

A Message from...

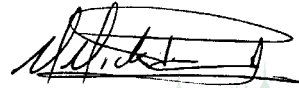
ASSEMBLYMAN NICK PERRY

Dear Constituent:

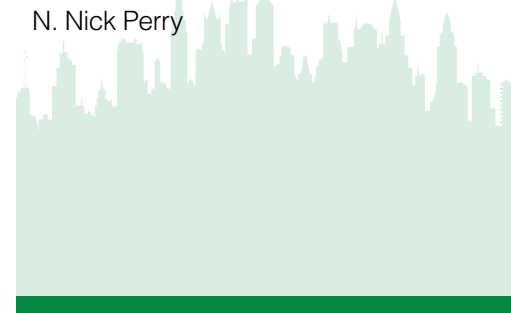
Within this brochure you will find helpful information, and the correct steps to take if the landlord does not respond to your request for repairs or services.

I hope you find this guide useful as a first source for any tenant issues you may have. Should you need additional assistance or information about landlord/tenant matters, please do not hesitate to contact my District Office.

Working For You!



N. Nick Perry

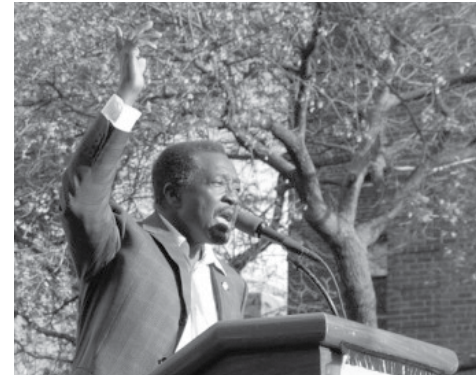


ASSEMBLYMAN NICK PERRY

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Assemblyman Perry Fights for Tenants of Flatbush Gardens



Under New York State Law, tenants are entitled to receive quality services, in a safe and habitable environment, in exchange for the rent they pay.

Assemblyman Perry, as your representative in Albany, has been committed to providing you with all the assistance you need to ensure that you receive the services you pay for, and that all your rights under the law are preserved and protected.

Working for Flatbush Gardens Residents Assemblyman Perry:

- Demanded and won restoration of parcel delivery to Flatbush Gardens residents, who for many years were all forced to travel to the post office to pick up their packages
- On each occasion when the landlord sought permission to charge tenants separately for electricity, Assemblyman Perry has worked with tenants to block the landlord's application, and save residents from extra utility bills

■ Tenant Responsibilities

Tenants have responsibilities to their building owners and their apartments. They may not damage the building, intentionally or through neglect. Tenants are also responsible for the actions of their guests. Finally, tenants must obey the terms of their lease, pay rent on time and honor the rights of other tenants.

Safety

■ Crime Prevention

Landlords must take minimal precautions to protect against reasonably foreseeable criminal harm. If you are the victim of a crime committed by an intruder who took advantage of a negligently maintained building entrance, you may be able to recover damages from the landlord.

■ Window Guards

Landlords in New York City must install window guards in any apartment in which a child under the age of ten resides, and in apartments where the tenant requests window guards, even if a child under ten does not reside in the apartment. Landlords are required to provide tenants with a form stating whether there are children residing in a household and to request installation of window guards.

■ Carbon Monoxide Detectors

The owner must install a carbon monoxide detecting device in your apartment. It is your obligation to maintain that device and to replace it if it is missing or inoperable. The owner can require you to pay \$25 to reimburse the cost of that reinstallation.



FLATBUSH GARDENS Tenants' Rights Resource Guide

ASSEMBLYMAN N. NICK PERRY

Tenants' Rights FAQ:

■ Can my landlord enter my apartment at any time?

Generally, no. However, a landlord may enter a tenant's apartment in some situations. For example, generally, the landlord can enter your apartment:

1. At a reasonable time after providing reasonable notice if the entry is either
 - To provide necessary or agreed upon repairs or services, or
 - In accordance with the lease, or
 - To show the apartment to prospective tenants or purchasers; and
2. In an emergency, at any time and without notice

■ Am I entitled to have my apartment painted?

Yes, the landlord must paint occupied apartments in multiple dwellings (buildings with three or more apartments) every three years.

■ Am I supposed to get my security deposit back?

Yes, at the end of your tenancy, you are entitled to get your security deposit back with interest. Before returning your deposit the landlord may check your apartment to determine if you caused any damage. If you did not cause damage to the apartment, the landlord should return the full amount of your deposit with interest. If you did cause damage, the landlord is permitted to deduct the cost of repairing that damage before returning the balance of your security deposit to you.

