



# State Senator Liz Krueger's Albany Update

## YOUR HOUSING RIGHTS

### Co-op and Condo Forum

Bring your questions about your rights and responsibilities as a co-op or condo owner  
Wednesday, November 4, 6-8 PM  
Hunter College School of Social Work Auditorium  
79th Street and Lexington Avenue (N.W. Corner)  
for more information, call (212) 490-9535

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## REPORT TO NEW YORKERS ON HOUSING FROM STATE SENATOR LIZ KRUEGER

Dear Neighbor,

The newsletter offers a brief update on where the Senate stands with key housing legislation, followed by information about tenants' rights and issues, and programs relevant to co-op and condo owners.

The lack of progress on key pro-tenant legislation during this session has left me disappointed and frustrated, but more committed than ever to pushing forward on key issues like ending vacancy decontrol and restoring local control over New York City housing policy. We came close to moving a number of key tenant bills this year, but the coup and related distractions short-circuited the efforts of myself and other housing advocates in the Senate.

These days, putting together the 32 votes needed to pass legislation on anything is difficult enough (as we need 32 out of 62 for simple majority), and there are plenty of powerful, well funded forces which continue to oppose tenant-protection legislation. As I have watched the battles over repeal of vacancy decontrol and other issues unfold this session, I am more convinced than ever that the underlying solution is campaign finance reform, which would reduce the influence of big money on this and so many other debates.

I will continue to work to find those 32 members from either conference who will come together to preserve affordable housing stock by protecting rent regulated apartments. I believe we still have opportunities to move this critical legislation later in the year.

I will also be pushing for the legislature to recognize that as we attempt to convince people we are serious about changing the way Albany does business, the only way to succeed in doing that will be to enact real campaign finance reform, including public financing.

While there is not enough space in this newsletter to address all pertinent facts, rights and obligations, or to explain these complex matters in as much detail as they require, this newsletter covers the issues which come up most often in my district office. You should be aware, however, that there are exceptions to the regulations and programs outlined here.

If you need more information, or help with individual or building-wide problems, please contact my office at (212) 490-9535. We will be happy to speak with you, either individually or in a group. Please let me know if you would like additional copies of this report to distribute in your building.

Sincerely,

Liz Krueger  
State Senator

## QUESTIONS AND ANSWERS ABOUT TENANTS' RIGHTS

### What services are landlords legally required to provide to tenants?

The Warranty of Habitability Law, the Housing Maintenance Code, the Multiple Dwelling Law and other laws guarantee tenants certain essential services and protections. Tenants have the right to a safe, well-maintained, livable apartment, to organize and hold tenants' meetings in their building and to make complaints about lack of services without reprisals.

Owners must: identify and register with HPD the name of both the owner and agent authorized to make emergency repairs and list a phone number in the building where the owner/agent can be reached at all times; provide regular extermination services if needed; provide daily garbage disposal by compactor or in a sufficient number of covered garbage cans; keep public areas of the building and the lot clean and free of vermin; provide janitorial services; and keep the building in good repair. In apartments, this means walls, ceilings, floors, windows, plumbing, heating, fixtures, doors, functioning locks on each apartment, owner-installed and maintained appliances, adequate lighting in building public areas, peepholes on apartment entrance doors, elevator mirrors and locks on all main building doors.

### What are my responsibilities as a tenant?

Tenants must remember that they have legal responsibilities both to the owners and their neighbors. Tenants must properly maintain their apartments, discipline their pets, as well as keep stairwells, fire escapes and public hallways clean and clear of obstructions. They must keep noise levels down from television sets and stereos and, if required in the lease, cover floors with rugs or carpeting. They must also comply with NYC recycling requirements. Tenants are also obligated to pay the rent on time. By fulfilling these obligations, tenants may help create a more pleasant environment for everyone in the building and a more positive owner-tenant relationship.

