



New York State Division of Housing and Community Renewal
Office of Rent Administration
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Jamaica, NY 11433

Operational Bulletin 2023-2 (Second Revision April 10, 2024)
(Original Revision February 8, 2024)
(Replaces Operational Bulletin 2009-1)

***Procedures Pursuant to the Rent Stabilization Code for the Filing of an
Owner's Application to Refuse to Renew Leases on the Grounds of
Demolition Implementing Emergency Tenant Protection Regulations
New York City Rent Stabilization Code
New York City Rent and Eviction Regulations***

I. INTRODUCTION

This Operational Bulletin replaces Operational Bulletin 2009-1, and is issued pursuant to Sections 2504.4(f) and 2507.11 of the Emergency Tenant Protection Regulations ("TPR"), Sections 2524.5(a)(2) and 2527.11 of the Rent Stabilization Code ("RSC"), and Sections 2204.8(c) and 2209.8 of the New York City Rent and Eviction Regulations ("CRER"), as amended by the changes to the rent regulations effective November 8, 2023. This new bulletin was issued on November 21, 2023. It was further revised and reissued on February 8, 2024, to reflect updates to the Section **V. STIPENDS AND OTHER RELOCATION CONDITIONS**. It is being further revised and reissued on April 10, 2024, to reflect updates to the Section **V. STIPENDS AND OTHER RELOCATION CONDITIONS**.

TPR Section 2504.4(f) and RSC Section 2524.5(a)(2) provide that an owner shall not be required to offer renewal leases to tenants and may maintain an action or proceeding to recover possession in a court of competent jurisdiction after the expiration of the existing lease term, where DHCR has granted such owner's application to demolish all of the apartments located in the subject building. Demolition is defined as removal of the entire building including the foundation. Below are the eligibility, notice, order, relocation and other requirements relating to the demolition application process.

II. ELIGIBILITY & APPLICATION

The term, "owner", is specifically defined in TPR Section 2500.2(g) and RSC Section 2520.6(i). A demolition proceeding must be instituted by the filing of an application in the name of the owner as defined in such sections.

An owner may file, either personally or by mail, an Owner's Application for Order Granting Approval to Refuse Renewal of Lease and/or to Proceed for Eviction (Form RA-54). At the time the

owner files the application, a sufficient number of copies of the application for each tenant to receive a copy must also be submitted.

An owner must state in the application that recovery of possession of the housing accommodations is being sought for the purpose of demolishing them. **No demolition application will be accepted by DHCR unless the owner has submitted proof to the DHCR of financial ability to complete such undertaking and plans for the undertaking have been approved by the appropriate governmental agency.** Evidence of financial ability to complete the project may include a Letter of Intent or a Commitment Letter from a financial institution, or such other evidence as DHCR may deem appropriate under the circumstances in order to ascertain whether the application meets the good faith intention standard attendant on such applications.

As promptly as practicable after the application has been filed, the DHCR will serve each tenant with a copy thereof and afford the tenant 20 days to answer. The word, "tenant", as used throughout this Bulletin, means all persons named on the lease, treated as a single entity, or in the case of a housing accommodation subject to CRER Section 2204.8(c), any person entitled to the possession or to the use or occupancy of the housing accommodation, treated as a single entity. The DHCR will also mail a copy of this Operational Bulletin to each tenant, advising that tenant of the owner's obligations concerning Termination Notice requirements pursuant to TPR Section 2504.3(c)(3) or RSC Section 2524.2(c)(3), the owner's obligation pursuant to TPR Section 2504.4(f)(2) or RSC Section 2524.5(c) to pay certain moving expenses and relocation benefits, and the owner's other obligations, the tenants' rights and procedural advisements contained herein.

III. NOTICE PROVISIONS

Once an application has been filed, an owner may refuse to renew tenants' leases until a determination of the owner's application has been made. Tenants may remain in occupancy during such period, and the owner may not increase the rents. Should the application be denied or withdrawn, the owner must again offer prospective renewal leases to the tenants, as directed in the DHCR's order of denial or withdrawal.

Pursuant to TPR Section 2504.3(c)(3), after filing a demolition application, an owner must serve each tenant with a Termination Notice at least 90 and not more than 120 days prior to the expiration of the lease term ("window period"). In New York City, pursuant to RSC Section 2524.2(c)(3), after filing a demolition application, an owner must serve each tenant with a Termination Notice at least 90 and not more than 150 days prior to the expiration of the tenant's lease term, or in the case of a hotel permanent tenant without a lease, at least 90 and not more than 150 days prior to the commencement of a court proceeding. Provided each tenant whose "window period" occurs prior to the issuance of the order is served with a timely Termination Notice, the order granting the application may be issued. See exceptions below.

