

Why Should IPN Rents be Reduced?

IPN should have been rent stabilized when it left the Mitchell-Lama program. IPN's owners began receiving a New York City J-51 tax benefit in 1998. Buildings receiving this benefit must be rent regulated. Until June 2004, IPN was rent regulated under Mitchell Lama. IPN's owner never told the tenants about the J-51 benefit and he never told the DHCR. So now the tenants must ask the New York State Division of Housing and Community Renewal (DHCR) to act.

Everyone Who is Eligible Should File an Overcharge Complaint with DHCR

You should file if:

- 1) You lived here in June 2004 and pay more rent now than you did then;
- 2) You rented garage space in 2004 and pay more for garage space now than you did then (garage space is an ancillary service that was provided to rent-regulated tenants);
- 3) You were "downsized" to an apartment with fewer bedrooms, but are still paying the larger apartment rent
- 4) You moved into IPN between June 2004 and March 2006

A rent overcharge complaint must be filed within 4 years of the time the overcharge began. If the court or the DHCR rule that IPN should have been rent

stabilized after it left the Mitchell-Lama program, then the DHCR will look back four years to determine the rent stabilization base rent. You protect yourself by filing a complaint within four years of the last Mitchell Lama rent on the apartment, establishing the date for DHCR to look back to. Your best protection is to file by June 2008 (within four years of the last rent before IPN left the Mitchell Lama program).

The J-51 lawsuit is not enough to protect you. In December 2005 a small group of free-market tenants (all moved in after June 2004) sued the landlord and are asking a judge to order that IPN be rent stabilized. Even if the judge rules that IPN is rent stabilized, the rent will have to be calculated

You are filing to protect yourself if IPN becomes rent stabilized.

Filing a complaint is no guarantee that your rent will be reduced. The only guarantee – if you don't file a timely overcharge complaint you definitely will not get a rent reduction based on the last Mitchell-Lama rent for the apartment.

for each apartment. To have your rent calculated based on June 2004 rent, you must file with DHCR before June 2008.

➤ SPECIAL CONSIDERATIONS FOR LAP TENANTS

LAP rent increases follow Rent Guidelines Board (RGB) increases. LAP tenants should be paying the same rent they would be paying if IPN were rent stabilized. **But** right now, just like everyone else at IPN, LAP tenants do not have the protections of rent stabilization; **and**, because the landlord did not report to DHCR in June 2004 that the building was no longer rent regulated, he may not be entitled to any of the increases he received beginning in September 2004.

Remember: beginning in 2013, LAP rent increases will be RGB increases plus 3.33% each year for three years. Every year thereafter, LAP rent will be based on RGB increases plus 1% per year. With rent stabilization your rent will be based only on RGB guidelines; and your rent may be rolled back from what it is today to establish your base rent. Under the rent stabilization rules for buildings that received J-51 tax benefits **there is no high-rent or high-income "de-stabilization."** In other words, if IPN becomes stabilized your rent will remain

stabilized regardless of how high it is or how high your income is.

➤ TENANTS WHO PAID "BACK RENT" IN THE SUMMER OF 2004

If you paid "back rent," file a complaint based on the rent you think is correct. If you think your correct "last Mitchell Lama rent" is the lower rent you were paying before you paid "back rent" then you need to file within four years of the last time you paid that rent. If you think your correct "last Mitchell-Lama rent" is the higher "Mitchell-Lama fair market rent," then you should file within four years after the time you started paying the higher rent (but before your LAP lease began in September 2004).

➤ SPECIAL CONSIDERATIONS FOR VOUCHER TENANTS

An overcharge complaint is about the rent you are paying – not the amount that is 'subsidized' by the government. If you are paying more than you were in June 2004, then you should file a complaint. Even if your rent has not increased, if you have a parking space in the garage you can file for a reduction in garage rent only. If you

don't have any of your cancelled checks or money order receipts and your bank makes it prohibitive for you to obtain them you can submit your annual recertification letter as an alternative basis for proving what you have paid in rent.

➤ TENANTS WHO MOVED IN BETWEEN SEPTEMBER 2004 AND MARCH 2006

Even if you don't know the last Mitchell Lama rent, you can file a rent overcharge complaint. Remember, the landlord knows what the last Mitchell Lama rent was. For an idea of the likely base rent: For 1 bedroom apartments the Mitchell Lama base rent was \$738.68, the Mitchell-Lama "Fair Market" rent was \$982.68. For 2 bedrooms the Mitchell Lama base rent was \$924.10 and the Mitchell Lama Fair Market rent was \$1230.10.

UPCOMING DATES

- Group Filing Deadline Extended: File by April 30, 2008
- First Meeting — For Voucher Tenants, March 10.
(See reverse side for details)

What's Involved in Filing the Complaint — and Why You Need a Lawyer's Help

The form is available online at DHCR. <http://www.dhcr.state.ny.us/ora/forms/pdf/ra89.pdf> or you can google DHCR Rent Overcharge Application. The form is also posted on the IPNTA website (<http://ipnta.org>) and will be made available by the IPNTA to those tenants without computer access.

