

Safety and Security at NYCHA: 2017 Report on Outcomes of Administrative Actions Relating to Permanent Exclusion and Termination of Tenancy for Non-Desirability

Introduction

NYCHA brings administrative actions against tenants accused of dangerous conduct in order to promote the safety and security of its residents.. This report provides aggregate data from 2016 on outcomes of investigations and cases brought by the New York City Housing Authority (NYCHA) against its tenants for dangerous conduct committed by tenants or individuals under their control.

Background

What conduct does this report cover?

The report covers outcomes on cases closed in 2016 involving **Non-Desirability**, which are cases that involve conduct that poses a threat to the health or safety of the NYCHA community. Typically, NYCHA brings administrative actions against tenants for **Non-Desirability** for conduct that includes (but isn't limited to) major crimes such as murder, sex offenses, robbery, assault, drug dealing, and guns.

How does NYCHA learn about dangerous conduct?

NYCHA learns about potentially dangerous conduct from a variety of sources, including from the New York City Police Department (NYPD), which, for example, may arrest someone inside a NYCHA tenant's apartment. Other cases originate from information provided by NYCHA staff or residents. The **Non-Desirability** cases covered in this report come from all of these sources. Cases originating from information sent by the NYPD are primarily assigned to NYCHA's Anti-Narcotics Strike Force unit though some may be handled by the Tenant Administrative Hearing Division; however, this report covers all cases investigated and brought by both of these units.

What is the result of this process?

All cases begin with an investigation. After investigating, NYCHA may close the matter without further action for the reasons discussed further below. Otherwise, NYCHA initiates an administrative proceeding based on the dangerous conduct. Administrative proceedings can lead to one of several outcomes:

- **Termination of Tenancy**, which terminates the tenant's lease and leads to eviction;
- the tenant is put on **Probation** for a set period of time. Probation may occur when there is reason to believe the conduct or condition that led to the Non-Desirability charge may not recur, has been cured or that the tenant is prepared to take steps to correct such conduct or condition. A violation of Probation could lead to a new administrative action and Termination of Tenancy.
- the case is **discontinued or dismissed** after termination proceedings have begun;
- or the dangerous person associated with the apartment is **Permanently Excluded**. With Permanent Exclusion, instead of terminating the tenant's lease (which would mean evicting the whole family), NYCHA saves the tenancy by excluding only the dangerous person or persons. The excluded person is barred from visiting the apartment as long as the Permanent Exclusion is in place.

How does NYCHA reach these outcomes?

All of the outcomes listed above—**Termination of Tenancy, Probation and Permanent Exclusion and dismissal or discontinuation**—may be reached either by decision of NYCHA’s Office of Impartial Hearings, or by a stipulation of settlement (agreement) between NYCHA and the tenant. For Permanent Exclusions and Probation, this report provides specific data on the number of Permanent Exclusions and Probation, respectively, by stipulation versus decision by Impartial Hearing Officer. A tenant’s lease may be terminated by default if the tenant fails to appear for the administrative hearing—data for Termination of Tenancy is provided for terminations that are reached by hearing and stipulation, as well as where the tenancy is terminated by default. Statistics on probation in this report do not count cases where the tenant is subject to Permanent Exclusion but also has probation.

Do all investigations that NYCHA opens lead to a hearing or a settlement?

No. NYCHA investigates all allegations of criminal conduct that could endanger the safety of the NYCHA community. After opening an investigation, NYCHA may close the case without any further action before a Tenant of Record is charged with Termination of Tenancy, or it may close the case without any further action after the tenant is charged. This report uses the term **Closed Without Any Further Action or New Action** to indicate that, following the opening of an investigation, NYCHA did not pursue the case further, did not proceed to a hearing or there was already a matter pending before NYCHA that covered this or similar conduct involving the same tenant.

