

## **What are Succession Rights?**

Succession rights allow a remaining occupant to become the tenant of record an apartment when the prior tenant of record permanently leaves by moving out or dying. The successor has all the same rights as the previous tenant.

## **Who can get Succession Rights?**

<b>Traditional Family Members</b>	<b>Non-traditional Family Members</b>
<ul style="list-style-type: none"><li>• Spouses, Children, Parents</li><li>• Step-children, Step-parents</li><li>• Siblings, Grandparents</li><li>• Children-in-law, Parents-in-law</li></ul>	<ul style="list-style-type: none"><li>• Aunts, Uncles</li><li>• Nieces, Nephews, Cousins</li><li>• Unmarried couples, LGBTQ couples</li><li>• People that are just like family</li></ul>

## **Sample Documents to Prove Traditional Family Relationship**

These include your birth certificate, the birth certificate of the tenant of record, marriage licenses, marriage/domestic partnership certificates, and a death certificate if the tenant of record has died.

## **Sample Documents to Prove Non-Traditional Family Relationship**

These include documents that show a shared family-like relationship with the departing tenant of record such as a strong emotional, financial and legal connection.

## **Proving a Financial & Legal Connection**

Show proof that you and the tenant of record shared finances and expenses such as a shared joint bank account, shared household expenses such as rent or utility bills, shared a public assistance case or owned property together. You can show a legal link by naming each other in a will or life insurance policy, and listing each other as a Health Care Proxy or Power of Attorney. Listing each other as an emergency contact is also helpful.

## **Proving an Emotional Connection**

Proof of an emotional connection includes family pictures at a birthday, holiday, religious celebration or family event; and/or exchanging gifts/cards, and sharing of responsibilities such as picking up children from school.

## **The Relevant Time Period**

If you do not have a disability and are younger than 62 years old, you have to show that you lived in the apartment as your primary residence for two-years prior to the death or move-out of the tenant of record. It is helpful if you can show proof of residence for three years. If **you** have a disability and receive SSI/SSD, or are over 62 years old, then the time period is shortened to one year. However, you should still gather two years of proof.

If you were in the military, enrolled in school full-time, hospitalized or temporarily relocated due to employment, were in prison or jail, or absent for other reasonable grounds, these may be excused absences and you may still be able to claim succession rights if you lived together for the required time period excluding the excused absence.

## **Protecting your Claim to the Apartment**

Inform the landlord when you move in and use the new address for mail, taxes, medical records and official documents. If you contribute to the rent, document that. Do not deceive the landlord about your presence, as this can ruin your chances of succeeding to the apartment in the future.

## **When the Tenant of Record Vacates**

Inform the landlord **immediately** and request a lease in your name. Document this by sending a letter via certified mail. Remember to correspond and record all interactions in writing. You should also convert utility bills and pay rent in your name. If the landlord does not accept your rent, hold onto it. You will usually have to pay the back rent owed.

## **What to Avoid if You Plan on Succeeding to the Apartment**

Do not sign a lease in the former tenant's name. Furthermore, you should not give the impression that the former tenant lives in the apartment or that you do not live there. Do not keep ties with other residences, have the former tenant visit too frequently, or allow them to leave their belongings. Do not send a renewal lease to the former tenant for signature. Do not have the former tenant sign a renewal lease. Do not keep utility bills in the former tenant's name and have your mail sent to other addresses or post office boxes.

It is also important to document that you are paying rent. Paying with a check or money order is best. Avoid paying in cash unless you get a receipt in your name.

## **Rent Increases**

The rent stays the same for rent regulated apartments except for annual increases set by the Rent Control Board. In Rent Stabilized apartments, the landlord is entitled to a 20% vacancy increase after every other succession.

## **Miscellaneous**

If your name is not on the lease, and you did not share a family-like relationship with the former tenant, the landlord does not have to provide you with a lease. However, the landlord can make you a tenant by agreeing to provide a lease in your name.

