

FACT SHEET



Andrew M. Cuomo, Governor

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DIVISION OF HOUSING AND COMMUNITY RENEWAL
OFFICE OF RENT ADMINISTRATION

10 Eviction from an Apartment Based on Owner Occupancy

For rent stabilized apartments and rent controlled apartments both inside and outside of New York City, only one of the individual owners of a building can take possession of only one dwelling unit for personal or immediate family use and occupancy, even if the building has joint or multiple ownership. An owner must establish an immediate and compelling need for the apartment for use as his or her primary residence or as a primary residence for his or her immediate family.

In NYC, an owner may refuse to renew a rent stabilized tenant's lease because the owner has an immediate and compelling need to possess the apartment for use as his or her primary residence or as a primary residence for his or her immediate family. Under the Rent Stabilization Law, an owner may begin an eviction proceeding when the current lease expires, but only after the tenant is given written notice that the lease will not be renewed. This notice must be served at least 90 and not more than 150 days before the current lease term expires.

For rent stabilized apartments outside NYC (Emergency Tenant Protection Act or "ETPA") and for rent controlled apartments both inside and outside NYC (or "state-wide"), the owner must apply to DHCR for an order granting a certificate of eviction by filing an "Owner's Application for Order Granting Approval to Refuse Renewal of Lease and/or to Proceed for Eviction for Owner Occupancy" (DHCR Form RA-54). If DHCR grants this certificate, the owner may then proceed in court to evict the tenant.

If an owner recovers possession of the apartment, the owner must use the apartment as the owner's or an immediate family member's primary residence for three years or the owner may lose the right to any rent increases for other apartments in that building for three years. If a tenant residing in a NYC rent stabilized, "ETPA," or rent controlled apartment state-wide was required to surrender the apartment by the owner, and the owner or a purchaser makes a fraudulent statement regarding a proposed use, the tenant has the right to file their own lawsuit against the owner in a court of competent jurisdiction for damages, other relief and attorneys' fees. In addition, owners who evict rent controlled tenants state-wide and fail to use it for its intended purpose within thirty days or rents the space within one year without demonstrating good cause shall also be liable for treble damages.

Additional rules apply concerning evictions based on owner occupancy:

1. An owner cannot evict a tenant from a rent stabilized apartment in NYC if the tenant or the spouse of the tenant is 62 years of age or older, or has been a tenant in a dwelling unit in the building for 15 years or more, or is a disabled person unless the owner provides an equivalent or superior apartment at the same or lower rent in a nearby area.

2. An owner cannot evict a tenant from a rent stabilized apartment outside of NYC (“ETPA”) or a rent controlled apartment state-wide when a member of the household lawfully occupying the apartment is 62 years of age or older, or has been a tenant in a dwelling unit in the building for 15 years or more, or is a disabled person.
3. An owner of an apartment or the shares allocated to it cannot evict a rent stabilized, “ETPA” or rent controlled tenant state-wide, for personal or immediate family use and occupancy, in buildings converted to a non-eviction cooperative.

For more information or assistance, you may visit your Borough Rent Office.

Queens
92-31 Union Hall Street
6th Floor
Jamaica, NY 11433

Brooklyn
55 Hanson Place
6th Floor
Brooklyn, NY 11217

Upper Manhattan
163 W. 125th Street
5th Floor
New York, NY 10027

Lower Manhattan
25 Beaver Street
New York, NY 10004

Bronx
1 Fordham Plaza
4th Floor
Bronx, NY 10458

Westchester
75 South Broadway
3rd Floor
White Plains, NY 10601