

RSA Reporter

WE HOUSE NEW YORK

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Fire Department Changes Annual Fire Safety Notice

Are You Ready for the Upcoming Safety Notice Cycle in January?

As we mentioned in the September *RSA Reporter*, the City Fire Department (FDNY) has promulgated new fire safety notifications that owners will be required to provide to their tenants. The new rule takes effect on October 1st except that the time period for the upcoming cycle is extended to April 30, 2019.

Since 2000, the City has required apartment building owners to print and distribute residential fire safety guides to apartment building residents and building staff, and to post fire safety notices on the inside of dwelling unit entrance doors and in building lobbies. The purpose of these fire safety guides and notices is to promote fire safety and fire prevention in apartment buildings; educate residents and building staff about the design and construction of their building, including construction type, fire protection systems and means of egress; and outline emergency procedures to assist them in the event that they are confronted by a fire and need to determine what action to take to protect themselves and their families.

These changes result from the adoption of the 2014 Fire Code, which expanded the scope of the guide to encompass non-fire emergencies, such as medical emergencies, severe weather emergencies, power outages, hazardous materials releases and terrorism-related incidents.

The new rule replaces the existing fire safety guide with a new Fire and Emergency Preparedness Guide (“FEP Guide”) entitled

“New York City Apartment Building Emergency Preparedness Guide.” Like its predecessor, the FEP Guide consists of two parts. Part I is the Building Information Section, a form completed by the owner for each building indicating the building’s construction, fire protection systems, means of egress and other information specific to the building for which it is prepared. The rule would not substantially change the existing content requirements for this obligation, except to require the owner to indicate whether there is an emergency voice communication system in the building.

Part II of the FEP Guide is designed to educate all building occupants about ways to prepare for emergencies, prevent fires and protect themselves from various fire and non-fire emergencies. In addition, the FEP Guide emphasizes emergency preparedness planning for persons with functional or access needs who will need assistance if they must evacuate the building in an emergency. During most non-fire emergencies, the elevator is available to evacuate persons unable to walk down stairs without assistance, and in modern buildings of non-combustible construction, all residents are generally advised to shelter in place during the fire. The Guide explains the importance of developing an individualized evacuation plan and a network of supports who can assist persons with functional or access needs in the event of an emergency in which they need to evacuate and they cannot use the elevator, such as in the case of a fire in their apartment.

(Continued on Page 5...)

▶ IN THIS ISSUE:

1 Fire Department Changes Annual Fire Safety Notice

2 Annual Message From RSA Chairman

CITY & STATE ROUNDUP

3 State Legislators Introduce Bill Aimed at Eliminating MCI Rent Increases

4 HUD Issues FMRs for Fiscal Year 2019

5 What to Know About the New Fire Safety Laws

6 RSA Seminar: Housing Court, Rental Assistance Programs and Energy Issues Covered

8 DHCR Increases Air Conditioner Charges

9 HPD Offers Helpful Advice for Property Owners Regarding Violations

10 Top Ten Tips to Save Money During Heating Season

13 Section 8 Vouchers: What to Know!

INSIDE RSA

7 In The News

20 RSA Calendar of Events

ANNUAL MESSAGE FROM RSA CHAIRMAN



Aaron Sirulnick

So far, 2018 has been better to our industry in comparison to some of the more recent years. Although a 1.5% rent guideline increase is far below what owners need to operate and invest into their buildings, it is the highest rent increase since Mayor Bill de Blasio was elected into office. This is undoubtedly a step in the right direction and we look forward to working with the City Rent Guidelines Board

next spring in hopes of creating a better outcome for rent-stabilized property owners.

Furthermore, an important decision was made in favor of rental property owners by the State Court of Appeals in *Altman v. West Fourth LLC*, in which RSA was very actively involved. If you are unfamiliar with this case, the Appellate Division ruled back in 2015 that with regard to a deregulation that occurred in 2005, that it is the rent prior to the vacancy that must exceed the deregulation threshold for an apartment to be deregulated. Given the thousands of apartments that have been deregulated citywide based upon the rents after, not prior, to the occurrence of vacancies, this case had enormous ramifications. Fortunately, the Court of Appeals reversed the earlier ruling. As a result, for those thousands of deregulations, determination of whether the legal rent exceeds the deregulation threshold is based upon the rent following the vacancy and *not the rent prior to vacancy*.

We've also been proud to continue expanding and improving the RSA services that our members take advantage of and rely so much on. The RSA Contractor Referral Network has continued to grow since its inception and has paired RSA members with hundreds of affordable and reliable contractors for all of their needs. We are also proud to enhance our Lease Management System, which now includes vacancy leases for both regulated and non-regulated apartments, as well as an option to use the full service online, instantly, whenever you need a lease.

Additionally, our in-house Annual Safety Notice Service will be undergoing some enhancements in order to comply with new changes that have been implemented by the City Fire Department. Unlike many competitors, RSA guarantees that our Service is fully compliant with the new requirements in time for the January 2019 cycle.

However, it seems that in the rental housing industry, there is always troublesome news to accompany the positive news. As you might've read in recent editions of the *RSA Reporter* or in various media outlets, the Statewide Senate elections on November 6th are some of the most critical our industry has even seen.

On September 13th, Governor Andrew Cuomo, who as you know has prioritized a tenant agenda since he took office in 2010, coasted to victory in his Primary Election against opponent Cynthia Nixon. Now, Governor Cuomo will take on Republican Dutchess County Executive Marcus Molinaro in the General Election as he seeks a third term. Although Mr. Molinaro brings an extensive resume of experience to the table, we expect a difficult path to victory for the challenger, especially after the large margin of victory for Governor Cuomo in the Primary Election.

Even more alarming is the number of incumbent State Senators who lost on Primary Day. Although some may believe that an incumbent Democrat losing to another Democrat is not a big deal, a new wave of progressive and even more pro-tenant Democrat is emerging before our eyes and these are the candidates that have won their primary races. Take for example Senator Jeff Klein, who has served the 34th Senate District since 2004, lost his primary race against Alessandra Biaggi, who has never held political office on any level. Her victory, along with five other challengers who won their primary races, is a major cause for concern for the rental housing industry.

