

## **Bad News For Rent-Stabilized Tenants Paying Under \$1,000**

By *ELISSA GOOTMAN*

Perhaps, in the grand scheme of things, occupants of rent-stabilized apartments that go for **under \$1,000 a month** can consider themselves lucky. Now they are slightly less so.

On Thursday, the New York State Court of Appeals ruled that the New York City **Rent Guidelines Board had the power to impose extra increases on long-term tenants of those low-rent apartments.** The board had sought the increases to help landlords cover rising operating costs like oil and electricity, and to equalize rents between long-term and short-term tenants.

The Appeals Court ruling overturned an earlier ruling by Justice Emily Jane Goodman of State Supreme Court in Manhattan. In that ruling, in January 2010, Justice Goodman wrote that the Rent Guidelines Board did not have the authority to impose higher increases, on a percentage basis, on tenants paying lower rents.

The issue dates back to 2008, when the Rent Guidelines Board passed a measure allowing landlords of rent-subsidized apartments to raise rents by up to 4.5 percent for one-year leases, and 8.5 percent for two-year leases. The measure also allowed landlords to levy steeper proportional increases — of \$45 a month for a one-year lease and \$85 for a two-year lease — on people living in rent-stabilized apartments for more than six years, and paying less than \$1,000.

In the fall of 2008, the Legal Aid Society and Legal Services NYC filed a lawsuit on behalf of affected tenants. The suit was supported by the City Council and advocates for low-income tenants, who called the measure a “poor tax.”

Ellen Davidson, a staff attorney at the Legal Aid Society, said she was “very disappointed” with Thursday’s ruling, saying, “We think it is going to hurt our clients.” But she said she was pleased by the narrowness of the ruling, saying, “We think the board is still prohibited from making determinations based on tenant characteristics.”

Jeffrey Turkel, a partner at Rosenberg & Estis, who filed amicus briefs on behalf of two landlords’ groups, said, “There are certain tenants who, because they’ve been in occupancy so long, pay rents that are so low that those rents don’t cover expenses. As a result, it’s fair to raise the rents of the lowest rent-paying tenants so that those rents start approximating what it costs owners to run them.”

The Appeals Court decision was split, five to two. Writing for the majority, Judge Robert S. Smith noted that landlords of rent-stabilized apartments can charge larger increases when new tenants move in, and that in apartments with long-term tenants and low rents, “the costs of maintaining an apartment and providing services to its occupant are often not in proportion to historical rents.”