Leases are valid and enforceable contracts between tenants and owners and should be complied with by both sides. In cases where the lease and the law differ, however, the law prevails, and tenant cannot sign away any of their legally protected rights.

### What if I don't receive proper services or repairs?

If you have a problem with building services or need repairs, first speak to the owner or the agent. If they fail to respond to your complaint, put it in writing and mail it by certified mail, return receipt requested. Keep copies of all correspondence and records of conversations. If the owner does not act in a reasonable period of time (determined by the urgency of the problem), consider these options:

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**Request a Code Enforcement Inspection.** Call HPD's Central Complaint Bureau at 311. They will send inspectors to examine your problem and can issue orders to correct violations.

**Go to Housing Court.** If your problem is serious, you may want to bring an action in Housing Court. If your problem involves building-wide services, it is a good idea to undertake any legal action through a formal tenants' association, although you may pursue an individual action. To bring an owner to court, three forms, obtainable from the Housing Court at 111 Centre Street, must be completed: an Order to Show Cause, an affidavit detailing the complaint and an Affidavit of Service. For more information on the Housing Court Process, go to [cwtfhc.org/for-tenants](http://cwtfhc.org/for-tenants).

The \$35.00 filing fee per action may be recovered if you win your case. If you cannot afford the fee, you may apply to have it waived. Once the proper forms have been filled out and the papers are served, you will be notified of a hearing date. Judges can levy fines, issue orders to correct violations and appoint special administrators to run problem buildings.

**Seek a Rent Reduction.** Rent-regulated tenants can file an application with DHCR for a rent reduction based on decreased service(s). DHCR has the authority to order a rent reduction until services are restored. Separate complaint forms are available for individual and building-wide issues. Forms are available online at [www.dhcr.state.ny.us](http://www.dhcr.state.ny.us).

### What about heat and hot water?

During the heating season (October 1 through May 31), owners must provide heat as follows: During the day (6 am to 10 pm), if the temperature outside is below 55 degrees, apartments must be heated to at least 68 degrees. At night (10 pm to 6 am), if the temperature is below 40 degrees, apartments must be heated to at least 55 degrees. Owners must supply hot water all year long at a constant minimum temperature of 120 degrees.

If your owner fails to provide heat or hot water, keep an accurate daily record of this and report it to the NYC Department of Housing Preservation and Development's (HPD) Central Complaint Bureau at 311.

### Is my apartment rent-controlled or rent-stabilized?

While there are exceptions to these general rules, your apartment is probably rent-controlled if your building was built before 1947, contains three or more apartments, and you or a family member moved in before July 1, 1971.

Your apartment is probably rent-stabilized if your building contains six or more apartments; and 1) was built between 1947 and 1973; or 2) was built before 1947 and you moved in after June 30, 1971.

Generally, controlled tenants have one old lease or no lease; stabilized tenants renew leases every one or two years. Some apartments which meet the general criteria for rent regulation are exempt due to the rent level of the apartment and the timing of past vacancies.

Apartments in buildings constructed after 1973 are not subject to regulation unless the owners received assistance under one of two city tax benefit programs, J-51 or 421-a, or certain other city or state loan programs. Special rules also apply to buildings owned by non-profit institutions such as hospitals or colleges. Certain units may also be deregulated because of the rent and the tenant's income; these provisions are explained in detail below.

Owners of rent regulated apartments are required to register their units with DHCR each year. If you have questions about your apartments status or legal rent, you can call DHCR at (866) 275-3427 and speak to a housing counselor.

### How are rent increases determined for rent-stabilized and rent-controlled apartments?

Increases for **stabilized apartments** are established annually by the NYC Rent Guidelines Board whose 9 members are appointed by the mayor. For renewal leases taking effect on or after October 1, 2009 and on or before September 30, 2010, the guidelines for apartments are: 3% for a one-year lease; and 6% for a two-year lease.

However, if you have lived in your apartment for six years or

longer and your monthly rent is less than \$1,000, you may be subject to a slightly larger increase.

