SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF RICHMOND

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;	:	Oral Argument Requested
	:	Index No: _________
Petitioners-Plaintiffs,	:	**VERIFIED ARTICLE 78 PETITION AND COMPLAINT**
- against –	:	
New York City Rent Guidelines Board;	:	
Respondent-Defendant.	:	

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Petitioners-Plaintiffs 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"), by their undersigned counsel, for their Verified Petition and Complaint against Respondent-Defendant the New York City Rent Guidelines Board, allege as follows:

NATURE OF THE ACTION

1. This Article 78 petition and declaratory judgment action challenges the June 25 decision of the New York City Rent Guidelines Board ("RGB" or "the Board"), as memorialized in RGB Order #58, barring landlords from increasing rents on any one-year or two-year rent-stabilized leases for the period from October 1, 2026, through September 30, 2027.[1] In other words, the RGB has now frozen rents on over one million rent-stabilized apartment leases citywide, delivering on Mayor Mamdani's campaign promise to freeze rents. Indeed, once he assumed office, the Mayor went to extraordinary lengths to pack the Board with loyalists and then spent millions in City funds to fill the Board's hearings with tenant advocates. He even had City Hall representatives give the Board a special briefing on the "true cost of living" in New York City, compromising its independence and leaving no doubt what he expected of his hand-picked Board super-majority. To do the Mayor's bidding, this Board then made a mockery of its statutory mandate, resorting to multiple manipulations of its own data to try to justify this irrational result. And this all comes amid unchecked inflation and rising costs that struggling landlords will have to bear to survive.

[1] N.Y.C. Rent Guidelines Bd., Apartment Order No. 58 (June 25, 2026), https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2026/06/2026-Apt-Order-58.pdf/. This order and the accompanying Explanatory Statement are attached hereto as **Exhibit A** ("Ex. A").

2. That Mayor Mamdani preordained this outcome and then took affirmative steps to stack the deck is now undeniable. Indeed, longtime RGB member, Christina Smyth, quit on the morning of the Board's vote, precisely because, in her words, "the process" was no longer being "administered the way the law requires. The Rent Guidelines Board has stopped being a fact-finding body. It has become a body that starts with an answer and vibe codes its way backward to justify it." She said it was "no longer possible" to do "honest work with real numbers." She decried that "this rebuilt board was required to deliver a rent freeze," because "a board that votes to freeze rents while knowingly disregarding its own evidence of rising costs and falling income is not acting within [statutorily-mandated] limits."[2]

3. To have a sitting Board member resign in protest, rather than be party to a sham process with a predetermined outcome, and then to call it out as an insider in such stark terms, is as remarkable as it is unprecedented. And it speaks volumes about why this case cries out for relief.[3]

[2] Resignation Letter from Christina Smyth to the N.Y.C. Rent Guidelines Board (June 25, 2026), a true and accurate copy of which is attached hereto as **Exhibit B** ("Ex. B").

[3] On June 30, the RGB issued its freeze order, along with a 42-page explanation of the rationale for its decision. It cited approvingly City HPD's testimony, which admitted too much—that "[m]ost owners need relief from rising expenses" in "the largest expense categories;" that "the new Mamdani Administration" will roll out a "housing plan" to "reduce rising costs," and "this will help most buildings;" but that "some rent stabilized buildings . . . are in distress and . . . need bigger interventions," which the "City can, and will, provide this support." N.Y.C. Rent Guidelines Bd., Explanatory Statement of Apartment Order No. 58, 39 (June 30, 2026) ("2026 Explanatory Statement"). Mayor Mamdani's newly-appointed "owner" representative, Maksim Wynn, who endorsed this rent freeze on the twisted logic that "increasing legal rents may, counterintuitively, decrease income," expressly embraced the promise of the City "taking the first steps toward the capital and expense interventions owners need." Maksim Wynn, Statement at the N.Y.C. Rent Guidelines Board Public Meeting 1, 5 (June 25, 2026) ("Wynn Statement"). But that is as improbable as it is impermissible for the RGB to cite as a basis for shirking its statutory mandate and short-changing landlords. In short, the RGB has abandoned all pretense of independence in purporting to justify its rent freeze by crediting the Mamdani administration's promise to come to landlords' rescue. And it reveals a compromised board doing the Mayor's bidding.

4. For this reason and the others explained here, the RGB's decision cannot stand. The stakes are too high for these Petitioner landlords and the thousands of others like them whose futures hang in the balance. The Board's action is a textbook example, per CPLR § 7803(3), of arbitrary and capricious decision-making, and an abuse of discretion, affected by errors of law and in violation of lawful procedure, requiring Court intervention and nullification.

5. The RGB's rent freeze is unlawful for several independent reasons:

6. First, as previously explained, this Board's outcome was predetermined before a single hearing was held or a single piece of data reviewed. As longtime Board member Christina Smyth explained in her resignation letter on the eve of the vote: "This rebuilt board was required to deliver a rent freeze. Everything since has been theater. The hearings, the reports, the public comment, the data. None of it was ever going to change the result."[4] Hence, the RGB did not act as an independent fact-finding body considering and applying specific statutory criteria, as the law requires. Instead, the Mayor perverted what is supposed to be an independent regulatory process to deliver on his campaign promise.

7. Moreover, in multiple respects, the RGB failed to discharge its statutory mandate under N.Y.C. Admin. Code § 26-510(b), which requires that it "shall" consider — and rationally weigh — the economic condition of the residential real estate industry, including operating costs, real estate taxes, financing costs, and vacancy rates. Instead, this Board arbitrarily and capriciously manipulated the data to understate operating costs and overstate financial performance of landlords, ignored data showing deteriorating debt-service conditions, and then rendered a decision that its own data did not support.

[4] Ex. B.

8. On operating costs, the Board had no choice but to acknowledge that owners have experienced increases. Its own 2026 Price Index of Operating Costs confirmed that landlords' operating costs rose 5.3% in the most recent year[5] and are projected to rise another 4.1%[6]— with every cost component (fuel, insurance, maintenance, utilities and taxes) increasing.[7] The Board tried to downplay that reality by predicting certain cost declines—like a 1.7% decrease it forecast in utility rates for 2026–27—but this speculation is directly contradicted by the City's contemporaneous adoption of a 6.0% water rate increase, as of July 1, 2026.[8] Utilities such as water are among the many rising operating costs that this Board is statutorily required to consider[9] but failed to do so in violation of its legal mandate. In fact, the Board's own staff formulas, designed to calculate the rent increase needed merely to hold net operating income constant, confirmed that increases of at least 3.4% for one-year leases and 4.8% for two-year leases were needed to keep income steady for the 2026–2027 cycle.[10] This Board nevertheless voted 0%.

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[5] N.Y.C. Rent Guidelines Bd., *2026 Price Index of Operating Costs* 5 (Apr. 9, 2026), https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2026/04/2026-PIOC.pdf ("2026 PIOC").

[6] 2026 PIOC at 10–11.

[7] 2026 PIOC at 5.

[8] N.Y.C. Water Board, Resolution: Adoption of Rate Schedule Effective July 1, 2026 (June 10, 2026), https://www.nyc.gov/assets/nycwaterboard/downloads/pdf/public_notices/wb-notice-6-10-26.pdf/.

[9] N.Y.C. Admin. Code § 26-510(b).

[10] 2026 PIOC at 11–12 (reporting "Traditional" commensurate of 3.4% for one-year leases and 4.8% for two-year leases; "Net Revenue" commensurate of 3.75% for one-year and 6.25% for two-year leases; and "CPI-Adjusted NOI" commensurate of 4.5% for one-year and 8.5% for two-year leases).

9. The RGB attempted to justify that outcome by claiming its 2026 Income and Expense Study showed there would be 6.2% net operating income ("NOI") growth for landlords.[11] But that figure resulted from an arbitrary and capricious manipulation of the subject dataset, which included any landlord's building having at least one rent-stabilized apartment, even if the landlord's income there was substantially driven by unregulated, market-rate apartments. That aggregation of income data skewed the actual financial performance of landlords' rent-stabilized apartments. Indeed, even the Board's own figures showed that, among buildings that are 50% or more stabilized, NOI grew only 4.0%;[12] that, among buildings that are 100% stabilized, NOI grew only 2.4%;[13] and that, in buildings in the Bronx as a whole, *NOI fell 0.1% overall*.[14] Even the Fiscal Policy Institute, testifying on behalf of tenants at the Board's March 26 public hearing, had to concede that the Board's NOI aggregation methodology did not accurately measure stabilized-unit income because that dataset blends regulated and unregulated revenue.[15] That manipulation of the dataset used to justify the Board's decision defines arbitrary and capricious decision-making.

10. The Board's cost data was no more reliable. The Department of Finance caps recognized operating expenses for rent-stabilized buildings at a fixed percentage of modeled

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[11] N.Y.C. Rent Guidelines Bd., *2026 Income and Expense Study* 4 (Mar. 26, 2026), https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2026/03/2026-IE-Study-Final.pdf ("2026 I&E Study").

[12] 2026 I&E Study at 20.

[13] 2026 I&E Study at 20.

[14] 2026 I&E Study at 4.

[15] Emily Eisner, Fiscal Policy Inst., Testimony Before the N.Y.C. Rent Guidelines Board 6 (Mar. 26, 2026) (published April 10, 2026), https://fiscalpolicy.org/wp-content/uploads/2026/04/2026.04.13-Eisner-RBG-Testimony.pdf ("FPI Testimony"); *see also* Fiscal Policy Inst., *FPI Testifies to the Rent Guidelines Board* (May 28, 2025), https://fiscalpolicy.org/fpi-testifies-for-the-rent-guidelines-board/ (FPI testified to the RGB at the invitation of Adán Soltren in 2025).

income — 64.0% for outer-borough regulated building types from fiscal year 2024 forward,[16] regardless of how much costs actually rise. The Board's own 2026 Income and Expense Study then applied a further 3.07% downward reduction to many buildings' figures already capped by the Department of Finance.[17] A measuring tool that errs only downward cannot support a rational determination that costs are contained.

11. The RGB compounded the problem by relying on NOI — a *valuation* metric that excludes mortgage obligations — as its measure of building *survivability*. The Board's mandate under Section 26-510(b) is to assess whether buildings remain viable. Debt service is a real and legitimate cost of operating rental property, and a survivability measure that excludes consideration of debt service in that context is necessarily irrational. Moreover, the Board irrationally ignored presented information of mounting debt service distress. For example, the Community Preservation Corporation's most recent survey showed 32% of surveyed loans in its NYC rent-stabilized portfolio had operating income insufficient to cover debt service — a nearly threefold increase since its last survey.[18] Instead, the Board cited only aggregate indicators from its own Mortgage Survey Report, while disregarding this direct record evidence of deteriorating

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[16] NYU Furman Center, *NYC's Rent-Stabilized Housing: Good Policymaking Calls for Nuanced Analysis with Accurate Data*, Presentation to N.Y.C. Rent Guidelines Board, slide 17 (Mar. 26, 2026), https://www.furmancenter.org/wp-content/uploads/2026/03/NYU-Furman-Center-Testimony-to-Rent-Guidelines-Board-3.26.2026.pdf ("Furman Center Presentation"); FY2026 Property Assessment Guidelines, Apartment Buildings with More Than 10 Units, https://www.nyc.gov/site/finance/property/fy26-assessment-guidelines.page#.

[17] 2026 I&E Study at 9.

[18] Cmty. Pres. Corp., *CPC's New York City Rent Stabilized Portfolio Data Brief* 2 (Apr. 2026), https://communityp.com/wp-content/uploads/2026/04/CPC-NYC-Portfolio-Data-Brief-2026-final2.pdf ("2026 CPC Data Brief") (reporting 32% of surveyed loans had debt-service coverage ratio below 1.0 in 2024); Cmty. Pres. Corp., *NYC Rent-Regulated Portfolio Data Brief: 2020–2024* 2 (2024), https://communityp.com/wp-content/uploads/2025/05/CPC-NYC-Portfolio-Data-Brief-2020-2024-v2.pdf ("2020–2024 CPC Data Brief") (reporting 11% debt-service coverage ratio below 1.0 in 2022).

debt-service coverage.[19] All of this goes directly to the viability of landlords being able to maintain their rent-stabilized stock, making a rent freeze decision predicated on arbitrary cost caps particularly irrational here.

12. In imposing a uniform rent freeze, the RGB also acted contrary to its own historical practice in always making distinctions between one-year and two-year lease renewals, and even among building types, locations and conditions, as it is authorized to do under Section 26-510(b). For example, the Board's own data identified clusters of struggling buildings concentrated in the Bronx and specific outer-borough neighborhoods that unquestionably warranted rent increases. The Mamdani Administration has effectively conceded as much by announcing, simultaneously with this decision, that it will offer rent increases to certain landlords in City-financed buildings upon application,[20] and is seeking a more than 30% increase over a four-year period to a Bronx Mitchell-Lama development.[21] This is tantamount to an admission that it is irrational to have an across-the-board rent freeze today, and that there are many struggling landlords who need rent increases today to survive. But the distinctions the City is drawing in picking and choosing only certain landlords, and only if a City-financed building, make no sense. The City should not be

[19] N.Y.C. Rent Guidelines Bd., *2026 Mortgage Survey Report* 7–10, 12 (Apr. 9, 2026), https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2026/04/2026-MSR.pdf ("2026 Mortgage Survey Report") (vacancy and collection losses rose sharply from 3.14% last year to 5.00% this year; sales of buildings containing rent stabilized units rose 33%, with the Bronx up 106%; and pre-1974 buildings sold for an average of $228,437 per unit, an inflation-adjusted decline of 5.8% from the prior year).

[20] Rebecca Picciotto, *Mamdani Says These NYC Landlords Will Be Exempt From His Rent Freeze*, Wall Street Journal (May 26, 2026), https://www.wsj.com/real-estate/mamdani-says-these-nyc-landlords-will-be-exempt-from-his-rent-freeze-ee53180c.

[21] Mihir Zaveri & Dana Rubinstein, *Why These Affordable Homes Face a 31% Rent Increase*, N.Y. Times (June 25, 2026), https://www.nytimes.com/2026/06/25/nyregion/rent-increase-tracey-towers-mitchell-lama.html.

making such arbitrary distinctions, and the RGB should not be making blanket rules when its own data supports rational distinctions. Indeed, the pattern is telling: where the City bears financial responsibility — as with NYCHA and City-financed Mitchell-Lama buildings — it is acting rationally, granting rent increases and conditioning relief based on demonstrated need. Where private landlords bear the burden, those same principles of rational differentiation have now been abandoned entirely.

13. The Board's reliance on aggregate affordability compounds this same failure to differentiate. The Board invoked tenant affordability as the cornerstone of a uniform freeze, but it did so at the citywide-median level, while declining to disaggregate the very data that would have revealed where affordability pressure actually concentrates. The Board's own 2026 Income & Affordability Study shows an income distribution wide enough that a citywide median obscures conditions at both ends. Renters earning $75,000 or more comprise 46% of all such renter households, of whom only 19.0% are rent-burdened.[22] In contrast, the most acute burdens concentrate in a distinct low-income cohort: of such renters earning under $20,000, comprising 18% of renter households, 88.6% are rent-burdened.[23] The Board disaggregated its own data where doing so supported the preordained result and aggregated data where disaggregation would have undercut a uniform freeze — the same selective treatment that infected its cost and income analysis. Had the Board applied its differentiation authority under Section 26-510(b), the record would have supported calibrated adjustments, rather than a citywide rent freeze. That it instead

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[22] N.Y.C. Rent Guidelines Bd., *2026 Income and Affordability Study* 16 (Apr. 16, 2026), https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2026/04/2026-IA.pdf ("2026 I&A Study").

[23] 2026 I&A Study at 16.

relied on an undifferentiated median, when its own data revealed the sharply differentiated distribution beneath it, is a further mark of irrationality.

14. The consequences for landlords in all five boroughs are immediate and severe. For example, one Petitioner's three rent-stabilized buildings in Queens are all operating at or near cash deficits, including debt service, and experiencing rising costs across the board, including water and sewer charges set by the City. These losses are the direct result of years of rent regulation that has gone off course, culminating in this year's rent freeze promised by the Mayor, even though it is unsupported by the Board's own data and particularly draconian at this fraught time.[24]

15. The Board's June 25 determination was the result of a corrupted and compromised process: a statutory mandate flouted and disregarded, an independent agency held captive, and an outcome wired and predetermined from inception. If allowed to stand, Order #58 will impose severe, irreparable harm on Petitioners and similarly-situated landlords (who stand to lose their properties), while setting a dangerous precedent that the RGB's independence can be cast aside by Mayoral fiat.

16. For all these reasons, Petitioners respectfully request that this Court annul and vacate Order #58 imposing a uniform rent freeze, declare that determination to have been arbitrary and capricious, an abuse of discretion, made in violation of lawful procedure, and affected by errors of law, and remand this matter to the Board to make a new determination that complies with its legal mandate, taking into account all statutorily-required criteria, which, based on the data

[24] Of note, outside of Manhattan, most rent-stabilized buildings contain a majority of apartments, if not all apartments, that are subject to rent stabilization, as the market rents have not been in excess of the luxury decontrol rental requirements. This is especially true in the Bronx, where 75% of buildings with at least one stabilized unit are 100% stabilized, and in Queens, where 52% of such buildings are 100% stabilized. 2026 I&E Study at 17–19. In these boroughs, the high proportion of buildings that are fully rent-stabilized makes citywide NOI averages a poor proxy for the financial condition of purely rent-stabilized landlords.

available to the Board, should necessarily result in a range of appropriate rent increases. Petitioners further request that this Court enter a declaratory judgment, pursuant to CPLR 3001, declaring that Order #58 is void and of no legal effect, and that the RGB acted in violation of its statutory authority under Section 26-510(b), by imposing a uniform rent freeze without rationally weighing the statutorily-required criteria and by substituting a predetermined political outcome for the independent, fact-based determination the law requires. In the interim, Petitioners request that the Court extend the current order, Order #57, which provides 3% for 1-year leases and 4.5% for 2-year leases until new Guidelines are established.[25]

PARTIES

17. Petitioner Kenilworth Holdings LLC owns and operates two fully rent-stabilized residential buildings on Staten Island, which, together, consist of six rent-stabilized units. Kenilworth Holdings LLC is represented by its authorized representative, managing member Michael Fazio, who has lived on Staten Island and has had his business located there for many decades years. Petitioner Kenilworth Holdings LLC is directly and adversely affected by RGB's promulgation of Order No. 58.

18. Petitioners 21-45 23rd St. LLC, 39-12 62nd St. LLC, and 42-59 Bowne St. LLC together own three fully rent-stabilized buildings in Queens consisting of 50 units. These Petitioner entities are represented by their authorized representative, Violet Zharku, a decades-long resident

[25] Petitioners also now move by order to show cause to expedite disposition of this case, as the Board's decision is scheduled to go into effect on October 1, 2026, and to compel targeted discovery from the City concerning communications among, between and within the Mayor's Office, the Office of Mass Engagement, the Office to Protect Tenants, the Office of Management and Budget, and the RGB concerning the process that led to this RGB decision, as well as any underlying data sources, staff memos, communications among board members and meeting minutes from the RGB. In addition, pursuant to CPLR § 7804(h), Petitioners further request that the Court hold an evidentiary hearing on the issue of the RGB's sham process here to reach a predetermined outcome.

of Queens. Petitioners 21-45 23rd St. LLC, 39-12 62nd St. LLC, and 42-59 Bowne St. LLC are directly and adversely affected by RGB's promulgation of Order No. 58.

19. Petitioner 1369 College LLC owns and operates a fully rent-stabilized residential building in the Bronx consisting of 21 units. 1369 College LLC is represented by its authorized representative, Demetrios Antonopoulos, who, with his wife Sophia Hepheastou and other family members, manage and own the building. Petitioner 1369 College LLC is directly and adversely affected by RGB's promulgation of Order No. 58.

20. Petitioner 593 Park Place Management Inc. is a family-owned S-Corporation operating an eight-unit rent-stabilized residential building located at 593 Park Place in Brooklyn, New York. Petitioner 593 Park Place Management Inc. is directly and adversely affected by RGB's promulgation of Order No. 58.

21. Petitioner 43rd Street Associates LLC owns and operates a 23-unit, fully rent-stabilized walk-up apartment building in Astoria, Queens. The building has been owned and self-managed by the same family since 1974. Petitioner 43rd Street Associates LLC is directly and adversely affected by RGB's promulgation of Order No. 58.

22. Respondent-Defendant the New York City Rent Guidelines Board is a State-authorized administrative agency of the City of New York authorized by Section 4(c) of the Emergency Tenant Protection Act of 1974, as amended (ETPA) and Section 26-510 of the Rent Stabilization Law to perform the quasi-legislative function of establishing, *inter alia*, annual guidelines for rent adjustments for rent stabilized apartments in Staten Island, Brooklyn, Queens, the Bronx, and Manhattan. This year, as in previous years, the RGB held public hearings at which it received testimony from owners of rent-stabilized units and buildings in all five boroughs.

VENUE AND JURISDICTION

23. This Court has jurisdiction pursuant to CPLR § 3001 and §§ 7801-7806 to review the RGB's June 25, 2026, determination and to grant declaratory and Article 78 relief, including annulment of agency action that is arbitrary and capricious, impacted by an error of law, and made in violation of lawful procedure.

24. This proceeding is timely because it commenced within four (4) months after issuance of the Board's rent freeze determination, as required by CPLR § 217.

25. Venue is proper in this Court under CPLR § 506(b) because material events and injuries alleged herein occurred in Richmond County, as to Petitioner Kenilworth Holdings LLC located on Staten Island.

26. Petitioners have standing because they own, manage, or represent owners of rent-stabilized properties subject to Order #58, their legally protected interests are directly affected by the challenged determination, and the injuries alleged are within the zone of interests protected by the Rent Stabilization Law and the Article 78 standards invoked here.

FACTUAL BACKGROUND

I. HISTORICALLY, THE RENT GUIDELINES BOARD HAS BEEN "INDEPENDENT" OF CITY HALL

A. History and Purpose of the RGB

27. The RGB was established in 1969 by Mayor Lindsay "to make an independent evaluation of the plan for self-regulation" drafted by the owners of unregulated apartments.[26]

28. New York City then enacted the Rent Stabilization Law of 1969, followed by New

[26] 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/.

York State's preemptive enactment of the ETPA, formally charging the Rent Guidelines Board with establishing guidelines for rent increases.[27]

29. The Rent Guidelines Board is governed by ETPA § 4(c)[28] and N.Y.C. Admin. Code § 26-510.

30. The Board is a quasi-legislative, quasi-administrative body that "cannot act outside of its rent-setting jurisdiction, nor can it adopt rent orders that are unreasonable, arbitrary or capricious," and its "orders must be justified in terms of the economic criteria set forth in the Rent Stabilization Law."[29]

B. The RGB's Mandate as an Independent Body from City Hall

31. N.Y.C. Admin. Code § 26-510 does not authorize the Mayor to direct the outcome of RGB determinations. Indeed, "RGB is constituted as an independent body charged with determining the annual adjustment of rents based upon a series of objective factors that the board is required, by law, to weigh and consider."[30] Although the Mayor has the right, pursuant to Section

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[27] Collins at 27; The Rent Stabilization Law of 1969 is codified as amended in N.Y.C. Admin. Code § 26-501 *et seq.*

[28] ETPA is a New York State statute which enables the City's Rent Stabilization Law as a result of 1971's Urstadt Law (which stripped New York City of its home-rule power to regulate rent stabilization). ETPA § 4(c) states: "In a city having a population of one million or more, the rent guidelines board shall be the rent guidelines board established pursuant to the New York city rent stabilization law of nineteen hundred sixty-nine as amended, and such board shall have the powers granted pursuant to the New York city rent stabilization law of nineteen hundred sixty-nine as amended."

[29] Collins at 11.

[30] C. Jarrett Dieterle, *Why Zohran Mamdani's "Freeze the Rent" Policy Won't Get Past NYC's Rent Guidelines Board*, Manhattan Inst. (Dec. 19, 2025), https://manhattan.institute/article/why-zohran-mamdanis-freeze-the-rent-policy-wont-get-past-nycs-rent-guidelines-board/; *see also* Press Release, N.Y.C. Office of the Mayor, "Mayor Mamdani Announces Six Appointees to the Rent Guidelines Board," (Feb. 18, 2026), https://www.nyc.gov/mayors-office/news/2026/02/mayor-mamdani-announces-six-appointees-to-the-rent-guidelines-bo/.

26-510(a), to appoint qualified members to serve on the Board,[31] he does not have the power to dictate their votes.

32. The Board is required to construct fair rent levels based on "sincere efforts to develop a full and accurate base of information on which to evaluate industry and tenant conditions, and fair hearings for the various individuals and groups who participate in the deliberative process."[32] As noted by the Board's Chairman in 1994, this means that the Board's decision is not meant to "either guarantee an owner a profit (i.e. thereby saving an incompetent owner from his own folly) or to serve as an adjunct to social welfare programs (i.e. protecting poor tenants from the economic forces that would be in effect, even if the housing shortage did not exist)."[33]

33. To secure the Board's independence, the City Council enacted Local Law 11 in 1980 in response to public criticism of the practice of borrowing staff from the city's Department of Housing Preservation and Development."[34] This law vested the RGB chairperson with authority to hire and supervise independent Board staff.[35] As such, the Board may not cede its regulatory authority over rent-stabilized housing stock to another agency.[36]

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[31] N.Y.C. Admin. Code § 26-510(a).

[32] Collins at 3.

[33] Collins at 2–3.

[34] Collins at 9.

[35] Collins at 9.

[36] Collins at 12.

C. The RGB's Composition and Mandate to Set Rent Increase Rates

34. Section 26-510(a) governs the composition of the Board. The Board is composed of nine members, all of whom are appointed by the Mayor. Two are appointed as tenant representatives; two as property owner representatives; and five as representatives of the public with "at least five years experience in either finance, economics or housing."[37]

35. Section 26-510(b) charges the Board with establishing "annual guidelines for rent adjustments."[38]

36. To make this determination, the Board "shall consider, among other things (1) the economic condition of the residential real estate industry in the affected area including such factors as the prevailing and projected (i) real estate taxes and sewer and water rates, (ii) gross operating maintenance costs (including insurance rates, governmental fees, cost of fuel and labor costs), (iii) costs and availability of financing (including effective rates of interest), (iv) over-all supply of housing accommodations and over-all vacancy rates, (2) relevant data from the current and projected cost of living indices for the affected area, (3) such other data as may be made available to it."[39]

37. The Board is required to hold a public hearing and accept testimony before setting annual guidelines.[40] As the Board's own governing materials recognize, a credible guideline-setting process requires "sincere efforts to develop a full and accurate base of information on which

[37] N.Y.C. Admin. Code § 26-510(a).

