

Lease Basics, Addendums, and Modifications & Common Errors with the Top 10 MOR Findings

North Tampa Housing Development Corporation

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FAHSA 2011 STATE CONFERENCE
JACKSONVILLE, FL



Who I am.....

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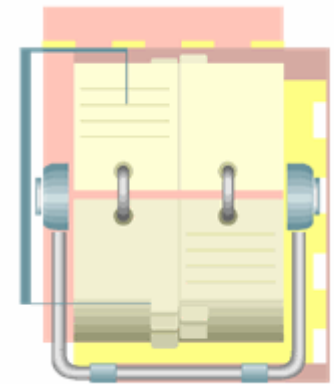
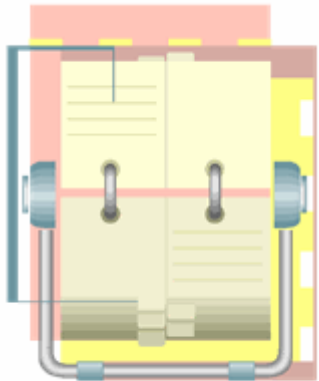
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What I do.....

- LCS conducting Management Reviews for NTHDC for almost 5 yrs.
- Over seventeen (17) years of experience in business management and administration of the housing industry. Twelve (12) of those years in direct project management with a portfolio of 40+ properties, 26 of which were HUD subsidized.
- Multiple certifications including Certified Manager of Housing (CMH), Certified Occupancy Specialist (COS), & Certified Tax Credit Professional (C3P)



Session Agenda

- Lease Basics, Addendums, and Modifications
- Common Findings in Each Category of the HUD-9834*
- Top 10 Findings and How to Avoid Them

* not including category D.



Lease Basics, Addendums, and Modifications

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Lease Basics

- Is the correct HUD model Lease used? You can download it from www.HUD.gov. If using a software version, read it and make sure it has all of the correct language and updates.
 - Form # 90105A = Family Model Lease
 - Form # 90105B = 202/8 and 202 PAC Lease
 - Form # 90105C = 202 PRAC Lease
 - Form # 90105D = 811 PRAC Lease

- Does the lease have the HUD form number, effective date, and public reporting burden statement? *If using the actual HUDClips version of the lease, does it also have the proper OMB number and expiration date (per HUD Lease FAQ Oct 2008)?



Lease Basics

- Is the lease properly completed for ALL sections that require entry from the Owner/Agent? *See the 4350.3, Appendix 4-E to 4-G for detailed instructions.

- Are the correct initial and renewal lease terms entered in accordance with the specific property type requirements (LMSA, PDSA, etc...)? *See the 4350.3, Figure 6-3 for detailed information.

- Is the proper security deposit procedure in place for the program type (LMSA, PDSA, etc...) and listed accordingly? *See the 4350.3, Figure 6-6 for detailed information.



Lease Basics

- Is the original lease/subsequent leases properly signed and dated by the owner/agent/management, head, spouse, co-head, and ALL other adult members of the household?

- Are all HUD approved addendums and attachments included and properly signed and dated by the tenant (house rules, pet rules, unit inspection report, crime free housing rules, etc...)?

- If lease is updated at AR, are the term and renewal dates (and all other sections) completed correctly?

Lease Addendums

- Pet Rules (housing for elderly and person with disabilities)- Not required to be approved by HUD but must be reasonable and not violate the lease or any other HUD rights and requirements)
 - Mandatory rules as listed in Exhibit 6-4 must be included.
 - Discretionary rules as listed in Exhibit 6-4 must be disclosed to the tenants in advance and a 30 day notice for consultation and meeting given (* See Figure 6-5 A-C)



Lease Addendums

- ❑ Once proposed pet rules comments are received and evaluated, if applicable, the Owner/Agent can implement the final pet rules at their discretion.

- ❑ If pet rules are to be included in the lease provisions, the current lease must be amended:
 - a. Upon renewal of the lease and in accordance with any applicable regulation, and
 - b. When a tenant registers a common household pet.



Lease Addendums

- ❑ House Rules (* See 4350.3, Section 6-9 and Figure 6-5 for requirements)- Not required to be approved by HUD but must be reasonable and not violate the lease or any other HUD rights and requirements)
- ❑ Lead Based Paint Disclosure, if applicable.- Not required to be approved by HUD but must have required disclosure information and signatures.
- ❑ MI Inspection- Not required to be HUD approved but must contain proper information, required decent, safe, and sanitary certification language, and be properly signed and dated by resident and management.



