

THE HOUSING PARTS OF THE CIVIL COURTS ARE LOCATED:

<u>Brooklyn</u> 141 Livingston Street Brooklyn, NY 11201 718-643-7528	<u>Bronx</u> 1118 Grand Concourse Bronx NY 10451 718-466-3025	<u>Queens</u> 89-17 Sutphin Blvd Jamaica, NY 11435 718-262-7145	<u>Manhattan</u> 111 Centre Street New York, NY 10013 646-386-5500
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<u>Red Hook Community Court</u> 88-94 Visitation Place Brooklyn, NY 11231 718-923-8200	<u>Staten Island</u> 927 Castleton Avenue Staten Island, NY 10301 718-390-5420	<u>Harlem Community Court</u> 170 East 121st Street New York, NY 10035 212-828-7558
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WHERE TO GO FOR HELP

The **City-Wide Task Force on Housing Court, Inc.**, staffs information tables in each of the housing courts from 9 a.m to noon Monday through Friday, except for Staten Island and the two Community Courts. Staten Island is open Wed and Thurs. Harlem is open Mon, Thurs & Fri. Red Hook is open every other Wed. The information table is free and is available to all unrepresented litigants. Referrals will be made to neighborhood groups, legal service providers and other eviction prevention services. Each afternoon from 2:00 to 4:00 you can get answers to basic questions from our hotline at **212-962-4795**, or visit our website at cwtfhc.org for more information.

The **Metropolitan Council on Housing, Inc.** is a citywide membership organization that assists its members and tenants by providing information concerning housing matters including the defense of eviction proceedings. The Met Council Hotline is available on Mon, Wed and Fri afternoons from 1:30 - 5pm at **212-979-0611**.

LEGAL SERVICES

If you have a low income, you may be eligible for free legal services (a free attorney). To get the address of the office that services your neighborhood, contact:

The Legal Aid Society 212-577-3300	Legal Services of New York City 212-431-7200
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If you need a referral to a lawyer and you are not eligible for free legal services contact:

The Bar Association of the City of New York
212-626-7373

The Housing Court Info Line, 646-386-5750, has recorded information on Housing Court in English and Spanish. If you are being evicted for nonpayment of rent you may be eligible for an emergency grant from Human Resources Administration(HRA). There is an HRA unit in each Housing Court. There is also a Pro Se Attorney available to provide legal assistance to unrepresented persons in each of the 5 main Housing Courts. Go to the Clerk's office to arrange to speak with the Pro Se Attorney.

THIS INFORMATION SHEET WAS WRITTEN AND PREPARED BY THE CITY-WIDE TASK FORCE ON HOUSING COURT, INC. THE TASK FORCE IS A NON-PROFIT COALITION OF HOUSING ADVOCATES AND LEGAL SERVICE PROVIDERS. THIS INFORMATION IS NOT TO BE CONSIDERED LEGAL ADVICE.

THE CITY-WIDE TASK FORCE ON HOUSING COURT, INC. INFORMATION SHEET

WHAT TO DO IF YOU RECEIVE AN EVICTION NOTICE FROM A MARSHAL OR HAVE BEEN ILLEGALLY LOCKED OUT

You can be legally evicted only after there has been a court proceeding. The only person who can legally evict you is a city marshal or sheriff. Prior to the eviction, a marshal must serve a notice. A marshal's notice of eviction will contain the marshal's name, address and phone number. It will also state that you may be evicted very soon.

If you have been illegally locked out of your apartment by your landlord, the superintendent or anyone other than a marshal or sheriff, you can go to your local precinct for help. According to Sec. #214-12 of the Patrolman's Guide, a police officer should assist you in regaining access to your apartment. You can also go to Housing Court to file an "Order to Show Cause to Restore to Possession."

If a landlord cuts off your heat or water or electricity that may constitute what is called a "**constructive eviction**." Call the police. The police will force the landlord to restore your services. You can also file an emergency case against your landlord at Housing Court called a "HP Action for Repairs and Services." If an eviction is imminent and you cannot go to the Housing Court, collect all of your essential personal items, including all legal papers, and anything of value that you can carry. If someone is sick or recovering from recent medical treatment, tell the marshal. The marshal will contact another city agency (Adult Protective Services) to review the person's health before carrying out an eviction. This review may take up to two weeks.

AN EVICTION NOTICE CAN BE SENT TO YOU IF:

you signed a stipulation (an agreement) with the words "final judgment" in it at the court and you did not fulfill the terms of the agreement,
OR
you had a trial and lost the case,
OR
you were not served court papers, or did not appear at a scheduled hearing.

If you received your eviction notice in hand (personal service) the marshal may come to evict you on the fourth business day after the date on the notice or any business day after that day (business days do not include Saturday, Sunday or holidays). If the eviction notice was sent through the mail or was taped to or slipped under your door, the marshal may evict you on the sixth business day from the date of the notice.

If you have received an eviction notice from a marshal, you can go to the Housing Court in your borough to file an Order to Show Cause. You have a very short period of time before the marshal can come to evict you.

WHAT IS AN ORDER TO SHOW CAUSE (OSC)

An Order to Show Cause is a request that allows a tenant to ask the court to temporarily stop an eviction so that the judge can consider some overlooked or new information. An OSC is the only way to stop an eviction. For example, a tenant can file an Order to Show Cause because something beyond his/her control has made it impossible for him/her to fulfill the terms of the agreement made in court (stipulation). This may happen, for example, if the Department of Social Services is unable to issue checks on time or denies an application for a one shot deal. If you are unsure whether you should file an OSC, you may want to speak with a Housing Court Counselor (Pro-Se Attorney) or a staff member of the City-Wide Task Force on Housing Court.

