



New York State
Division of Housing and Community Renewal
Office of Rent Administration

New York City Rent Stabilization Code

Advisory Opinion 87-2 (June 1, 1987)

***This Advisory Opinion is Issued Pursuant to
Sections 2520.7 and 2527.11
of the Rent Stabilization Code.***

Advisory Opinion 87-1 postponed to June 1, 1987 the imposition of the penalties provided by Section 2522.5(c)(2) of the Rent Stabilization Code for failure to furnish a copy of the English language version of the Notice of Rights and Duties of Hotel Owners and Tenants.

The DHCR has promulgated the Notice and will be making copies available to hotel owners at the District Rent Offices during the month of June. Therefore, the DHCR has determined that it would be inequitable to enforce the penalty provisions of Section 2522.5(c)(2) at this time because hotel owners may not have had adequate opportunity to obtain the Notice. The imposition of such penalties for failure to furnish such English language version of the Notice is further postponed to July 1, 1987.

Manuel Mirabal
*Deputy Commissioner
for Rent Administration*

Notice of Rights and Duties of Hotel Owners and Tenants

Summary

The following summarizes this Hotel Rights Notice. For further information, please refer to the full text of the Notice which follows this summary.

1. You may only be protected by Rent Stabilization if you become a "Permanent Tenant"

A permanent tenant is an individual who requests a lease for at least six months, or who continuously resides in the same building for at least six months, and a family member residing with such individual.

2. You have the right, upon registration, to immediately request a lease to become a permanent tenant

This document is being reissued for informational purposes only.

The original document which contains signatures of authorization is on file at DHCR's Office of Rent Administration.



You have a right to ask the owner for a six month lease at any time after registering in the hotel, and the owner must provide you with a lease within 15 days after such request. Your request to become a permanent tenant automatically gives you the right to remain in occupancy as a permanent tenant and gives you the protection and benefits of rent stabilization.

3. Your initial rent and the subsequent rentals charged thereafter are subject to regulation

As a permanent tenant, an owner may not charge you more than the most recent rent charged the prior permanent tenant, plus any lawful guidelines increase in effect at the time of your renting, as set for your hotel room/apartment by the NYC Rent Guidelines Board. Such rent is required to be registered with the DHCR. You may obtain this information by writing to the DHCR, Gertz Plaza Office, listed in the Appendix, provided you submit proof of residence in the hotel room/apartment. Hotel tenants may receive annual rent increases which are authorized by the Rent Guidelines Board, and the owner may apply for other increases, for building-wide or apartment improvements, or where an owner is not receiving a fair return on his or her investment after expenses (hardship).

4. You have the right to receive hotel services

Pursuant to the Rent Stabilization Law and Code, a hotel owner is required to provide hotel services such as maid and linen services. However, some hotels, rooming houses or SRO facilities may never have provided a full range of hotel services. In such instances, the owner must provide those services offered to tenants when these buildings first became subject to the Rent Stabilization Law in June, 1981.

5. You have the right to keep your room

If you lived in your room for 30 days or longer, or if you have a lease, or if you have asked for a lease, you may not be evicted unless the owner obtains a Court Order granting such eviction. An owner may not harass you by doing anything intended to make you vacate your room/apartment.

6. Where to go for assistance

If you feel your rights are being violated, you may contact one of the agencies listed in the Appendix attached.

Hotel Rights Notice

Introduction

This Notice generally informs hotel, rooming-house, and Single-Room (“SRO”) facility occupants, permanent tenants, and owners about their basic rights and responsibilities as provided for under the Rent Stabilization Law (RSL) as implemented pursuant to the New York City Rent Stabilization Code (Code). The RSL and Code regulate rents, services, and evictions. They also provide for rent increases to enable owners to meet increased maintenance costs, provide new services and equipment, and otherwise properly maintain the property.

This Notice does not contain every rule applicable to stabilized housing accommodations located in hotels, rooming-houses, and SRO’s. This Notice is only informational. It does not replace or modify the RSL, the Code, any order of the New York State Division of Housing and Community Renewal (DHCR), or any order of the New York City Rent Guidelines Board. The appendix lists organizations which can provide assistance to hotel, rooming-house, and SRO occupants, permanent tenants, and owners who have inquiries, complaints or requests relating to subjects covered in this Notice.

