

North Tampa Housing Development Corporation

Fall 2019

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REMINDER!

Be sure to update NTHDC's address on form HUD-9887. The change of address must be listed on all 9887s going forward or a finding may be issued.

New address:

1509 West Swann Avenue Suite 250 Tampa, FL 33606

From the Desk of Don Shea, NTHDC Director and Contract Administrator



We are excited to present to you our CA Quarterly Review for Fall 2019. As we start anticipating the upcoming holidays, and maybe cooler weather, we look forward to what lies ahead.

HUD elected to exercise the 11th amendment to the Performance- Based Annual Contributions Contract which extends all PBCAs through January 1, 2021. Additionally, there are options to extend further with 2 additional six month terms which would extend the ACC through

January 31, 2022. HUD continues to communicate they will rebid all PBCA contracts which could take place at any time within the upcoming extensions.

We thank you for your support and look forward to working together to complete another wonderful year.

Best Regards,

Don Shea

NTHDC Director and Contract Administrator





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The Social Security Administration Announces the 2020 Cost-of-Living-Adjustment

The Social Security Administration (SSA) has released its 2020 update that highlights all of the changes to the Social Security program for the upcoming year. Included in this update was the Cost-of-Living-Adjustment, or COLA, which was announced as 1.6% for 2020.

The COLA is an annual increase in social security and supplemental security income to account for the inflation faced by beneficiaries in 2019. This adjustment will be effective beginning in January of 2020.

Where Can I Find the Announcement?

The SSA issued a press release announcing the COLA increase for the upcoming year on the SSA's <u>Cost-of-Living-Adjustment (COLA) Information</u> webpage.

The announcement has also been posted to the NTHDC website.

How Does the COLA Effect How I Process Recertifications?

SSA updates to data in the EIV system are only made periodically. Social security benefits that include the COLA are not available from SSA for uploading into EIV until the end of the calendar year.

Therefore, when processing recertifications that include social security benefits with an effective date of January 1, February 1, March 1, and April 1, owners must define the manner in which the COLA will be factored into the calculation of the SSA benefit, and the method of verification that will be used to support the calculation. In order to complete the recertification steps outlined in Chapter 7 of the HUD Handbook and provide the tenant with the required 30-day notice of any increase in rent, owners must use one of the methods below for determining the tenant's income:

- 1. Use the benefit information reported in EIV that does not include the COLA as third party verification as long as the tenant confirms that the income data in EIV is what he/she is receiving;
- 2. Use the SSA benefit, award letter, or Proof of Income Letter provided by the tenant that includes the COLA adjustment if the date of the letter is within 120 days from the date of receipt by the owner;
- 3. Determine the tenant's income by applying the COLA increase percentage to the current verified benefit amount and document the tenant file with how the tenant's income was determined; or
- 4. Request third party verification directly from the SSA* when the income in EIV does not agree with the income the tenant reports he/she is receiving.

All recertifications effective after April 1 must reflect the SSA benefit that includes the COLA.

*Requesting Third Party Verification Directly from the SSA

When requesting verification from the SSA, owners must not send the tenant to the SSA office. Instead, the owner must ask the tenant to request benefit information from SSA using SSA's website or toll-free number.

The owner may assist the tenant in requesting benefit information from SSA, if the tenant requests their assistance in accessing the SSA website or has questions on completing the request.

To obtain benefit information using the SSA's website:



- Go to the <u>SSA's website</u>
- Log in to <u>my Social Security</u> to obtain a benefit verification letter
- A tenant who has not set up an account can easily create one

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The Social Security Administration Announces the 2020 Cost-of-Living-Adjustment (continued)

To obtain benefit information using the SSA's toll free number:



- Call the SSA at 1-800-772-1213
- Benefit verification letters may be requested 24 hours a day between 7 a.m. and 7 p.m. for individuals who are deaf or hard of hearing
- This information is free and the tenant should receive the letter in the mail within 10 days

The tenant will provide the benefit verification letter to the owner for use in calculating their income. A copy of the letter will be retained in the tenant's file and the original returned to the tenant for their records.

Changes to Medicare Premiums

The Centers for Medicare & Medicaid Services (CMS) usually publishes the Medicare Part A and Medicare Part B rates for the following plan year around the middle of October or November. Owners must also consider changes to Medicare premiums paid by elderly/disabled families when calculating medical expense deductions. For more information, visit the CMS website.

The information contained in the article is found in the HUD Handbook 4350.3 REV-1, Change 4, Chapter 9, Paragraphs 9-6 B.1.e. and 9-15.

Reminder on Utility Allowance Data

For many properties, this year marks the year for a required Baseline Utility Allowance Submission. A Baseline year requires the Owner/Agent to conduct a full analysis as detailed in HUD Notice 2015-04 for all unit types. In this Baseline cycle, the outcome of the full utility analysis establishes the utility allowance for each bedroom type.