These pro-tenant, progressive Democrats are gaining momentum and could ultimately win the outright majority if certain Republicans are not re-elected or elected in various districts throughout the

(Continued on Next Page...)

RSA MEMBERSHIP MEETING

Wednesday, October 24, 2018 | 2:30PM-4:00PM | RSA Office 123 William St., 12th Fl., Manhattan

The Membership Meeting is an opportunity for owners to learn about political, legal and regulatory updates as well as to raise questions and concerns. All paid RSA members are welcome to attend. Register by calling **212-214-9243** or via email at **mrodriguez@rsanyc.org**. Pre-registration is required and will close at noon the day before the date of the meeting.

Rent Stabilization Association ♦ 123 William Street New York, NY 10038-3804 ♦ <http://www.rsanyc.org> ♦ (212) 214-9200

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ANNUAL MESSAGE FROM RSA CHAIRMAN

State. By now, you might feel that our rallying cry about ensuring a Republican majority in the Senate has run its course. However, in early September, a Democratic Senator and Assemblyman from Queens introduced legislation that would eliminate Major Capital Improvement rent increases and replace it with a tax credit system. Furthermore, if the bill is successfully passed and MCIs are repealed, tenants would be able to petition to have their rents lowered to pre-MCI levels as far back as 10 years ago, maybe longer (*see below*).

As the Senate currently stands, this bill will have not have enough votes to pass. However, that's not to say that this legislation was not introduced in preparation of a Democratic majority in the Senate when the rent laws come up for renewal in June. Unfortunately, if the Democrats win the outright majority, not only does legislation like this have a good chance of passing, but we can expect to see much more harmful legislation that will bring catastrophe to the rental housing industry.

In mid-September, Mayor Bill de Blasio made it loud and clear that rent regulations will be the top priority for him and other Democratic elected officials after the November elections. This statement by the Mayor already shows the confidence that the party

has and how strongly they believe that they will control the State Legislature. Despite the differences between Mayor de Blasio and Governor Cuomo, it is safe to say they will join in unison with a Democratic-led Senate to further advance their pro-tenant agendas when the rent laws come up for renewal.

You have heard our message for years about how critical a Republican majority is in the State Senate. RSA has led the way advocating for our industry's best interests, but your involvement, as well as generous and voluntary contributions to the RSA Political Action Committee (PAC) allows us to support the elected officials who support a fair balance between owners and tenants.

I cannot stress how crucial this year is. Pro-tenant elected officials on the State and City level have done everything in their power over the last few years to hurt the building owners. We want to build upon the accomplishments that we have achieved this year, but RSA needs the help of our members as we continue this battle for fairness in our industry.

I thank you once again for your continued support. ■

–Aaron Sirulnick, Chairman

State Legislators Introduce Bill Aimed at Eliminating MCI Rent Increases

Two State lawmakers have introduced a bill that would eliminate all Major Capital Improvement (MCI) rent increases and replace it with a tax credit system.

Senator Michael Gianaris and Assemblyman Brian Barnwell, both of Queens, announced the proposed bill at the beginning of September. If the bill were to be passed by the State Legislature, all rent increases as a result of MCIs would be prohibited and building owners would instead be given a tax credit to offset the cost of the improvements. To make matters worse, the bill also seeks to roll back rents to pre-improvement levels for all MCI-related rent increases that were approved over the last 10 years.

Currently, if an owner is approved for an MCI, the amortization period for buildings with 35 or fewer apartments is 96 months and the amortization period for buildings with 36 or more apartments is 108 months. As a result of the Rent Act of 2015, the amortization period for the calculation of MCI rent increases was changed in order to reduce the amount of the monthly rent increase for tenants. To offset this change, a tax abatement program was created through the City Department of Finance (DOF) that allows owners to receive a tax credit for one tax year.

While the DOF MCI tax credit program has helped improve the rental housing stock, with hundreds of abatements approved and issued over the past two years, a complete elimination of MCI rent increases would be detrimental to an owner's bottom-line. Owners rely on these rent increases to not only recoup the expenses of an MCI, such as a complete roof replacement, but to ensure that ever-increasing operating expenses can be met.

Aside from RSA being extremely critical of the proposed legislation, the **New York Post** Editorial Board also echoed our concerns in an editorial on September 1st, stating:

"You don't have to be a landlord advocate to realize that tax credits could never help them to fully recoup the costs of improvements, much less get financing: Banks require an income stream (i.e., higher rents) to finance new debt.

Tenants in aging buildings benefit from the capital improvements; even with the modest hike, stabilized rents remain well below market levels."

The New York Post further slammed the proposed bill, stating that if this bill was to pass, private rental housing would go down a similar path as NYCHA housing. Without necessary upgrades and improvements, aging buildings would quickly fall into disrepair as the City's public housing stock has.

This legislation will not gain any traction in the Legislature in its current state. However, a pro-tenant, Democratic-controlled Senate after November could change that. Right now, this bill certainly would not have enough votes to pass, but if enough pro-tenant candidates are elected to the Senate this November, the elimination of MCI rent increases will be a high priority.

Once the November elections pass, we will have a clearer picture of whether or not proposed legislation such as this will be able to move through the State Legislature. We will keep you apprised in the upcoming months. ■

HUD Issues FMRs for Fiscal Year 2019

The U.S. Department of Housing and Urban Development (HUD) has issued the new Fair Market Rents (FMRs) for New York City for Fiscal Year (FY) 2019. Effective October 1, 2018, the FMRs are used as payment standards under Section 8 programs administered by the City Department of Housing Preservation and Development (HPD) and the New York City Housing Authority (NYCHA).

These FMRs are also used by DHCR to determine a safe harbor

for fair market rents established when a vacant rent controlled apartment enters rent stabilization. The FMRs have now increased for the fourth year in a row.

We will inform you on how NYCHA and HPD will implement the new FMRs in upcoming editions of the *RSA Reporter*. Updated information can also be found on the RSA website under the resources section at www.rsanyc.net/resources. ■

HUD 2018/2019 FMRs by Number of Bedrooms

	Studio	One-Bedroom	Two-Bedroom	Three-Bedroom	Four-Bedroom
FY 2018 FMR	\$1,514	\$1,558	\$1,789	\$2,280	\$2,437
FY 2019 FMR	\$1,559	\$1,599	\$1,831	\$2,324	\$2,475
% Change	3%	2.6%	2.3%	2%	1.6%

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What to Know About the New Fire Safety Laws

Back in May, the City Council unanimously passed a package of bills that predominantly strengthen existing City laws with regard to fire safety (see June edition of the *RSA Reporter*). The bills were subsequently signed into law by Mayor Bill de Blasio.

