

A GUIDE TO TENANTS' RIGHTS



Esto es un folleto con información sobre los derechos de los arrendatarios, y también tiene la información de contacto para las organizaciones de alojamiento donde pueden ir a pedir ayuda. Si tienen alguna pregunta en español por favor de llamar a los trabajadores bilingües en la oficina del Senador Serrano al (212) 828-5829.

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A Report from **State Senator José M. Serrano**

Dear Neighbor,

Affordable housing continues to be one of my top priorities as State Senator. In recent months I have: introduced legislation to protect rent-regulated apartments; urged our State Government to stop investing pension funds in speculative real estate deals; spoken directly with city officials regarding conditions at public housing facilities; and fought hard on behalf of Mitchell-Lama buildings under threat of privatization.

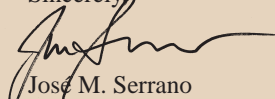
As we continue to confront the city's housing crisis head-on, I believe there has never been a more important time to understand your rights and how current rent laws apply to you. In this brochure, I have put together some of the most pressing housing matters that my staff and I encounter in the 28th District. You should be aware, of course, that there are exceptions to the regulations and programs outlined here. For this reason, I have included the contact information for agencies and non-profits that can help answer your more specific questions.

You should know there has been notable progress in housing policy at the state level over the past year or two. The Division of Housing and Community Renewal (DHCR) has shown an increased willingness to meet with tenants and their elected representatives. Other developments include: the hiring of additional staff to work on policy and enforcement; an increase in funding for housing preservation; and the establishment of an indoor toxins task force to address health issues associated with mold in apartments.

I recognize there is still so much to be done to effectively protect residents, and I will continue working toward this end.

If you have problems with housing, do not wait to get help, and always make sure to document everything. If you need more information, contact my District Office or any of the organizations listed in this brochure. Also, please let me know if you would like additional copies to distribute in your building.

Sincerely,


José M. Serrano
State Senator

QUESTIONS AND ANSWERS ABOUT TENANTS' RIGHTS



What services are tenants entitled to?

The Warranty of Habitability Law, the Housing Maintenance Code, the Multiple Dwelling Law and other State and City laws guarantee tenants certain essential services and protections. Tenants have the right to a safe, well-maintained, livable apartment, to organize and hold tenants' meetings in their building and to make complaints about lack of services without reprisals.

Owners must register with the New York City Department of Housing Preservation and Development (HPD) the name of both the owner and agent authorized to make emergency repairs, and list a phone number in the building where the owner/agent can be reached at all times; provide regular extermination services if needed; provide daily garbage disposal by compactor or in a sufficient number of covered garbage cans; keep public areas of the building and lot clean and free of vermin; provide janitorial services; and keep the building in good repair. In apartments, this means walls, ceilings, floors, windows, plumbing, heating, fixtures, doors, functioning locks on each apartment, owner-installed and maintained appliances, adequate lighting in building public areas, peepholes on apartment entrance doors, elevator mirrors, and locks on all main building doors.

What are my responsibilities as a tenant?

Tenants have legal responsibilities both to the owners and their neighbors. Tenants must properly maintain their apartments, discipline their pets, as well as keep stairwells, fire escapes and public hallways clean and clear of obstructions. They must keep noise levels down from television sets and stereos and, if required in the lease, cover floors with rugs or carpeting. They must comply with NYC recycling requirements. Tenants are also obligated to pay the rent on time. By fulfilling these obligations, tenants may help create a more pleasant environment for everyone in the building and a more positive owner-tenant relationship. Leases are enforceable contracts between tenants and owners and should be complied with by both sides. In cases where the lease and the law differ, however, the law prevails, and tenants cannot sign away any of their legally protected rights.

What if I don't receive proper services or repairs?

If you have a problem with building services or need repairs, first speak to the owner or the agent. If they fail to respond to your complaint, put it in writing and mail it by certified mail, return receipt requested. Keep copies of all correspondence and records of conversations. If the owner does not act in a reasonable period of time (determined by the urgency of the problem) consider these options:

1) Request a Code Enforcement Inspection. Call HPD's Central Complaint Bureau at 311. They will send inspectors to examine your problem and can issue orders to correct violations.

2) Go to Housing Court. If your problem is serious, you may want to bring an action in Housing Court. If your problem involves building-wide services, it is a good idea to undertake any legal action through a formal tenants' association, although you may pursue an individual action. To bring an owner to court, you must obtain and complete three forms from Housing Court: an Order to Show Cause, an affidavit detailing the complaint and an Affidavit of Service. Call 311 for your local Housing Court contact information.

The \$45.00-per-action filing fee may be recovered if you win your case. If you cannot afford the fee, you may apply to have it waived. Once the proper forms have been filled out and the papers are served, you will be notified of a hearing date. Judges can levy fines, issue orders to correct violations and appoint special administrators to run problem buildings.