The Termination Notice may be served either personally or by regular or certified mail. A contemporaneous affidavit providing dispositive facts by the person making the service or mailing a receipt indicating proof of certified mailing shall constitute sufficient proof of service. When service is by registered or certified mail, the stamped post office receipt shall constitute sufficient proof of service. Once such proof of service has been submitted to the DHCR, the burden of proving non-receipt shall be on the tenant.

The Termination Notice shall state:

- (1) that the owner will not renew the tenant's lease because the owner has filed an application for permission to recover possession of all housing accommodations in the building for the purpose of demolishing them, for which plans and financing have been obtained, as stated in the application;
- (2) that while the application is pending, the tenant may remain in occupancy;
- (3) that the tenant shall not be required to vacate until the DHCR issues a final order approving the application and setting forth the time for vacating, stipends and other relocation conditions; and
- (4) that the tenant must be offered a prospective renewal lease if the application is withdrawn or denied.

Interested parties should be aware that DHCR cannot order the eviction of any tenant. Warrants of eviction must be obtained from courts of competent jurisdiction. Additionally, it should be noted that tenants who elect to vacate prior to the dates provided in the order will, if stipends are applicable, be eligible to receive an enhanced stipend.

IV. ADMINISTRATIVE ORDERS

Unless the owner has submitted proof of its financial ability to complete the undertaking to the DHCR, and plans for the undertaking have been approved by the appropriate agency, the owner's application will not be accepted, but instead, will be rejected without being docketed.

DHCR may, at the discretion of the Administrator, and upon 30 days written notice to the owner, dismiss an application because of the owner's failure to proceed in a timely fashion. Upon the issuance of an order denying the application, or if the application is withdrawn by the owner, prospective renewal leases must be offered to all affected tenants as directed in the order of denial or withdrawal.

An order granting the application shall also be conditioned upon the compliance by the owner with such terms as shall be set by the Administrator relating to stipends and moving expenses, and the compliance by the owner with service of Termination Notices.

In the event that the owner does not serve each tenant whose "window period" occurred prior to the issuance of the Administrator's order with a Termination Notice, but can establish before the Administrator that such failure was not the result of a willful attempt to evade this obligation, and if the owner can establish that he or she has otherwise substantially complied with the obligation to serve every such tenant, the DHCR shall not be required to terminate the proceeding and may issue the order. Nevertheless, any such tenant who is not served with the Termination Notice will be entitled to remain in occupancy at no increase in rent pursuant to a one-year "deemed lease," commencing on the date following the expiration date of the prior lease. Thereafter, during the pendency of the proceeding, no additional renewal rights vest pursuant to this "deemed lease." The Administrator's Order shall provide that, alternatively, the owner may, at its option, elect to pay a stipend based on an additional period up to one year for any tenant remaining in occupancy who was

not served timely with a Notice of Termination, and who leaves on or before the vacate date indicated in the final order.

In no event may any tenant be required to move out of an apartment before the expiration date of that tenant's lease, or the vacate date indicated when the owner's application is approved, whichever is later. Where the DHCR determines that an owner's failure to timely serve a Notice of Termination occurred, but was not willful, and where such owner does not pay an additional one-year stipend, the affected tenant may remain in occupancy for the "deemed" one-year lease term, if later than such periods.

V. STIPENDS AND OTHER RELOCATION CONDITIONS

For housing accommodations subject to the TPR or RSC, the word, "tenant", shall mean all persons named on the lease, treated as a single entity. For housing accommodations subject to CRER Section 2204.8(c), such word shall mean all persons entitled to the possession or to the use or occupancy of any housing accommodation, treated as a single entity.

Any order granting an owner's application shall require the owner to pay all reasonable moving expenses. The tenant shall also be afforded a reasonable period of time within which to vacate the apartment. If the tenant vacates the apartment on or before the date provided in the DHCR final order which authorizes the owner to refuse to renew the tenant's lease and obtain possession of the apartment, such tenant shall be entitled to receive all stipend benefits pursuant to subparagraphs (1) or (2) or (3) below. If the tenant does not vacate the apartment on or before the date upon which a final order authorizes the owner to obtain possession of the apartment, the stipend shall be reduced. The reduction of the stipend shall be one-sixth of the total stipend for each month the tenant remains in occupancy after the vacate date indicated in the final order.

