

**TESTIMONY FOR NYCHA DGM FOR OPERATIONS GLORIA FINKELMAN  
NYCHA'S OCCUPANCY AND REMAINING FAMILY MEMBER GRIEVANCE  
POLICY**

**CITY COUNCIL COMMITTEE ON PUBLIC HOUSING**

**MONDAY, JUNE 28, 2010 – 1:00 PM**

**250 BROADWAY – 14<sup>TH</sup> FLOOR**

Chairwoman Rosie Mendez, distinguished members of the Public Housing Committee, and to all the members of the City Council — it is my pleasure to be with you today. I am Gloria Finkelman, Deputy General Manager for Operations of the New York City Housing Authority (NYCHA). And joining me this afternoon is Alan Pelikow, Assistant Director in the Office of Resident Policy and Administration.

We all know how vital a good home is to a family's quality of life. As a social resource, public housing has few peers. It is because this resource is so important—not only to the family's who live in public

housing, but for all of us—that NYCHA has, throughout its history, maintained a policy detailing rules and provisions for the proper occupancy and transfer of our apartments.

Today, I would like to take the Council through the Authority’s Occupancy and Remaining Family Member Policy, as well as the process by which applicants may challenge the Authority’s assessment on who may or may not lawfully succeed to an existing public housing lease, more formally known as NYCHA’s Remaining Family Member Grievance.

Why NYCHA’s Policy Must Consider Our Waiting List

Before I begin, though, let me say that NYCHA does not make decisions—particularly one as impactful on the lives of residents as who may or may not join a

NYCHA household—either lightly or in a vacuum. But as we consider NYCHA families—residents who request permission for a family member to join their household permanently, or those who have petitioned to succeed to an existing lease—we must also consider the many families who yet wait and hope for their first chance at the promise of public housing.

As we speak, there are 136,203 households on New York City’s public housing waiting list. NYCHA’s Occupancy and Remaining Family Member policy must—and does—consider these families, as well. If the Authority did not have consistent standards for the governance of its leases and the occupancy of its apartments, the already significant number of families on the NYCHA waiting list would grow even more.

We must do our best to make the opportunity of

public housing available both to the many families who already rely on it as a strong foundation and to those who seek that fair start in their own lives.

Who constitutes a NYCHA family?

An “original” NYCHA family consists of the tenant (or tenants) who sign the initial lease and any persons listed on the Housing Application and authorized to reside in the apartment at move-in.

For decades, NYCHA has maintained an Occupancy and Remaining Family Member policy. In 1988, the Authority updated its procedures to stipulate that no one may be added to an existing tenant’s household unless the tenant requests permission in writing and permission is granted by the development’s management. Exceptions are, of course, made for

natural “family growth,” including births, legal adoptions and court appointed guardian- and custodianships.

Tenants may either request to have an additional person join their household on a permanent basis or temporarily. As I will discuss, the procedure for Permanent Residency Permission requests is more rigorous than requests for temporary tenancy.

### Permanent Residency Permission Requests

The criteria for adding a “permanent” household member include the following:

The tenant making the request must currently live in the apartment and be in “good standing” with the Authority—they must be current in all rent payments; they may not be in violation of any NYCHA rule or

regulation; and they may not be party to current or pending Termination of Tenancy proceedings.

Furthermore, the person who is requested to join the household permanently must be either the tenant's spouse or registered domestic partner; parent (including stepparents and parents-in-law); grandparent; grandchild; child (including stepchildren and children-in-law); or sibling (including half-siblings). And if she is older than 16, the proposed permanent resident must pass a criminal background check.

In addition, if the proposed resident will cause an "overcrowded" situation, based on the Authority's occupancy standards, NYCHA must deny permission for that person to be added to the household.

I should also mention that the income of the additional permanent household member is not a factor in NYCHA's deliberation; but if the person officially joins the household, her income will be included in the total family income for rent calculation purposes.

Applications for both permanent and temporary residency are reviewed by NYCHA's Housing Managers. If—after careful review of the application, including all supporting documents and, in some cases, a personal interview—the Housing Manager determines the request should be granted, she does so in writing within 60 days of the application date. If the Housing Manager must deny the request, she also does so in writing, indicating the reasons for the denial. If the Housing Manager does not approve a

permanent residency permission request, the request is deemed denied. The tenant may commence an administrative grievance to contest the denial.

