**1 RENT-STABILIZED RIDER**

*This section notes the that rent-stabilized rider should be attached to every rent-stabilized lease and discusses some important concepts to know about it.*

**Rent-Stabilized Rider**

The rent-stabilized rider should include:

* The name of the tenant as well as the address of the unit
* The signature of the tenant and landlord (or someone working for the landlord)
* A list of the tenant’s rights under the Rent Stabilization law including their right to request supporting documentation for IAIs.

Only included on the rider of the initial lease:

* Information on the prior rent and a summary of how the rent was calculated, including individual apartment improvements (IAIs)

For more information on the Rent-Stabilized Rider, see **Fact Sheet #2**.

**Initial Lease.** For all rent-stabilized units when tenants receive either an **initial** **lease** or any **lease renewals,** the landlord must include a **"New York City Lease Rider for Rent-stabilized Tenants."** This rider (which simply means attachment) specifies the prior rent, the reason for a rent increase, and outlines the rights of the tenant. Although landlords can receive fines or sanctions if they don’t include the rider, it is very common. Tenants should ask if the unit is rent-stabilized before they sign the **initial** lease, as well as ask for a rent history.

**Lease Renewals.** Those who live in a rent-stabilized apartment are guaranteed to receive **a lease renewal** option of either 1 or 2 years. The tenant should receive the renewal lease 150 to 90 days before your current lease expires, and then has 60 days to return the signed lease renewal.

It is up to the tenant to decide whether to sign a 1-or 2-year lease ***or*** to tell their landlord that they will not be renewing the lease.

**How to Access a Unit’s Rent History.** The New York State Division of Housing and Community Renewal (DHCR) has information **on obtaining the rent history for your unit**. The easiest way is to fill out **this online form**, and DHCR will send a copy of the unit’s rent history directly to the unit.

Tenants can also call the New York State Division of Housing and Community Renewal (DHCR) at 718-739-6400, or visit **them online here**. DHCR is the organization charged with overseeing rent regulation in the city.

**Links to Include**

**Fact Sheet #2**

<http://www.nyshcr.org/Rent/FactSheets/orafac2.pdf>

**"New York City Lease Rider for Rent-stabilized Tenants"**

<http://www.nyshcr.org/forms/rent/ralr1.pdf>

**a lease renewal**

<http://www.nyshcr.org/Forms/Rent/rtp8.pdf>

**on obtaining the rent history for your unit**

<http://www.nyshcr.org/rent/tenantresources.htm>

**this online form**

<https://portal.hcr.ny.gov/app/ask>

**them online here**

<http://www.nyshcr.org/AboutUs/ContactUs.htm>

**2 WHAT TO EXPECT IN A LEASE**

*This section gives an overview of what tenants should expect in a lease.*

The initial lease that a landlord uses does not have to necessarily look exactly like the lease annotated here (However, the **Rent-Stabilized Renewal Lease Form** and the **Rent-Stabilized Rider** do have to look similar to the ones annotated here. See below for copies). In fact, with some exceptions (see below), landlords may rent to someone on any terms as long as they are agreed upon by both parties. While landlords are free to write their own leases; however, they must include some basic things. Therefore, when reading a lease there are a few things that are important to look for in a lease. The lease should:

* use common words that have clear meanings
* be clear and coherent
* have sections large enough to read
* identify the unit that will be rented and its location
* name the parties (who is the landlord and who is the tenant)
* state the addresses of each party
* state the amount of rent and when it is due
* specify the length of the lease
* state the rights and obligations of each party involved

Also, any changes made to the lease should be initialed by both parties.

**ILLEGAL PROVISIONS**

There are certain sections that are not legally binding or enforceable, even if agreed on by both parties. So, if a landlord includes them in the lease, they aren’t enforceable. Some examples include:

1. Any language that waves a tenant's right to a trial by jury for anything other than the terms of the lease. Generally, leases waive the right to a trial by jury about any lawsuit between the landlord and the tenant regarding the lease. In other words, the lease can only waive the right of both parties to request a jury trial in lawsuits that dispute interpretations of the lease, nothing else.
2. Any language that requires the tenant to pledge their furniture as security for rent. It is common for landlords to ask tenants for a security deposit to hold the unit, usually equal to a month's rent. The landlord cannot ask the tenant to pledge their furniture instead.
3. Any language that exempts the landlord from responsibility for injuries or property caused by either the landlord’s negligence or the negligence of the landlord’s agent or employee (like a super or someone from a management company). In other words, the landlord is responsible for any damage to you or your property if the cause is a result of their carelessness or failure to fix something.

Be sure to discuss any of these issues with a lawyer. For more information, **see page 3 of Tenants Right’s Guide**.

**Links to include**

**Rent-Stabilized Renewal Lease Form**

<http://www.nyshcr.org/Forms/Rent/rtp8.pdf>

**Rent-Stabilized Rider**

<http://www.nyshcr.org/Forms/Rent/ralr1.pdf>

**see page 3 of Tenants Right’s Guide**

<https://ag.ny.gov/sites/default/files/tenants_rights.pdf>

**3 PERSONAL PROTECTIONS**

*This section outlines some personal protections of rent-regulated tenant.*

Tenants have several protections that are designed to protect them individually. Here is a list of some of them:

**The Right to Organize**

Tenants have a right to organize, and a landlord cannot prevent them from doing so in any way. In fact, landlord must allow any tenant organization access to any common space in the building for meeting purposes, and cannot charge them a fee. Tenant meetings just need to take place at reasonable hours and be peaceful.

**The Right to Privacy**

Tenants have a right to privacy in their apartments. However, under certain conditions, **the landlord has the right to enter the apartment** if they provide reasonable notice, do so during a reasonable hour, and have the tenant's consent. If the tenant unreasonably denies entry into the apartment, the landlord can seek a court order that will allow them to enter. In cases of emergency, such as a fire, water leak, or life-threatening emergency, the landlord may enter without prior consent or notice.

**The Right to Freedom from Harassment and Retaliation**

Harassment

Landlords cannot harass tenants who exercise their rights. **Harassment** can take many forms: physical or verbal abuse, denial of services, or multiple instances of nonsensical litigation. If a landlord lies or deliberately misrepresents the law to a tenant, this may also constitute harassment. Tenants who have been the subject of harassment should contact the Division of Housing and Community Renewal. Landlords found guilty of harassment are potentially subject to fines.

Retaliation

Landlords cannot retaliate against tenants who exercise their rights. Some examples of **retaliation** might include a landlord trying to evict a tenant who is a part of a tenant’s rights organization or who has filed legitimate complaints against the landlord. Another common example is shutting off utilities are hot water, even though doing so is illegal. If a tenant suspects they are the victim of retaliation, they may be able to collect monetary damages from the landlord and should consult a lawyer.

**Personal Accommodation for Disabilities**

Landlords are required to make specific, yet reasonable accommodations for tenants with disabilities. A reasonable accommodation is considered a change in policy or rules associated with the lease that is not unreasonably expensive for the landlord, depending on how much the landlord can afford. For example, allowing a tenant to have a guide dog despite a “no pets” policy or allowing for reasonable structural modifications, such as installing grab bars in the bathroom.

**Discrimination**

Tenants are protected from various types of discrimination by potential landlords. Specifically, landlords cannot refuse to rent to a tenant because of their race, religion, color of skin, national origin, sex, age, marital or family status, sexual orientation, immigration status, type of occupation, partnership status, and whether or not they have a disability.

Further, landlords cannot refuse to rent to someone based on the source of their income. This means that a landlord cannot refuse to rent to you because you receive social security or any sort of local, state, or federal aid, like food stamps or section 8 housing vouchers.

**If you feel harassed or have an issue with any of these matters, you should call 311 to lodge a complaint. You can also contact the NYC Commission on Human Rights (NYC CHR) or the DRA or the ADA Coordinator below.**

**NYC Commission on Human Rights (NYC CHR)**

Phone: (718) 722-3131

**Department’s Designee for Reasonable Accommodations (DRA) and Americans with Disabilities Act Coordinator (ADA Coordinator).**

Email: [sev.moro@nyshcr.org](mailto:sev.moro@nyshcr.org)

Phone: (518) 473-6981

More information can be found online at the **Fair and Equitable Housing Office**

For more information about these rights, **see pages 24-27 of The Tenant’s Rights Guide**.

