

MEMORANDUM

TO: REVIEW STAFF

FROM: DIANA J. LEE

RE: INTERIM LEASES IN ETPA JURISDICTIONS

DATE: 7/25/83

A recent case decided by the NYS Division of Housing and Community Renewal provides for the following policies on interim leases in ETPA jurisdictions:

1. Landlord must provide a one or two year lease at the landlord's option upon renting a vacant unit.

2. The lease may be terminated if the tenant fails to comply with the Subscription Agreement on 90 days written notice reciting the date of termination and the facts constituting the failure to comply with the Subscription Agreement.

3. The lease may contain the termination provisions contained in ETP Regulations §2502.5(8)* allowing termination for owner occupancy upon conversion, but only in an eviction plan if subject to §352-eee.

In addition to these requirements, the Part 18 interim lease section, 18.3(o) on page 43, also applies.

*found only in the 1982-1983 pocket part for Unconsolidated Laws §8581-8700.

RE: Interim Leases in ETPA Jurisdictions

**ORIGINAL DATES: 7/25/83 & 6/4/85
Revised Date: 3/31/2000**

The Division of Housing and Community Renewal ("DHCR") requires that rent stabilized tenants, defined as either interim lessees or subscribers who take occupancy after black book but before closing, either in New York City or any ETPA jurisdiction, must be offered one or two year leases at regulated rents.

The lease may be terminated if the tenant fails to comply with subscription agreement on 90 days written notice. The notice must recite the date of termination and the facts constituting the failure to comply with the subscription agreement.

The lease may contain any of the following limitations:

1. Cross default (default under purchase agreement is a default under the lease and vice-versa):
2. The lease terminates when the conversion takes place and the unit closes.
3. The lease is canceled if lessees take advantage of a right of rescission. This provision must also be in the plan.
4. Pursuant to ETPA Regulation §2502.5(8), the lease may be terminated by owner-occupancy upon conversion, but only in an eviction plan if subject to General Business Law Section 352-eee.

If the offering plan is not consummated, the units in rent stabilized buildings of six or more units remain rent stabilized. In addition, the interim lease sections 18.3(o) of Part 18 and 23.3(p) of Part 23 apply.