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Landlord Raises Garage Rent

Q & A

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Q. *I have a rent-stabilized apartment with a garage space in New York City. For my upcoming lease, the landlord wants to apply the rent guideline increase of 2 percent or \$20, whichever is greater, to the current rent for the garage. A neighbor who rents storage space in the building for \$50 a month is also being told that she has to pay the \$20 increase on her new lease. Can the landlord do this?*

A. **Adam Leitman Bailey**, a Manhattan real estate lawyer, says the writer is asking about rent increases on what the rent laws call "ancillary services." These include garage, laundry and recreational facilities.

The Rent Guideline Order that allows for "minimum" increases like the one the writer describes has been challenged in the courts. While they ruled that minimum increases could be applied to apartment leases, they have not specifically ruled on whether they could apply to ancillary services.

But **Mr. Bailey** noted that in a 1991 advisory opinion, the State Division of Housing and Community Renewal said the formula for increases on ancillary services must be the same as those for apartment rent increases. So, he said, it would appear that the \$20 increase is allowable in both instances the writer describes. At the same time, he said there was a caveat to that general rule. If the ancillary service is included in the apartment lease itself, there can be only one increase. But if the ancillary service is covered by its own lease, a separate minimum increase can apply separately to that lease.