Increases for **controlled apartments** are derived from two figures: the Maximum Base Rent (MBR), a maximum ceiling for rents, and the Maximum Collectible Rent (MCR), the amount an owner can actually collect. New MBRs are computed for each rent-controlled apartment in the city every two years. However, the annual MCR increase in most cases cannot exceed 7.5% annually and there are some conditions owners must meet in terms of removing violations and maintaining the apartment in order to qualify for the increase.

### What additional increases can affect regulated apartments?

**New Appliances:** Your rent can be increased if the owner provides you with a new appliance, equipment or service. But your written consent (and an owner's notification to DHCR, if you are a rent-controlled tenant) is necessary before such increase goes into effect. A tenant does not have to accept new appliances and pay an increase, despite any claims by the owner that only new equipment is available for replacements. In the event that an appliance breaks down, the law requires the owner to repair it or replace it with a used or reconditioned appliance in good working order. If a tenant opts for a new appliance, an owner is entitled to collect a permanent monthly rent increase equal to 1/40th of its cost, but only with the written consent of the tenant. Owners are also entitled to a 1/40th increase for new equipment or improvements in vacant apartments.

**Major Capital Improvements (MCIs):** Eligible MCIs must contribute to the operation, maintenance and preservation of the building, and directly or indirectly benefit all the tenants. The most common improvements are new roofs, elevators, boilers or windows in every apartment.

Completion of the improvements may entitle the owner to increase your rent, subject to approval by DHCR. DHCR may reject MCI applications if owners have failed to maintain all required services in the building or there are current "immediately hazardous" violations in effect. DHCR may grant increases conditioned on correction of violations within a reasonable time frame. Improvements paid for out of the reserve fund of a cooperative corporation or condominium association, unless reimbursed by a special assessment on unit owners, and those paid from grants from governmental entities, are not eligible for MCIs.

These are permanent rent increases to your rent which are 1/84th of the total cost of the improvement, divided by the total number of rooms in your building, and then multiplied by the total number of rooms in your apartment. For controlled tenants, MCI increases are capped at 15% annually; for stabilized tenants, the ceiling is 6%. Because of the delay in processing MCI applications, DHCR has been allowing owners of rent-stabilized units to collect an additional temporary increase retroactive to the date that the tenants were served with the owner's MCI application.

When DHCR begins processing an MCI application, tenants receive an official notice outlining the work done and the increase sought. Tenants then have 30 days to challenge the application. Do not pay any MCI increase until you have received a copy of the order authorizing the increase from DHCR.

### What lease renewal options apply to rent-stabilized apartments?

Tenants have the right to renew their lease for either a one- or two-year period at the RGB's approved renewal rate then in effect, under the same terms and conditions as their original lease. Owners must use a lease renewal form promulgated by DHCR. New tenants have the same right to choose a one- or two-year lease.

Owners must offer renewal leases between 150 to 90 days prior to the expiration of the tenant's lease, or state the reason why they are not renewing the lease. If you don't receive a timely renewal notification, remind the owner of his or her obligation in a certified letter, return receipt requested. If no renewal is forthcoming, file an Owner's Failure to Renew Lease complaint with DHCR and sit tight. Until you receive a renewal lease, your current lease remains in effect. *Please keep in mind that a tenant's failure to respond within 60 days of the offering of a new lease may lead to eviction proceedings.*

## What is “luxury decontrol?”

Apartments renting for more than \$2,000 or more are deregulated when the occupants have an adjusted gross income of \$175,000 or greater for the previous two years consecutively. In order to apply to DHCR for a deregulation order, the owner must send the tenant an “Income Certification Form,” by May 1 of each year. If the tenant refuses to return the form, or if the owner disputes the information that the tenant submitted, the owner can file a Petition for Deregulation, and DHCR will then attempt to obtain the income information from the tenant. *If the tenant either shows an income of over \$175,000 or fails to return the form within 30 days, DHCR can issue a decontrol/destabilization order.*

## What about security deposits?

Owners are entitled to collect a security deposit limited to one month’s rent from regulated tenants. Security deposits for free-market apartments are not limited.

