

# Obtaining Repairs

Using the Law to Get What You are Entitled To

# Determine who or what is responsible, if possible



- ▶ Determining who or what is responsible will have an impact on what tools are available to you to resolve the situation.
- ▶ If the condition originates in a neighbor's apartment, is the neighbor the cause of the problem? Are they cooperating with the landlord's efforts to make repairs?
- ▶ Did you or someone in your apartment cause the condition?

# Documentation



- ▶ Always start by documenting the situation.
- ▶ Take pictures or video of the condition.
- ▶ Get eyewitnesses of the condition.

# Notice



- ▶ Put the landlord on written notice of the condition by letter, email or text.
- ▶ Have building staff view the situation.
- ▶ Call in a complaint to the management office.

# If the landlord does not fix the conditions, go to the next level[s]



- ▶ Call 311. It is an entry point clearinghouse for all city agencies dealing with the housing maintenance code, the health code, etc.
- ▶ That will connect you with the Dept. of Housing Preservation and Development and the Department of Health, to name a few.
- ▶ It will also create a public record of the date and nature of your complaint tied to your apartment.

# Tenants Have the Right to Organize

- ▶ The Real Property Law provides that landlords shall not interfere with tenants' rights to form, join, or participate in organizations create to protect the rights of tenants. [RPL § 230](#).
- ▶ Under the Retaliatory Eviction Law, [RPL § 233-b\(1\)\(c\)](#), a landlord may not retaliate against a tenant for the “tenant's participation in the activities of a tenant organization.”
- ▶ The law further protects the right of tenants' groups, committees, or other tenants' organizations to meet in any common area at reasonable times and in a peaceful manner which does not obstruct access to the premises.
- ▶ The law require landlords to permit tenant organizations to meet, without fee, in any community or social room in the building, even if the use of the room is normally subject to a fee. N.Y. Real Prop. Law § 230.2.

# Organized Tenants, Continued

- ▶ Depending on what part of the city you live in, there may be legal service organizations available to represent your tenant group.
- ▶ Before taking affirmative action against a landlord, if possible, consult with an attorney.
- ▶ Keep records of all of your communications once you decide to take affirmative action against the landlord.

# If Your Building is Organized, Consider a Rent Strike



- ▶ The term "rent strike" refers to collective withholding of rent by tenants who seek, through their combined effort, to pressure an owner to provide remedial action, usually repair and services.
- ▶ A rent strike in a landlord-tenant relationship is the equivalent of a labor strike in a labor-management relationship.

# Rent Strikes, continued



- ▶ Other than a general protection of the right to organize found in [Real Prop. Law § 230](#), rent strikes are not regulated by statute. They are neither sanctioned nor prohibited.
- ▶ Tenants who are engaged in a rent strike have the same rights and obligations as individual tenants who choose to withhold rent. An individual tenant may withhold rent under [RPL § 235-b](#) when there has been a breach of the warranty of habitability, and the law does not forbid a group of tenants from simultaneously withholding rent for a similar reason.

# 7-A Proceedings - Appointing a Guardian to Run the Building



- ▶ Article 7A of the RPAPL authorizes "one-third or more of the tenants occupying a dwelling located in the city of New York or the counties of Nassau, Suffolk, Rockland, and Westchester to maintain a summary proceeding for the appointment of an administrator to run the dwelling. [RPAPL § 770\(1\)](#)."

# Grounds for Commencing an Article 7-A proceeding



- ▶ An Article 7A proceeding may be maintained when there is a lack of heat or of running water or of light or of electricity or of adequate sewage disposal facilities, or any other condition dangerous to life, health or safety, which has existed for five days, or an infestation by rodents, or any combination of such conditions; or course of conduct by the owner or his agents of harassment, illegal eviction, continued deprivation of services or other acts dangerous to life, health and safety. [RPAPL § 770\(1\)](#).

