

THE HOUSING PARTS OF THE CIVIL COURTS ARE LOCATED:

<u>Brooklyn</u> 141 Livingston Street Brooklyn, NY 11201 718-643-7528	<u>Bronx</u> 1118 Grand Concourse Bronx NY 10451 718-466-3025	<u>Queens</u> 89-17 Sutphin Blvd Jamaica, NY 11435 718-262-7145	<u>Manhattan</u> 111 Centre Street New York, NY 10013 646-386-5500
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<u>Red Hook Community Court</u> 88-94 Visitation Place Brooklyn, NY 11231 718-923-8200	<u>Staten Island</u> 927 Castleton Avenue Staten Island, NY 10301 718-390-5420	<u>Harlem Community Court</u> 170 East 121st Street New York, NY 10035 212-828-7558
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WHERE TO GO FOR HELP

The City-Wide Task Force on Housing Court, Inc., staffs information tables in each of the housing courts from 9 a.m to noon Monday through Friday, except for Staten Island and the 2 Community Courts. Staten Island is open Wed and Thurs. Harlem is open Mon, Thurs & Fri. Red Hook is open every other Wed. The information table is free and is available to all unrepresented litigants. Referrals will be made to neighborhood groups, legal service providers and other eviction prevention services. Each afternoon from 2:00 to 4:00 you can get answers to basic questions from our hotline at **212-962-4795**, or visit our website at cwtfhc.org for more information.

The Metropolitan Council on Housing, Inc. is a citywide membership organization that assists its members and tenants by providing information concerning housing matters including the defense of eviction proceedings. The Met Council Hotline is available on Mon, Wed and Fri afternoons from 1:30 - 5pm at **212-979-0611**.

LEGAL SERVICES

If you have a low income, you may be eligible for free legal services (a free attorney). To get the address of the office that services your neighborhood, contact:

The Legal Aid Society 212-577-3300	Legal Services of New York City 212-431-7200
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If you need a referral to a lawyer and you are not eligible for free legal services contact:

The Bar Association of the City of New York
212-626-7373

The Housing Court Info Line, 646-386-5750, has recorded information on Housing Court in English and Spanish. If you are being evicted for nonpayment of rent you may be eligible for an emergency grant from Human Resources Administration(HRA). There is an HRA unit in each Housing Court. There is also a Pro Se Attorney available to provide legal assistance to unrepresented persons in each of the 5 main Housing Courts. Go to the Clerk's office to arrange to speak with the Pro Se Attorney.

THIS INFORMATION SHEET WAS WRITTEN AND PREPARED BY THE CITY-WIDE TASK FORCE ON HOUSING COURT, INC. THE TASK FORCE IS A NON-PROFIT COALITION OF HOUSING ADVOCATES AND LEGAL SERVICE PROVIDERS. THIS INFORMATION IS NOT TO BE CONSIDERED LEGAL ADVICE.

THE CITY-WIDE TASK FORCE ON HOUSING COURT, INC. INFORMATION SHEET

HOLDOVER PROCEEDINGS Residential Properties

If you receive a court paper called a Petition and a Notice of Petition Holdover, your landlord has started a "Holdover Proceeding" against you.

This is a court action in which your landlord is demanding possession of the apartment and wants to evict you. How you can defend yourself against this type of case depends on what type of housing you live in. Find the type of housing you live in below and read that section pertaining to your type of housing. If you are not sure what type of housing you live in, FIND OUT: Check your lease, ask your landlord, call the Division of Housing and Community Renewal.

Holdover proceedings often involve complex issues. Try to get legal assistance as soon as you receive the Petition and Notice of Petition. If you are unable to speak to an attorney before your court date, you can ask the judge for an adjournment to get legal advice. You can try to get an appointment before your court date.

A HOLDOVER MAY BE BROUGHT AGAINST YOU BECAUSE YOUR LANDLORD CLAIMS

You do not have a legal right to the apartment because the tenant of record died or allegedly left the apartment.

You live in a rent stabilized tenant and refuse to sign a renewal lease when a proper lease has been offered and remain in the apartment after the current lease has expired.

The landlord wants to use the apartment for the landlord's family.

You violated the terms of your lease. For example, you have a washing machine, or a dog, in your apartment in violation of your lease.

You, a guest, or a family member created a public nuisance or is involved in criminal activity.

You repeatedly refused to allow the landlord access to your apartment at a reasonable hour when the landlord has good reason to gain access such as in an emergency or to make repairs.

All Holdover cases must start with certain notices and you must receive these notices in certain specific ways. There are also common reasons that landlords seek to remove tenants that are unique to certain types of housing.

Rent Stabilized Apartments

If you live in a rent stabilized apartment, a holdover case must start with a "10-day Notice to Cure" unless you are allegedly engaged in illegal activity or the alleged violation of the lease is causing "substantial injury" to the landlord. Another exception to receiving a Notice to Cure is if you have not signed a renewal lease. (If you are engaged in illegal activity or causing "substantial injury," the landlord can file the case in Housing Court without first sending you a "10-day Notice to Cure.")

This notice often does not look very "official": It may just say, "10-day Notice to Cure" and have the landlord's signature at the bottom, after the allegations and consequences. It must indicate specifically how you are violating your lease and advise that you have a specific time period to "cure," or correct the violation. A "10-day Notice to Cure" must be written, but there are few rules on how it must be served. If your lease indicates how a "10-day Notice to Cure" must be served, check to ensure that you received it in the way that your lease indicates; if you did not receive it the way your lease requires, you can ask the court to dismiss the case due to lack of proper service. If you cannot "cure" the violation within 10 days, you can seek an injunction against the expiration of the cure period (that is, get more time to correct the violation) in Supreme Court. This is called a "Yellowstone" injunction.