Owners of buildings with six or more apartments must place your security deposit in a separate interest-bearing account and inform you of the bank’s name. You may request that the landlord either pay you the interest annually (minus a 1% administration fee), apply it towards the rent, or pay it to you in a lump sum when you move. Complaints regarding failure to comply with these security deposit regulations can be filed with the State Attorney General’s Office (800) 771-7755.

## What are my rights to sublet my apartment?

Unless greater rights are allowed in their lease, rent-stabilized tenants have the right to sublet their apartments for two years out of any four-year period subject to the owner’s consent, which cannot be unreasonably withheld. Rent-controlled tenants have no legal right to sublet their apartments.

A tenant may sublet an apartment if the owner unreasonably withholds consent or fails to respond to a sublet request. A tenant cannot sublet if the owner reasonably withholds consent. A “reasonable” objection may, for example, be based on the past rental history of the prospective subtenant.

If the apartment is furnished, rent charged to a subtenant cannot exceed the legal rent plus up to a 10% surcharge, payable to the tenant. The owner is also entitled to collect an additional 10% under this year’s guidelines for sublet apartments. If the tenant overcharges a subtenant, the tenant may be liable to the subtenant for treble damages. The sublet term may exceed the term of the lease, provided the prime tenant renews the lease. Tenants must continue to maintain their apartments as their primary residences, and must intend to re-occupy them as such.

## Am I allowed to move out of my apartment before the lease is up?

Only senior citizens over age 62 who have been accepted for residency in certain adult care facilities or designated senior housing can terminate a lease without penalty upon 30 days’ notice to the owner in the manner outlined in the statute. For all other renters, a lease is a legally binding contract and tenants may be held liable for the rent for the balance of the lease term if an owner brings an action in court. However, many owners are pleased about a tenant leaving before the lease is up since it may mean additional rent increases through a vacancy lease or apartment improvements. The best bet is to discuss the situation with the owner well in advance of the time you want to move out.

## Can the owner enter my apartment?

Owners must have access to your apartment in an emergency which might result in damage to the building or other apartments, such as a broken water pipe or gas leak. Owners are also permitted to enter apartments with reasonable notice to inspect and make needed repairs. If your lease requires you to give your owner a key to a lock you installed, you must do so. Failure to grant reasonable access is grounds for eviction.

## May I have a roommate?

Provided a tenant continues to occupy the apartment as their primary residence, each tenant named on a lease has the right to have one unrelated roommate and that roommate’s dependent children reside with them. Immediate family members of the named tenant do not count as roommates. Tenants who take in a roommate are required to notify the owner or respond to a request from the owner about who is living in the apartment within 30 days of a formal request for such information.

An owner can begin eviction proceedings against a tenant for charging their roommate more than a proportionate share of the rent and the subtenant can collect treble damages from the prime tenant. If the tenant named in the lease moves out, the remaining occupant has no right to the apartment without the owner’s consent.

## May I keep pets in my apartment?

If your lease specifically permits pets or is silent on the issue, then you may have pets. Lease clauses banning pets are binding. However, “no-pet” clauses are void if owners don’t act to enforce them within three months of the time the tenant began openly keeping a pet.

## Who is eligible for the Senior Citizen Rent Increase Exemption (SCRIE) program?

The SCRIE program freezes rents for eligible tenants and provides a tax abatement for the owner in return. To be eligible for a SCRIE, you must be 62 years of age or older, live in a rent-regulated apartment, have a household income (after taxes) of \$29,000 or less and be paying more than one-third of your income for rent. You must apply for a SCRIE and recertify your eligibility every two years. Tenants who experience a permanent decrease in income of more than 20% can apply to have their benefits recalculated. Applications for SCRIE are available from my district office.

