

Commencing a Virtual Housing Part Proceeding in New York City Checklist

A Practical Guidance® Checklist by Donna Chiu and Michael Pereira, Mobilization for Justice



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This checklist explains the process for bringing a Housing Part Proceeding (HP Proceeding) on behalf of a residential tenant in New York City.

An HP Proceeding is an action brought by a New York City tenant in a special part of housing court to compel a landlord to make repairs to the leased premises. Often, tenants in a building come together to bring an HP Proceeding, but an individual tenant can bring an action as well.

For guidance on participating in a virtual hearing in New York City Housing Court, see [In-Person and Virtual Hearing Comparison Chart \(New York City Housing Court\)](#).

Prepare the Documents

The documents needed to bring an HP Proceeding are:

- An HP Petition
- A Proposed Order to Show Cause

- An Inspection Request Form –and–
- A Filing Fee Waiver Certification Form (or a credit card to pay the filing fee)

HP Petition

Organize the petition into sections and include the following:

- Case Caption, identifying the court, the parties, and the premises
- Preliminary Statement, identifying the cause(s) of action and (briefly) the facts that support the cause(s) of action
- Description of the premises identifying the building and apartment type (Websites for the [New York City Housing Preservation and Development](#) (HPD) and the [New York City Department of Buildings](#) (DOB) should contain the relevant information about the building and apartment type.)
- Description of the petitioner(s) and their interest in the premises (i.e., whether they are tenants of record or other legal occupants, etc.)
- Description of the respondents, identifying their name/title, their address(es), and their relation to the premises and petitioner (e.g., whether they are the landlord, managing agent, and/or a city agency with regulatory oversight, typically HPD and/or DOB) (If suing the New York City Housing Authority (NYCHA) for repairs, it is not necessary to include HPD and/or DOB as a party because they do not have authority to compel another city agency to make repairs.)
- Fact description of the violations or the repairs needed, including the facts supporting any claims of harassment
- Statement identifying the specific relief sought (e.g., including injunctive relief, civil penalties, and fees) –and–

- Verification page (The petition must be verified by the tenant or the tenant's attorney, pursuant to NY C.P.L.R. § 3020.)

For a form, see [Petition \(Housing Part Proceeding\) \(New York City\)](#).

Proposed Order to Show Cause (OSC)

The Proposed OSC informs the respondents when and where the court calendared the case; and the petitioner how and when the documents are supposed to be served on the respondents. The proposed OSC should contain:

- Standard language indicating the date, time, and location where the respondents should appear (e.g., "appear before the Housing Part of the Civil Court of the City of New York, New York County, in person at 111 Centre Street, Rm __, NY, NY 10013 on the ___ day of _____ at (time)" [Leave this blank as Court will insert date and time.]
- For virtual appearances, the email or number for respondents to contact the Housing Court for information on how to appear at a remote conference link / instructions to appear via Microsoft Teams (Note: Courts will usually include instructions with the signed OSC for respondent-owners to obtain an invitation to appear remotely.) As of June 25, 2021, contact information for the HP parts include Brooklyn: kings141housing@nycourts.gov or (347) 296-1901, Manhattan: ny-housing-583@nycourts.gov or (646)386-5500, Bronx: civbxhs-virtual@nycourts.gov or (718) 466-3025, and Queens: QN-housing-407@NYCourts.gov or QueensCivilCourt@NYCourts.gov.
- A statement about how and when the petitioner(s) must serve the papers on the respondent(s), ideally including the relevant service addresses and emails (e.g., the service addresses for respondent-city HPD: Department of Housing Preservation and Development at Housing Litigation Bureau, 100 Gold Street, New York, NY 10038; serveHPD@hpd.nyc.gov)

For a form, see [Proposed Order to Show Cause Directing the Correction of Violations \(Housing Part Proceeding\) \(New York City\)](#).

Service of the Proposed OSC

The court can obtain jurisdiction over the respondent only if service complies with statutory requirements, which means by certified or registered mail, return receipt requested. Although the NYC Administrative Code 27-2115(h)(1) states that "the tenant . . . may . . . apply to the housing part for an order directing the owner and the department to appear before the court. Such order shall be issued at the discretion of the court for good cause shown, and shall be served as the court may direct," the next provision requires that "service of

the order by the tenant by certified or registered mail, return receipt requested." NYC Administrative Code 27-2115(j).

In *Bertoncelli v. 540 Jackson Realty Corp.* (Index No. LT 309732-21/Bx Feb. 26, 2021), the court dealt with this issue when it dismissed an HP Petition for improper service where the petitioner served the pleadings in the manner directed by the court, via overnight mail, but failed to comply with the minimum requirements of statute. The court held that NYC Administrative Code 21-2115 required service by certified mail or registered mail, return receipt requested.

Residential multiple dwellings (three or more residential units) and private dwellings (one to two residential units) where neither the owner nor the owner's immediate family resides are required by law to register annually with HPD. To find the service address for respondent-owners, go to [HPD Online](#) for the owner's Building Registration Statement, which will include the name of the owner, the company's agents, managing agents, and addresses.