[38] N.Y.C. Admin. Code § 26-510(b).

[39] N.Y.C. Admin. Code § 26-510(b).

[40] N.Y.C. Admin. Code § 26-510(h).

to evaluate industry and tenant conditions, and fair hearings for the various individuals and groups who participate in the deliberative process."[41]

38. By July 1 of each year, the Board must file and publish its findings and a statement of the maximum allowable rent adjustment, effective on the succeeding October 1.[42]

II. THE MAYOR'S PROMISE OF A RENT FREEZE

A. Zohran Mamdani Campaigns on the Promise of a Rent Freeze

39. One of the primary campaign promises Zohran Mamdani made was that he would freeze the rent if he was elected Mayor of New York City. From the start of his campaign, he made this promise very clear, stating, "I'm freezing…your rent as the next Mayor of New York City. Let's plunge into the details. … rents are set by the Rent Guidelines Board. The board is made up of nine members, and the mayor appoints each one. … Currently eight of Adams' nine appointees terms are up and could be replaced tomorrow. And that's exactly what I would do."[43] He stated, "I'm running for mayor to freeze the rent for every rent-stabilized tenant. . . . It's true, as your next mayor, I will freeze your rent."[44] And he went further: "As mayor, I'll freeze the rent every year that I'm in office. That's a guarantee."[45]

40. On his campaign website, Mamdani explicitly promised: "As Mayor, Zohran will immediately freeze the rent for all stabilized tenants, and use every available resource to build the

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[41] Collins at 3.

[42] N.Y.C. Admin. Code § 26-510(b); Collins at 108.

[43] Video posted by Zohran Mamdani (@zohrankmamdani), X (Jan. 1, 2025), https://x.com/ZohranKMamdani/status/1874638574328697003/.

[44] Video posted by Zohran Mamdani (@zohrankmamdani), Instagram (May 29, 2025), https://www.instagram.com/reel/DKPKzEguiz2/.

[45] Zohran Mamdani for NYC, *Zohran Mamdani is Running to Freeze the Rent*, at 00:19 (YouTube, Nov. 5, 2024), https://www.youtube.com/watch?v=09rKTIGfwo8/.

housing New Yorkers need and bring down the rent. The number one reason working families are leaving our city is the housing crisis. The Mayor has the power to change that."[46]

41. On his X account on June 6, 2025, Mamdani posted: "We're in front of the landlord lobbyists that just gave Cuomo's SuperPAC $2.5 million to raise your rent. I will freeze it."[47]

42. On October 16, 2025, he stated: "I will freeze the rent for more than two-million rent-stabilized tenants."[48]

43. He promised to do so by "[o]nly appointing those who understand that landlords are doing just fine."[49]

B. Purge of Prior RGB Appointees

44. Board members Christie Peale and Lliam Finn, both of whom were appointed by Mayor Adams, then declined their appointments as Mayor Mamdani was assuming office. The premature resignations paved the way for Mamdani to appoint a super majority of RGB members – six in all – whom he knew would be predisposed to fulfilling his campaign promise to freeze the rent.[50]

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[46] Zohran for N.Y.C. (archived Nov 4, 2025, at 01:47 GMT), https://web.archive.org/web/20251104014706/https://zohranfornyc.com/ (former 2025 campaign website).

[47] Zohran Mamdani (@ZohranKMamdani), X (June 6, 2025, at 14:43 ET), https://x.com/ZohranKMamdani/status/1930999066713842001/.

[48] Video posted by Zohran Mamdani (@ZohranKMamdani), X (Oct. 17, 2025, at 00:32 ET), https://x.com/ZohranKMamdani/status/1978982454460342678/ (mayoral debate on Oct. 16, 2025).

[49] Renee Anderson & Jeff Capellini, *Zohran Mamdani Ran on a Promise to Freeze Rent. Here's How NYC's Mayor Can Control the Rates*, CBS News (Nov. 7, 2025, at 08:36 ET), https://www.cbsnews.com/newyork/news/zohran-mamdani-new-york-city-rent-freeze/ (citing a video on Mamdani's former campaign website).

[50] David Brand, *Mamdani Says Rent Guidelines Board Pick Coming 'Soon' After Two Adams Appointees Drop Out*, Gothamist (Jan. 2, 2026), https://gothamist.com/news/mamdani-vows-new-rent-guidelines-board-pick-after-recent-adams-appointee-drops-out/; Kathryn Brenzel, *Adams Appointee Backs Out of Rent Guidelines Board*, Real Deal (Dec. 31, 2025), https://therealdeal.com/new-york/2025/12/31/eric-adams-loses-rent-guidelines-board-appointee/; Samantha Maldonado, *Rent Board Resignation Clears Path for*

III. THE MAYOR APPOINTS RGB MEMBERS PREDISPOSED TO DELIVERING A FREEZE AND CREATES THE MAYOR'S OFFICE OF TENANT PROTECTION AND THE MAYOR'S OFFICE OF MASS ENGAGEMENT WITH HIS POLITICAL ADVOCATES ONLY

45. On January 23, 2026, Mamdani began carrying out his campaign promise to stack the RGB with only members who agreed with his vision of a freeze. When asked whether he could freeze rent, he stated, "[y]ou can do that. That's what the Rent Guidelines Board can do, and we appoint every member to that board. And I believe that they're going to see tenants deserve that relief, because landlords are making [a] 12 percent increase in their revenues, [where a] tenants' median household income [is] $60,000."[51]

A. Mamdani's Picks RGB Members Who Already Supported a Rent Freeze

46. Mayor Mamdani appointed: Chantella Mitchell, Program Director at the New York Community Trust, as Chair; Sina Sinai, Senior Research Associate at the Jain Family Institute, as a Public Member; Lauren Melodia, Director of Economic and Fiscal Policy at the Center for New York City Affairs at The New School, as a Public Member; Brandon Mancilla, Region 9A Director of the United Auto Workers, as a Public Member; Maksim Wynn, Director of Development at

Mamdani Rent Freeze Promise, City Reporter (Feb. 17, 2026), https://www.thecityreporter.nyc/2026/02/17/rent-freeze-board-mamdani-regulated-apartments/; *see also* C. Jarrett Dieterle, *Why Zohran Mamdani's "Freeze the Rent" Policy Won't Get Past NYC's Rent Guidelines Board*, Manhattan Inst. (Dec. 19, 2025), https://manhattan.institute/article/why-zohran-mamdanis-freeze-the-rent-policy-wont-get-past-nycs-rent-guidelines-board ("Faced with the possibility of inheriting a board dominated by Mayor Adams's appointees, Mamdani has suggested that he would look for ways to oust members who do not favor his agenda. In a well-publicized interview, the mayor-elect stated: 'My approach to the use of power will be to actually utilize it. What I mean by that is you look at Republicans, they seem to have no limits in their imagination or how they want to use power. And as Democrats, it's like we're constructing an ever-lowering ceiling.'") (citing David Brand, *Could Zohran Mamdani Fire Landlord-Friendly Members of NYC Rent Board if Elected Mayor?*, Gothamist (Oct. 28, 2025)).

[51] Press Release, N.Y.C. Office of the Mayor, Transcript: Mayor Mamdani Appears Live on "The View" (Jan. 23, 2026), https://www.nyc.gov/mayors-office/news/2026/01/transcript--mayor-mamdani-appears-live-on--the-view-/.

Procida Development Group, as an Owner Member; and reappointed Adán Soltren, Supervising Attorney at the Legal Aid Society, as a Tenant Member.[52]

47. They joined now-resigned Christina Smyth (Owner Member), Arpit Gupta (Public Member), and Sagar Sharma (Tenant Member),[53] who were all appointed or re-appointed to the Board by former Mayor Eric Adams.

48. **Chantella Mitchell**, Chair (Public Member): Appointed by Mayor Mamdani – voted YES on a 0% increase to 1- and 2-year leases.[54] Before becoming Program Director at the New York Community Trust, Mitchell worked as an executive director at the Department of Housing Preservation and Development (HPD) Office of Development under Mamdani's Deputy of Housing, Leila Bozorg, and on the Housing and Economic Development Taskforce at the Office of Management and Budget (OMB).[55]

49. **Lauren Melodia** (Public Member): Appointed by Mayor Mamdani – voted YES on a 0% increase to 1- and 2-year leases.[56] In two back-to-back statements, dated October 15, 2021, Melodia posted on X:

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[52] Press Release, N.Y.C. Office of the Mayor, "Mayor Mamdani Announces Six Appointees to the Rent Guidelines Board," (Feb. 18, 2026), https://www.nyc.gov/mayors-office/news/2026/02/mayor-mamdani-announces-six-appointees-to-the-rent-guidelines-bo/.

[53] Press Release, N.Y.C. Office of the Mayor, "Mayor Mamdani Announces Six Appointees to the Rent Guidelines Board," (Feb. 18, 2026), https://www.nyc.gov/mayors-office/news/2026/02/mayor-mamdani-announces-six-appointees-to-the-rent-guidelines-bo/.

[54] N.Y.C. Rent Guidelines Bd., *June 25, 2026 RGB Meeting: Final Vote* (June 25, 2026), https://www.youtube.com/watch?v=cERCTVuTr50/.

[55] Press Release, N.Y.C. Office of the Mayor, "Mayor Mamdani Announces Six Appointees to the Rent Guidelines Board," (Feb. 18, 2026), https://www.nyc.gov/mayors-office/news/2026/02/mayor-mamdani-announces-six-appointees-to-the-rent-guidelines-bo/.

[56] N.Y.C. Rent Guidelines Bd., *June 25, 2026 RGB Meeting: Final Vote* (June 25, 2026), https://www.youtube.com/watch?v=cERCTVuTr50/.

> I'm not surprised that rents are going up right now, after landlords were forced to be civil during pandemic eviction moratoriums. But ***we should also not be fooled by a landlord's comment***, "this is what the market is doing." There are no invisible, natural laws of capitalism.[57]
>
> ***Landlords have a particular set of class interests*** reinforced by our legal system. We definitely need more housing supply, but this will be slow to implement. Expanding and implementing rent control across the country is the best way to ***keep landlords and rents in check.***[58]

50. On November 9, 2021, Melodia posted on X: "Tomorrow new CPI numbers will fuel the inflation debate. Don't get distracted by milk or used car prices. . . . ***Housing is the biggest monthly expense for most people, and we need bold policies to make it permanently affordable.***"[59]

51. In a 2023 article discussing a Good Cause Eviction law, Melodia was quoted as saying the following:

> When you own property, rent it out and live there, you have huge commitment to your community. Most properties in my neighborhood are attached to each other. I've seen over the past decade how rent increases in our neighborhood create a revolving door. Before private equity got involved to the extent it has, neighbors lived on my block for generations. ***I'm in favor of putting limits on practices that predatory landlords are able to get away with***.[60]

[57] Lauren Melodia (@lrmelodia), X (Oct. 15, 2021 at 8:46 ET), https://x.com/lrmelodia/status/1448993765163679746 (emphasis added).

[58] Lauren Melodia (@lrmelodia), X (Oct. 15, 2021 at 8:46 ET), https://x.com/lrmelodia/status/1448993766803652625 (emphasis added).

[59] Lauren Melodia (@lrmelodia), X (Nov. 9, 2021 at 11:11 ET), https://x.com/lrmelodia/status/1458104954447712257 (emphasis added).

[60] Jennifer White Karp, *Surprise! Even Some New York Landlords Support a Good Cause Eviction Law*, Brick Underground (Mar. 29, 2023) (emphasis added), https://www.brickunderground.com/rent/landlords-sign-letter-urge-governor-hochul-pass-good-cause-eviction-bill/.

52. In 2023, Melodia signed a letter which, among other points, espoused the following: "At its core, rent regulations are aimed at rebalancing the power dynamics between tenants and landlords, which disproportionately favor landlords."[61]

53. In January 2026, Melodia publicly expressed her support for newly-elected Mayor Mamdani: "Government policy can be an important tool for addressing affordability, and it's also a necessary and powerful tool to address inequality and poverty and the challenging economy that Mayor Mamdani is inheriting. So, ***this is a hopeful moment for the city as Mayor Mamdani takes office*** and he's ***already begun demonstrating with his personnel appointments*** and his inaugural address . . ."[62] Melodia was then appointed to the RGB the very next month after her public statement expressing support for Mamdani.[63]

54. **Brandon Mancilla** (Public Member): Appointed by Mayor Mamdani – voted YES on a 0% increase to 1- and 2-year leases.[64] Mancilla has historically been opposed to landlords. In 2021, Mancilla posted "***[w]e don't need to prioritize 'mom and pop landlords'*** either."[65] In a 2025

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[61] *Fact Check: 32 Economists Distort the Record on Rent Regulations*, Nat'l Multifamily Housing Council (Sep. 5, 2023), https://www.nmhc.org/news/nmhc-news/2023/fact-check-32-economists-distort-record-on-rent-regulations/.

[62] Rocco Vertuccio, *Fiscal Director Discusses Mayor's Plan for a Fairer City*, Spectrum News NY1 (Jan. 11, 2026), https://ny1.com/nyc/bronx/CTV/2026/01/12/fiscal-director-discusses-mayor-s-plan-for-a-fairer-city/ (emphasis added) (video interview with Melodia).

[63] Press Release, N.Y.C. Office of the Mayor, Mayor Mamdani Announces Six Appointees to the Rent Guidelines Board (Feb. 18, 2026), https://www.nyc.gov/mayors-office/news/2026/02/mayor-mamdani-announces-six-appointees-to-the-rent-guidelines-bo/.

[64] N.Y.C. Rent Guidelines Bd., *June 25, 2026 RGB Meeting: Final Vote* (June 25, 2026), https://www.youtube.com/watch?v=cERCTVuTr50/.

[65] Brandon Mancilla (@mancillabrando), X (Feb. 9, 2021 at 18:51 ET), https://x.com/mancillabrando/status/1359288967032688640 (emphasis added) (replying to another post).

interview captioned "Why UAW Supports Zohran Mamdani," Mancilla noted that "***landlords can eat up that raise you just got in your union contract***."[66]

55. Mancilla is aligned with Mamdani's socialist agenda, stating that "[c]apitalism is the system that keeps us from having high quality, free healthcare. It traps us in debt. It limits our chances at a dignified retirement."[67] Indeed, UAW Region 9A, headed by Mancilla, was the first labor union to endorse Mamdani for mayor. It later called on its 20,000 members to rank Mamdani first on the ballot. A May 2025 press release from UAW Region 9A expressed UAW's support for Mamdani explicitly praising his promise to freeze the rent: "Zohran's commitment to build affordable housing, ***freeze the rent***, make buses fast and free, and institute universal childcare echoed the UAW's demands to make life more affordable for working-class New Yorkers, the majority of whom are renters and commuters."[68]

56. In the same UAW press release, Mancilla stated: "The decision to rank Zohran first on the ballot affirms our membership's initial endorsement of his campaign. Some may say we took a chance, but the actual reckless gamble is to endorse status quo candidates that caused the crisis working families face in the first place."[69]

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[66] Video posted by UAW International Union, Facebook, *UAW Region 9A Director Brandon Mancilla Talks to MeidasTouch About Zohran Mamdani's Mayoral Primary Win in NYC* (July 16, 2025) (emphasis added), https://www.facebook.com/uaw.union/videos/uaw-region-9a-director-brandon-mancilla-talks-to-meidastouch-about-zohran-kwame-/1236554524334000/.

[67] Brandon Mancilla for UAW Region 9A, Facebook (Nov. 2, 2022), https://www.facebook.com/share/p/18tff6mMDi/?mibextid=wwXIfr.

[68] Press Release, UAW Region 9A, UAW Region 9A Calls On 20,000 NYC Members to Rank Zohran Mamdani First and Releases Full Ranked Choice Ballot (May 30, 2025), https://region9a.uaw.org/news/rankzohranfirst/ (emphasis added).

[69] Press Release, UAW Region 9A, UAW Region 9A Calls On 20,000 NYC Members to Rank Zohran Mamdani First and Releases Full Ranked Choice Ballot (May 30, 2025), https://region9a.uaw.org/news/rankzohranfirst/.

57. Mancilla reposted Zohran Mamdani's "Affordability Calculator" that would show how much money his future plans as mayor would save people. Mamdani's post asks, "Are you a rent-stabilized tenant?" to which Mancilla replies, "A brilliant, and very useful tool. This is ***why we need Zohran*** for NYC."[70] Mancilla reposted Mandani saying, "freeze the rent."[71] He also reposted Mamdani saying, "If you think the problem in this city is that my rent is too low, vote for Andrew Cuomo. If you know the problem in this city is that your rent is too high, vote for me."[72] In November 2025, Mancilla posted a photograph of himself standing next to Mamdani with the caption: "Our champion for economic and social justice for all working class people is going to be the mayor of New York City."[73]

58. Mancilla was appointed to the RGB by Mamdani approximately three months later.[74]

59. **Adán Soltren** (Tenant Member): Re-appointed by Mayor Mamdani – proposed rollback range (-3% to 0% one-year / -4.5% to 0% two-year), which failed during the preliminary

[70] Brandon Mancilla (@mancillabrando), X (Oct. 6, 2025 at 16:14 ET), https://x.com/mancillabrando/status/1975293238870483392 (emphasis added) (reposted from Zohran Kwame Mamdani, @ZohranKMamdani).

[71] Brandon Mancilla (@mancillabrando), X (Oct. 16, 2025), https://x.com/zohrankmamdani/status/1978982454460342678 (reposted from Zohran Kwame Mamdani, @ZohranKMamdani).

[72] Brandon Mancilla (@mancillabrando), X (Oct. 16, 2025), https://x.com/zohrankmamdani/status/1978978838878056599 (emphasis added), (reposted from Zohran Kwame Mamdani, @ZohranKMamdani).

[73] Image posted by Brandon Mancilla, Facebook (Nov. 5, 2025), https://www.facebook.com/share/p/1ELwaD61Ji/?mibextid=wwXIfr/.

[74] Press Release, N.Y.C. Office of the Mayor, Mayor Mamdani Announces Six Appointees to the Rent Guidelines Board (Feb. 18, 2026), https://www.nyc.gov/mayors-office/news/2026/02/mayor-mamdani-announces-six-appointees-to-the-rent-guidelines-bo/.

vote;[75] voted YES on a 0% increase to 1- and 2-year leases during the final vote.[76] Adán Soltren was first appointed to the RGB in 2022 and has expressed discontent over past RGB increases. Specifically, he believes that landlord profits should not be a serious consideration. At the June 21, 2022, RGB Meeting he said:

> After responding to question after question, the fact that members of this board began earnestly asking more than once, well, are tenants really struggling that badly, is illuminating enough. . . . People who are out of touch, people who do not believe that a 3.5 increase -- percent increase, will cripple families and drive them onto the street, people who don't believe that your everyday life decisions will be severely impacted by their votes. ***These people are neither just out of - - are either just out of touch or they're out of touch and they don't care***. . . .
>
> In closing, the main takeaway I have for my first year on this board, is that ***this process and this board needs serious revamping***. For this administration -- for this administration to allow such a performative debacle play out under the guise of neutrality is unconscionable, and your decisions will result in millions of people suffering while corporations and investors continue to profit. . . .
>
> ***Nowhere in that statute does it charge the board with*** maximizing or ***protecting landlord profits.*** If we are not -- if we're not going to follow the basic language of the Rent Stabilization Laws' mandate, how can the public have any confidence in this process, and why even have it at all?[77]

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[75] N.Y.C. Rent Guidelines Bd., *May 7, 2026 RGB Meeting: Preliminary Vote* (May 7, 2026), https://www.youtube.com/watch?v=JVQi7iLHiG4/; Lance Murray, *NYC Board Opens Door to Rent Freeze, But Leaves Hikes on the Table*, MortgagePoint (May 8, 2026), https://themortgagepoint.com/2026/05/08/nyc-board-opens-door-to-rent-freeze-but-leaves-rent-hikes-on-the-table/.

[76] N.Y.C. Rent Guidelines Bd., *June 25, 2026 RGB Meeting: Final Vote* (June 25, 2026), https://www.youtube.com/watch?v=cERCTVuTr50/.

[77] Transcript of N.Y.C. Rent Guidelines Bd. Meeting, at 13–14, 16–17 (June 21, 2022) (emphasis added), https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2022/06/2022-06-21-RGB-Transcript.pdf (statement by Adán Soltren).

60. In an interview with PIX11 News on June 22, 2023, Mr. Soltren said the following regarding that year's RGB vote to increase rent 3% for one-year leases and 2.75% and 3.2% for two-year leases:

> He said that he and the other tenant representative were not happy with these increases because "at the end of the day, folks are devastated by these increases. And we don't believe ***given the history of the Rent Guidelines Board's decision-making, as well as the current situation for tenants, that it was warranted and justified***. . . ."
>
> "***I keep hearing this sort of red herring or this other argument about helping out the small landlord. That's not really a thing in New York City when it comes to rent-stabilized housing.*** They only represent one percent of the actual rent-stabilized ownership. So while I understand the mayor wants to try to preserve and help out those smaller landlords, that's not really what we're kind of focusing on."
>
> In response to the argument that landlords' costs have gone up: "Costs do go up . . . I mean, that's just the reality of life. Costs also go up for tenants. And again, if you look at the history of how rent stabilization and these votes have gone on for decades. ***Landlords are actually overcompensated for about 30 years . . . they're overcompensated by about 50%. So they've had more than enough money to help operate their buildings***."
>
> "We also don't have accurate and adequate data as to what their profits look like because that would require them to actually open up their books or for us to do some sort of financial auditing, which again, hasn't been done since 1990. ***So while I understand the plight, when you're looking at these two things, it's a false equivalency***. ***You can't look at the struggle of a human, of a tenant, to pay their rent or be out on the street. And then look at the struggle of someone who's making a business decision***."[78]

61. At the April 30, 2024, RGB meeting, Soltren said:

> I wish I could tell you all this year that this administration and the board would understand the current affordability crisis. That they would understand the data and the picture it paints about the struggles of tenants. And that they would understand the inherent imbalance of power in this process**.** ***I wish I could tell you that they would roll back rents or freeze rents*** or even adjust them minimally. . . .

[78] PIX11 News, *Tenant Advocate Blasts Rent Hike for NYC Rent-Stabilized Apartments*, at 02:24, 04:25 (YouTube, June 22, 2023), https://www.youtube.com/watch?v=MnRpAT44wlM/ (emphasis added).

> The data on affordability is ultimately unpersuasive to them because they philosophically and fundamentally do not believe that it is their job as members of this Board to protect rent-stabilized tenants. They instead focus on preserving the stability and profits of businesses and adopt the owner' s argument that the only way to ensure that the quality of the actual housing stock is preserved [is] through rent increases put on you.
>
> Not only is this argument false and it's been refuted, but ***framing the issue as one of degrees of suffering between a business and owners who have negative consequences from business decisions and tenants suffering is abhorrent. They are not nor will they ever be equal.*** And the practice of treating the two as though they are is morally indefensible.[79]

62. In another article authored by Soltren, he openly criticized the 2023 RGB vote by claiming that former Mayor Eric Adams "stacked the deck in favor of landlords," "***[l]andlords have indisputably been wildly overcompensated*** over the last 31 years," and that the RGB acted "***in defiance of [the Board's] core duties***" by failing to decide in favor of a rent freeze.[80]

63. During an April 9, 2026 RGB meeting, in reference to the Price Index of Operating Costs, he said:

> I don't think we should be using this at all unless there's a price of operating cost of living index. . . . [B]ut I can't stress enough that ***I think that this is a flawed tool and I don't think this is appropriate for us to be giving a ton of weight to in our decision-making***.[81]

64. Soltren acknowledges that the Board must take the Price Index of Operating Costs into account by law, but believes it should be taken "with a grain of salt." He argues the Board

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[79] Transcript of N.Y.C. Rent Guidelines Bd. Meeting, at 11, 14–15 (Apr. 30, 2024) (emphasis added), https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2024/05/2024-04-30-Transcript.pdf (statement by Adán Soltren).

[80] Adán Soltren, *Opinion: Setting the Record Straight on the Rent Guidelines Board Vote*, City Limits (July 7, 2023), https://citylimits.org/opinion-setting-the-record-straight-on-the-rent-guidelines-board-vote/ (emphasis added).

[81] N.Y.C. Rent Guidelines Bd., *April 9, 2026 RGB Meeting*, at 36:05 (Apr. 9, 2026), https://www.youtube.com/live/avjtKgVUtgE (emphasis added).

does not need to consider it "in the form of a report" and it does not require "a full day dedicated to" it or even "an hour to it."[82]

65. As early as 2020, Soltren signed the Statement of Unionized Legal Workers in Support of the Tenants' Movement, which advocated for Housing Court to stay closed, forgiveness of all rent, mortgage, and utility payments during COVID, and support for rent strikes. The statement reads: "Without a doubt, the landlords, developers and other corporate actors will do everything in their power to ensure that they can resume business as usual without regard to whether ordinary New Yorkers continue to suffer. It is our job as tenant advocates to fight back."[83]

66. In 2025, Soltren contributed $10 to Mamdani's campaign for mayor.[84]

67. His organization, the Legal Aid Society, expressly called for a rent freeze in 2026, stating in a February 18, 2026, press release:

> ***[I]t is more vital than ever for the Board to provide urgently needed relief*** to the more than two million working-class New Yorkers who live in rent-stabilized homes ***by freezing rents***.
>
> ***Anything less than an outright freeze at the final vote in June will have catastrophic consequences*** for an already vulnerable population of renters, particularly given the cumulative 12 percent rent hike they endured under the previous administration — an increase that was not justified by the data. . . .

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82 N.Y.C. Rent Guidelines Bd., *April 9, 2026 RGB Meeting*, at 35:13 (Apr. 9, 2026), https://www.youtube.com/live/avjtKgVUtgE.

83 Press Release, LSSA 2320, Statement of Unionized Legal Workers in Support of the Tenants' Movement (Apr. 30, 2020), https://lssa2320.org/statement-unionized-legal-workers-support-tenants-movement/.

84 New York City Campaign Finance Board, https://www.nyccfb.info/FTMSearch/Candidates/Contributions?ec=2025&rt=can&cand=2899&ir=Soltren%2C%20Adan.