As a reminder, HUD does not require the Owner/Agent to submit full data (utility bills) to the Contract Administrator (CA). If the Owner/Agent obtained actual monthly utility bills from a tenant, the Owner/Agent may submit a spread-sheet summarizing the average of the monthly bills. It is recommended to utilize the tool published with HUD Notice 2015-04. However, Owner/Agents may develop their own worksheets to suit their needs, as long as they provide HUD/CA with adequate documentation. If Owner/Agents elect to submit a spreadsheet, the actual utility bills may be requested at the discretion of HUD/CA. These bills, regardless of whether they are provided to HUD/CA, must be retained by the Owner/Agent for three years.

Should you have any questions regarding the submission of a baseline analysis for your property, contact your contract specialist.



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Affirmative Fair Housing Marketing Plan

Each multifamily property must develop and carry out an Affirmative Fair Housing Marketing Plan to ensure that they are marketing to those lease likely to apply when advertising. The marketing efforts need to attract a cross section of the eligible population without regard to race, color, religion, sex, disability, familial status, or national origin. Any marketing efforts for available units must be carried out in accordance with the HUD-approved Affirmative Fair Housing Marketing Plan (AFHMP). Owner/Agents must comply with the requirements outlined in the approved AFHMP to ensure they are promoting equal housing opportunities to all eligible families with similar income levels.

When a property is initially leased up or when available units cannot be filled from the waiting list, then Owner/Agents must advertise to attract eligible applicants. The marketing efforts must:

- Publicize the availability of housing opportunities to all persons regardless of race, color, sex, religion, familial status, disability, or national origin;
- Target advertising to groups other than those who typically live in the local population of the property, reaching out to those least likely to apply because they are not in the predominant racial or ethnic group of the neighborhood;
- Include the HUD Equal Housing Opportunity logo, slogan, or statement, and;
- Market to those in the Limited English Proficiency (LEP) population.

During compliance reviews, Owner/Agents must be able to provide documentation that marketing activities follow along with the requirements outlined in their HUD approved AFHMP. Auditors will review the advertising/marketing materials for compliance, records of the marketing activities conducted, and that the marketing plan still applies for the property/population. Owners must review the plan every five years of when the local Community Development jurisdictions' Consolidated Plan is updated. The demographics of the market must be reviewed to determine if there have been any changes to the population in terms of race, ethnicity, religion, persons with disabilities, and/or large families. That information needs to be reviewed against the current approved AFHMP to ensure that all advertising efforts listed within the plan still apply. Even if the demographics have not changed, the plan should still be reviewed. If after reviewing the plan updates are needed, the updated plan then must be submitted to HUD for review and approval. Documentation that the revised plan was sent to HUD should be made available for the auditor. If no updates were needed then documentation should be noted about what was reviewed, what was found as a result of the review, and why no change is required. The auditor will review that information during a compliance review.



Cyber-Awareness Challenge

The Cyber-Awareness Challenge, which is required for EIV users to satisfy annual online security training, has changed locations. The training is now titled "Cyber Awareness Challenge 2020" and is located here.

The link provided in the HUD Handbook 4350.3, REV-1, Paragraph 9-20 A is no longer valid.

EIV users must complete this training annually. The certificate of completion must be printed and retained and made available for review during an audit.



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Excluding the Use of Arrest Records in Housing Decisions

In November 2015, HUD published Notice 2015-10 which discusses the use of arrest records when owners make decisions affecting an applicant's admission or a tenant's occupancy of a subsidized unit. For the past five years HUD has been an active member of the Federal Interagency Reentry Council. This Council, made up of more than 23 Federal Agencies, meets on a regular basis to act on issues that affect the lives of those released from incarceration. An important aspect of the Reentry Council's works has been to have each Federal Agency identify and address "collateral consequences" that individuals and their families may face because they or a family member has been incarcerated or has had any involvement with the criminal justice system.

Second Chances

In 2011, former HUD Secretary Shaun Donovan issued a letter to public housing authorities (PHAs) across the country emphasizing the importance of providing "second chances" for formerly incarcerated individuals. Secretary Donovan urged PHAs to adopt admission policies that achieve a sensible and effective balance between allowing individuals with a criminal record to access HUD-subsidized housing and ensuring the safety of all residents of such housing. A year later, Secretary Donovan encouraged owners of HUD-assisted multifamily properties ("owners") to do the same and reiterated HUD's goal of "helping ex-offenders gain access to one of the most fundamental building blocks of a stable life - a place to live." HUD has also previously stressed the troubling relationship between housing barriers for individuals with criminal records and homelessness, stating that "the difficulties in reintegrating into the community increase the risk of subsequent re-incarceration."

