

JANUARY 25, 2010, 4:41 PM

Ruling Could Mean Lower Rents for 300,000 Tenants

By *CARA BUCKLEY*

To most renters in New York City, it sounds like a modest, even enviable, rent increase: pay an additional \$45 if your monthly rent happened to be less than \$1,000 and you had been living in the same apartment for more than six years.

But to the City Council, and advocates for New York's lower-paying tenants, the increase issued by the city's [Rent Guidelines Board](#) in 2008 amounted to what they called a "poor tax." And in a ruling that came down last week, Justice Emily Jane Goodman of State Supreme Court in Manhattan agreed. Should the ruling stand — the city plans to appeal it — some 300,000 rent-stabilized tenants could receive rebates and small reductions in their rent.

The ruling stemmed from the rent increases [approved by the city's Rent Guidelines Board in 2008](#). The board allowed landlords of rent-subsidized apartments to raise rents by 4.5 percent for one-year leases, and 8.5 percent for two-year leases.

The board also passed a minimum increase for anyone who had been living in an apartment for more than six years: They would have to pay at least \$45 and \$85 for one- and two-year leases respectively. This meant that any long-term tenant paying less than \$1,000 a month would be faced with a higher percentage increase than other rent-stabilized tenants. The rule was called Order No. 40.

The motivation behind the board's increase was to compensate landlords for rising operational costs and to equalize rents between long- and short-term tenants, according to court papers. But the City Council and some Legal Aid lawyers cried foul, claiming in a September 2008 lawsuit that lower income tenants were being unfairly targeted.

In her decision siding with the plaintiffs, Judge Goodman ruled that the Rent Guidelines Board did not have the authority to impose a separate rent increase for those tenants. She cited the case of Paul Hertgen, an out-of-work truck driver who had been living in the same Staten Island apartment for 18 years. Under the new guidelines, his rent rose to \$770 from \$685, a 12 percent increase. Had he been subject to the 8.5 percent increase that others were required to pay, his rent would have been \$743. "The effective percentage increase in long-term tenants is nearly double the increases for short-term tenants," Justice Goodman wrote, "In other words, Order No. 40 penalizes tenants for failing to move in a city that has virtually no affordable housing."

Anthony Hoglebe, a spokesman for the City Council, said landlords would have to reimburse the tenants who had paid the extra increase. But any repayments or rent decreases will most likely be delayed.

"We respectfully but strongly disagree with the decision," said Michael A. Cardozo, the city's corporation counsel, whose office represented the Rent Guidelines Board. "We are especially disappointed that it has

taken the court over a year to issue a ruling relating to 2008 rents that will cause confusion for thousands of rent-regulated tenants and owners throughout the city. We intend to appeal, and will seek to ensure that the ruling does not go into effect until the appeal has been decided.”