> ***[W]e will hold the Board to account and make clear that a rent freeze is critical*** to help ensure these households can remain safely and stably in their homes and longtime communities.[85]

68. That same press release expressly congratulated Soltren and Mancilla on their appointments to the RGB.[86]

69. **Sina Sinai** (Public Member): Appointed by Mayor Mamdani – voted YES on a 0% increase to 1- and 2-year leases.[87] Sinai was a supporter of Mamdani's bid for mayor, contributing $50 to Mamdani's campaign according to public sources.[88] He also has ties to the Democratic Socialist party, working as Data Director for Bernie Sanders' 2020 campaign.[89] He is currently employed at the Jain Family Institute which "work[s] to create theory, policy designs, and practical tools that enable governments, public institutions, and regional coalitions to shape markets for the common good."[90]

70. **Maksim Wynn** (Owner Member): Appointed by Mayor Mamdani – voted YES on a 0% increase to 1- and 2-year leases.[91] Prior to Wynn's appointment as an Owner Member, Wynn

[85] Press Release, Legal Aid Society, Legal Aid Statement on the Appointment and Reappointment of Rent Guidelines Board Members (Feb. 18, 2026), https://legalaidnyc.org/wp-content/uploads/2026/02/RGB-Appointments-Statement.pdf (emphasis added).

[86] Press Release, Legal Aid Society, Legal Aid Statement on the Appointment and Reappointment of Rent Guidelines Board Members (Feb. 18, 2026), https://legalaidnyc.org/wp-content/uploads/2026/02/RGB-Appointments-Statement.pdf.

[87] N.Y.C. Rent Guidelines Bd., *June 25, 2026 RGB Meeting: Final Vote* (June 25, 2026), https://www.youtube.com/watch?v=cERCTVuTr50/.

[88] New York City Campaign Finance Board, https://www.nyccfb.info/FTMSearch/Candidates/Contributions?ec=2025&rt=can&cand=2899&ir=Sinai%2C%20Sina.

[89] *Sina Sinai*, Jain Family Institute, https://jainfamilyinstitute.org/our-team/sina-sinai/.

[90] Jain Family Institute, https://jainfamilyinstitute.org/.

[91] N.Y.C. Rent Guidelines Bd., *June 25, 2026 RGB Meeting: Final Vote* (June 25, 2026), https://www.youtube.com/watch?v=cERCTVuTr50/.

worked for the Department of Homeless Services and the Department of Housing Preservation and Development.[92]

71. **Sagar Sharma** (Tenant Member): Appointed by Mayor Adams – voted YES on a 0% increase to 1- and 2-year leases.[93] Upon his appointment, Mr. Sharma said, "As a tenant advocate and a lifelong New Yorker, I know how difficult it is for hardworking New Yorkers to afford rent, especially amid a housing crisis and soaring rents. I will bring these experiences and perspectives to the board and will fight hard to ensure that the board understands the hard economic realities that millions of New Yorkers face every day."[94]

72. **Arpit Gupta** (Public Member): Appointed by Mayor Adams – voted NO on a 0% increase to 1- and 2-year leases.[95]

B. The Mayor Creates the Office of Mass Engagement to Mobilize Tenants

73. Upon taking office, Mayor Mamdani created the Office of Mass Engagement ("OME") to increase participation in local government and one of OME's first missions was to increase tenant attendance at the RGB hearings.[96]

[92] Press Release, N.Y.C. Office of the Mayor, Mayor Mamdani Announces Six Appointees to the Rent Guidelines Board (Feb. 18, 2026), https://www.nyc.gov/mayors-office/news/2026/02/mayor-mamdani-announces-six-appointees-to-the-rent-guidelines-bo/.

[93] N.Y.C. Rent Guidelines Bd., *June 25, 2026 RGB Meeting: Final Vote* (June 25, 2026), https://www.youtube.com/watch?v=cERCTVuTr50/.

[94] Press Release, Legal Services NYC, Legal Services NYC Congratulates Sagar Sharma on His Appointment to NYC's Rent Guidelines Board (Dec. 23, 2025), https://www.legalservicesnyc.org/news/legal-services-nyc-congratulates-sagar-sharma-on-his-appointment-to-nycs-rent-guidelines-board/.

[95] N.Y.C. Rent Guidelines Bd., *June 25, 2026 RGB Meeting: Final Vote* (June 25, 2026), https://www.youtube.com/watch?v=cERCTVuTr50/.

[96] John Ketcham & Christian Browne, *Mayor Mamdani's New Scam: Charge NYC Taxpayers to Hire His Rent-a-Mobs*, N.Y. Post (May 3, 2026), https://nypost.com/2026/05/03/opinion/mayor-mamdanis-new-scam-charge-nyc-taxpayers-to-hire-his-rent-a-mobs/.

74. In a press conference discussing this new program, Mamdani said: "If we want New Yorkers to believe in these processes, we must make it as easy as possible for them to be a part of these processes. And that is why we need to get the word out to as many New Yorkers as we can."[97]

75. The Office of Mass Engagement was given a staggering total annual budget of $53 million.[98]

76. Organize New York was launched in April 2026 as an arm of the Office of Mass Engagement, and Mamdani has expanded and increased its funding by $5.2 million to cover the salaries of his new hires.[99]

77. Organize New York actively encouraged canvassing to increase attendance at the RGB hearings.[100] And despite claims of neutrality, the canvassers, partially made up of members of the Mayor's Office, expressed their true goal of instituting a rent freeze. As one canvasser reported: "Two of my four fellow canvassers were former Mamdani campaign aides who now

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[97] David Propper, Matthew Fischetti & Craig McCarthy, *Critics Blast Zohran Mamdani's New Government Initiative as Political Lobbying for Rent Freeze,* N.Y. Post (Apr. 29, 2026), https://nypost.com/2026/04/29/us-news/critics-blast-zohran-mamdanis-new-government-initiative-as-political-lobbying-for-rent-freeze/.

[98] Adam Daly, *Mamdani's $53M Mass Engagement Office Draws Council Questions Over Budget, Political Guardrails*, AMNY (June 9, 2026), https://www.amny.com/politics/mamdani-mass-engagement-office-city-council-questions/.

[99] Gabrielle Fahmy, *Mamdani Plans to Spend $5.2M on His Propaganda Office: "Morally Incomprehensible,"* N.Y. Post (May 31, 2026), https://nypost.com/2026/05/31/us-news/nyc-mayor-mamdani-plans-to-spend-5-2-million-on-his-office-of-mass-engagement/ ("Taxpayers are on the hook for $5.2 million to pay the swollen salaries of the information ministers in socialist New York City Mayor Zohran Mamdani's new City Hall propaganda bureau – a staggering 175% more than first thought, The Post can reveal.").

[100] Mayor Zohran Kwame Mamdani (@NYCMayor), X (Apr. 29, 2026, at 20:04 ET), https://x.com/NYCMayor/status/2049580664672936402 ("In a city of over 8 million, just 400 people showed up to speak at the last Rent Guidelines Board hearing . . . We can do better.").

work for the Mayor's Office of Mass Engagement. . . . We were two hours in, and the mask of nonpartisanship was slipping. My canvassing partner urged more than one tenant to consider 'how great it would be if they didn't raise the rent.' During my canvasser training, I was told that our efforts to reach tenants should pose the question, 'How does rent affect your life?' Even that seemed one-sided. . . . The canvassing list we followed did not include anyone described as a landlord. They were all rent-stabilized tenants."[101]

78. Rule 1-13 of the New York City Conflicts of Interest Board prohibits public servants from using City resources for any non-City purpose.[102]

C. Mayor Mamdani Creates a Revived Mayor's Office to Protect Tenants, And Names Anti-Landlord Activist Cea Weaver to Head It

79. Upon taking office, Mayor Mamdani created the Mayor's Office to Protect Tenants, an office that had ceased to exist in the prior administration. He appointed Cea Weaver to head that revived office.[103]

80. Prior to her appointment, Cea Weaver claimed that property ownership is "a weapon of white supremacy masquerading as 'wealth building' public policy" and posted "[s]eize private property" on X.[104]

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[101] Josh Code, *Knocking on Doors for Mamdani's Rent-Freeze Brigade*, Free Press (June 12, 2026), https://www.thefp.com/p/nyc-rent-stabilization-canvassing/.

[102] 53 R.C.N.Y. § 1-13 ("[I]t shall be a violation of City Charter § 2604(b)(2) for any public servant to use City . . . resources . . . for any non-City purpose.").

[103] Press Release, N.Y.C. Office of the Mayor, Mayor Mamdani Signs EO to Revitalize Mayor's Office to Protect Tenants and Appoints Cea Weaver as Director (Jan. 1, 2026), https://www.nyc.gov/mayors-office/news/2026/01/mayor-mamdani-signs-eo-to-revitalize-mayor-s-office-to-protect-t/.

[104] N.J. Burkett, *NYC Mayor Zohran Mamdani Defends Appointee Cea Weaver Despite Concerns Over Past Social Media Posts*, ABC7 News (Jan. 7, 2026), https://abc7ny.com/post/nyc-mayor-zohran-mamdani-defends-appointee-cea-weaver-despite-concerns-past-social-media-posts/18369100/.

81. At the press conference in which Mayor Mamdani appointed her as the Director of the Office to Protect Tenants, Cea Weaver stated: "I am humbled and honored to join Mayor Mamdani's administration — and to stand with him on his very first day in office ***as he makes clear where his priorities lie***: ***with the millions of tenants*** in New York City who have been mistreated for too long by negligent landlords. Our work will only grow and this newly revitalized office marks a new era of standing up for tenants and fighting for safe, stable, and affordable homes."[105]

82. Before her appointment, Weaver had publicly called for a rent freeze. In an October 2025 article, she wrote: "[T]he next Mayoral administration must seize the moment to reset a broken market — not just freezing the rent, but making active policy interventions across the sector . . . ."[106]

83. In March 2025, as Director of the New York State Tenant Bloc, she declared that RGB data "shows that a rent freeze is necessary and more than justified."[107]

84. Weaver has said that: "There is no such thing as a 'good' gentrifier, only people who are actively working on projects to dismantle white supremacy and capitalism and people who aren't."[108]

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[105] Press Release, N.Y.C. Office of the Mayor, Mayor Mamdani Signs EO to Revitalize Mayor's Office to Protect Tenants and Appoints Cea Weaver as Director (Jan. 1, 2026), https://www.nyc.gov/mayors-office/news/2026/01/mayor-mamdani-signs-eo-to-revitalize-mayor-s-office-to-protect-t/ (emphasis added).

[106] Cea Weaver, *Stabilization and Speculation*, Phenomenal World (Oct. 30, 2025), https://phenomenalworld.org/analysis/stabilization-and-speculation/.

[107] Jennifer White Karp, *New Rent Guidelines Board Report Justifies a Rent Freeze, Tenant Advocates Claim*, Brick Underground (Mar. 28, 2025), https://www.brickunderground.com/rent/rent-guidelines-board-report-justifies-rent-freeze-tenant-advocates-claim/.

[108] Kevin Sheehan & Emily Crane, *Zohran Mamdani's Woke, Privileged Tenant Advocate Cea Weaver Breaks Down Crying When Asked About Hypocritical Gentrification Comments*, N.Y. Post (Jan. 7, 2026),

85. Weaver blames landlords for the housing market crash: "Where I live in Crown Heights, Brooklyn, we saw this cycle where landlords and bankers and policymakers had driven up the value of real estate using speculative financial capital, the housing market crashed, and then the solution to that was just a different private equity firm coming in and owning the buildings."[109]

86. Cea Weaver says she believes that it is important to "impoverish the (asterisk)white(asterisk) middle class."[110]

87. Since Mayor Mamdani took office, the Mayor's Office and the Mayor's Office to Protect Tenants have hosted series of what they call "Rental Ripoff Hearings," that are billed as "New Yorkers vs. Bad Landlords."[111]

88. The Office to Protect Tenants has recently released a plan which will increase inspections, expand existing fees, and create new fees for landlords if they fail to pass inspection. To enact this increased enforcement, the Office to Protect Tenants will be increasing its headcount. Included within these recommendations are plans to transfer buildings from private ownership to

https://nypost.com/2026/01/07/us-news/zohran-mamdanis-tenant-advocate-cea-weaver-breaks-down-crying-when-asked-about-hypocritical-gentrification-comments/.

[109] Kevin Sheehan & Emily Crane, *Zohran Mamdani's Woke, Privileged Tenant Advocate Cea Weaver Breaks Down Crying When Asked About Hypocritical Gentrification Comments*, N.Y. Post (Jan. 7, 2026), https://nypost.com/2026/01/07/us-news/zohran-mamdanis-tenant-advocate-cea-weaver-breaks-down-crying-when-asked-about-hypocritical-gentrification-comments/.

[110] Jake Offenhartz, *NYC Mayor Zohran Mamdani Defends Tenant Official After Backlash Over "White Supremacy" Posts*, PBS (Jan. 7, 2026), https://www.pbs.org/newshour/nation/nyc-mayor-zohran-mamdani-defends-tenant-official-after-backlash-over-white-supremacy-posts/.

[111] Press Release, N.Y.C. Office of the Mayor, Mayor's Office to Protect Tenants, Mamdani Administration Invites New Yorkers to Join First-Ever Rental Ripoff Hearings in All Five Boroughs (Feb. 10, 2026), https://www.nyc.gov/mayors-office/news/2026/02/mamdani-administration-invites-new-yorkers-to-join-first-ever-re/.

the City's preferred owners, an effort that involves working with tenant organizations to target particular landlord portfolios.[112]

D. The Preliminary Decision and the Mayor's Endorsement

89. Unsurprisingly, in a preliminary vote in May 2026, seven of the nine members voted in favor of a 0-2% increase for one-year leases and 0-4% increase for two-year leases. Of Mayor Mamdani's six appointees, five voted in favor of the preliminary range and one abstained.[113]

90. After the preliminary vote, Mamdani said in a statement that "New Yorkers are being crushed by the cost of living, and they need real relief," and that the RGB would "arrive at a decision later this summer that reflects the urgency of this moment."[114]

91. In May 2026, Mayor Mamdani released a statement that effectively conceded that a rent freeze would be harmful to certain landlords, by announcing that the City would offer an exemption from the rent freeze through the City's Department of Housing Preservation and

[112] Lilah Burke, *Mamdani Admin Proposes More Fines, Fees, Enforcement for City Landlords*, Real Deal (July 16, 2026), https://therealdeal.com/new-york/2026/07/16/mamdani-admin-proposes-more-penalties-fines-for-landlords/?utm_campaign=sl-report-news&utm_source=trd-newsletter&tpcc=sl-report-news&utm_medium=email&utm_term=Valid%20New%20York; This is in the face of NYCHA buildings that have "61,915 open mold and leak work orders, according to a July report from the federal monitor." Hannah Fierick, *NYCHA, Mitchell-Lama Tenants Snubbed in Mamdani's Latest Pro-Renter Push: Furious Residents*, NY Post (July 20, 2026), https://nypost.com/2026/07/20/us-news/nycha-mitchell-lama-tenants-snubbed-in-mamdanis-latest-pro-tenant-push-furious-residents/.

[113] Transcript of Rent Guidelines Board Meeting at 14–16 (May 7, 2026), https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2026/05/2026-05-07-Transcript.pdf (recorded vote).

[114] Press Release, N.Y.C. Office of the Mayor, Mayor Mamdani's Statement on the Rent Guidelines Board's Preliminary Vote (May 7, 2026), https://www.nyc.gov/mayors-office/news/2026/05/mayor-mamdani-s-statement-on-the-rent-guidelines-board-s-prelimi/.

Development to City-financed landlord buildings only.[115] And, in the case of the Mitchell-Lama development, the City was requested to approve a rent increase of over 30% over the next four years.[116]

92. In a May 2026 speech announcing his new housing plan, Mamdani stated that the City would conduct an "aggressive" crackdown on negligent landlords and "work to transfer ownership"[117] of buildings away from those landlords to "community land trusts, non-profits . . . or even the tenants themselves."[118]

IV. THE 2026 RGB RAN A SHAM PROCESS WITH A PREDETERMINED OUTCOME

93. One of the Board's own members, Christina Smyth, who resigned the morning of the RGB rent freeze vote, confirmed in her resignation letter that the Board ran a sham process with a predetermined outcome, and failed to follow the law. On the day the Board voted to institute a rent freeze, Smyth, who had served on the Board since 2022, resigned, citing to the RGB's failure to act as a fact-finding body, as required by statute.

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[115] Rebecca Picciotto, *Mamdani Says These NYC Landlords Will Be Exempt From His Rent Freeze*, Wall St. J. (May 26, 2026), https://www.wsj.com/real-estate/mamdani-says-these-nyc-landlords-will-be-exempt-from-his-rent-freeze-ee53180c

[116] Mary K. Jacob, *Mamdani Froze the Rent for a Million New Yorkers — These Bronx Tenants Say He Left Them Behind*, N.Y. Post (June 26, 2026), https://nypost.com/2026/06/26/real-estate/residents-of-this-nyc-housing-complex-face-a-31-rent-spike/.

[117] The administration's "Fix the City" initiative to achieve this transfer of property ownership would be for the City to bring landlords to Court under the 7A program where a housing court judge would appoint a non-profit to take over the buildings. Mamdani also plans to give non-profits the first shot at buying distressed buildings under the Community Opportunity to Purchase Act (COPA). *See* Craig McCarthy, *Mamdani's Plan to 'Transfer' Building Ownership to Tenants Uses Existing NYC Programs — that have Repeatedly Failed*, N.Y. Post (May 27, 2026), https://nypost.com/2026/05/27/us-news/mamdanis-plan-to-transfer-building-ownership-to-tenants-uses-existing-failed-nyc-programs/

[118] Video posted by End Wokeness (@EndWokeness), X (May 26, 2026 at 8:34 ET), https://x.com/EndWokeness/status/2059312345319395720/.

94. In her resignation letter, dated June 25, 2026, Smyth said that the Board "has become a body that starts with an answer and vibe codes its way backward to justify it."[119] She further explained that the Board went into this process with the outcome already predetermined: "This rebuilt board was required to deliver a rent freeze. Everything since has been theater. The hearings, the reports, the public comment, the data. None of it was ever going to change the result."[120] In her resignation letter, she made clear that "I asked the staff to explain their methodology. I asked how the figures in the operating cost reports were reached. I asked why data showing rising costs and falling net income was not reflected in the board's direction to its members." But "[t]hose questions went unanswered. They were too inconvenient to be answered."[121]

95. Her resignation letter confirmed that "the board's own research shows: Operating costs for rent-stabilized buildings have risen faster than inflation. Insurance is up. Property taxes are up. Fuel, water, and labor are up. The NYC Water Board, just last week, voted for a 6% increase for Fiscal Year 2027, right when the freeze will be in full swing. Net operating income is falling. Buildings are running out of room to absorb these costs. This is not the landlord lobby or the landlord's only actual representative on the current board talking. This is the board's own staff, in the board's own reports."[122]

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[119] Ex. B at 1.

[120] Ex. B at 1.

[121] Ex. B at 1.

[122] Ex. B at 1.

96. Thus, she concluded that a "board that votes to freeze rents while knowingly disregarding its own evidence of rising costs and falling income is not acting within [the statutorily-required] limits."[123]

97. Upon information and belief, the Mayor's Office further inserted itself into what should have been an independent process. On May 7, 2026 — the night of the RGB preliminary vote — Arvind Sindhwani, Deputy Chief of Staff to the Deputy Mayor for Housing, entered the "green room," an area restricted to Board members and executive staff. Security told him he was not permitted there. In four prior seasons on the Board, no representative attempted to access the space reserved for members to gather privately before public sessions.

98. Then, the Mayor's Office of Equity and Racial Justice testified before the Board, which to Ms. Smyth's knowledge is the first time any mayoral office has done so.[124] At this presentation, Board Member Christina Smyth posed questions about why the administration is not doing more to enroll seniors and disabled New Yorkers in SCRIE and DRIE. Indeed, the income cap for both — $50,000 — has not been touched by Albany since 2014.[125] Ms. Smyth explained that the report on the "True Cost of Living" was [b]y its own description … built by microsimulation. No one was surveyed for it recently." She further explained that "[t]he data is from 2018" and came from the "2018 American Community Survey, projected to 2022 by computer simulation."[126] Then, "[t]he median rents are pulled from 2023, while including the

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[123] Ex. B at 2.

[124] Christina Smyth, LinkedIn (July 14, 2026), https://www.linkedin.com/posts/christinasmyth_eighteen-days-since-my-resignation-under-share-7482788991885332480-6gNB/. A true and accurate copy of which is attached hereto as **Exhibit C** ("Ex. C").

[125] Ex. C; N.Y.C. Rent Guidelines Bd., *May 21, 2026 RGB Meeting* (May 21, 2026), https://www.youtube.com/watch?v=paIdC2LQi-4/.

[126] Ex. C.

majority of non stabilized market rents (which inflates the median housing cost by almost 50%); health premiums from 2024 (and the report includes employer paid health costs as if they are a cost borne by the employee); and caregiver wages from 2023 — all deflated backward to 2022. It's the 'vibe coding' I refer to in my resignation."[127] She highlights the key problem with relying on this report from the Mayor's Office: "Examine this with clear eyes: a report used as justification for a multi-year rent freeze has zero observations from the last four years, yet is presented to the specific dollar threshold: $159,197. This is the evidence placed before the Board setting rent adjustments for 2026."[128]

V. THE 2026 RGB IGNORED EVIDENCE OF SOARING LANDLORD COSTS AND MANIPULATED THE DATA TO UNDERSTATE THE IMPACT OF THESE COSTS

99. As resigned RGB member Smyth confirmed, the RGB completely disregarded what the evidence was showing: that landlord costs and expenses were up across the board.

100. The Board's consideration of landlord costs and expenses is not merely salutary; it is a legal requirement. N.Y.C. Admin. Code § 26-510(b) provides that the Board, in making its rent-increase determination, "***shall consider***, among other things (1) the economic condition of the residential real estate industry in the affected area including such factors as the prevailing and projected (i) real estate taxes and sewer and water rates, (ii) gross operating maintenance costs (including insurance rates, governmental fees, cost of fuel and labor costs), (iii) costs and availability of financing (including effective rates of interest), (iv) over-all supply of housing

[127] Ex. C.

[128] Ex. C.

accommodations and over-all vacancy rates, (2) relevant data from the current and projected cost of living indices for the affected area, (3) such other data as may be made available to it."[129]

101. The data before the Board was clear. According to the Board staff's own Price Index of Operating Costs report ("PIOC") for 2026, expenses across all relevant data points were up this cycle: fuel up 11.0%,[130] insurance up 10.5%,[131] maintenance up 6.0%,[132] utilities up 5.6%,[133] administrative costs up 4.8%,[134] and taxes up 2.6%.[135] This all tracks, with national trends: U.S. headline inflation[136] surged to 4.2% annually in May, up from 3.8% in April, driven in part by the Iran conflict.[137]

102. The utilities component of the PIOC — which accounts for 10.9% of the overall index — consists of costs paid by owners for electricity, non-heating natural gas, and water and sewer charges. According to the Board's own data in the 2026 PIOC, costs within this component

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[129] N.Y.C. Admin. Code § 26-510(b) (emphasis added).

[130] 2026 PIOC at 4.

[131] 2026 PIOC at 4. In effect, insurance costs have nearly doubled in five years. Over the past five years, insurance costs for rent stabilized buildings increased by a cumulative 99.9% and their share of total operating costs grew from 6.5% in 2022 to 9.5% in 2026. Insurance was the single largest contributor to the five-year cumulative PIOC increase, responsible for 22.0% of the total 31.0% rise. *See* 2026 PIOC at 4–5, 23.

[132] 2026 PIOC at 4.

[133] 2026 PIOC at 4.

[134] 2026 PIOC at 4. Administrative costs have increased approximately 52%. 2026 CPC Data Brief at 1.

[135] 2026 PIOC at 4.

[136] The PIOC outpaced general inflation by a significant margin. The Consumer Price Index rose 3.3% during the same period covered by the 2026 PIOC; excluding shelter costs, the CPI rose 2.7%. The PIOC increase of 5.3% thus exceeded both measures of general inflation, confirming that stabilized building operating costs are rising faster than the broader economy. 2026 PIOC at 4–5.

[137] Harriet Torry, *Inflation Heated up to 4.2% in May, as Energy Costs Continued to Bite*, Wall St. J. (June 10, 2026), https://www.wsj.com/economy/cpi-inflation-report-may-2026-60db25fe/.

rose sharply: non-heating natural gas costs increased by 12.9%, electricity costs increased by 9.1%, while water and sewer charges — which account for 66% of this component's weight — rose by 3.7%, effectively dampening the overall utilities increase to 5.6%.[138]

103. These rising costs barely begin to scratch the surface. Indeed, landlords are also liable for myriad other regulatory and other burdens and costs, including pest control, building security, litigation, and employee wage and building materials increases, to name a few.

104. These increases are not cabined to the last year alone.[139] They form part of a growing trend that has only gotten worse in recent years.[140] Based on the data available to the Board, landlord expenses increased approximately 22%, while rent increases over the same period were approximately 11%.[141]

105. The Board had all this data before it but, instead, chose to ignore it. Most tellingly, on June 10, 2026 — 15 days before the final vote — the NYC Water Board voted for a 6% increase in water and sewer charges for Fiscal Year 2027.[142] That decision directly contradicts the Board's

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[138] 2026 PIOC at 8.

[139] Operating costs have risen 31.0% cumulatively over five years. The PIOC has increased by a cumulative 31.0% since 2022; maintenance costs rose 36.7% cumulatively, utilities 33.2%, and fuel 63.0% over this same period. 2026 PIOC at 5, 23.

[140] Independent lender data before the Board confirms the cost-pressure trends reflected in the 2026 PIOC. The Community Preservation Corporation ("CPC"), a nonprofit multifamily lender whose New York City rent-stabilized portfolio consists of approximately 324 loans encompassing 14,552 rent-stabilized units — located primarily outside Manhattan — conducts an annual survey of its borrowers' actual building income and expense data. The CPC's April 2026 Portfolio Data Brief reports that per-unit expenses across its portfolio increased 5% in 2024 over 2023, reaching $10,016 per unit, and have risen approximately 28% since 2020. Expenses are therefore increasing at a compounding annual growth rate of 6.5%. This is consistent with the 2026 PIOC's finding that operating costs increased 5.3% in the most recent year and have risen 31.0% cumulatively since 2022. *Compare* 2026 CPC Data Brief at 1, *with* 2026 PIOC at 3–5, 10–12.

[141] 2020-2024 CPC Data Brief at 3.

[142] N.Y.C. Water Board, Resolution: Adoption of Rate Schedule Effective July 1, 2026 (June 10, 2026), https://www.nyc.gov/assets/nycwaterboard/downloads/pdf/public_notices/wb-notice-6-10-26.pdf/.

own PIOC-based projection that utility costs would decline 1.7% in 2026–27. The Board knew of the Water Board's action before it cast its vote, yet the Explanatory Statement makes no reference to the June 2026 decision and no adjustment to the 1.7% projection. A forward-looking determination that cites a cost-decline projection while ignoring a confirmed, superseding rate increase adopted fifteen days earlier is not a rational weighing of the evidence — it is a disregard of it.[143] Similarly, the Board was certainly aware through both recent news reports and owner testimony that natural gas costs have increased dramatically in recent months.