Lease Addendums

- Live in aides- must be HUD approved
- Crime Free Housing- must be HUD approved
 - (*note- for properties documented as being certified through the Jacksonville Crime Free Housing program, the local HUD office has already approved their standard lease addendum.)
- RHS (if used)- must be HUD approved
- Violence Against Women Act (VAWA)



Lease Addendums

- ❑ Bed Bugs- (*see RHIIP ListServ #258 and Notice 2011-20)- must be HUD approved.
- ❑ Other Owner/Agent addendums- must be HUD approved.



Lease Modification

- ❑ Has any of the lease language been altered in any way? If yes, is there documentation of HUD approval?
- ❑ Upon release of any lease or lease modification (like an addendum) by HUD, all current tenants **MUST** be sent a 60-day notice of lease modification (* See 4350.3, Section 6-2) with all required contents.
- ❑ Section 6-12 of 4350.3 lists required information for a Notice of Lease Modification to be sent to tenants before implementing a new lease.



Lease Modification

Notice of Lease Modifications (Section 6-12 of 4350.3) must include:

- Can only be effective at the end of a lease term.
- Notice sent at least 60 days prior to the end of the lease term.
- The tenant can either accept the modification by signing and returning one of the copies to the owner, or provide a 30-day notice of intent to vacate, but that a response is due within 30 days.
- If, within 30 days, the tenant indicates that the modification is unacceptable or does not respond, the owner may begin the procedures for terminating tenancy set forth in paragraph 8-13 B of 4350.3.



Lease Modification

- ❑ All lease addendums or other modification are implemented with the same procedures.

- ❑ An owner cannot modify the term and conditions of the lease without first receiving written approval from HUD. The owner must receive prior written approval from HUD before providing the modification to the tenants.

- ❑ A modification provided by HUD does not require additional approval prior to implementation.



Common Findings in Each Category of the HUD-9834*

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***Not Including Section D.**

Also, the following slides are not all inclusive, only included are common findings.

Common Findings-General Appearance and Security

A. General Appearance and Security

Common Findings

- Repairs needed on the building exteriors and/or in common areas.
- Grounds not being maintained or have deficiencies.
- Litter and/or Debris on the property.
- Buildings and/or common areas dirty.
- Print out of police activity not being obtained regularly.
- Action not being taken with tenants who are or whose guests are involved in criminal activity which violates the lease and/or house rules.
- Criminal activity occurring with no security measures in place.



Common Findings-Follow-up and Monitoring of Project Inspections

B. Follow-up and Monitoring of Project Inspections

Common Findings

- REAC deficiencies not corrected.
- Lead paint inspection and/or assessment not completed or not on site and made available for review.
- If there is LBP: Lead Hazard Control Plan (LHCP) not completed or not on site and made available for review.
- If property is LBP free: Lead Free certification not on-site and made available for review.
- Not in compliance with LHCP and/or on-going maintenance requirements.
- Lead Paint Disclosure form not filled out correctly.



Common Findings-Maintenance and Standard Operating Procedures

C. Maintenance and Standard Operating Procedures

Common Findings

- Various maintenance issues.
 - Open work orders for an extended period of time.
 - Work orders not being responded/repared timely.
 - Unit inspections not be conducted and/or items noted during inspections not being followed up on and repaired.
 - Property and/or units in need of repairs.
- Procedures/document issues.
 - Written procedures not in place or not being followed.
 - Maintenance schedules not in place or not being followed.
 - Missing or not properly maintaining an Appliance log.
- Excessive average vacant unit preparation time.
- Excessive average overall vacancy length.



Common Findings-Leasing and Occupancy

E. Leasing and Occupancy

- Common Findings (Documents/Procedures, tenant files, and EIV)
 - Documents and/or procedures issues.
 - Application is not sufficient to determine eligibility and/or missing required information or attachments.
 - Waiting list missing required information and/or is not being properly maintained.
 - Tenant Selection Plan insufficient/not followed.
 - No documentation of income targeting or goal not met.
 - AFHMP not available for review or marketing is not in compliance with the plan.
 - Missing fair housing logo on ads and/or other
 - rental activity documents.



Common Findings-Leasing and Occupancy Continued...

- Incorrect lease or incorrect version of the lease in use.
- Unapproved lease addendums in use.
- Required addendums not in use.
- Unapproved charges/fees in place.
- Eviction notices missing required language and/or evictions not being done when warranted.
- Tenant files (current and/or past) not secured with limited excess to only authorized employees.
- Vouchers not submitted timely or consistently contain discrepancies.

Note: A **common observation** is that no files or documents are currently being destroyed. Or, the practice is to destroy files after 5 years, 7 years etc... This will soon become a finding as there are documents that are now required to be destroyed 3 years after move-out or removal from the waiting list.