A hotel occupant or permanent tenant should keep a copy of this Notice and of any lease he or she may sign.

Jurisdiction

In New York City, for a hotel to be subject to the Code, it must have been constructed on or before July 1, 1969, and contain six or more housing accommodations. Rentals for the individual hotel housing accommodations must have been less than \$350.00 per month or \$88.00 per week on May 31, 1968. The Code defines a hotel as any class A or B Multiple Dwelling which provides basic hotel services such as a maid, linen, use and upkeep of furniture, and switchboard and other desk-type facilities. This full range of hotel services may not necessarily be required to qualify as a hotel in certain Class B Multiple Dwellings, such as rooming-houses and some SRO's.

A hotel occupant may only be protected by rent stabilization if he or she becomes a "permanent tenant". A permanent tenant is an individual or his or her family member residing with such individual, who: (1) has continuously resided in the same building as a principal residence for a period of at least six months; or (2) who requests a lease of six months or more; or (3) who is in occupancy pursuant to a lease of six months or more even if actual occupancy is less than six months.

Upon notification by a hotel occupant of his or her intent to reside at the premises on a long term basis, the owner shall not, through any action or inaction, prevent such occupant from becoming a permanent tenant. In addition, no owner shall compel any person to rent as a hotel occupant, or require a hotel occupant upon registration to represent or agree that the housing accommodation will not be used as a principle residence, or will be used for commercial or professional purposes when in fact the housing accommodation is to be used solely for residential purposes.

First Lease

A hotel occupant, who has never had a lease, may become a permanent tenant by requesting a first lease for a term of at least six months at any time after commencing occupancy, and the owner must provide such lease within fifteen days after such request. The six month term is the minimum lease period mandated by the Code. However, unlike owners of rent stabilized apartment buildings, who are required to offer rent stabilized tenants renewal leases for one or two years at the tenants' option, hotel owners are not required to provide renewal leases to permanent tenants. A permanent tenant has the right to remain in occupancy, whether or not the lease is renewed by the owner. Permanent tenants are subject to annual guidelines increases set by the New York City Rent Guidelines Board, whether or not they have leases.

Security Deposit

A hotel owner may collect a security deposit no greater than one month's rent, provided the hotel occupant is granted a first lease. When the rent is increased if the lease is renewed or the permanent tenant chooses to remain in occupancy after the lease expires, the owner may charge an additional amount to bring the security deposit up to the full amount to which the owner is entitled.

Security deposits must be deposited in an interest bearing trust account in a New York bank. Owners may deduct an annual service fee of 1% of the security deposit, and must, at the permanent tenant's option, apply the balance of the interest paid by the bank to the rent, hold it in trust until repaid, or pay it annually to the permanent tenant.

Vacancy Rent

When a hotel occupant who commenced occupancy after August 15, 1983, becomes a permanent tenant, there is a restriction upon the amount of rent that may be charged. An owner may not charge such permanent tenant more than the most recent lawful rental amount paid by the most recent prior permanent tenant plus any lawful guidelines increase and/or vacancy allowance then in effect as set for hotel housing accommodations by the New York City Rent Guidelines Board. Such rent is required to be registered with the DHCR. You may obtain this information by writing to the DHCR, Gertz Plaza Office, listed in the Appendix, provided you submit proof of residence in the hotel room/apartment. In addition to guidelines increases, the rent may be permanently increased by the verified cost of new services, equipment or improvements, furniture or furnishings provided to the individual housing accommodation; the cost of a completed major capital improvement; or for a hardship where the rent is not sufficient to enable the owner to obtain a fair return on his or her investment after expenses.

