



State of New York  
Division of Housing and Community Renewal  
Office of Rent Administration  
Web Site: www.nyshcr.org

Gertz Plaza  
92-31 Union Hall Street  
Jamaica, NY 11433  
(718) 739-6400

Docket Number  
AU 410049 R  
Issue Date  
12/23/2014

## ORDER DENYING COMPLAINT OF RENT OVERCHARGE

**Mailing Address of Tenant:**

Ria C. Kominos  
78 Brampton Road  
Garden City NY 11530

**Mailing Address of Owner:**

Retail Trevi  
130 East 59th Street  
Suite 14A  
New York NY 10022

**Subject Housing Accommodation:**

Apt. No: 4B  
785 Madison Ave  
New York NY 10065

The tenant filed a complaint of Rent Overcharge alleging that the rent of \$1900.00 charged and collected by the owner on September 12, 2012 constitutes an overcharge.

The base date for this proceeding is September 12, 2008, which is the date four years prior to the filing date of the complaint.

Furthermore, evidence indicates that:

All rent adjustments subsequent to the base date, for the complainant, have been lawful.

The subject apartment is exempt from regulation since the tenant's rent at the time of the initial occupancy exceeded \$2000.00 pursuant to Section 2520.11(r) of the Rent Stabilization Code and Laws.

Therefore, it is found that there is no overcharge, and it is ordered that the relief requested is denied.

To: RIVKIN RADLER, LLP  
555 MADISON AVENUE  
NEW YORK NY 10022-3338



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Jerry M. Scher  
Rent Administrator Issued: 12/23/2014

Attachment(s): Rent Calculation Chart

cc: ROBERT PETRUCCI, P.C.



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**Notice of Right to Administrative Review**

This Notice explains your right to appeal, seeking review of orders issued by a Rent Administrator. If you believe that an order is based on an error of law and/or fact, as an aggrieved party you have the right to ask the Division of Housing and Community Renewal (DHCR) to review the order based on your claim of error. This request is called a Petition for Administrative Review, and is referred to as a PAR. If you wish to file a PAR, please read the information and instructions below and follow them carefully. Further details may be found in the instructions printed on the reverse side of the form used for filing a PAR.

**Who may File a PAR:**

An owner, tenant, or other party affected by an order, or an authorized representative of such person(s), may file a PAR. Two or more affected owners or tenants may join in filing a PAR. The DHCR encourages joint filings by affected parties filing on common grounds.

**How to File a PAR:**

1. Use the correct form. PARs must be filed in duplicate using DHCR form RAR-2, in accordance with the instructions on the form. PARs filed on other forms or by letter will not be accepted.
2. You must attach a complete copy of the order which you are appealing to the original of your PAR.

**Time Limit for Filing a PAR:**

The PAR must be hand-delivered or mailed to DHCR at Gertz Plaza, 92-31 Union Hall Street, Jamaica, New York 11433.

1. If the PAR is hand delivered, it must be received **no later than 35 days after the date the order was issued**. The date issued usually appears in the upper right-hand corner of the order.
2. If the PAR is mailed, it must be postmarked **no later than 35 days after the date the order was issued**. If you use a private postage meter and the envelope does not have an official U.S. Postal Service Postmark, the PAR must be received by the DHCR office **not later than 35 days after the order's issuance date**, or you will be required to submit other adequate proof (such as an official Postal Service receipt or certificate of mailing) that the PAR was mailed within the 35-day limit.

**PARs filed after the time limit will be considered untimely and will be dismissed.**

**How to Obtain the PAR Form:**

You may request the PAR form RAR-2 by coming to any DHCR Rent Office listed below or to the Office of Rent Administration's main office at Gertz Plaza, 92-31 Union Hall Street, Jamaica, New York 11433. You may also request that the form be mailed to you by calling (718) 739-6400. The form is also available on the website listed above. Please note that any delay resulting from mailed delivery of the form to you does not extend the time limit for filing the PAR.

