Legislation Details (With Text)

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Date	Ver.	Action By	Action	Result
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Int. No. 1482

By Council Members Hudson, Nurse and Hanif (by request of the Brooklyn Borough President)

A Local Law to amend the administrative code of the city of New York, in relation to providing financial assistance to low-income tenants displaced due to housing demolition, substantial rehabilitation, change of use, or removal of rent or income restrictions

Be it enacted by the Council as follows:

Section 1. Subdivision 1 of section 26-301 of the administrative code of the city of New York, as amended by local law number 159 for the year 2019, is amended to read as follows:

1. The commissioner of housing preservation and development shall have the power and it shall be [his or her] such commissioner's duty:

(a) To provide and maintain tenant relocation services

(i) for tenants of real property which the commissioner of housing preservation and development is

authorized to maintain and supervise;

(ii) for tenants of real property acquired for public purposes, excluding real property acquired by or on behalf of the New York city housing authority or the triborough bridge and tunnel authority;

(iii) for tenants of real property located in any neighborhood improvement district designated by the city planning commission, where the displacement of such tenants results from the enforcement of any law, regulation, order, or requirement pertaining to the maintenance and operation of such property or the health, safety, and welfare of its occupants;

(iv) when authorized by the mayor, for the tenants of any privately owned building or other improvement which is to be voluntarily rehabilitated in accordance with an urban renewal plan pursuant to law; [and]

(v) for tenants of any privately owned building where such tenants vacate such building during a period when any law, regulation, order, or requirement pertaining to the maintenance or operation of such building or the health, safety, and welfare of its occupants requires such occupants to vacate such building[.]; and

(vi) for tenants of any privately owned building, where the displacement of such tenants results from the demolition, substantial rehabilitation, or change of use of such building, or from the removal of rent or income restrictions from such building.

§ 2. Subdivision 7 of section 26-301 of the administrative code of the city of New York, as added by local law number 16 for the year 2017, is amended to read as follows:

7. (a) The commissioner of housing preservation and development may require that a tenant of a privately owned building provide verification of occupancy in order to receive relocation services pursuant to subparagraph (v) or subparagraph (vi) of paragraph (a) of subdivision 1 of this section. If the commissioner establishes such a requirement, the commissioner shall establish a system under which such tenant is provided at least [two] 2 methods to verify such occupancy, including the following [two] 2 methods:

(i) submission to the commissioner of a lease, sublease, or license agreement verifying that the tenant

resides at such building;

(ii) submission to the commissioner of any [two] 2 of the following documents:

(A) a valid government-issued identification listing such building as such tenant's address;

(B) a valid record from any government agency listing such building as such tenant's address;

(C) a valid record relating to medical treatment, including prescriptions, that show such building as such tenant's address;

(D) a notarized written statement from the owner of such building verifying that such tenant resides at such building, provided, however, that a statement by such owner stating that such tenant does not reside at such building shall not be used to prevent such tenant from receiving relocation assistance;

(E) a valid utility bill addressed to such tenant at such building;

(F) a notarized statement from a third party, non-governmental service provider, written on the provider's official letterhead, verifying that services were provided to such tenant and showing that such tenant resides at such building;

(G) any other form of verification that the commissioner of housing preservation and development may deem appropriate.

(b) The department of housing preservation and development shall attempt to obtain the records described in clause (B) of subparagraph (ii) of paragraph a of this subdivision from the department of social services/human resources administration where applicable to such tenant, provided that the tenant signs any necessary release as determined by the department of housing preservation and development.

(c) The commissioner of housing preservation and development shall provide any such tenant who is denied such services with (i) written notice of such decision, (ii) the basis for such decision, and (iii) information on how to appeal such decision.

§ 3. Chapter 2 of title 26 of the administrative code of the city of New York is amended by adding a new section 26-301.1 to read as follows:

§ 26-301.1 Tenant relocation assistance program. a. Definitions. As used in this section, the following terms have the following meanings:

Affected dwelling unit. The term "affected dwelling unit" means a dwelling unit for which demolition, change of use, substantial rehabilitation, or removal of rent or income restrictions is to occur.

Area median income. The term "area median income" means the income limits as defined annually by the United States department of housing and urban development (HUD) for the New York, NY HUD Metro FMR Area (HMFA), as established in Section 3 of the Housing Act of 1937, as amended.

Change of use. The term "change of use" means the conversion of any dwelling unit from a residential use to a nonresidential use that would result in the displacement of existing tenants, or the conversion from a residential use to another residential use that would result in the displacement of existing tenants.