The order granting the owner's application shall also provide that, at the owner's option, the owner may:

- (1) Relocate the tenant to a suitable housing accommodation at the same or lower regulated rent in a closely proximate area, or in a new residential building if constructed on the site, in which case suitable interim housing shall be provided to the tenant at no additional cost; plus, in addition to reasonable moving expenses, payment of a \$5,000 stipend shall be made to the tenant, provided he or she vacates on or before the vacate date set forth in the DHCR Order; or
- (2) Where an owner provides relocation of the tenant to a suitable housing accommodation at a rent in excess of that for the subject housing accommodation, in addition to the tenant's reasonable moving expenses, the owner may be required to pay the tenant a stipend equal to the difference in rent, at the commencement of the occupancy by the tenant of a new housing accommodation, between the subject housing accommodation and the housing accommodation to which the tenant is relocated, multiplied by 72 months (6 years), provided the tenant vacates on or before the vacate date set forth in the DHCR order; or
- (3) Pay to the tenant a stipend which shall be the difference between the tenant's current rent and the average rent for vacant apartments as set forth in the New York City Housing and Vacancy Survey as of the date of the determination. This difference is to be multiplied by 72 months. The stipend shall be increased each year by a guideline beginning the first

year after the Vacancy Survey is issued and continuing until a new Vacancy Survey is issued.

For housing accommodations subject to the TPR:

- Nassau County \$745
- Westchester County \$622
- Rockland County \$477

For New York City housing accommodations subject to the RSC or CRER Section 2204.8(c):

\$904¹

For housing accommodations subject to the TPR, please consult the following Demolition Stipend Chart for sample calculations of stipends:

\$745 NASSAU

Number of Rooms	Maximum Monthly Allowance	Monthly Allowance By Current Rent, If Rent Equals						Total Stipend By Current Monthly Rent For Tenancies Based On A 6 Year Length of Tenure					
		\$500	\$1,000	\$1,500	\$2,000	\$2,500	\$3,000	\$500	\$1,000	\$1,500	\$2,000	\$2,500	\$3,000
3	2,235	1,735	1,235	735	235	0	0	124,920	88,920	52,920	16,920	0	0
4	2,980	2,480	1,980	1,480	980	480	0	178,560	142,560	106,560	70,560	34,560	0
5	3,725	3,225	2,725	2,225	1,725	1,225	725	232,200	196,200	160,200	124,200	88,200	52,200
6	4,470	3,970	3,470	2,970	2,470	1,970	1,470	285,840	249,840	213,840	177,840	141,840	105,840
7	5,215	4,715	4,215	3,715	3,215	2,715	2,215	339,480	303,480	267,480	231,480	195,480	159,480
8	5,960	5,460	4,960	4,460	3,960	3,460	2,960	393,120	357,120	321,120	285,120	249,120	213,120
9	6,705	6,205	5,705	5,205	4,705	4,205	3,705	446,760	410,760	374,760	338,760	302,760	266,760
10	7,450	6,950	6,450	5,950	5,450	4,950	4,450	500,400	464,400	428,400	392,400	356,400	320,400

\$622 WESTCHESTER

Number of Rooms	Maximum Monthly Allowance	Monthly Allowance By Current Rent, If Rent Equals						Total Stipend By Current Monthly Rent For Tenancies Based On A 6 Year Length of Tenure					
		\$500	\$1,000	\$1,500	\$2,000	\$2,500	\$3,000	\$500	\$1,000	\$1,500	\$2,000	\$2,500	\$3,000
3	1,866	1,366	866	366	0	0	0	98,352	62,352	26,352	0	0	0
4	2,488	1,988	1,488	988	488	0	0	143,136	107,136	71,136	35,136	0	0
5	3,110	2,610	2,110	1,610	1,110	610	110	187,920	151,920	115,920	79,920	43,920	7,920
6	3,732	3,232	2,732	2,232	1,732	1,232	732	232,704	196,704	160,704	124,704	88,704	52,704
7	4,354	3,854	3,354	2,854	2,354	1,854	1,354	277,488	241,488	205,488	169,488	133,488	97,488

¹ The 2021 New York City Housing and Vacancy Survey calculated the contract rent level of recent movers at a level of \$837.04/room per month. Since the actual enumeration for the Survey occurred between February and July of 2021, the rent level was increased by 1.5% (one year lease renewal guideline for 2021-2022), 3.25% (one year lease renewal guideline for 2022-2023) and by 3% (one year lease renewal guideline for 2023-2024) to a total of \$904. Operational Bulletin 2009-1 contained a different method of calculating stipends which was in accord with the Rent Stabilization Code provisions then in effect and may still be applicable in whole or in part for orders pending on PAR or remanded by the Courts for additional processing prior to changes to the Rent Stabilization Code, depending upon any hardship or inequity created by use of the older standards.