106. A rent freeze is impossible to reconcile with all these rising costs, a fact other guidelines boards across New York State correctly recognized when issuing their own increases. For example, the Westchester County Rent Guidelines Board recognized rising operating costs in nearly every category: insurance (10.3%), utilities (5.2%), fuel (7.5%), and higher interest rates (5%); and considered growing demands related to building systems, capital improvements, and regulatory compliance. And as a result, it adopted rent adjustments of 3.5% for one-year leases and 4.5% for two-year leases for rent-stabilized apartments.[144]

VI. THE BOARD'S DECISION WAS BASED ON INCOMPLETE, FLAWED, AND IN SOME INSTANCES, MANIPULATED AND MISLEADING DATA SETS

A. Overview

107. The Board typically relies on two primary data sources in setting annual rent guidelines: (1) the Income and Expense Study ("I&E Study"), derived from landlords' annual Real Property Income and Expense ("RPIE") filings with the Department of Finance; and (2) the Price

[143] *See* Ex. B at 1-2.

[144] Westchester Cnty. Rent Guidelines Board, 2026 Explanatory Statement 1, 8 (June 22, 2026), https://hcr.ny.gov/system/files/documents/2026/06/2026-27-westchester-county-rgb-explanatory-statement.pdf.

Index of Operating Costs ("PIOC"), an annual survey of actual prices paid for goods and services needed to operate and maintain rent-stabilized buildings. The Board staff also publishes an annual Mortgage Survey Report tracking the cost and availability of financing for rent-stabilized buildings.

108. The I&E Study is built from consecutive RPIE filings submitted by building owners. By comparing filings from a consistent set of buildings over a two-year period, the Study tracks changes in revenue, operating costs, and net operating income ("NOI") to enable the Board to "accurately assess the overall economic condition of New York City's rent stabilized housing stock."[145]

109. The I&E Study's primary metric is net operating income ("NOI"), defined as income remaining after deducting operating and maintenance ("O&M") expenses.[146] O&M expenses are categorized into eight cost types: taxes, maintenance, administration, labor, utilities, insurance, fuel, and miscellaneous. The Board describes NOI as "a reliable indicator of [a property's] fundamental financial health" and uses it to track year-over-year changes in the profitability of the stabilized housing stock.[147] A building is classified as "distressed" when its O&M costs exceed gross income (i.e., when NOI is negative).[148]

110. Critically, however, NOI does not account for debt service. It is calculated before mortgage payments are deducted.[149] As a result, a building may be cash-flow negative and unable

[145] 2026 I&E Study at 4.

[146] 2026 I&E Study at 8, 10.

[147] 2026 I&E Study at 10.

[148] 2026 I&E Study at 9.

[149] 2026 I&E Study at 8–10.

to meet its mortgage obligations while still registering as non-distressed under the Board's NOI metric. This structural limitation is significant. It means the Board's primary measure of building health does not capture whether buildings can survive a rent freeze.

111. The Board also tracks the ratio of O&M expenses to gross revenue (the "Cost-to-Income ratio") as a supplemental indicator of building financial health. The Board staff's methodology assumes that owners are more financially healthy when it results in a lower percentage of revenue being consumed by operating expenses.[150]

112. The PIOC is the Board's long-running annual survey of actual prices paid for goods and services required to operate and maintain rent-stabilized apartment buildings.[151] Unlike the RPIE, which is based on owner-reported costs, the PIOC also measures prices obtained directly from vendors, providing an independent assessment of operating cost trends.[152]

113. The Board uses the PIOC to calculate "commensurate" rent adjustments—the increases necessary to hold NOI constant given actual cost changes. These commensurate formulas are significant because they represent the Board's own staff's estimate of the rent increase needed to keep buildings financially stable.[153]

114. The Board's Mortgage Survey Report tracks the cost and availability of financing for rent-stabilized buildings, including whether buildings' net operating income is sufficient to cover mortgage debt service obligations.[154] The availability of financing is a required statutory

[150] 2026 I&E Study at 10.

[151] 2026 PIOC at 4; 2026 I&E Study at 15.

[152] *See* 2026 PIOC at 13–14.

[153] 2026 PIOC at 10, 11.

[154] 2026 Mortgage Survey Report at 4, 7.

factor. N.Y.C. Admin. Code § 26-510(b) (Board "shall consider … costs and availability of financing (including effective rates of interest) …").

B. The Board's Cost-Capping Methodology Crams Down Owners' True Rising Costs

115. The Board does not use purely owner-reported operating and maintenance costs. Instead, it applies a series of adjustments to those figures before they enter its analysis. Each adjustment moves costs in only one direction: downward.

116. Two downward reductions are applied to landlords' reported operating costs before those figures enter the Board's analysis.

117. First, the Department of Finance ("DOF") caps recognized building expenses at a fixed percentage of modeled income when valuing rent-stabilized properties for tax purposes. For the relevant outer-borough regulated building types, that ceiling has been locked at 64.0% from fiscal year 2024 through at least 2027.[155] No matter how much costs actually rise, the DOF model will not recognize expenses above that ceiling.

118. Second, the Board's own 2026 Income and Expense Study applies a further 3.07% reduction to certain reported operating costs, on top of the DOF's existing cap. The I&E Study itself acknowledges that the RPIE data it receives "includes records that have had income and expenses adjusted by the DOF when they consider these figures to be outside of what is reasonable," meaning the Board's second reduction is applied to figures already reduced once by the DOF.[156]

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[155] Furman Center Presentation at 17; FY2026 Property Assessment Guidelines, Apartment Buildings with More Than 10 Units, https://www.nyc.gov/site/finance/property/fy26-assessment-guidelines.page#.

[156] 2026 I&E Study at 9.

119. The same double-reduction methodology appears in the 2024 and 2025 I&E Studies, confirming that this is a structural feature of the Board's dataset.

120. This has become a problem more recently because expenses are now hitting or exceeding the cap set in place by DOF, the same years in which the Board's rent increases fell short of what the data required. From fiscal 2020 through 2023, expense ratios for the relevant outer-borough regulated building types climbed into the low 60s; from fiscal 2024 forward, they lock at exactly 64.0%. The number of building types hitting the cap has also grown: two in 2025 and 2026, four in 2027. The result is a measuring tool that stopped tracking rising costs for these buildings during the very period their costs were rising most acutely.[157] In addition, the Board's staff applies a further 3.07% reduction to figures already reduced by the DOF.[158]

121. A measuring tool that systematically errs in only one direction cannot support a rational determination that operating costs are sufficiently contained to justify a rent freeze.

C. Net Operating Income (NOI) Is Distorted by Factoring in Mixed-Use Buildings, Disguising the True Distress of 100% Rent-Stabilized Buildings

122. The Board's headline 6.2% net operating income growth figure[159] — which is cited to as a key justification for the freeze[160] — does not withstand scrutiny. According to the Board's own 2026 I&E Study, NOI increased 6.2% from 2023 to 2024 (compared to 12.1% the prior year), and only 2.2% in real terms after adjusting for inflation. But that headline figure is calculated from

[157] In fiscal 2021, the outer-borough regulated elevator building types sat comfortably below the eventual 64.0% ceiling: the older (pre-1973) type ran 55–59% across its value range, and the 1974–2000 type ran 50–57%. These figures confirm the pattern — the cap was not yet restrictive and costs were being tracked. The lock-in beginning in fiscal 2024 marks the point at which the ceiling stopped reflecting reality.

[158] 2026 I&E Study at 9.

[159] 2026 I&E Study at 4, 16, 17.

[160] 2026 Explanatory Statement at 12.

a dataset that 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 — therefore systematically overstating the financial health of the buildings the freeze actually governs.

123. As the Study itself acknowledges, RPIE revenue figures "encompass revenue generated from both rent regulated and unregulated apartments."[161] The result is that the headline NOI figure is artificially elevated by market-rate income in mixed buildings — and the Board's own sub-group data confirms the distortion.[162] The Board's headline figure of 6.2% NOI (gross revenue less operating costs) growth, applies to all buildings with at least one stabilized unit; whereas, among 50% plus stabilized buildings, NOI grew only 4.0%; among 80% plus stabilized buildings, 3.5%; and among 100% stabilized buildings, only 2.4%.[163] Therefore, the more regulated the building, the worse the NOI picture is.

124. As previously explained, costs have indisputably risen for all buildings. Among regulated buildings and units, however, the rate of increase for costs rose faster than income. Among 100% stabilized buildings, costs rose 4.9% while income (total revenue) grew only 4.0%.[164] This means that for the buildings the freeze most directly governs, costs are already outrunning pure income growth.

[161] 2026 I&E Study at 4, 5.

[162] 2026 I&E Study at 4, 5.

[163] 2026 I&E Study at 4, 20.

[164] 2026 I&E Study at 20.

125. At the Board's public hearing on March 26, 2026, the Fiscal Policy Institute, testifying on behalf of tenants,[165] conceded that the Board's headline NOI figure does not accurately measure stabilized-unit income. The FPI acknowledged that because the Board's dataset counts buildings rather than regulated units, and many buildings are mixed-use or mixed-regulation, the reported NOI rise "may represent a decrease in the ratio of stabilized to nonstabilized units… rather than an increase in income derived from stabilized units."[166]

126. This concession by the tenant side's own expert confirms that the Board's primary metric for justifying the freeze does not reliably measure the financial condition of the rent-stabilized stock the freeze actually governs.

127. Because the I&E Study aggregates all buildings with at least one rent-stabilized unit without distinguishing revenues derived from regulated versus unregulated apartments, the year-over-year income growth percentages the Study reports instead upwardly reflect income gains from market-rate units — not income gains from rent-stabilized stock. This structural blending is the core deficiency the sub-group data exposes.

128. The NYU Furman Center's February 2026 report, "Understanding Different Segments of New York City's Rent-Stabilized Housing Stock," which was also available to the Board,[167] independently identifies the same segmentation problem reflected in the Board's own I&E Study sub-group data. The Furman Center observes that "[a]nalyses often treat rent-stabilized housing as a monolith, relying on aggregate data that obscure important differences among the

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[165] Fiscal Policy Inst., *FPI Testifies to the Rent Guidelines Board* (May 28, 2025), https://fiscalpolicy.org/fpi-testifies-for-the-rent-guidelines-board/ (FPI testified to the RGB at the invitation of Adán Soltren in 2025 and were reinvited to the testify in 2026; the testimony was given by Emily Eisner in both 2025 and 2026).

[166] FPI Testimony at 6 (FPI testimony before the RGB in 2026).

[167] *See* 2026 Explanatory Statement at 3.

buildings" and that each segment "operates under different conditions." The report identifies Legacy buildings (90%-or-more-stabilized buildings, pre-1974 properties with 90% or more of their units rent-stabilized and no long-term subsidy), as the segment of greatest concern because they "derive all or nearly all of their operating revenue from rent-stabilized apartments" and are therefore "more directly exposed to changes in rent-setting policy or rising operating costs." These properties contain 455,979 rent-stabilized units that would be directly impacted by a freeze preventing them from meeting rising costs.[168]

129. This is consistent with the Board's own 2026 I&E Study sub-group findings discussed above.[169] The Furman Center's independent analysis thus corroborates, from an external source, that the Board's headline figure does not reflect the financial condition of the most directly exposed segment of the stabilized housing stock.

130. Buildings that are mostly or fully-rent stabilized are also hit the hardest by inflation costs. The Furman Center further reports that across both of the most financially stressed segments it examined — mostly rent-stabilized buildings and government-subsidized income-restricted buildings — "inflation-adjusted revenues have declined while several key operating costs have risen faster than inflation, narrowing operating margins and creating challenges for long-term maintenance and recapitalization."[170]

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[168] Matthew Murphy et al., *Understanding Different Segments of New York City's Rent-Stabilized Housing Stock*, NYU Furman Center (Feb. 19, 2026), https://www.furmancenter.org/publication/understanding-different-segments-of-new-york-citys-rent-stabilized-housing-stock/. The Furman Center presented to the Rent Guidelines Board on March 26, 2026. 2026 Explanatory Statement, at 3.

[169] 2026 I&E Study at 4, 20.

[170] Matthew Murphy et al., *Understanding Different Segments of New York City's Rent-Stabilized Housing Stock*, NYU Furman Center (Feb. 19, 2026), https://www.furmancenter.org/publication/understanding-different-segments-of-new-york-citys-rent-stabilized-housing-stock/.

131. Taken together, the Board's own data, when read at the sub-group level rather than the headline level, reveals that the 6.2% NOI figure is misleading because it considers data from units that will not be impacted by a rent freeze. NOI is not a reliable measure of the financial health of the building units the freeze directly governs, and therefore, misleadingly overstates landlord income and gives a false impression that landlords with some rent stabilized units in their portfolio are making more income on rent stabilized units than they really are.[171]

D. Net Operating Income Excludes Building Debt Service Obligations

132. The Board's NOI measure is calculated without considering mortgage payment obligations certain buildings may have.

133. The Board adopted a uniform 0% rent freeze while citing the NOI-based 9.2% distress figure as evidence that buildings could absorb the freeze — without reconciling that figure against its own Mortgage Survey Report data and the data presented to it by the CPC.[172] These two datasets, the Income & Expense Report (which measures NOI-based distress) and the Mortgage Survey Report and the CPC briefs (which measure the ability to meet mortgage obligations and obtaining financing), address different questions — valuation versus survival — and the Board's order does not acknowledge the distinction or explain why the survival-side data was disregarded.

[171] Even using this measure, the Board's own staff formulas identify increases of 3.4% to 4.5% for one-year leases and 4.8% to 8.5% for two-year leases just to keep NOI constant. The PIOC sets out three commensurate rent adjustment formulas, each designed to compensate owners for actual operating cost increases while holding NOI steady. The "Traditional" commensurate yields 3.4% for a one-year lease and 4.8% for a two-year lease; the "Net Revenue" commensurate yields 3.75% and 6.25%; and the "CPI-Adjusted NOI" commensurate yields 4.5% and 8.5%. All three methods, using different assumptions, point to increases well above zero needed to maintain current income levels. 2026 PIOC at 11–12.

[172] 2026 Explanatory Statement at 3, 12, 19–21.

134. In addition to the PIOC and I&E Study, the Board receives an annual Mortgage Survey Report to assess the cost and availability of financing, a required statutory factor.[173]

135. As noted above, the Board's primary measure of building distress — the 9.2% figure cited in the 2026 I&E Study — is calculated using net operating income before debt service, making it an appropriate measure to value property, but not to measure whether the property can financially survive a rent freeze. The Board's own Mortgage Survey Report, and presentations from lenders such as the Community Preservation Corporation ("CPC"), by contrast, are specifically designed to track whether buildings' income covers their mortgage payments — the question most directly relevant to whether a rent freeze will push buildings into insolvency.

136. CPC's April 2026 Portfolio Data Brief provides additional lender-side evidence of deteriorating debt-service coverage across the rent-stabilized stock. CPC reports that in 2024, 32% of surveyed loans in its NYC rent-stabilized portfolio had a debt-service coverage ratio ("DSCR") below 1.0 — meaning net operating income was insufficient to cover debt service — up from 26% the prior year.[174] This continues a sharp deterioration: the share of surveyed loans with DSCR below 1.0 has nearly tripled from 11% in 2022.[175]

137. The Board also received, and disregarded, direct testimony from CPC before the Board itself on the state of rent collections — not merely in its published data brief, but in live testimony incorporated in the Explanatory Statement. CPC testified that "buildings in our portfolio still have ongoing collections losses. Today, 95% occupancy no longer guarantees 95%

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[173] 2026 Mortgage Survey Report at 4; N.Y.C. Admin. Code § 26-510(b).

[174] 2026 CPC Data Brief at 2.

[175] 2020-2024 CPC Data Brief at 2.

collection."[176] That testimony corroborates that even fully occupied buildings are not collecting full rent rolls.

138. CPC further reports that loan delinquencies of 60 or more days continued to rise: as of December 2025, the delinquency rate including properties under real estate owned (REO) status was 12%, up from 10% in 2024. As of the same date, 15 loans representing 5.6% of total unpaid principal balance had been accelerated, 13 of which were under active foreclosure proceedings — enforcement actions that CPC reports it virtually never undertook prior to 2020.[177]

139. The Board's own Mortgage Survey data, as incorporated in its Explanatory Statement, reveals a further dimension of distress: the buildings most exposed to the freeze are being sold at falling prices in a rising-sales market. The report concluded that vacancies and collection losses were up to 5.00% from 3.14% the prior year,[178] and sales activity was up 33% from 2024.[179] The Explanatory Statement's mortgage survey memo reports that the number of 50%-or-more-stabilized pre-1974 buildings sold rose from 349 in 2024 to 495 in 2025 — a 42% increase — while inflation-adjusted per-unit prices for that segment fell 9.4%. For 80%-or-more-stabilized pre-1974 buildings, sales rose from 262 to 383, while per-unit prices fell 8.3%. Strikingly, for 80%-or-more-stabilized buildings outside Manhattan, sales rose from 260 to 371 while per-unit prices fell 11.0% in inflation-adjusted terms, the steepest decline of any category in the data.[180] And for 100% stabilized pre-1974 buildings citywide — the cohort most directly and

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[176] 2026 Explanatory Statement at 39.

[177] 2026 CPC Data Brief at 2.

[178] 2026 Mortgage Survey Report at 3, 8.

[179] 2026 Mortgage Survey Report at 3–4.

[180] 2026 Explanatory Statement at 21.

acutely exposed to the effects of the rent freeze — sales rose from 139 to 180 while inflation-adjusted per-unit prices fell 3.1%.[181] Rising sales volume at declining prices is not a sign of a healthy market; it is a sign of owners exiting because they can no longer operate sustainably.

140. The Explanatory Statement's own long-run O&M cost table (Table 7) confirms that the freeze will materially worsen the ratio of operating costs to income for stabilized buildings over the guideline period. Under the Board's own projections, the adjusted O&M-to-income ratio — the share of every rent dollar consumed by operating and maintenance costs before debt service — is projected to rise from 0.62 (adjusted) in 2024, to 0.64 in 2025, 0.65 in 2026, and 0.67 in 2027.[182] The 0.67 projected ratio for 2027 would represent the highest adjusted O&M burden in the Board's entire 37-year historical record going back to 1989.[183] And these are based on Board adjusted figures: the underlying unadjusted O&M-to-rent ratio for 2024 is already 0.716, meaning owners actually spend 71.6 cents of every rent dollar on operating costs before the Board applies its downward adjustment.[184]

E. The Board Failed to Differentiate Among Landlords, Many of Whom Its Own Data Showed Are Struggling, Despite Having the Legal Authority to Do So and Having Done So Historically

141. The Board can and has historically set different increases for different situations:[185] separate one- and two-year rates, separate treatment for hotels, lofts, and single-room occupancy,

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[181] 2026 Explanatory Statement at 21.

[182] 2026 Explanatory Statement at 27.

[183] 2026 Explanatory Statement at 27.

[184] 2026 Explanatory Statement at 15, n. 7.

[185] Indeed, the Board's Explanatory Statement confirms that it was expressly informed of circumstances warranting differentiation by building type and fuel arrangement — and deliberately declined to act. "Under some of the Board's Orders in the past, separate adjustments have been established for buildings in certain of these categories where there were indications of drastically different changes in costs. … This year the Board did not make a distinction between guidelines for buildings with different fuel and utility

and, as Order #53 shows, even different rates within a single year (0% for six months, 1.5% for the next six).[186] Nothing requires a single flat rate.

142. Importantly, the Board's own data identifies a cluster of struggling buildings concentrated in the Bronx[187] and other outer-borough neighborhoods and the 2026 Study names them: Hunts Point/Longwood down 13.1%, Mott Haven/Port Morris down 2.6%, University Heights/Fordham down 1.4%, Highbridge/South Concourse down 1.3%, with the Bronx down 0.1% overall while the city rose 6.2%.[188]

143. In addition, this distortion in the headline NOI figure is compounded by a skewed distribution of financial stress across the portfolio. The median cost-to-income ratio was 68% in 2024, meaning half of all stabilized building owners paid no more than 68 cents of every dollar of revenue on operating and maintenance costs alone (before debt service) — yet even that median figure sits more than six percentage points above the Board's adjusted average of 61.7%. That

arrangements under Order 58." 2026 Explanatory Statement, at 39–40. The same Explanatory Statement confirms that the Loft PIOC rose 6.5% — higher than the apartment PIOC of 5.3% — yet the Board set loft guidelines at 0% as well, further illustrating that the freeze was imposed without regard to what the cost data showed across every sub-sector of the rent-stabilized stock. 2026 Explanatory Statement at 40.

[186] § 26-510; *see* N.Y.C. Rent Guidelines Bd., Apartment & Loft Order No. 53 (June 23, 2021), https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2021/06/2021-Apt-Order-53-1.pdf

[187] The struggles in the Bronx are not just limited to rent-stabilized buildings; they are experienced by government-owned buildings as well. However, in the case of buildings like Tracey Towers under the Mitchell-Lama program, the City was requested to approve a rent increase totaling 30.59% over the next four years. HPD Commissioner, Dina Levy, noted that the increases over the next four years are needed to address rising operating costs and continuing mortgage obligations. Mary K. Jacob, *Mamdani Froze the Rent for a Million New Yorkers — These Bronx Tenants Say He Left Them Behind*, N.Y. Post (June 26, 2026), https://nypost.com/2026/06/26/real-estate/residents-of-this-nyc-housing-complex-face-a-31-rent-spike/.

[188] 2026 Explanatory Statement at 16–18.

divergence is another example of the Board's downward cost adjustments that systematically pull the reported average below what the typical stabilized building experiences.[189]

144. Outside Manhattan, the financial picture is significantly worse. Inflation-adjusted NOI rose only 0.9% outside Core Manhattan from 2023 to 2024,[190] and the adjusted Cost-to-Income ratio for buildings outside Manhattan was 63.8%, compared to 56.4% in Core Manhattan.[191] The freeze would apply most broadly to the outer-borough buildings where margins are tightest.

145. Similarly, pre-1974 buildings — which make up 91% of buildings and 84% of units — face the greatest pressure.[192] Among 100% stabilized pre-1974 buildings outside Core Manhattan, NOI rose only 1.0% in 2023–2024, and the adjusted cost-to-income ratio for pre-1974 buildings outside Core Manhattan reached 70.8%.[193]

146. Moreover, pre-1974 buildings faced a disproportionate surge in insurance costs specifically. While the overall PIOC insurance component rose 10.5% across all stabilized buildings, the increase for pre-1974 buildings was 11.6% — more than twice the 5.4% increase for post-1973 buildings.[194] This reflects a structural cost disparity: the buildings most directly governed by the freeze are paying the most for the cost category that has risen fastest over the past decade. Insurance costs for pre-1974 buildings have increased in every year since 2017, including

[189] 2026 I&E Study at 10–11, 19, 20.

[190] 2026 Explanatory Statement at 19.

[191] 2026 I&E Study at 11, 20, 43.

[192] 2026 I&E Study at 22.

[193] 2026 I&E Study at 20, 43.

[194] 2026 Explanatory Statement at 13.

20.0% in 2021, 11.9% in 2022, 13.0% in 2023, 21.8% in 2024, and 20.7% in 2025 — a cumulative run of six consecutive years of double-digit increases before the 2026 cycle.[195]

147. The same flaw pervades the Board's reliance on citywide median affordability figures. The Board points to a median gross rent-to-income ratio of 30.9% and a 1.8% real increase in median renter income as evidence that tenants can absorb the cost of any modest rent increase — and therefore that a freeze is needed. But the median is the wrong instrument for this population. Renter incomes in New York City are spread across an extraordinarily wide range, and a single central-tendency figure drawn from that distribution conceals opposite realities at the top and the bottom. The Board's own 2026 Income and Affordability Study ("I&A Study") makes the disparity plain: among renters earning less than $20,000 per year — 18% of all renters who report both rent and income — 88.6% are rent-burdened, spending at least 30% of household income on housing. At the other end of the spectrum, renters earning $75,000 or more comprise 46% of all renter households, and only 19.0% of that group are rent-burdened; meaning nearly half spend less than 20% of income on housing.[196] A median that sits between these two halves describes essentially no one's actual circumstances: it is pulled toward "fine" by the comfortable upper half of the distribution while the bottom quintile faces near-universal cost burden. The Board's selective use of its own data sources compounds this flaw. The New York City Housing and Vacancy Survey ("NYCHVS") — which the Explanatory Statement cites for historical median gross rent-to-income ratios from 1996 to 2023 — also contains Table 15, showing that 30% of

[195] 2026 Explanatory Statement at 13.

[196] 2026 I&A Study at 16.

rent-stabilized tenants earn $100,000 or more annually.[197] The Board had access to the full survey and chose not to mention this finding anywhere in the Explanatory Statement.

148. The Board's own Explanatory Statement contains an admission that makes this point unavoidable: "household income decreased by 1.7% in real terms for the lowest quintile from 2023 to 2024, as well as by 1.5% for the second quintile. However, 'real' income increased for each of the highest three quintiles of renter households, increasing by 1.2% in the third quintile, 2.6% in the fourth quintile, and 2.4% in the highest quintile."[198] This is the Board's own language: income rose for the top three quintiles and fell for the bottom two. Yet the Board purported to rely on the citywide median as the relevant measure of tenant affordability. A median drawn from a distribution where the bottom two quintiles are losing income and the top three quintiles are gaining it does not describe the experience of the tenants who most need protection — it describes the midpoint between them. Using that figure to justify a uniform citywide freeze is a methodological choice that collapses opposite realities into a single number and then treats that number as if it represents the population it governs.

149. The geographic breakdown makes this worse, not better. In the Bronx, where the Board's own data shows NOI declined and where 61.2% of renters are rent-burdened, real renter income fell by 5.3% in 2024 while rising in every other borough.[199] A citywide median smooths over that divergence entirely. The takeaway is not that tenants are uniformly comfortable or

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[197] Elyzabeth Gaumer, *2023 New York City Housing and Vacancy Survey: Selected Initial Findings* 50, Table 15 (2024), https://www.nyc.gov/assets/hpd/downloads/pdfs/about/2023-nychvs-selected-initial-findings.pdf.

[198] 2026 Explanatory Statement at 28.

[199] 2026 I&A Study at 16; 2026 Explanatory Statement at 28.

uniformly distressed. It is that the renter population is so divided by income and geography that a single citywide metric cannot support a single citywide policy instrument.

