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**NEW YORK CITY TENANTS' RIGHTS AND THE COVID-19
HEALTH EMERGENCY - FAQs**
Updated July 13, 2020

Himmelstein, McConnell, Gribben, Donoghue & Joseph LLP
Hmgdjlaw.com

All of us at HMGDJ are available to help in any way we can as we all work together to get through this difficult time. The first priority is the health and safety of you and your family. Please follow public health guidelines to limit the spread of the virus and stay safe.

Keep in mind that conditions change every day, sometimes every few hours, and the information below may not be the most up-to-date guidelines. It is always recommended to speak with an attorney before making important decisions.

Check these websites and phone numbers for further updates:

nycourts.gov

health.ny.gov

ag.ny.gov

nyc.gov

ny.gov

metcouncilonhousing.org

Himmelstein, McConnell, Gribben, Donoghue & Joseph LLP
212-349-3000 hmgdjlaw.com

Coronavirus Telephone Hotline: 1-833-503-0447

State Department of Health coronavirus hotline: 1-888-364-3065

Housing Court Hotline: 212-962-4795

Met Council on Housing's tenants' rights hotline at 212-979-0611

Monday, 1:30-8pm

Tuesday, 5:30-8pm (new)

Wednesday, 1:30-8pm

Friday, 1:30-5pm

Issues Facing Tenants

Will I be evicted if I am unable to pay rent?

Residential tenants

There will be no evictions of residential tenants who experience financial hardship due to the pandemic until the Covid-related restrictions on non-essential gatherings are lifted. Landlords can sue for "non-possessory" money judgments.

[Tenant Safe Harbor Act July 1, 2020]

Evictions of tenants living in buildings where the owner has a federally-backed mortgage or is under certain federal programs (including LIHTC and Section 8) are suspended for 120-days beginning March 27, 2020 through July 25, 2020.

See <https://www.nhlp.org/wp-content/uploads/2020.03.27-NHLP-CARES-Act-Eviction-Moratorium-Summary.pdf>

Commercial Tenants

Landlords are prohibited from starting nonpayment cases against commercial tenants who are either eligible to receive unemployment benefits or who face “financial hardship” due to the pandemic through August 20, 2020.

[Order of Governor Cuomo, 202.28 May 7, 2020 and 202.48 July 6, 2020]

Can the landlord sue me for rent or for breach of my lease?

Cases not based on non-payment of rent (“holdovers”) may be filed electronically but such proceedings are stayed (put on hold) through August 20, 2020, except cases involving an urgent matter of public safety (e.g., illegal lockout, emergency repairs, tenant who is a danger to his or her neighbors.) If a case was filed and you do not answer the case you would not be defaulted at this time as defaults have been suspended.

[Directive of Administrative Judge Larry Marks June 18, 2020]

If I have a court case that has already started will it go on?

Housing court is gradually reopening with limited in-person traffic. It is open only “essential” functions, those that cannot be postponed without serious consequences to the parties involved (e.g., emergency repairs, lock-outs). Supreme Court is accepting filings and conducting virtual appearances, but most hearings are being automatically postponed. If you receive legal papers you will not be “defaulted” for failing to respond. You will receive notice from the court of the new date, and if the crisis continues beyond that date, the case will be postponed again.

[Memos of Chief Judge Janet DiFiore and Chief Administrative Judge Lawrence Marks, April 6, 2020 and April 13, 2020 and Memo of New York State Chief Administrative Judge Lawrence K. Marks, March 15, 2020]

Court administrators are making plans to reopen housing court for existing cases. Administrators have indicated that social distancing will be practiced in housing court and that accommodations will be made to those with health concerns. Brooklyn Housing Court is planning to begin some in-person trials on July 27, 2020, over the objections of tenant advocates.

What if I have a repair issue or have been locked out and need to sue my landlord?

Courts will be available for essential matters: serious repairs, illegal lockouts, etc..

[Memo of New York State Chief Administrative Judge Marks, March 15, 2020]

What if there is a Statute of Limitations and a landlord or tenant has to file a case by a certain date?

Statutes of limitation to file all legal actions are “tolled” (extended) until August 6, 2020.

[Executive Order 202.48]

What if I am on Section 8 and/or live in NYCHA?

- The City will automatically extend any Section 8 voucher set to expire. Voucher holders do not need to reach out to the City for an extension.
- All subsidy terminations that are in process are suspended until further notice.

- Any HPD Section 8 voucher holders facing rent hardships due to decreases in income should [contact HPD](#).
- NYCHA encourages households experiencing a loss of income to visit the NYCHA [Self-Service Portal](#).

The HPD Section 8 Customer Service Office at 100 Gold Street is closed until at least March 30th, but the HPD Section 8 team is still available to the public. New Yorkers should email DTRAI@hpd.nyc.gov fax at 212-863-5299 for assistance.

[Press Release of Mayor De Blasio on March 19, 2020]

Is there rent cancellation or other rent relief available?

No rent cancellation law has been signed yet. Several state senators including Senator Salazar and Senator Kavanagh have introduced bills to cancel rent or directly reimburse landlords for missed rent. Landlords would receive payment or other concessions under these measures. Call your local representatives and encourage them to advocate for rent cancellation due to the pandemic.