**Links to Include**

**NYC Commission on Human Rights (NYC CHR)**

<https://www1.nyc.gov/site/cchr/about/contact-us.page>

**Department’s Designee for Reasonable Accommodations (DRA) and Americans with Disabilities Act Coordinator (ADA Coordinator).**

<http://www.nyshcr.org/AboutUs/ContactUs.htm>

**Fair and Equitable Housing Office**

<http://www.nyshcr.org/AboutUs/Offices/FairHousing/ImmigrationDiscriminationHarassment.htm>

**see pages 24-27 of The Tenant’s Rights Guide**

<https://ag.ny.gov/sites/default/files/tenants_rights.pdf>

**4 THE RIGHT TO REPRESENTATION**

*This section describes new resources that some tenants have regarding legal representation.*

In the late summer of 2017, Mayor Bill de Blasio signed into law Intro 214, which guarantees tenants access to justice if they are facing an eviction in housing court. Some people have called this law the right to counsel, but this law only provides access to legal counsel in initial cases and the city will only pay legal fees for the initial case. If there is an appeal or your case requires further legal attention, the City may not help pay for legal counsel. Moreover, this only applies to individuals who live in a few specific zip codes of New York City (the program is intended to expand to all of New York by 2022) and their household income is less than 200% of the federal poverty line—which means anyone making two times the poverty line or less will be ensured legal representation in housing court. Here is a link to the **2017-2018 Federal Poverty Guidelines** which are effective until **June** **2018**.

How this will all work is still being figured out. Both of the following organizations have a bit more information on this.

**Housing Court Answers**

**Right to Counsel Coalition**

Here are some links for more information about places to look for legal assistance:

**Rent Guidelines Board**

**The Legal Aid Society**

**Legal Services NYC**

**New York Legal Assistance Group**

**Links to include**

**2017-2018 Federal Poverty Guidelines**

<https://www.health.ny.gov/prevention/nutrition/wic/income_guidelines.htm>

**Housing Court Answers**

http://housingcourtanswers.org/support-the-right-to-counsel-movement-in-new-york-city/

**Right to Counsel Coalition**

<http://www.righttocounselnyc.org/about>

**Rent Guidelines Board**

http://www.nycrgb.org/html/resources/legal2.html

**The Legal Aid Society**

http://www.legal-aid.org/en/ineedhelp/ineedhelp/civilproblem/housingpractice.aspx

**Legal Services NYC**

http://www.legalservicesnyc.org/about-us/get-help

**New York Legal Assistance Group**

<https://nylag.org/get-help>

**5 LEASE RENEWAL**

*This section describes the process of renewing a lease in a rent-stabilized unit.*

Non-rent-regulated tenants have fewer rights and protections than do tenants living in a rent-regulated unit.

**Lease Renewal Obligations: Non-Rent-Regulated vs Rent-Regulated**

Landlords of tenants living in **non-rent-regulated units** must agree to renew the lease at the end of the lease term. If they decide not to, the tenant must leave when the lease expires or face eviction. However, leases do sometimes contain automatic renewal clauses. In this case, landlords must notify tenants an additional 15-30 days in advance of the deadline that the tenants have to notify the landlord of their intent to not renew the lease. In other words, if the lease contains an automatic renewal clause, the landlord must give the tenant an extra 15-30 days’ notice.

Landlords of renters living in a **rent-regulated apartment** are obligated by law to give tenants the option to renew their lease, either for one year or two. This is one of the most powerful rights that rent-regulated tenants have. There are some exceptions, like if the landlord can demonstrate that the tenant does not use the unit as their primary residence or they have violated the lease in some way. However, generally tenants are given the option to renew the lease under the same terms **UNLESS THERE HAS BEEN A CHANGE IN THE LAW.** Any rent increases must follow the legal allowable increases specified by the rent guidelines boards **EXCEPT IN CASES WHERE TENANT HAS A PREFERENTIAL RENT.**

**IF A TENANT IS PAYING LESS THAN THE LEGAL RENT, THE TENANT MAY FACE A RENT INCREASE HIGHER THAN THE RENT GUIDELINES BOARD INCREASE. IN FACT, THE LANDLORD MAY RAISE THE RENT UP TO THE LEGAL RENT, EVEN IT THAT INCREASE IS HIGHER THAN THE RENT GUIDELINES BOARD INCREASE.**

A **History of Allowable Rent Increases Chart through 2018** can be found online.

The landlord must give the tenant written notice of their right to renew between 150 and 90 days of the expiration of the lease. The tenant has 60 days from when they were given the notice to renew. If the tenant does not accept, the landlord can seek eviction proceedings. If the tenant accepts, the landlord has 30 days to return the signed lease.

Once you have signed the lease renewal, the lease is considered to be binding, and you should pay the appropriate increase when the current lease expires, whether or not the landlord returns a copy of the lease after they have signed it. If a copy of the signed lease is not returned, you should contact your land about providing you a copy or lodge a complaint with 311.

**Important Considerations**

If you have any questions, you should consult a lawyer because there are a number of exceptions.

1. If you have not received a lease renewal from the landlord, it is recommended that you contact the landlord immediately, ask for a lease, and notify them of YOUR desire to stay.

Additionally, if you have not received the lease renewal during the proper time frame (90 to 150 days before the end of the lease), it is recommended that you contact the Division of Housing and Community Renewal (DHCR), which is the state agency that administers rent regulations. They can be reached at (718) 739-6400. You should also fill out "**Tenant's Complaint of Owner's Failure to Renew Lease and/or Failure to Furnish a Copy of a Signed Lease.”**

Filing a complaint is an important step in demonstrating your compliance with rent regulation and could be useful in defending your actions in court, if necessary.

2. Since, the landlord of a rent-stabilized apartment has the right to evict a tenant that did not return the lease renew option within 60 days of receiving it, it is important to return your lease renewal promptly. However, if the landlord was late in sending the tenant the lease renewal (they did not send the lease renewal between 150 and 90 days before the end of the lease), that fact can be used in tenant's defense if eviction proceedings are initiated by the landlord.

**Links to Include**

**History of Allowable Rent Increases Chart through**

<http://www1.nyc.gov/assets/rentguidelinesboard/pdf/guidelines/aptorders2018.pdf>

"**Tenant's Complaint of Owner's Failure to Renew Lease and/or Failure to Furnish a Copy of a Signed Lease.”**

<http://www.nyshcr.org/Forms/Rent/>

**6 RENT-STABILIZED UNIT**

*This section discusses the difference between a rent-stabilized and a non-rent-stabilized unit.*

A building may be rent-stabilized if it was:

* **built before 1974**,
* has **6 or more units**,
* and has **a legal current rent less than $2,733.75, as of January 1, 2018.** 
  + Be aware that certain units that have received government assistance through subsidies or tax credits, may have still be rent-stabilized apartments even if the rent is more than $2733.75. For an example, see the discussion of 421-a tax credits below.

With the Rent Law of 2015, the Deregulation Rent Threshold (DRT) was increased to $2,700, but has increased to $2,733.75 as of January 1, 2018. It increases each year in accordance with the 1-Year lease increases as approved by the Rent Guidelines Board. **Be sure to check the current DTR.** If your apartment qualifies, make sure to ask your landlord if your apartment is rent-stabilized at lease signing.

**Example of How the Deregulation Rent Threshold is Usually Calculated**

Prior to 2018, the DRT was $2,700.00. The 1-year allowable increase on the leases was 1.25% for leases staring between October 1, 2017 and September 30, 2018. 1.25% of $2,700.00 is $33.75, which means that the DRT increased from $2,700.00 to $2,733.75 for leases beginning in that period.

$2,700.00 x 1.25% = $33.75

$33.75 + $2,700.00 = $2,733.75

**421-a.** Rent-regulated units can be stabilized for several reasons. One of the most common is the 421-a tax abatement program. For newly constructed units built after July 3, 1984, landlords can apply for a 421-a tax abatement if they construct new units, so long as they make them rent-stabilized. When the tax abatement period expires, so does the unit’s rent-regulated status, as long as there were proper notifications on the original lease and all lease renewals. However, if your lease extends beyond the date when abatements expire, deregulation takes effect when the last lease that was signed expires. Check the Rent Guidelines Board’s website for more information on **tax abatements and 421-a,** read the **Fact Sheet #41** for more information, and consult a housing lawyer if you have any legal questions.

You can check your address to see if your building has been registered with the New York State Division of Housing and Community Renewal (DHCR) using **the Am I Rent-stabilized website**. While this is a good method, however, keep in mind that the website may not always be accurate because of how that information is gathered and the process by which units are deregulated. Just because a building has regulated units, does not mean that all the units in the building are rent-regulated.

**Rent History.** That is why it is a good idea to check your unit’s rent history, since rent regulation status will be filed there every year. You have the right to know if your apartment unit is stabilized and are entitled to the benefits that accompany rent regulation. You can always verify your unit's rent regulation status by checking with the DHCR. They can be reached at (**718) 739-6400** or you can contact **your local DHCR office**.

Also, you can request your rent history, which should tell you if you are rent-stabilized. Simply fill out **the Online Contact** form and the DHCR will send that unit’s rent history to the unit’s address. Also, the **Tenant Protection Unit** website will walk you through the various options for requesting a rent history. However, the online contact form is the easiest method.