150. The eviction data in the I&A Study reinforces the geographic concentration of distress. Evictions rose by 11.8% in buildings containing rent-stabilized units in 2025 — compared to only 6.5% in non-stabilized buildings.[200] Of all evictions in stabilized buildings, 38.2% occurred in the Bronx alone, with the Bronx accounting for the highest eviction share of any borough.[201] This data is double-edged. The Board cited rising evictions as evidence of tenant need. But rising evictions in stabilized buildings concentrated in the Bronx — precisely where landlords are operating at declining NOI, where renter income fell 5.3%, and where the cost-to-income ratio is the highest of any borough — are also evidence that the stabilized stock in those areas is no longer financially sustainable under current rent levels. A freeze that treats the Bronx the same as Core Manhattan, where NOI rose 10.0% in 2023–2024, cannot rationally address either the tenant distress or the building distress concentrated in the same geographic locations.

151. Thus, the RGB's city-wide rent freeze fails to account for differentiations, building-type-by-building-type, and borough-by-borough, that the Board's own staff has acknowledged.

F. A 0% Rent Freeze Compounds Years of the Board Adjusting Rent Below Recommended Measures

152. Year after year, the Board's permitted increases have trailed its own staff estimate of what was needed to keep buildings' income steady.

153. On the most conservative measure, the adopted increase fell short in four of the six past cycles. In the two cycles where the adopted guideline exceeded that measure (Orders #54 and

[200] 2026 I&A Study at 4; 2026 Explanatory Statement at 28.

[201] 2026 Explanatory Statement at 28-29.

#56), it did so by 0.55 and 0.25 percentage points respectively — margins that did not begin to recover the shortfalls of the surrounding years, and which in Order #56's case rested on a cost projection the Board's own subsequent Price Index revealed had understated actual cost growth by 1.9 percentage points.[202] For 2026, the Board's own staff formulas calculated that increases of at least 3.4% for one-year leases and 4.8% for two-year leases were needed just to hold income steady.[203]

Year / Order	Needed 1-Yr	Needed 2-Yr	Adopted 1-Yr	Adopted 2-Yr	1-Yr Gap
2020 (#52)	2.5%	3.3%	0%	0% / 1%	−2.5
2021 (#53)	2.0%	2.4%	0% / 1.5%	2.5%	−2.0
2022 (#54)	2.7%	4.3%	3.25%	5.0%	+0.55
2023 (#55)	5.3%	6.6%	3.0%	2.75% / 3.2%	−2.3
2024 (#56)	2.5%	4.0%	2.75%	5.25%	+0.25
2025 (#57)	4.1%	5.8%	3.0%	4.5%	−1.1
2026 (#58)	3.4%	4.8%	0%	0%	−3.4

154. The one-year track shows adopted increases rising about 13.4% over the past six cycles against a needed rise of 20.6%, a cumulative gap of roughly **−6.0%**.

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[202] The "traditional" commensurate adjustment for the 2024 cycle — the measure the adopted guideline exceeded — yields 2.5% for a one-year lease and 4.0% for a two-year lease. *See* N.Y.C. Rent Guidelines Bd., *2024 Price Index of Operating Costs* at 11 (Apr. 18, 2024). That figure is calculated in part from the PIOC's projected cost increase for the ensuing year, which the 2024 PIOC set at 4.4%. *See id.* at 10 ("Overall, the PIOC is expected to grow by 4.4% from 2024 to 2025."). The Board's 2025 Price Index subsequently reported that operating costs in fact rose 6.3% over that same period. *See* N.Y.C. Rent Guidelines Bd., *2025 Price Index of Operating Costs* at 4 (Apr. 17, 2025), https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2025/04/2025-PIOC.pdf ("the PIOC for all rent stabilized apartments increased by 6.3%").

[203] 2026 PIOC at 11–12 (reporting "Traditional" commensurate of 3.4% for one-year leases and 4.8% for two-year leases; "Net Revenue" commensurate of 3.75% for one-year and 6.25% for two-year leases; and "CPI-Adjusted NOI" commensurate of 4.5% for one-year and 8.5% for two-year leases).

155. The two-year track shows 26.8% adopted against 29.4% needed, a gap of about **−2.0%**.

156. Adding the 2026 freeze widens these to roughly **−9.1%** (one-year) and **−6.5%** (two-year).

157. Additionally, the cumulative gap from years of increases below the rate needed to keep income steady compounds the irrationality. The Board's rent index has risen only 215.0% since 1990, while actual collected rents rose 267.7% and legal regulated rents rose 269.2% — the Board's increases lagging both.[204]

158. The CPC's data also quantifies the gap between expense growth and allowable rent increases. Since 2020, expenses across the CPC's rent-stabilized portfolio have compounded at 27%, while RGB-approved one-year rent increases have compounded at only 11% over the same period—an expense-to-rent-growth ratio of more than two to one.[205]

159. This year's decision exacerbates the gap that has built up over a several-year period. A flat zero, stacked on several years of below-target increases and measured with cost data that has been progressively squeezed, to the detriment of many landlords, only reinforces that a 0% increase this year is arbitrary, capricious, and irrational.

VII. THE RGB IGNORED EVIDENCE PETITIONERS SUBMITTED SHOWING THAT THEY AND SIMILARLY SITUATED LANDLORDS CANNOT SURVIVE A RENT FREEZE

160. In May and June 2026, landlords, including Petitioners, submitted oral and written testimony and other evidence demonstrating to the RGB the concrete financial injury a rent freeze

[204] 2026 I&E Study at 7–8.

[205] 2026 CPC Data Brief at 2.

would cause them—driven in large part by the fact that operating costs for landlords have risen at a pace that has outpaced their revenue. But the Board disregarded the evidence.

A. Petitioner Kenilworth Holdings LLC

161. Michael Fazio has been a homebuilder and community and business leader on Staten Island for over three decades. In approximately 2004, Mr. Fazio purchased property on the North Shore of Staten Island, developed the site, and personally constructed the two residential buildings now located at 28 Webster Avenue (Block/Lot 111/15) and 32 Webster Avenue (Block/Lot 111/16), Staten Island. The buildings are three-story walkups containing two-bedroom, one-bathroom rent-stabilized apartments, owned and operated through Kenilworth Holdings LLC.

162. The buildings were initially rented to middle-income and low-income families. However, Mr. Fazio subsequently developed a relationship with St. Vincent's Hospital (which has since closed and whose supportive housing programs transitioned to St. Joseph's), and both buildings now serve as supportive housing. The resident tenants of the buildings are individuals recovering from mental illness or substance abuse disorders who need stable, affordable housing. The rents are paid by the care provider. These buildings therefore provide critically needed housing for one of New York City's most vulnerable populations, thus fulfilling a mission that complements the City's own supportive housing goals. A rent freeze that threatens their financial viability directly jeopardizes the housing stability of this population that Mr. Fazio serves.

163. Over the past years, however, the cost of operating these buildings has risen sharply. As described more fully in Section V above, costs across all categories have skyrocketed in the past year alone. In the face of years of these mounting costs and rent adjustments that have not caught up with them, the buildings are therefore earning significantly less than they did five years ago. The buildings' income has all but flatlined. Costs are increasing across all categories.

Insurance is now approximately $10,500, a 21% increase from 2025. Water and sewer rates have now increased due to the 6% increase adopted by the NYC Water Board and are projected to run almost $10,000. Repair and maintenance costs so far in 2026 have already reached a staggering $23,000. This comes on top of costs which have remained constant, superintendent/management fees ($26,000 for the year), snow removal and lawn services ($5,800), HPD registration ($26), and property taxes (approximately $750).

164. Moreover, because the apartments serve a supportive housing population, the units experience greater wear and tear than standard residential apartments. Many apartments house two tenants who are unrelated to each other, which increases the physical demands on the units. This presents outsized maintenance costs for Kenilworth Holdings LLC in addition to rising costs in every other line item of its operating expenses.

165. In sum, the freeze only worsens an already bleak financial outlook, which, if left unchecked, will adversely affect the viability of the buildings – and indeed the vulnerable populations they house – going forward.

B. Petitioners 21-45 23rd St. LLC, 39-12 62nd St. LLC, and 42-59 Bowne St. LLC

166. Violet Zharku and her family own and operate three fully rent-stabilized apartment buildings in Queens — located in Woodside, Astoria, and Flushing — through three LLCs: 39-12 62nd St. LLC, 21-45 23rd St. LLC, and 42-59 Bowne St. LLC. Together, the three buildings house close to fifty rent-stabilized apartments. Two of the buildings operate at a cash deficit when mortgage obligations are included, and the third produces a nominal surplus that is severely undercut by outstanding arrears and capital costs. One is listed for sale. The financial details for each building, followed by the portfolio-wide cost pressures driving these losses, are set out below. Violet Zharku submitted this information to the RGB through written testimony on June 16, 2026.

The Board confirmed receipt stating: "Thank you for your submission. It will be provided to the Board." A true and accurate copy of her written testimony has been attached as **Exhibit D**.

167. Three Queens LLCs, 21-45 23rd St. LLC, 39-12 62nd St. LLC, and 42-59 Bowne St. LLC, were several of many small family-owned buildings who submitted testimony to the RGB. Violet Zharku submitted written testimony via email on behalf of her family, who owns these three fully rent-stabilized apartment buildings in Astoria, Woodside, and Flushing, respectively.

168. Her family immigrated to Queens in 1965, and her husband's family immigrated in the 1990s. Their families built their lives in New York City not as landlords, but as superintendents — the people who fix boilers before dawn, clear snow from sidewalks before tenants wake, and respond to emergencies on holidays without complaint.

169. Between 2023 and 2024, after decades aggressively saving, Zharku's family purchased three rent-stabilized buildings in Queens. Together, the three buildings are home to close to fifty rent-stabilized apartments.

170. Zharku's family purchased the three buildings in reliance on the rent stabilization system operating as the law requires — with annual guidelines set by an independent Board in response to objective economic data. At the time of acquisition, the applicable PIOC-based commensurate rent adjustments indicated that owners of fully stabilized buildings could reasonably expect annual guidelines in the range of 3–5% to keep pace with operating cost increases.

171. Zharku's family made capital investments totaling approximately $310,000 across the three properties in reasonable anticipation of guidelines sufficient to support building operations and debt service. A freeze will defeat those investment-backed expectations.

172. Due to rising costs, the buildings have been forced to draw from personal savings, a separate business, and on occasion loans from family members to fund apartment renovations, turnover work, repairs, and operating needs across the portfolio.

173. The building in Astoria is now listed for sale.

Woodside Building — 39-12 62nd St. LLC

174. Starting with the Woodside property, that building houses seventeen units — fifteen rent-stabilized units, one rent-controlled unit at $674.76/month and one live-in superintendent unit — and generates a gross potential income of approximately $267,000 per year. This means that every unit is paying in full, which is not the case in practice.

175. The fixed operating costs for that building — property taxes ($46,124), water and sewer ($22,738), insurance ($16,954), heating fuel ($29,233), electric ($4,089), and HPD registration ($1,093) — total $120,231, leaving approximately $147,000 before debt service.

176. When required additional considerations are included — legal costs including arrears in a non-payment case ($24,105) there is only an operating surplus of approximately $123,000 before debt service. Woodside has also had significant loss due to prior superintendent litigation. Upon acquiring the building in March 2023, the prior owner's superintendent was residing in the basement apartment and maintained exclusive control of basement and exterior premises access. The prior owner's superintendent used these controlled areas for unauthorized personal business operations, illegal subletting arrangements, and activities that caused property damage, created harmful conditions, and exposed the property to liability. Legal actions were initiated to remove him, but he maintained control pending legal removal. Upon his removal, the Zharkus restored the basement and exterior yards to address the damage he left behind and hired a new superintendent to provide proper maintenance and building services. Unresolved

counterclaims and legal defense costs for this matter total approximately $120,000. This inherited liability arising from the prior owner's superintendent—compounded by extensive remediation costs following his departure and new superintendent recruitment—constitutes significant additional unquantified financial burden.

177. The mortgage on the Woodside building requires approximately $151,000 per year, producing a total cash deficit of approximately $28,000 annually. These figures are based on gross potential income; arrears — including a single tenant who currently owes close to $12,000 — reduce realized income further, meaning the actual cash position is worse than these numbers reflect.

Astoria Building — 21-45 23rd St. LLC

178. Next, the Astoria property houses sixteen units — fifteen rent-stabilized units and one superintendent unit — and generates a gross potential income of approximately $301,000 per year. This means that every unit is paying in full, which is not the case in practice.

179. The fixed operating costs for that building — property taxes ($43,381), water and sewer ($22,655), insurance ($18,040), heating fuel ($34,825), electric ($2,044), and HPD registration ($966) — total $121,911, leaving approximately $179,000 before debt service.

180. When required additional expenses are included — lead paint and HPD compliance work ($30,000) — total operating costs rise to $151,911, leaving approximately $149,000 before debt service.

181. The mortgage on the Astoria building requires approximately $172,572 per year, producing a cash deficit of approximately $23,483 annually. These figures are based on gross potential income; arrears — including a single tenant who currently owes close to $14,000,

approximately nine months of rent — reduce realized income further, meaning the actual cash position is worse than these numbers reflect.

Flushing Building — 42-59 Bowne St. LLC

182. Lastly, the Flushing property houses seventeen units — sixteen rent-stabilized units and one live-in superintendent — and generates a gross potential income of approximately $297,000 per year. This means that every unit is paying in full, which is not the case in practice.

183. The fixed operating costs for that building — property taxes ($48,307), water and sewer ($22,779), insurance ($15,600), heating fuel ($29,336), electric ($2,407), and HPD registration ($13) — total $118,442, leaving approximately $179,000 before debt service.

184. The mortgage on the Flushing building requires approximately $153,000 per year, producing a total cash surplus of only $25,558 annually. These figures are based on gross potential income; outstanding arrears reduce realized income further, meaning the actual cash position is worse than these numbers reflect — and this is before accounting for arrears that have already accumulated.

Portfolio-Wide Financial Pressure Across All Three Buildings

185. Non-payment compounds the pressure all three buildings face further. In total, across all three buildings, tenants owe over $70,000 in arrears: approximately $35,000 for the Astoria property, around $22,000 for the Woodside property, and almost $14,000 for the Flushing property.

186. The costs driving these losses are fixed obligations, and they continue to rise. For the Astoria building, heating gas costs were $44,505 from July 2025 to June 2026. For 2026 alone, only halfway through the year, heating has already run $30,630.62, a significant jump from 2025.

187. Insurance on the Flushing building has increased more than fifteen percent over three years and is now $15,600 annually for that one property.

188. Water and sewer charges, set entirely by the City, rise year after year, regardless of whether rents do.

189. Required compliance expenditures — lead paint remediation, gas appliance inspections, licensing fees, and mandatory notarizations — add thousands more non-negotiable expenses.

190. The operating cost figures above do not capture capital expenditures — a significant and unavoidable cost of maintaining older buildings and keeping them compliant. The Zharku family has invested approximately $310,000 across the three buildings to correct historical underinvestment inherited from the prior owner: approximately $190,000 at Woodside, approximately $60,000 at Astoria, and approximately $60,000 at Flushing.

191. At Woodside, this included $72,040 in documented capital improvements — parapet wall repairs, a heat monitoring system, and waterproofing and pointing work. DHCR's administrative determinations have blocked the MCI application causing ongoing financial harm and raising serious concerns about due process and procedural fairness.

192. The process of obtaining any sort of relief from the City has been long, arduous, and rife with administrative hurdles. After acquiring the property in 2023, the Zharkus undertook capital improvements and worked to deal with prior existing issues in the buildings. Upon discovering an apparently unresolved issue with the janitor service trash area dating back to 2014 that resulted in a 2015 rent reduction order, the Zharkus ensured that the issue was fixed, and in September 2025 applied for a rent adjustment to align rent with current stabilized rates (up from the 2014 levels that had been frozen throughout this time).

193. In April 2026, more than 6 months after they applied for this rent adjustment, DHCR sent an inspector to the property without any prior notice. Based on that inspection, DHCR denied the application citing conditions that were the result of a cleanup effort that happened to be occurring that day. This evidence was also used to deny their Major Capital Improvements ("MCI") application, despite the lack of any documenting photographs of the alleged violation.

194. The Zharkus promptly appealed providing photographic evidence that the supposed irregularity had been addressed. However, instead of dispatching another inspector to confirm this, DHCR summarily denied the appeal in June 2026 without addressing the proffered evidence. The Zharkus had few options: either refile a new application to restore rent and begin this process from scratch or begin a lengthy proceeding in court to contest a determination that could easily be resolved with a second inspection. The Zharkus now find themselves navigating this burdensome process for a second time, all in pursuit of a modest rent adjustment of a projected $21 per month per unit increase that their capital investments plainly warrant.[206] The Zharkus refiled a new application to restore rent but while that is processed the MCI application will remain blocked by the rent reduction order from 2015. DHCR has not updated the Zharkus on the status of this application.

195. The remaining Woodside investment, along with the Astoria and Flushing outlays, went toward renovating vacant apartments that were not in rentable condition when the properties were acquired. These expenditures were funded from Mrs. Zharku's personal savings and a separate business because building income was insufficient to support the work. When landlords

[206] Mrs. Zharku has been pleading her case to local legislators and bringing attention to her challenging circumstances. All of her efforts have been in vain thus far.

do not have capital to renovate units, this results in them remaining vacant.[207] This creates less available rent-stabilized housing, and ultimately harms tenants.[208] As a result, economists have argued that rent stabilization policies can create significant problems in the long-term.[209]

196. These three buildings are all NOI-positive at the operating level, but this does not mean they are financially viable: debt service alone reduces operating income at each property, with two buildings in the red and one left with only a nominal surplus, and the total annual mortgage obligation across all three buildings is approximately $476,000 — a fixed, unavoidable cost that sits entirely outside the Board's distress analysis. Unrecovered capital investment deepens a shortfall that building income cannot bridge.

197. In April 2026, the checking account for the Astoria building closed the month at negative $1,150 — an overdraft. The Woodside building's account fell to just over $1,000 in

[207] This phenomenon, sometimes called the "ghost apartment" problem, stems directly from the 2019 rent law amendments, which eliminated vacancy decontrol and capped what landlords may recover, as of right, on renovations to between 1/168th and 1/180th of costs on only the first $30,000 of expenditures. As a result, even after substantial renovation work, the maximum legal rent typically falls below monthly operating costs, leaving landlords without the funds to bring vacant units up to code with no economically rational path to re-renting them. An estimated 50,000 rent-stabilized apartments sit vacant citywide for this reason. Matt Miller, *Why New York City Has 50,000 "Ghost Apartments,"* Free Press (Nov. 16, 2025), https://www.thefp.com/p/why-new-york-city-has-50000-ghost.

[208] Similarly, many violations are a result of cash flow problems. For example, NYCHA, the public housing authority, has far more violations than the "worst landlord watch-list" because NYCHA lacks the cash to fix them. Therefore, it is contradictory to recognize the cash flow problem for NYCHA but not smaller landlords experiencing the same difficulties. *See* Post Editorial Board, *Who Needs Practical NYC Housing Policies When Zohran Mamdani Has Such Lovely Theories?*, N.Y. Post (Jan. 24, 2026), https://nypost.com/2026/01/24/opinion/who-needs-practical-housing-policies-when-mamdani-has-such-lovely-theories/; *see also* Hannah Fierick, *NYCHA, Mitchell-Lama Tenants Snubbed in Mamdani's Latest Pro-Renter Push: Furious Residents*, NY Post (July 20, 2026), https://nypost.com/2026/07/20/us-news/nycha-mitchell-lama-tenants-snubbed-in-mamdanis-latest-pro-tenant-push-furious-residents/ (NYCHA buildings have "61,915 open mold and leak work orders, according to a July report from the federal monitor").

[209] Eva Roytburg, *Zohran Mamdani's Signature Housing Policy Is Widely Loathed by Economists. Here's Why*, Fortune (Nov. 5, 2025), https://fortune.com/2025/11/05/zohran-mamdani-signature-policy-rent-freeze-economists-hate-heres-why/.

February 2026, leaving insufficient funds to make the March mortgage payment; the LLC had to double up in April to catch up. The Flushing building's account ended April 2026 at $270 only because the LLCs transferred money between accounts to prevent a default.

198. As explained in further detail in Section IV.C above and in Count I below, the Board's cost-capping methodology — which applies sequential downward adjustments to reported operating costs before they enter the Board's analysis — systematically understated the Zharkus' actual operating costs and cannot support a rational determination that those costs are sufficiently contained to justify a freeze.

199. For the Woodside building, the Department of Finance's model projects the building's annual expenses at $158,000, applying a 57% expense ratio to modeled income. The actual operating expenses for that building — excluding capital rehabilitation — are approximately $144,000, a figure that falls below what the model projects on its face, but does not consider capital rehabilitation costs which have been hefty for this building. Then the model simultaneously overstates the building's gross income, projecting $277,400 when the actual rent roll produces only $267,416.

200. Once rehabilitation and debt service enter the picture, the true financial pressure becomes clear: even with operating costs that are nominally within the Department's modeled range, the building cannot cover its mortgage, and every dollar of unrecovered capital investment deepens the shortfall.

201. The Department's picture of the building is one in which income is modeled above the rent roll and expenses are modeled at a fraction of total outlay, presenting an incomplete picture to the Rent Guidelines Board.

202. There is a further constraint. As previously explained, the Department's rules cap recognized expenses at a fixed share of modeled income that varies by the building's income band — ranging from 63% at the low end down to 57% at the high end, which is the cap that applies to the Woodside building — no matter what is actually spent.

203. That ceiling alone guarantees a gap between recognized and actual costs, and when capital expenditures are included, the gap is not marginal for the Zharkus.

204. That the Board possessed an unadjusted view of the same buildings underscores the point. The net operating income figures in Table 5 of the Board's own Income and Expense Study are reported, by the Study's express notation, without any adjustment to reported operating costs — and they already show the regulated pre-1974 cohort at $283 to $512 per unit per month.[210] The downward cost adjustment the Board applied elsewhere in its analysis operates on top of figures that were already this low. The Board thus had before it, in a single table, both the unadjusted operating picture of the regulated stock and the adjusted figures it chose to feature; it elected to present the adjusted, more favorable version while the unadjusted cohort data sat in the same report.

205. Despite registering as NOI-positive at the operating level, two of these buildings cannot cover mortgage obligations from operating income alone, and the third operates with slim margins further reduced by tenants in arrears — a structural gap that the Board's primary distress metric, calculated before debt service, does not capture.

206. The mortgage on the Woodside building runs approximately $151,000 a year. Across all three buildings, the total annual mortgage obligation is approximately $476,000. This

[210] 2026 I&E Study at 28.

is a fixed, unavoidable cost that sits entirely outside the Board's distress analysis when purely viewing NOI.

207. The Board has a mechanism to account for debt. It publishes an annual Mortgage Survey Report. The survey tracks debt-service coverage ratios and shows those conditions worsening.

208. Due to these conditions, the Zharkus have been forced to borrow funds from family, as well as use their personal savings and other private company revenue to continue operating their buildings while they wait for the buildings to sell, a choice they did not make willingly.

209. Taken together, the Zharkus' three buildings present a consistent and unambiguous picture: two of the properties are cash-flow negative after debt service, with one making only a nominal surplus; they are drawing on personal savings, a separate business, or outside loans to remain operational, and one is listed for sale. These losses are not the product of mismanagement.[211] They are the foreseeable consequence of a rent increases that have not kept up with the costs of running a building and the Board's own staff formulas stated that increases of 3.4% to 4.8% this year were needed to keep income steady for landlords, a projection that has not been met in the past several cycles of rent increases.[212] However, the Board did not truly consider the consequences for buildings like these because the outcome was determined before the evidence

[211] City-contracted buildings are experiencing similar cost issues, and the State is approving rent increases to manage them. For example, Tracey Towers, a development within the Mitchell-Lama program, has instituted rent increases of 15% in the coming year, followed by 5 percent in years 2 and 3 and 3 percent in year 4. This is on top of a 13 percent increase in 2022, 5 percent increase in 2023, and 3 percent in 2024, all approved to help the buildings cover their costs. This increases demonstrates another source that has determined that the solution to soaring costs is that rent increases are needed. Mihir Zaveri & Dana Rubinstein, *Why These Affordable Homes Face a 31% Rent Increase*, N.Y. Times (June 25, 2026), https://www.nytimes.com/2026/06/25/nyregion/rent-increase-tracey-towers-mitchell-lama.html/.

[212] 2026 PIOC, at 11.

was heard. The financial trajectory of these three Queens buildings truly demonstrates the irrationality of the unlawful determination Petitioners ask this Court to annul.

C. Petitioner 1369 College LLC

210. Sophia Hepheastou and her husband own and operate a fully rent-stabilized residential building in the Bronx through 1369 College LLC. The property was originally purchased by Sophia Hepheastou's father-in-law, Dennis Antonopoulos — a Greek immigrant who served in the Greek navy and came to this country as a painter by trade and, through years of hard work and sacrifice, built a portfolio of Bronx residential buildings in the 1990s.

211. The building has been self-managed by the family ever since. Dennis Antonopoulos' wife — also a Greek immigrant — managed the day-to-day needs of the building alongside him until her death in 2017 at just fifty-eight years old from aggressive liver cancer, leaving him to take on a greater day-to-day operational role on top of his work on repairs. Despite loss, grief, and the hardships of the COVID-19 pandemic, he continued to provide housing to his fellow New Yorkers. He passed away in 2021 from pancreatic cancer after a two-year fight with the disease. Tenants and building staff were saddened by his passing and were quick to share endearing stories, remarking on what a hardworking, caring and generous individual he was.

212. The building subsequently transferred to Dennis' son and daughter. At the time of his passing, the property was assessed at approximately $3 million, and the family incurred significant estate tax obligations, which they have been servicing through a private loan. Had the property been transferred with pre-existing loan obligations, the family would not have been able to continue to operate it. Sophia Hepheastou is a practicing attorney; her husband works full time in the private sector. Neither draws a salary or dividends from the building, which is operating at

a loss. They manage the property out of a sense of obligation to long-term tenants and in honor of the family members who built the portfolio from nothing.

213. 1369 College Avenue, Bronx (Block/Lot: 2785/48), is a 21-unit, fully rent-stabilized walk-up building in the Tremont section of the Bronx, built in 1924. The building is located in the Highbridge/South Concourse neighborhood, which the Board's own 2026 Income and Expense Study identified as one of several Bronx neighborhoods experiencing declining net operating income — down 1.3% — against a citywide increase of 6.2%. The Board's data confirmed what building owners in the Bronx experience every month: Hunts Point/Longwood was down 13.1%, Mott Haven/Port Morris down 2.6%, and University Heights/Fordham down 1.4%.