Common Findings-Leasing and Occupancy Continued...

- Tenant file issues.
 - Document errors:
 - Missing required documents and/or required attachments.
 - Documents not filled out correctly and/or completely.
 - Documents not signed and dated by all required parties.
 - Incorrect document or version being used.
 - Verification errors:
 - Missing verification of one or more factors.
 - Verification not 3rd party with no documentation of attempt to obtain 3rd party and no notations why 3rd party is not available.
 - Verification does not include all needed information to properly determine annual amount of the factor.
 - Verification more than 120 days old.



Common Findings-Leasing and Occupancy Continued...

- Calculation errors:
 - A factor's annual amount not correctly calculated.
 - Eligible deductions not provided or ineligible deductions provided.
 - Asset cash value and/or income from assets not calculated correctly.
- 50059 errors:
 - Verified information and/or factor not entered on the 50059.
 - Incorrect information/amounts entered on the 50059.
 - Income limits incorrect on the 50059.
 - Universe code incorrect on the 50059.
- Screening errors:
 - Missing required screenings.
 - Screening criteria not consistently applied.
 - Criminal and Sex Offender Registration screenings not conducted in all states the applicant has resided.

Common Findings-Leasing and Occupancy Continued...

- Recertification errors:
 - Required reminder notices not provided.
 - Interim Certifications not made effective on correct date.
 - Information on student status not obtained.
 - Tenant recertification checklist not in use causing not all information to be obtained and/or re-verified.
- Security Deposit and Pet Deposit errors:
 - Payment agreements not enforced.
 - Amount incorrectly calculated.
 - Incorrect for the program type.
- Utility reimbursement not issued within 5 days of receipt of the assistance payment each month.
- Written 30 day notice of rent increase not provided (when required).

Common Findings-Leasing and Occupancy Continued...

- ❑ Application rejection and move-out files:
 - ❑ Application rejection letter missing required information.
 - ❑ Security deposit refund and/or itemized list not sent within 30 days of date of move-out; or no documentation of when they were sent.
 - ❑ No documentation of actual cost of damages available.
 - ❑ Accrued interest not applied to the security deposit and/or refunded or applied to amount owed.
 - ❑ Security deposit retained for no notice prior to applying the security deposit and interest to any charges due 1st.

Common Findings-Leasing and Occupancy Continued...

- EIV issues (Note: some of the items listed below can/will be addressed under category G. on an actual MOR report).
 - Document errors:
 - Missing original (or copy of the original) signed CAAF and UAAF forms.
 - Missing owner approval letter.
 - Missing signed Rules of Behavior Forms.
 - Procedure errors:
 - Written EIV procedures missing required content.
 - Not updated after release of HUD Notice 2010-10*
 - Written EIV procedures contain incorrect information.
 - Training errors:
 - Training on EIV security is not being provided or there is no documentation/log of security training.

NEW EIV NOTICE RELEASED 8/17/2011: Notice 2011-21



Common Findings-Leasing and Occupancy Continued...

- Report errors:
 - EIV monthly and quarterly reports required to be maintained in a master file:
 - Reports not printed/retained at the required frequency.
 - Listed deficiencies not being followed up on and resolved.
 - Reports not notated with action taken for each listed tenant.
 - Detail reports maintained in the master file instead of the tenant file.
 - EIV reports required to be maintained in tenant files:
 - Existing Tenant Search not run/printed for each household member.
 - Summary Report not printed and placed in the file.
 - Income Discrepancy Report not printed/retained each time the Income Report is printed/retained.
 - Reports not run 90 days after MI 50059 submission.

Common Findings-Tenant/Management Relations

F. Tenant/Management Relations

- Findings are not common in this category, but possible
- findings include:
 - Missing or insufficient grievance procedures.
 - Multiple tenant complaints or unresolved tenant complaints.
 - Not encouraging or hindering tenant involvement in project operations.
- Common Observation:
 - Limited tenant services and/or no knowledge of or information on services available in the area.

Common Findings-General Management Practices

G. General Management Practices

- Findings are not common in this category (other than EIV document or procedure issues), but possible findings include:
 - Late contract renewal or rent adjustment package submission.
 - Insufficient management practices.
 - Procedures and/or oversight issues (as evidenced by
 - multiple findings and/or type of findings).
 - Not aware of or not implementing HUD changes.
 - Staffing or training issues.