Once a person has received permission to permanently reside in a NYCHA apartment under an existing lease, she must remain in the apartment continuously—in other words, the added occupant must be shown to live in the apartment on each of the tenant’s annual Affidavits of Income. If an authorized household member leaves the apartment and seeks to return at some later date, she is not automatically granted permission to rejoin the household—permission on her behalf must be requested by the tenant and is subject to the same review process as discussed.

## Temporary Residency Permission Requests

Often, tenants will request that a person be allowed to reside in their household temporarily. Unlike permanent residency requests, there are no specific requirements for a familial relationship between the tenant and the person she proposes be granted temporary permission to live in the apartment, except that boarders and paying guests are prohibited.

The income of the person applying for temporary residency permission is not considered and is not included as part of family income for the purposes of adjusting the tenant's rent.

Furthermore, the Housing Manager may grant temporary residency permission even if the additional person "overcrowds" the apartment, provided that the

apartment does not become “extremely overcrowded” per NYCHA’s *Occupancy Standards for Families*.

Housing Managers may approve the length of a temporary stay to a maximum period of one year, except as modified for foster children and home care attendants.

### Succeeding to a Lease and the One Year Rule

NYCHA’s Remaining Family Member (RFM) policy defines who may succeed to a lease as a remaining family member after a tenancy ends—whereby the tenant (or tenants) move out of the apartment or pass away.

The policy stipulates that a person claiming Remaining Family Member status and, thus, the right to succeed to an existing lease, may acquire such

status only if she entered the apartment through the process described earlier and occupied the apartment “continuously.” Continuous occupancy is confirmed if the Remaining Family Member claimant appears on all Affidavits of Income filed after she joined the household, with exceptions made for non-continuous occupancy if the resident is away in Military Service or college. While there are no income limits for Remaining Family Member claimants, the Remaining Family Member’s income will be used to calculate the total family income if a lease is offered.

In 2002, NYCHA established a one year occupancy rule for anyone added to a household by permanent permission. Under the rule’s provisions, even if a person is granted permanent permission to join a household, the tenancy must continue for at least one

year after permission is granted before the tenancy ends, in order for the person to acquire Remaining Family Member status and possibly succeed to an existing lease.

Finally, the Remaining Family Member must also pass a criminal background check before succeeding to the apartment and have the capacity to sign the lease—she has reached the age of adulthood (18); is an emancipated minor (usually 17 years old); or has an acceptable guardian.

### Remaining Family Member Grievance

If a tenant requests Remaining Family Member status and feels the request was wrongfully denied, the tenant may initiate an administrative grievance with the development Housing Manager, followed by a

Management Department review. Some Remaining Family Member claimants may also be eligible to a grievance hearing before an Impartial Hearing Officer. The burden of proof rests with the claimant, who must demonstrate that she qualifies for a lease. Finally, to pursue a RFM Grievance, the claimant must formally claim that she is a Remaining Family Member as described earlier and pay use and occupancy for the apartment during the time the grievance is pending.

### Keeping Residents Informed

As you can see, NYCHA's Occupancy and Remaining Family Member Policy has several procedural steps, each presenting various responsibilities, as well as rights. NYCHA takes the duty to inform our residents

of this, and other, NYCHA policies very seriously. To that end, NYCHA communicates the Occupancy and Remaining Family Member Policy to residents when a family signs a new lease, when a tenant requests permanent permission for a family member to be added to the household, and twice each year—in the annual Affidavit of Income and in the yearly Lease Addendum and Rent Notice, which is issued at the end of the annual review process.

Nonetheless, the Authority is taking steps to improve how we communicate this important policy to NYCHA families, including broadening the languages into which the policy is translated and making it available on the NYCHA website. Furthermore, residents are encouraged to reach out to the management staff

where they live if they have any questions regarding this policy.

### Conclusion

As custodian of New York City's prized public housing resource, NYCHA has employed a longstanding occupancy and succession policy to ensure the proper distribution of its apartments to both meet the needs of public housing families and to preserve the integrity of the public housing waiting list for new applicants. We are committed to safeguarding these homes for the families who count on them, and we pledge to continue to work with the City Council and with our residents to ensure that our process is clear, fair and transparent.

**Thank you very much and I look forward to your questions.**