214. The building's rent roll entitles 1369 College LLC to collect approximately $31,000 per month in legal rent, but due to preferential rents, the rent roll allowable is approximately $29,000, and in actuality and taking account repetitive nonpaying tenants, the actual collections run to approximately $23,000 per month — roughly $276,000 for the year.[213] That gap reflects two compounding problems. First, due to the 2019 HSTPA there are locked in discounted preferential rents for the life of the tenants' tenancy, essentially a lifelong rent discount, prohibiting the collection of the allowable legal rent. Second, chronic nonpayment by a subset of tenants who are repeatedly cycling through Housing Court year after year without resolution or removal. As of the date of Ms. Hepheastou's written testimony to the Board, which she timely submitted on June 15, 2026, and which the Board confirmed receipt of stating "Thank you for your submission. It

[213] While the 2025 tax return registered approximately $285,000 in income this value was the culmination of all rent received in 2025, regardless of months covered and outstanding arrears. Often lump sum payments from tenants and/or city backed voucher programs are not timely received so the monthly rent roll is still depressed.

will be provided to the Board," a true and correct copy of which is attached hereto as **Exhibit E**, tenants owed approximately $90,000 in unpaid rent and $15,000 in outstanding judgments against evicted tenants. One tenant, who has been repeatedly in active eviction cases since 2022, alone carries arrears exceeding $16,000, paying a preferential rent of just $1,275 on a legal rent of $1,553 for a two-bedroom unit, and he has received multiple City one-shot deals, yet continues to accrue year-long rent arrears. The average eviction proceeding in the Bronx takes 12 to 24 months, with warrants taking an additional four to six months to issue. While those cases work through the court system, the building's cash position deteriorates, legal costs mount, and every tenant who depends on a properly maintained building suffers.

215. Total operating costs for 1369 College Avenue in 2025 were approximately $250,000 — producing a net cash loss when debt service is included. The fixed, non-negotiable cost categories alone total nearly $150,000 per year: heating gas (approximately $47,000), property insurance (approximately $28,000), water and sewer (approximately $28,000), and property taxes (approximately $45,000). Each of these costs is set by third parties — ConEdison, the City — and cannot be negotiated, reduced, or passed through to tenants. Property insurance in the Bronx has become particularly acute: carriers have been abandoning the Bronx market, and remaining carriers are charging higher premium amounts given these buildings' ages, the high crime statistics in the Bronx and the notoriously poor rent collections for this area. These losses are not isolated to 2025; the building also operated at a loss in 2024. These bills will only increase; inflation has risen each month of 2026, reaching 4.2% in May, with no end in sight.

216. The Board's own cost data systematically understates these actual expenses. The Department of Finance's Notice of Property Value for 1369 College Avenue, dated January 16, 2026, estimates the building's annual expenses at $204,688 — approximately $45,000 below the

approximately $250,000 that 1369 College LLC actually pays to operate it. At the same time, the Department estimates the building's gross income at $341,203, a figure close to the full legal rent roll but far above the approximately $276,000 actually collectible due to the preferential rents and the repeatedly nonpaying tenants in chronic evictions. The Department thus models income as though every unit paid its full legal rent, while modeling expenses well below actual cost — overstating income and understating cost simultaneously — and producing a net operating income of $136,515 that bears little resemblance to the building's real finances. Compounding this, for a regulated walk-up of this building type the Department's methodology caps recognized expenses at 64% of income, a ceiling that structurally prevents the recognized cost figure from ever reflecting what 1369 College LLC actually spends. The perversity of the formula is plain: if the Department were to use actual collectible income of approximately $276,000 rather than legal rent, the 64% ceiling would recognize even less expense — approximately $177,000 rather than $218,000 — so the formula recognizes less of 1369 College LLC's costs precisely as its ability to collect rent declines.

217. The Board's primary measure of building distress — net operating income before debt service — does not capture whether 1369 College Avenue can survive a rent freeze. The building, like so many other fully rent-stabilized buildings, now carries a mortgage obligation of approximately $100,000 per year. That obligation is real and fixed; it does not disappear because the Board's preferred NOI metric omits it.

218. The rent freeze has also destroyed the family's ability to access financing for the building. The lenders who once financed and refinanced properties like this one have largely exited the rent-stabilized market in the Bronx. The family is unable to generate capital for the building improvements that its aging structure requires or access needed capital to comply with costly City-

Council mandated legislation. Even their original lender has advised that it is no longer offering loans to the rent stabilized asset class, nor will it recast the current loan. With no option to secure financing in the market, these housing providers will be at immediate risk of bankruptcy and non-compliance with strict housing regulations.

219. 1369 College LLC's financial position has also been compounded by the cumulative effect of City and State policy changes. The Housing Stability and Tenant Protection Act of 2019 eliminated the vacancy bonus, capped improvement pass-throughs far below actual costs, and locked preferential rents in place for the life of a tenancy. Newer City mandates — including Local Law 157 (Gas Detectors), Local Law 31 (XRF Lead Testing), Intro 994-A (Local Law 23 of 2026) and the FARE Act — impose additional costs on the rent-stabilized property with no mechanism for recovery. The J-51 program, which was also designed to provide tax breaks to property owners and which has already been exhausted given the term of the program and age of the building, is not sufficient to offset these newly enacted additional costs — providing only the illusion of support rather than actual relief. The common thread is a one-directional ratchet: regulatory obligations are added, costs rise, the regulated rent that is supposed to fund these obligations is held flat or frozen and the tenants in rent stabilized apartments who have discounted rents are not required to contribute payment for these mandates. The rent freeze therefore asks fully rent-stabilized buildings to pull from any dwindling profits they might have, or when there's no funds to spare incur violations from not complying with the mandates. This in conjunction with the City's plan to crack down on violations will force more fully rent-stabilized buildings to exit the market entirely.

220. Ms. Hepheastou testified on behalf of 1369 College LLC before the Board on April 23 and June 11, 2026, and submitted written testimony on June 15, 2026. The Board disregarded

this evidence and its own admissions regarding the negative NOI in various areas of the Bronx. The rent freeze imposed by the Board's June 25, 2026 determination locks in a gap between what it costs to operate the building and what the law permits 1369 College LLC to collect — a gap that has already placed the building in a net cash-loss position and will worsen materially during the freeze period. The financial trajectory of 1369 College Avenue is the concrete, human consequence of the Board's unlawful determination that Petitioners ask this Court to annul.

D. Petitioner 593 Park Place Management Inc.

221. Petitioner 593 Park Place Management Inc. owns and operates an eight-unit rent-stabilized residential building located at 593 Park Place in Brooklyn, New York (Block/Lot 1163/77). Built in 1932, the property has remained under continuous family ownership since approximately 1981. The owner and property manager oversees building operations, regulatory compliance, capital improvements, budgeting, tenant relations, and long-term preservation efforts.

222. Petitioner 593 Park Place Management Inc's mission is to preserve affordable housing while investing in modernization projects that improve resident safety, energy efficiency, and quality of life. Rising operating costs, increased insurance premiums, property taxes, and expanding regulatory requirements continue to outpace allowable rent increases under New York City's rent stabilization system, placing significant financial pressure on long-term housing providers, such as 593 Park Place Management Inc. Ultimately, the Board's decision will make an already rough situation considerably worse for 593 Park Place Management Inc.

223. As noted, the building houses eight rent-stabilized apartments capable of producing income. Of these apartments, however, one is owner-occupied, and another is vacant. Apartment 1R has remained vacant because the cost of bringing the unit into habitable condition substantially exceeds the owner's ability to recover those costs under the current regulatory framework.

Extensive rehabilitation would require significant capital investment, including building systems, code compliance, electrical, plumbing, flooring, kitchen and bathroom reconstruction, and related work. Under current rent stabilization limitations, the anticipated return on investment makes it economically impossible to justify the expenditure, resulting in the unit remaining unavailable for occupancy. Consequently, the building generates no rental income from this apartment while continuing to incur property taxes, insurance, maintenance, and other operating costs associated with it.

224. The fixed approximate operating costs for this building in 2025 were property taxes ($17,000), water and sewer ($2,000), insurance ($7,000), heating oil delivery and boiler service ($15,000), and electric ($800). These costs are just a drop in the bucket and do not capture the full scope of expenses needed to keep this building running.

225. The costs driving these losses are fixed obligations, and they continue to rise. Heating oil alone ran approximately $15,244 in 2025 and is already on pace to exceed that figure in 2026, with approximately $13,000 this year to date, only halfway through the year — driven in part by rising energy prices following the onset of the Iran conflict. These figures do not include a $16,000 line of credit, opened in an attempt to keep up with sky-rocketing costs, which carried $1,181 in interest charges in 2025 alone, with continuing principal repayment obligations.

226. Water and sewer charges, set entirely by the City, totaled $2,011 in 2025 and are set to rise further following the NYC Water Board's adoption of a 6% rate increase for Fiscal Year 2027, effective July 1, 2026 — a cost increase the Board knew about before casting its vote but declined to account for. This increase will have a significant impact on owners already struggling to meet ever higher utility bills.

227. Required compliance expenditures — lead paint remediation, gas appliance inspections, licensing fees, and mandatory notarizations — add thousands more non-negotiable expenses. Additionally, there are other necessary expenses for a functioning building. For example, in 2025, pest control alone cost $1,200, and the superintendent stipend ran $5,150. Beyond those figures, in 2025, the building spent $7,412 on carpentry, $2,965 on electrical repairs, $2,254 on plumbing repairs, $8,024 on supplies, $4,854 on cleaning and maintenance, $3,265 on painting and decorating, and $3,025 on gardening — a combined $31,799 in maintenance and upkeep and when combined with pest control and superintendent stipend reach over $38,000. On top of these, running a regulated residential building requires significant administrative overhead: $9,360 in office expenses, $3,826 in memberships and subscriptions including business software applications necessary to manage the property, $3,695 in legal and professional fees, $4,414 in auto and truck expenses for property management, $2,264 in taxes and licenses, and $2,965 for an electrical upgrade required for DOB code compliance. Additional miscellaneous expenses totaled $495.

228. These operating cost figures described above do not even capture capital expenditures — a significant and unavoidable cost of maintaining this nearly century-old building and keeping it compliant. Since 2018, more than $75,000 has been invested in continuous capital expenditures, and that bill keeps on rising. This includes approximately $25,000 for a building electrical upgrade on a basement panel in 2018-2020; thousands more for various apartment renovations from 2018-2023 covering code-compliant electrical upgrades, flooring, kitchens, bathrooms, and appliances; approximately $29,000 for a new boiler installation in 2023; and approximately $8,400 on four hallway stair and riser renovations in 2026. And as recently as this

month, the building's two oil tanks needed to be replaced for an additional minimum of $13,000 which included permit and equipment costs.

229. To add insult to injury, the MCI regulatory framework does not provide meaningful cost recovery for boiler replacements, and the 2019 rent law amendments capped individual apartment improvement recovery at 1/168th of costs on the first $30,000 of expenditures per unit — far below what these renovations required. This means that these investments have not produced additional income. Moreover, all these capital improvements were funded by reinvesting any net profits, further diminishing any profits this building has.

230. This year alone Petitioner has spent over $21,000 on capital expenditures and as the building ages, the expenses will likely keep adding up. When that's added on top of the constantly rising tax, water, heating, and electric bills, there is very little left over to serve as any sort of cushion in the event of an emergency.

231. Meanwhile, in 2025, the building generated less income than it was entitled to because not every unit was paying in full, which continues to be an issue in 2026.

232. While the building is NOI-positive at the operating level, this does not mean that it is financially viable in the medium to long term. Indeed, increasing costs, depreciating rents after inflation is factored in (which will remain at zero now), unrecovered capital investment, and the inability to renovate a vacant unit are all factors that are rapidly shrinking the medium to long-term viability of this building.

233. As an eight-unit building, 593 Park Place is not required to file a Real Property Income and Expense ("RPIE") statement with the Department of Finance, and does not do so. The Board's 2026 Income and Expense Study is built entirely from RPIE filings. This means the Board's primary dataset contains no data whatsoever for this building — and for the thousands of

similarly-sized small buildings across the City. The Board froze rents on buildings it had never measured.

234. Moreover, the building's financial position has also been compounded by the cumulative effect of City and State policy changes. The Housing Stability and Tenant Protection Act of 2019 eliminated the vacancy bonus, capped improvement pass-throughs far below actual costs, and locked preferential rents in place for the life of a tenancy. Newer City mandates — including the FARE Act, Local Law 23 of 2026, and Local Law 157 of 2016, as amended — impose additional costs with no mechanism for recovery. The J-51 program, which is designed to provide tax breaks to property owners, is not sufficient to offset these additional costs — providing only the illusion of support rather than actual relief.

235. At this 0-0% rate, the continued downward financial trajectory of this Brooklyn building is a foregone conclusion given the Board's irrational determination.

E. Petitioner 43rd Street Associates LLC

236. Petitioner 43rd Street Associates LLC owns and operates a 23-unit fully rent-stabilized walk-up apartment building in Astoria, Queens, built in 1929. The same family has owned and operated the building since 1974 — now three generations and fifty-two years of continuous family ownership. The building is self-managed; it is not run by a professional management company. Petitioner 43rd Street Associates LLC is directly and adversely affected by RGB's promulgation of Order No. 58.

237. The building carries a small mortgage of approximately $345,000 — a deliberately conservative financing structure maintained over decades. That low debt level has been a primary reason the building has remained solvent through years of below-cost increases. But the margin has thinned every year, and additional financing is not a realistic option: a lender will not

underwrite new debt against regulated income that is not permitted to grow, because there is no income path to service it.

Operating Costs — What the Building Actually Spent

238. From 2020 through 2026 (2026 budgeted), every major operating cost line at the building rose materially.

239. Property taxes increased from just over $97,000 in 2020 to a budgeted $103,000 for Tax Year 2026. Based on the current assessment, annual taxes are expected to exceed $112,000 once the assessment phase-in is complete. This increase comes despite the property's estimated market resale value having fallen by nearly 30% since 2019, illustrating that NYC's property tax assessments can continue to increase even as underlying market values decline. The tax bill was under $60,000 as recently as 2013; the recent run-rate is 7–8% per year.

240. Insurance costs nearly tripled from $12,370 in 2020 to a budgeted $33,000 in 2026 — an increase of approximately 170%. The premium had been held at $10,000–$12,000 for a decade through 2020 before surging due to market conditions entirely outside the building's control.

241. Water and sewer charges rose from $10,012 to a budgeted $12,000 (+20%), in line with DEP rate increases. Following the Water Board's adoption of a 6% rate increase for Fiscal Year 2027, effective July 1, 2026, these charges will rise further during the freeze period.

242. Fuel and heating costs increased from $15,555 in 2020 to a budgeted $27,000 in 2026 (+74%). This increase is understated: the family had already invested approximately $40,000 in a 2015 oil-to-gas conversion; without that prior capital expenditure, fuel costs would be materially higher.

243. Common-area electricity costs rose from $1,173 in 2020 to a budgeted $4,000 in 2026 (+241%), on essentially unchanged usage. This is a pure rate increase, nothing the building could control.

244. Repairs and maintenance more than doubled from $26,323 in 2020 to a budgeted $55,000 in 2026 (+109%). A building approaching 100 years old requires progressively more actual repair work each year simply to maintain its current condition.

245. Management and compliance costs rose from $25,072 in 2020 to a budgeted $45,000 in 2026 (+79%). Because the building is self-managed, these costs reflect the expanding set of federal, state, and local regulatory requirements: compliance, filings, administrative, legal, engineering, and accounting work has materially increased without any management company taking a fee.

246. Legal fees went from $190 in 2020 to a budgeted $20,000 in 2026 — a category that grew from near-zero to a material recurring expense, driven almost entirely by nonpayment and lease-related proceedings in which the obligations run one way: the building must continue providing services and paying fixed costs while cases take years to resolve, and arrears are rarely recovered in full even when the landlord prevails.

247. Broker fees, which were $0 for the entirety of the building's history prior to mid-2025, are now a new and growing cost, budgeted at $8,000 in 2026. The FARE Act shifted the leasing commission from incoming tenants to building owners. Because all other income is frozen, this new obligation can only be met by charging the maximum legally permitted rent on every turnover. Actual costs are difficult to estimate because they depend heavily on annual tenant turnover, which can vary meaningfully from year to year; a more typical expected range is

approximately $4,000 to $12,000 annually, with roughly $8,000 representing a normalized expectation.

248. Over the full period, operating costs rose approximately 72% while the Board's own Price Index of Operating Costs measured a cumulative increase of only 31%,[214] and the one-year increases the Board permitted landlords to charge compounded to only approximately 13%. The Board's own index already understated actual cost increases at this building; the increases the Board permitted were below even that understated measure. The 2026 rent freeze, set at 0% against a measured PIOC increase of 5.3%, widens that gap further.

Rent Collection — What the Building Actually Receives

249. The building's rent roll, the maximum amount permitted to be billed, grew approximately 17% over the past five years, while operating costs grew approximately 72% over the same period. The margin available to maintain the building has not grown; it has shrunk sharply, and on its current trajectory it is heading toward nothing.

250. Actual collections run below the rent roll. Collections currently run approximately 6% below billed rent. Total arrears owed to the building amount to approximately $70,000, with four units currently behind on rent (down from nine) meaning 10-20% of units are typically delinquent at any given time. The largest single arrears balance is over $25,000. Typical time to resolve nonpayment cases in Housing Court runs one to three years per proceeding, and individual units have required five or more separate court cases over more than five years, through each of which the building was required to continue providing full services and paying all fixed costs.

[214] 2026 PIOC at 5.

251. The practical effect is a one-sided contract. The building's obligations, *e.g.*, heat, hot water, repairs, compliance, are enforced immediately and continuously. A tenant's core obligation to pay can be deferred for years through the court process. Even when the building ultimately prevails, back rent is almost never fully collected. The amount in arrears represents money already spent housing tenants who did not pay, and which the building will not recover. This is before accounting for the 2026 freeze, which eliminates any prospect of rent increases that might otherwise narrow the gap between collected rents and actual costs.

Compliance Obligations — A Growing Non-Recoverable Cost

252. Separate from ordinary operating costs, the building is legally required to maintain compliance with an expanding set of inspections, filings, and remediation obligations. Each is a mandatory, non-recoverable cost through the rent under current rules. These include recurring obligations under Local Law 1 (lead paint), Local Law 31/111 (XRF lead testing), Local Law 152 (gas piping, every four years), Local Law 55/61 (mold/allergen, annual), DOB boiler inspection (annual), DEP backflow preventer testing (annual), HPD annual registration, bedbug filings, and window guard notifications, as well as project-specific permits, engineering reports, and violation clearances that require significant administrative labor to process through agency backlogs.

253. Upcoming mandates will add further non-recoverable obligations. Local Law 23 of 2026 will require cooling to be made available upon tenant request beginning in 2028 and provided by 2030 — an estimated cost of $5,000–$15,000 in units if widely requested, plus potential electrical-capacity upgrades running into the tens of thousands on a 1929 building, with cost recovery capped at only a few dollars per month per unit and the rent itself frozen. Local Law 157 requires natural gas detectors in all units by January 1, 2027, at an estimated cost of $1,000–$2,500 to install, plus periodic replacement. Local Law 86 of 2026 requires rent-stabilized entrance

signage at an estimated cost of approximately $100 plus posting. A DOB risk-based structural inspection program phases in from October 2026, with potentially significant engineering costs if the building is included.

254. Viewed individually, each mandate appears modest. Together they represent a permanent and expanding layer of operating expense; one that mostly did not exist, or existed in far smaller form, when the building's regulated rents were set. Each year there is more of it, and it comes out of the same income that is supposed to cover repairs and maintenance. The true compliance burden is systematically understated in any cost report because, at this scale of self-managed operation, these costs are absorbed into the management, repairs, and legal lines rather than itemized by regulatory citation. They are real and growing but invisible as a line item.

Capital Investment and Building Condition

255. For decades, the family operated ahead of this building's age. Rather than waiting for systems to fail, they reinvested proactively — typically one major project every year or two, on top of routine repairs. That approach kept a nearly-century-old building in good condition. Before 2019, individual apartment improvement rules and major capital improvement recovery mechanisms made this reinvestment economically rational: improvements could be recovered over time through the rent. Neither mechanism works any longer. The 2019 rent law amendments sharply cut what apartment improvements and major capital improvements can recover. The rent freeze eliminates what remained. The math that made proactive reinvestment rational is gone.

256. The building will continue to meet its non-negotiable obligations: heat, hot water, and repair of unsafe or hazardous conditions. What changes is everything above that threshold. There are no longer funds available for proactive investment or improvement. What limited money remains must go to the most urgent problems, addressed reactively as they arise rather than

prevented. A building approaching 100 years old does not hold its condition on reactive repairs alone. The consequence — a building that becomes incrementally less well-maintained each year — is the direct and predictable result of being required to meet a rising operating and regulatory standard while revenue is frozen below cost.

Financial Position

257. The building is currently operating near its financial limit. Total cash outlay — operating costs, debt service, and capital — is budgeted at approximately $360,000 in 2026 (up more than 60% from five years ago), against a rent roll that has grown only modestly (approximately 17% over five years) and collections that run approximately 6% below even the maximum permitted billings. The building carries over $70,000 in outstanding arrears, with over $25,000 owed by a single tenant whose case has spanned years and multiple proceedings.

258. Against that $360,000 in total budgeted cash outlay in 2026, factoring in the building's annual rent roll — the maximum it is permitted to bill — at current collection rates, which run approximately 6% below billed rent, margins are expected to be below 15% and dropping, leaving a net surplus of approximately $50,000 before any reserve or discretionary capital. In the face of rising costs and frozen income, what was an inevitable approach toward zero in the next 5+ years has been accelerated. One required unit renovation, capital expenditures or additional tenant not paying, which cannot be practically enforced in the courts, means the building — one with minimal relative debt — will not be able to meet its obligations.

259. The problem is that the cost of operating and maintaining this building has run past what it is permitted to collect. The usual mechanism for bridging a capital gap — refinancing or borrowing against the building — is unavailable: no lender will underwrite new debt against regulated income that is not permitted to grow.

260. This building is one or two events away from not covering its costs — one additional local law, a single major system failure, or another nonpaying tenant. That is not a projection of a distant risk. It is a description of the current financial position. The Board's 0% freeze does not freeze the costs that drove the building to this position. It widens the gap between those costs and what the building is permitted to collect — and that gap lands on the building, the families who live in it, and the regulated housing stock the system is meant to preserve.

VIII. THE CITY'S DENIAL OF FOIL REQUESTS CONFIRMED THE RGB'S LACK OF INDEPENDENCE, MISCHARACTERIZED THE RGB AS "DUPLICATIVE" OF THE MAYOR'S OFFICE

261. On May 15, 2026, Ilan Rabinovitch submitted FOIL requests on behalf of Petitioners 21-45 23rd St. LLC, 39-12 62nd St. LLC, 42-59 Bowne St. LLC, 1369 College LLC, and 593 Park Place Management Inc., to five New York City agencies in connection with the Board's 2026 guideline-setting process: the Office of the Mayor ("OOM") (FOIL-2026-002-00848), the Office of Mass Engagement ("OME") (FOIL-2026-002-00849), the Office to Protect Tenants ("OPT") (FOIL-2026-002-00850), the Office of Management and Budget ("OMB") (FOIL-2026-019-00046), and the RGB (FOIL-2026-002-00851). True and correct copies of the FOIL requests, topics, and the City's denials are attached as **Exhibits 1-5** to the accompanying Affirmation of Ilan Rabinovich.

262. Four agencies (OOM, OME, OPT, and OMB) acknowledged the requests and indicated a response date of on or about November 17, 2026.

263. The Mayor's Office, however, categorically rejected the RGB FOIL request (FOIL-2026-002-00851) on the ground that it was "duplicative" of the request submitted to the Mayor's Office ("OOM"). OOM's position is that the RGB and the Office of the Mayor are one and the same, and thus only one FOIL could be submitted.

264. Appeals were filed on June 1, 2026, against all four agencies that returned a November 2026 response date, requesting production by June 15, 2026, to enable timely submission to the RGB before its June 16 deadline. The closure of the RGB request was independently appealed on the ground that it is not "duplicative" of the Mayor Office request, as the two requests target independent offices and individuals.

265. On June 12, 2026, the City rejected each of the FOIL appeals.

266. The RGB appeal was never answered, however, rendering it constructively denied.

267. The FOIL requests sought, among other things, communications within, among, and between the RGB, the Office of the Mayor, the Office of Mass Engagement, the Office to Protect Tenants, and members or staff of the Rent Guidelines Board concerning the 2026 guideline-setting process. These communications are not available through any other public source and are directly relevant to Petitioners' claims herein.

268. The City's refusal to produce these records and its rejection of expedited production despite the June 25, 2026 final vote has prevented Petitioners from obtaining relevant evidence concerning the RGB.

IX. THE 2026 RGB DELIVERS MAMDANI HIS RENT FREEZE

269. On June 25, 2026, the Rent Guidelines Board voted 7-1 — with one seat vacant following Christina Smyth's resignation hours before the vote — to adopt Apartment Order No. 58, setting guidelines of 0% for one-year renewal leases and 0% for two-year renewal leases, effective October 1, 2026.[215]

[215] N.Y.C. Rent Guidelines Bd., *June 25, 2026 RGB Meeting: Final Vote* (June 25, 2026), https://www.youtube.com/watch?v=cERCTVuTr50/.

270. All six of Mayor Mamdani's appointees voted to approve the 0% guidelines.[216]

271. Christina Smyth resigned hours before the vote.[217]

272. After the vote, Arpit Gupta, who voted "no" on a freeze, gave an interview in which he stated that the evidence was incomplete: "The data we were presented with this year was one in which these efforts to try to contain [landlord] costs were still incomplete. And the cost picture that we're looking at for landlords is quite high. We're looking at very high cost increases in all of these categories that landlords are dealing with. So to freeze rents in a condition where these costs are going quite high presents a challenge."[218]

273. In an article posted after the freeze, Gupta further elaborates on how the data does not support a freeze: "The basic reason I voted against the freeze is straightforward: it would hold rents flat while expenses keep growing, and a large share of the stabilized stock has no other way to raise revenue." He then explained that the CPC presented direct evidence of this issue: "These buildings have few ways to increase revenue beyond the adjustments allowed by the Rent Guidelines Board. Freezing their rents while their expenses remain uncapped is therefore a threat to their long-term financial viability. The nonprofit lender Community Preservation Corporation estimates that roughly a third of its rent-stabilized mortgages do not generate enough income to cover mortgage payments." He further explained: "The lesson is that freezing the price of a service

[216] N.Y.C. Rent Guidelines Bd., *June 25, 2026 RGB Meeting: Final Vote* (June 25, 2026), https://www.youtube.com/watch?v=cERCTVuTr50/.

[217] Ex. B.

