



New York State
Division of Housing and Community Renewal
Office of Rent Administration

New York City Rent Stabilization Code

Advisory Opinion 88-1 (February 8, 1988)

***This Advisory Opinion is Issued Pursuant to
Sections 2522.5(b)(1), 2523.5(a) and 2527.11
of the Rent Stabilization Code.***

Pursuant to Section 2523.5(a) of the Rent Stabilization Code ("Code"), the New York State Division of Housing and Community Renewal ("DHCR") has promulgated a Renewal Lease Form (the "Form"), designated as form number "RTP-8". A copy of the Form is attached to this Advisory Opinion.

1. Owner's Service of Form

Code Section 2523.5(a) requires every owner of a rent stabilized housing accommodation other than an accommodation located in a hotel, to mail or personally deliver to the tenant named in the expiring lease, a *dated copy* of the Renewal Lease Form notifying the tenant of the expiration of the current lease term. This Form contains an offer to renew the lease at the legal regulated rent, including any adjustment authorized by the Rent Guidelines Board. The Form must be furnished to the tenant not more than 150 and not less than 120 days prior to the end of the tenant's lease term.

Commencing February 1988, the Form is being made available to owners at DHCR Public Information Offices. Because many owners may not have had adequate opportunity to appropriately revise their operating procedures in preparation for the use of the new Form, it would be inequitable to enforce the penalty provisions of sections 2522.5(b)(2) and 2523.5(a) until owners have had reasonable time to do so. Therefore, owners will not be required to use the new Form prior to May 1, 1988, and may continue to use their current lease renewal form. Owners, may, of course, use the new Form prior to such date. Commencing May 1, 1988, all owners will be required to use the revised Form for the renewal of leases expiring thereafter.

Please note that the new Rent Stabilization Lease Rider promulgated by the DHCR in October 1987 must be attached to every renewal lease which commences on or after December 1, 1987. All owners who continue to use their current renewal lease form prior to May 1, 1988 must attach the Rider to such current form. Owners will also be required to attach the Rider to the new Form, which must be delivered to the tenant when such new Form is signed by the owner and returned to the tenant.

Owners and tenants are cautioned to read all instructions on the reverse side of the Form carefully prior to filling it out or signing it.

This document is being reissued for informational purposes only.

The original document which contains signatures of authorization is on file at DHCR's Office of Rent Administration.



2. Contents of the Form

On and after May 1, 1988, owners must use the Form, or a facsimile which has been approved by the DHCR. No other form of renewal lease will be permitted. Therefore, an owner will not be permitted to add to or subtract language from the text of the Form, and must receive DHCR approval prior to altering the format in any manner.

The Form consists of 2 parts: The terms of the renewal offer, and the tenant's acceptance of such offer or notice of intention to vacate.

The Code requires that a renewal lease must be based on the same terms and conditions as the expiring lease and must contain the beginning and ending dates of the renewal lease term. However, the Code authorizes certain additional lawful provisions or written agreements between the owner and the tenant, (e.g., increases pursuant to section 421-a of the Real Property Tax Law) to be added to the renewal lease. Copies of such additional lawful provisions or written agreements must be attached to the Form.

3. Tenant's Response to Offer

Tenants have 60 days from the date of service of the Form to accept the owner's offer to renew the lease, or to inform the owner of their intention to vacate the housing accommodation. Tenants must respond by completing the Form, and must sign and return it to the owner either by mail (regular mail is sufficient), or personal delivery within such time. A tenant who does not return the completed Form within such 60 day period may be subject to an eviction proceeding brought by the owner in court based on refusal to renew.

Tenants have the option of selecting a renewal lease for a term of either 1 or 2 years, except for a tenant who receives a Senior Citizen Rent Increase Exemption which requires a 2 year lease, or where the building is subject to a mortgage existing as of April 1, 1969, which prohibits 2 year leases.

4. Owner's Obligation after Tenant Responds

Within 30 days after an owner has received the Form signed by a tenant accepting the renewal offer, the owner must furnish to such tenant a copy of the fully executed Form bearing the signatures of both the owner and the tenant, together with a copy of the Rent Stabilization Lease Rider. *The Form becomes a binding renewal lease when the owner signs and returns it to the tenant.*

5. Penalties

- A) If a tenant has not been served with a copy of the Form containing the renewal offer within 120-150 days prior to the expiration of his or her current lease term, the owner will be barred from commencing any action or proceeding against the tenant based on non-renewal of lease, and such tenant shall not be deprived of any of his or her rights under the Rent Stabilization Law or Code. In addition, such tenant may file a complaint with the DHCR. The owner will be denied any rent guideline increases for renewal leases until a renewal lease is entered into by the owner and tenant, and the guidelines rate applicable to such lease shall be no greater than the rate in effect on the commencement date of the lease for which a timely offer should have been made, and the increased rental shall not begin before the first rent payment date occurring no less than 120 days after such offer is made.

- B) If an owner does not return a fully executed copy of the Form to the tenant within 30 days from the owner's receipt of such Form signed by the tenant accepting the renewal offer, such owner will be barred from commencing any action or proceeding against the tenant based on non-renewal of lease, and the tenant shall not be deprived of any of his or her rights under the Rent Stabilization Law or Code. Such tenant may file a complaint that he or she was not served with a copy of the fully executed Form. If the DHCR orders the owner to furnish a copy of the fully executed Form to the tenant, non-compliance by the owner within 20 days of such order shall result in the denial of any rent guidelines increases for renewal leases until the fully executed copy of the form is furnished by the owner to the tenant.

- C) If a tenant has not been served with a copy of the Rent Stabilization Lease Rider, or a Spanish language version of the Rider, if requested, upon complaint by the tenant, the DHCR will order the owner to serve the Rider by certified mail. Non-compliance by the owner within 20 days of such order will result in the denial of any rent increases resulting from a guidelines lease adjustment, a Hardship, or a Major Capital Improvement, until the owner complies. Compliance will result in the prospective elimination of such penalty. In addition, an owner who fails to serve a tenant with a Rider after being ordered to do so by the DHCR may be subject to monetary penalties.

6. Availability of Form

Additional copies of the new RTP-8 are available at the DHCR's Public Information Offices, and will also be available at legal stationery stores, and from the Rent Stabilization Association of New York City, Inc., and the Real Estate Board of New York, Inc.

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