Different rules of succession may apply if you live in a non-rent regulated apartment, such as NYCHA public housing, a Project-based Section 8 building, a market-rate apartment, or a building run by a non-profit organization. You should contact a legal services provider to determine what rules apply.

**This succession rights fact sheet is based off of MFY Legal Services Inc. “How Do I Assert Succession Rights to a Rent Regulated Apartment?”**

## Sample Documents to Prove Residence

**NOTE:** Not everything on this list will apply to every situation. You do not have to have everything on this list. This is just a sample of documents that would be helpful. It is not a complete list. There may be helpful documents that are not on this list.

<p><b>Financial - Best</b></p> <ul style="list-style-type: none"> <li>• State, local, federal income tax returns (1040s)</li> <li>• W2 and 1099 forms, paystubs</li> <li>• Bank statements and Credit card statements showing where you used your debit and credit cards</li> <li>• Insurance Policies of any kind (renters, auto, property, life, homeowners).</li> <li>• Proof of Rent payments made for subject apartment directly to landlord</li> <li>• Pension documents</li> <li>• Medicare/Medicaid statements</li> <li>• Social Security statements</li> <li>• Address history from Public Assistance/HRA</li> </ul>	<p><b>Bills - Best</b></p> <ul style="list-style-type: none"> <li>• Phone Bills – landline or cell phone</li> <li>• Electric Bill</li> <li>• Cable Bill</li> <li>• EZ Pass documents (if you have EZ pass)</li> <li>• Car registration (if you have a car)</li> <li>• Car insurance</li> <li>• Bills for furniture delivered to apartment</li> </ul>
<p><b>Financial - Second Best</b></p> <ul style="list-style-type: none"> <li>• Bank Statements</li> <li>• Credit Card Bills and statements</li> </ul>	<p><b>Medical Care</b></p> <ul style="list-style-type: none"> <li>• Medical Records</li> <li>• Visiting Nurse Service records</li> <li>• Social Service Assessments</li> <li>• Home Visit reports</li> </ul>

<b>Government Issued IDs</b> <ul style="list-style-type: none"> <li>• Driver's License (past and present) or Non-Driver's License/ Passport</li> <li>• Benefits Cards</li> <li>• Professional/Job ID</li> </ul>	<b>Other Government Paperwork</b> <ul style="list-style-type: none"> <li>• Any letters from government agency to tenant at subject apartment</li> <li>• School records for yourself and children</li> </ul>
<b>Misc.</b> <ul style="list-style-type: none"> <li>• Notices from HPD or DHCR (e.g., acknowledgment of complaints)</li> <li>• School records for children or tenant</li> <li>• Immunization records</li> <li>• Magazine subscriptions</li> <li>• Church documents, e.g., tithing receipts</li> <li>• Notices or statements from the public library, if you have a library card</li> <li>• Personal letters, birthday cards, or holiday cards sent by friends or family to you at your address; and/or Pictures of yourself in your apartment from the last few birthdays or holidays</li> </ul>	<b>Other Government Paperwork (cont.)</b> <ul style="list-style-type: none"> <li>• Jury service notices/proof of service</li> <li>• Voter registration</li> <li>• Section 8 paperwork</li> <li>• Government benefits (e.g. Public Assistance, Veteran's Assistance, Social Security, SNAP, EBT, Medicaid)</li> <li>• Unemployment benefits</li> <li>• Military discharge papers</li> <li>• Court papers (e.g., Family Court, Child Support Orders or Criminal Court)</li> <li>• Arrest records/criminal records/parole records/criminal discharges, etc. if you have ever been arrested or charged with an offense; probation/parole officer's reports or information</li> <li>• Records of investigation from Adult Protective Services (APS) or Administration for Children's Services (ACS)</li> </ul>

**DISCLAIMER: This fact sheet gives general information for NYC residents; it is NOT legal advice.**

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