



Policy Statement 93-3 (September 10, 1993)

Procedures for Cases Involving 7-A Administrators Appointed by the Housing Court Pursuant to the Real Property Actions and Proceedings Law

This Policy Statement sets forth the procedures to be followed in buildings managed by 7-A Administrators where service or overcharge complaints are filed, non-compliance cases are pending, and cases where there is a finding of harassment. This Statement also sets forth the procedure for registration of buildings managed by 7-A Administrators.

I. Services

Some courts have ruled that the DHCR does not have jurisdiction to impose penalties upon 7-A Administrators for failure to maintain services because the expenditure of money by 7-A Administrators to operate their buildings is subject to the supervision of the Housing Court which appointed the Administrator. However, DHCR must process complaints alleging decreases in services pursuant to and in compliance with Section 26-514 of the Rent Stabilization Law, applicable case law, and Policy Statement 90-2.

Where a building managed by a 7-A Administrator is the subject of a service decrease complaint, DHCR will forward a copy of the complaint to the 7-A Administrator and the New York City Department of Housing Preservation and Development (HPD) 7-A Counseling and Assistance (C & A) Unit. DHCR will process the case, and, if a decrease in service is found, issue an order directing restoration of the service as well as reducing the rent in compliance with the Rent Laws. The DHCR will then forward a copy of its order to the 7-A Administrator and HPD's C & A Unit.

Thereafter, in the event that a tenant files an Affirmation of Non-Compliance, all relevant information will be forwarded to the 7-A Administrator and HPD's 7-A C & A Unit. The DHCR will not initiate compliance proceedings or prosecute the 7-A Administrator for failure to comply with the order.

II. Rent Restorations

An Application for Rent Restoration filed by a 7-A Administrator will be expedited where the 7-A Administrator indicates on the application his or her name and the designation "7-A Administrator." DHCR will also expedite such cases upon request at any time.

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.



III. Overcharges

When DHCR determines that there has been an overcharge, it will issue an order establishing the legal regulated rent to be paid by the tenant, calculate the overcharge, and determine the applicability of treble damages. The DHCR order will be sent to the tenant, the owner, the 7-A Administrator, and HPD's 7-A C & A Unit. The order will direct the owner to refund the part of the overcharge collected by such owner prior to the appointment of the 7-A Administrator, plus applicable treble damages, or will permit the tenant to either docket such amount in the same manner as a judgment of the Supreme Court or to deduct such amount from the rent after the court removes the building from 7-A Administration.

The order will also direct the 7-A Administrator to refund to the tenant that part of the overcharge collected by the 7-A Administrator or permit the tenant to withhold that portion from his or her rent as provided for in the collectibility instructions which accompany the order. Treble damages will not be assessed on overcharges collected by the 7-A Administrator as a result of overcharges caused by the owner. However, if the DHCR finds that the 7-A Administrator willfully caused the overcharge he or she collected, the order will refer the issue of imposition of treble damages against the 7-A Administrator to the appointing court.

IV. Registration

7-A Administrators, acting as owners, are required to comply with all initial and annual registration requirements. The failure to properly and timely comply with the initial or annual rent registration as required by Section 2528.4 of the Rent Stabilization Code shall, until such times as said registrations are completed, bar an owner or a 7-A Administrator from applying for or collecting any rent in excess of:

- a) the legal regulated rent in effect on the date that the housing accommodation became subject to the registration requirements of the Rent Stabilization Code, if no initial registration has taken place;

or

- b) the legal regulated rent in effect on April first of the year for which an annual registration was required to be filed, or such other date of that year as may be determined by the DHCR pursuant to Code Section 2528.3 (Annual Registration Requirements.)

The late filing of a registration shall result in the elimination, prospectively, of such penalty. Therefore, if a building or an apartment was not properly and timely registered prior to appointment of the 7-A Administrator, the 7-A Administrator is required to register the building or apartment for all years in which a proper registration was not filed. However, if the increases in the legal regulated rent were lawful except for the failure to file a timely registration, the 7-A Administrator, upon the service and filing of a late registration, shall not be found to have collected an overcharge at any time prior to the filing of the late registration. If an overcharge complaint results from the owner's or 7-A Administrator's failure to properly register, and the 7-A Administrator does not file any required late registration prior to the issuance of an order by the DHCR freezing the rent as specified above, the procedure for refunding any overcharges as explained in Section III of this policy statement will be followed.

V. Vacate Orders

If the DHCR receives a Vacate Order from a governmental agency describing conditions which make the building or a part of the building uninhabitable, or otherwise determines that such conditions exist, the DHCR will open a proceeding to reduce the legal rent of the tenant(s) of record in the building or the affected apartment(s) to \$1.00 per month, per unit, and provide the owner and the 7-A Administrator with 20 days in which to provide evidence that the Vacate Order has been rescinded or revoked, or that there is a plan approved by the court or HPD for correcting the conditions which caused the vacate order to be issued. When DHCR is made aware that a 7-A Administrator is managing the building, a copy of the Notice of Commencement of Proceeding will be sent to the 7-A Administrator and the 7-A C & A Unit of HPD.

If evidence is not provided that the Vacate Order has been revoked or rescinded or that there is a plan approved by the court or HPD to correct such conditions, or the tenant has actually vacated pursuant to such order, the DHCR will establish the legal rent for the affected tenant(s) at \$1.00 per month, per unit, to maintain the tenant's right to reoccupy the subject apartment. Where a 7-A Administrator has been appointed, in addition to sending a copy of such order to the owner, DHCR will also send a copy of such order to the 7-A Administrator and HPD.

VI. Harassment

If the Housing Court installs a 7-A Administrator to manage a building against which there is a finding of harassment, the restrictions against rent increases may be lifted, as determined by the DHCR after an expeditious hearing, upon application by the 7-A Administrator.

If DHCR receives a complaint of harassment against a 7-A Administrator, a copy of the complaint will be sent to the 7-A Administrator and to the 7-A C & A Unit. The DHCR will not proceed with an administrative hearing against a 7-A Administrator without notification to the appointing court and HPD's 7-A C & A Unit.

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