

Date: November 7, 2000

To: Property Owners/Management Agents
HUD Portfolio – Section 8 Contract Administration
MHFA Portfolio – Section 8 Contract Administration

From: Multifamily Division

Subject: Quality Housing and Work Responsibility Act (QHWRA)

On October 21, 1998 the Quality Housing and Work Responsibility Act of 1998 (QHWRA) was signed into law. This new law was part of HUD's fiscal year 1999 HUD Appropriations Act and was addressed in the February 18, 1998 publication of the Federal Register, Volume 64, No. 32.

The Final Rule "Changes to Admission and Occupancy Requirements in the Public Housing and Section 8 Housing Assistance Program, FR-4485" was published March 29, 2000. HUD has provided guidance on compliance requirements in their Notice H 00-18 (HUD) which is included with this memo. The guidelines addressed below apply to all multifamily properties receiving Section 8 project-based assistance unless otherwise indicated.

Tenant Income Verification (RESCINDED BY HUD OCTOBER 2001)

~~Requirements: Tenants and applicants are required to sign a separate agreement, consenting to provide the owner with information about their family's income as derived from the IRS and/or Social Security Administration and sent to the tenant by HUD's Real Estate Assessment Center (REAC). If the tenant refuses to provide the owner with the letter received from REAC within the specified timeframe, assistance should be terminated.~~

~~Discrepancy: If the tenant disagrees with the income information in the letter from REAC, the owner is required to verify the income information in the letter.~~

~~Note: An October 2000 letter from William C. Apgar, Assistant Secretary for Housing, clarified that HUD's priority in the first year of the Tenant Income Verification (TIV) program is simply to identify where there are actual discrepancies between income and rental assistance levels. It is essential to the success of the program, therefore, that owners quickly evaluate the potential income discrepancies identified by the program and report on the results.~~

~~The Income Discrepancy Resolution Guide, Release 1.8, states that HUD will not require or encourage owners/agents to make rental adjustments for prior years for income underreported in 1998 that is identified during the TIV process for that year. HUD will not require or encourage owners to seek repayment. However, owners may choose to recover excess rental assistance where the underreporting of the income was egregious. Apgar's letter indicated that the guidance provided in HUD handbooks, including Handbook 4350.3, is superseded by the policy contained in his letter and the Calendar Year 1998 Income Discrepancy Resolution Guide, Release 1.8, for the computer matching and income verification process.~~

Documentation: Attached is a sample agreement that may be duplicated for use at your site.

24 CFR 5.240

Minimum Rent

Households must pay a minimum total tenant payment (TTP) of no less than \$25.00 unless the household falls into one of the following categories:

- A. A working family in which at least one adult household member is engaged in work activities for at least twenty (20) hours per week whose adjusted monthly income is at or below \$75.00.
 - B. Any person receiving an allowance (ref. HUD Handbook 4350.3, Sec. 3-24 a & b) for handicapped and/or disability assistance, or head, co-head, spouse or sole member age 62 or older or disabled or handicapped whose adjusted monthly income is at or below \$75.00.
- OR
- B. Any family unable to pay the minimum TTP of \$25.00 due to a financial hardship(s). Financial hardship includes the following hardship situations:
 - 1) The family has lost government assistance or is waiting for eligibility determination;
 - 2) The family would be evicted if the minimum rent requirement were imposed;
 - 3) The family has had a decrease in income due to circumstances including, but not limited to, employment;
 - 4) A death in the family;
 - 5) Other situations as may be determined by the owner or HUD.

Procedures for Handling Hardship Exemption Requests

Request: When an owner receives a request from the tenant for an exemption due to a hardship the owner must waive the minimum rent charge beginning the month that immediately follows the date that the tenant made the request. The owner may request reasonable documentation of the hardship in order to determine whether there is a hardship and if it is of a temporary or long-term nature. The owner should make this determination within one week from receipt of the documentation supporting the request.

Temporary Hardship: If the owner determines that the hardship is temporary the minimum rent shall not be imposed for 90 days from the date of the suspension.

Example:

Tenant requested hardship 1/5/00,

Documentation received to support request 1/15/00,

Rent reduction effective 2/1/00,

Minimum rent required effective 5/1/00

At the end of the 90-day period the tenant will be responsible for the minimum rent which was

imposed retroactively to the initial date of the suspension (in the above example this would be 2/1/00). The tenant may not be evicted for nonpayment of rent during the time in which the owner was determining eligibility for the hardship nor during the 90-day period. A reasonable repayment agreement must be offered to the tenant for any back payment of minimum rent due.

Long-term Hardship: If the owner determines that the hardship is long-term the tenant will be exempt from the minimum rent requirement from the date the suspension was granted until such time the hardship no longer exists. The owner shall treat a long-term hardship as an interim recertification; appropriate recertification documents must be completed.

