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April 8, 2011

RE: Court of Appeals/Low Rent
Longevity Adjustment

Dear Client:

In our most recent newsletter, we advised you that the Appellate Division had affirmed a lower court ruling which struck down the low rent/longevity adjustment promulgated by the Rent Guidelines Board (Orders Nos. 40 and 41). The Appellate Division had affirmed the lower court ruling which found that the Rent Guidelines Board had no authority to create a separate class of rent stabilized tenancies with different rent increases, under certain circumstances.

However, on March 24, 2011, the Court of Appeals reversed this decision, finding that the Rent Guidelines Board acted within its authority when promulgating Orders Nos. 40 and 41. As it now stands, if you have existing tenancies which are six years or older, with rents below \$1,000.00 per month as of October 1, 2008, you may, if your rights were properly reserved, increase the legal regulated rent beyond the basic Rent Guidelines Board increases, pursuant to the aforementioned Orders. The manner in which the Housing Court and DHCR will apply this decision remains to be seen and will be determined on a case by case basis.

For a more specific discussion regarding a particular case or cases, please feel free to contact our office.

Sincerely,

Gutman, Mintz, Baker & Sonnenfeldt, Esq.