■ If the landlord refuses to make repairs to my apartment, what can I do?

There are several things you can do to compel your landlord to make repairs; however, you may want to take the following steps in order to establish a record:

1. Contact the building management regarding the repairs.
2. If the superintendent or management company does not respond, write a letter to the owner of the building that describes the problems in your apartment and asks for the repairs to be made by a certain date. You should send the letter to the owner and Management Company by certified mail and keep a copy for your records.
3. If you do not receive a response to the letter, you should try to contact the management office in person or by phone. Let management know that if the repairs are not completed, that the tenant will have to file a complaint. Keep a record of all of your attempts to get the landlord to make repairs, as this will be useful in court.

You can also bring a case against the landlord in Housing Court to get an order to correct the conditions. This case is called an HP Action. HP actions are lawsuits brought by tenants or groups of tenants against landlords to force them to make repairs and provide essential services, like heat and hot water. A landlord's failure to make a repair or provide an important service may be a violation of the New York City Housing Maintenance Code or the Multiple Dwelling Law. In an HP action, a judge can order the landlord to correct the violations. If you want to start an HP proceeding against your landlord, go to 141 Livingston St., Room 202, downtown Brooklyn.

Heating Issues

Owners of privately-owned buildings, such as Flatbush Gardens, are required by law to maintain apartments in habitable condition and provide tenants with heat during the winter heating season (October 1 through May 31) and hot water 365 days a year. These standards are enforced by HPD's Division of Code Enforcement.

If your building owner fails to maintain your apartment and provide essential services, you may report the condition to 311 or call Assemblyman Nick Perry's office at 718-385-3336. Between Oct. 1 and May 31, the landlord must provide heating equipment that can maintain the following room temperatures in a building with three or more units:

- 68° F between 6 a.m. and 10 p.m. when the temperature outside is below 55° F.

In New York City, the following additional requirement must be met:

- 55° F between 10 p.m. and 6 a.m. when the temperature outside is below 40° F.

Surcharge for Air Conditioning, Dryers, Dishwashers and Washing Machines

Because your electricity is included in your rent, the landlord can impose a surcharge if you install an air conditioner, dishwasher, washing machine or dryer. The charge must be separate and cannot be included in your rent. To find out how much you can be charged as a Flatbush Gardens resident, please call Assemblyman Nick Perry, or visit www.nyshcr.org.

You can also access answers to your specific concerns by visiting www.nyshcr.org/Rent/faqs.htm.

Eviction Rights

To evict a tenant, the landlord, or their attorney, must prepare a petition requesting a court hearing, which must be served on the tenant and filed with the court.

Following appropriate notice, a landlord may bring a summary non-payment court proceeding to evict a tenant who fails to pay the agreed rent when due, and to recover outstanding rent. A landlord may also bring a summary holdover eviction proceeding if, for example, a tenant significantly violates a substantial obligation under the lease, such as using the premises for illegal purposes, committing or permitting a nuisance, or staying beyond the lease term without permission. **To evict a New York tenant, a landlord must sue in court and win the case.**

Only a sheriff, marshal or constable can carry out a court ordered warrant to evict a tenant. Before a marshal may conduct an eviction, he or she must first request that the court issue a Warrant of Eviction. In New York City, city marshals and deputy sheriffs are the only public officers authorized to request a Warrant of Eviction from the court. A landlord may not take the law into his/her own hands and evict a tenant by use of force or unlawful means. For example, a landlord cannot use threats of violence, remove a tenant's possessions, lock the tenant out of the apartment, or willfully discontinue essential services such as water or heat. When a tenant is evicted, the landlord may not retain the tenant's personal belongings or furniture. Also, if you are evicted, take ALL your belongings.

In an eviction, the tenant's belongings are moved under the supervision of the marshal and stored at a private warehouse. In a legal possession, the tenant's personal property remains under the care and control of the landlord until the tenant can arrange to transport the property to another location.

Landlords in New York City who use illegal methods to force a tenant to move are also subject to both criminal and civil penalties. Further, the tenant is entitled to be restored to occupancy.

Tenant Appeal - Order To Show Cause

The tenant may ask a court to issue an Order to Show Cause (OSC) and a Stay, an order staying, or delaying, the eviction until the issues raised by the tenant are addressed on a hearing date set by the court. If the marshal is served with a signed OSC that stays the eviction, he or she is legally bound by the directions of the court, but if the court does not stay the eviction, the marshal must go forward with it. Unless otherwise directed by the court, the marshal, after being served with an OSC that stays the eviction, must serve an additional Notice of Eviction by regular mail before conducting the eviction or legal possession. Never ignore legal papers.