

Who Enforces New York's Good Cause Law?

By Erica F. Buckley

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Question: I am general counsel to a large real property owner in New York City. Can you provide me an overview of the Good Cause Eviction Law, the role of the Division of Housing and Community Renewal, and if you believe the New York Attorney General will seek to enforce Good Cause?

Answer: Overview of Good Cause Eviction Law

New York's Good Cause Eviction Law (Good Cause) is a state law that limits the grounds for evicting tenants and caps rent increases for most market rate apartments in New York City and other jurisdictions that opt-in. New York enacted Good Cause April 20, 2024, within Part HH of Chapter 56 of the 2024 Laws of New York. It is currently effective and applies to all new leases and renewal leases, unless exempted, in New York City and other municipalities that adopt the law by local ordinance. The law aims to protect tenants from arbitrary or unreasonable evictions and rent hikes, and to preserve affordable housing in the state (See N.Y. Real Prop. Law Art. 6-A).

Under Good Cause, landlords must have a valid reason, or good cause, to evict a tenant or to refuse to renew a lease (N.Y. Real. Prop. Law § 215). Good cause includes non-payment of rent (unless deemed unreasonable), violation of tenancy obligations, nuisance, substantial damage to premises, illegal occupancy, illegal use of premises, refusal of access for repairs, owner occupancy, demolition, withdrawal from rental market and failure to agree to reasonable



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lease changes. Tenants cannot waive their right to Good Cause protections, and any such agreements are void against public policy.

Good Cause also imposes rent increase limitations for covered units. Rent increases are presumed unreasonable if above the inflation index or 10%, whichever is lower. The inflation index is defined as 5% plus the annual percentage change in the consumer price index for the region. For example, in New York City, the inflation index for 2024 was 8.82%, based on a 3.82% CPI-U rise from 2022 to 2023 (See The Division of Housing and Community Renewal (the DHCR) Notice on Good Cause Eviction Law published (May 2024)). Therefore, the maximum permissible rent increase for a renewal lease in New York City was 8.82%.

Courts must consider property tax expenses and increases, significant repairs not due to landlord neglect, and other relevant costs when determining reasonableness (N.Y. Real Prop. Law § 216(1)(a)(ii)). Increases below the lesser of the inflation index or 10% are per se reasonable. Tenants' failure to pay an unreasonable increase does not constitute good cause for removal.

Good Cause also requires landlords to provide notice to tenants about the applicability of the law and the basis for any rent increase, lease non-renewal, or eviction (*Supra* note 7). The "Good Cause Eviction Law Notice" must be provided to tenants within 120 days of the effective date of Good Cause (Aug. 18, 2024). N.Y. Real Prop. Law §231-c. The required "Good Cause Eviction Notice" must be given to every tenant in order to change lease terms at renewal at least 30 days but not more than 90 days prior to the expiration of the current lease. Even if a unit is exempt from the law, the notice must be provided to tenants and must identify the applicable exemption.

Good Cause exempts many types of units from the law. Good Cause does not apply to sublets, employment-related occupancy, seasonal use units, units within hospitals, manufactured homes, hotel rooms, dormitories, or units within religious facilities (See N.Y. Real Prop. Law §§214(1) through (15)).

Exemptions from Good Cause include units with monthly rent greater than 245% of the fair market rent, small landlords owning 10 units or less, owner-occupied buildings with 10 units or less, units already under rent regulation, affordable units under government agreements, units in buildings owned as condominiums or cooperatives or those buildings subject to an offering plan submitted to the New York Attorney General, and buildings with a temporary or permanent Certificate of Occupancy issued after Jan. 1, 2009, for 30 years.

The fair market rent is determined by the US Department of Housing and Urban Development by county, and the information provided annually by the Division of Housing and Community Renewal (DHCR). For example, in New York County, the 245% FMR for an efficiency (studio) was \$5,846, and for a 4-bedroom unit, it was \$9,065, as of May 1, 2024.

Villages, towns, or cities outside New York City may opt-in to Good Cause by passing a local law. These jurisdictions may opt in and can change the definition of small landlord as well as the 245% FRM threshold. As of May 1, 2024, no other municipalities had opted into the law (*Supra* note 7).

The Role of the Division of Housing and Community Renewal and Good Cause

The DHCR plays a narrow and circumscribed role under Good Cause.