A judge may not be able to stop the marshal from evicting you. If you have been to court and signed a stipulation (an agreement) that contains the words "final judgment", and five days have passed, the judge may not have the power to delay the eviction unless you can show good cause. For example, good cause could be that you have found a new apartment or that you are awaiting a check from a charitable organization or another agency that has approved your request for assistance.

IF YOU NEVER RECEIVED COURT PAPERS

If you claim that you never received the petition and notice of petition, or any legal papers before you received the marshal's eviction notice, you have the right to a hearing on this issue alone. It is called a "traverse hearing." At the traverse hearing, the landlord will have to prove that legal papers were properly sent to you before you received the marshal's notice. A process server, who is hired by the landlord to deliver papers, may testify that s/he personally delivered those papers. You can go to the clerk's office and ask to see your court file. The file should include an affidavit stating when and how the landlord claims the papers were delivered.

If the judge decides in your favor, the landlord's case may be thrown out of court (although, the landlord may immediately begin a new case against you). If the judge finds in the landlord's favor the judge may allow you to be evicted. The traverse hearing can be difficult for a non-attorney. You may want to speak with the pro-se attorney about the hearing process.

IF YOU RECEIVED COURT PAPERS BUT FAILED TO GO TO COURT

If you received the notice of petition and petition but failed to go to court and you then received a marshal's eviction notice, you must request an Order to Show Cause and state a "reasonable excuse" why you did not come to court, i.e., you were in the hospital, you were ill, you had to leave the state due to a death in the family, etc. You must also state a "meritorious defense", i.e., if the case is one for nonpayment of rent, you may claim that you had conditions in your apartment that needed repair, or that you paid the rent.

GETTING A COURT ORDER TO STOP AN EVICTION

If you have received a marshal's notice following a court proceeding, you can request a form for an "Order to Show Cause" (OSC). You should read this form very carefully. After you have written responses to each section, you should initial the statements that apply to your case.

You must explain what happened since your last court date and the "excuse" or the reason that you need an OSC. If you signed an agreement that you could not keep or missed the court date, you must have a good excuse. Be specific when writing your explanation or excuse. You should also state how you will comply with the agreement (either when and how you will pay the money or when you can move out) or why the agreement should be changed.

You should state your "defenses" - the reasons why the landlord should not evict you. These reasons

can include: prior payment of the rent, lack of services or repairs (such as heat and hot water, etc.), that the money is not owed, or that approved welfare payments have not yet been made. If you have documents that support your case, they should be photocopied and attached to your OSC.

Once you have filed your order to show cause with the clerk, you will generally be told to wait until the judge reviews your papers. In some instances, you will be told to take it to the judge, where you will wait.

IMPORTANT:

- Do not leave the court without receiving a copy of your Order to Show Cause signed by a judge or you may be evicted.
- Make sure you understand the way in which you should serve the landlord (or his/her attorney) and the marshal.
- The Order to Show Cause will state the date, time and courtroom you must return to. Do not be late.

SERVING THE PAPERS

If your Order to Show Cause is approved by a judge, the names and addresses of the people you must serve (deliver) and the way that you are to serve them are indicated on the bottom of the OSC. It will also tell you the deadline for serving these papers. You will be given three copies of the signed OSC (a copy for you, one for the landlord and/or his attorney and one for the marshal). Follow the judge's instructions for delivering the papers. You must serve the papers correctly to stop the eviction! If you are not sure how to serve the papers, ask the Court Attorney, the pro se attorney or a staff member of the City-Wide Task Force on Housing Court.

YOUR DAY IN COURT

On the day that you return to court bring your copy of the OSC with you. You must show the judge that you served the papers in the manner indicated on your signed OSC. If you were allowed to serve the papers by certified mail bring the receipt with you. Also, if the OSC required you to deposit money with the court, you should bring proof that you made the deposit by the specified date. Go to the room at the time indicated on your OSC and listen for your name to be called. State your case clearly to the judge and tell him/her what you think is a fair resolution to the case.

IF YOU HAVE ALREADY BEEN EVICTED BY THE MARSHAL

If you have already been evicted by a marshal you can go to court and fill out an "Order to Show Cause to Restore to Possession." This may stop the landlord from re-renting your apartment, or removing your belongings, or allow you to enter your apartment to get certain items, like medication or important personal papers.

STEP BY STEP SUMMARY

1. You receive a marshal's notice. Call the marshal to find out what day s/he intends to evict you. Follow these instructions if you have been illegally locked out as well.
2. Go immediately to the clerk's office in Housing Court to get an OSC.
3. If time permits, contact someone, such as the pro-se attorney or staff of the City-Wide Task Force on Housing Court, who can give you information that might help you fill out the form.
4. Once you have filled out the OSC, bring it back to the clerk's window. Sign it in front of the clerk. You must wait until your papers are processed and given back to you.
5. If the judge signs the OSC, you will be given several copies - one for the marshal, one for the landlord and/or his/her attorney, and one to keep; the original is the court's copy.
6. Serve the OSC as instructed by the court.
7. Go to court on the date indicated on your OSC. Do not be late.

