

Chapter 24: Successor Tenants in City Owned Buildings under the Supervision of the Department of Housing Preservation and Development

§ 24-01 Definitions.

City owned building. City owned building. "City owned building" shall mean any building owned by the City of New York and assigned to HPD for management, including a building participating in the Tenant Interim Lease Program.

DHHD. [Repealed.]

Disabled Person. "Disabled person" shall mean a person who has an impairment which results from anatomical, physiological or psychological conditions, other than addiction to alcohol, gambling, or any controlled substance, which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques, and which are expected to be permanent and which substantially limit one or more of such person's life activities.

DPM. [Repealed.]

Family Member. "Family member" shall mean:

- (1) A husband, wife, son, daughter, stepson, stepdaughter, father, mother, stepfather, stepmother, brother, sister, nephew, niece, uncle, aunt, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, or daughter-in-law of a tenant;
- (2) Any other person residing with the tenant in the apartment as a primary residence, who can prove emotional and financial commitment, and interdependence between such person and the tenant. Although no single factor shall be determinative, evidence which is to be considered in determining whether such emotional and financial commitment and interdependence existed may include, without limitation, such factors as listed below. In no event is evidence of a sexual relationship between such persons to be required or considered.
 - (A) longevity of the relationship;
 - (B) sharing of or relying upon each other for payment of household or family expenses, and/or other common necessities of life;
 - (C) intermingling of finances as evidenced by, among other things, joint ownership of bank accounts, personal and real property, credit cards, loan obligations, sharing a household budget for purposes of receiving government benefits, etc.;
 - (D) engaging in family-type activities by jointly attending family functions, holidays and celebrations, social and recreational activities, ect.;
 - (E) formalizing of legal obligations, intentions, and responsibilities to each other by such means as executing wills naming each other as executor and/or beneficiary, granting each other a power of attorney and/or conferring upon each other authority to make health care decisions each for the other, entering into a personal relationship contract, making a domestic partnership declaration, or serving as a representative payee for purposes of public benefits, ect.;
 - (F) holding themselves out as family members to other family members, friends, members of the community or religious institutions, or society in general, through their words or actions;
 - (G) regularly performing family functions, such as caring for each other or each other's extended family members, and/or relying upon each other for daily family services;
 - (H) engaging in other patterns of behavior or other action which evidences the intention of creating a long-term, emotionally-committed relationship.

HPD. "HPD" shall mean the New York City Department of Housing Preservation and Development or any successor agency.

Occupant. "Occupant" shall mean a person occupying an apartment, other than a tenant.

Occupied building. "Occupied building" shall mean a City owned building, occupied by tenants.

Senior Citizen. "Senior Citizen" shall mean a person who is sixty-two years of age or older.

Tenant. "Tenant" shall mean an HPD authorized residential tenant of record. Occupants such as squatters and licensees are not tenants of record.

Unacceptable activity. "Unacceptable activity" shall include, but not be limited to, drug trafficking, prostitution, unlawful possession of a firearm, organized gambling, attacking or threatening other residents of a building or employees, contractors or agents of HPD, damaging or defacing any portion of a building, generating excessive traffic of people or materials in and out of a building, generating loud noise which is disturbing to other residents or engaging in any activity which constitutes a nuisance, or creates a hazard to other tenants of the building.

§ 24-02 Statement of Purpose.

These regulations are intended to set forth the standards that will be used by HPD to determine who will be eligible to apply to succeed to the tenancy of a tenant when an apartment is permanently vacated by that tenant.

§ 24-03 Coverage.

These rules apply to residential apartments in City owned buildings under the jurisdiction of HPD.

§ 24-04 Eligible Persons.

Unless otherwise prohibited by occupancy restrictions based upon income limitations pursuant to federal, state or local law, regulations or other requirements of governmental agencies, if a tenant has permanently vacated an apartment, any family member, who has resided with the tenant in the apartment as a primary residence for a period of no less than two (2) years, or where such family member is a "senior citizen", or a "disabled person", for a period of no less than one (1) year, immediately prior to the permanent vacating of the apartment by the tenant, or from the inception of the tenancy or commencement of the relationship, if for less than such periods, may apply to HPD to become the legal tenant of such apartment.