Top 10 Findings and How to Avoid Them

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Top 10

1. EIV reports (both master file reports and tenant file reports) not being printed/maintained as well as documented when required.
2. Missing or insufficient verification of one or more factors.
3. No attempt to obtain 3rd party verification and/or file not documented when 3rd party verification is not used.
4. Calculation errors (annual amounts and asset value/income).
5. Missing screenings required in the Tenant Selection Plan and/or not screening for criminal or sex offender registration in all states the applicants have resided in.
6. Document/Form Errors (missing, not correctly/completely filled in, and/or not current version).
7. Waiting list errors (missing information & insufficient comments).
8. Tenant Selection Plan has missing or incorrect information.
9. Not marketing in accordance with the AFHMP.
10. Excessive vacancy and/or vacancy lengths.

EIV Reports (E-19 and G-22)

EIV reports (both master file reports and tenant file reports) not being printed/maintained as well as documented when required.

How do you avoid this finding?

Ensure the written EIV procedures are clear and detailed as to when to run each report, where to maintain each report, and how to document the reports when required.

Ensure staff site performing these tasks have been properly trained on EIV requirements as well as written procedures.

Provide periodic refresher training on EIV requirements.

Periodically review the master files to ensure reports are printed when required and notated when required.

Periodically sample tenant files to ensure all required reports have been printed when required for each member.

Missing/Insufficient Verifications (E-19 d)

Missing or insufficient verification of one or more factors.

How do you avoid this finding?

In general (both at Move-in and Recertification):

Ensure the written procedures are clear and detailed as to what to verify and how to verify those factors.

Ensure verification forms contain all needed questions.

Review each verification received to ensure it has been completely filled in and includes all information needed to properly calculate/determine the factor.

Follow up with the 3rd party to obtain any missing or additional information needed as well as to clarify inconsistent information; and make sure the file has been properly documented with this additional information.



Missing/Insufficient Verifications Continued...

- Retain all verifications in the tenant files.
- Ensure staff site performing these tasks have been properly trained.
- Provide periodic refresher training on verification requirements.
- Periodically sample tenant files to ensure required verifications have been obtained, properly documented, and are sufficient.
- At move-in:
 - Ensure the application contains all needed questions.
 - Review each application thoroughly to make sure all needed information has been filled in and obtain any missing info.
 - Highlight or make a list of all items on the application that needs verification (a verification checklist can be created to assist with this) and make sure a verification is received for each item.

Missing/Insufficient Verifications Continued...

- ❑ At Recertification:
 - ❑ Implement use of a recertification checklist that the tenant must fill out to report all needed information (all income, assets, deductions, changes in composition etc...).
 - ❑ Review each checklist thoroughly to make sure all needed information has been filled in and obtain any missing info.
 - ❑ Highlight or make a list of all items that needs verification (a verification checklist can be created to assist with this) and make sure a verification is received for each item.

3rd Party Verification/Documentation (E-19 d)

No attempt to obtain 3rd party verification and/or file not documented when 3rd party verification is not used.

How do you avoid this finding?

Retain a dated copy of each verification form sent out.

Make sure the file has been properly documented prior to moving on to the next form of verification.

HUD Handbook 4350.3 Chapter 5, 5-19 E. describes how to document the file when 3rd party is not available and does not respond (1. A written note to the file explaining why third-party verification is not possible; or 2. A copy of the date-stamped original request that was sent to the third party; 3. Written notes or documentation indicating follow-up efforts to reach the third party to obtain verification; and 4. A written note to the file indicating that the request has been outstanding without a response from the third party.)

Ensure staff site performing these tasks have been

³⁷ properly trained.



Calculation Errors (E-19 d and E-19 e)

Calculation errors (annual amounts and asset value/income).

How do you avoid this finding?

- Ensure staff site performing these tasks have been properly trained.
- Provide periodic refresher training on correct calculation methods and requirements.
- Periodically sample tenant files to ensure all calculations were accurate.
- Include in procedures to have each 50059 as well as all verifications and calculations reviewed for accuracy prior to submission of the 50059.

Missing Screenings (E-19 b)

Missing screenings required in the Tenant Selection Plan and/or not screening for criminal or sex offender registration in all states the applicants have resided in.

How do you avoid this finding?

Review the Tenant Selection Plan regularly to ensure it outlines all HUD required screening criteria as well as additional owner adopted screening criteria.

Include contingency information in the plan. For example have outlined what the procedures will be if there is no landlord history and/or when extenuating circumstances will be considered to ensure all tenants are treated uniformly.

Ensure staff site performing these tasks have been properly trained and are aware of both HUD required screenings as well as owner adopted screenings that are listed in the Tenant Selection Plan.

Missing Screenings Continued...