3) Seek a rent reduction. Rent-regulated tenants can file an application with the State Division of Housing and Community Renewal (DHCR) for a rent reduction based on decreased service(s). DHCR has the authority to order a rent reduction until services are restored. Separate complaint forms are available for individual and building-wide issues.

What about heat and hot water?

During the heating season (October 1 through May 31), owners must provide heat as follows: During the day (6 am to 10 pm), if the temperature outside is below 55 degrees, apartments must be heated to at least 68 degrees. At night (10 pm to 6 am), if the temperature is below 40 degrees, apartments must be heated to at least 55 degrees. Owners must supply hot water all year long at a constant minimum temperature of 120 degrees. If your owner fails to provide heat or hot water, keep an accurate daily record of this and report it to 311 or contact the Public Service Commission at (800) 342-3377.

Is my apartment rent-controlled or rent-stabilized?

While there are exceptions to these general rules, your apartment is probably rent-controlled if your building was built before 1947, contains three or more apartments, and you or a family member moved in before July 1, 1971.

Your apartment is likely rent-stabilized if your building contains six or more apartments and 1) was built between 1947 and 1973, or 2) was built before 1947 and you moved in after June 30, 1971. Generally, controlled tenants have one old lease or no lease; stabilized tenants renew leases every one or two years. Some apartments that meet the general criteria for rent regulation are exempt due to the rent level of the apartment, the timing of past vacancies, or a previous co-op or condo conversion.

Owners of rent-regulated apartments are required to register their units with DHCR each year. If you have questions about your apartment's status or legal rent, you can call DHCR at 866-275-3427 and speak to a housing counselor. Additional information about the unique rights and obligations of rent regulated tenants is available on the agency's website at <http://www.dhcr.state.ny.us>.

How are rent increases determined for rent-stabilized and rent-controlled apartments?

Increases for stabilized apartments are established annually by the NYC Rent Guidelines Board whose nine members are appointed by the Mayor. For renewal leases taking effect on or after October 1, 2008 and on or before September 30, 2009, the basic guidelines are: 4.5% for a one-year lease; 8.5% for a two-year lease. However, for tenants who have lived in their residence for more than six years, and who pay less than \$1000.00 in rent per month, there is a flat monthly increase of \$45 and \$85 respectively. Increases for controlled apartments are derived from two figures: the Maximum Base Rent (MBR), a maximum ceiling for rents, and the Maximum Collectible Rent (MCR), the amount an owner can actually collect. New MBRs are computed for each rent-controlled apartment in the city every two years. However, the annual MCR increase in most cases cannot exceed 7.5% annually.

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and there are some conditions owners must meet in terms of removing violations and maintaining the apartment in order to qualify for the increase.

What lease renewal options apply to rent-stabilized apartments?

Tenants have the right to renew their leases for either a one or two year period at the Rent Guidelines Board's approved renewal rate then in effect, under the same terms and conditions as their original lease. Owners must use a lease renewal form promulgated by DHCR. New tenants have the same right to choose a one- or two-year lease. Owners must offer renewal leases between 150 to 90 days prior to the expiration of the tenant's lease, or state the reason why they are not renewing the lease. If you don't receive a timely renewal notification, remind the owner of his or her obligation in a certified letter, return receipt requested. If no renewal is forthcoming, file an Owner's Failure to Renew Lease complaint form with DHCR and sit tight. Until you receive a renewal lease, your current lease remains in effect. Please keep in mind that a tenant's failure to respond within 60 days of the offering is grounds for eviction.

What about security deposits?

Owners collect a security deposit limited to one month's rent from regulated tenants. Security deposits for free-market apartments are not limited. Owners of buildings with six or more apartments must place your security deposit in a separate interest-bearing account and inform you of the bank's name. You may request that the landlord either pay you the interest annually, apply it towards the rent, or pay it to you in a lump sum when you move. Complaints regarding failure to comply with these security deposit regulations can be filed with the State Attorney General's offices. If at the end of your lease your landlord refuses to return your deposit, you can also file a complaint with the Attorney General's offices.

What are my rights to sublet my apartment?

Unless greater rights are stipulated in their lease, rent-stabilized tenants have the right to sublet their apartments for two years out of any four-year period, subject to the owner's consent, which cannot be unreasonably withheld. Rent-controlled tenants have no legal right to sublet their apartments.

A tenant may sublet an apartment if the owner unreasonably withholds consent or fails to respond to a sublet request. A tenant cannot sublet if the owner reasonably withholds consent. A "reasonable" objection may, for example, be based on the past rental history of the prospective subtenant.

If the apartment is furnished, rent charged to a subtenant cannot exceed the legal rent plus a 10% surcharge, payable to

the tenant. The owner is also entitled to collect an additional 10% under this year's guidelines for sublet apartments. If the tenant overcharges a subtenant, the tenant may be liable to the subtenant for treble damages. The sublet term may exceed the term of the lease, provided the prime tenant renews the lease. Tenants must continue to maintain their apartments as their primary residences, and must intend to re-occupy them as such.

Am I allowed to move out of my apartment before the lease is up?

