

NEW YORK CITY HOUSING AUTHORITY
OFFICE OF THE CORPORATE SECRETARY
OFFICE OF IMPARTIAL HEARINGS

GUIDE TO FAIR HEARINGS (TRESPASS)

I. THE HEARING PROCESS

The informal hearing will be held before a Hearing Officer designated by the New York City Housing Authority (“Authority”) for that purpose. The Felony Drug Arrestee or Interested Tenant may bring legal counsel and/or witnesses to the hearing. Testimony and documentary evidence may be presented by the Appellant and the Trespass Coordinator. The Hearing Officer will determine whether the Appellant is entitled to the relief requested in accordance with the standards set forth in the Trespass Policy.

In addition to the person(s) authorized to make an Exclusion Challenge, a request for a Residence Exemption, a request for an Exemption for Special Access or a request for Exclusion Termination (including any appeals from denials thereof), such challenge or request may be made in writing by anyone authorized to act on behalf of such person(s). Such authorization must be notarized.

The Hearing Officer will issue a written decision, which will be mailed to the address(es) provided on the application, within ten (10) business days of the hearing.

The failure of the Trespass Coordinator or an impartial Hearing Officer to timely issue a written decision or comply with any other procedural requirement set forth in the Trespass Policy shall not constitute grounds for granting of a Residence Exemption, an Exclusion Challenge, Exemption for Special Access or Exclusion Termination, or for challenging a revocation, modification or rescission.

II. PROOF THAT YOU SHOULD BRING TO THE HEARING

Grounds for the appeal shall be limited to whether the request for Exemption for Special Access or Exclusion Termination should be permitted.

Exemption for Special Access

An Exemption for Special Access will be granted upon proof of the following circumstances:

- (1) The Felony Drug Arrestee is a caregiver for the Interested Tenant (or other individual residing with the Interested Tenant) who is infirm or disabled, and no reasonable alternative means of providing such care exist.
- (2) The Felony Drug Arrestee is a caregiver for his or her minor child or grandchild, who resides on NYCHA Property with the Interested Tenant, and no reasonable alternative means of providing such care exist.



- (3) The Felony Drug Arrestee has parental visitation rights with respect to a child residing on NYCHA Property and it is necessary under the circumstances that such Felony Drug Arrestee be allowed access to NYCHA Property in connection with such visitation.
- (4) Any other situation where it is necessary under the circumstances presented that such Felony Drug Arrestee be allowed access to NYCHA Property and there is no reasonable alternative to allowing such access.

Termination of Exclusion

Termination of Exclusion will be granted upon proof of any of the following three (3) circumstances:

- (1) The Felony Drug Offense and all Related Crimes (if any) have been dismissed and the Felony Drug Arrestee is no longer subject to prosecution for such offense(s). This also applies in circumstances in which the Felony Drug Offense and all Related Crimes are resolved in a conviction for one or more violations as defined by Penal Law § 10.00(3).
- (2) The Felony Drug Arrestee has met each of the three (3) following requirements:
 - a) has served his or her sentence for the Felony Drug Offense and all Related Crimes (including the completion of probation and/or parole and the satisfaction of any other conditions imposed by the sentence);
 - b) has had no further convictions for any offense specified in Penal Law Articles 220 and 221 (currently and as shall be amended) for the following number of years following the completion of his/her sentence:
 - (i) For class A, B and C felony convictions, six years;
 - (ii) For class D and E felony convictions, five years;
 - (iii) For class A misdemeanor convictions, four years;
 - (iv) For class B misdemeanor convictions, three years; and
 - c) has no pending charges for any offense specified in Penal Law Articles 220 and 221 (currently and as shall be amended) at the time of his or her request that the exclusion be terminated.
- (3) The Felony Drug Arrestee has served his or her sentence for the Felony Drug Offense and all Related Crimes (including the completion of probation and/or parole and the satisfaction of any other conditions imposed by the sentence) and demonstrates that his or her future



conduct likely would not adversely affect the health, safety or welfare of other tenants or the physical environment or the financial stability of any NYCHA Property in accordance with, but not limited to, the factors set forth below:

- a) the seriousness of the offense(s);
- b) the frequency of the offense(s);
- c) when the offense(s) occurred;
- d) evidence about the conduct underlying the offense(s);
- e) evidence of the offender's rehabilitation since the offense, including but not limited to:
 - (i) Documentary proof that since the offense, the offender has enrolled in school, has remained in school for at least six months, and has compiled a positive school record, as demonstrated by a registrar's record and/or a positive letter from a teacher or a school administrator;
 - (ii) Documentary proof that since the offense, the offender has enrolled in a job-training program, has remained in the program for at least six months or has completed it, and has compiled a positive record, as demonstrated by a positive letter from a program supervisor or administrator;
 - (iii) Documentary proof that since the offense, the offender has gotten a job, has kept it for at least six months, and has compiled a positive work record, as demonstrated by a positive letter from a supervisor and/or employer; and/or
 - (iv) A letter from the prosecutor's office or the sentencing judge indicating that the offender has been fully rehabilitated.
- f) evidence of the offender's participation in or willingness to participate in counseling or social service programs designed to correct the offending behavior, and the availability of such programs. Such evidence might include, but is not limited to, documentary proof that since the offense, the offender has enrolled in a counseling program designed to correct the offending behavior, has remained in the program for at least six months, and has compiled a positive record, as demonstrated by a positive letter from a program supervisor or administrator

The translation is provided to you as a convenience to assist you to understand your rights and obligations.

The English language version of this document is the official, legal, controlling document.

The translation is not an official document.

A translation of this document is available at 250 Broadway, 2nd Floor, New York, NY 10007.

La traducción de este documento esta disponible en 250, 2º piso, New York, NY10007.

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