To find the service address for a property not registered with HPD, take the following steps:

- Go to [ACRIS](#) → select "Find Addresses and Parcels" and input the property address → select the most recent "Deed" in the "Document Type" to find the current owner of the property. You can also select the most recent "Agreement," which should be the most recent mortgage document listing the owner as borrowers.
- Go to [New York State Department of State Corporation and Business Entity Database](#) to find the person listed for that entity as the person for service of process.
- You can also go to the [New York City Department of Finance's Property Tax Public Access web portal](#) to confirm if it's the same entity paying the tax bill (or another entity who should also be sued as a respondent-owner).

Inspection Request Form

Before the first court date, HPD will conduct an inspection to assess the need for repairs. (Other records and photos can also be offered at the proceeding.)

To schedule the inspection, there is a fillable form available online: [HPD Tenant's Request for Inspection Form](#). If the tenant is not able to sign the form, the Housing Court typically allows the tenant's attorney to sign on behalf of the tenant.

Fee Waiver Application

Section 1101(e) of the Civil Practice Law and Rules provides for the waiver of all court fees and costs for a party upon a determination by a legal services organization that the party

is unable to pay the costs, fees, and expenses necessary to prosecute or defend the proceeding. Thus, a fee waiver application is often submitted to the court with the HP Petition to request this waiver. The current fee to file a petition in an HP Proceeding is \$45.00.

For a form, see [Attorney Certification for Waiver of Court Fees and Costs \(Housing Part Proceeding\) \(New York City\)](#).

File the Documents

To file the documents, take the following steps:

1. Convert all your signed documents into non-fillable PDFs.
2. Log in to New York State Courts Electronic Filing (NYSCEF) / Create an account / sign in as a guest.
3. On the left-hand side of the [NYSCEF Home Page](#), under the Header “File Documents,” click the link for “Civil Court.”
4. Under the header “New Cases,” click the link for “Start a New Case (Housing case types only).”
5. Select the Civil Court for the Borough/County where you wish to file (i.e., where the property is located).
6. Under case type, select “Landlord-Tenant Pre OSC Procedure.”
7. Enter the property address.
8. Add the names and addresses of the parties (i.e., the petitioner-tenant and the respondents named in the petition).
9. Under the next page, at the prompt “Add Commencing Document” upload the Petition.
10. Arrive at a page to “Add accompanying document,” here upload the (a) Proposed OSC, (b) Inspection Request, and (c) Fee Waiver Certificate (If there is no fee waiver you will have to pay the filing fee later—see below.).
11. Click to file everything.

Complete Post-filing Procedures

After you take the steps above, the judge should sign the OSC with service to you via NYSCEF to your email, with instructions on the OSC about how and when to serve the papers and information about the first court date. The HP’s caseload when you file your OSC may determine how long you will have to wait for a response. If you do not hear back in a few days, you can contact the court part to inquire.

If you filed a Fee Waiver Certificate, the court might convert the case automatically from the “Pre OSC Procedure” to either an “HP Case for Repairs” or as applicable to an “HP with harassment,” assigning the case its index number.

If you did not file for a fee waiver, the court will instruct you to take the signed OSC and commence a new case in NYSCEF with the signed OSC document. To do this, repeat steps (3) through (10) above. The main difference is that under step (5) you select “Landlord-Tenant HP for Repairs” and/or “with Harassment,” rather than “Pre OSC Procedure.” Then, when you get to step (8) and (9), upload the Petition and Signed OSC (rather than the proposed OSC). Then, at step (10), enter your payment information (credit card information) and file.

Serve the signed OSC and Petition, notify the client of the inspection date, file the affidavit of service before the first court appearance, and appear at the conference.

The court can order repairs after a trial or by stipulation. If repairs are ordered and the landlord does not make them, the tenant can bring a contempt motion and request that the court order the landlord to pay monetary penalties.

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Donna Chiu is a Managing Attorney for Housing Administration in MFJ's growing housing unit. Aside from helping to manage administrative tasks, she supervises attorneys practicing landlord-tenant law in New York. Ms. Chiu returned to MFJ where she started her legal career as a housing attorney. Prior to returning to MFJ, she was the Director of Housing and Community Services at Asian Americans for Equality (AAFE), a non-profit, community-based organization. At AAFE, Ms. Chiu led a team comprised of attorney, organizer, and housing advocate to provide legal representation, organize, and empower non-English speaking immigrants in Queens and Chinatown to stand up to their predatory equity landlords and fight back against tenant harassment. Ms. Chiu is an immigrant from Hong Kong, China and a native Chinese-Cantonese speaker. She takes great pride in leveraging her lived experiences growing up in Chinatown as an immigrant to provide linguistically and culturally appropriate services to some of New York's most underserved tenants.

In 2015, Ms. Chiu received the Community Partner Award from Manhattan Legal Services and the Community Ally Award from the Committee Against Anti-Asian Violence. In 2016, Ms. Chiu was the recipient of the Association of the Bar of the City of New York's Legal Services Award.

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