Of the eight total bills passed that were part of the fire safety package, the following are important to rental property owners:

Local Law 111 of 2018 (originally Intro. 602-A) will make failure to maintain self-closing doors in apartments and stairwells a **class C violation** in mid-2019. Over the summer, the City Department of Preservation and Development (HPD) revved up inspections to ensure that doors of all units and public area doors are self-closing. Owners **must be vigilant** and maintain all apartment doors at all times (see page 9 for more information regarding HPD violations and inspections).

RSA supported this legislation to the extent that we encourage all rental property owners to keep all doors in good repair. However, some tenants often remove pins from the hinges of the doors and can make owners susceptible to frequently issued violations. As a result, owners must remain watchful of apartment and stairwell doors to avoid violations.

Local Law 117 of 2018 (originally Intro. 610-A) requires owners to notify tenants annually that the owner must provide tamperproof knob covers for all gas-powered stoves if requested by the tenant regardless of whether or not a child under six

lives in the apartment. *Please keep in mind that the tenant has the right to opt-out of this program. But if tenants do not opt out, you must make attempts to provide them with stove knob covers.* This notice, along with additional changes that have been implemented by the City Fire Department, will be included in RSA's 2019 Annual Safety Notice Service (ASNS).

Please see page 1 for additional information about the latest enhancements and requirements included in RSA's 2019 ASNS.

Local Law 113 of 2018 (originally Intro. 604-A) requires the installation of photo-electric smoke detectors within 20 feet of a cooking device after **January 1, 2021** when replacing an existing smoke detector. All ionization alarm technology detectors will be phased out after 2021 and photo-electric smoke detectors can begin to be installed any time before that in areas near cooking appliances.

Currently, tenants are responsible for the \$25 fee for new smoke alarms and \$50 for combo smoke/carbon monoxide alarms. The Council agreed with RSA's recommendation to have the installation of photo-electric smoke detectors phased in over time. Owners can begin installing photo-electric smoke detectors now, but are not required to do so until the beginning of 2021.

RSA will continue to remind owners over the next few months of the changes to the fire safety laws. All vital information will be available to members via the *RSA Reporter* and our website. ■

Fire Department Changes Annual Fire Safety Notice (Cont'd From Cover...)

Currently, the fire safety guide must be provided to apartment building residents at time of occupancy (when they first move into the building) and must be distributed again every year. FDNY requires distribution of the new FEP Guide at time of occupancy and again as part of a building-wide distribution every three years. During the off-years, the rule would require building owners to distribute a short informational bulletin (four pages or less), which would be used to highlight and reinforce an important, timely fire safety or other emergency preparedness message. This would take advantage of an opportunity to communicate lessons learned or other messages when the issue is fresh in the public's mind because of a recent fire or other incident. The informational bulletin will remind apartment building residents to familiarize themselves with the contents of the FEP Guide and advise them on how to obtain a copy if they have not received one. The rule would not change the fire safety notices that building owners are required to post.

Among RSA's comments to FDNY when the proposed regulations were issued in July was that tenants, who are already inundated with

lengthy leases that contain numerous riders, including the multi-page DHCR rider, annual safety notices and other notifications, are not likely to read a lengthy booklet and that FDNY should only require that it be made available upon request. FDNY, however, did not adopt this suggestion. However, in response to RSA's suggestion, FDNY will allow distribution to tenants by e-mail to any tenant who has provided an email address for the purpose of receiving building-related email communications.

RSA also urged that FDNY modify its record retention and record-keeping requirements. As a result, FDNY will require retention of recordkeeping for the Guide to two distribution cycles, not three, as was the case previously, although the retention period is longer.

RSA's Annual Safety Notice Service is ready, willing and able to help you comply with these new FDNY requirements and the City's new stove knob cover notice requirements, along with the existing window guard and lead paint notice requirements. For more information please see page # or contact RSA at **212-214-9200**. ■

RSA Seminar: Housing Court, Rental Assistance Programs and Energy Issues Covered

Housing Court, rental assistance programs and energy issues were the focal points of the September 26th seminar: Managing Rent Regulated Property Update 2018. Close to 200 RSA members, as well as attorneys, attended RSA's program either in-person or online.

The panelists included Steven Banks, the City's Commissioner of the Human Resources Administration/Department of Homeless Services; Susan Bahn, Esq., senior staff attorney with the Legal Aid Society; Philip Rosen, Esq., from Horing, Welikson and Rosen, John T. McManus, Esq. and Aubrey A. Ohanian, Esq., from the law firm of Harris Beach, and Marc Zuluaga, P.E., from Steven Winter Associates, an energy consulting group. RSA's General Counsel Mitchell Posilkin and Deputy Counsel Robin Bernstein moderated the program. The program was co-sponsored by the New York County Lawyer's Association.

Commissioner Banks began the program by speaking about the City's re-organization and restructuring of its rental assistance programs both for in-place tenants facing eviction and families and single individuals in shelters who are seeking permanent housing. Commissioner Banks discussed the complex web of programs which have become increasingly difficult to navigate for both owners and tenants, thereby discouraging their participation. The City is in the process of promulgating regulations which will consolidate many of the programs, such as LINC, with the goal of eliminating as many bureaucratic impediments to participation.

General Counsel Mitch Posilkin pointed out that based upon a recent report, homeless housing efforts by the City now exceed \$3 billion, which is more than the amount budgeted for FDNY, or the Sanitation Department, or libraries, parks and cultural affairs. Susan Bahn from the Legal Aid Society provided a significant amount of detail regarding each of the various programs for the attendees.

As the result of the City Council's adoption of legislation in 2017 which created a right to counsel for low-income tenants (defined as \$23,000 for a single person and \$49,000 for a family of four) in Housing Court, many changes in Housing Court procedures have been implemented and more are on the horizon. The program is being implemented over a five-year period and, when fully



The seminar panel included (l-r) John McManus, Esq.; Susan Bahn, Esq.; Philip Rosen, Esq.; Robin Bernstein, Mitch Posilkin and Marc Zuluaga (not pictured Aubrey Ohanian; Steven Banks, HRA Commissioner).

operational, will cost the City in excess of \$150 million annually.