**Tenant Protection Unit**

**Online Contact Form**

**Links to Include**

**tax abatements and 421-a**

<https://www1.nyc.gov/site/rentguidelinesboard/resources/tax-abatement-exemption-programs.page>

**Fact Sheet #41**

<http://www.nyshcr.org/Rent/FactSheets/orafac41.pdf>

**Am I Rent-stabilized?**

<https://amirentstabilized.com>

**your local DHCR office**

<http://www.nyshcr.org/AboutUs/ContactUs.htm>

**Online Contact Form**

<https://portal.hcr.ny.gov/app/ask>

**Tenant Protection Unit**

<http://www.nyshcr.org/rent/tenantresources.htm>

**7 RENT CHARGES AND RENT INCREASES**

*This section gives an overview of how rents can be increased.*

**Non Rent-Regulated Units.** For units that are not rent-regulated, the landlord can only charge as much as the tenant is willing to pay. The amount is negotiated with every lease renewal.

**Rent-Regulated Units.** One of the benefits of living in a rent-regulated unit is that the initial rent and any rent increases on renewal leases are set by rent regulation laws decided every year by the Rent Guidelines Board. In rent-regulated units, there are a few ways that the landlord can raise rents.

* The Rent Guidelines Board
* Vacancy Rental Increases
* MCI and IAI’s
* Extremely low rents

**Rent Guidelines Board.** The landlord is only able to charge up to the amount set by the Rent Guidelines Board, which meets between March and June every year to decide rates for the coming year. **Information about rent increases** can be found on their website, and a **history of allowable rent increases through 2018** can be found online.

**Vacancy Rental Increases.** When the landlord is signing a new lease with a new tenant, they are entitled to a certain percentage increase on the rent. This percentage varies from between 16 percent to 20 percent depending on the year and the length of the lease. See **Fact Sheet #26** for more information.

**MCI and IAI’s.** Another way that landlords can increase rents is if there is a Major Capital Improvement (MCI) or Individual Apartment Improvement (IAI). MCI’s are improvements made that affect the entire building and requires DHCR approval, while IAI’s are improvements to only specific apartments and do not require approval unless the unit is occupied, in which case the tenant has to consent by written document. The landlord is allowed to add either 1/40th or 1/60th of the cost of the improvement, depending the type of improvement. For more information concerning IAIs, see **Fact Sheet #12** or **Fact Sheet #24** concerning MCIs.

**Extremely low rents.** If certain cases, where the rent is very low (usually between $300 and $500) the landlord is entitled to collect an addition increase in rent beyond allowable legal rental increases or vacancy increases. For more information **see Fact Sheet #26.**

**Challenging Rental Increases.** Additionally, tenants have the right to challenge rent increases that they believe to be unfair up to four years after the increase went into effect. For more information, see **pages 6 and 7 of the Tenants’ Rights Guide.**

**Links to Include**

**Information about rent increases**

<http://www1.nyc.gov/site/rentguidelinesboard/resources/rents-rent-increases.page>

**history of allowable rent increases through 2018**

<http://www1.nyc.gov/assets/rentguidelinesboard/pdf/guidelines/aptorders2018.pdf>

**Fact Sheet #26**

<http://www.nyshcr.org/Rent/FactSheets/orafac26.pdf>

**Fact Sheet #12**

<http://www.nyshcr.org/Rent/OperationalBulletins/orao20161.pdf>

**Fact Sheet #24**

<http://www.nyshcr.org/Rent/FactSheets/orafac24.pdf>

**see Fact Sheet #26.**

<http://www.nyshcr.org/Rent/FactSheets/orafac26.pdf>

**pages 6 and 7 of the Tenants’ Rights Guide**

<https://ag.ny.gov/sites/default/files/tenants_rights.pdf>

**8 RENT HISTORY**

*This section discusses rent histories and how to request them.*

Rent-stabilized tenants are entitled to know their rent history. This information can be accessed several ways:

(1) fill out the **online contact form**

(2) calling the Rent Info Hotline

(3) visiting your Borough or district office in person

(4) requesting your records via mail

The **Tenant Protection Unit’s** website outlines how to access these records and what the tenant needs to do. Filling out the online contact form is the easiest method.

Tenants can also use the **Am I Rent-stabilized** website to see if their building has been listed as having filed records about rent regulation in the years since 1984. This method, however, is less reliable and only lists the building, not the unit that is under rent regulation. It is important to remember that not every unit in a building is necessarily rent-regulated.

The **New York State Division of Housing and Community Renewal (DHCR)** keeps a **list of all the buildings** that have registered in the past for the rent-stabilization program. However, they do very little to verify the accuracy of these registrations. So, it is possible that your building’s units are no longer on their list.

A civic hacker has setup **a website** that allows users to look at the changes in the number of rent-stabilized units across the City from 2007 to 2014. He updated those number in 2016 and has a blog piece about how he obtained those data.

**Links to Include**

**Online Contact Form**

<https://portal.hcr.ny.gov/app/ask>

**Tenant Protection Unit**

<http://www.nyshcr.org/rent/tenantresources.htm>

**Am I Rent-stabilized?**

<https://amirentstabilized.com>

**list of all the buildings**

<http://www1.nyc.gov/site/rentguidelinesboard/resources/rent-stabilized-building-lists.page>

**a website**

<http://blog.johnkrauss.com/where-is-decontrol/>

**9 PREFERENTIAL RENTS**

*This section discusses preferential rents.*

One thing to be aware of is something called a **"preferential rent."** This is when a landlord charges a rent that is less than the established legal regulated rent. They can charge a lower rent if they desire; however, both the legal rent and the lower preferential rent **HAVE** to be disclosed on the original lease and any subsequent lease renewals. Although landlords are obligated to register the "legal regulated rent" with the New York State Division of Housing and Community Renewal (DHCR), they do not always report the accurate rent, renters do not always know what the actual rent is, and both the legal and the preferential rent are not always made clear on the original lease and all subsequent renewals.

Some reasons that a landlord might charge a preferential rent:

1. so they could qualify for a specific program that has a mandatory rent cap
2. because your landlord did not think they could find someone willing to pay the legal maximum rent.

There might be other reasons as well. Many housing advocates and tenant organizers are finding that preferential rents are being used to either cover fraudulent "legal" rents or as a strategy to force out tenants to bring in new ones that can pay higher rents.

**Fraudulent Rents**. If a building or individual units are rent-regulated, landlords are required by the rent regulation law to register them with the New York State Division of Housing and Community Renewal. Each year, they have to update the legal rent that they charge their tenants. However, since DHCR does not verify each individual rent registration, only investigates tenant requested inquiries into fraudulent legal rents, and there is a four-year statute of limitations on challenging alleged fraudulent rents, it is easy and very common for landlords to register rents that are significantly higher than what they legally should be. In doing this, they can more quickly reach the rent deregulation threshold which would remove the building or units from rent regulation. The combination of a lack of oversight, little knowledge about rent histories, and the statute of limitations on examining these cases enables landlords to systematically deregulate buildings and shirk the rent-regulated housing stock under the façade of legality.

**Raising Rents.** The other common reason that preferential rents are used is to be able to dramatically raise rents when a tenant renews their lease in the hopes that they will decide to move out and will be replaced by someone who can pay a higher rent according to the legal “allowable” rent that they have been registering with the DHCR. It is not uncommon for the difference in preferential versus legal rents to be as much as double, or more. So imagine if you are paying a preferential $1,200 in rent, but the your legal allowable (or what has been registered with DHCR) is $2,700. That’s a $1,500 increase in rent each month that most people cannot pay.

When this occurs, it is important to request what is called a rent history. You can request that the DHCR send you the rent history for your unit, which shows both the legal and preferential rents that the landlord has been claiming every year. Knowing your rent history is an important step in being able to challenge fraudulent legal rents and to protect yourself against big rent hikes.

**Things to keep in mind.**

If the legal rent was not disclosed on the original lease agreement ***and*** any subsequent renewals, then the rent you are currently paying is the only rent the landlord can charge you. Both the legal and the preferential rents should be disclosed on both the original lease and any subsequent leases.

If you challenge the legal rent history that a landlord claims and the rent immediately preceding the year before was preferential, DHCR will investigate that rent even if it is beyond the four-year statute of limitations. However, often times landlords can back edit rent history logs to reflect proper disclosure of legal rents. So be strategic in how you handle this matter.

Preferential rents also affect how much a much a landlord can charge on a vacancy rent increase. According to the Rent Act of 2015, if a vacating tenant was paying a preferential rent, the rent increases offered on the lease to a new tenant are limited to 5% if the previous vacancy lease commenced less than two years ago, 10% if less than three years ago, 15% if less than four years ago and 20% if four or more years ago. So, for example, if a tenant moves into a unit in 2016 and pays a preferential lease and then moves out in 2017, the landlord can only raise the rent on the legal rent 5% instead of the normal rate.

