

Riverbay's Succession Rights Summarized for Clarity

Riverbay Corporation has summarized New York State Division of Homes and Community Renewal's (DHCR) rules and regulations on succession rights to avoid misinterpretation.

DHCR has specific rules governing the transfer or assumption of ownership of apartments within Mitchell-Lama developments, which are spelled out in 9NYCRR Part 1727-8.1.

The Succession Rights Policy is intended to help a cooperator be aware of the protection provided to a family member or a 'life companion' in the event a cooperator moves or dies. DHCR regulations provide that eligible persons may continue to live in an apartment after the death or move-out of the cooperator. Riverbay's policy follows DHCR rules.

It should be noted that while new ownership can only be assumed if the primary owner of the apartment moves out or passes away, according to the rules and regulations, only persons who meet **all** of the regulatory requirements may obtain leases and stock certificates in their own name as successors.

As a general rule, whenever there is a change in the number of persons living in the apartment, Riverbay should be notified within ninety (90) calendar days of any such changes through the use of an Interim Affidavit Form, which can be obtained from the shareholder's respective Cooperator Services Office (CSO). This is important for those occupants to potentially have succession rights at some point in the future. The annual filing of the Income Affidavit accomplishes this, as well as filing an Interim Affidavit in between annual filings.

If the primary shareholder moves out permanently, any member of the shareholder's family or life companion may apply for succession, and if approved by DHCR, sign a new lease, and be issued a stock certificate. However, this person must meet certain requirements.

- They must have resided with the shareholder in the apartment as their primary residence for a period not less than two years; or for one year if the succeeding shareholder is a senior citizen or disabled person, **immediately** prior to permanent vacating of the apartment by the shareholder.
- In cases where the shareholder occupancy is less than two years before the primary shareholder passed, the succession applicant must have lived in the apartment from the inception of the tenancy.
- The succession applicant must have been listed on the Income Affidavit and/or Interim Income Affidavit during the relevant period of time.

Per DHCR rules, the "relevant period of time" must be documented by two (2) annual affidavits i.e. annual affidavits for the two prior years before the shareholder passed or permanently vacated. Or, interim affidavit plus annual affidavit for the two prior years before the shareholder passed or permanently vacated, if the successor moves in between annual filings.

DHCR's rules define "family member" as a husband, wife, son, daughter, stepson, stepdaughter, father, mother, stepfather, stepmother, brother, sister, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law or daughter-in-law of the primary cooperator.

DHCR's definition of "family member" also includes any other person/s residing with the primary owner in the apartment as a primary resident who can prove emotional and financial commitment and interdependence between such person/s and the primary owner.

"Primary residence" is defined as the housing accommodation in which the person actually resides and maintains a permanent and continuous physical presence. Proof of such residency must consist of the Income Affidavit or Interim Income Affidavits together with other evidence, for example, certified copies of tax returns, voting records, motor vehicle registration and driver's license, school registration, bank accounts, employment records, insurance policies and other pertinent documentation.

"Life companion" and "extended family" is defined as any other person residing with the shareholder as a primary resident who can prove emotional and financial commitment and interdependence between such person and the shareholder. Evidence of this can be the Income Affidavit or Interim Income Affidavit filed by the primary shareholder, as well as evidence of longevity of the relationship; sharing of or relying upon each other for payment of household or family expenses; joint ownership of bank accounts, personal and real property, credit cards, loan obligations, sharing a household budget for purposes of receiving governmental benefits; engaging in family type activities by jointly attending family functions; and formalizing of legal obligations by such means as executing wills, naming each other as executor and/or beneficiary, granting each other power of attorney, etc.

The other path through which a successor can be named to the apartment is through death of the primary shareholder. If this is the case, the lease and shares of stock for the decedent's apartment shall be surrendered to the Riverbay Sales Office by the decedent's estate or survivors for redemption.

If there are no legal disputes, Riverbay will sell or transfer the shares to any member of the decedent's family or life companion as long as they meet all of the succession requirements stipulated by DHCR's rules and regulations.

Any family member or life companion of a shareholder seeking approval to remain in occupancy after the cooperator moves or dies should submit a written request within ninety (90) days to Riverbay Corporation, 2049 Bartow Avenue, Bronx, N.Y. 10475, Attn.: Succession Rights.

It is imperative that shareholders understand that no other types of stock transfers or lease amendments are allowed except those directed by statute or an appropriate tribunal or court of law.

Co-op City residents may visit the "Resources" page on the Riverbay website at www.coopcity.com and scroll down to "Legal" for a copy of these succession rights.