Commissioner. The term "commissioner" means the commissioner of the department of housing preservation and development.

Demolition. The term "demolition" means the destruction of any dwelling unit or the relocation of an existing dwelling unit or units to another site.

Department. The term "department" means the department of housing preservation and development.

Displacement. The term "displacement" means when an existing tenant must vacate a dwelling unit because of demolition, substantial rehabilitation, or change of use, or when an existing tenant vacates after notice of the removal of a rent or income restriction from a dwelling unit. The term "displacement" does not include the permanent relocation of a tenant from 1 dwelling unit to another dwelling unit in the same building with the tenant's consent, or the temporary relocation of a tenant for less than 72 hours.

Dwelling unit. The term "dwelling unit" has the same meaning as set forth in paragraph 13 of subdivision a of section 27-2004.

Owner. The term "owner" has the same meaning as set forth in paragraph 45 of subdivision a of section 27-2004.

Rent or income restriction. The term "rent or income restriction" means any federal, state, or local regulation, ordinance, agreement, or contract that, as a condition of receipt of any assistance or incentive, including an operating subsidy, rental subsidy, property tax exemption, development agreement, zoning-related benefit, modification of development standards, mortgage subsidy, mortgage insurance, tax-exempt financing, or low-income housing tax credits, establishes a maximum limit on tenant income as a condition of eligibility for occupancy of a unit, imposes any restrictions on the maximum rent that may be charged for a unit, or requires review of rent for a unit by a governmental body or agency before the rent is implemented or changed.

Substantial rehabilitation. The term "substantial rehabilitation" means work that would result in the displacement of existing tenants and is necessary to bring a property into compliance with all applicable laws and regulations, including but not limited to the installation, replacement, or repair of heating, plumbing, electrical, and related systems and the elimination of all hazardous and immediately hazardous violations in the structure in accordance with state and local laws and regulations of state and local agencies. The term "substantial rehabilitation" may also include reconstruction or work to improve the habitability or prolong the useful life of the property if such reconstruction or work would result in the displacement of existing tenants, provided that "substantial rehabilitation" does not include ordinary maintenance or repair.

Tenant. The term "tenant" means any person who is entitled to occupy a dwelling unit primarily for living or dwelling purposes, not including the owner of a dwelling unit or members of the owner's immediate family.

b. Applicability. This section shall apply to displacement caused by demolition, change of use, substantial rehabilitation, or removal of rent or income restrictions from any dwelling unit, with the exception of displacement from the following:

1. Any dwelling unit demolished or vacated because of damage caused by an event beyond the owner's control, including but not limited to fire, civil commotion, malicious mischief, vandalism, tenant waste, natural disaster, or other destruction;

2. Any dwelling unit ordered to be vacated by any agency as authorized by law;

3. Any dormitory, as defined in paragraph 27 of subdivision a of section 27-2004;

4. Any dwelling unit for which relocation assistance is required to be paid to the tenants pursuant to state, federal, or other law, unless such law requires application of this section; or

5. Any dwelling unit operated as emergency or temporary shelter for homeless persons by a nonprofit organization or public agency owning, leasing, or managing such dwelling unit.

c. Tenant relocation license. 1. Prior to the demolition, change of use, or substantial rehabilitation of any dwelling unit, and prior to the removal of a rent or income restriction from any dwelling unit which would result in the displacement of a tenant, the owner must obtain a tenant relocation license from the department pursuant to subdivisions c and d of this section.

2. The department shall issue a tenant relocation license to any owner who, to the satisfaction of the commissioner, has:

(a) Submitted a tenant relocation license application, as provided in subdivision d of this section;

(b) Delivered a tenant relocation information packet to each tenant in an affected dwelling unit, as provided in subdivision e of this section; and

(c) Complied with the 90-day tenant notice provisions set forth in subdivision h of this section.

3. The department shall not issue a tenant relocation license to any owner until such owner has satisfied the requirements set forth in paragraph 2 of this subdivision.

4. The department of buildings shall not issue any permit for work that requires a tenant relocation license, as set forth in paragraph 1 of this subdivision, until such tenant relocation license is issued by the department in accordance with this section.

d. Tenant relocation license application. 1. The department shall create a tenant relocation license application form, to be made available on the department's website. Such application shall require, but need not be limited to: a certification of the number of affected dwelling units; a list containing the name and known

contact information of each tenant residing in an affected dwelling unit; and a certification that the owner has made reasonable efforts to relocate each such tenant to a unit within the same building that is comparable to such tenant's affected dwelling unit.