See the following two links for more information on preferential rents.

**Fact Sheet 40: Preferential Rents**

**Met Council on Preferential Rents**

**Links to Include**

**Fact Sheet 40: Preferential Rents**

<http://www.nyshcr.org/Rent/FactSheets/orafac40.pdf>

**Met Council on Preferential Rents**

<http://metcouncilonhousing.org/help_and_answers/preferential_rents>

**10 Reasons for Rent Deregulation**

*This section describes three instances of how rent-stabilized units can be deregulated.*

**(1) Expiration of J-51 or 421-a Tax Abatements and Exemptions.**

In exchange for applying rent regulation benefits to their building or some of its units, the city offers tax abatements to landlords that reduce the amount of property tax they have to pay, and tax exemptions that serve as credits for taxes that are to be paid. There are two types of tax abatements/exemptions that landlords can receive if they apply for them, J-51 or 421-a. J-51 applies to either fully rehabilitated or converted units, while 421-a applies to only newly constructed units.

**J-51.** A J-51 is for units that have either been fully rehabilitated or converted from another use, like if a unit was used as an office space and now it’s someone’s apartment or if the unit was gut renovated. While tax benefit periods can vary, they are usually for 12 year for J-51 programs. Knowing the rent regulation status before the J-51 tax benefit was used by the landlord is important because not all expirations of J-51 tax benefits impact rent regulation status.

If the building was rent-regulated before the tax benefit was applied (generally the building was built before 1974 and contains more than six apartments units), then the building will remain rent-regulated even if the tax benefits expires. So, if the unit was regulated before the J-51 tax benefits were applied, then the unit will remain rent-regulated even when the tax benefits expire for the landlord.

However, if the unit became rent-regulated ***because*** the landlord took the J-51 tax abatement (generally in buildings that were constructed after 1974), then it is likely that the unit would no longer be rent-regulated when the J-51 tax benefit ends. Generally tax benefits will end when the last lease signed under the tax benefits ends. So, for example, if the J-51 program expires in June of 2016, and your lease ends in December of 2016, then the rent regulation status ends when your lease ends and the landlord can offer you or another tenant a market rate lease.

However, this depends on whether or not the landlord gave you proper notice. **Proper notice** means that the landlord included a notice in 12-point font in the original lease and all subsequent renewals that stated (1) that the unit could be deregulated when the tax abatement benefits expired and (2) included the approximate date when rent regulation coverage would expire. If the original lease and the subsequent renewals do not have such a notice, the tenant has grounds to keep the unit rent-regulated even after the tax benefits expire for the landlord.

See the **Rent Guidelines Board’s website** for more information on J-51.

**421-a.** This program applies only to newly constructed units. Generally units built after 1974 are not subject to rent regulation, but have been placed under rent regulation because the landlord has chosen to take 421-a benefits. For units constructed after July 3, 1984, landlords are required to include in each lease and lease renewal proper notification (see above) both a notice that the rent regulation status will expire when the 421-a tax benefits expire, as well as the approximate date of expiration. If your lease extends beyond the date when tax benefits expire, deregulation takes effect when the last lease that was signed under the 421-a program expires (see previous example).

June 30, 2008 is an important date. If construction began ***before June 30, 2008***, then the units remain regulated until the last lease entered into during the 421-a tax benefits period. Once that lease expires, the rent regulation also expires. However, if the landlord fails to include the proper notice (see above), then the unit is de-regulated only when that current tenant decides to leave. For units where construction began ***on or after June 30, 2008,*** *units designated as “affordable”* remain regulated for the duration of the tax benefits (usually 35 years) and then become de-regulated only when the tenant residing in the unit when the benefits expires leaves the apartment.

See the **Fact Sheet #41** on for more information on 421-a.

**Challenging Increases.**

There is generally no mechanism to stop the expiration of tax benefits, and only under some circumstances will rent regulation status remain after tax benefits have expired.

In the case of J-51, units will only remain regulated after the expiration of tax benefits if the unit was already stabilized before the landlord accepted tax benefits.

In the case of 421-a, for units in which construction began before June 30, 2008, they will only remain regulated after the expiration of tax benefits if there was not proper notification—even then it’s only until the tenant living in the unit when the benefits period expired leaves, after which they will be deregulated. For units in which construction began on or after June 30, 2008, if they are the units that are designated as “affordable” they will only remain regulated until the tenant occupying the unit leaves, as long as there was proper notification and their leaving the unit was not the result of harassment.

You can call the Department of Housing, Preservation, and Development (HPD) at 212-863-5517 (J-51) or 212-863-5421 (421-a) to find out if your building is a part of either of these programs. Additionally, for more information about the Tax Incentive Program, visit the **Housing Preservation and Development webpage.**

**Links to Include**

**Rent Guidelines Board’s website**

<https://www1.nyc.gov/site/rentguidelinesboard/resources/tax-abatement-exemption-programs.page>

**The New York State Division of Housing and Community Renewal’s website**

<http://www.nyshcr.org/Rent/FactSheets/orafac41.pdf>

**Housing Preservation and Development webpage**

<http://www1.nyc.gov/site/hpd/developers/tax-incentives.page>

**(2) Conversion to a co-op or a condominium.**

When a rent-regulated unit is converted to a co-op or condominium, there are often two possible scenarios: either (1) tenants have the option to purchase the unit themselves and either stay there or rent it out to someone else, or (2) someone else buys the unit.

If someone else buys the unit, the buyer can either (1) let the current tenant stay in their rent-regulated unit under a non-eviction plan or (2) create an eviction plan that will evict them three years after the plan goes into effect. For 90 days after the final offering for a co-op is determined, the tenants in a rent-regulated unit have an option to buy or purchase their share and the unit cannot be shown to other prospective buyers. If a new tenant moves into a vacant unit that has been converted, they will no long be covered by rent regulation laws.

* Under an **eviction plan**, tenants ***cannot*** be evicted by the purchaser of a co-op or a condominium unit for a minimum of **three** years after the eviction plan goes into effect. If their lease expires before the three years is up, they are offered another lease that will end when the minimum three years are up. The new lease must be under the same terms as their original lease as rent-regulated tenant.
* Under a **non-eviction plan**, tenants ***cannot*** be evicted and are will remain in their units as rent-regulated tenants.

For more information, see the **Coop/Condo Conversion Handbook.**

**Links to Include**

**Coop/Condo Conversion Handbook**

https://ag.ny.gov/sites/default/files/pdfs/bureaus/real\_estate\_finance/Co-Op%20Condo%20Conversion%20Booklet.pdf

**(3) High-Rent-Vacancy and High-Rent High-Income Deregulation.**

There are two ways to deregulate protected units: if the unit reaches a high-rent threshold and then is vacant, or if the unit reaches a high-rent threshold and if the tenant’s household income is higher than the high-income threshold.

**High-Rent Vacancy** deregulation occurs when a unit exceeds its legal monthly rent threshold, and then becomes vacant. As of January 1, 2018, the legal Deregulation Rent Threshold (DRT) is the rent is $2,733.75, and increases each year in accordance with the 1-Year lease increases as approved by the Rent Guidelines Board. Be sure to check the current DRT level, as it changes each year. Once the rent for a unit reaches the legal DRT, the apartment becomes deregulated upon vacancy. Units that are receiving certain tax benefits like 421-a or J-51 are not eligible for High-Rent Vacancy as long as the tax benefits are being received. (One thing to keep in mind is recent changes to the 421-a law in 2015 complicated this issue—while it’s true that units designated as affordable cannot be deregulated, the other units in the building are sometimes not regulated. So, if you live in a building built after 2015, tenants should check if they are in an affordable unit and then whether the building receives benefits under the old 421-a or the new Affordable New York Housing Program.)

For more information, see **page 2 of the Tenant’s Rights Guide**.

There is some recent debate about how a unit can be deregulated using the high-rent vacancy regulation. As has generally been understood, the unit can be deregulated if the high rent threshold is reached **during vacancy** if the monthly rent exceeds the threshold after including the vacancy bonus and individual apartment improvements (IAIs). However, the language in the most recent (2015) rent law amendments seems to require that the apartment must *first* reach the deregulation threshold and *then* become vacant before it can it be deregulated. There has been a lot of discussion about this issue and the Court of Appeals, NY State's highest Court, recently issued a decision on this issue. However, the Altman Ruling, looked at the language put into the law in 1993. The Court found that the owner could increase the rent during vacancy through IAI's and the vacancy bonus and deregulate the apartment. That case did not look at the 2015 language, which is different.

There are two important ways that landlords can legally raise rents in rent-regulated apartments aside from the allowable rent increases allowed by the Rent Guidelines Board.