Philip Rosen spoke about the report by the Special Commission on the Future of Housing Court, which was issued this past January and recommended changes in Housing Court. Changes in Housing Court have long been necessary but have become more urgent due to the increased motion practice and other issues arising from the right to counsel law. As the result of that report, Housing Court has begun to change its practices by staggering court calendars to reduce the amount of waiting time for litigants, shifting orders to show cause to the afternoon calendars and implementing new procedures for cases that are referred from the resolution parts to the trial parts for trial. The extent of these changes varies by borough but, ultimately, will be implemented fully on a citywide basis.

Lastly, the panelists focused on various energy issues. Marc Zuluaga discussed the importance of complying with the City's benchmarking law, as well as ways in which apartment building owners can save energy. He also discussed the Urban Green Council Report, "Blueprint for Efficiency," which was prepared in response to the Mayor's proposal to reduce carbon pollution by 2030. John McManus and Aubrey Ohanian spoke about sub-metering electricity in multi-family residential buildings, with a focus on the administrative steps required by the Public Service Commission and DHCR.

If you missed the seminar, it will shortly be available on demand through RSA or NYCLA. ■

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IN THE NEWS

On September 10th, the New York Times published an editorial entitled “Voters Can Keep Housing Affordable,” where they called on voters throughout New York State to vote for pro-tenant Democratic candidates for the State Senate in order to secure control of the Senate seats over Republican representatives.

By now, you are well aware of the consequences that will ensue if these pro-tenant Democrats take control of the Senate. The New York Times editorial, which can be found at <https://nyti.ms/2O5qZYT>, highlights their major goals: repeal the Urstadt Law, end high-rent vacancy decontrol, end vacancy bonuses, strengthen the powers of DHCR and allow only RGB increases for preferential rents until vacancy.



RSA President Joseph Strasburg responded to the editorial with an op-ed on behalf of RSA members and the entire rental housing industry:

Tenants Have Politics to Thank for Affordability Crisis

Joseph Strasburg

“Voters Can Keep Housing Affordable,” was rife with false and inaccurate assertions and the same misguided principles that have created the perennial housing shortage. Vacancy decontrol and preferential rent don’t hurt tenants – but the same old rhetoric and politically driven policies do.

Owners of rent-stabilized housing operate under the most stringent regulations in the country. “Loopholes” in the laws and landlord “sway in Albany” are a myth; if this were true, the industry wouldn’t be over-regulated. New York City’s tenants are so well represented in Albany that the rent laws have been strengthened substantially in the last 10 years.

The tenant lobby says tens of thousands of rent-stabilized apartments have been lost to vacancy decontrol, but fails to mention the tens of thousands of rent-stabilized apartments that have been added to the system, virtually negating any substantial net loss. It’s the system’s natural ebb and flow, not the product of inadequate laws.

The number of rent-stabilized apartments has hovered slightly above or below 1 million for the past two decades – and with a current monthly median rent of \$1,300, affordable housing is available in New York.

Rent-stabilized apartment owners are the largest providers of quality, affordable housing in the five boroughs. Unlike the New York City Housing Authority, rent-stabilized owners maintain their properties – installing new roofs and boilers – and follow the strictest lead paint laws in the country.

According to this year’s Housing Vacancy Study by the city’s Department of Housing Preservation and Development, overall housing quality is at an all-time high. Owners of rent-stabilized apartments constantly reinvest the rent revenue in their buildings. The impact of that investment is substantial.

For example, a study by think tank Urbanomics shows that

building owners, in 2013, generated more than \$16 billion in economic activity and supported 160,000 good-paying trades jobs – mostly minority and immigrant workers in the outer boroughs – maintaining and improving their properties. This has a multiplier economic effect: landlords hire local companies and purchase goods from local suppliers, and workers and their families support neighborhood retail establishments.

The majority of rent-regulated buildings, built 70-plus years ago, are among the city’s oldest housing stock and in a perpetual state of maintenance, repair and upgrade. Restricting owners’ rental income, the lifeblood of reinvestment, and imposing laws that impede them from maintaining their properties stifles their ability to ensure quality living conditions for tenants and negatively impacts the city economy.

Furthermore, 31 percent (currently \$28 billion) of the city’s revenue is generated by landlords’ property taxes. Nearly 40% of rental income of rent-stabilized apartments goes to city coffers for property taxes, water and sewer rates, and other government-mandated charges – which support fire, education, police, sanitation, parks and other municipal services.

But the advocates demonize landlords and ignore the real issues. Latest available statistics of the U.S. Census Bureau show that 168,000 tenants with annual incomes of \$100,000-\$150,000 occupy nearly 20% of all rent-regulated apartments. That’s a gaping loophole that the tenant lobby and elected officials should be rushing to close – because Census Bureau data also shows that 172,000 families with annual incomes of below \$25,100 can’t find affordable housing.

If we are still in a housing crisis – with homelessness at record levels – after 50 years of rent stabilization (rent control dates back even further), it is time for government to admit the scattershot approach of rent regulation is protecting the wealthy and failing those most in need.

Historically, landlords have shouldered the burden of subsidizing rents. But rents aren’t too high. Incomes are too low – which places the responsibility of subsidy on government.

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IN THE NEWS

The blueprint for housing affordability is simple: allow the private sector to build as many units as quickly as possible and replace outdated rent regulation schemes with a subsidy program that provides assistance to those who really need the lifeline.

Rather than tweak rent regulations to synch with the political winds of the day, government needs to enact a targeted program to keep the most vulnerable tenants in their homes. The precedent exists in government programs like Section 8, senior citizen and disabled rent increase exemption (SCRIE and DRIE), public assistance and other benefits.

Albany has a solution. Senate Democrats and Republicans twice unanimously passed bipartisan legislation modeled after SCRIE and DRIE that would provide a permanent rent freeze on all tenants who earn less than \$50,000 annually and pay half their income towards rent. It's a rent subsidy based on income, and not occupancy. But Assembly Democrats let it die on the vine.