# Powers of a 7A Administrator

- ▶ The powers and duties of an Article 7A administrator are enumerated in the RPAPL. [RPAPL § 778](#).
- ▶ The administrator, once appointed, is empowered to collect rent, but the administrator's first duty is to remove housing code violations on the property. The administrator can rehabilitate and rent vacant units. In New York City, the administrator can obtain loans from HPD, known as seed loans, to rehabilitate and repair the building.
- ▶ Article 7A established an order of priority for payments made with revenue from the building. [RPAPL § 778\(a\)-\(e\)](#).

# Housing Part actions, or "HP actions"

- ▶ In New York City, the Housing Court has jurisdiction over proceedings brought by tenants to obtain injunctive relief. Known as Housing Part actions, or "HP actions," these tenant-initiated actions seek orders to correct violations of laws that relate to housing standards. The Housing Maintenance Code, along with the NYC Civil Court Act, is the statutory basis for these cases. [N.Y.C. Admin. Code § 27-2115\(h\), \(i\); N.Y. City Civ. Ct. Act § 110\(a\)](#).
- ▶ HP actions are, like summary eviction proceedings, special proceedings that are started by order to show cause or notice of petition and petition. The parties bringing the proceeding are petitioners; the parties sued are respondents.
- ▶ Housing Court courtrooms in NYC are equipped with computers that can access HPD's database of housing code violations. The court can take judicial notice of information contained in the HPD database.

# HP Actions - Jurisdiction

- ▶ Under the Housing Maintenance Code, Housing Court has jurisdiction over an action for civil penalties against "[a] person who violates any law relating to housing standards," [N.Y.C. Admin. Code § 27-2115\(a\)](#).
- ▶ In addition, the NYC Civil Court Act grants broad jurisdiction to the Housing Part of the Civil Court to entertain "actions and proceedings involving the enforcement of state and local laws for the establishment and maintenance of housing standards, including, but not limited to, the multiple dwelling law and the housing maintenance code, building code and health code of the city of New York." [N.Y. City Civ. Ct. Act § 110\(a\)](#).

# HP Actions - Procedure

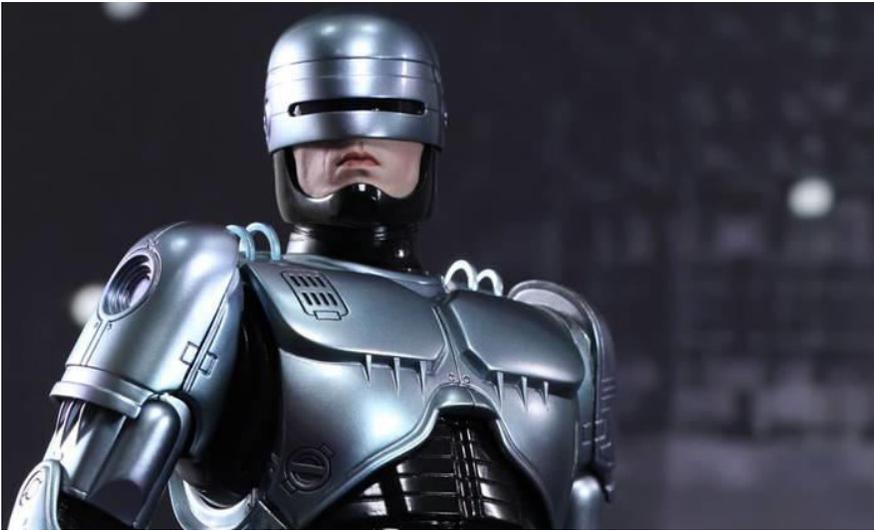
- ▶ The petitioner must first submit the order to show cause to a judge for signature and, once signed, serve a copy on all respondents as per the terms of the order to show cause.
- ▶ The petition will be returnable in Housing Court. There is a separate trial part in the Housing Court and a separate calendar for HP actions.
- ▶ If the petitioners are successful in an HP action, they will obtain an order from the court requiring the respondent to correct the outstanding violations. This order is known as an order to correct. An order to correct can also be sought by a tenant by interposing a counterclaim in a summary eviction proceeding. HPD can also issue an order to correct.
- ▶ If the respondent fails to comply with an order to correct, the petitioners can seek civil penalties, which are paid to New York City, or they can seek an order holding the respondent in contempt of court. Civil penalties can be sought by motion in an HP action or they can be sought as part of a motion for contempt of court.