* **First**, is what is called a vacancy increase. In between leases, the landlord is entitled to increase the legal allowable rent by a certain percentage. So, when one tenant leaves a unit and another moves in, the landlord is allowed to charge a rent increase during to vacancy. These vary depending on the length of lease that the new tenant has chosen for their lease, but are usually somewhere between a 16 and 20 percent increase—which can quickly change the monthly rent.
* **Second**, landlords can pass off costs of improvements that they have made either to the building (Major Capital Improvements) or to the individual apartment (Individual Apartment Improvements). Often times a tenant will be notified that the landlord made an Individual Apartment Improvements during vacancy, sometimes resulting in the unit being deregulated.

Usually landlords reach the deregulation rent threshold by combining a vacancy increase with an Individual Apartment Improvement.

The High-Rent Vacancy Deregulation Process.

When the high rent threshold is met, two documents from the New York State Division of Housing and Community Renewal (DHCR) are involved: (1) an DHCR HRVD-N and (2) an DHCR annual apartment registration. The first document must either be provided at the signing of the new lease or be sent by certified mail to the new tenant within 30 days of when new tenancy commences or when the new lease has been signed by both parties. This document shows the last regulated rent, the reason for the deregulation, and how the new rent was calculated. It must also contain a statement that the tenant can verify the last legal regulated rent or maximum rent by contacting DHCR.

The second form is a DHCR annual apartment registration and must be filed with DHCR. It indicates the unit’s status as permanently exempt from rent regulation laws and when the deregulation will take affect—generally on the April 1st following the deregulation filing. It must be sent to the first tenant within 30 days after the tenancy commences or the filing of the registration with DHCR, whichever occurs later.

**High-Rent High-Income** deregulation occurs when the apartment has reached the Deregulation Rent Threshold (DRT) as listed above ***and*** the landlord can establish that the tenants living in the apartment have a “total annual federal adjusted gross income” that exceeds $200,000 for each of the preceding two calendar years. This method of deregulation would be used to deregulate a unit in which the high-rent threshold has been met, but the tenant isn’t planning on leaving anytime soon. If a landlord can establish that the tenants living in the unit have a combined income of more than $200,000 for the previous two calendar years, then they can permanently deregulate the unit. Units that are receiving certain tax benefits like 421-a or J-51 are not eligible for High-Rent High-Income as long as the tax benefits are being received. Additionally, units that have tenants with Senior Citizen Rent Increase Exemptions (SCRIE) or a Disability Rent Increase Exemptions (DRIE) will not be considered for deregulation.

“Annual income” refers to the federal adjusted gross income as reported on the New York State Income Tax return, and “total annual income” refers to the sum of the annual incomes of all persons who occupy the apartment as their primary residence on other than a temporary basis. The annual incomes of employees of residents or sublettors is not included in the calculation, but rather the prime tenants. If the unit is leased by a corporation, their annual income is not considered.

The High-Rent High-Income Deregulation Process.

This is somewhat more of a complicated process then the High-Rent Vacancy process, specifically, there are important dates before which paperwork must be filed.

**On or before May 1** of each year, the landlord can file an Income Certification Form (ICF) if and only if the apartment has reached the DRT. Tenants are required to certify whether the household’s total annual income was in excess of $200,000—considering only the individuals referenced in the ICF—for each of the two preceding calendar years. The ICF does not require disclosure of any income information other than whether the threshold for each of the two preceding years has been met. It must notify tenants of their protection against harassment and must be delivered either by certified or first class mail or in person. The tenant(s) must return the ICF to the landlord within 30 days after service.

If the tenant has certified that their incomes exceeded $200,000 for the two previous calendar years, the landlord must file an Owner’s Petition for Deregulation (OPD) with the New York State Division of Housing and Community Renewal (DHCR) no later than June 30, which will request that no longer be subject to rent regulation upon expiration of the existing lease (rent-stabilized apartment), or as of March 1 in the year next succeeding the filing of the OPD (rent controlled apartment).

If the tenant fails to return the ICF with 30 days after they have received it, or if the landlords disputes it, the landlord can file an OPD no later than June 30. The tenant will then have 60 days to submit the required information to the Department of Taxation and Finance (DTF) and DHCR, failure to do so could result in an order to deregulate the unit. If DTF notifies DHCR that it has determined that the total annual income was in excess of the threshold amount for each of the two preceding years, then DHCR will notify the landlord and tenants of the results of such determination, and both parties will have 30 days to comment. When the comment period expires, DHCR will issue their order, which will be that the apartment is (1) still subject to rent regulation, (2) will be deregulated when the current lease expires, (3) will be deregulated as of March 1 in the year next succeeding the filing of the OPD for rent controlled apartments.

See Fact Sheet 36 for more information in Vacancy Deregulation [Note: This is an old version, current version under revision]

<http://www.nyshcr.org/Rent/FactSheets/orafac36.htm>

For more information on rent increases, take a look at **Fact Sheet #26**, here:

http://www.nyshcr.org/Rent/FactSheets/orafac26.pdf

**Links to include**

<https://ag.ny.gov/sites/default/files/tenants_rights.pdf>

**Facts Sheet 36 on the state site…currently under revision on the fact sheet site**

<http://www.nyshcr.org/Rent/FactSheets/orafac36.htm>

**Fact Sheet #26**

<http://www.nyshcr.org/Rent/FactSheets/orafac26.pdf>

**11 RENT INCREASE EXEMPTIONS**

*Item 4 discusses rent increases, and this section outlines rent exemptions.*

There are two populations that may be exempt from rent increases. Tenants who live in a rent-regulated unit (for example, rent controlled, rent-stabilized, Mitchell-Lama) and are either **senior citizens** (62 years or older) or **disabled** (anyone 18 years or older) may be granted certain exemptions from rent increases. There are some eligibility requirement, for example, a senior citizen applying for a rent freeze must have a household income less than $50,000. These populations might also be exempt from rent increases if they are paying more than 1/3 of their income towards their rent.

Tenants can determine whether they qualify for a **Senior Citizen Rent Increase Exemption (SCRIE)** or a **Disability Rent Increase Exemption (DRIE)** by calling 311 and following the menu options. **This website** briefly outlines the qualifications for each program, and **this website** helps determine eligibility.

For more information, visit the following webpages:

**Senior Citizen Rent Increase Exemption (SCRIE)**

**Disability Rent Increase Exemption (DRIE)**

**Special Note for Tenants with preferential rents**: If you have a preferential rent—a rent is below the legal allowable rent that a landlord can charge—you may still be eligible to apply. However, rents will not necessarily be frozen at the preferential level. Tenants should speak to someone about their eligibility. **Applications** can be found online.

**Links to include**

**This website**

<http://www1.nyc.gov/site/rentfreeze/qualifications/qualifications.page>

**this website**

<http://www1.nyc.gov/site/rentfreeze/tools/rent-freeze-qualifier-tool.page>

**Senior Citizen Rent Increase Exemption (SCRIE)**

<http://www1.nyc.gov/nyc-resources/service/2424/senior-citizen-rent-increase-exemption-scrie>

**Disability Rent Increase Exemption (DRIE)**

<http://www1.nyc.gov/nyc-resources/service/1522/disability-rent-increase-exemption-drie-program>

**Applications**

<http://nyc.gov/rentfreeze>

**12 SECURITY DEPOSITS**

*Item 5 discusses security deposits.*

It is common for a landlord to require a security deposit, due at lease signing that is equal to one month's rent. If there is an allowable rent increase on a lease renewal, the landlord is entitled to collect additional money from the tenant that equals the increase. The money that will be collected is the difference in what of what has already been collected and what the new rent will be. So, for example, if rent went up from $1,500 to $1,550 a month, the landlord can collect $50 more dollars at the lease renewal signing to cover the new security deposit.

**Security deposits** are treated as a trust funds belonging to the tenants. This means they should be deposited into a bank account that is separate from the landlord's bank account or personal money. The landlord is entitled up to 1 percent of any interest that is earned on the security deposit to cover administrative fees. The rest is owed to the tenant, however, in recent years the interest hasn’t yielded more than 1%.

Example

A security deposit of $1,000 is deposited into a bank that will pay an interest rate of 1.5%. After one year, the security deposit will have generated $15 from interest. The landlord is entitled to keep $10 (1 % of the deposit) as an administrative fee and the remaining $5 goes to the tenant. However, the landlord is entitled to keep the security deposit to pay for reasonable costs of repairs beyond normal wear and tear.

The tenant has the right to receive their share of the interest earned on the security deposit annually, at the end of each lease term, or it can be applied to rent.

If a rent-stabilized building is sold, the landlord must either transfer the security deposits to the new landlord or return the security deposits to the tenant 5 days after the sale. However, the responsibility falls on the purchaser to return the security deposit regardless if the security deposit has been received or returned to the new landlord.

