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### **HOW TO LEGALLY INCREASE RENTS IN A RENT-STABILIZED BUILDING:**

#### **What is an MCI?**

MCI stands for Major Capital Improvement. As the owner of a rent controlled or rent stabilized building, when you make certain improvements (or installations) to your building, you may be able to increase your tenants' rents based on your cost of making the improvements/installations.

#### **What types of improvements are considered eligible for the rent increase?**

To qualify for a rent adjustment, the improvement/installation must be new and not simply a repair to old equipment. For example, a new boiler, new roof or new windows in the entire building may justify an MCI rent adjustment, whereas a repaired or rebuilt roof or boiler and repaired windows would not.

There is also a four-part test used to determine the eligibility of MCI rent increases. The improvement must meet all four of the following qualifications:

- 1) It must be considered depreciable by the IRS and not just an ordinary repair;
- 2) It must be for the operation, preservation and maintenance of the building;
- 3) It must benefit all tenants, either directly or indirectly; and
- 4) It must meet the requirements of the Useful Life Schedule set forth by the Division of Housing and Community Renewal (DHCR).

#### **How can I obtain an MCI rent increase?**

In order to increase your tenants' rents based on an MCI, you have to make an application to DHCR after the work is completed and paid for. The application must be made no more than two years after the improvement/installation is complete.

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As part of the landlord's application, you must provide DHCR with proof of payment for the improvement/installation, such as cancelled checks and invoices. The landlord must also provide a list of work performed and copies of all permits, etc. for same.

After reviewing the landlord's application, DHCR will notify the tenants to advise them of the landlord's intentions and tenants will have the right to submit responses. After considering all information, DHCR may deny the application or grant it in whole or in part. If granted, DHCR will issue an order approving the MCI rent increase. No adjustment to rent may be made without the DHCR order approving same.

### **How much is the MCI rent increase?**

The rent may not be increased by more than 6% of the tenant's rent in any given year, however increases above the 6% cap may be spread forward to future years.

With increasing property maintenance costs such as oil, taxes and insurance, why not take advantage of rent increases sanctioned under the law?

### **Other important considerations**

DHCR may not grant the MCI increase, if the building owner is not maintaining the building properly and there are violations for the building.

The facts and circumstances of each case impact whether DHCR will grant the MCI rent increase. Sometimes it is not clear whether a particular improvement/installation will qualify as an MCI or whether the owner's application will be granted. The procedure of applying to DHCR for an MCI rent adjustment is also highly complex, but may be more easily understood with professional assistance.

### **How can the Law Offices of James G. Dibbini help?**

We suggest consulting our office prior to beginning any project for assistance in determining whether it will be eligible for the MCI rent increase. However if you think you have made an MCI in the past two years and believe you may qualify for an MCI rent increase, please contact our office for a free consultation.

The Law Offices of James G. Dibbini has extensive experience with DHCR and the MCI application process and can insure your MCI application is properly and promptly filed and approved for the maximum rent increase permitted under the law.



Disclaimer: The information provided is not intended to be legal advice, but merely conveys general information related to legal issues commonly encountered.