

UNSHELTERED

What You Need to Know as a New York Tenant

By Grace Ashford

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New York's roughly one million rent-regulated apartments make up the largest portion of affordable housing in the city. Officially, there are mechanisms in place not only to govern the amount of rent charged for these units but also, crucially, to protect the rights of the people who live in them. In practice, though, the burden largely falls on tenants to be proactive in holding their landlords to account.

It's a complicated system and can be confusing to navigate. Here's a quick primer on what your rights are and how to exercise them.

Find Out If Your Apartment Is Regulated

There are two types of rent regulation: rent stabilization and rent control. Both are intended to protect tenants from large rent increases and guarantee that they can stay.

If you live in a rent-controlled apartment, you probably already know it (for one thing, it will have been in your family since 1971 or earlier). But it is entirely possible to move into a rent-stabilized apartment without realizing it.

Stabilization, which applies in buildings built before 1974 that have six or more units, as well as in those that receive certain tax breaks, means that your rent can be increased only by the percentage set each year by the city's Rent Guidelines Board. This year, it's 1.25 percent for one-year leases and 2 percent for two years.

To find out if your apartment is rent-stabilized, request its rent history from the Division of Housing and Community Renewal.

When someone moves out of a rent-stabilized apartment, the landlord can raise the rent by up to 20 percent, plus a portion of the cost of any improvements made — one-fortieth or one-sixtieth, depending on the size of the building. If you see an increase on your rent history that doesn't

seem to add up, you can seek a rent abatement by filing an overcharge complaint with the Division of Housing and Community Renewal. There is a catch, though: With few exceptions, complaints must be filed within four years of the increase.

Apartments typically fall out of regulation when the rent hits a certain threshold (currently \$2,733.75) and the regulated tenant moves out. If you live in a stabilized apartment and your rent surpasses that threshold, your increases will still be governed by the city. But once you move out, the apartment will enter the free market.

Preferential Rent

A preferential rent is a discount given by your landlord for a set period, as defined in your lease.

When landlords offer a preferential rent, they also list a “legal rent” — the real stabilized rent of the apartment. Landlords have the option at each lease renewal to end the discount and raise the rent to its legal maximum.

Preferential rent is typically offered in areas on the verge of gentrifying. Think of it as a kind of landlord’s insurance policy: The larger the preferential discount, the more likely a tenant is to leave if it is taken away.

If you have a preferential rent, you can request your apartment’s rent history to see whether the legal rent has been calculated properly. If you file an overcharge complaint, the Division of Housing and Community Renewal will look at the first time the landlord offered a preferential rent — even if it was more than four years ago — to determine whether the registered legal rent is lawful.

Construction Rules

When building owners do major renovations, they must file permits with the city’s buildings department. To view a specific permit, search building information at nyc.gov/bis.

The permit shows the scope of work and the architects and engineers involved. It also asks the owner to indicate whether the building is occupied and whether it contains regulated apartments. To report a lie on a building permit, work being done without a permit or construction going on outside normal work hours (weekdays from 7 a.m. to 6 p.m.), you can call 311 or visit nyc.gov/311. Submitting photos or videos can help.

When buildings are occupied during construction, landlords must file tenant-protection plans with the buildings department and provide them to tenants upon request.

If you have been subjected to construction nuisances — or frivolous lawsuits, poor conditions or other harassment — you have a right to sue your landlord in housing court by filing what's known as an HP action. Ask neighbors if they have experienced the same problems: Organized groups get the best results.

Alternatively, regulated tenants can file complaints with the Division of Housing and Community Renewal or, for building-wide issues, with the Tenant Harassment Prevention Task Force.

Heading Off, or Answering, a Lawsuit

If you receive a rent demand or a notice of termination, contact your landlord to try to resolve the matter before it becomes a lawsuit. If you believe you don't owe anything, this is the time to show your receipts and get a corrected ledger. (Tip: Keep copies of rent receipts, email confirmations, cashier's check stubs — anything that proves you made a payment.)

If you receive a petition, it means a case has been filed against you. You will need to file an answer in housing court. If you don't answer, the landlord can get a default judgment and evict you.

When you answer, you get to pick a court date to go before a judge. You will also be able to lodge any defenses you would like to raise in court.

Be sure to bring all relevant receipts and other documents to your first court date: It may save you from having to schedule a second one.

If you find an eviction notice from a city marshal on your door, you can file an order to show cause in housing court to halt the eviction. This will let you stay in your home until you can plead your case before a judge.

Legal Assistance and Other Resources

There are many tenant groups that can help you understand your rights, find a lawyer, look into rental assistance programs and more. Housing Court Answers offers detailed information on its website and at tables in housing courts across the city. Your City Council member can also help connect you with tenant organizations and other resources in your area.

Last year, the city passed a law to provide free legal counsel to New Yorkers who make less than \$24,280 a year (or \$50,200 for a family of four). The program, which is being put into effect over five years, is available in 15 ZIP codes so far: 10025, 10026, 10027, 11216, 11221, 11225, 11433, 11434, 11373, 10302, 10303, 10314, 10457, 10467 and 10468.

The Tenant Blacklist

If you have been sued in housing court, you are probably on the “tenant blacklist,” a collection of names gathered from housing court records and sold to tenant screening bureaus. Landlords consult these bureaus when deciding whether to rent to you.

While most tenant screening data is off-limits to tenants, a few bureaus (including Experian, CoreLogic and First Advantage) allow individuals to request their own files.

There is no official way to remove yourself from the blacklist, but you can alert the bureaus to any false or incomplete information. Be sure to include proof of the resolution of your case.

It can also help to be up front with prospective landlords when you apply for an apartment. Mentioning the case in an application — and providing proof of how it was resolved, a letter of recommendation from your landlord or other evidence that you are a responsible tenant — can help you overcome the stain of the blacklist.

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