If you ignore the 10-day Notice to Cure, after the 10 days have passed, your landlord must send you a Notice of Termination at least seven days before filing a Housing Court proceeding. The Notice of Termination must tell you specifically why the landlord is terminating your tenancy, indicate the date of the termination and indicate the consequences if you do not vacate the apartment. If any of this information is missing from the Notice to Terminate, you can seek to have the case dismissed for these errors. The landlord cannot correct the notice in court - the case must be dismissed. The landlord's signature must appear on these notices, unless your lease specifies that his attorney or agent can sign or his/her attorney or agent has attached documents indicating proof of the fact that he/she represents the landlord officially. If your landlord or an authorized agent has not signed the papers, you can seek to have the case dismissed for this error.

If you have received the "10-day Notice to Cure" and then the "Notice of Termination," after at least seven days, the landlord can file a petition at Housing Court to have you evicted. You must receive the petition in a very specific fashion: From someone with no interest in the case who hands it to you or someone of "reasonable age" in your apartment in person; or, by regular mail and by certified mail; or, placed in a conspicuous place after someone has attempted twice to serve it to you personally.

If you have not signed a renewal lease in your rent stabilized apartment after the landlord has offered you a reasonable lease to be signed, she/he can seek to terminate your tenancy. You can "cure" this violation of your lease after a judgment against you for not doing so. The landlord must offer you a renewal lease not more than 150 days and not less than 90 days before your lease expires.

If the landlord does not want to renew your lease, he/she must send you a "Notice of Intent Not to Renew." Some reasons the landlord will not want to renew your lease include that she/he wants to use the apartment her or himself or for her or his family; that you are not using the apartment as your primary residence; or, because you have failed to sign a reasonable renewal lease that has been offered in the window period (between 150 and 90 days before your lease expires). The "Notice of Intent Not to Renew" must indicate why the landlord is refusing to renew your lease and the facts supporting her or his allegations.

Rent Controlled Apartments.

If you live in a rent controlled apartment, a holdover case must also start with a "10-day Notice to Cure" unless, again, the landlord is alleging that you are causing him/her "substantial injury" by violating your lease agreement or you are engaged in illegal activity. Many people in rent controlled apartments do not have leases - they are "statutory tenants," which means that once their original lease expired, all of the lease's conditions are considered to be in effect under the laws of the state of New York. Consequently, if possible it is helpful to have the original lease when a landlord starts alleging violations of the lease.

Private, Unregulated Apartments.

If you live in a private two-family or three-family house or another private apartment that is not rent

stabilized or rent controlled and you do not have a lease, a holdover case begins with one of two types of notices: a "10-day Notice of Termination" or a "30-day Notice of Termination." If you do not pay rent, the landlord can use a "10-day Notice of Termination"; but, if you pay rent, the landlord must use a "30-day Notice of Termination." If you have a lease, the landlord does not have to send you a notice of termination if your lease is expiring when she or he is seeking your removal. In that case, the expiration of the lease is considered notice. After the 10-day or 30-day notice period is up and if you have not moved out, the landlord can then file the holdover petition in Housing Court. This is often called a "no-defense holdover" because there are few, if any, defenses you can raise to continue living in the apartment. However, if the landlord is seeking your removal because you complained about conditions in your apartment to the city, state or federal government and you have proof of that, and/or you participated in activities of a tenant's organization and/or you have taken action to enforce your rights under your lease or the law, you can raise a "retaliatory eviction" defense. The landlord's holdover case must have been started within six months of your complaint to a governmental agency and/or within six months that you actually started a judicial or administrative action to enforce your rights and/or within six months that a court has judged previously that the landlord is retaliating. This defense is not available in owner-occupied residences with 4 or less units.

IMPORTANT: You should always seek advice as soon as you receive legal papers. Never ignore papers from the Court. If you do you may be evicted. Consult a lawyer or a neighborhood housing organization as soon as possible.

WHAT SHOULD HAPPEN BEFORE YOU RECEIVE A HOLDOVER PETITION

In most cases you should receive a:

- A "30-day notice to terminate" for rent-paying tenants without leases or for unregulated tenants.
- A "10-day notice to terminate" for tenants without rental agreements.
- A "10-day notice to cure" for rent regulated tenants who are in violation of their lease. This notice should tell you why you are being evicted and give you the opportunity to correct the problem.

Failure to serve these notices may be grounds for dismissal of the case. In some cases, if your lease has expired, no notice may be required.

If you receive any of these notices, you do not have to move out of your apartment by the date indicated in the notice. However, if you do not move out by the date indicated, your landlord may then begin the holdover proceeding against you. But remember only the court can order you to move out. A landlord cannot evict you from your apartment without a court order.

If your landlord does not accept rent after the 30 day period covered by the 30-day Notice, save this money even if you have repairs in your apartment. You will be required to pay this at some other point.

If your landlord accepts your rent after the date on the notice of termination but before the commencement of a holdover proceeding against you, or does not follow the procedures mentioned above, you should notify the Housing Court judge. This may be grounds for dismissing the landlord's case. Also, if the court finds that you have violated the lease, you may be given an opportunity to remedy the situation instead of being evicted.

WHEN YOU RECEIVE A NOTICE OF PETITION HOLDOVER

If you receive a Notice of Petition do not ignore it and read it carefully. It will tell you when and where you must appear in court. Go to the Housing Court in the borough where your building is located (see the back of this Information Sheet for the addresses of the Housing Courts) on the date indicated on the papers, unless the papers tell you otherwise. Here you will need to be ready to give your answer or defenses. Do not ignore your court papers even if the landlord tells you to.