**DHCR Rent Offices**

**Lower Manhattan**  
25 Beaver St.  
5th Floor  
New York, NY 10004

**Upper Manhattan**  
163 West 125th St.  
5th Floor  
New York, NY 10027

**Brooklyn**  
55 Hanson Place  
7th Floor  
Brooklyn, NY 11217

**Bronx**  
2400 Halsey St.  
1st Floor  
Bronx, NY 10461

**Queens**  
92-31 Union Hall St.  
6th Floor  
Jamaica, NY 11433

**Westchester County**  
75 South Broadway  
3rd Floor  
White Plains, NY 10601

## CALCULATION CHART

CHART DESCRIPTION : THIS CHART DETAILS ALL CHANGES THAT OCCURRED IN THE CALCULATION OF THE LEGAL REGULATED RENT AND THE COLLECTIBLE RENT FOR YOUR APARTMENT. THESE CHANGES MAY REFLECT INCREASES SUCH AS GUIDELINE, MAJOR CAPITAL IMPROVEMENTS, INDIVIDUAL APARTMENT IMPROVEMENTS, 421-A, AND OTHER SURCHARGES OR THEY MAY REFLECT DECREASES FOR SERVICE REDUCTION ORDERS OR REGISTRATION FREEZES. IN ADDITION, THE CHART WILL REFLECT THE CALCULATED OVERCHARGE AMOUNTS AND PENALTIES IF APPLICABLE.

## DEFINITION OF TERMS : LRR

- CR - THE LEGAL REGULATED RENT AS ADJUSTED IN ACCORDANCE WITH THE RENT STABILIZATION CODE.
- BASE LRR - THE COLLECTIBLE RENT, OR THE AMOUNT OF RENT AN OWNER IS ENTITLED TO COLLECT, MAY BE DIFFERENT FROM THE LRR BECAUSE OF TEMPORARY CHARGES, ADJUSTMENTS AND FREEZES.
- BASE CR - THE LEGAL REGULATED RENT USED AT THE START OF THE CALCULATIONS.
- GUIDELINE INCREASES - THE COLLECTIBLE RENT USED AT THE START OF CALCULATIONS.
- THE RENT GUIDELINE BOARD'S ANNUAL RATE OF ADJUSTMENTS FOR EACH LEASE TERM IS CALCULATED ABOVE THE LEGAL REGULATED RENT, OR THE GROSS RENT FOR CALCULATION IF AN MCI WAS GRANTED, IN EFFECT ON THE DAY PRIOR TO THE EFFECTIVE DATE OF THE APPLICABLE RENT GUIDELINE BOARD ORDER.
- MCI - MAJOR CAPITAL IMPROVEMENT INCREASES AS GRANTED BY DHCR.
- IAI - INDIVIDUAL APARTMENT IMPROVEMENT INCREASES FOR INCREASED SPACE AND SERVICES, NEW EQUIPMENT, NEW FURNITURE OR FURNISHINGS.
- 421A - AN INCREASE AMOUNT WHICH IS 2.2% OF THE INITIAL RENTAL AMOUNT FOR THE APARTMENT. APPLICABLE ONLY TO OWNERS WHO HAVE BEEN GRANTED A PARTIAL TAX EXEMPTION PURSUANT TO SECTION 421-A OF THE REAL PROPERTY TAX LAW.
- WAIVER RULE - WHEN THE OWNER FAILS TO CHARGE A RENT INCREASE, TO WHICH THE OWNER IS ENTITLED, WITHIN A REASONABLE AMOUNT OF TIME, THE OWNER IS DEEMED TO HAVE PERMANENTLY WAIVED THE INCREASE AND MAY NOT LATER COLLECT THAT INCREASE FROM THE TENANT OR ANY SUBSEQUENT TENANT.
- OVERCHARGE AMOUNT - THE EXCESS RENT PAID ABOVE THE COLLECTIBLE RENT.  
(RENT PAID - COLLECTIBLE RENT = OVERCHARGE). OVERCHARGE AMOUNT IS ONLY CALCULATED FOR THE COMPLAINING TENANT AND DOES NOT INCLUDE ANY PENALTIES AMOUNT.
- PENALTIES AMOUNT - TREBLE DAMAGES AND/OR INTEREST ASSESSED ON OVERCHARGES WHICH OCCURRED ON OR AFTER 4/1/84.