Only senior citizens over age 62 who have been accepted for residency in certain adult care facilities or designated senior housing can terminate a lease without penalty following 30 days notice to the owner in the manner outlined in the statute. For all other renters, a lease is a legally binding contract and tenants be held liable for the rent for the balance of the lease term if an owner brings an action in court. However, many owners are pleased about a tenant leaving before the lease is up since it may mean additional rent increases through a vacancy lease or apartment improvements. The best bet is to discuss the situation with the owner well in advance of the time you want to move out.

Can the owner enter my apartment?

Owners must have access to your apartment in an emergency which might result in damage to the building or other apartments, such as a broken water pipe or gas leak. Owners are also permitted to enter apartments with reasonable notice to inspect and make needed repairs. If your lease requires you to give your owner a key to a lock you installed, you must do so. Failure to grant reasonable access is grounds for eviction.

May I have a roommate?

Provided a tenant continues to occupy the apartment as their primary residence, each tenant named on a lease has the right to have one unrelated roommate and that roommate's dependent children reside with them. Immediate family members of the named tenant do not count as roommates. Tenants who take in a roommate are required to notify the owner or respond to a request from the owner about who is living in the apartment within 30 days of a formal request for such information. If the tenant named in the lease moves out, the remaining occupant has no right to the apartment without the owner's consent.

May I keep pets in my apartment?

If your lease specifically permits pets or is silent on the issue, then you may have pets. Lease clauses banning pets are binding. However, "no-pet" clauses are void if owners don't act to enforce them within three months from the time the tenant began openly keeping a pet.

Who is eligible for the Senior Citizen Rent Increase Exemption (SCRIE) program?

The SCRIE program freezes rents for eligible tenants and provides a tax abatement for the owner in return. To be eligible for SCRIE, you must be 62 years of age or older, live in a rent regulated or Mitchell-Lama apartment, have a household income (after taxes) of \$28,000 or less (increasing to \$29,000 on July 1, 2009), and be paying more than one-third of your income for rent. You must apply for SCRIE and recertify your eligibility every two years. Tenants who experience a permanent decrease in income of more than 20% can apply to have their benefits recalculated.

Figures show that only a fraction of eligible recipients are receiving the SCRIE benefits to which they are entitled. If you or someone you know may be eligible for SCRIE, please call or pick up an application in my office or call 311.

Who is eligible for the Disabled Rent Increase Exemption program (DRIE)?

The DRIE program freezes the rents of disabled people living in rent-regulated apartments or Mitchell Lama buildings and provides a tax abatement for the owners. Households that are eligible include those receiving Social Security Disability, Supplemental Security Income, Veterans' pensions or compensation, and those enrolled in the Medicaid Buy-In Program. DRIE is designed to work in the same way as SCRIE except that it has lower income limits. The eligibility limit for DRIE varies by household size and source of income but in general the income limit for single individuals is \$18,396 and \$26,460 for couples. However, there are certain deductions that are allowed. To obtain an application, you can either call 311 to get one from the Department of Finance or contact my office.

What if I feel that I am being discriminated against?

While landlords aren't obligated to rent to just anyone who applies, they cannot refuse to rent to you based on your age, race, creed, color, national origin, gender, sexual orientation, military status, or family status. If you have a complaint concerning housing discrimination, contact the New York State Division of Human Rights at (888) 392-3644.

Senator José M. Serrano

District Office:
157 East 104th Street
New York, NY 10029
Tel: (212)-828-5829

Albany Office
706 LOB
Albany, NY 12247
Tel: (518) 455-2795

Web: www.nyssenate28.com
Email: serrano@senate.state.ny.us

Where to go for more housing help or to get information:

Legal Aid Society of New York
(212) 577-3300
www.legal-aid.org

New York State Division of Housing and Community Renewal
(866) ASK-DHCR
www.dhcr.state.ny.us

Tenants & Neighbors
(212) 608-4320
www.tandn.org

Citywide Task Force on Housing Court
(212) 962-4795
www.cwtfhc.org

MFY - Neighborhood Preservation Project
(212) 417-3812 or (212) 417-3830
MFY - Manhattan Legal Aid for Seniors
(212) 417-3880
www.mfy.org

Lenox Hill Neighborhood House
(212) 744-5022
www.lenoxhill.org

Citizens Advice Bureau - Bronx
(718) 508-3040
www.cabny.org

Urban Justice Center
(646) 602-5600
www.urbanjustice.org

Metropolitan Council on Housing
(212) 979-0611 or for info. on tenant organizing call
(212) 979-6238
www.metcouncil.net

New York State Division of Housing and Community Renewal
(866) ASK-DHCR
www.dhcr.state.ny.us

Office of the NYS Attorney General
(518) 474-7330 or (212) 416-8000
www.oag.state.ny.us

Office of the NYS Division of Human Rights
(888) 392-3644
www.dhr.state.ny.us

Public Service Commission
(800) 342-3377
www.dps.state.ny.us

To file maintenance and/or housing code complaints, call 311.