

**What are “unique or peculiar circumstances” increases,<sup>1</sup> and will they affect my rent if our building is taken out of Mitchell-Lama?**

“U or P” increases exist under the [Emergency Tenant Protection Act](#), the law that puts apartments built between June 1969 and July 1974, into rent stabilization. The section (see the footnote below) permits tenants or landlords to ask the state’s housing agency to set the rent where it has been ambiguous, or there are “unique or peculiar circumstances” that make the rent inappropriate.

The current law is that just taking a building out of the Mitchell-Lama program is not a “unique or peculiar circumstance” justifying a rent increase.

The law comes in part from a decision by the state’s highest court, the Court of Appeals. In the [KSLM](#) case, court ruled that certain apartments in Mitchell-Lamas built before 1974 are subject to the landlord's application for a "unique or peculiar circumstances" increase in the starting rent stabilized rent upon taking the building out of the Mitchell-Lama program. But the court then sent the matter back to the state's Division of Housing & Community Renewal (DHCR), part of the NYS Homes & Community Renewal agency.

DHCR has issued regulations stating landlords may of course apply, but that just taking a building out of Mitchell-Lama is not by itself a "unique or peculiar circumstance" justifying an increase in the starting rent stabilized rent.

However, at least one owner (Witkoff Realty) has continued to claim the regulations are illegal, or that DHCR should grant the rent increases because there are additional “U or P” circumstances. All the other former Mitchell-Lama landlords (known to this website) have given up on this claim and are pursuing other means of raising the rent regulated rents.

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<sup>1</sup> Emergency Tenant Protection Act, **Section 513 a**. The tenant or owner of a housing accommodation made subject to this law by the emergency tenant protection act of nineteen seventy-four may, **within sixty days of** the local effective date of this section or **the commencement of the first tenancy thereafter**, whichever is later, **file with the commissioner an application for adjustment of the initial legal regulated rent for such housing accommodation. The commissioner may adjust such initial legal regulated rent upon a finding that the presence of unique or peculiar circumstances materially affecting the initial legal regulated rent has resulted in a rent which is substantially different from the rents generally prevailing in the same area for substantially similar housing accommodations.**

IF DHCR and the tenants eventually lose at the state's highest court and the state does not pass a statute outlawing these increases - these apartments would be vulnerable to "U or P" increases:

- If your building was built BEFORE OR UP TO March 10, 1969, the question is when a tenant moved into a specific apartment.
  - o Tenants who moved in AFTER July 1, 1971 are under the Emergency Tenant Protection Act, which permits the landlords to apply for a "unique and peculiar circumstances" increase.
  - o Tenants who have been in their apartments in those buildings since before July 1, 1971 are under the Rent Stabilization Law, and that law has no provision for "unique and peculiar circumstances" increases -- so they are safe.
- If your building was built after March 10, 1969 and before January 1, 1974, all tenants, regardless of when they moved in, are covered by the Emergency Tenant Protection Act, and therefore are vulnerable to the landlord's "unique and peculiar circumstances" increase applications.