For more information, **see pages 8 and 9 of the Tenants’ Rights Guide.**

Links to include

**see pages 8 and 9 of the Tenants’ Rights Guide**

<https://ag.ny.gov/sites/default/files/tenants_rights.pdf>

**13 WARRANTY OF HABITABILITY**

*Item 8 discusses the concept of the warranty of habitability.*

The warrant of habitability is a basic tenant right that ensures tenants have a safe, sanitary, and livable apartment. It is implied in any written and even in any oral agreement. Any lease that waves this right is void because it is not a right that can be waived.

**Examples of a breach of a warranty of habitability** include a failure of the landlord to clear an apartment of an insect infestation or a failure to provide heat or hot water on a regular basis. If the inhabitable condition is a result of the actions of the tenant or one of their guests, this does not constitute a breach of the warranty of habitability and it is the tenant's responsibility to remedy the condition.

For more information, see **page 17 of the Tenants’ Rights Guide**

Links to include

**page 17 of the Tenants’ Rights Guide**

<https://ag.ny.gov/sites/default/files/tenants_rights.pdf>

**14 HOT WATER**

*Item 13 discusses what tenants can expect in terms of hot water.*

The landlord must provide tenants with hot and cold water at all times, 365 days out of the year. Hot water must register at a temperature of **120 degrees Fahrenheit** at the tap. If the utilities are equipped with an anti-scalding device, which prevents tenants from burning themselves, the minimum temperature at the tap must be 110 degrees Fahrenheit.

For more information, see **pages 23 and 24 of the Tenants’ Rights Guide** or the **Department of Housing Preservation and Development (HPD)**.

Links to include

**pages 23 and 24 of the Tenants’ Rights Guide**

<https://ag.ny.gov/sites/default/files/tenants_rights.pdf>

**Department of Housing Preservation and Development (HPD)**

<http://www1.nyc.gov/site/hpd/owners/heat-hot-water.page>

**15 HEATING SEASON**

*Item 13 discusses what tenants can expect in terms of heating services.*

There are specific requirements as to when the landlord must provide heating services. The months between October 1 and May 31 are considered heating season.

* If between 6am and 10pm the outside temperature falls below **55 degrees Fahrenheit,** the temperature inside the apartment must be 68 degrees Fahrenheit.
* Between 10pm and 6am **regardless of the temperature outside,** the unit must be heated to atleast **62 degrees Fahrenheit**.
* If the tenant is paying for their own heating, they have the right to request a summary of the landlord's past two years of bill payment for heating. This, however, is very rare in NYC.

For more information, see **page 23 of the Tenants’ Rights Guide**.

**Links to Include**

**page 23 of the Tenants’ Rights Guide**

<https://ag.ny.gov/sites/default/files/tenants_rights.pdf>

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**16 SERVICE DISRUPTION**

*Item 13 discusses the types of services that tenants can expect and what to do when they are interrupted.*

The **landlord must continually provide heat** (during heating season) **and hot water** (all year). If a landlord fails to pay for either, the utility company must notify tenants and certain government agencies in writing before they stop utility service. The tenant has the right to pay the utility bills directly, in which case the utility service cannot be stopped.

The same applies for buildings that are oil-heated. If the landlord fails to pay the oil supplier, the tenant can contract directly with an oil supplier to ensure ample oil supply. Any payments made directly to an oil supplier or a utility company can be deducted from the rent.

Other service reductions can happen. For example, if the garbage is not being taken out, the elevator does not work, or the tenant is having problems with utilities like the oven, refrigerator, or the toilet. In these cases, tenants are encouraged to take specific actions:

1. They should contact the landlord. If the landlord does not respond, contacting them in writing is encouraged, but no longer required for your case to be heard by the New York State Division of Housing and Community Renewal (DHCR).
2. The tenant is then encouraged to file an official complaint with DHCR, within 10 days of alerting their landlord. If the complaint involves just their unit, they should file an **Application For A Rent Reduction Based Upon Decreased Services - Individual Apartment.**If the complaint involves the entire building they should file an **Application For A Rent Reduction Based Upon Decreased Building-Wide Services.** A copy of the complaint should be sent to their landlord or their agent (someone who works for the landlord from a management company) as well. If the problem persists, they could be eligible for a reduction in rent.
3. Depending on the type of complaint, the landlord will be notified with a timeline to which they must address the complaint. The landlord can file a response, which will be sent to the tenant and the tenant will have a specified time to respond. The DHCR can schedule an inspection during the process.
4. If the evidence suggests that the landlord has failed to comply, the DHCR can order the landlord to comply and reduce the rent for the unit until the issue has been addressed. If the landlord has failed to comply with the order within 30 days of the issue of the order, the tenant can file a *Tenant Affirmation of Non-Compliance,”* and is authorized to reduce the rent according to DHCR specifications.
5. When the issue has been addressed, the landlord will receive a Rent Restoration Order, which will restore the rent to the previous level.

If the tenant fails to grant the landlord or their agent (like a super or someone from a management company) entry to the unit, the complaint can be denied.

For more information, see **page 24 of the Tenants’ Rights Guide**

See also **Fact Sheet #14** for more information about rent reduction for decreased services.

**Links to Include**

**Application For A Rent Reduction Based Upon Decreased Services - Individual Apartment.**

[**http://www.nyshcr.org/Forms/Rent/ra81.pdf**](http://www.nyshcr.org/Forms/Rent/ra81.pdf)

**For A Rent Reduction Based Upon Decreased Building-Wide Services**

<http://www.nyshcr.org/Forms/Rent/ra84.pdf>

**page 24 of the Tenants’ Rights Guide**

<https://ag.ny.gov/sites/default/files/tenants_rights.pdf>

**Fact Sheet #14**

<http://www.nyshcr.org/Rent/FactSheets/orafac14.pdf>

**17 A RIGHT TO PRIVACY**

*Item 15 discusses when landlords can enter a unit and a tenant’s right to privacy.*

Tenants have a right to privacy in their apartments. However, under certain conditions, the landlord has the right to enter the apartment to make repairs, improvements, or to inspect the unit to make sure it is in compliance with the Housing Maintenance Code, **as long as they give reasonable notice**, do so during a reasonable hour, and have the tenant's consent. If the tenant unreasonably denies entry into the apartment, the landlord can seek a court order that will permit entry. In case of emergency, such as a fire, water leak, or life-threatening emergency, the landlord may enter without prior consent or notice.

For more information, see **page 25 of the Tenants’ Rights Guide**.

**Links to Include**

**page 25 of the Tenants’ Rights Guide**

https://ag.ny.gov/sites/default/files/tenants\_rights.pdf

**18 APARTMENT SHARING**

*Item 16 discusses apartment sharing.*

The tenant has the right to share the unit with immediate family, one additional occupant, and that occupant's dependent children. However, the prime tenant (the tenant’s whose name is on the lease) or their spouse must occupy the unit as their primary residence.

Tenants who sublet a room or have roommates cannot charge more than the rent they are paying to the landlord and those roommates who are not on the lease cannot take over the lease. Further, tenants are not allowed to charge more than their proportional share of the rent, which refers to the amount of rent that is owed based on the number of people in a unit.

Example

In a two-bedroom apartment that rents for $1,000, the tenant is not allowed to charge the other roommate or the subtenant more than $500, that is, each tenant or subtenant is responsible for 50% of the rent because there are two tenants and two rooms. In the same apartment, a tenant charging a roommate or a subtenant $650, would be charging them more than their proportional share of the rent. While an argument could be made that share is roughly even because one tenants pays for utilities on top of rent and the other does not, the idea is to discourage tenants from making a profit through short-term subletting arrangements. Many tenants have used platforms like Airbnb or Facebook to continually rent their second room on short-term basis. In some cases, tenant make more then they owe in rent. This type of frequent, short-term Airbnb-style subletting arrangement has resulted in many eviction cases brought against tenants.

Usually new roommates that were not on the original lease are not added to an existing lease. When the primary tenant leaves (the one named on the lease), the landlord can offer the roommate a new lease, but there is usually a vacancy increase in the rent.

In the case where the lease names more than one tenant, these tenants may share the unit with their immediate families. If one tenant moves out, he or she may be replaced with another occupant and their children. At least one of the tenants named on the lease or their spouse must use the unit as their primary residence.

However, landlords have the right to limit the total number of people living in the unit to comply with legal overcrowding standards. This is generally used as a way for landlords to prevent tenants from abusing this right or living in overcrowded (and therefore dangerous) living arrangements.

**Short-term Sublets (Airbnb style arrangements)**

While it is common for people to rent out their ***entire*** apartment for less than 30 days, this is illegal according to recent amendments to the New York State Multiple Dwelling Law:

**2010 Amendment to Article 1 of the New York State Multiple Dwelling Law**

**2016 Amendment to Article 1 of the New York State Multiple Dwelling Law**

# **An Introduction to New York's Short Term Rental Laws**

However, this is only illegal if it you are renting out the entire unit, that is, as long as one of the primary tenants lives in the unit and does not charge more than the proportional share of the rent.