Instead of supporting legislation that would toss an instant lifeline to upwards of 150,000 renters (in addition to SCRIE and DRIE recipients), tenant advocates and elected officials blame things like vacancy decontrol and preferential.

Other than a handful of anecdotal stories – bad actors exist in every industry – landlords don't use preferential rents to vacate apartments. In fact, 95 percent of preferential rents remain that way upon lease renewal. That benefits tenants.

Vacancy decontrol has little impact in the outer boroughs because the rental markets of each neighborhood bear what tenants are willing or able to pay. In fact, DHCR data shows that 33 percent of rent-regulated apartments outside the Manhattan core rent for less than the legal regulated rent. Without vacancy decontrol, lenders would retreat, landlords would stop repairs and upgrades, and tax assessments would decrease – which means less revenue for the city and less money for municipal services.

Two generations ago, the iconic images of President Jimmy Carter walking an abandoned strip of Charlotte Street in the South Bronx became the symbol of the city's urban blight, precipitated by decades of tyrannical rent control laws and housing policies that forced thousands of landlords into foreclosure. The city, on the verge of bankruptcy, couldn't hire firemen and teachers, crime was high, and businesses were fleeing. Tightening rent laws even further, without a sound plan and a real rent subsidy program, is a sure way for history to repeat itself. ■

DHCR Increases Air Conditioner Charges

The Division of Housing and Community Renewal (DHCR) has issued its 33rd annual update of permissible charges for the use and/or initial installation of an air conditioner for both rent controlled and rent stabilized apartments in New York City. As a result of increased electrical costs, the air conditioner surcharge has been increased from \$26.02 per month to **\$26.42 per month, or \$317.02 per year**, effective October 1, 2018 where electricity costs are included in the rent.

This is the first increase in air conditioner charges issued by DHCR since 2014. The increase is a direct result of a **1.5% increase** in the price of electricity for electrical inclusion buildings as contained in the *2018 Price Index of Operating Costs* issued by the City Rent Guidelines Board (RGB). For air conditioners installed between October 1, 1985, and September 30, 2019, in rent stabilized apartments in buildings providing electricity, the new monthly charge will go into effect October 1, 2018.

Where a new air conditioner is purchased and installed by the building owner with the written consent of the rent controlled or rent stabilized tenant, 1/40th of the cost of the unit, or 1/60th of the cost in buildings with more than 35 apartments, including any cost of installation but excluding any finance charges may be included in the base rent. The increase for rent stabilized apartments becomes effective on the first rent payment date following the installation of the air conditioner.

Where the rent controlled or rent stabilized tenant pays for their own electricity, and the tenant installs the air conditioner(s) between October 1, 2018 and September 30, 2019, a \$5 per month per air conditioner charge will be payable to the owner only if the air conditioner(s) project beyond the window line.

Except for the 1/40th or 1/60th charge for the owner – purchased and installed air conditioner(s), charges for these appliances do not become part of the base rent for the purpose of computing any guidelines or other increases under the Rent Stabilization Law or Code.

To continue collecting the air conditioner charge, **owners must apply** to DHCR by submitting Owner's Notice of a Rent Increase Based on Increased Services/New Furnishings/Equipment/Painting; and Tenant's Statement of Consent – Owner's Application for Air Conditioner Charges," form RA – 79B. The charge is not collectible until an order is issued by DHCR. Please be aware that owners will be penalized of the total elimination of the AC surcharge if they fail to file for the reduced air conditioner charge with DHCR.

The full text of the 33rd annual DHCR Air Conditioner Bulletin can be found on RSA's website at www.rsanyc.org by clicking the Air Conditioners tab under the Resources section. ■

HPD Offers Helpful Advice for Property Owners Regarding Violations

In early September, HPD officials met with RSA staff to discuss programs and tips that RSA members should take advantage of in order to better run their buildings.

Rental property owners must be vigilant of conditions in their buildings that could ultimately lead to violations issued by HPD inspectors. HPD reminded RSA of the most common items that inspectors look for in apartments. In addition to other various items that can result in a violation, HPD inspectors regularly look for smoke and carbon monoxide detectors that are in proper working condition, double cylinder locks, illegal window gates, window guards and peeling paint.

Furthermore, inspectors will also make sure that all apartment doors are self-closing. Please be advised that as a result of **Local Law 111 of 2018**, failure to maintain self-closing doors in apartments and stairwells will result in a **class C violation (see page 5 for more information)**.

Although most owners timely correct and certify their HPD violations, some owners will correct the conditions but, for whatever reason, fail to submit the certification of correction to HPD or fail to submit certification in a timely matter.

HPD's Dismissal Request Program enables owners to have those conditions inspected by HPD and the violations removed from the City's database. This program can be an invaluable asset for owners who need to clear violations quickly, whether it be for MCI filing purposes, property transfers, mortgage re-financings, or any other purpose.

If the Dismissal Request form is accepted by HPD, the agency will inspect and mail the results of the inspection to the owner within 45 days (except during the winter months, when HPD allows itself a turnaround time of 90 days). HPD charges a fee for this service which is based upon the number of open violations. The typical case, where there are less than 300 violations, requires a fee of \$300; a higher fee of as much as \$500 will be required if more violations are involved.

One of the more common problems is HPD's inability to gain access to apartments where the conditions have been corrected. To address that scenario, if Code Enforcement inspectors gain access to at least 50% of the violations and 75% of those are observed corrected, pending violations that were not inspected may be dismissed through a self-certification process.

For more information about the HPD Dismissal Request Program visit <http://on.nyc.gov/1ydDBUI>. To directly obtain a copy of the required dismissal request form, please visit <http://on.nyc.gov/1NrK7KU>.

Owners should also consider **HPD's Violation Reissuance Program**, especially if you end up in a situation where violations are no longer eligible for certification. In order to qualify for this free program, your building must have no open violations issued in the 12 months prior to your request, no falsely certified violations in the 12 months prior to your request, valid property registration, no unpaid emergency repair program charges and no pending litigation with HPD.

As opposed to the Dismissal Request Program where certain violations are re-inspected, the Violation Reissuance Program is no different than the process that applies to the initial violation issuance; re-inspections occur on a random audit basis. To download the *Violation Reissuance form*, visit <http://on.nyc.gov/1H7fHsC>.