Tenants who are eligible to receive unemployment benefits or who face “financial hardship” due to the pandemic may demand that their landlords apply the security deposit to rent. Landlords cannot refuse this request, and landlords pay permit tenants who do not face hardship to apply their deposits to rent as well. Deposits must be replenished in twelve monthly installments starting ninety days after the deposit is used. Landlords can collect no more than one month’s rent as a security deposit. [Order of Governor Cuomo, March 20, 2020]

Administrative Proceedings

What if I have an HPD or DHCR appearance or hearing?

HPD and DHCR appearances and hearings will be adjourned. Check with the hearing officer at HPD or DHCR assigned to your case.

What if I have a deadline in a DHCR matter?

All DHCR deadlines have been extended to August 6, 2020

[DHCR Advisory Opinion 2020-4]

<https://hcr.ny.gov/system/files/documents/2020/07/advisory-op-2020-4.pdf>

If I own a co-op, r condo or house can I be foreclosed on for failure to pay my mortgage?

Foreclosures cannot be commenced against any an owner facing financial hardship due to the pandemic unless the mortgagee extends forbearance and negotiate a loan modification which can be up to 360 months.

[L. 2020, ch. 11]

Under the “CARES Act” passed by Congress you may apply for mortgage forbearance on federally backed mortgage loans. Contact your lender.

See also <https://www.consumerfinance.gov/about-us/blog/guide-coronavirus-mortgage-relief-options/>

Other COVID-19 Related Issues

Can my Landlord inquire about my medical condition or refuse to rent to me on the basis of my medical condition?

No.

Can my Landlord require me to wear a mask in common areas of the building?

For your own and others' safety, proper health safety guidelines should be followed. Gov. Cuomo's recent executive order (202.17, effective as of Friday, April 17, 2020) requires all people over the age of two to wear a face mask or cloth covering (if medically tolerated) when in public places. Therefore, failure to do so in common areas of a building could be considered objectionable conduct that could be the basis of an eviction proceeding.

Can a Landlord bar Guests, Childcare workers, etc from entering the building?

Barring babysitters, nannies, childcare workers could be considered discrimination under the NYC Human Rights Law.

Limiting entry of delivery-persons and guests in order to comply with public safety guidelines may be permissible.

Can my landlord force me to stay in my apartment?

No. You should, however, follow the advice of health officials and do so except when absolutely necessary essential to help prevent spread of the virus and should take greater precautions if you are in a high risk category or have been diagnosed as having the coronavirus.

Can I bar the landlord, building staff or others from my apartment?

Unless there is an emergency repair all access has to be “reasonable” and during the emergency it would not be unreasonable to bar landlord or building staff from entering your apartment. Residential construction work is permitted under the “Phase 1” reopening starting June 8, 2020.

Can a landlord do renovation work in my building?

Yes. Residential construction work is allowed starting June 8, 2020. Construction must comply with the same codes and permit requirements as before the pandemic. If you think construction work is improper, you should call 311 or the Department of Buildings.

Can I terminate my lease early?

If you terminate your lease early due to either your health which requires that you relocate or inability to pay rent due to economic hardship resulting from the emergency, a landlord would still be entitled to recover the balance of your lease unless there is a specific provision in your lease that states otherwise.

You have the right to assign the balance of your lease and if your landlord refuses to permit you to do so he has to let you out of your lease.

While the landlord generally has a duty to re-rent to offset the balance of the rent due, he may argue that the emergency made it impossible for him to do so.

ADDITIONAL USEFUL CONTACT NUMBERS FOR TENANTS:

City-Wide

Legal Services NYC at (917) 661-4509
serves residents city-wide in several languages

CAMBA Legal Services (CLS) housing, consumer, crime victim and
foreclosure units - 718-287-0010.

If you are homeless, call the Legal Aid Society [Homeless Rights
Project](#) helpline at 800-649-9125 Monday – Friday 9 a.m. – 5 p.m.

Tenants and Neighbors www.tand.org

<http://www.housingjusticeforall.org>, www.righttocounselnyc.org or call 212-
979-0611 (Mon 1:30-8pm, Tue 5:30-8, Wed 1:30-8, & Fri 1:30-8).

Manhattan

Housing Conservation Coordinators at (212) 541-5996 (Mon. 7-9pm)
Take Root Justice Housing Hotline at (646) 459-3022
Goddard Law Project at (212) 799-9638, x0
PALANTE Harlem, Inc. at (212) 491-2541 -- English & Spanish spoken
Manhattan Legal Services, contact (646) 442-3100
Manhattan Legal Aid: 212-426-3000

Brooklyn

Brooklyn Legal Services, contact (718) 237-5500
Brooklyn Legal Aid: 718-722-3100

Bronx

Bronx Legal Services, contact (718) 928-3700
Bronx Legal Aid: 718-991-4600

Queens

Queens Legal Services, contact (347) 592-2200

Queens Legal Aid: 718-286-2450

State Island

Staten Island Legal Services, contact (718) 233-6480

Staten Island Legal Aid: 347-422-5333