Senior Citizen Rent Increase Exemption ("SCRIE")

The New York City Department of Housing Preservation and Development (HPD), administers the SCRIE program. Under this program, permanent hotel tenants who are 62 years of age or older, and whose "net" household income is not more than \$12,025 per annum, may qualify for exemption from guidelines rent increases, hardship rent increases, or rent increases based upon major capital improvements. This exemption will only be from that portion of the rent increase which causes the permanent tenant's rent to exceed one-third of the "net" household income, and is not available for increases based on new services or equipment furnished within an individual housing accommodation. When a senior citizen is granted a rent increase exemption, the owner may obtain a real estate tax credit from New York City equal to the amount of the exemption. The SCRIE office is located at 17 John Street, 4th Floor, New York, NY 10007, (212) 566-5413 or 5414.

Services

Services required to be provided to a permanent tenant include building-wide services such as heat, hot water, janitorial service, maintenance of locks and security devices, repairs and maintenance. Services may also include elevators, air conditioning, doormen and other amenities. Ancillary services provided by the owner, such as laundry room facilities or switchboard service, etc., provided at an additional charge separate and apart from the rent if there is or was on the base date or at anytime subsequent thereto common ownership between the operator of such service and the owner of the hotel, may also not be discontinued. Required services also include services within the housing accommodation, such as maintenance and repair of appliances, and painting every 3 years. Where telephone switchboard service is not provided, an owner cannot deny a permanent tenant permission to install a private telephone if such installation does not cause undue economic hardship to the owner. In addition, an owner shall not cause a pay telephone to be removed from the premises.

The customary hotel services required to be provided include, but are not limited to, maid service, the provision and laundering of linen, use and upkeep of furniture, as well as 24 hours per day, 7 days per week staffed lobby coverage. Upon a finding by the DHCR on complaint of a permanent tenant that services are not being maintained, a rent reduction may be imposed, and future rent increases may be barred until the rent is restored pursuant to an order of the DHCR.

It should be noted that this full range of hotel services may not necessarily be required to be provided in class B Multiple Dwellings such as rooming houses and some SRO hotels. The hotel services required to be provided would be those services provided when such buildings first became subject to the RSL in June, 1981.

Evictions

Generally, except as explained below, so long as a hotel occupant or permanent tenant pays the lawful rent to which the owner is entitled, such occupant or permanent tenant is entitled to remain in the housing accommodation. An owner may not harass an occupant or permanent tenant by engaging in an intentional course of conduct intended to make such occupant or permanent tenant vacate the housing accommodation.

Under the Real Property Actions and Proceedings Law, a hotel occupant residing at the hotel for thirty days or more even though he has not requested a lease and is not a permanent tenant, may only be evicted pursuant to an action or proceeding instituted in the Civil Court. If such an action is brought, the “occupant” will receive notice of the action and of the right to answer and appear in court. Lockouts of such hotel occupants, or of permanent tenants are strictly illegal.

Permanent tenants may be evicted by court order without DHCR approval, for the following wrongful acts:

- (a) Non-payment of rent or other charges;
- (b) Violating a substantial obligation of the tenancy;
- (c) Committing or permitting a nuisance, or harassing the owner or other tenants;
- (d) Illegally using or occupying the housing accommodation;
- (e) Unlawfully refusing the owner access;
- (f) Refusing to vacate the housing accommodation after at least 20 days’ written notice, and to move to a substantially similar housing accommodation in the same building at the same legal regulated rent, in order to permit the owner to reconstruct, renovate or improve the vacated housing accommodation pursuant to the owner’s lawful plan to reconstruct, renovate or improve said housing accommodation in the hotel or rooming house in which it is located. The owner must move the permanent tenant’s belongings to the other housing accommodation. The permanent tenant who has been so required to move shall be afforded the right to reoccupy the reconstructed, renovated or improved housing accommodation at the same legal regulated rent, unless such rent is otherwise provided for pursuant to the Private Housing Finance Law, the Housing New York Program Act, or the U.S. Housing Act of 1937.

Permanent tenants are cautioned that causing violations of health, safety or sanitation standards of the applicable laws, ordinances, and regulations, or permitting such violations by a member of their family or household, or by a guest, may be the basis for an eviction action or proceeding by the owner.