In addition, HPD also wants owners to know that they can receive email notifications directly from the agency to notify owners or managing agents of any complaints made by tenants or violations issued by HPD. These notifications are available simply by providing your email address when you register your properties annually with HPD. ■

Non-Payment Workshop at RSA

Wednesday, November 14, 2018
12:00PM-4:00PM

RSA's offices, 123 William Street,
12th Floor, Manhattan



With the many changes in Housing Court today, property owners who want to represent themselves or better understand this complex process can't afford to miss RSA's Non-Payment Workshops.

The workshops are open to all dues-paid RSA members, but reservations are required. Seating is limited so please call (212) 214-9243 or email Lisa Richmond at LRichmond@rsanyc.org as soon as possible.



Top Ten Tips to Save Money During Heating Season

By Ellen Honigstock, Director of Construction Education, Urban Green Council



Ellen Honigstock

Heating season has returned as of October 1st. Through May 31, 2019, rental property owners are reminded to maintain a minimum indoor temperature of at least **68° between 6 a.m. and 10 p.m.** when the outside temperature falls below **55°**, as well as a minimum indoor temperature of **62° between 10 p.m. and 6 a.m. regardless of the outside temperature.**

Here are some important tips from **Urban Green Council** that owners should know during heating season that could help you save money:

1. Know how much energy your building uses

- Make sure someone in your organization tracks your building's energy and water use regularly. Portfolio Manager is a free and easy-to-use online tool you can use to record your building's utility costs (<http://1.usa.gov/1cFeOSS>).
- Tracking your utility data allows you to compare, or benchmark, your building's energy and water use with previous years as well as with other, similar buildings. Annually, the typical multifamily building uses 65 kbtu/SF (over \$0.80/SF for natural gas.)
- If your heating costs are higher than you expect, there are many strategies you can use to reduce costs, which you can find out by conducting an energy audit (see #9 below).

2. Require staff to test and maintain heating system on a regular schedule

- **Boiler:** Schedule annual a tune-up and combustion efficiency test to confirm that your boiler is working as efficiently as possible. For boilers that require a Certificate of Operation, the City Department of Environmental Protection (DEP) requires these test results to be kept and submitted upon request.
- **Steam system:** Check all steam traps, air vents and a sample of thermostatic radiator valves (TRVs) at various apartments. Steam traps are notorious for failing within five years of installation and can cause overheating and that loud banging noise known as "water hammer." Expect to replace 20% of them each year.
- **Hydronic (hot water) system:** Bleed all radiators annually, check all TRVs.
- Take pictures of the building on a cold day to see which

apartments have their windows open. This is a sign that apartments are overheated.

- If overheated apartments are a problem for your building, then a simple solution might be to add orifice plates (a metal disk that resembles a bottle cap with a small hole) to the radiators in question to prevent steam from escaping into the rooms. Adding TRVs are also a solution to overheated apartments but can be more expensive and complicated to install.

3. Prepare for major equipment replacements

- Boilers typically last between 20 and 30 years depending on how well they are maintained. Don't wait for your boiler to breakdown - plan its replacement now.
- Most steam boilers are oversized (sometimes twice as big as needed!) Hire a well-trained boiler contractor to appropriately size your replacement boiler. A smaller boiler will cost much less than buying one that is too big.

4. Upgrade the boiler control system

- Many boilers fire up based on how cold it is outside, but boiler control is more efficient if it's based on indoor temperatures, and that will also improve tenant comfort.
- Consider an Energy Management System (EMS) with interior temperature sensors. These advanced boiler control systems can achieve a 10-15 percent savings from current heating costs.

5. Check the temperature of the hot water

- Overheated water is dangerous and wasteful. Water at the faucet should be 130° at the faucet furthest from the boiler and **never be above 140°.**

6. Insulate all pipes

- Insulate steam and hot water pipes to avoid wasting the heat you are paying to produce. Of course, it's too inexpensive to open walls to access certain pipes, but you could insulate them when walls are opened for other reasons. While you're at it, insulate the cold water pipes too, to prevent damage from condensation.

7. Replace appliances with ENERGY STAR

- Replacing a refrigerator that's over 13 years old will save you at least \$360 per refrigerator over five years in energy costs.

(Continued on Next Page...)

8. Find and correct water leaks

- Plumbing leaks can cause structural damage, mold and destroy the aesthetics of your building. It's also money down the drain.
 - You'd be shocked to know how much money is lost to plumbing leaks. And it's not just sewer and water charges that will cost you; interior water damage will need to be repaired and apartments may develop unhealthy mold conditions that must be remediated. The top two culprits are:
 - Leaking toilets. Look for condensation on the bottom of the tank or the underside of the bowl – that means that the water is running all the time. One leaking toilet can cost over \$1,000 in water and sewer charges in a year.
 - Dripping faucets can also cost hundreds of dollars in annual water charges.
 - Check your water bills each month. If consumption rises suddenly, you may have a leak that is costing you money. The DEP may even call you to say their meter indicates you may have a leak. If a leak is big enough for the DEP to notice, you should take immediate action.
- ## 9. Get an Energy Audit and follow the auditor's recommendations.
- An Energy audit will suggest both operational and capital

improvements to reduce energy use and save money. The best thing about an energy audit is that there is no guessing involved. The audit report will explain which improvements will save the most money.

- Where can you find an auditor?
 - Contact the NYC Retrofit Accelerator at www.retrofitaccelerator.cityofnewyork.us. The Retrofit Accelerator is NYC's one-stop free resource to help building owners and operators increase the value and sustainability of their properties through energy and water upgrades.
 - is also available from NYSERDA through the Multifamily Performance Program. You can access their list of engineers and contractors at: http://j.mp/NYSERDA_Partners.

10. Train your staff

If any of the above tips are beyond the range of your operations or management staff, it may be time to provide training in efficient building operations. *GPRO Operations and Maintenance Essentials* is a basic course that can be completed in two full days or four half-days. Find out more at www.gpro.org or contact gpro@urbangreencouncil.org. ■



Did You Know? Owners Required to Post Emergency Information

As a result of the unprecedented damage caused by Hurricane Sandy in 2012, the City Council adopted **Local Law 98 of 2013**.