# DHCR Administrative Proceedings



- ▶ Division of Housing and Community Renewal is responsible for the supervision, maintenance, and development of affordable low-and moderate-income housing in NYS.
- ▶ DHCR performs a number of activities, including oversight and regulation of the State's public and publicly assisted rental housing.
- ▶ A tenant who experiences decreased service in an individual apartment or in the building may file an administrative complaint on the appropriate form.

# DHCR - Procedure



- ▶ DHCR screens and docket incoming complaints, serves a copy on the owner and may inspect the conditions described.
- ▶ DHCR will issue a written order that may reduce the rent and directs repairs.
- ▶ For rent stabilized tenants, a rent restoration order will not be issued until all services listed in the rent reduction order are corrected.

# DHCR PROCEDURE - CONTINUED

- ▶ For an individual complaint a tenant may use an “Application For A Rent Reduction Based Upon Decreased Services - Individual Apartment “(DHCR Form RA-81) for complaints about conditions in the apartment. The complaint may also be submitted online.
- ▶ For complaints involving a decrease in building-wide services, a tenant or tenant representative may file an “Application For A Rent Reduction Based Upon Decreased Building-Wide Services” (DHCR Form RA-84).

# DHCR PROCEDURE - CONTINUED

- ▶ The DHCR screens and docket these applications and sends the tenant an acknowledgement with the complaint/docket number.
- ▶ The owner's timeline to respond depends on the nature of the complaint. A copy of the tenant's complaint is sent to the owner and the owner is given a specified amount of time to respond. At all times, DHCR may grant an owner a reasonable extension of time to respond.
- ▶ If the owner's answer is relevant to the decision, DHCR may send a copy to the tenant who is given a specified amount of time to respond. DHCR may schedule an inspection during the processing of the application.
- ▶ If the evidence indicates that the owner failed to maintain required services, the DHCR can issue a written order that directs the owner to restore services and reduces the rent for the apartment. The order will stay in effect until the owner applies to DHCR and receives a Rent Restoration Order that finds that services have been restored.

# DHCR PROCEDURE - NON-COMPLIANCE



- ▶ If an owner has failed to restore services and/or correct the conditions specified within 30 days after the issuance date of the order, the tenant may file a “Tenant Affirmation of Non-Compliance” (DHCR Form RA-22.1), to request that a compliance proceeding be initiated.

# Small Claim Court - What is it?



- ▶ Small Claims Court is a special section of Civil Court where you can sue for up to \$10,000.
- ▶ You can only sue for money. You cannot sue to make someone do something or for pain and suffering.
- ▶ It is inexpensive and easy to use.
- ▶ You do not have to have a lawyer.
- ▶ The Court will notify the defendant for you.
- ▶ It has convenient hours of operation.

# Small Claims Court Procedure



- ▶ If you sue in Small Claims Court, you are the claimant or plaintiff and the person or business you sue is the defendant.
- ▶ After you file your claim, the Small Claims Court Clerk will serve the defendant a notice by mail.
- ▶ Service of the notice lets the defendant know about your claim. It tells the defendant what the claim is about, how much money you are asking for, and the date of your Small Claims Court trial.

# Small Claims Court - Hours of Operation



- ▶ In New York City, most small claims cases take place during the day between the hours of 9:30 AM and 4:30 PM.
- ▶ Night Court is also available on some nights and begins at 6:00 PM.
- ▶ Check with your local court to find out when Night Court is available.