CALCULATION CHART FOOTNOTES

DOCKET NO : AU410049R

- 1) THE BASE DATE FOR AN OVERCHARGE PROCEEDING IS THE DATE FOUR YEARS PRIOR TO THE FILING DATE OF THE COMPLAINT. IN THE INSTANT PROCEEDING, THE CASE WAS FILED ON 09/12/2012. THE BASE DATE IS 09/12/2008. HOWEVER, SINCE THE SUBJECT APARTMENT WAS VACANT ON THE BASE DATE, THE OWNER IS ENTITLED TO THE RENT INCREASES FOR SUCCESSIVE TWO YEAR RENT GUIDELINES FOR EACH ADDITIONAL TWO YEARS THAT THE APARTMENT WAS VACANT FROM THE TIME THE LAST RENT STABILIZED TENANT VACATED UNTIL THE COMMENCEMENT DATE OF THE FIRST LEASE IN EFFECT AFTER THE BASE DATE. THEREFORE, THE LEGAL RENT FOR THE PRIOR TENANT BEFORE SIGNING OF THE VACANCY LEASE IS \$1,107.72. (PREVIOUS LEGAL RENT OF \$873.58 X 7.5% FOR A TWO-YEAR INCREASE IN EFFECT ON 09/01/04 + 5.5% FOR A TWO-YEAR INCREASE IN EFFECT ON 09/01/06 + 5.75% FOR A TWO-YEAR INCREASE IN EFFECT ON 09/01/08 + \$60 FOR A TWO-YEAR INCREASE IN EFFECT ON 09/01/10).
- 2) IF THE LEGAL REGULATED RENT WAS NOT INCREASED BY A PERMANENT VACANCY ALLOWANCE WITHIN EIGHT YEARS PRIOR TO A VACANCY LEASE EXECUTED ON OR AFTER JUNE 15, 1997, THE LEGAL REGULATED RENT MAY BE FURTHER INCREASED BY AN AMOUNT EQUAL TO THE PRODUCT RESULTING FROM MULTIPLYING THE PREVIOUS LEGAL REGULATED RENT BY SIX-TENTHS OF ONE PERCENT (0.6%) AND FURTHER MULTIPLYING SUCH RESULTING AMOUNT BY THE NUMBER OF YEARS SINCE THE IMPOSITION OF THE LAST PERMANENT VACANCY ALLOWANCE.
- 3) THE OWNER PROVED THE COST OF THE INSTALLATION OF NEW EQUIPMENT (BATHROOM TILES, FLOORING, MOULDING, LIGHT FIXTURES, CABINETS, COUNTERS, PLUMBINGS FIXTURES, GAS RANGE, REFRIGERATOR, RANGE HOOD AND LABOR) IN THE APARTMENT TOTALING \$57000.00 AND IS ENTITLED TO A RENT INCREASE TO 1/40TH OF THIS AMOUNT (\$1423.00 PER MONTH).
- 4) THE LAWFUL STABILIZED RENT IS EQUAL TO THE RENT CHARGED WHEN THE TENANT IS CHARGED AND PAYS LESS THAN THE RENT PLUS ALLOWABLE INCREASES.
- 5) WHERE THE LEGAL REGULATED RENT IS RAISED TO A LEVEL OF \$2000.00 OR MORE PER MONTH AS A RESULT OF ANY RENT INCREASE PERMITTED UPON VACANCY OR SUCCESSION, OR BY A COMBINATION OF APPLICABLE RENT INCREASES, THE HOUSING ACCOMMODATION WILL QUALIFY FOR EXEMPTION WHETHER OR NOT THE NEXT TENANT IN OCCUPANCY IS ACTUALLY CHARGED OR PAYS \$2000.00 PER MONTH OR MORE.

\* \* \* \* \* G E N E R A L N O T E S \* \* \* \* \*

\* THE TENANT ALSO FILED A LEASE VIOLATION COMPLAINT UNDER DOCKET NO. BM410046RV (HEREIN CONSOLIDATED) STATING THAT THE OWNER FAILED TO PROVIDE A COPY OF THE FULLY EXECUTED RENEWAL LEASE. SINCE THE APARTMENT IS NO LONGER SUBJECT TO RENT REGULATION, THIS ISSUE IS MOOT.