*Figures show that only a fraction of eligible recipients are receiving the SCRIE benefits to which they are entitled. If you or someone you know may be eligible for SCRIE, please call or pick up an application in my office or call 311 to get one from the Department of Finance.*

## Who is eligible for the Disabled Rent Increase Exemption Program (DRIE)?

The DRIE program freezes the rents of disabled people living in rent-regulated apartments or Mitchell Lama buildings and provides a tax abatement for the owners. Households which are eligible include those receiving Social Security Disability, Supplemental Security Income, Veterans’ pensions or compensation, and those enrolled in the Medicaid Buy-In Program. DRIE is designed to work in the same way as SCRIE except that it has lower income limits. The eligibility limit for DRIE varies by household size and source of income, but in general the income limit for single individuals is \$19,284 and \$27,780 for couples. However, there are certain deductions which will be allowed. To obtain applications, you can either call 311 to get one from the Department of Finance or contact my office.

## What about “free market” apartments?

Rental apartments not subject to the rent stabilization or rent control laws are known as “free market” apartments. Rents for free market apartments are negotiated. The lease the parties sign dictates the terms of the tenancy. Tenants should carefully review such leases before signing, particularly with regard to the tenants’ taking occupancy, obligations, security deposits, use of parking spaces or other building facilities, improvements to be made to the apartment prior to the tenant taking occupancy, ongoing maintenance and late charges. Owners of free market apartments are not required to offer tenants renewal leases. There are no limits on rent increases. Despite the exemption from rent regulation, there are a number of laws which apply to all owner/tenant relationships, such as the Warranty of Habitability, the NYC Housing and Maintenance Code, the Multiple Dwelling Law and the Roommate Law.

## THE RIGHTS OF CO-OP SHAREHOLDERS AND CONDOMINIUM OWNERS

The rights of condominium owners and co-op shareholders are derived from a complex set of laws, regulations and individual building by-laws and other corporate documents. Offerings of condominiums and cooperatives are regulated by the Attorney General under the General Business Law (GBL), a statute designed to protect potential buyers from fraud through detailed disclosure requirements. Once cooperative and condominium plans are declared effective, condominiums fall under the NYS Condominium Act and cooperatives fall under the state’s Business Corporation Law – the same statute which regulates the state’s major corporations.

Although both of these statutes grant owners and shareholders some rights, their primary purpose is to require that co-ops and condos simply address certain issues in their operating documents: for co-ops, the proprietary lease, house rules, Certificate of Incorporation and by-laws; for condos, the Unit Deed or Declaration, house rules and by-laws of the condominium association.

Among the rights of shareholders and condominium owners under various state and city laws, are:

- the right to “quiet enjoyment” and peaceful use of the apartment and all public areas and facilities within the co-op or condominium;
- the right to expect that common areas will be maintained in proper condition, as required under the Real Property Law’s “Warranty of Habitability”;
- the right to receive all services and use all common facilities available to all other owners in a non-discriminatory manner;
- the right to be charged only the approximate proportionate share of the expenses of the co-op or condominium;
- the right to a list of all shareholders in the co-op corporation;
- the right to participate in an annual meeting of all shareholders or unit owners and to receive timely notice of the annual meeting or any special meetings;
- the right to inspect the minutes of all shareholders’ or condominium association meetings;
- the right to receive an annual financial statement;
- the right to vote to amend the Proprietary Lease, Certification of Incorporation, Declaration of Condominium or Bylaws; and
- the right to be counted in elections proportionate to units or shares owned.

Despite these rights, shareholders and condominium owners who are treated unfairly and arbitrarily by their board have found that the deck is often stacked against them when they seek changes, particularly when the board is still controlled by the sponsor. If you are having difficulties with a sponsor controlled board, you can contact the Attorney General’s Office at (212) 416-8121, or download the Cooperative and Condominium Conversion Handbook at [www.oag.state.ny.us/bureaus/real\\_estate\\_finance/condominiums.html](http://www.oag.state.ny.us/bureaus/real_estate_finance/condominiums.html).