§ 24-05 Ineligible Persons.

Persons otherwise eligible to apply for tenancy under 28 RCNY § 24-04 above shall not be offered tenancy if:

- (a) they have engaged in an unacceptable activity, or;
- (b) they fail to pay any accrued rent which they have been advised by HPD is due for the apartment or;
- (c) the permanent tenant was evicted for failure to pay rent or any other cause, or a proceeding, other than a non-payment proceeding, has been commenced against the permanent tenant and not yet completed.

§ 24-06 Calculation of Minimum Period of Residency.

The minimum periods of required residency set forth in this subdivision shall not be deemed to be interrupted by any period during which the "family member" temporarily relocates because he or she:

- (a) is engaged in active military duty;
- (b) is enrolled as a full time student;
- (c) is not in residence at the apartment pursuant to a court order not involving any term or provision of the lease, and not involving any grounds specified in the Real Property Actions and Proceedings Law;
- (d) is engaged in employment requiring temporary relocation from the apartment.

§ 24-07 Application for Successor Tenancy.

(a) An occupant seeking to become a tenant must show that he or she is eligible to apply for tenancy pursuant to 28 RCNY § 24-04. Such application must be made on a form prescribed by HPD within 30 days after the permanent vacating of the apartment by the permanent tenant.

(b) An application for successor tenancy must be accompanied by the following documents, as applicable:

1. Proof of family relationship to tenant of record, such as (i) marriage certificate, (ii) domestic partnership certificate; or (iii) other proof of emotional and financial commitment, and interdependence as described in paragraph (2) of the definition of "family member" in 28 RCNY § 24-01, and an affidavit swearing to family relationship;

2. If occupant/applicant is claiming co-occupancy, proof of continual, permanent residence during such time period, including one or more of the following: (i) tax returns, (ii) employment records, (iii) government agency documents verifying home address; (iv) Board of Elections records; (v) driver's license issued by the Department of Motor Vehicles, identification card or automobile registration; (vi) insurance policies that indicate a home address; (vii) utility bills; (viii) credit card or banking statements; (ix) medical bills and statements; (x) school records; (xi) military service records; (xii) marriage and/or birth certificates; or (xiii) other government-issued photo identification card such as a New York city identification card;

3. If occupant/applicant is claiming co-occupancy for one year and senior citizen status, a birth certificate or other proof of age, in addition to the documents required in paragraph 2 of this section;

4. If occupant/applicant is claiming co-occupancy for one year and a disability, proof of disability from a government agency or medical documentation completed by a medical professional, in addition to the documents required in paragraph 2 of this section;

5. If occupant/applicant has been temporarily relocated, a copy of the relocation agreement;

6. If occupant/applicant has been temporarily relocated, proof of prior address;

7. If the apartment is a relocation apartment, documents proving acceptable temporary relocation during the required residency period pursuant to 28 RCNY § 24-06;

8. Documents proving the non-residency of the tenant of record, which may include: (i) death certificate; (ii) divorce or separation agreement and proof of residency at new address for tenant of record (e.g., utility bills); (iii) proof of residency at new address for tenant of record who has voluntarily vacated; (iv) letter certifying permanent occupancy of tenant of record in institutional facility; or (v) other relevant documentation of circumstances leading to non-residency of tenant of record; and

9. Any other documentation required or requested by HPD for the purpose of determining eligibility of the applicant for successor tenancy.

(Amended City Record 11/17/2016, eff. 12/17/2016)

§ 24-08 Application.

HPD shall review the application of an occupant who seeks to become a successor tenant and shall advise the applicant of the acceptance or rejection of such application. If the application is rejected for failure to show that the occupant is an eligible person, HPD shall give a brief description of the reason for such rejection. If the occupant's application is rejected for unacceptable activity, the rejection shall so state.

§ 24-09 Appeal.

If an application is rejected, the applicant may appeal such determination within 14 days to the Assistant Commissioner of the Division having jurisdiction of the applicant's building. Such appeal shall be in writing. The Assistant Commissioner shall review the determination and any additional information submitted by the applicant and shall issue the final agency decision with regard to the applicant's application.