For more information, see **page 12 of the Tenants’ Rights Guide.**

**Links to include**

**2010 Amendment to Article 1 of the New York State Multiple Dwelling Law:**

<https://www1.nyc.gov/assets/buildings/local_laws/NYS_chapter_225.pdf>

**2016 Amendment to Article 1 of the New York State Multiple Dwelling Law:**

<https://www.nysenate.gov/legislation/bills/2015/S6340>

# **An Introduction to New York's Short Term Rental Laws**

<https://ny.curbed.com/2013/3/25/10260752/an-introduction-to-new-yorks-short-term-rental-laws>

**page 12 of the Tenants’ Rights Guide**

https://ag.ny.gov/sites/default/files/tenants\_rights.pdf

**19 ASSIGNING A LEASE**

*Item 16 discusses how tenants can assign a lease.*

The **primary resident**  is the tenant whose name is on the lease. When they assign the lease to another, they transfer the entire interest of the unit to someone else and permanently leave the unit. This means they have no future rights, interests, or claims to the unit. Essentially, they are giving up the apartment.

This can only be done with the written consent of the landlord, who may refuse for any reason or no reason at all. If the landlord's refusal is found to be unreasonable, the tenant is entitled to be released within 30 days of the date from which the request was originally submitted to the landlord.

For more information, see **pages 11 and 12 of the Tenants’ Rights Guide**.

**Links to Include**

**pages 11 and 12 of the Tenants’ Rights Guide**

https://ag.ny.gov/sites/default/files/tenants\_rights.pdf

**20 SUBLETTING**

*Item 20 discusses the rights and responsibilities of both the landlord and the landlord.*

Subletting refers to when a tenant temporarily leaves the unit and transfers their legal interest in the unit to another, temporarily. **Subletting differs from assigning because it refers to only temporary leave, while assigning is permanent**.

In order to sublet, a tenant is required to do three things.

1. The tenant must send a written request to the landlord by certified mail, return-receipt requested and must contain the following
   * the length of the sublease
   * the name, home and business address of the proposed subtenant;
   * the reason for subletting
   * the tenant’s address during the sublet
   * the written consent of any co-tenant or guarantor
   * a copy of the proposed sublease together with a copy of the tenant’s own lease, if available.
2. Within ten days after the mailing of this request, the landlord may ask the tenant for additional information. Any request for additional information may not be unduly burdensome.
3. Within 30 days after the mailing of the tenant’s request to sublet or the additional information requested by the landlord, whichever is later, the landlord must send a reply consenting or denying the request. If the landlord fails to do so, the tenant may sublet, but is responsible for all obligations under the lease.

The landlord cannot ***unreasonably*** prevent the tenant from subletting. The tenant must notify the landlord in writing as any attempt to sublet the unit. The landlord can either consent or deny that request. If the landlord denies on unreasonable grounds, the tenant can sublet anyways. In the event of an ensuing legal battle, the tenant can re-claim legal fees if they win the case.

If the landlord consents, the tenant may sublet, but remains liable for current and all future monthly rent payments. The person who has their name on the lease is called the **primary** **tenant**. The person renting from them is called the **sub**-**tenant**.

The tenant cannot charge the sub-tenant more than the unit's monthly rent, the terms of the sublease cannot supersede those of the primary lease, the tenant cannot sublease the apartment for a period of time that extends beyond those specified in the original lease, and the tenant cannot sublet the unit for more than two years within any four-year period. Additionally, the unit must remain the tenant's primary residence and they must demonstrate their intent to occupy the unit at the end of the sublease.

For more information, see **pages 10-12 of the Tenants’ Rights Guide** or **Fact Sheet #7** for more information on subletting.

**Links to Include**

**pages 10-12 of the Tenants’ Rights Guide**

<https://ag.ny.gov/sites/default/files/tenants_rights.pdf>

**Fact Sheet #7**

<http://www.nyshcr.org/Rent/FactSheets/orafac7.pdf>

**21 PERSONAL INJURY OR PROPERTY DAMAGE**

*This section in clarifies the landlord's responsibilities in respect to personal property.*

1. The landlord is not responsible for damage to your property or for any personal injury unless it can be proven that it was as result of their failure to address the issue the caused it.

For example, the landlord is not responsible for you a pipe breaking and flooding your apartment unless the pipe broke as a result of their failure to address needed repairs.

2. The landlord is not responsible for accidental injury that occurs within the property or if you are the victim of theft.

3. The landlord is not responsible for damaged property that is received by landlord or one of their employees.

For example, they are not responsible if they receive a damaged item in the mail for you.

4. The landlord is not responsible for any property or personal injury if the injury or damage was caused by your actions.

For example, if the unit floods as a result of alterations you made to the unit, the landlord is not responsible.

5. Additionally, the landlord is not responsible for any inconveniences or interferences caused by construction or for anything that is related to other buildings or property that is not owned by the landlord.

**23 RIGHT TO A JURY TRIAL**

*Item 27 discusses how matters pertaining legal disputes over this lease will be decided by a judge and not a jury. However, this does not prevent either the tenant or the landlord from seeking a jury trial regarding personal injury or property damage.*

This section in the lease waives the right to a jury trial for either party in legal disputes related to this lease. In other words, both parties waive the right to a jury trial if there is a dispute over any section of this lease. This means that any dispute about elements of this lease will be heard and decided by a judge, in what is called a bench trial.

This does not, however, waive the rights of either the landlord or the tenant to a jury trial by if they wish to bring a lawsuit for anything else. In other words, the lease can only waive the right of both parties to request a jury trial in lawsuits that dispute interpretations of the lease, nothing else.

For more information, see **page 4 of the Tenant’s Rights Guide**.

**Links to Include**

**page 4 of the Tenant’s Rights Guide**

https://ag.ny.gov/sites/default/files/tenants\_rights.pdf

**24 MAJOR CAPITAL IMPROVEMENTS (MCI)**

*Item 30 discusses Major Capital Improvements (MCI), which is one way that landlords can legally increase the rent on a rent-regulated unit.*

A **major capital improvement** (MCI) is a when a landlord makes an improvement to the building that benefits or effects all residents. Repairs do not qualify as MCIs.

For example, a new boiler or a new roof are MCIs, but a simply repairing the roof does not count.

All MCI’s need to be approved by the New York State Division of Housing and Community Renewal (DHCR). When they are approved, the landlord can add the costs of an MCI into rent increases for unit in the apartment. For rent-stabilized units, increases may not exceed 6 percent of the tenant's rent in NYC and 15 percent outside of NYC. Therefore, large increases must be phased in over multiple years.

For example, if the landlord has an MCI that warrants an 18 percent increase in rent, those rent increases must be phased in over 3 years—which would mean a 6 percent increase each year. There is no limit on the number of MCIs that a landlord can submit, but tenants have the right to dispute any MCIs that are made by the landlord (see example below).

**DHCR Approval Process and Tenant Contest**

All MCIs are subject to approval by the DHCR. The process gives DHCR time to evaluate the request for the MCI, the responses of tenants, and determine how much rent increase the landlord will be able to collect. According to Fact Sheet #24, the process is as follows:

1. When a landlord submits an MCI application, DHCR notifies the tenants and gives them an opportunity to submit written responses to the application. They are instructed to comment on the proposed MCI and be as specific as possible in their comments. Tenants can request an extension of time to respond to the application, if they need to.
2. The landlord must keep a copy of the application with all supporting documentation on the premises so that tenants may examine it. However, a complete copy of the MCI application with all the supporting documentation will always be available at the DHCR for tenant review upon written request. DHCR will review the application, consider the tenant responses and may request additional documentation if deemed necessary.
3. When processing is complete, DHCR will issue an order either granting a rent increase for the total amount requested, a partial amount, or denying the request. The landlord and the tenants will be notified by DHCR of the amount of the rent increase per room and related terms and conditions in a written order. The rent increase is a **permanent** addition to the rent.

**Types of Increases**

There are two types of increases associated with MCIs: a permanent prospective increase and a temporary retroactive increase. The **permanent prospective** increase is added to the legal rent and it collected first. So, for example, if the DHCR has approved a $60 increase to my rent for an MCI, then that $60 will permanently be added to my rent—my rent of $800 would permanently increase to $860. However, since the limit on how much my rent can go up due to an MCI is 6 percent ($800 x 6%= $848). The next year, $12 a month will be added to the rent permanently increasing the tenants rent to $860.

**Temporary retroactive payments** are those amounts owed between the effective date and the issue date of the DHCR order granting the MCI. They apply only to rent-stabilized tenants (this does not apply to rent controlled units) and represents a temporary increase.