## PROPERTY TAX EXEMPTION PROGRAMS

All homeowners who are New York State residents qualify for the **Basic School Tax Relief (STAR)** program regardless of age or income as long as they live in the property they are claiming. STAR provides savings of approximately \$200 a year. Residents 65 and older who qualify for Basic STAR and have an annual household income less than \$74,700 are eligible for Enhanced STAR. **Enhanced STAR** provides average yearly savings of \$380. Applications are available at my office or by calling 311.

The **Senior Citizen Homeowners’ Exemption (SCHE)** is a partial real property tax exemption available for property owners, aged 65 years or older with an annual adjusted gross income below \$37,400, and who reside in residential properties including one-, two-, or three-family homes, condominium units, or cooperative apartments.

*Note: Applicants who qualify for SCHE automatically are eligible for the Enhanced STAR exemption. Individuals who file for SCHE do not have to file a separate application for STAR.*

The NYC Department of Finance also administers a **Disabled Homeowners’ Exemption (DHE)** which provides a partial real property tax abatement for property owners who have a medically certifiable disability, an annual income below \$37,400, and who own and reside in a one-, two- or three-family home, condominium or co-op.

Eligible property owners must apply to the Department of Finance between July 15th and March 15th in order to qualify to have the benefits reflected in their next annual real estate tax bill. For more information regarding any of these programs, or to receive an application, you may contact my office at (212) 490-9535 or the NYC Department of Finance at 311.

## Important Housing Phone Numbers and Websites

You may file complaints regarding a wide range of building problems (such as heat, hot water, elevators, noise, garbage, building safety, asbestos, illegal construction) by calling 311. An inspector from the appropriate city agency will then further investigate the situation. Be sure to make a note of your complaint number so you can monitor the status of the investigation.

NYS DHCR..... [www.dhcr.state.ny.us](http://www.dhcr.state.ny.us)  
 NYC HPD .....<http://nyc.gov/html/hpd/html/tenants/tenants.shtml>  
 NYS Attorney General ..... [www.oag.state.ny.us](http://www.oag.state.ny.us)  
 NYC Rent Guidelines Board ..... [www.housingnyc.com](http://www.housingnyc.com)  
 Metropolitan Council on Housing ..... [www.metcouncil.net](http://www.metcouncil.net)  
 Tenants and Neighbors..... [www.tenantsandneighbors.org](http://www.tenantsandneighbors.org)  
 Housing Court Answers.....[www.cwtfhc.org](http://www.cwtfhc.org)

## Community groups which can also help with housing problems:

East Side Housing Coalition ....[eastsidehousingcoalition@gmail.com](mailto:eastsidehousingcoalition@gmail.com)  
 Metropolitan Council on Housing ..... (212) 979-0611  
 NYS Tenants and Neighbors ..... (212) 608-4320  
 Housing Court Answers..... (212) 962-4795  
 Burden Center for the Aging ..... (212) 879-7400  
 Council on NY Cooperatives & Condominiums ..... (212) 496-7400

## Sources of legal assistance for eligible, low-income renters:

Manhattan Legal Services ..... (646) 442-3100  
 Legal Aid Society ..... (212) 577-3300  
 Eviction Intervention Services ..... (212) 308-2210  
 MFY Legal Services ..... (212) 417-3812  
 Manhattan Legal Aid for Seniors Project ..... (212) 417-3880



**SENATOR  
LIZ KRUEGER**

**District Office**  
 211 East 43rd Street, Suite 401  
 New York, NY 10017  
 Tel: (212) 490-9535

**Albany Office**  
 609 Legislative Office Building  
 Albany, New York 12247  
 Tel: (518) 455-2297

Email: [lkrueger@senate.state.ny.us](mailto:lkrueger@senate.state.ny.us) | Web: [krueger.nysenate.gov](http://krueger.nysenate.gov)