, therefore, that before applying for the application, the violations, if possible, should be cured and all fines paid.

Individual Apartment Improvements (IAI's) and Increases in Rent

DHCR is promulgating new Lease Riders which will require detailed calculations of the rent. This will require detailing the calculations of the improvements to the apartment.

If the tenant requests it, then the landlord must provide the supporting documentation for each of the improvements. The tenant may dispute the sufficiency of the documentation

and, as "self-help," the tenant may withhold rent.

Needless to say, it remains to be seen how this will play out, and what remedies the landlord may have to combat this type of activity in which the tenant is the judge. Without the proper Lease Rider and documentation, the landlord is open to Overcharge Proceedings, which can be lengthy and expensive.

Overcharge Proceedings and the Four-Year Record-Keeping Rule

In 1997 the law provided for a four-year statute of limitations with regard to Overcharge Complaints. However, now if there is an allegation of fraud, a willful overcharge, an outstanding Rent Reduction Order, a Preferential Rent and other situations, the four-year rule can be pierced.

Therefore, all records—including leases and improvements of individual apartments and Major Capital Improvements (MCI's)—should be retained.

In addition, where Preferen-

tial Rents are established there must be disclosure in the lease of the Legal Regulated Rent

changes as well. For example, tenants are protected when filing Service Reduction Com-

The bottom line is that the landlord, now burdened by additional paperwork and more limited in the ability to secure increases, must know that the key to compliance is to document and retain all records for all work, and all increases.

both for Vacancy and Renewal Leases. It is not enough to provide that information in the Rent Registration. There is an assumption that the four-year rule can be pierced in these situations, as well.

Vacancy Deregulation now requires that the first such tenant be given a notice as to how the deregulated rent was computed, together with the last regulated rent and the Rent Registration showing the deregulation.

Technical Scenarios

There are other technical

plaints and where the rent on a base date cannot be determined, then the lowest rent for a comparable unit in the building will be used.

Tenants failing to renew their leases and holding over will be treated as month-to-month tenants and will no longer be held to the full lease term.

The bottom line is that the landlord, now burdened by additional paperwork and more limited in the ability to secure increases, must know that the key to compliance is to document and retain all records for all work, and all increases.

Region's Realty Market Continuing Its Solid Recovery

Continued from page 4

Lower unemployment gives consumers the sense of economic confidence they need to venture into the housing market, the report stressed.

A good showing in the equity markets, such as a Dow Jones Index that set records all-year long, is another factor in that confidence, study officials said.

The study noted that its reported transactions do not include all real estate sales in the area, or all sales assisted by the participating offices, but are fairly reflective of gen-

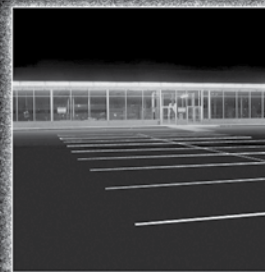
eral market conditions.

HGMLS is a subsidiary of HGAR. The MLS's principal service territory consists of Westchester, Putnam, Rockland and Orange Counties. It

also provides services to Realtors operating in the Bronx, Dutchess, Sullivan and Ulster Counties, the report said.

Asphalt Pavement Deterioration is a Never Ending Process

due to Rain, Ice, Snow, Salt, Wind, Oil, Gasoline and traffic causing serious cracks, crevices and pot holes.



Proper Asphalt Maintenance can Prevent Expensive Insurance Claims

Castle Driveway's proprietary seal coating is superior (& exclusive) to customers in our market area. Our beautiful, high quality - long lasting sealer protects the pavement better than any competitor. As a result our customers have lower maintenance costs, which greatly enhances property values. When you choose Castle Driveway, you're benefiting from many, many years of technical and on-going research and development. Our sealer meets or exceeds all USAF, US.DOT, FAA, ASTM and Federal Standards and specifications.

Your Satisfaction Is Our Future™ Call for your FREE Estimate today 914.747.3595

Residential & Commercial
 Trusted Since 1979

NY: WC-14922-H04
 NY: 914.747.3595

www.CastleDriveway.com
 Licensed, Insured, Guaranteed

Castle Driveway
 Sealing & Maintenance

914.747.3595