

The New Rental Fee Racket

By ROBERTA BRANDES GRATZ
(First of a series)

An apartment hunter walks into a handsome old building on Riverside Dr. and asks the doorman about available apartments. He is steered to a real estate broker whose rental office is conveniently located off the lobby.

Through this broker, he rents an apartment in the building, paying 12 per cent of a year's rent as the brokerage commission—unaware that if he had gone directly to the downtown office of the managing agent he might have been able to lease the apartment without paying a fee.

Two women pound the East Side pavements. Like the West Sider, they are looking to rent an apartment without going through a broker. They inquire of doormen and superintendents, deliberately avoiding newspaper listings placed by brokers and staying away from rental agencies.

Through the superintendent of an E. 71 St. building, they find an apartment, apply through the landlord and submit their checks to cover one month's rent and one month's security. A few days later—before they have signed a lease—they are billed by the landlord on behalf of the superintendent for a finder's fee amounting to one month's rent. Outraged, they refuse—and lose the apartment.

Another apartment seeker covered a large part of mid-Manhattan, similarly determined to find an apartment without paying a broker's fee. On W. 57 St. she inquired of a

superintendent. He showed her an apartment and, when she expressed interest, told her there was a commission involved—one month's rent.

All over the city, these stories recur. It is increasingly difficult to rent an apartment without paying someone—a broker, a managing agent or the landlord—a commission. That commission is also called a broker's fee, a rental fee or a finder's fee.

The way that fee is secured is sometimes so devious that even the most alert tenant wouldn't suspect. A recently divorced woman in Flushing asked her super if there were any smaller apartments in her building. The super said no, but there was an apartment in the building next door. Both buildings are owned and managed by the same people and are just about identical in design and size of apartments.

Sure enough, she found what she wanted next door, leased the apartment and was charged a rental fee. Two weeks after she moved into her new apartment, she learned by accident that the apartment's twin was available in the building from which she had moved. If the agent had sent her to that apartment he probably would not have tried to collect a one-month rent commission.

That commission that so many apartment finders are unable to avoid takes many forms, varies widely in size and is paid to a variety of people—from the broker who has an

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exclusive contract with the building's landlord to the landlord acting as broker on his own behalf. Yet there is a good deal of confusion among numerous city agencies and law enforcement officials as to which charges are legal or illegal.

For several weeks, The Post has talked to officials in every agency in one way or another connected with the rental housing market. This fact emerges clearly: With the advent of vacancy decontrol on rent-controlled and rent-stabilized apartments, the charging of some kind of rental fee has become one of those gray areas in which no one is positive as to what is legal and what is not.

There is no doubt on anyone's part that an apartment found through a properly licensed real estate broker will require a brokerage commission. Beyond that, questions as to who is charging the commission and what services are being provided to warrant it are very confused.

Authority for determining the validity of extra charges now that rent-control laws no longer apply seems to rest with the New York Dept. of State's Licensing Division, which licenses real estate brokers. A spokesman for Secretary of State LoMenzo pointed out that only licensed brokers can charge commissions and where such a commission is charged the question remains as to the services that were provided. Whatever They Can Get

Ironically, many city officials point out, with apartments renting on the non-controlled, non-stabilized market, landlords are now able to charge practically any rent they can get. In most cases, the officials note, these apartments are being rented without additional fees but at higher rents.

These rents are now solely regulated by the federal rent guidelines which the Internal Revenue Service is responsible for overseeing. Arthur Goldberg of the IRS office here pointed out that there were "no specific rulings regarding brokerage fees other than that fees cannot be increased above what the old fee was unless tied to the old

rate that was being charged, such as one month's rent."

But Goldberg added that a "landlord cannot charge for something he has never charged for before." In other words, if before the federal guidelines the landlord as rental agent didn't charge a rental fee for new tenants, he cannot do so legally now.

Clearly Illegal

There are some areas where extra charges are clearly illegal, noted the spokesman for LoMenzo. Such cases include tenants who move within the same building, for whom no new credit check is needed. Rental or finder's fees cannot be collected in any amount on behalf of superintendents who may have shown the apartments. These kinds of charges are clearly no different, observers point out, than the old under-the-table key-money charges so prevalent under rent control.

Inspector General Maurice Sieradzki of the Housing and Development Administration points out that under rent control "a landlord could not be his own broker even with the right license." In other words, no additional fees or "unlawful bonuses" could be charged on rent-controlled apartments unless they were obtained through a real estate broker.

Rent stabilization included the same prohibitions. (The stabilization code could not be "evaded, either directly or indirectly . . . by requiring the tenant to pay or obligate himself for membership or other fees or by modification of the practices relating to payment of commissions or other charges.")

Can Be Reimbursed

Current tenants of either controlled or stabilized apartments who were charged such fees can still seek reimbursement, even though vacancy decontrol is in effect.

Sieradzki points out that his department is still processing many tenant complaints about "unlawful bonuses," which he says are often in the form of cash payments. In 1970, his department recovered \$46,456.82 for such tenants. This covered all cases of "overcharge, brokerage fees, security deposits and bonus payments, all unlawful fees charged by landlords or their agents."

In 1971, the figure collected was \$36,487.89. The decrease, Sieradzki says, is because of vacancy decontrol.

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