

George E. Pataki  
Governor



Judith A. Calogero  
Commissioner

**New York State Division of Housing and Community Renewal**  
**Office of Rent Administration**  
Gertz Plaza  
92-31 Union Hall Street  
Jamaica, NY 11433

October 18, 2005

This is in response to your letter of August 1. We regret the delay in responding. You explain that you and your wife have been residents in your apartment for 25 years, and your son has resided therein with you for the last five years. Your renewal lease was due to commence September 1.

You inquire whether you could have legally added your son's name to said renewal lease.

Pursuant to Section 2522.5(g)(1) of the Rent Stabilization Code (RSC), an owner is required to provide a renewal lease that is on the same terms and conditions as the expiring lease. However, "the tenant shall have the right to have his or her spouse, whether husband or wife, added to the lease or any renewal thereof as an additional tenant when said spouse resides in the housing accommodation as his or her primary residence."

Complying with the above requirement does not entitle an owner to a vacancy increase. However, the RSC does not contain any similar requirement to add the name of a non-spouse to the lease. An owner who agrees to do so is entitled to charge the vacancy increase, possibly as high as 20 percent, as a new tenancy is created, permitting the owner to offer a vacancy lease naming the original tenants and the added non-spouse as tenants. In addition, a vacancy allowance, if authorized at that time by the New York City Rent Guidelines Board, may also be added. (The current Rent Guidelines Board Order does not provide for a vacancy allowance).

Please also note that even if your son is not added as a named tenant to the lease, he could ultimately be entitled to "succession" rights should you and your wife permanently vacate the apartment. In such case, he may be entitled to a renewal lease, without a vacancy increase. Enclosed, please find DHCR Fact Sheet #30, *Succession Rights*.

We trust that we have fully responded to your inquiry.

Please be advised that this opinion letter is not a substitute for a formal agency order issued upon prior notice to all parties and with all parties having been afforded an opportunity to be heard.

Very truly yours,

Michael B. Rosenblatt  
Deputy Counsel

  
By: John D. Lance  
Associate Attorney

MBR:JDL

cc: Deputy Commissioner Roldan  
(COL-1906)