8	4,976	4,476	3,976	3,476	2,976	2,476	1,976	322,272	286,272	250,272	214,272	178,272	142,272
9	5,598	5,098	4,598	4,098	3,598	3,098	2,598	367,056	331,056	295,056	259,056	223,056	187,056
10	6,220	5,720	5,220	4,720	4,220	3,720	3,220	411,840	375,840	339,840	303,840	267,840	231,840

\$477 ROCKLAND

Number of Rooms	Maximum Monthly Allowance	Monthly Allowance By Current Rent, If Rent Equals						Total Stipend By Current Monthly Rent For Tenancies Based On A 6 Year Length of Tenure					
		\$	\$500	\$1,000	\$1,500	\$2,000	\$2,500	\$3,000	\$500	\$1,000	\$1,500	\$2,000	\$2,500
3	1,431	931	431	0	0	0	0	67,032	31,032	0	0	0	0
4	1,908	1,408	908	408	0	0	0	101,376	65,376	29,376	0	0	0
5	2,385	1,885	1,385	885	385	0	0	135,720	99,720	63,720	27,720	0	0
6	2,862	2,362	1,862	1,362	862	362	0	170,064	134,064	98,064	62,064	26,064	0
7	3,339	2,839	2,339	1,839	1,339	839	339	204,408	168,408	132,408	96,408	60,408	24,408
8	3,816	3,316	2,816	2,316	1,816	1,316	816	238,752	202,752	166,752	130,752	94,752	58,752
9	4,293	3,793	3,293	2,793	2,293	1,793	1,293	273,096	237,096	201,096	165,096	129,096	93,096
10	4,770	4,270	3,770	3,270	2,770	2,270	1,770	307,440	271,440	235,440	199,440	163,440	127,440

These values are based on owners’ responses to the 2023 Property Maintenance and Operations Cost Surveys conducted for each county, and are the calculated mean rents, per room, of units entering vacancy leases in 2022 and were then increased by each county’s 2023-2024 promulgated 1 year lease renewal guideline. As in New York City, the stipend compensates for a reasonably expected alternative rent multiplied by the typical length of tenure (72 months).

For housing accommodations subject to the RSC or CRER Section 2204.8(c), please consult the following Demolition Stipend Chart for sample calculations of stipends:

\$904 New York City

Number of Rooms	Maximum Monthly Allowance	Monthly Allowance By Current Rent, If Rent Equals						Total Stipend By Current Monthly Rent For Tenancies Based On A 6 Year Length of Tenure					
		\$	\$500	\$1,000	\$1,500	\$2,000	\$2,500	\$3,000	\$500	\$1,000	\$1,500	\$2,000	\$2,500
3	2,712	2,212	1,712	1,212	712	212	0	159,264	123,264	87,264	51,264	15,264	0
4	3,616	3,116	2,616	2,116	1,616	1,116	616	224,352	188,352	152,352	116,352	80,352	44,352
5	4,520	4,020	3,520	3,020	2,520	2,020	1,520	289,440	253,440	217,440	181,440	145,440	109,440
6	5,424	4,924	4,424	3,924	3,424	2,924	2,424	354,528	318,528	282,528	246,528	210,528	174,528
7	6,328	5,828	5,328	4,828	4,328	3,828	3,328	419,616	383,616	347,616	311,616	275,616	239,616
8	7,232	6,732	6,232	5,732	5,232	4,732	4,232	484,704	448,704	412,704	376,704	340,704	304,704
9	8,136	7,636	7,136	6,636	6,136	5,636	5,136	549,792	513,792	477,792	441,792	405,792	369,792
10	9,040	8,540	8,040	7,540	7,040	6,540	6,040	614,880	578,880	542,880	506,880	470,880	434,880

For orders issued during the period commencing October 1, 2024, and on or after October 1st of each subsequent year, the \$904 per month base will be raised by the applicable guidelines increase available for a one-year renewal lease. The \$904 per month base, plus annual adjustments, shall remain in effect until the release of a new Housing and Vacancy Survey for the City of New York, at which time the base rent, per room, shall be adjusted to reflect the mean asking rent, per room, for all vacant rental units in that next Survey.