Property owners are required to post notices in at least 11-point sized font with particular information in their building common areas in the event of any dangerous storm or major power outage. Most notably, the notices must inform tenants whether the building is located in a hurricane evacuation zone, which evacuation zone, nearest evacuation center, emergency contact numbers, details of any utility outages, and a reminder of the importance of reducing water consumption. The notices should be updated by the owner as needed and must be removed from the common area after the weather emergency or utility outage has concluded. You may view the template provided by HPD by visiting <https://bit.ly/2Oa8BBE>.

Furthermore, you must also comply with **Local Law 47 of**

2015, which requires property owners to provide their tenants with 24-hour notice prior to performing work that may cause interruptions in heat, hot water, electricity or gas for at least a two-hour period.

Owners are required to post a notice in English and Spanish in a common area of the building. The notice must include details regarding the type of work being performed, as well as an estimated start and end time that building services are expected to be disrupted.

With heat season now in effect through May 31, 2019, compliance of this law will be heavily enforced by the City Department of Housing Preservation and Development (HPD).

For more information on Local Law 47 of 2015 and for an example of what the required notice should look like, please visit <http://on.nyc.gov/2bB5Ru2>. ■



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Section 8 Vouchers: What to Know!

As you may recall, RSA welcomed representatives of the City Housing Authority (NYCHA) at our January 2018 Membership Meeting to discuss Section 8 vouchers and the various options available to assist property owners who have tenants with Section 8 vouchers.

The presentation, which was led by Robert Tesoriero, NYCHA's Director of Leased Housing, included vital information on the background of the leasing process with tenants who have Section 8 vouchers, lease renewals, Housing Quality Standard (HQS) inspections, and the online building owner portal known as the NYCHA Owner Extranet.

For those who don't know, Section 8 is a federally-funded program that provides rental assistance to eligible low-income families to find affordable housing in private rental buildings. NYCHA currently serves over 85,000 voucher holders across the City, 73% of whom have incomes of less than 30% of Area Median Income (AMI). Tenants with Section 8 vouchers pay 30% of their income towards their rent and the difference is paid by NYCHA directly to the property owner via a direct deposit system.

Building owners can list any vacant units on the NYCHA Owner Extranet. For owners who already have Section 8 tenants, visit <https://eapps.nycha.info>. For new owners interested in accepting Section 8 vouchers, visit <https://nychagosection8.com>.

In case you were not able to join the January Membership Meeting, we have made available the complete PowerPoint presentation on RSA's website. The presentation includes all the vital information that owners need to know when it comes to Section 8 vouchers. Please visit www.rsanyc.net and click on the Section 8 tab under the Resources section to view the presentation.

NYCHA also urges RSA members to participate in the agency's monthly Section 8 Owner forums throughout the year at various locations throughout the five boroughs. The next owner forum will take place on October 16th from 10 a.m. until 1 p.m. at the Brooklyn NYCHA office located at 787 Atlantic Avenue. For additional information, please visit NYCHA's Section 8 website for owners for at <http://on.nyc.gov/2yUr1vt>. ■

