

Enforcement of New York Real Property Law § 230



Under New York law, tenants have the right to form tenant associations and hold tenant meetings on or in the property where they live. These protections extend to a building's common areas or grounds, including the main lobby and hallway, even though the property is owned by the landlord.

This memorandum provides guidance to law enforcement in New York State responding to complaints by landlords, superintendents, or other persons that tenants or their invited guests are improperly organizing or meeting within a building or its common grounds. Law enforcement should be cautious to avoid unintentionally being used by landlords to violate the rights of tenants to organize and meet.

Specifics on Real Property Law § 230

Real Property Law § 230(1) creates strong protections for tenants requiring that:

"No landlord shall interfere with the right of a tenant to form, join or participate in the lawful activities of any group, committee or other organization formed to protect the rights of tenants; nor shall any landlord harass, punish, penalize, diminish, or withhold any right, benefit or privilege of a tenant under his tenancy for exercising such right."

In addition, under Real Property Law § 230(2), New York tenants have a right to:

"...meet without being required to pay a fee in any location on the landlord's premises including a community or social room where use is normally subject to a fee which is devoted to the common use of all tenants in a peaceful manner, at reasonable hours and without obstructing access to the premises or facilities. No landlord shall deny such right."

Protected Tenant Outreach

- Tenants are permitted to knock on the doors of other tenants to speak to them about building issues and recruit those tenants for a tenant association or any equivalent tenant group.
- Tenants are also permitted to post “sign-up sheets” or flyers on building billboard concerning organizing activities, and may distribute information in another manner, such as sliding flyers under doors.
- A complaint from a tenant, landlord, superintendent, or any other person about these types of outreach does not constitute a basis for law enforcement to intervene.
- Landlords may complain that non-tenants, such as tenant organizers or attorneys, are present on private property conducting organizing activities. This is not illegal. Tenant organizers and attorneys are allowed to conduct tenant organizing activities on private property at the request of a tenant residing at that property. The tenant does not need to accompany the organizer or attorney throughout the property and they may not be removed from the property.
- Law enforcement may receive a complaint that tenant organizers are asking tenants for their contact information or are asking questions about their apartment or rent. This is permissible. Tenants do not have to provide tenant organizers with any information, however, organizers are permitted to ask for information they deem necessary to address issues in the building which may relate to such issues as repairs or the landlord’s rent setting policies.

Protected Meeting Activities

- Law enforcement, encountering a meeting of tenants and organizers in a building, may not disperse the meeting unless it violates narrow prohibitions in Real Property Law § 230, such as when the activities are not peaceful. Dispersing a lawful meeting violates a tenants' right to organize. Law enforcement should ask to speak with the tenants' liaison, representative, or attorney to determine the purpose of the gathering. If the meeting is to discuss any tenant concerns, including evictions, tenancies, rents, building conditions, or rent strikes, the meeting is protected under Real Property Law § 230 and should not be dispersed.
- Law enforcement may also receive a complaint that a tenant meeting is occurring in the lobby or other common area of the building or property. Tenant meetings in common areas of a building or property are permitted by law. Items necessary for the meeting such as a table and chairs may be placed in common areas for the meeting.
- Law enforcement may also respond to a complaint by tenants or tenant organizers that a landlord or superintendent is seeking to interfere with or disperse their meeting in violation of Real Property Law § 230. Law enforcement should seek to advise landlords and/or superintendents that their actions may violate Real Property Law § 230 and that a peaceful meeting should be allowed to continue unabated.
- Law enforcement should not make determinations concerning whether a meeting is a fire hazard or other determinations outside their expertise.
- Landlords who use force or otherwise attempt to disperse lawful tenant meetings may violate penal laws such as Disorderly Conduct, Menacing, Aggravated Harassment, or Assault. Law enforcement should use their discretion in enforcing these, and other appropriate penal laws to preserve the peace when tenants are exercising their rights under Real Property Law § 230.

Conclusion

When called to disperse a tenant meeting or to remove trespassers, law enforcement officers will want to have a good understanding of Real Property Law § 230 and the protections it provides to tenants and their representatives to meet and organize.

The Office of the New York State Attorney General is available to assist local law enforcement departments in developing guidance for their officers for tenant meetings and organizing activities.