The formula for determining the stipend is based on data derived from the 2021 New York City Housing and Vacancy Survey. The stipend compensates for a reasonably expected alternative rent (\$904 per room, per month), multiplied by the typical length of tenure (72 months). While the \$904 per month rent remains constant for the projected time period, it is deemed to be equivalent to taking the present value of such rent with projected guidelines increases over time.

Applicable To All Housing Accommodations

Wherever a stipend would result in any tenant losing a subsidy or other governmental benefit which is income dependent, at the tenant's option, the tenant may elect to waive the stipend and have the owner at its own expense, relocate the tenant to a suitable housing accommodation at the same or lower regulated rent in a closely proximate area.

In the event that the tenant dies prior to the issuance by the DHCR of a final order granting the owner's application, the owner shall not be required to pay such stipend to the estate of the deceased tenant.

Where the order of the DHCR granting the owner's demolition application is conditioned upon the owner's compliance with specified terms and conditions, if such terms and conditions have not been complied with, or if DHCR determines that the owner has not proceeded in good faith, the order may be modified or revoked.

The owner's non-compliance with any term or condition of the Administrator's or Commissioner's order granting the owner's application may result in DHCR initiating its own enforcement proceeding. DHCR shall retain jurisdiction for this purpose until all of the terms in the DHCR order(s) have been met and the project described in the owner's application has been completed. Subsequent owners shall be bound by the terms and conditions of DHCR's order(s). This clause shall not be deemed to eliminate any remedy or claim that a tenant of the dwelling unit may otherwise have against the owner nor eliminate any independent authority that DHCR may be able to exercise by law or regulation.

An owner's failure to comply within a reasonable amount of time with any term or condition of the administrator's or commissioner's order granting the owner's application or an owner's failure to complete the project described in the owner's application may be found to be a violation of the RSL and the RSC. The owner may be subject to any of the penalties and remedies described therein including but not limited to revocation of the agency's order granting the owner's application and DHCR's continued jurisdiction under the RSL over the building or any subsequent construction. Any remedies and penalties prescribed by this Code shall apply to and be binding against subsequent owners.

VI. COMPARABLE APARTMENTS AND RELOCATION

In the event a comparable apartment is offered by the owner, a tenant may file an objection with the DHCR challenging the suitability of an apartment offered by the owner for relocation, within 10 days after the owner identifies the apartment and makes it available for the tenant to inspect and consider the suitability thereof. The apartment will then be inspected by the staff of the DHCR within 30 days, on notice to both sides, so that the DHCR may determine whether the offered apartment is suitable. The DHCR will make such determination as promptly as practicable thereafter. In the event the DHCR determines that the apartment is not suitable, the tenant shall be offered another apartment, and shall have 10 days after it is made available by the owner for the tenant's inspection to consider its suitability.

If DHCR determines that the offered apartment is suitable, the tenant shall have 15 days thereafter within which to accept it. A tenant who refuses to accept relocation to any apartment determined by the DHCR to be suitable shall lose the right to relocation by the owner and to receive payment of moving expenses or any stipend.

"Suitable housing accommodations" as used in this Operational Bulletin shall mean apartments which are similar in size and features to the respective apartments now occupied by the tenants. Such apartments shall be freshly painted before the tenant takes occupancy and shall be provided with substantially the same required services and equipment the tenants received in their prior apartments. The building containing such accommodations shall be free from violations of law recorded by the governmental agency having jurisdiction, which constitute fire hazards or conditions dangerous or detrimental to life or health, or which affect the maintenance of required services.

The DHCR will consider apartments proposed for relocation which are not presently subject to rent regulation, provided the owner submits a contractual agreement, between the tenant and the owner of such proposed apartment, that places the tenant in a substantially similar housing accommodation at no additional rent for a period of six years, unless the tenant voluntarily requests in writing a shorter lease period.

VII. ADMINISTRATIVE REVIEW

Any party aggrieved by the Administrator's determination may file a Petition for Administrative Review (PAR) in accordance with TPR Part 2510 or RSC Part 2529. The filing of a PAR shall stay such order until the final determination of the PAR by the Commissioner. Upon a showing that there are equitable grounds, the Commissioner may entertain requests for expedited processing of the PAR.

Woody Pascal
Deputy Commissioner
For Rent Administration
April 10, 2024