Lifting Permanent Exclusion

Separate data is provided on the **Lifting Permanent Exclusion**. All **Permanent Exclusions** remain in place permanently unless the tenant applies to have it “lifted” (removed) and is successful. Individuals can apply to have an exclusion lifted after it is imposed. The resident must show a substantial change has occurred that warrants lifting the exclusion. The data in this report covers all applications to lift Permanent Exclusion made and decided in 2017.

What’s new in the 2017 Report

In April 2017 NYCHA revised and published a new application to lift Permanent Exclusion. Among the changes, NYCHA has created two primary ways of showing that the excluded person no longer poses a risk. (1) Evidence of Positive Change (“Path 1”); and (2) Passage of Time/“Crime-Free Waiting Period” (Path 2). Path 1 allows tenants with more recent exclusions to prove that the excluded person’s circumstances have changed, that the risk he/she poses is mitigated, and that the person should be allowed to visit. Path 2 relies on the passage of time without further criminal involvement to justify lifting old exclusions. A description of the new metrics provided is below. Note, that while the new application form was published in April 2017, some tenants persisted using the old form. Such applications were still considered.

The 2017 data includes new metrics:

- Statistics on the number of applications made using the old application, outcomes and the average length of exclusion for those lifted (“Old Form” below);
- Statistics on the number of applications made using the new application and outcomes and the average length of exclusion for those lifted (“New Form” below);
- Statistics on the Path selected in the applications or whether the applicant selected both paths.

Outcomes of Non-Desirability Cases - 2017

Item	Type of Outcome	Number of Cases Closed	Percentage of Total Cases Closed
1.	Termination (by Hearing Office decision and stipulation of settlement)	37	2%
2.	Termination (by default)	61	4%
3.	Permanent Exclusion	464	31%
4.	Probation	255	17%
5.	Other (includes case dismissed by Hearing Office decision)	5	0%
6.	Closed Without Any Further Action or New Action	686	46%
7.	Total Number of Cases Closed relating to non-desirability	1502	

Permanent Exclusion – Stipulation versus Hearing – 2017

Item	Type of Outcome	Number of Cases Closed	Percentage of Total Cases Closed
1.	Permanent Exclusions by Hearing Office decision	17	1%
2.	Permanent Exclusions by stipulation of settlement	447	30%
3.	Total Number of Permanent Exclusion	464	

Probation – Stipulation versus Hearing – 2017

Item	Type of Outcome	Number of Cases Closed	Percentage of Total Cases Closed
1.	Probations by Hearing Office decision	5	0%
2.	Probations by stipulation of settlement	250	17%
3.	Total Number of Probations	255	

Lifting of Permanent Exclusion – 2017

Item	Type of Outcome	Number of Cases Closed	Percentage of Total Cases Closed
1.	Total Number of Approved Applications to Lift Permanent Exclusion	36	60%
2.	Total Number of Denied Applications to Lift Permanent Exclusions	24	40%
3.	Total Number of Applications to Lift Permanent Exclusions	60	

Lifting of Permanent Exclusion – 2017 – OLD FORM

Item	Type of Outcome	Number of Cases Closed	Percentage of Total Cases Closed
1.	Total Number of Approved Old Form Applications to Lift Permanent Exclusion	19	32%
2.	Total Number of Denied Old Form Applications to Lift Permanent Exclusions	15	25%
3.	Total Number of Old Form Applications to Lift Permanent Exclusions	34	
4.	Average Length of Exclusion for Those Lifted Using Old Form	X	

Lifting of Permanent Exclusion – 2017 – NEW FORM

Item	Type of Outcome	Number of Cases Closed	Percentage of Total Cases Closed
1.	Total Number of Approved New Form Applications to Lift Permanent Exclusion	17	28%
2.	Total Number of Denied New Form Applications to Lift Permanent Exclusions	9	15%
3.	Total Number of New Form Applications to Lift Permanent Exclusions	26	
4.	Average Length of Exclusion for Those Lifted Using New Form	3775 days	
5.	Total Number of Path 1 Applications	12	
6.	Total Number of Path 2 Applications	5	
7.	Total Number of Applications where applicant selected both paths	9	