One of the main tasks of the DHCR is to publish certain information annually by August 1st, as required by NY Real Prop. Law § 211(7). This information includes the annual percentage change in the consumer price index (CPI) for all urban consumers for all items, as published by the US Bureau of Labor Statistics, for the region in which the housing accommodation is located. The CPI is used to determine local rent standards for renewal leases covered by Good Cause.

The DHCR must also publish the fair market rent (FMR) and 245% of the FMR for each unit type, as published by the US Department of Housing and Urban Development, for each county in New York State. The FMR is used to determine the exemption threshold for rental units that are not covered by Good Cause.

Another task of the DHCR is to maintain a list of any village, town, or city, other than New York City, that has adopted a local law to opt into Good Cause, as authorized by NY Real Prop. Law § 213(1). The list must include the name of each local government, the applicable FMR threshold for exemption, and the applicable definition of a small landlord. The DHCR must receive notice from the Department of State regarding the adoption of such local laws within 30 days of their filing.

Other than the above-referenced tasks, Good Cause does not grant the DHCR any other powers, nor does Good Cause allow the DHCR to promulgate suitable rules and regulations.

The Role of the Courts and Good Cause

Tenants have certain rights under Good Cause if they believe that their landlord has violated the law by

removing them or attempting to remove them from their housing accommodation without good cause. For example, if a landlord tries to evict a tenant for refusing to agree to an unreasonable rent increase or lease change, the tenant may assert a violation of Good Cause as a defense in a holdover or non-payment proceeding (N.Y. Real Prop. Law §215). Similarly, if a landlord withholds a lease renewal due to personal use, demolition, or withdrawal from the rental market, the tenant may proactively sue and require the landlord to demonstrate good faith.

Like most landlord-tenant disputes, Good Cause will likely result in an increase in cases going to housing court for resolution.

The Role of the New York Attorney General and Good Cause

Given the DHCR's limited role in overseeing compliance with Good Cause, it is highly likely that the New York Attorney General may become more actively involved in investigating and prosecuting alleged violations of Good Cause. Under NY Exec. Law § 63(12), the Attorney General has broad enforcement powers which include the authority to investigate and prosecute any person or entity that engages in repeated or persistent fraudulent or illegal acts in the conduct of any business.

The Attorney General may apply to the Supreme Court for an order enjoining the continuation of such acts, directing restitution and damages, and in some cases, cancelling any certificate or license issued by the state. The Attorney General may also issue subpoenas, take proof, and make determinations of the relevant facts in connection with such investigations.

Prior to the enactment of Good Cause, the Attorney General used these powers to enforce the rent stabilization laws in several cases, where the Attorney General alleged that landlords violated the rent laws or engaged in fraudulent practices in relation to rent-stabilized tenants or prospective tenants.

For example, in *People v. Chatsworth Realty Corp.*, 143 A.D. 2d 596 (1988), the Attorney General brought

an action under Section 63(12) against a landlord who had repeatedly violated the rent stabilization laws by overcharging rents, failing to offer renewal leases, and demanding illegal fees from tenants. The Supreme Court appointed a receiver and granted an injunction and other relief, including requiring the owner to comply with the rent stabilization laws.

The Attorney General could play a similar role in investigating and prosecuting violations of Good Cause. The Attorney General could use the powers under NY Exec. Law §63(12) to inquire into matters involving compliance with Good Cause. The Attorney General could also seek injunctive and other relief to prevent or remedy such acts, as well as to preserve the rights of tenants to remain in their housing accommodations under Good Cause.

What's Next?

As a general counsel to a large property owner, it is advisable to become well-versed in Good Cause, and to understand its notice requirements. Given that the DHCR will not provide guidance beyond the annual notice, it is crucial that property owners seek guidance from counsel on notice requirements and when non-renewals or increases beyond the statutory limits are permitted. Moreover, property owners should absolutely consider the role of the New York Attorney General in enforcing Good Cause.

Given that Attorney General James has set up a standalone Housing Protection Unit to ensure compliance with New York's myriad housing laws, it is only rational to think that she will direct her staff to entertain complaints from tenants on violations of Good Cause, and the Executive Law empowers her team to investigate alleged violations with the stroke of a pen via signature on a subpoena.

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