



# The Legal Concerns of Subleasing a New York Apartment

## The landlord and tenant rules in NYC

By [Nancy Henderson](#) | Last updated on September 29, 2022

Your employer just announced that he wants you to handle an out-of-town project that will last a few months. Can you sublease your apartment while you're gone?

According to [Peter Schwartz](#), who heads the real estate practice at Graubard Miller, this is a perfectly legitimate reason to sublease your place, since you plan to return when the work gig is up. But it isn't as simple as handing your keys over to someone else.

"The name and address of someone doesn't really tell you who the subtenant is or very much about that person," Schwartz says. "These days you can Google people, but this law precedes Google, and even then [the landlord] may not get accurate information."

First, you'll need to send a written letter to your landlord, via certified mail, return receipt requested. The letter must outline, among other things, the term of the sublease and the name, contact information and signature of the person to whom you want to sublease. The landlord then has 30 days to respond, or 10 days if asking for additional details.

If the landlord has a valid reason to say no—if you didn't provide the information they requested, for example—they may do so. But they can't just deny the request just to make your life miserable.

"That questionnaire can't be unduly burdensome," Schwartz says. "The landlord has to give a reason. If it's not reasonable, the tenant can go ahead and [sublease] anyway. If there's a



question if it's reasonable or not, you might end up in court for them to decide."

Even so, you might need an attorney, especially if the landlord tries to retaliate, or if you need help compiling the original paperwork.

When you sublease, it's critical to get everything in writing, with a contract that's tailored to your specific agreement. "The courts will enforce the writing even if you didn't read it," says [Dov Treiman](#), who manages the landlord-tenant division at Adam Leitman Bailey. "And if somebody says, 'Oh, this is just a standard document, don't worry about it, just sign,' that's when you should start panicking."

Just don't try to get rich off the deal. Making a profit by charging a rental fee that exceeds your own could get you in hot water.

"Sometimes we'd send out a questionnaire [from the landlord to the original tenant] and find out that the tenant got a permanent job in California. Why wouldn't the tenant just want to give up the apartment?" says Schwartz. "And then you look further and you see that the tenant was just trying to overcharge the subtenant."

Be aware, too, that residents of some co-ops and condos may not be able to sublease, depending on stipulations in the original contract and the building's bylaws. New York also enforces strict rules about short-term rentals (fewer than 30 days), such as homes used as Airbnb properties.

Like any agreement between human beings, things can go wrong, so proceed with caution. If your subtenant trashes your apartment, fails to pay their portion of the rent, or refuses to leave when the designated time is up, the landlord could take you both to court.

"The risk [of subleasing] is that you step into the shoes of the landlord," says Schwartz. "If you have a good subtenant who pays the rent and follows the rules, you're fine. But if not, you have an issue."

The sub-lessor needs to be wary too, as building rules could prohibit vaping or pets or set limits on garbage and recyclables. "These are all sorts of things that a well-trained attorney would be looking for," Treiman says.

For more information on this area of law, see our overview of [landlord-tenant law](#) or reach out to a [reputable real estate attorney](#).

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