

5752 OWNER TERMINATION OF TENANCY

5752.1 The Project Owner may not terminate a participant's tenancy except on the following grounds:

- (a) Serious or repeated violation of the terms and conditions of the valid, written lease;
- (b) Violation of federal or local law that imposes obligations on the participant in connection with the occupancy or use of the premises, when such obligations are contained in the lease or the D.C. Housing Code;
- (c) Criminal activity or alcohol abuse pursuant to Subsections 5752.4 and 5757.9; or
- (d) Other good cause pursuant to Subsection 5752.5.

5752.2 The Project Owner may only terminate a participant's tenancy and evict the participant from the unit by instituting a court action.

5752.3 Nonpayment by DCHA is not grounds for termination of tenancy.

- (a) The participant is not responsible for payment of the portion of the rent to Project Owner covered by DCHA's payment under the HAP contract between the Project Owner and DCHA.
- (b) DCHA's failure to pay the HAP to the Project Owner is not a violation of the lease between the participant and the Project Owner.

5752.4 Evicting Participants for Criminal Activity

- (a) The Project Owner may terminate tenancy for any of the following types of criminal activity:
 - (1) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by other residents (including Project Owner staff residing on the premises);
 - (2) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of their residences by persons residing in the immediate vicinity of the premises; or

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- (3) Any violent criminal activity on or near the premises by a tenant, household member, or guests, or any such activity on the premises by any other person under the participant's control.
 - (4) Any drug-related criminal activity on or near the premises.
- (b) The Project Owner may terminate tenancy if the participant is:
 - (1) Fleeing to avoid prosecution, or custody or confinement after conviction, for a crime, or attempt to commit a crime, that is a felony under the laws of the place from which the individual flees; or
 - (2) Violating a condition of probation of parole imposed under Federal or District of Columbia law.
- (c) The Project Owner may terminate tenancy, and evict by judicial action, a participant for criminal activity by any household member in accordance with this section if the Project Owner determines that the household member has engaged in the criminal activity, regardless of whether the household member has been arrested or convicted for such activity and without satisfying the standard of proof used for a criminal conviction.
- (d) The Project Owner may terminate tenancy if any member of the household has engaged in abuse of alcohol that threatens the health, safety or right to peaceful enjoyment of the premises by other residents.

5752.5 "Other Good Cause" for Termination of Tenancy

- (a) The Project Owner may not terminate the tenancy for "other good cause" during the initial lease term unless the Project Owner is terminating the tenancy based on the participant's action or failure to act.
- (b) "Other good cause" for termination of tenancy by the Project Owner may include, but is not limited to, the following:
 - (1) Failure by the participant to accept the offer of a new lease or revision after the initial lease term; or
 - (2) A family history of disturbances of neighbors or destruction or property, or of living or housekeeping habits resulting in damage to the unit or premises.

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- (3) Any criminal activity that threatens the health, safety, or right to peaceful enjoyment of the premises by the Project Owner's staff.
- (c) "Other good cause" for termination of tenancy by the Project Owner does not include:
 - (1) The Project Owner's desire to use the unit for personal or family use, or for a purpose other than as a residential rental unit; or
 - (2) A business or economic reason for termination of tenancy (such as sale of the property, renovation of the unit, or desire to lease the unit at a higher rental rate).

5752.6 Notice of Termination of Tenancy

(a) Project Owner Notice of Grounds for Termination

The Project Owner must give the participant written notice that specifies the grounds for termination of tenancy.

- (1) The tenancy does not terminate before the Project Owner has given this notice, and the notice must be given before commencement of the eviction action.
- (2) The notice of grounds for termination may be included in, or may be combined with, any Project Owner eviction notice to the tenant.
- (b) If the Project Owner determines that a Participant is in violation of the Dwelling Lease, except for lease violations predicated on criminal activity as described in 5752.4(a)-(c), the Participant shall be issued a thirty (30)-day notice to correct or vacate, stating in writing the violation(s) which provides the basis for the termination, the Participant's right to cure the violations, and instructions on how to cure the violations.
 - (1) The notice shall inform the Participant of his or her right to file an administrative complaint in accordance with Sections 5730 through 5747 of this title; and
 - (2) If a Participant has filed a complaint, in accordance with Sections 5730 through 5747 of this Title, in response to service of a notice to correct or vacate and has not prevailed, the Participant shall be subject to legal action through the judicial process to gain possession of the unit (eviction).

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- (3) The Project Owner shall issue a thirty (30)- day notice to vacate to the Participant, for lease violations, predicated on criminal activity that threatens the resident's health, safety or right to peaceful enjoyment of the Development or drug related criminal activity on or off the Leased Premises or the Development.
 - (4) The Project Owner will not issue a thirty (30)-day notice to correct or vacate, or notice to vacate, where the Project Owner has determined that the head of household responsible for the dwelling unit under the Dwelling lease is deceased and there are no remaining household members.
 - (5) Project Owner shall give DCHA a copy of any eviction notice to the tenant.
 - (6) Project Owner shall promptly notify DCHA when a Project Owner institutes legal action to gain possession of the dwelling unit (eviction).
- (c) DCHA will provide adequate written notice of termination of the lease.

5752.7

Termination of Tenancy Decisions

- (a) If the law and regulation permit the Project Owner to take an action, but do not require action to be taken, the Project Owner may take or not take the action in accordance with the Project Owner's standards for eviction. The Project Owner may consider all of the circumstances relevant to a particular eviction case, such as:
- (1) The seriousness of the offending action;
 - (2) The effect on the community of denial or termination or the failure of the Project Owner to take such action;
 - (3) The extent of participation by the leaseholder in the offending action;
 - (4) The effect of denial of admission or termination of tenancy on household members not involved in the offending activity;
 - (5) The demand for assisted housing by families who will adhere to lease responsibilities;
 - (6) The extent to which the leaseholder has shown personal responsibility and taken all reasonable steps to prevent or mitigate the offending action; and

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(7) The effect of the Project Owner's action on the integrity of the program.

(b) The Project Owner may require a participant to exclude a household member in order to continue to reside in the assisted unit, where that household member has participated in or been culpable for action or failure to act that warrants terminations.

(c) In determining whether to terminate tenancy for illegal use of drugs or alcohol abuse by a household member who is no longer engaged in such behavior, the Project Owner may consider whether such household member is participating in or has successfully completed a supervised drug or alcohol rehabilitation program, or has otherwise been rehabilitated successfully. The Project Owner may require the participant to submit evidence of the household member's current participation in, or successful completion of, a supervised drug or alcohol rehabilitation program or evidence of otherwise having been rehabilitated successfully.

(d) The Project Owner's termination of tenancy actions must be consistent with fair housing and equal opportunity provisions of 24 CFR § 5.105, and with the provisions of protections of victims of domestic violence, dating violence, or stalking in 25 CFR part 5, subpart L.

5752.8 Participants who refuse to vacate their unit after appropriate notice shall be subject to legal action to gain possession of the dwelling unit (eviction).

5752.9 Participants shall be solely responsible for the protection, care and disposition of the possessions belonging to the Participant, all household members, guests and all others during, and after an eviction. For the purposes of this subsection, "others" shall be defined as any person under the Participant's control or on the Leased Premises with Participant's consent; including but not limited to, any individuals occupying or using the Leased Premises for any purpose with actual or implied consent of the Participant.

SOURCE: Final Rulemaking at 64 DCR 12956 (December 22, 2017); as amended by Final Rulemaking published at 66 DCR 6831 (June 7, 2019).