

Riverbay's Succession Rights summarized and updated for clarity

Riverbay Corporation has summarized the Division of Housing and Community Renewal's (DHCR) rules and regulations on succession rights for clarity.

DHCR has specific rules governing transfer or assumption of ownership of apartments in 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," the Riverbay Legal department reports. "DHCR regulations provide that eligible persons may continue to live in an apartment after the death or move-out of the cooperator. Our policy follows DHCR rules and explains succession rights to Co-op City residents."

It should be pointed out that while new ownership can only be assumed in cases of move-out or death, only persons who meet all of the regulatory requirements may obtain leases and stock certificates in their own names as successors.

According to the rules and regulations, succession of an apartment can only take place if the primary owner of the apartment moves out or passes away. As a general rule, whenever there is a change in the number of persons living in the apartment, Riverbay Corporation 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).

The Riverbay Finance department notes: "It is critical for all shareholders to inform Riverbay of changes in household occupants in order 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 shareholder moves out permanently, any member of the primary shareholder's family or life companion may request, in writing, to be named a shareholder on the lease and on the stock certificate. However, this person must meet certain requirements. Finance states: "They must have resided with the shareholder in the apartment as their primary residence for a period of not less than two years, or for one year if the succeeding shareholder is a senior citizen or disabled person, **immediately** prior to the shareholder permanently vacating the apartment. In cases where the occupancy or relationship is less than two years, the succeeding shareholder must have lived in the apartment from the inception of the tenancy or commencement of the relationship. The succeeding shareholder 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 no less than 3 affidavits and can be supported by either combination of 3 annual affidavits, or 1 interim affidavit plus 2 annual affidavits 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, nephew, niece, uncle, aunt, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law or daughter-in-law of the primary cooperator.

Cousins are not defined family members and therefore are not eligible for succession under this rule. However, cousins can apply for succession under the DHCR rule of

“Emotional and Financial Inter-dependence.” In addition to meeting the residency requirements in this case, a successor would have to provide similar evidence as in the case of a life companion.

“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.

At the same time, ‘life companion’ 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 avenue 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 requirements as stipulated by DHCR’s rules and regulations.

According to the Legal department, 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.

Legal states: “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.”