

Legal Alert: DHCR Issues Guidance on Rents, Leases, and Registrations for ERAP Recipients

May 2, 2022

On April 29, 2022, DHCR issued guidance, which is posted to its Office of Rent Administration [website](#) that directs landlords as to how to properly set the rent, prepare rent regulated lease agreements and file annual apartment registrations for those tenants in receipt of Emergency Rental Assistance Program (“ERAP”).

1) Can owners who receive ERAP assistance for a rent stabilized apartment increase the rent?

For rent stabilized units receiving ERAP, lawful rent increases are allowed to be preserved in the lease, but landlords must follow ERAP guidelines and agree to not increase the monthly rental amount above the monthly amount due at the time of application for ERAP assistance for months for which the rental assistance is received and for one year from receipt of the ERAP payment.

Owners are advised by DHCR to send a letter to the tenant at the time ERAP payments begin and attach an explanatory rider at the time of the lease renewal. The rider should clarify that a lower rent is being charged pursuant to an ERAP directive and that the higher legal rent cannot be collected during the period of the ERAP rent freeze. The higher legal rent that was in the lease can be collected only when the ERAP rent freeze expires.

It is unlawful for an owner to demand arrears from the tenant, in a lump sum or in any other manner, for the difference between the higher legal rent and the lower rent for the period that the ERAP rent freeze was in effect.

2) How does an owner register the rent(s) for the rent stabilized apartment on the ARRO annual apartment registration online form?

In the Legal Regulated Rent field, a rent can be entered that includes all lawful rent increases, including those based upon lease renewal, individual apartment improvements (“IAI”) and major capital improvements (“MCI”), even if they are not being collected due to the receipt of ERAP assistance. In the Other Adjustments - Other field, “ERAP” can be entered. In the Actual Payment by Tenant field, the lower rent that is actually being paid can be entered.

Note that as always, annual apartment rent registrations should reflect the terms of the tenancy in effect on April 1st of the respective filing year.