



VOLS
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An Introduction to Housing Intakes in New York City

11/15/2022

VOLS Children's Project

Agenda



- Introductions
- Brief Overview
- Collecting Basic Information
- Determining Housing Type
- Determining Case Type
- Determining Procedural Posture
- Finding Defenses
- Q&A

Information You Should Collect



- Names
- Number of people in the apartment
 - How many adults vs. minors?
- Lease status
 - Is there a lease? Written or verbal? How long? When does it expire? Whose name is on it?
- Type of housing
- Is there already a court case?

Information You Should Collect (cont.)



- What is the procedural posture?
 - If court involved, is there a judgment?
 - What documents has the client received?
- What type of case?
- Does the family receive any benefits?
- Any other eligibility/reporting information

Determining Housing Type



- Why is determining housing type important?
 - Depending what type of housing the client lives in, they could have an array of different rights. Additionally, housing type may determine which venue a party can or must seek relief in.
 - For example, a Rent Stabilized tenant can pursue claims at DHCR, while a market rate tenant cannot.
 - Housing which is owned or monitored by government agencies may require notice to or even a hearing at that agency before or housing court proceeding can commence.

Determining Housing Type



- Any building built prior to 1974 containing 6 or more units is presumably stabilized. However, tenants may not always know the status of their buildings. Therefore, some questions to ask are:
 - How old is the building and how many units?
 - What is the monthly rent (odd, specific numbers likely stabilized)
 - Do you get a renewal every year?
 - How much has your rent increased in the past?
 - Is anyone in the house on SCRIE or DRIE?
- Rent control units are few and far between. RC tenants are statutory tenants and will not receive renewals.
- Buildings can also be regulated via an agreement with the city, check ACRIS.

Determining Housing Type (cont.)



- Public housing (NYCHA)
- Project based Section 8 buildings
- Supportive housing units
- Condos/co-ops
- All other market rate buildings

Determining Case Type



- Non-pay, Holdover, HP, NYCHA Termination Hearing, Illegal Lockout, Ejectment.
- A Non-pay is an action to possessory rent, commenced after serving a 14 day rent demand.
- A Holdover is an action to recover possession of the apartment for reasons other than failure to pay rent. Holdovers are commenced after serving a Notice to Cure and Notice of Termination, or simply a Notice of Termination depending on the theory of the case.

Determining Case Type (cont.)



- An HP is a tenant suing a landlord for repairs.
 - Generally commenced by OSC.
 - The Court imposes fines for violations of the housing and maintenance code and sets a timeline for completion of repairs.
 - A tenant cannot be awarded damages.
 - HPD is a party to HP actions and the Court will generally order an HPD inspection, but can advise client to call 311 prior to commencing.

Determining Case Type (cont.)



- **Illegal lockouts:**
 - Filed if a landlord or roommate uses “self help” (changes the locks themselves without a City Marshall)
 - Anyone who has resided in a dwelling for more than 30 days is entitled to judicial process
 - Can take a few days, client should make temporary housing plan
 - Commenced by OSC, should ask for interim supervised entry in the OSC so that client can get proof of residency
- A landlord may also sue in civil court for non-possessory rent charges, or may bring an ejectment action in NY State Supreme Court for various reasons.

Determining Procedural Posture



- Timeline of notices/court papers:
 - FDCA Notice
 - Predicate notice (14 Day Rent Demand for Non-Pays, Notice to Cure and Notice to Terminate for Holdovers)
 - Notice of Petition and Petition
 - Court date reminders
 - 14 Day Marshall's Notice of Eviction
- If a case is court involved you can search for the case on NYSCEF and eCourts either by index number or by the tenant's name.

Finding Defenses: General



- Traverse – was service proper?
 - Get specifics of how each document was received
- Standing – does the Plaintiff have standing to sue?
 - Check ACRIS to verify building ownership
- Are all necessary parties named?
 - If John/Jane Doe, does the landlord know the names of all individuals in the apartment?
- Failure to plead regulatory status
- Disputing the allegations
 - Incorrect amounts in NP, incorrect allegations in HO
- ERAP

Finding Defenses: Non-pay



- Did the client receive a written rent demand?
- Does the client have any rent subsidies?
 - Section 8 portion vs. other subsidies
- Is the amount claimed correct?
- Are there any repairs?
 - Did the client give the LL notice? Call 311?
- Multiple Dwelling Registration
- C of O issues
- Tenant Safe Harbor Act

Finding Defenses: Holdover



- Correct Predicate Notice?
 - Timeframe? Was the client entitled to a Notice to Cure?
- Vitiating (ask client when/how they paid rent)
- New lease offer
- Waiver (90 day pet waiver)
- Contradictory allegations/case theories
- Have the alleged conditions already been cured?
- Is the type of housing incorrectly identified?
 - Historical rent stabilization, horizontal multiple dwelling, etc..

Helpful Tools



- ACRIS
- HPD Online
- DOB Building Information System
- NYSCEF
- eCourts
- Justfix.nyc Who Owns What tool

Right to Counsel



- Tenants at or below 200% of the Federal Poverty Guidelines are entitled to free representation through the City's Right to Counsel Program.
 - If the client has an active PA case they qualify.
- Currently understaffed due to the COVID-19 pandemic, but referrals can be made at:
 - Call **718-557-1379** or **212-962-4795** from Monday - Friday, 9am - 5pm.
 - Call 311 and ask for the Tenant Helpline
 - Email OCJ at civiljustice@hra.nyc.gov. Please provide a name, telephone number, and Housing Court case index number for your eviction case (if known) in your email.

Final Q & A



Any additional
thoughts or questions?



Contact Information



Please feel free to reach out with follow up questions:

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