[218] Video posted by Vital City (@vitalcitynyc), Instagram (June 26, 2026), https://www.instagram.com/reel/DaEAcWtk0gO/.

indefinitely while its costs continue to rise does not produce cheap or abundant service. Instead, it produces deteriorating assets and, eventually, public bailouts and takeovers."[219]

274. He also described inflation as an issue that makes a rent freeze untenable: "These are often compared to the rent freeze in the de Blasio years, but you can see below that was actually a very different context for two reasons. First, the actual inflation was low (this is the "PIOC" or the RGB staff's assessment of costs) and even hit negative [during] one of the rent freeze years. Second, actual rental revenues (the "RGB Rent Index") typically ran ahead of the RGB guidelines, because buildings had other revenue sources (such as deregulating apartments). Now, inflation and cost increases run red-hot, and the rent freeze has closed almost all of the opportunities for revenue growth available for many buildings. Absent other political intervention, this will accelerate all the other well-known pathologies of first generation rent control systems: building neglect, piling up vacancies as it is no longer profitable to lease out units, and ultimately financial collapse and takeover by banks and the state."[220]

275. Particularly telling are the statements released by the Board's own members at the June 25, 2026 public meeting — statements that, while ultimately cast in support of the 0% vote, contain concessions of material facts that are directly inconsistent with a rational basis for a uniform rent freeze.

276. Owner Member Maksim Wynn — the one member appointed to represent landlords who nonetheless voted for the freeze — acknowledged in his written statement released at the June 25, 2026 public meeting that a significant cohort of the stabilized stock is in genuine distress.

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[219] Arpit Gupta, *The Rent Freeze, and a Return to the 1970s*, Substack (June 28, 2026), https://arpitrage.substack.com/p/the-rent-freeze-and-a-return-to-the/.

[220] Arpit Gupta, *The Rent Freeze, and a Return to the 1970s*, Substack (June 28, 2026), https://arpitrage.substack.com/p/the-rent-freeze-and-a-return-to-the/.

Specifically, Wynn stated that “there are as many as 5,000 distressed buildings among the 90%+ stabilized, pre-‘74 stock, despite a 12% rent increase over the last four years,” and characterized that level of distress as pointing to “systemic issues on the expense side of the ledger.”[221] Moreover he said that “[p]ast boards have reasonably assumed that the best way to ensure sustainable operations is to increase legal rents. However, the data this board has reviewed suggests that for buildings with income to expense issues, increasing legal rents may, counterintuitively, decrease income.”[222]

277. Wynn further acknowledged that the buildings with the greatest income and expense issues are “pre-1974, 90%+ stabilized buildings,” that these are the buildings “with the lowest economic occupancy,” and that “these buildings and their owners are struggling.”[223] Wynn conceded that these buildings have “real distress” whose “underlying causes are systemic ones,”[224] and that there is “a subset of buildings within the pre-‘74, 90%+ stabilized stock whose issues cannot be addressed by expense interventions alone” — buildings characterized by “high leverage, severe capital needs, and very low- to negative-NOI.”[225] He acknowledged that owners of these buildings “cannot afford to wait two, three, or four years to access capital.”[226]

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[221] Maksim Wynn, *Statement at the N.Y.C. Rent Guidelines Board Public Meeting* 2 (June 25, 2026), https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2026/06/Maksim-Wynn-statement.pdf (“Wynn Statement”).

[222]Wynn Statement at 1–2.

[223] Wynn Statement at 1.

[224] Wynn Statement at 5.

[225] Wynn Statement at 4.

[226] Wynn Statement at 4.

278. Wynn also acknowledged the very data problem identified here: he confirmed that the Furman Center and the New York Apartment Association testified before the Board that the buildings with the greatest income and expense issues are pre-1974, 90%-plus stabilized buildings,[227] and that these buildings have a preferential rent economic occupancy of approximately 90% against a legal rent economic occupancy of only 82%[228] — meaning multiple tenants are likely not paying full rent. Wynn's provided example — a 21-unit, 100% rent-stabilized building with positive NOI of approximately $67,000 per year that is nonetheless unable to cover its nearly $100,000 annual debt service,[229]—corroborates that the Board's NOI-based measure does not capture whether buildings can survive a freeze when debt obligations are included.

279. Chair Chantella Mitchell's statement, released at the same June 25, 2026 meeting, contains its own concessions that undermine the rational basis for the Board's determination. Chair Mitchell acknowledged that "outcomes varied across the city, with stronger NOI growth in Manhattan and a slight decline in NOI (0.1%) in the Bronx," and that the unadjusted cost-to-income ratio for 100% rent-stabilized buildings citywide was 66.3%[230] — above the Board's adjusted average of 61.7% and above the 64% DOF cap. She acknowledged that in "lower-income parts of the city, most notably the Bronx, owners face the greatest financial pressure, as revenue has grown but has been insufficient to offset rising costs," and that "[t]hese same buildings are

[227] Wynn Statement at 1.

[228] Wynn Statement at 3.

[229] Wynn Statement at 3.

[230] Chantella Mitchell, *Statement at the N.Y.C. Rent Guidelines Board Public Meeting* 2 (June 25, 2026), https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2026/06/Chair-Mitchells-statement.pdf ("Mitchell Statement").

more likely to house lower-income tenants[.]"[231] She further acknowledged that there is "concentrated financial strain in low-rent, high-stabilization buildings, where owners have the least capacity to absorb ongoing cost increases and tenants have the least ability to pay."[232]

280. Chair Mitchell also acknowledged that "collections data for 2026 further demonstrates constrained tenant capacity" and that "multiple indicators suggest that rent collections have not fully returned to pre-pandemic levels" — including a "persistent gap between collected and legal rents" in the I&E Study, lenders "increasing vacancy and collection loss assumptions" in the Mortgage Survey Report, and portfolio-level data showing "collection rates have not returned to pre-2020 levels."[233] She acknowledged the Mortgage Survey Report's findings that sales activity rose 33% from 2024 and that lenders reported higher vacancy and collection loss assumptions (rising from 3.14% to 5.00%).[234] And she acknowledged that "[owners'] need for relief is real and, in some cases, urgent," and that these owners are "navigating significant and compounding cost pressures, including rising property taxes, increasing insurance costs, and unfunded or underfunded legislative mandates."[235]

281. What the Board's own members' statements make unmistakably clear is that the 0% freeze was not the result of rational consideration of present economic data; rather, it was based on the contrived rationale that the Mamdani Administration will implement future policy interventions that may never happen, or, even if they do, may not have the impacts promised. The

[231] Mitchell Statement at 3.

[232] Mitchell Statement at 3.

[233] Mitchell Statement at 3.

[234] Mitchell Statement at 2–3.

[235] Mitchell Statement at 4.

Explanatory Statement incorporates HPD's own testimony to the Board as one of its affirmative justifications for the freeze: "Most owners need relief from rising expenses," including in "the largest expense categories" — "property taxes, maintenance, insurance, and certain utilities." But rather than treat that concession as a reason to authorize a rent increase, the Board credited HPD's promise: "[A]s part of the upcoming housing plan, the first of the new Mamdani Administration, we will tackle each of these in turn, looking to offer concrete strategies to lower each of these costs for rent stabilized and affordable buildings. If we can reduce rising costs, this will help most buildings. There are some rent stabilized buildings that are in distress and for which reducing costs will not be enough. These buildings need bigger interventions. The City can, and will, provide this support."[236]

282. Owner Member Wynn made the Board's adoption of this reasoning explicit: City and state policymakers "have the ability to make the expense and capital interventions that these buildings and their owners need. These policy makers need only the political will to commit the resources required to sustain this at risk segment of the rent stabilized stock." He then stated: "[A]t this moment, with the city taking the first steps towards the capital and expense interventions owners need, and the imminent risk of cratering economic occupancy, a 0% rent increase on 1- and 2-year leases is in owners' best interests."[237] In other words, Member Wynn voted for a 0% freeze not because the economic data supported it, but because he believed the City would follow through on its promises.

283. Chair Mitchell acknowledged the same premise while also conceding that landlords are genuinely struggling. In her written statement, she stated that "[i]t is important to acknowledge

[236] 2026 Explanatory Statement at 39.

[237] Wynn Statement at 2, 5.

that a small subset of owners are facing severe financial pressure" and that "owners' need for relief is real and, in some cases, urgent."[238] She further acknowledged that these owners "are navigating significant and compounding cost pressures, including rising property taxes, increasing insurance costs, and unfunded or underfunded legislative mandates."[239] Yet rather than authorize a rent increase to address those acknowledged pressures, Chair Mitchell voted for 0% on the ground that HPD had "outlined efforts to address these challenges." But she immediately qualified that rationale: "[T]he effectiveness of those efforts will depend on whether relief is timely and accessible to the owners most in need."[240] The Chair thus voted for a freeze that she recognized would cause harm to a class of owners in real and urgent distress, on the basis of City interventions that she herself acknowledged may or may not prove timely.

284. As of today, none of the promised policy interventions have been implemented in any form, whatsoever, and done in any form sufficient to provide any meaningful relief to the distressed owners the Board identified. The insurance cost-containment program referenced by Member Wynn remains a pilot of limited scope.[241] No targeted property tax exemption for pre-1974, 90%-or-more stabilized buildings has been enacted. No expanded DEP Multi-Family Water Assistance Program covering the relevant building segment is in place. No increased HPD capital budget authorization has been funded. Member Wynn's own statement acknowledged these facts at the time of the vote, noting that the existing water assistance program "in 2025... provided relief to only a quarter of this category's stock and covered only a quarter of their water costs," and that

[238] Mitchell Statement at 4.

[239] Mitchell Statement at 4.

[240] Mitchell Statement at 4.

[241] *See* Wynn Statement at 2.

HPD's pipeline programs for capital-constrained buildings "are capital constrained, have long pipelines, and smaller operators may have difficulty accessing them."[242] The Board voted for a freeze premised on relief measures it acknowledged were inadequate at the time of the vote and whose future adequacy it could not guarantee.

CAUSES OF ACTION

COUNT ONE – DECLARATORY JUDGMENT; AS ARBITRARY AND CAPRICIOUS ACTION, ABUSE OF DISCRETION, AFFECTED BY ERRORS OF LAW, AND IN VIOLATION OF LAWFUL PROCEDURE; THE RGB'S DECISION WAS THE RESULT OF A SHAM PROCESS WITH A PREDETERMINED OUTCOME (CPLR §§ 3001, 7803(3), 7806)

285. Petitioners repeat and reallege the allegations set forth in the preceding paragraphs as if set forth herein.

286. A determination is arbitrary and capricious when based on the declared intentions of agency members, nothing presented to them would change foregone conclusion. *See Lindemann v. Am. Horse Shows Ass'n, Inc.*, 164 Misc. 2d 937, 950-56 (Sup. Ct. N.Y. Cnty. 1994).

287. Here, the predetermination of the outcome is confirmed by the public statements of the RGB's own members, including the admissions of a sitting Board member who resigned the day of the vote. As that former Board member confirmed, the RGB "has become a body that starts with an answer and vibe codes its way backward to justify it," that "[t]his rebuilt board was required to deliver a rent freeze," and that "[e]verything since has been theater."[243] This is not the view of an outside critic — it is the judgment of a member who participated in the 2026 process and witnessed the deliberations firsthand.

[242] Wynn Statement at 3–4.

[243] Ex. B at 1.

288. Because the Board's June 25, 2026 determination was the product of a deliberative process in which the outcome was predetermined before the evidence was heard, as evidenced by the pre-vote statements of multiple members and the resignation letter of a sitting owner-side member characterizing the entire process as "theater," the determination was made in violation of lawful procedure and should be annulled pursuant to CPLR §§ 7803(3) and 7806.

289. The predetermination of this outcome is further confirmed by the public record of the Board members themselves. Mayor Mamdani expressly stated that he would appoint only those who "understand that landlords are doing just fine."[244] This is not neutral criteria for selecting qualified public members — rather it is simply the first step towards a predetermined result.

290. Multiple members of the Board then confirmed, through their own pre-appointment conduct, that they arrived at the 2026 process with a fixed view of its outcome. Board Member Mancilla had reposted Mamdani's call to "freeze the rent,"[245] publicly endorsed his campaign,[246] and been appointed by Mamdani approximately three months after his union became the first labor organization to endorse Mamdani for mayor — explicitly citing his promise to freeze the rent.[247]

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[244] Renee Anderson & Jeff Capellini, *Zohran Mamdani Ran on a Promise to Freeze Rent. Here's How NYC's Mayor Can Control the Rates*, CBS News (Nov. 7, 2025, at 08:36 ET), https://www.cbsnews.com/newyork/news/zohran-mamdani-new-york-city-rent-freeze/ (citing a video on Mamdani's former campaign website).

[245] Brandon Mancilla (@mancillabrando), X (Oct. 16, 2025), https://x.com/ZohranKMamdani/status/1978982454460342678 (reposted from Zohran Kwame Mamdani, @ZohranKMamdani).

[246] Image posted by Brandon Mancilla, Facebook (Nov. 5, 2025), https://www.facebook.com/share/p/1ELwaD61Ji/?mibextid=wwXIfr.

[247] Press Release, UAW Region 9A, UAW Region 9A Calls On 20,000 NYC Members to Rank Zohran Mamdani First and Releases Full Ranked Choice Ballot (May 30, 2025), https://region9a.uaw.org/news/rankzohranfirst/; Press Release, N.Y.C. Office of the Mayor, Mayor Mamdani Announces Six Appointees to the Rent Guidelines Board (Feb. 18, 2026), https://www.nyc.gov/mayors-office/news/2026/02/mayor-mamdani-announces-six-appointees-to-the-rent-guidelines-bo/.

Board Member Melodia had publicly called for "bold policies" to constrain landlords[248] and expressed enthusiasm for Mamdani's administration weeks before her appointment.[249] Board Member Soltren, months before the 2026 vote, had called for a rent freeze and stated that it was the Board's core duty to protect tenants above all other considerations.[250] Soltren also described the Board's own PIOC report — a legally mandated evidentiary input[251] — as a "flawed tool" that should be given little weight, before the 2026 hearing season had even concluded.[252] These statements are not mere policy preferences; they reflect Board members who had pre-judged the outcome before the evidence was in.

291. This predetermination is further corroborated by the account of Board Member Arpit Gupta, who voted against the freeze and gave an interview after the vote confirming that the Board had ignored the evidence before it. Gupta stated that the data presented showed "very high cost increases in all of these categories that landlords are dealing with," and that "[t]o freeze rents

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[248] Lauren Melodia (@lrmelodia), X (Nov. 9, 2021 at 11:11 ET), https://x.com/lrmelodia/status/1458104954447712257/.

[249] Rocco Vertuccio, *Fiscal Director Discusses Mayor's Plan for a Fairer City*, Spectrum News NY1 (Jan. 11, 2026), https://ny1.com/nyc/bronx/CTV/2026/01/12/fiscal-director-discusses-mayor-s-plan-for-a-fairer-city/ (video interview with Melodia); Press Release, N.Y.C. Office of the Mayor, Mayor Mamdani Announces Six Appointees to the Rent Guidelines Board (Feb. 18, 2026), https://www.nyc.gov/mayors-office/news/2026/02/mayor-mamdani-announces-six-appointees-to-the-rent-guidelines-bo/.

[250] Transcript of Rent Guidelines Board Meeting, at 11, 14–15 (Apr. 30, 2024), https://rentguidelinesboard.cityofnewyork.us/wp-content/uploads/2024/05/2024-04-30-Transcript.pdf (statement by Adán Soltren); Adán Soltren, *Opinion: Setting the Record Straight on the Rent Guidelines Board Vote*, City Limits (July 7, 2023), https://citylimits.org/opinion-setting-the-record-straight-on-the-rent-guidelines-board-vote/.

[251] *See* § 26-510(b) ("shall consider…economic condition…including prevailing and projected (i) real estate taxes and sewer and water rates, (ii) gross operating maintenance costs (including insurance rates, governmental fees, cost of fuel and labor costs)")

[252] N.Y.C. Rent Guidelines Bd., *April 9, 2026 RGB Meeting*, at 36:05 (Apr. 9, 2026), https://www.youtube.com/live/avjtKgVUtgE; *id.* at 35:13.

in a condition where these costs are going quite high presents a challenge."[253] He further noted that fully rent-stabilized buildings — those the freeze most directly governs — "cannot" tolerate the freeze, while buildings with market-rate units "can."[254] A deliberative body that ignores an internally raised, data-grounded objection without adequate explanation has not weighed the evidence — it has discarded it.

COUNT TWO – DECLARATORY JUDGMENT; ARBITRARY AND CAPRICIOUS ACTION, ABUSE OF DISCRETION, AFFECTED BY ERRORS OF LAW, AND IN VIOLATION OF LAWFUL PROCEDURE; GUIDELINE-SETTING PROCESS WAS NOT TRULY INDEPENDENT
(CPLR §§ 3001, 7803(3), 7806)

292. Petitioners repeat and reallege the allegations set forth in the preceding paragraphs as if set forth herein.

293. The Rent Guidelines Board was established to make an independent evaluation of appropriate rent controls.[255]

294. Section 26-510 charges the Board with making annual rent determinations based on specified economic criteria; it does not authorize the Mayor to direct the outcome of those determinations. The appointment power conferred on the Mayor by Section 26-510(a) is a power to select qualified members, not a power to direct their votes.

295. The City's response to the FOIL requests submitted on May 15, 2026, confirms that the City considers the RGB to be an arm of City government—not the independent agency that it

[253] Video posted by Vital City (@vitalcitynyc), Instagram (June 26, 2026), https://www.instagram.com/reel/DaEAcWtk0gO/.

[254] Arpit Gupta, *The Rent Freeze, and a Return to the 1970s*, Substack (June 28, 2026), https://arpitrage.substack.com/p/the-rent-freeze-and-a-return-to-the/.

[255] *See* Collins at 27.

is. The City closed the FOIL request directed to the Rent Guidelines Board as "duplicative" of the FOIL request directed to the Office of the Mayor, an admission by the City itself that the Board and the Mayor's Office were one and the same. In fact, the current version of the RGB is actually a creature of a state statute, ETPA § 4(c).

296. The Mayor's Office further compromised the Board's independence by arranging a special briefing for the Board on May 21, 2026, by representatives of the Mayor's Office of Equity and Racial Justice — specifically, Dabash Negash and Shehab Chowdhury — who presented on the "true cost of living" in New York City.[256] That representatives of the Mayor's own Office presented substantive policy advocacy to the Board — on the very question of how much relief tenants needed — undermines the independence of the deliberative process. An independent fact-finding body is not supposed to receive policy briefings from the appointing authority on the merits of the question it is charged with deciding. The Board's acceptance of that briefing without disclosure or public notice is itself evidence that it had ceased to function as an independent regulatory agency.

297. Further, and even worse, upon information and belief, a City representative also unlawfully entered the Board's restricted green room – a move that further shows the extent to which the City truly disregarded any notion of Board independence.

298. In addition, the Mayor created the Office of Mass Engagement and then used it to mobilize public support for the freeze at Board hearings, using $5.2 million in City resources to

[256] Ex. C; 2026 Explanatory Statement at 4; *see also* Dan Rivoli, *New Metric Says 'True Cost' of NYC is Unaffordable For Most*, Spectrum News (Apr. 6, 2026), https://ny1.com/nyc/all-boroughs/politics/2026/04/06/true-cost--of-new-york-life-unaffordable-to-most-under-new-metric/.

create salaried positions[257] to in part encourage increased tenant turnout in what was supposed to be an independent fact-finding process.

299. Rule §1-13 of the New York City Conflicts of Interest Board prohibits public servants from using City resources for non-City purposes; the use of City funds to lobby for a specific outcome in proceedings conducted by a nominally independent Board raises serious questions of legality in addition to the deliberative process concerns discussed below.

300. The scale of the resources deployed to impermissibly influence the Board's process is itself probative of the lack of independence. The Office of Mass Engagement was given a total annual budget of $53 million[258] which included in part a canvassing effort to increase attendance at RGB meetings.[259] The canvassers themselves — partially drawn from the Mayor's own office — operated with the goal of promoting the freeze outcome, not facilitating neutral civic engagement. One documented account from a canvasser confirmed that colleagues "urged more than one tenant to consider 'how great it would be if they didn't raise the rent,'" and that "[t]he canvassing list we followed did not include anyone described as a landlord. They were all rent-stabilized tenants."[260] The use of millions of dollars in public funds to generate one-sided attendance at proceedings conducted by a nominally independent regulatory body is not neutral

[257] Gabrielle Fahmy, *Mamdani Plans to Spend $5.2M on His Propaganda Office: "Morally Incomprehensible,"* N.Y. Post (May 31, 2026), https://nypost.com/2026/05/31/us-news/nyc-mayor-mamdani-plans-to-spend-5-2-million-on-his-office-of-mass-engagement/.

[258] Adam Daly, *Mamdani's $53M Mass Engagement Office Draws Council Questions Over Budget, Political Guardrails*, AMNY (June 9, 2026), https://www.amny.com/politics/mamdani-mass-engagement-office-city-council-questions/.

[259] Mayor Zohran Kwame Mamdani (@NYCMayor), X (Apr. 29, 2026, at 20:04 ET), https://x.com/NYCMayor/status/2049580664672936402.

[260] Josh Code, *Knocking on Doors for Mamdani's Rent-Freeze Brigade*, Free Press (June 12, 2026), https://www.thefp.com/p/nyc-rent-stabilization-canvassing/.

civic outreach — it is precisely the kind of extra-record influence that renders a quasi-legislative determination void for lack of genuine independence.

301. Thus, the Board's determination should be annulled pursuant to CPLR §§ 7803(3) and 7806, because the Board was not acting independently at the time it issued its decision.

COUNT THREE – DECLARATORY JUDGMENT; ARBITRARY AND CAPRICIOUS ACTION, ABUSE OF DISCRETION, AFFECTED BY ERRORS OF LAW, AND IN VIOLATION OF LAWFUL PROCEDURE; THE RGB ADOPTED ITS DECISION BY MANIPULATING DATA TO LANDLORDS' DETRIMENT AND DISREGARDING OR FAILING TO RATIONALLY WEIGH THE REQUIRED STATUTORY FACTORS UNDER N.Y.C. ADMIN. CODE § 26-510(b) (CPLR §§ 3001, 7803(3), 7806)

302. Petitioners repeat and reallege the allegations set forth in the preceding paragraphs as if set forth herein.

303. Under CPLR § 7803(3), a court may annul an agency determination that is "arbitrary and capricious" or "made in violation of lawful procedure" or "affected by an error of law." An agency determination is arbitrary and capricious when it is "without sound basis in reason" and without "regard to the facts." *Bard Coll. v. Dutchess Cnty. Bd. of Elections*, 157 N.Y.S.3d 57, 60 (2d Dep't 2021) (internal quotation omitted). The existence of a formal record of hearings and data review does not insulate an agency from this standard: a board that collects evidence and then disregards it in reaching a predetermined conclusion, or that weighs required statutory factors against its own manipulated data, acts just as arbitrarily as one that ignores the evidence entirely. *See Lindemann*, 164 Misc. 2d at 950-56. Here, the Board's Explanatory Statement recites that it held seven public meetings and four public hearings and reviewed staff reports. But the question is not whether the Board went through the motions. It is whether the Board's determination is rationally supported by the data it reviewed.

304. The Board is required to consider all the statutory factors enumerated under N.Y.C. Admin. Code § 26-510(b). *Cf. Inc. Vill. of Great Neck Plaza v. Nassau Cnty. Rent Guidelines Bd.*, 400 N.Y.S.2d 120 (2d Dep't 1977) (invalidating RGB guidelines where the Board failed to consider required statutory factors including financing costs and owners' net incomes); *compare* N.Y.C. Admin. Code § 26-510(b), *with* Emergency Tenant Protection Act of 1974 (L. 1974, ch. 576, § 4).

305. N.Y.C. Admin. Code § 26-510(b) requires that the Board "shall" consider, among other things, the "economic condition of the residential real estate industry … including such factors as the prevailing and projected (i) real estate taxes and sewer and water rates, (ii) gross operating maintenance costs (including insurance rates, governmental fees, cost of fuel and labor costs), (iii) costs and availability of financing (including effective rates of interest), (iv) over-all supply of housing accommodations and over-all vacancy rates, (2) relevant data from the current and projected cost of living indices for the affected area, (3) such other data as may be made available to it."

306. The Board's determination was arbitrary and capricious for five independently sufficient reasons, each of which reflects the Board's failure to rationally weigh the statutory factors it was required to consider.

I. The Board Did Not Rationally Weigh Operating Costs or the Financial Condition Rent-Stabilized Buildings When It Decided to Impose a Rent Freeze

307. The 2026 Price Index of Operating Costs, authored by the RGB's staff and incorporated in the Board's Explanatory Statement, established that operating costs are rising across every component: fuel up 11.0%, insurance up 10.5%, maintenance up 6.0%, utilities up

5.6%, administrative costs up 4.8%, labor up 3.0%, and taxes up 2.6%.[261] Additionally, as of June 10, 2026, the Board became aware that the NYC Water Board adopted a 6% increase for Fiscal Year 2027 — after the PIOC had already been published.[262] Despite clear cost increases, Board Member Soltren stated in open session: "I don't think we should be using this at all unless there's a price of operating cost of living index."[263] That statement reflects not a weighing of the PIOC data but a categorical dismissal of the Board's legally mandated evidentiary tool.

308. The Board also used expense data from luxury apartment and commercial buildings because those buildings had at least one rent-stabilized unit, inflating the income figures used to calculate NOI. While the Board's headline figure is that NOI increased 6.2%: NOI only increased 4.0% in buildings with 50% rent-stabilized buildings; 3.5% among buildings with 80% rent-stabilized buildings; and only 2.4% in 100% rent-stabilized buildings.[264] This indicates that the 6.2% is a misleading statistic and does not truly represent the buildings that the Board's vote will apply to.

309. The selective omission of the Board's own staff data from the Explanatory Statement further confirms this failure. The 2026 I&E Study — authored by the Board's own research staff — shows that the adjusted cost-to-income ratio for buildings outside Manhattan was 63.8%, compared to 56.4% in Manhattan; and that among 100% stabilized pre-1974 buildings outside Manhattan specifically, the adjusted cost-to-income ratio reached 70.8% while NOI rose

[261] 2026 Explanatory Statement at 12–13.

[262] N.Y.C. Water Board, Resolution: Adoption of Rate Schedule Effective July 1, 2026 (June 10, 2026), https://www.nyc.gov/assets/nycwaterboard/downloads/pdf/public_notices/wb-notice-6-10-26.pdf/.

[263] N.Y.C. Rent Guidelines Bd., *April 9, 2026 RGB Meeting*, at 36:05 (Apr. 9, 2026), https://www.youtube.com/live/avjtKgVUtgE.