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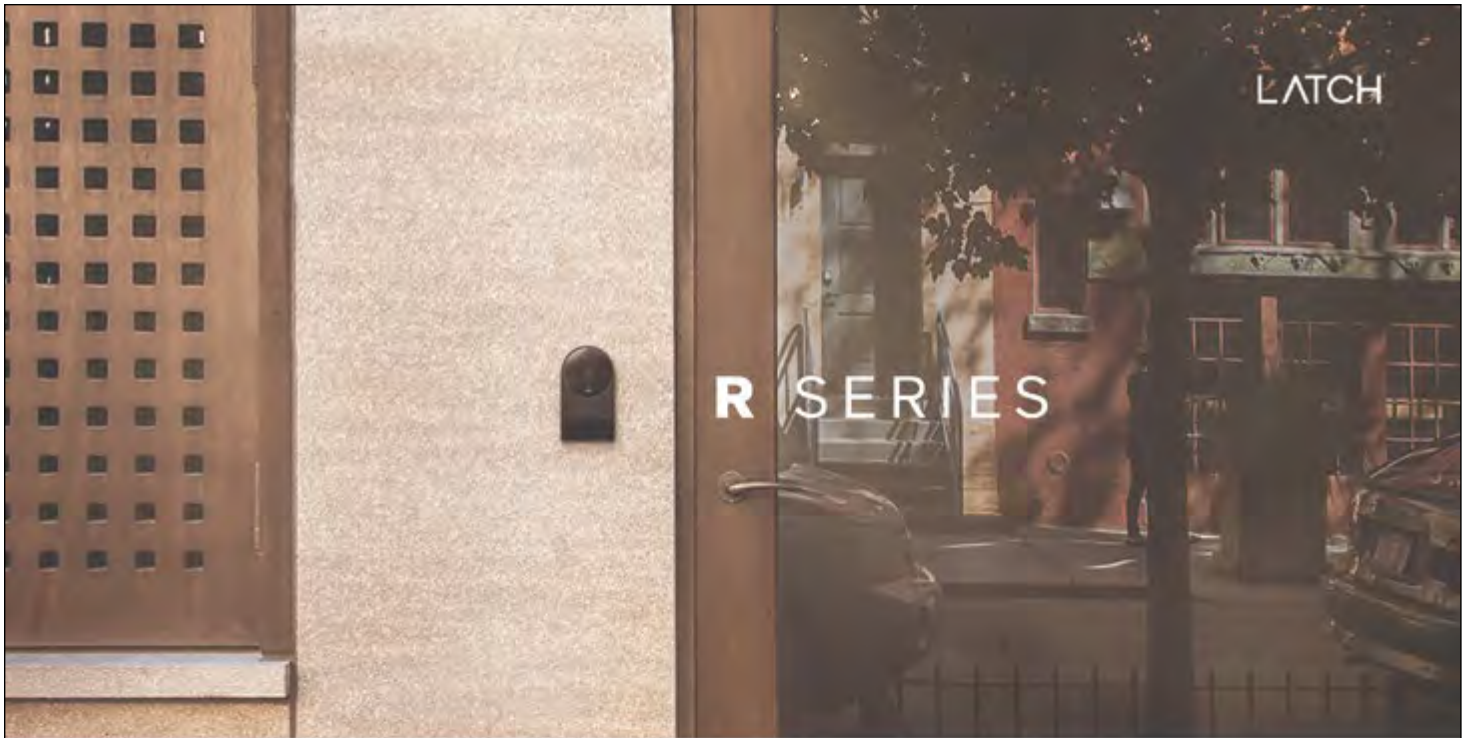
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FOR MORE INFORMATION OR TO SCHEDULE
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CHRISTINE GONZALEZ
Director
(212) 214-9248
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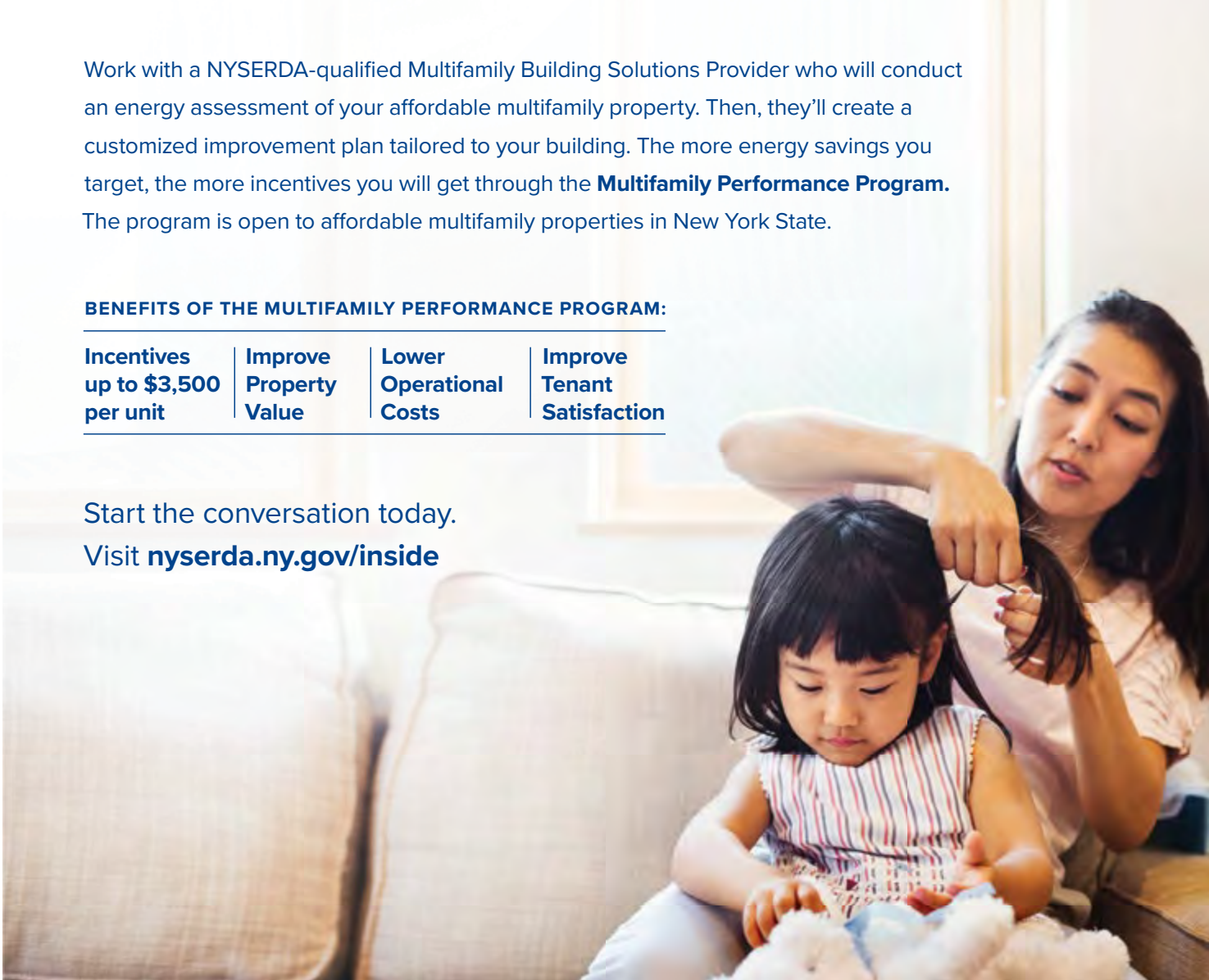
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RSA CALENDAR OF EVENTS

October 1

Rent Guidelines Board Order No. 50 Goes into Effect.

October 1

Heating Season Begins

October 1

Local Law 87

Deadline to file the Application for Extension of Time to File an Energy Efficiency Report (EER).

October 1

MBR Deadline

Last day to file the Operational Maintenance schedule (OMESC **2018-2019**) to qualify for MBR increases.

October 8

Columbus Day

Building Service Employees' Union and Sanitation Workers' holiday. No garbage pick-up, no street cleaning.

CITY, STATE AND RSA OFFICES WILL BE CLOSED.

October 17

RSA Mortgage Brokerage Seminar: The Mortgage Process: "Quote to Closing" – 2:30PM-4:00PM at the RSA Office. Register by calling **(212) 214-9243** or via email at **mrodriguez@rsanyc.org**.

October 24

RSA Membership Meeting – 2:30PM-4:00PM at the RSA Office. Register by calling **(212) 214-9243** or via email at **mrodriguez@rsanyc.org**. See page 2 for details.

October 24

Tax Assessments

Last day to challenge tax assessments through the State Supreme Court or other judicial proceeding, challenging the Tax Commission's confirmation of **2018-2019** real property assessment of your building.

November 1

Cooling Tower Annual Certification

Last day to file annual certification with DOB. Must be submitted **Nov. 1** of each year.

November 1

J-51 Applications

File for tax abatements and exemptions with HPD's J-51 office. Fourth quarter filing period is **Nov. 2** to **Dec. 15**.

November 1

Benchmarking - Notice of Data Inaccuracy Failure to submit a corrected report prior to the next quarterly deadline (**Aug. 1, Nov. 1** and **Feb. 1**) will result in a violation for each period of non-compliance.

November 14

Non-Payment Workshop

12:00PM-4:00PM at the RSA Office. Please call Lisa Richmond at **(212) 214-9243** to register or email **lrichmond@rsanyc.org**. See page 9 for details.