2. At least 6 months prior to the planned demolition, change of use, or substantial rehabilitation of any dwelling unit, or the removal of a rent or income restriction that would result in the displacement of a tenant, the owner must submit to the department a tenant relocation license application form for approval by the department.

e. Tenant relocation information packet. 1. The department shall create a tenant relocation information packet. Such packet shall include, but need not be limited to, a relocation assistance certification form, instructions for submitting such form to the department, and a description of the potential relocation benefits available to eligible tenants. The department shall make such information packet available on the department's website.

2. Within 30 days after submission of the tenant relocation license application pursuant to subdivision b of this section, the owner shall deliver to each tenant in an affected dwelling unit the tenant relocation information packet created pursuant to paragraph 1 of this subdivision. An owner may comply with this paragraph by providing the tenant with information on where to find the tenant relocation information packet on the department's website, provided that, upon request by any such tenant, the owner shall provide such tenant with a physical copy of the tenant relocation information packet. The owner shall certify delivery of the tenant relocation information packets in a manner to be prescribed by the department.

f. Tenant eligibility for relocation assistance. 1. A tenant may seek eligibility for relocation assistance as an individual or as a member of a household, provided that no tenant shall be eligible to receive relocation assistance as both an individual and a member of a household.

2. A tenant shall be eligible for relocation assistance if:

(a) (i) Such tenant's income is at or less than 130 percent of the area median income, if such tenant

seeks eligibility for relocation assistance as an individual; or (ii) The total combined income of such tenant's household is at or less than 130 percent of the area median income, adjusted for household size, if such tenant seeks eligibility for relocation assistance as a member of a household;

(b) Such tenant resided in an affected dwelling unit at the time of the owner's submission of the tenant relocation license application; and

(c) Such tenant submits a relocation assistance certification form to the department within 30 days after delivery of the tenant relocation information packet by the owner, as provided in subdivision e of this section. Such tenant shall indicate on such form whether the tenant is seeking eligibility for relocation assistance as an individual or as a member of a household and, if as a member of a household, shall list all other members of such household. A tenant who fails or refuses to timely submit a relocation assistance certification form in accordance with this subparagraph shall be deemed to have waived the right to relocation assistance under this section.

g. Notice of eligibility. Within 15 days of the department's receipt of the signed relocation assistance forms from all tenants listed in the tenant relocation license application, or within 15 days of the expiration of the 30-day deadline set forth in subparagraph (c) of paragraph 2 of subdivision f, whichever comes first, the department shall send to the owner and to each tenant a written notice of the department's decision regarding whether the tenant is eligible for relocation assistance, along with the basis for such decision and instructions for how to appeal such decision.

h. 90-day notice. 1. The department shall create a 90-day notice form. Such form shall include, but need not be limited to, a description of the relocation benefits available to eligible tenants.

2. No fewer than 10 days after receipt of the notice of tenant eligibility pursuant to subdivision f of this section, the owner shall deliver to each affected dwelling unit a 90-day notice of the owner's intention to demolish, change the use of, or substantially rehabilitate such dwelling unit, or that rent or income restrictions are to be removed from the dwelling unit. The owner shall post a copy of such notice at every entrance to any

dwelling containing affected dwelling units.

3. The owner shall certify delivery of such notice in a manner to be prescribed by the department.

4. No tenant relocation license may be issued by the department until the expiration of 90 days from the date of delivery of the 90-day notice to all affected dwelling units.

i. Relocation assistance payments. Eligible tenants who are displaced by demolition, change of use, substantial rehabilitation, or removal of rent or income restrictions, and who comply with the requirements of this section, shall be paid a relocation assistance payment, to be paid half by the department and half by the owner. The amount of such payment shall be determined by a schedule to be set by the department and adjusted annually.

j. Administrative appeals. 1. Either an owner or a tenant may appeal a determination concerning a tenant's eligibility for relocation assistance.

2. The department shall issue a decision within 15 days of receipt of an appeal pursuant to paragraph 1 of this subdivision. The department shall send such decision to the tenant and the owner along with a notice that such decision is final and may not be appealed.

k. Administration and enforcement. 1. The commissioner shall administer and enforce the provisions of this section and adopt rules and regulations consistent with this section to carry out the commissioner's duties, including but not limited to the imposition of civil penalties for violations of this section.

2. Whenever an owner fails to comply with the provisions of this section, the commissioner shall refuse to issue the tenant relocation license.

3. Any failure to comply with the requirements of this section or with a decision of the commissioner under this section shall be a violation of this section.

§ 4. This local law takes effect 180 days after it becomes law.

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