An owner may refuse to continue a hotel tenancy on the following grounds, and commence an eviction action or proceeding in Civil Court without prior order of the DHCR:

- a) the owner seeks the housing accommodation in good faith for personal use or for the personal use of members of the owner’s immediate family.
- b) the housing accommodation is owned by a hospital, convent, monastery, asylum, public institution, college, school dormitory or any institution operated exclusively for charitable or educational purposes on a non-profit basis, and the institution requires the housing accommodation for its charitable or educational purposes.

In addition, there are other grounds for refusing to continue a hotel tenancy. Such grounds require approval of the DHCR. A permanent tenant must be served with a copy of the owner’s application and has a right to object. These grounds include:

- a) where the owner seeks in good faith to recover possession of the housing accommodations for the purpose of demolishing them and constructing a new building, or for the purpose of substantial demolition of the interior of the building or in order to make major alterations and perform substantial rehabilitation of the building.
- b) where the owner requires the housing accommodations or the land for his or her own use in connection with a business which he or she owns and operates, or
- c) where substantial violations constituting conditions detrimental to life or health have been filed against the building, and the cost of removing such violations would equal or exceed the value of the building.

If the owner's application is granted, the owner may bring an action or proceeding in Civil Court after sending a 30 day notice to the permanent tenant, provided the permanent tenant's lease, if any, has already expired.

Appendix

Some agencies which can provide assistance

New York State Division of Housing and Community Renewal (DHCR)

The DHCR is a state agency empowered to administer and enforce the Rent Stabilization Law and the Rent Control Law. Tenants should contact the DHCR Public Information Offices listed below:

Gertz Plaza
 92-31 Union Hall Street
 Jamaica, NY 11433 / (718) 739-6400

Bronx
 One Fordham Plaza
 Bronx, NY 10458 / (212)519-5681

Lower Manhattan
 (South Side of 110th Street
 and below)
 2 Lafayette Street / 12th Floor
 New York, NY 10007 / (212) 566-7970

Brooklyn
 91 Lawrence Street / 2nd Floor
 Brooklyn, NY 11201 / (718) 643-7570

Upper Manhattan
 (North side of 110th Street
 and above)
 215 West 125th Street / 5th Floor
 New York, NY 10027 / (212) 678-2201

Staten Island
 350 St. Mark's Place / Ground Floor
 Staten Island, NY 10301/ (718) 816-0277

Attorney General of the State of New York
 120 Broadway, New York, NY 10271

Consumer Frauds and Protection Bureau / (212) 341-2345

Investigates and enjoins illegal or fraudulent business practices, including the overcharging of rent and mishandling of rent security deposits by owners.

Real Estate Financing Bureau / (212) 341-2121

Administers and enforces the laws governing cooperative and condominium conversions. Investigates complaints from tenants in buildings undergoing cooperative or condominium conversion concerning allegations of improper disclosure, harassment and misleading information.

New York City Department of Housing Preservation and Development (HPD)

Office of Rent and Housing Maintenance
100 Gold Street / Room 8170 / New York, NY 10038 / (212) 566-3918

Provides owners with assistance on housing matters.

Provides tenants considering court action to enforce housing maintenance standards with assistance at 125 Church Street, 3rd Floor, New York, NY 10007

Senior Citizen Rent Increase Exemption Program (SCRIE)
17 John Street / 4th Floor / New York, NY 10007 / (212) 566-5413

Administers SCRIE Program

New York City Central Complaint Bureau
215 West 125th Street / New York, NY / (212) 960-4800

Receives telephone complaints relating to physical maintenance, health, safety and sanitation standards, including emergency heat and hot water service.

New York City Rent Guidelines Board (RGB)
51 Chambers Street / Room 201 / New York, NY 10007 / (212) 349-2262

Promulgates annual percentage of rent increases for rent stabilized hotel dwelling housing accommodations and provides information on guidelines orders.

Office for Homeless and Single Room Occupancy Housing Services
52 Chambers Street, 4th Floor, New York, NY 10007 / (212) 566-3200

Responsible for establishing policies and guidelines with respect to social, health, employment, shelter, and other services for the homeless, and SRO tenants.

Copies of New York State and New York City rent laws are available in the business section of some public libraries. Telephone or write to a public library to determine the exact library which has such legal material.