Completing the form is not difficult. You need to collect and copy: original lease and amount paid at that time; leases and amounts paid over last four years; cancelled checks showing amounts paid each month for apartment rental and for garage rental over the last four years. Answer all questions except: 6, 15, 16, and 24 which will be answered in a group for all tenants who retain him, by our attorney, Seth Miller.

Anyone can file their own complaint. This approach is not recommended. The question of what correct rents are at IPN is hotly contested in litigation. If you file on your own you will be on your own when it comes to responding to the landlord's response to your complaint. That will not be an easy task. You can do it yourself but you may not be prepared to do the job that's needed. If you do it yourself, there's no way to know whether you'll get the benefit of any decisions made by the court or the DHCR in the other tenants' cases.

If IPN becomes rent stabilized the rent-stabilized rent will be decided (by DHCR) apartment by apartment. DHCR only looks back four years. If you wait until December 2008 to file, the base they will look back to will be the December 2004 rent. If you wait until 2009, the base will be 2005. And so on.

Proving You Paid Your Rent

1- Get your cancelled checks for every rent payment (and every garage payment) starting April 1, 2004. Include electricity payments, started last spring.

2- If you are missing some or all of your cancelled checks, try to get copies of checks from your bank. Ask your bank for copies of cancelled checks and ask your

GROUP FILING EXTENDED: ABSOLUTE DEADLINE: APRIL 30, 2008

To participate in the group filing, it is necessary to contribute to the legal fee and be a paid member of the IPNTA. Legal fee: \$300 for tenants who were here in June 2004, half a month's rent for those who moved in later. IPNTA Membership: \$25 per person per year/\$15 per senior per year. (If you cannot pay the requested fee, please discuss your situation with an IPNTA representative.)

Information/Assistance Meetings will be held over the next few weeks — you can make your payment and sign a renter agreement, and bring your forms.

All completed forms will be collected by the Tenants Association by the Filing Deadline.

MEETINGS

Monday, March 10, 2008 7:15 pm,
Voucher Tenants, With or Without garage
310 Greenwich Community Room
Dates for other tenants to be announced.

bank to start processing your request immediately.

3- If the bank requires more than a nominal sum you should provide all the relevant cancelled checks that you have, and then also as many as you can afford to pay for starting from the earliest date — April, 2004. You should also ask the bank for a letter stating what the charges are for the checks.

4- Even if the charge is \$6 or \$12 per check you should be able to pay for at least one cancelled check showing the last Mitchell-Lama rent.

5- All tenants should provide copies of their leases at least since September 2004 and one prior renewal (the last renewal under Mitchell-Lama).

6- Tenants who want to file but do not have cancelled checks or leases should use their bank statements (if they have them), highlighting the checks that were the rent checks.

7- Tenants who used money orders should try to locate their money order receipts.

8- If you have no documentation whatsoever, as a tenant at the meeting pointed out "they haven't been evicted" so they must be paying their rent. You should still file. We'll work with you figuring out how to fill in the form.

"Overhoused" Enhanced Voucher Tenants

The March 12, 2004 agreement between the IPNTA and IPN's owners, entitles "overhoused voucher tenants" to continue to occupy their apartments without an increase in rent until the landlord offers them an appropriate sized unit within IPN. This agreement is not time limited. Under the agreement, whenever a voucher tenant's household size changes, the landlord must offer the tenant an appropriate sized apartment. This part of the agreement was specifically included to protect IPN's voucher tenants from HUD's prior policy giving such tenants only one year to relocate to a smaller apartment.

On February 15, 2008, HUD changed its policy as well. Under the new HUD regulations, enhanced voucher tenants living in apartments that are too big for their household will continue to receive a rent subsidy based on the gross rent for their current apartment until an appropriate sized unit -- in the same development -- is made available to them by the landlord. The enhanced voucher tenant's subsidy will be reduced to the level appropriate to their household size only if the tenant refuses to accept the offer of a smaller apartment. This policy applies to all IPN enhanced voucher families, regardless of when their household size changed. HUD's policy statement: <http://www.hud.gov/offices/pih/publications/notices/08/pih2008-12.pdf>.

HPD told the IPNTA that voucher recertification would be done in April from now on.

There will be an orientation meeting with important information about how to file in the future. Once HPD explains exactly what has to be filed, any breach in the future will result in voucher removal. We are working on an amnesty situation for all tenants who had hearings regarding their voucher removal prior to date. We are hoping we can accomplish this, but it is still in negotiation. Look out for the HPD correspondence.

The Independence Plaza North Tenants Association is staffed entirely by volunteers. Contact us to become a Floor Captain.