



THE INQUIRING MIND

Buying Building with No Separate Heating Plant

Q. I'm thinking of buying a building that doesn't have a separate heating plant. Instead, each apartment has individual electric baseboards. The tenants pay for the electricity for these baseboard units. Will I be able to continue to use that system?

A. The law requires that multiple dwellings (that is, buildings with three or more apartments) have a central heating plant unless there's a waiver from the Department of Housing Preservation and Development, says Adam Leitman Bailey of the Manhattan law firm of Adam Leitman Bailey, P.C. Before buying such a building, you should have your attorney handling the transaction research whether there are any such waivers on file or whether there are any violations against the building because of the lack of a central heating plant, he says. Most likely, there is no such waiver on file. It will then become an issue for you to raise when negotiating the price of the building or the escrow agreement, so that you can make sure the building is brought into compliance with the law on this and, of course, all other matters. The law is unclear as to whether the installation of a heating plant will qualify for major capital improvement rent increase, Bailey says.

Collecting Garage Increases from Rent-Stabilized Tenants

Q. We recently took over management of a building that includes rent-stabilized tenants. Some of these tenants also have garage leases, but the prior management company didn't collect any rent increases for those leases in the past few years. I know we can't collect the rent increases retroactively. However, can we now start to collect garage rent increases from those tenants?

A. You can start collecting rent increases for the garage leases going forward, says James Marino of the Manhattan law firm of Kucker & Bruh, LLP. Send each tenant a renewal offer for the garage lease and apply the current rent guideline to the last rent charged for the garage space, he says. But note that if the current guideline is higher than the guideline that would have been in effect had the prior management company sent a timely renewal offer with an increased rent, the tenant gets to pick which guideline percentage increase will apply. You must send the renewal offer to the tenant at least 90 days before the new garage lease starts. ♦