- ❑ If owner adopted screening criteria changes, immediately update the Tenant Selection Plan and notify applicants.
- ❑ Ensure application and/or consent forms ask for the applicant to list all states each household member has lived in.
 - ❑ Be aware of the states that your screening company will screen in.
 - ❑ Have procedures in place to obtain screenings through other means from states your screening company does not obtain screenings from when an applicant/household member has reported living in in one of those states.
- ❑ Retain a copy of all screenings and any additional information obtained in the tenant file.
- ❑ Review each file prior to move-in to ensure that all necessary screenings as well as any necessary additional documentation has been obtained and proper eligibility determinations have been made.

Document/Form Errors (E-19)

- Document/Form errors (missing, not correctly/completely filled in, and/or not current version).
- How do you avoid this finding?
 - Ensure staff site performing these tasks have been properly trained.
 - Create procedures for staff to review:
 - All forms and documents at the time they are executed to ensure that all blanks have been correctly filled in.
 - Each move-in file upon move-in to ensure all required documents are in the file and have been completely and accurately filled out on current forms/documents.
 - Each file upon recertification to ensure all required documents are in the file and have been completely and accurately filled out on current forms/documents.

Document/Form Errors Continued...

- Be aware of HUD changes in documents and requirements as well as HUD updates to documents; and follow up to ensure all changes and been implemented as required at the site.
- Periodically sample tenant files to ensure all required documents are in the file and have been completely and accurately filled out on current forms/documents.

Waiting list errors (E-14)

- ❑ Waiting list errors (missing information & insufficient comments).
 - ❑ How do you avoid this finding?
 - ❑ Review the waiting list to ensure it includes a spot for all required information and that the comment section is big enough or expandable so all required comments can be sufficiently included.
 - ❑ Ensure staff site performing these tasks have been properly trained on how to maintain the waiting list.
 - ❑ If an electronic waiting list is maintained, ensure the software has been updated so that all required information can be viewed as well as printed in an auditable format.
 - ❑ Periodically review the waiting list to ensure all required information has been filled in and proper comments have been included.

Tenant Selection Plan (E-14)

- Tenant Selection Plan has missing or incorrect
- information.
 - How do you avoid this finding?
 - Review the HUD required criteria for the Tenant Selection Plan and compare it to the current Tenant Selection Plan in place.
 - Make any necessary corrections.
 - Review the Tenant Selection Plan and make the necessary updates each time HUD issues new regulations or updates regulations that impact the information outlined in the plan.
 - Review the Tenant Selection Plan and make the necessary updates each time a change in operating procedures is made that will impact the information outlined in the plan.

Tenant Selection Plan Continued...

- ❑ Review the Tenant Selection Plan annually to ensure it is up to date and includes all required information as well as reflects current operating procedures.
- ❑ Ensure that any updated Tenant Selection Plan is implemented at the site and all older versions are removed.
- ❑ Periodically review the Tenant Selection Plan at the property to ensure it is the current version.

Marketing (E-14)

- Not marketing in accordance with the AFHMP.
- How do you avoid this finding?
 - Ensure staff site performing these tasks have been properly trained and understand the requirements of the AFHMP.
 - Maintain documentation of all marketing conducted.
 - Keep a file that includes:
 - A copy of each ad placed and the date it ran.
 - Copy of/documentation of outreach efforts made with each community contact and date outreach was conducted/made.
 - Periodically review advertisements and community outreach to ensure marketing is in all sources listed in the plan for the frequency outlined and with all community contacts listed in plan for the frequency outlined.
 - Periodically review ads, signs, flyers, brochures etc... to ensure they include required logos and information.

Excessive Vacancy/Lengths (C-5 and C-6)

- Excessive vacancy and/or vacancy lengths.
 - How do you avoid this finding?
 - Be aware what your local HUD office and/or CA considers excessive for an average vacancy length.
 - Ensure all feasible actions are being taken to fill vacant units:
 - Marketing is being completed including additional marketing when needed.
 - Unit preparation begins as soon as the unit is vacated.
 - Units are being turned in a sufficient period of time.
 - Waiting list is actively being “worked.”
 - Applicants are contacted as soon as learning a unit will be vacated.
 - HUD approval for waivers is sought/obtained if warranted.
 - Have a vacant unit tracking log in place and ensure it is regularly updated.
 - Include information on unusual situations for a particular unit that prolongs the vacancy length such as rehab, fire etc...

Excessive Vacancy/Lengths

- Ensure staff site performing these tasks have been properly trained (both maintenance and leasing staff) on the requirements of their position.
- Review vacancy information on a regular basis and implement corrective actions when needed to keep vacancies and lengths in to an acceptable level.
- Periodically review staff practices to ensure all feasible actions to fill vacant units are consistently taken.

Questions???