[264] 2026 I&E Study at 4, 20.

only 1.0%. These figures appear in the I&E Study at pages 11, 20, and 43. Not one of these figures appears anywhere in the Board's Explanatory Statement. The Board's own Explanatory Statement omitted the most granular evidence of outer-borough distress that its own staff produced. This is evidence that directly supported differentiated guidelines for the most financially stressed segment of the stabilized stock. A Board that produces data through its own research staff showing acute geographic disparity, and then declines to engage with it in its written justification for a blanket freeze, has not rationally weighed the statutory factors. Rather, it has curated the record to support a predetermined result.

310. The Board's failure to weigh operating costs is further demonstrated by two additional data points it possessed and ignored. First, as of June 10, 2026 (fifteen days before the final vote), the Board was aware that the NYC Water Board had voted for a 6% increase in water and sewer charges for Fiscal Year 2027.[265] This increase came after the 2026 PIOC had already been published, meaning the PIOC's water and sewer figure of 3.7% understated the cost burden landlords would actually face during the freeze period.[266] The Board took no account of this development in its final determination. Second, the Board's own 2026 PIOC projected that operating costs would rise an additional 4.1% in the coming year — on top of the 5.3% increase already recorded.[267]

311. The Board's mandate under N.Y.C. Admin. Code § 26-510(b) is expressly forward-looking: the Board "shall consider" the "prevailing *and projected*" costs. Voting 0% in the face of

[265] N.Y.C. Water Board, Resolution: Adoption of Rate Schedule Effective July 1, 2026 (June 10, 2026), https://www.nyc.gov/assets/nycwaterboard/downloads/pdf/public_notices/wb-notice-6-10-26.pdf/.

[266] 2026 PIOC at 8.

[267] 2026 PIOC at 5, 10–11.

confirmed projected cost growth of 4.1%, when the Board's own staff formulas indicated increases of at least 3.4% to 4.8% were needed just to hold income constant,[268] is not a weighing of the evidence. It is to outright disregard it, amounting to an error of law.

312. The Board's Explanatory Statement suggests that expense-side interventions (tax relief, insurance cost containment, utility subsidies, and capital programs), rather than rent increases, are the appropriate response to distressed landlords.[269] That rationale cannot sustain the 0% determination for three independently sufficient reasons. First, the statute does not authorize the Board to decline to set a rent increase because it prefers a different policy instrument. Section 26-510(b) charges the Board with establishing annual guidelines for rent adjustments based on specific economic criteria. It does not authorize the Board to substitute its preferred policy response — future expense relief — for the mandatory rent-setting exercise. Second, the promised interventions are speculative. As of June 25, 2026, the expense-side interventions referenced in the HPD testimony had not been enacted, funded, or delivered. The Board voted to impose an imminent, legally binding 0% freeze on the strength of programs that may or may not materialize. A determination resting on future contingencies rather than present facts is not rationally supported by the evidence. Third, and most critically, even if such interventions were delivered in full, they would not retroactively cure the harm the freeze imposes during the period October 1, 2026 through September 30, 2027. The freeze takes effect immediately; the interventions do not. A rationally-grounded determination accounts for this temporal mismatch. This one does not.

[268] 2026 PIOC at 11–12 (reporting "Traditional" commensurate of 3.4% for one-year leases and 4.8% for two-year leases; "Net Revenue" commensurate of 3.75% for one-year and 6.25% for two-year leases; and "CPI-Adjusted NOI" commensurate of 4.5% for one-year and 8.5% for two-year leases).

[269] *See* 2026 Explanatory Statement at 39.

II. The Board Manipulated and Irrationally Relied on Datasets that Systematically Overstated Net Operating Income and Understated Expenses of Landlords when It Decided to Implement a Rent Freeze

313. The Board used data from the Department of Finance that placed a ceiling on reported expenses and then applied a second 3.07% trim to data that had already been adjusted.[270]

314. In addition to this, the net operating income of buildings included buildings with at least one-rent stabilized unit, distorting the overall numbers by including luxury apartments and commercial buildings. The Fiscal Policy Institute, testifying on behalf of tenants at the Board's own March 26, 2026 public hearing, conceded that the Board's headline NOI figure did not accurately measure stabilized-unit income because the dataset counts buildings rather than regulated units, and many buildings are mixed-use or partially regulated.[271]

315. As demonstrated in further detail above, among buildings with 50% or more stabilized units, NOI grew only 4.0%; among 80%-plus stabilized buildings, only 3.5%; and among fully stabilized buildings — the ones the freeze most directly governs — only 2.4%.[272]

316. The same distortion is visible when the Board's own data is disaggregated by building vintage rather than by stabilization share. Table 5 of the 2026 Income and Expense Study reports average monthly net operating income per dwelling unit for 2024, and — by the Board's own express notation — applies no adjustment to reported operating costs.[273] On that unadjusted basis, the pre-1974 stock that the freeze most directly governs earns $512 per unit per month citywide, against $1,454 for post-1973 buildings — the newer stock earning nearly three times the

[270] Furman Center Presentation at 17; FY2026 Property Assessment Guidelines, Apartment Buildings with More Than 10 Units; 2026 I&E Study at 9.

[271] FPI Testimony at 6.

[272] 2026 I&E Study at 4, 20.

[273] 2026 I&E Study at 28.

older. In the Bronx, where the regulated stock is most concentrated, pre-1974 net operating income falls to $283 per unit per month, before debt service and before the further downward cost adjustment the Board applied elsewhere in its analysis. This disparity is not an artifact of comparing one borough against another: the post-1973 premium holds within every borough the Study reports — pre-1974 against post-1973 net operating income of $283 against $707 in the Bronx, $483 against $1,694 in Brooklyn, $467 against $1,423 in Queens, and $826 against $2,027 in Manhattan. The aggregate figures on which the Board relied to find owners broadly healthy are lifted by a post-1973 cohort that the freeze barely reaches, while the pre-1974 cohort the freeze governs sits at a fraction of that level in every borough. A determination that rests on the blended figure, when the Board's own table isolates the regulated cohort and shows it at $283 to $512 per unit before financing, is not a rational reading of the record the Board compiled.

317. Therefore, the Board's metrics are skewed in a way that understates the actual cost of running a building and overstates the net-operating income by factoring in units that can adjust rental income based on market demand.

318. Additionally, the cumulative gap from years of increases below the rate needed to keep income steady compounds the irrationality. The Board's rent index has risen only 215.0% since 1990, while actual collected rents rose 267.7% and legal regulated rents rose 269.2% — the Board's increases lagging both.[274]

319. On the most conservative measure — the Board's own "traditional" commensurate figure — the adopted increase fell short in four of the six prior cycles, with the Board's own staff

[274] 2026 I&E Study at 7–8.

indicating that increases of at least 3.4% for one-year leases to 4.8% for two-year leases were needed just to hold building income steady in 2026.[275]

320. A flat zero, added to this accumulated shortfall, crosses the threshold from permissible discretion into arbitrariness.

321. Taken together, the dataset on which the Board based its determination suffers from three structural defects, each of which operates in only one direction — systematically overstating landlord financial health and understating costs. First, the Board's headline 6.2% NOI figure is inflated by aggregating all buildings with at least one stabilized unit, including those deriving substantial income from unregulated, market-rate apartments; when the analysis is confined to 100% stabilized buildings — those the freeze actually governs — NOI growth falls to 2.4%.[276] Second, 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,[277] and third, the Board then applies a further 3.07% downward reduction to figures already capped[278] — a double compression that stopped tracking rising costs during the very period costs were rising most acutely. A determination resting on data that systematically errs to both overstate net operating income and understate operating expenses cannot be rational.

[275] 2026 PIOC at 11–12 (reporting "Traditional" commensurate of 3.4% for one-year leases and 4.8% for two-year leases; "Net Revenue" commensurate of 3.75% for one-year and 6.25% for two-year leases; and "CPI-Adjusted NOI" commensurate of 4.5% for one-year and 8.5% for two-year leases).

[276] 2026 I&E Study at 4, 20.

[277] Furman Center Presentation at 17.

[278] 2026 I&E Study at 9.

III. The Board Irrationally Used a Valuation Instrument to Answer a Survivability Question, Disregarding Its Own Mortgage Survey Data and Other Record Evidence

322. NOI is a proper tool for valuation, considering the value of a property without considering debt service. However, property valuation does not answer whether a building can afford a rent freeze.

323. The concrete evidence of that category error was before the Board. The Community Preservation Corporation — a nonprofit multifamily lender whose NYC rent-stabilized portfolio comprises approximately 324 loans covering 14,552 rent-stabilized units — presented data at the Board's own hearings showing that in 2024, 32% of surveyed loans had a debt-service coverage ratio below 1.0, meaning net operating income was insufficient to cover mortgage payments.[279] That figure had risen from 26% the prior year and represented nearly three times the 11% rate recorded in 2022.[280] These are not projections or advocacy estimates; they are actual lender data from a nonprofit institution.

324. The Board's own Mortgage Survey Report independently corroborated deteriorating conditions. That report showed vacancy rates rising to 5.00% from 3.14% the prior year and sales activity up 33% from 2024[281] — both indicators of financial distress in the stabilized stock. A portfolio of buildings from which landlords are exiting at increased rates, and in which a growing share of loans cannot cover their own debt service, is not a portfolio that can absorb a rent freeze. The Board's determination does not acknowledge these data points, does not reconcile

[279] 2026 CPC Data Brief at 2.

[280] 2026 CPC Data Brief at 2; 2020–2024 CPC Data Brief at 2.

[281] 2026 Mortgage Survey Report at 3–4, 8.

them against the 9.2% NOI-based distress figure it cited, and does not explain why the survival-side evidence was disregarded in favor of a valuation-side measure.

325. Board Member Gupta — the sole dissenting vote — made this point expressly in a post-vote statement: "[The nonprofit lender] Community Preservation Corporation estimates that roughly a third of its rent-stabilized mortgages do not generate enough income to cover mortgage payments." He concluded: "[T]he rent freeze has closed almost all of the opportunities for revenue growth available for many buildings. Absent other political intervention, this will accelerate all the other well-known pathologies of first generation rent control systems: building neglect, piling up vacancies as it is no longer profitable to lease out units, and ultimately financial collapse and takeover by banks and the state."[282] An agency decision that silently disregards internally raised, evidence-based objections — particularly where those objections go to the central survivability question the decision is supposed to answer — is arbitrary and capricious.

326. In sum, the Chair and the Owner Member of the 2026 Board — in statements released at the meeting at which they voted for a uniform 0% freeze — together acknowledged: (1) up to 5,000 distressed buildings in the most exposed segment of the stabilized stock; (2) that these buildings are in systemic distress due to expense side increases; (3) that NOI in the Bronx declined and that outer-borough buildings face the greatest cost pressure; (4) that rent collections remain below pre-pandemic levels; (5) that vacancy and collection loss assumptions are rising; (6) that a subset of owners needs relief that is real and urgent; and (7) that the Board's own Mortgage Survey Report confirms deteriorating lending conditions. None of this is consistent with a rational

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[282] Arpit Gupta, *The Rent Freeze, and a Return to the 1970s*, Substack (June 28, 2026), https://arpitrage.substack.com/p/the-rent-freeze-and-a-return-to-the/.

determination that a uniform 0% guideline — with no differentiation, and no mechanism for immediate relief — is appropriate. It is a board conceding the harm and then inflicting it anyway.

IV. The Board Irrationally Assessed Tenant Affordability

327. The Board is not forbidden to consider tenant affordability. But every discretionary determination of an administrative agency must rest on a rational basis. A determination is arbitrary and capricious when it is "without sound basis in reason and is generally taken without regard to the facts." *Matter of Pell v. Board of Educ.*, 34 N.Y.2d 222, 231 (1974); *accord Matter of Peckham v. Calogero*, 12 N.Y.3d 424, 431 (2009). That standard governs the Board's treatment of each factor it elects to weigh. Where an agency selects a consideration and makes it the fulcrum of its determination, the agency must engage that consideration on the record before it, and not at a level of generality that conceals the very conditions the factor purports to measure.

328. The Board here did not merely weigh affordability among the enumerated statutory factors. It elevated aggregate, citywide-median affordability into the principal justification for a 0% adjustment applied uniformly to every stabilized class, in every borough, and in every building type. Having made that factor the cornerstone of its determination, the Board was obliged to consider it rationally. It did not. The Board examined affordability only at the citywide-median level, declining to disaggregate the data that would have revealed where affordability pressure actually concentrates, while simultaneously declining to disaggregate the building-side data revealing where owner distress concentrates. A median conceals dispersion; it cannot supply a reasoned basis for a uniform instrument imposed on a demonstrably non-uniform stock. Petitioners' differentiation claim rests on building-side economics — vintage, stabilization ratio, borough, and demonstrated operating condition — and not on classifications drawn among tenants by income. See Count Three, Section V, *infra*.

329. The Board's own Income & Affordability Study shows an income distribution wide enough that a citywide median obscures conditions at both ends: renters earning $75,000 or more comprise approximately 46% of all renter households, of whom only approximately 19.0% are rent-burdened. In contrast, the most acute burdens concentrate in a distinct low-income cohort: of renters earning under $20,000, comprising approximately 18% of renter households, 88.6% are rent-burdened.[283]

330. The Board also failed to engage with NYCHVS data that revealed that 30% of rent-stabilized tenants earn $100,000 or more annually[284] — a finding that directly undermines reliance on the citywide median as a proxy for affordability need, and that the Board had access to yet declined to reference anywhere in its Explanatory Statement.

331. Had the Board applied to affordability the differentiation authority it possesses under Section 26-510(b), the record would have supported calibrated adjustments rather than a single citywide freeze. That it instead relied on an undifferentiated median, when its own data revealed the sharply differentiated distribution beneath it, is a further mark of irrationality.

332. Not only has the Board failed to consider the wide range of renter incomes, it has placed tenant affordability so far above expense-side concerns that it has effectively not weighed them at all. Section 26-510(b) directs the Board to consider the economic condition of the residential real estate industry, including real estate taxes, sewer and water rates, operating and maintenance costs, and the cost and availability of financing. Those are expense-side factors, and the statute does not make them subordinate to any other. A determination that acknowledges

[283] 2026 I&A Study at 16.

[284] Elyzabeth Gaumer, *2023 New York City Housing and Vacancy Survey: Selected Initial Findings* 50, Table 15 (2024).

cohort-specific operating distress, and then declines to weigh it because affordability is said to predominate, does not balance the statutory factors — it reorders them. The Board has instead called on the City to manage the expense side of the ledger, while refusing to adjust the one instrument the Legislature placed in the Board's hands to address the very problem the Board itself identified.

V. In Deciding on a Uniform 0% Rent Freeze Across the Board, the RGB Failed to Differentiate, as if One Size Fits All, Even Though It Is Statutorily Authorized to Differentiate, It Has Historically Differentiated, and Its Own Data Showed that Differentiation Was Warranted in Multiple Respects

333. The Board's own members acknowledged, on the record, that the 2026 guideline-setting data revealed distressed buildings — and yet voted for a 0% increase anyway. Chair Mitchell's written statement released at the June 25, 2026 vote conceded that there was "concentrated financial strain in low-rent, high-stabilization buildings, where owners have the least capacity to absorb ongoing cost increases," adding that "the subset of owners experiencing financial pressure often operate in environments where tenant incomes place actual limits on their ability to pay rent, constraining the extent to which rising expenses can be offset through higher rents" and that these conditions "require swift and specific capital and expense interventions from the city and state."[285] And Owner Member Wynn acknowledged that "there are as many as 5,000 distressed buildings among the 90%+ stabilized, pre-'74 stock, despite a 12% rent increase over the last four years," that "these buildings and their owners are struggling," and that "there is a subset of buildings within the pre-'74, 90%+ stabilized stock whose issues cannot be addressed by expense interventions alone" — owners of which "cannot afford to wait two, three, or four years

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[285] Mitchell Statement, at 1, 3.

to access capital."[286] Yet rather than acting on that evidence through differentiated guidelines, the Board's stated justification for the freeze was the City's promise of future relief. Chair Mitchell acknowledged this directly: "While the Department of Housing Preservation and Development outlined efforts to address these challenges in their testimony to the Board, the effectiveness of those efforts will depend on whether relief is timely and accessible to the owners most in need."[287] A Board that recognizes that harm is real and urgent, but votes for a blanket freeze premised on the hope that future City relief will be "timely and accessible," is not exercising its statutory mandate — it is abdicating it. Member Wynn voted for 0% on the explicit ground that "the city and state…need only the political will to commit the resources required."[288] That rationale — deferring economic judgment to unguaranteed future government action — is not a weighing of present statutory criteria; it is an error of law.

334. What is equally clear from the Board's own published data is that the 2026 Income and Expense Study, incorporated in the Board's Explanatory Statement, identified specific Bronx neighborhoods in which net operating income declined outright: Hunts Point/Longwood fell 13.1%, Mott Haven/Port Morris fell 2.6%, University Heights/Fordham fell 1.4%, and Highbridge/South Concourse fell 1.3% — with the Bronx overall registering a net operating income decline of 0.1% at a time when the citywide figure was +6.2%.[289] These are not marginal variations within a healthy dataset; they are areas where, by the Board's own measure, rents are already insufficient to cover operating costs. A Board that has this data before it, whose own Chair

[286] Wynn Statement, at 2, 4.

[287] Mitchell Statement at 4.

[288] Wynn Statement at 2.

[289] 2026 Explanatory Statement at 12, 16–18.

and Owner Member acknowledge in writing that a defined cohort is in distress and urgently needs relief, and that then adopts a uniform 0% guideline without distinction or explanation has not exercised reasoned discretion — it has abandoned it. That is the definition of arbitrary and capricious action under CPLR § 7803(3).

335. Indeed, the Board can set different increases for different situations and already does: separate one- and two-year rates, separate treatment for hotels, lofts, and single-room occupancy, and, as in 2021 with Order #53, can even set different rates within a single year (0% for six months, 1.5% for the next six).[290]

336. The Board's own data identified a cluster of buildings in severe financial distress concentrated in the Bronx and outer-borough neighborhoods where NOI declined.

337. The irrational nature of the Board's refusal to differentiate is thrown into sharpest relief by the City's own conduct. The Mamdani Administration simultaneously announced that landlords of City-financed buildings would be exempt from the freeze and could apply for rent increases through the Department of Housing Preservation and Development.[291] That exemption is an express concession that a uniform 0% guideline is unsustainable for a defined class of landlords. And the City's own published data indicates that the financial conditions causing that unsustainability are not unique to City-financed buildings.

338. Having acknowledged the need for an exemption, the Board cannot rationally justify applying a universal 0% guideline to all other stabilized buildings without explaining why differentiation, a power it already exercises, was not appropriate here. Nor can the Board rationally

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[290] § 26-510; *see* N.Y.C. Rent Guidelines Bd., Apartment & Loft Order No. 53 (June 23, 2021)

[291] Rebecca Picciotto, *Mamdani Says These NYC Landlords Will Be Exempt From His Rent Freeze*, Wall St. J. (May 26, 2026), https://www.wsj.com/real-estate/mamdani-says-these-nyc-landlords-will-be-exempt-from-his-rent-freeze-ee53180c.

justify an across-the-board freeze when it has historically always differentiated between one- and two-year leases.

339. An agency's failure to use a discretionary tool it regularly deploys, in the face of its own evidence that the tool is needed, and without explanation, is an abuse of discretion. *See Matter of Charles A. Field Delivery Serv., Inc.*, 66 N.Y.2d 516, 517–18, 520 (1985) (holding that an agency that departs from its own prior course without providing reasons acts arbitrarily).

340. The City cannot rationally approve differentiated rent increases for its own regulated buildings, on the explicit ground that costs have risen, while simultaneously insisting that a uniform 0% freeze is appropriate for the private stabilized stock facing the same cost pressures. That is arbitrary line-drawing.

VI. The Board's Authority is Limited to the Confines of Section 26-510 and Cannot Be Expanded Beyond This

341. Nor can the police power supply what the statute does not. The Board is not the Legislature exercising plenary policy authority; it is an administrative body whose rent-setting authority exists only within the limits imposed by N.Y.C. Admin. Code § 26-510(b). That section requires the Board to consider specific economic criteria — including operating costs, real estate taxes, sewer and water rates, the cost and availability of financing, housing supply, vacancy rates, and cost-of-living data — and to weigh them rationally against the record before it. The police power is exercised by the Legislature, and the Legislature exercised it here by enacting § 26-510(b) and specifying the criteria that govern the Board's discretion. A police-power label therefore cannot expand the Board's jurisdiction beyond those statutory limits, nor excuse a determination made without rational regard to the facts the statute required the Board to weigh. The question is not whether rent regulation is a permissible subject of legislative concern; it is whether this Board, on this record, exercised the authority the Legislature actually gave it.

342. For the reasons set forth in sub-points I through VI, the Board's June 25, 2026 determination is arbitrary and capricious, made in violation of lawful procedure, and affected by errors of law. Petitioners are therefore entitled to a declaratory judgment annulling and vacating the Board's determination pursuant to CPLR § 7806.

COUNT FOUR – EXPEDITED DISCOVERY AND EVIDENTIARY HEARING (CPLR §§ 408 & 7804(h))

343. Petitioners repeat and reallege the allegations set forth in the preceding paragraphs as if set forth herein.

344. Expedited discovery in an Article 78 proceeding is appropriate, pursuant to CPLR § 408, where the petitioner can show that the requested materials are directly relevant to its claims and cannot be obtained from other sources.

345. Petitioners seek expedited discovery of, at minimum, the following categories of documents:

346. All communications within, among, and between the Office of the Mayor, the Office of Mass Engagement, the Office to Protect Tenants, the Office of Management and Budget, and any member or staff of the Rent Guidelines Board concerning the 2026 guideline-setting process, including any communications relating to the Board's preliminary or final vote, the range of permissible guideline outcomes, and the appointment or conduct of Board members;

347. All documents reflecting communications between Mayor Mamdani or his designees and any Board member concerning the 2026 guidelines prior to the final vote;

348. All documents relating to the Board's consideration — or decision not to consider — the Mortgage Survey Report in connection with its 2026 determination;

349. All documents relating to the Board's decision to apply a uniform 0% guideline rather than a differentiated guideline for financially distressed buildings;

350. All records of the FOIL requests submitted on May 15, 2026, including the basis for the City's determination that the RGB FOIL request (FOIL-2026-002-00851) was duplicative of the OOM FOIL request (FOIL-2026-002-00848).

351. All records relating to the Mayor's Office of Equity and Racial Justice's presentation to the Rent Guidelines Board, including any preparatory materials, communications arranging the briefing, the substance of the presentation, and any written materials distributed to Board members in connection with that briefing; and

352. These materials are directly relevant to Petitioners' First Cause of Action (predetermination), Second Cause of Action (failure to act independently), and Third Cause of Action (failure to act in accordance with statutory mandate).

353. They are not available through any other public source.

354. The City's refusal to produce records in response to the May 15, 2026 FOIL requests — with a stated response date of November 17, 2026, five months after the final vote and over one month after the freeze goes into effect, and its rejection of the expedited appeal on June 12, 2026, have prevented Petitioners from obtaining evidence necessary to establish their claims through the ordinary administrative record. The City's denial of one FOIL request and refusal to produce documents with respect to the balance of the FOIL requests under a reasonable timetable amount to constructive denials.

355. Petitioners are therefore entitled to expedited discovery of the materials set forth above and reserve the right to amend this Petition to add additional allegations and causes of action upon receipt of the requested materials.

356. Moreover, Petitioners respectfully request that the Court hold an evidentiary hearing on the issue of the RGB's sham process here to reach a predetermined outcome.

PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully request that this Court enter judgment:

a) Pursuant to CPLR §§ 7803 and 7806, annulling and vacating the Rent Guidelines Board's June 25, 2026 determination adopting a 0% rent guideline for one-year and two-year renewal leases as arbitrary and capricious, an abuse of discretion, made in violation of lawful procedure, and affected by errors of law;

b) Pursuant to CPLR §§ 7803 and 7806, declaring that the Board's determination was the product of a sham process in which the outcome was predetermined before hearings were held and evidence was considered, rendering it arbitrary and capricious, an abuse of discretion, in violation of lawful procedure, and affected by errors of law;

c) Pursuant to CPLR §§ 7803 and 7806, declaring that the Board's determination was made by a body that failed to act independently of Mayoral direction, as required by N.Y.C. Admin. Code § 26-510 and applicable law, rendering it arbitrary and capricious, an abuse of discretion, in violation of lawful procedure, and affected by errors of law;

d) Pursuant to CPLR § 3001, issuing a declaratory judgment that the Board's decision was illegal, null and void, and in violation of its statutory requirements;

e) Pursuant to CPLR §§ 408 and 7804(h), granting Petitioners leave to obtain expedited discovery of the materials described in the Fourth Cause of Action, the holding of an evidentiary hearing on the issue of the RGB's sham process here to reach a predetermined outcome, and expedited disposition of this case on the merits;

f) Granting Petitioners injunctive relief, if necessary, barring this unlawful rent freeze decision from going into effect and continuing current rent increase guidelines in the interim.

g) Awarding Petitioners costs, fees, and disbursements incurred in connection with this proceeding; and

h) Granting such other and further relief as this Court deems just and proper.

Respectfully submitted,

Dated: New York, New York
July 22, 2026

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VERIFICATION

STATE OF NEW YORK)
) ss:
COUNTY OF RICHMOND)

VIOLET ZHARKU affirms as follows:

I am the authorized representative of Petitioners-Plaintiffs 21-45 23rd St. LLC, 39-12 62nd St. LLC, and 42-59 Bowne St. LLC in this action. I have read the foregoing Verified Article 78 Petition and Complaint brought by Order to Show Cause. I know the contents thereof. I affirm this 22nd day of July, 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.

VIOLET ZHARKU

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF Richmond

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

Plaintiff(s),

-against-

New York City Rent Guidelines Board

Defendant(s).

Index No.

Summons

Date Index No. Purchased: July 22, 2026

To the above named Defendant(s)

New York City Rent Guidelines Board, 1 Centre Street, Suite 2210, New York, NY 10007

You are hereby summoned to answer the complaint in this action and to serve a copy of your answer, or, if the complaint is not served with this summons, to serve a notice of appearance, on the Plaintiff's attorney within 20 days after the service of this summons, exclusive of the day of service (or within 30 days after the service is complete if this summons is not personally delivered to you within the State of New York); and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the complaint.

The basis of venue is CPLR § 506(b) which is where material events and injuries occurred and where Petitioner-Plaintiff Kenilworth Holdings LLC is also located.

Dated: New York, New York
July 22, 2026

DECHERT LLP

by ***/s/ Randy M. Mastro***

Randy M. Mastro

Attorneys for Plaintiff

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