**Example**

So if the MCI effective data was in September and the issue data for the rent increases began in December, the temporary retroactive payments cover the months of September, October and November. Those payments will be included in the rent increases—as long as they are under the 6 percent threshold for that year’s allowable rent increases due to MCI. If not, they will be added onto the next year’s allows 6 percent increase due to MCIs until those three months are paid. **(See the examples on page 4 of the FACT SHEET #24).**

**Exceptions**. Tenants who are receiving a SCRIE (Senior Citizen Rent Increase Exemption) or DRIE (Disability Rent Increase Exemption) do not have to pay any portion of the MCI adjustment that raises their rent over 1/3 of their disposable income. They need to send a copy of the MCI order to the agency overseeing their program (in New York City it is the Department of Finance). Their rent exemption certificate will be amended to cover the amount of the MCI increase.

More information about MCIs can be found on **Fact Sheet #24**.

Also, see also **Frequently Asked Questions about MCI’s**.

**Links to include**

**page 4 of the FACT SHEET #24**

[**http://www.nyshcr.org/Rent/FactSheets/orafac24.pdf**](http://www.nyshcr.org/Rent/FactSheets/orafac24.pdf)

**Fact Sheet #24.**

<http://www.nyshcr.org/Rent/FactSheets/orafac24.pdf>

**Frequently Asked Questions about MCI’s.**

<http://www.nyshcr.org/Rent/Faqs/MCI-FAQ-for-tenants.pdf>

**24.1 INDIVIDUAL APARTMENT IMPROVEMENTS (IAI)**

*While item 30 discusses Major Capital Improvements (MCI), this section discusses Individual Apartment Improvements (IAI), which is another way in which rent can be legally increased.*

Another important improvement to know about is what is called an Individual Apartment Improvement (IAI). An IAI is when significant improvements are made to a rent-regulated unit, they are classified as Individual Apartment Improvement (IAI). This includes:

1. an increase in the unit’s size, for example, adding a new room or a balcony;
2. new services provided by the landlord, like if the landlord installs a central air conditioner;
3. substantial improvements that were made to the unit, like new flooring or new windows; or
4. new furniture or furnishings, like a new refrigerator or kitchen cabinets.

When these types of improvements are made to the unit, the landlord is entitled to an increase in the legal allowable rent. If the IAI is made while there is a tenant occupying the unit, the landlord ***must have*** the written permission of the tenant before they make and improvements. If the unit is not occupied, the landlord does not need any written permission.

**Common Examples of an IAI.** Some common examples of an IAI include new kitchen appliances, kitchen cabinets, bathroom fixtures, new closets, new washing machines, and new flooring. IAIs ***are not*** granted for routine maintenance like painting, skim-coating, scraping, or plastering. See **page 4 of this Operational Bulletin for** more examples

**Rent Increases From IAIs.** Landlords of buildings that have more than 35 units may chargetenants 1/60th of the cost of the improvement, while landlords of units with less than 35 units may only charge 1/40th of the cost of the improvement.

**How IAIs differ from MCIs.**

An Individual Apartment Improvement (IAI) differs from a Major Capital Improvement (MCI) in a few ways. **First**, IAIs are only made to an individual apartment, while MCI are benefits to all the residents of the building. One exception, however, is that a landlord may be able to get an MCI if they replace they (for example) replace the sinks in each of the units in the building. **Second**, IAIs require written permission from the tenant if the unit is occupied, while MCIs require approval from the New York State Division of Housing and Community Renewal (DHCR). Most IAIs are made to units when they are vacant, because no permission is needed. **Third**, the rent increases are calculated differently. For IAIs, they are either 1/40th or 1/60th of the cost of the improvement depending the number of units in the building, while rent increases for MCIs are determined by DHCR.

**Complaints**. If you did not receive a rider in your lease explaining the IAI increases, you should ask the landlord for it or file a **complaint with** DHCR. If the you have already signed a lease, but think that the charges are exaggerated or false, you can file a rent overcharge claim. In defending their case, the landlord would have to provide receipts or proof of some sort. You can file a **rent overcharge claim.**

For more information on IAIs can be found on **Fact Sheet #26** or the **Operational Bulletin** that supersedes Fact Sheet #12:

**Links to include**

**page 4 of this Operational Bulletin**

<http://www.nyshcr.org/Rent/OperationalBulletins/orao20161.pdf>

**complaint with DHCR**

<http://www.nyshcr.org/AboutUs/ContactUs.htm#rent-admin>

**rent overcharge claim**

<http://www.nyshcr.org/Forms/Rent/ra89.pdf>

**Fact Sheet #26**

<http://www.nyshcr.org/Rent/FactSheets/orafac26.pdf>

**Operational Bulletin**

<http://www.nyshcr.org/Rent/OperationalBulletins/orao20161.pdf>

**25 SUCCESSION RIGHTS**

*Item 32 discusses how rent-regulated units may be passed to family members under certain conditions.*

Generally, for rent-regulated units (rent-stabilized, rent-controlled, and Mitchel-Lama), family members living with the primary resident (the tenant that is named on the lease) have a legal right to succeed the primary resident on the lease if that tenant dies or vacates the unit.

A **family member** is defined as a spouse, children or stepchildren, brothers and sisters, parents and step-parents, grandparents and grandchildren, as well as in-laws. Family member status can also be extended to someone who is not one of these named relationships, but whose relationship is comparable to one of the named relationships. Think about a niece who moves into to take care of an aunt and their relationship can be described as parent child. Courts look at whether the successor can prove they provided emotional and financial support to the tenant and establish interdependence (that they and the tenant depend on each other). Some examples of interdependence are:

* being in a long relationship
* sharing of or relying upon each other for housing costs, family expenses, and/or other common necessities of life
* intermingling of finances like having a joint bank account or owning property together, sharing credit cards or loan obligations, or receiving government benefit
* engaging in family-type activities by jointly attending family functions, holidays and celebrations, social and recreational activities

There are some minimum residency requirements, however. The rights of succession will not be granted to the family member if they have not continually lived with the primary resident continually for at least two years (one year in the case of disabled persons or senior citizens). Exceptions are made if the family member's tenure is broken by military service, they are enrolled as a full-time student, or if they are hospitalized, for example.

For more information, see **pages 12 and 13 of the Tenants’ Rights Guide.**

**Links to Include**

**pages 12 and 13 of the Tenants’ Rights Guide**

<https://ag.ny.gov/sites/default/files/tenants_rights.pdf>

**26 GUARANTOR**

*This section describes a guarantor and when landlords might require them.*

A **guarantor** is someone who pledges their assets or services if the original lease signer defaults on a rent payment. In other words, they serve as a co-signer on the lease. This is done as an added layer of security for the landlord, and is a fairly common practice. If the original renter misses a payment, the landlord has the legal right to pursue payment from the guarantor instead.

A guarantor is usually requested by a landlord when the income (or combined income in the case of multiple people on the lease) is less than 40-45 times the monthly rent.

**Example**

If the monthly rent for a two-bedroom unit is $1,500, then the combined income or the two tenants appearing on the lease must be between $60,000 and $67,500, depending on which multiplier is used. If there is only one tenant on the lease, the tenant's income would need to be between $60,000 and $67,500.

This **article provides a good overview** of issues related to signing a lease with a guarantor.

**Links to include**

**article provides a good overview**

https://www.6sqft.com/everything-you-need-to-know-about-using-a-guarantor-in-nyc/

**27 THE PETS CLAUSE**

*This section discusses the “pet clause” and the conditions in which it can be waived.*

Tenants may keep pets in their unit unless other specified against doing so in their lease. Landlords can evict tenants who violate their lease by having a pet if the lease specifies that they cannot.

However, in New York City and Westchester County, the no-pet clause is waived if it can be demonstrated that the tenant accused of violating their lease has "openly and notoriously" kept a pet and the landlord or their agent's (like a super or someone from a management company) knew about it for more than three months.

Some examples of "openly and notoriously":

* the tenant taking their dog for a walk
* the super entered the apartment for repair and saw the pet or evidence of a pet like a lease or a litter box.

Additionally, tenants who may have disabilities may also ask for service animals or emotional support animals.

For more information, see **page 27 of the Tenants’ Rights Guide**.

**Links to Include**

**page 27 of the Tenants’ Rights Guide**

https://ag.ny.gov/sites/default/files/tenants\_rights.pdf

**28 WINDOW GUARDS**

*This section describes widow guards.*

A **window guard** is a device that can be attached to a window to prevent young children from falling. Often a window guards prevents the window from fully opening in some way.

Landlords in New York City have an obligation to install window guards on all windows except those giving access to fire escapes when children under 10 years of age are present in the household (meaning they live there). Tenants have to notify the landlord if a child under 10 is present and landlords must provide tenants with a form to request installation. Once installed, the tenant must not tamper with or remove.

For more information, see **pages 22 and 23 of the Tenants’ Rights Guide**.

**Links to Include**

**pages 22 and 23 of the Tenants’ Rights Guide**

https://ag.ny.gov/sites/default/files/tenants\_rights.pdf