

NYC LANDLORD/TENANT MATTERS
1 CREDIT HOUR

Leases (15 MINUTES)

- Lease may be written, oral, or implied
- New York State requires plain-English format for residential leases
- Eight essentials of valid lease:
 - Capacity to Contract
 - Demising Clause
 - Description of Premises
 - Clear Statement of Term
 - Specification of Rent
 - In Writing, if for more than one year
 - Signatures
 - Delivery
- Statute of Frauds
 - Agreements must be completed for a year or more, require memorialization, and a written, signed contract in order to be valid and enforceable
 - Leases under a year can be oral and still enforceable as they would not break the time aspect of the statute of frauds
- Free Market Leases
 - Standard REBNY Rental Lease Form
 - Rent Stabilized Lease Form
 - Standard
 - Rent Stabilized because of 421-A or other tax credits/benefits
 - Condominium Lease
- Required Riders for all Leases
 - Lead Paint: must disclose presence or knowledge of lead paint
 - Lead Paint Pamphlet
 - Sprinklers: must disclose presence or absence of sprinklers

Rent Control & Rent Stabilization (30 MINUTES)

- Two types of rent regulation in New York State
 - Apartment not subject to these regulations considered “unregulated”
 - Tenant’s rights depend, in part, on which regulations apply
- Rent Controlled (**RARE**)
 - Tenant has been living continuously in apartment since July 1, 1971
 - If apartment in one or two-family house, continuous occupancy since April 1, 1953
 - When Unit become vacant either becomes rent stabilized or removed from regulation altogether
- Rent Stabilized
 - Vacancy Lease
 - Contract between the owner and the tenant which states the terms and conditions of the lease, including the length of the lease, and the rights and responsibilities of the tenant and the owner

- Rent Stabilization Law gives the new tenant (“Vacancy Lease Tenant”) choice of one or two year lease term
- Rent cannot exceed last legal regulated rent and applicable Rent Guidelines Board increases authorized by law
- Rent Stabilization Lease Rider/Addenda
 - Shows how rent computed, asserts increases comply with Rent Stabilization law and code
 - Must contain details about Individual Apartment Improvement (IAI) rent increase calculations
 - Must contain notice informing tenant of right to request from owner documentation that clarifies the IAI increase at time of signing or within sixty days of signing
- Vacancy Lease Rent increases cannot be collected if a DHCR order reducing rent for decreased services in effect
- No more than one vacancy increase per calendar year
- The Housing Stability and Tenant Protection of 2019 eliminated the vacancy allowance that an owner can add to the legal regulated rent.
- For rent controlled apartments, the maximum increase in rent is limited to the average of the last five Rent Guidelines Board orders
- Required Furnishings
 - Warranty of Habitability: tenants entitled to apartment “fit for habitation”
 - Landlords required to maintain systems and appliances in good and safe working order
 - Must protect against lead paint
 - Must install high quality smoke and carbon monoxide detectors
 - Must provide locks for front doors and individual doors
 - Must provide peephole in door
 - Must protect against rodents and bedbugs
- Delivery of Lease
 - Written notice of renewal
- Subletting & Assignment
 - Owner cannot unreasonably deny if tenant:
 - Informs owner of intent to sublet via written notice sent no less than 30 days prior to subletting with:
 - Sublet term
 - Name and address of subtenant
 - Reason for sublet
 - Tenant address for term of sublet
 - Consent of any co-tenant/guarantor
 - Copy of tenant’s lease, acknowledged by tenant and subtenant as being true copy
- Tenant’s Rights
 - Entitled to one or two-year lease renewal
 - Right to sublet for two out of any four year period subject to owner consent which cannot be unreasonably withheld
 - One unrelated roommate plus their dependent children
 - Immediate family does not count as roommate

- Includes: spouse, children, stepchildren, parents, stepparents, in laws, anyone who can prove emotional and financial commitment and interdependence
 - Tenant can add spouse to lease or renewal lease
 - Owner must consent and be notified within 30 days
 - Roommate cannot be charged more than proportionate share of rent
- Renewal
 - Owners must offer renewal lease 90-150 days before current lease expires
 - If not offered renewal, must sent written notice of non-renewal 90-150 days prior to lease expiration and state reason why not renewing
 - Can only refuse to renew for a few reasons:
 - Owner's Use/Primary Residency (N.B.: Historically, these cases difficult to win)
 - Non-Primary Residence of Tenant
 - Demolition
- Tenant Removal
 - Illegal Sublet
 - Nuisance
 - Illegal Activity

Preparation of Leases (15 MINUTES)

- State of NY prohibits practice of law by non-attorneys
- Duncan and Hill Realty Inc. v. Department of State of the State of New York
 - Real estate licensee can prepare contract or leases in connection with transactions in which licensee functioned as agent, with caveats:
 - Licensee cannot directly or indirectly received compensation for preparing legal instrument affecting real estate
 - Licensee must have act as an agent on behalf of one of the parties (lessor or lessee)
 - Licensee cannot provide legal advice
 - Contract or lease form must be a "fill in the blank" form requiring no legal expertise (ex. cannot craft legal language which is not already in the form Contract)
 - Form contract or lease must either:
 - Be jointly approved by the Bar Association and the Board of Realtors in county where property located
 - Contain attorney approval clause ("Attorney Review")
 - Forms alert parties that when signed the instrument is binding and advises to consult attorney prior to signing
- Signature Requirement from Tenant
 - Contemporaneous clauses and examples of compliance
- Conversion of Rent Controlled to Rent Stabilized
 - IAls and Fair Market Rent
 - IAI vs MCI
 - Items listed as an IAI may not be eligible
 - Ordinary maintenance and repair (not eligible) vs renovation (eligible)

- Proof of IAI (invoices, work contracts, checks, paid bills, etc.)
- Lease Renewals
 - Addressing Failures to Renew
 - Holdover actions
 - Preserving Effective Date of Lease Renewals
 - Accepting Rent from Tenant who Failed to Sign Lease
 - Deregulation of Rent-Stabilized Apartment
 - Penalties for failing to provide Rider
- Penalties for failing to provide Riders



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