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Q & A

By JAY ROMANO

Landlord Raises Garage Rent

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.

Condo Refinancing Troubles

Q I am trying to refinance the mortgage on my condominium in [Little Italy](#) with the lender who gave me the original mortgage. My application was denied because of an owner-occupancy issue. There are 10 units in the building, and two owners each own two apartments and rent them out. Why is it more difficult to refinance my mortgage than it was to get the original loan?

A Eric D. Sherman, a Manhattan co-op and condominium lawyer, says many lenders have owner-occupancy rules for mortgages on condominium units.

“The rule provides that a certain ratio of units within a condominium must be occupied by their owners,” Mr. Sherman said, adding that this was mainly because “investor-owned units tend to result in higher rates of foreclosure.”

He noted that the ratio requirements can vary by lender, though the requirements typically apply whether the loan is a first-time mortgage or a refinancing. That the writer’s original mortgage was not subject to such scrutiny was probably a function of timing. “Over the last few years,” Mr. Sherman said, “lenders have imposed much more stringent lending requirements.” So the writer may have to shop around to find a new lender with less stringent requirements.

Keeping a Co-op Balcony Safe

Q We have a balcony that we enjoy using. Because we have small children, and the balcony has widely spaced horizontal rails, we attached plastic netting for safety. The board is planning to enforce a house rule prohibiting attaching items to the balcony. Is there any rule related to the design of balcony railings when children are present?

A “There most certainly are requirements pertaining to railing design,” said Marcel De Winter, a Manhattan architect. “And they are not just for children, but for adults and objects as well.”

Basically, Mr. De Winter said, a railing must be of a certain height, as well as able to withstand substantial forces and resist the passage of objects greater than 3.5 inches in diameter. The requirements are the same whether the balusters are vertical or horizontal.

Mr. De Winter said that the writer should verify whether the railing meets the minimum design criteria, and that if it doesn’t, he should try to come up with a temporary solution satisfactory both to himself and the board. Design modifications made by occupants are typically subject to approval by the board, which should take into consideration safety and aesthetic considerations. One option might be to install acrylic sheets with vent holes to relieve high wind pressure. It would be wise for the board to have any design modifications reviewed by both its insurance company and an architect.

“This is a serious matter,” Mr. De Winter said, “and failure to address it could result in serious consequences.”

Email questions to realestateqa@nytimes.com. Answers can be given only through the column.