No Hardship: If the owner determines that there is no hardship covered by statute the minimum rent requirements must be immediately reinstated. The tenant shall be responsible for any minimum rent that was not paid from the date the minimum rent suspension. The tenant may not be evicted for nonpayment of rent during the time in which the owner was determining eligibility for the hardship. A reasonable repayment agreement must be offered to the tenant for any back payment of minimum rent due.

Documentation: Owners must maintain documentation of all determinations regarding tenant requests for hardship exemptions. A worksheet "Minimum Rent Exemption - Hardship Eligibility Determination" has been enclosed; to be used as part of the documentation required.

All households must be notified about the new hardship exceptions, and the exceptions must be incorporated into tenant orientation procedures. The purpose of the notification is to alert households to the new exceptions and give them enough information so that they can understand whether or not they qualify. Attached is a sample notice that was published in the May 1999 issue of the Assisted Housing Management Insider that may be duplicated for use at your site.

24 CFR 5.630

Income Targeting

Owners must manage their admissions process carefully to comply with new income targeting requirements. The requirements rely on the following definitions:

- Extremely low-income persons have incomes at or below 30% of median income.
- Very low-income persons have incomes between 31% and 50% of median income.
- Low-income persons have incomes between 51% and 80% of median income.

Using the definitions, the lists below indicate expected income targets.

Pre '81 Developments

- 40% of assisted unit turnovers **must** be rented to extremely low-income people.
- 60% of assisted unit turnovers **may** be rented to very low-income people.
- No more than 25% of assisted unit turnovers **may** be rented to low-income people.

Post '81 Developments

- 40% of assisted unit turnovers **must** be rented to extremely low-income people.
- 60% of assisted unit turnovers **may** be rented to very low-income people.
- No more than 15% of assisted unit turnovers **may** be rented to low-income people.

The owner must establish a basis for compliance with income targeting requirements. The following process is recommended:

- Count the number of assisted unit turnovers the development recorded during the most recent full fiscal year.
- Use this number to calculate income targets specific to the development.

These targets must be adhered to on an annual basis beginning in October of each year regardless of the development fiscal year. Recalculate the turnover number at the end of each fiscal year.

Higher-income tenants on the development waiting list may be skipped in order to reach the 40% extremely low-income target. Lower income tenants may not be skipped to reach higher income tenants. Management reviews will be confirming compliance on this issue by reviewing waiting lists. Be prepared to reconstruct the waiting list if asked and justify decisions made.

Deviation from the income targeting levels requires a request in writing to Donna Wells, HUD Portfolio Occupancy Officer, or Mary Strom, MHFA Portfolio Occupancy Officer. All requests will be considered; however, note in advance that MHFA cannot grant exceptions to pre '81 developments wishing to exceed their low-income persons limit.

24 CFR 5.653, 24 CFR 5.655

Preferences

Federal housing preferences were permanently repealed by the QWHRA. Owners may, but are not required, to establish preferences (e.g. worker preference, persons with disabilities, victims of domestic violence, etc) as long as the preferences are:

- A. Specified in a written tenant selection plan, AND,
- A. Consistent with nondiscrimination and equal opportunity requirements imposed on the program.

Preferences for 'local residency' - giving priority to applicants who reside in the municipality in which the property is located - is not permitted without prior written approval from this Agency. Agency policy, established in 1979, prohibits an owner from giving local preferences for Agency financed properties.

When an owner makes revisions to the tenant selection plan, especially concerning preferences that determine prioritization of the selection of eligible applicants on the waiting list, the owner is strongly encouraged to:

- A. Provide appropriate notification to applicants on the waiting list, and,
- A. Provide notice to other interested persons (e.g. by newspaper publication, newsletters, etc.).

All applicants should be appropriately notified of their position on the revised waiting list.

24 CFR 5.655

Leasing to Police Officers and Security Personnel

Owners may lease to police officers and security personnel who are over the income limits, provided that they are employed at least 35 hours per week by a government unit or private employer for their services. Interested owners should submit a written plan to MHFA for authorization prior to leasing. The statement should include:

- A. Social and physical condition of the property,
- B. Assessment of criminal activities in and around the property and its effect on the security of the property's tenants,
- C. Qualifications of police officer or security personnel and proposed period of residency in the property,
- D. Disclosure of any family relationship between police officer or security personnel and owner,
- E. Anticipated benefits,
- F. Proposed rent and how determined, and,
- G. Terms of the lease, including a provision that the lease is only authorized while employment are satisfactorily maintained.

No more than one percent (or one unit if the property is less than 100 units) of the assisted units in the property may be rented to police officers or security personnel.

24 CFR 5.661

Additional information on the Quality Housing and Work Responsibility Act of 1998 (QHWRA) can be obtained on HUD's web page at <http://www.hudclips.org> and the February 18, 1998 publication of the Federal Register, Volume 64, No. 32. For additional information about specific topics addressed in this memo the applicable Code of Federal Regulations (CFR) part has been provided at the end of each topic.

You may also contact the Agency staff person assigned to your development(s).