At a time when an estimated 100 million (or nearly one in three) Americans have some type of criminal record, HUD remains committed to the goal of providing second chances to formerly incarcerated individuals where appropriate and to ensuring that individuals are not denied access to HUD-subsidized housing on the basis of inaccurate, incomplete, or otherwise unreliable evidence of past criminal conduct. With those aims, and in response to requests from housing providers and prospective tenants for guidance from HUD regarding the proper use of criminal records in housing decisions, HUD is issuing this notice.

Use of Arrest Records

The purpose of the Notice is to inform owners of other federally-assisted housing that arrest records may not be the basis for denying admission, terminating assistance or evicting tenants, to remind owners that HUD does not require their adoption of "One Strike" policies, and to remind them of their obligation to safeguard the due process rights of applicants and tenants. The Notice also reminds owners of their obligation to ensure that any admissions and occupancy requirements they impose comply with applicable civil rights requirements contained in the Fair Housing Act, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act, and Titles II and III of the Americans with Disabilities Act of 1990, and the other equal opportunity provisions listed in 24 CFR 5.105. Finally, the Notice provides best practices and peer examples for PHAs and owners to review.

Owner Discretion

HUD does not require that owners adopt or enforce so-called "one-strike" rules that deny admission to anyone with a criminal record or that require automatic eviction any time a household member engages in criminal activity in violation of their lease. Instead, in most cases, owners have discretion to decide whether or not to deny admission to an applicant with certain types of criminal history, or terminate assistance or evict a household if a tenant, household member, or guest engages in certain drug-related or certain other criminal activity on or off the premises (in the case of public housing) or on or near the premises (in the case of Section 8 programs). In deciding whether to exercise their discretion to admit or retain

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Excluding the Use of Arrest Records in Housing Decisions (continued)

Owner Discretion (continued)

an individual or household that has engaged in criminal activity, owners may consider all of the circumstances relevant to the particular admission or eviction decision, including but not limited to: the seriousness of the offending action; the effect that eviction of the entire household would have on family members not involved in the criminal activity; and the extent to which the leaseholder has taken all reasonable steps to prevent or mitigate the criminal activity. Additionally, when specifically considering whether to deny admission or terminate assistance or tenancy for illegal drug use by a household member who is no longer engaged in such activity, an owner may consider whether the household member is participating in or has successfully completed a drug rehabilitation program, or has otherwise been rehabilitated successfully.

Subject to limitations imposed by the Fair Housing Act and other civil rights requirements, owners generally retain broad discretion in setting admission, termination of assistance, and eviction policies for their programs and properties. Even so, such policies must ensure that adverse housing decisions based upon criminal activity are supported by sufficient evidence that the individual engaged in such activity. Specifically, before an owner denies admission to, terminates the assistance of, or evicts an individual or household on the basis of criminal activity by a household member or guest, the PHA or owner must determine that the relevant individual engaged in such activity. HUD has reviewed relevant case law and determined that the fact that an individual was arrested is not evidence that he or she has engaged in criminal activity. Accordingly, the fact that there has been an arrest for a crime is not a basis for the requisite determination that the relevant individual engaged in criminal activity warranting denial of admission, termination of assistance, or eviction.

Implications

An arrest shows nothing more than that someone probably suspected the person apprehended of an offense. In many cases, arrests do not result in criminal charges, and even where they do, such charges can be and often are dismissed or the person is not convicted of the crime alleged. In fact, in the 75 largest counties in the country, approximately one-third of felony arrests did not result in conviction, with about one-quarter of all cases ending in dismissal. Moreover, arrest records are often inaccurate or incomplete (e.g., by failing to indicate whether the individual was prosecuted, convicted, or acquitted), such that reliance on arrests not resulting in conviction as the basis for denying applicants or terminating the assistance or tenancy of a household or household member may result in unwarranted denials of admission to or eviction from federally subsidized housing.

Although a record of arrest(s) may not be used to deny a housing opportunity, owners may make an adverse housing decision based on the conduct underlying an arrest if the conduct indicates that the individual is not suitable for tenancy and the owner has sufficient evidence other than the fact of arrest that the individual engaged in the conduct. The conduct, not the arrest, is what is relevant for admissions and tenancy decisions. An arrest record can trigger an inquiry into whether there is sufficient evidence for an owner to determine that a person engaged in disqualifying criminal activity, but is not itself evidence on which to base a determination. Owners can utilize other evidence, such as police reports detailing the circumstances of the arrest, witness statements, and other relevant documentation to assist them in making a determination that disqualifying conduct occurred. Reliable evidence of a conviction for criminal conduct that would disqualify an individual for tenancy may also be the basis for determining that the disqualifying conduct in fact occurred.

Owners are encouraged to adopt continuing occupancy policies based on the best practices highlighted to guard against unwarranted denial of assistance, termination from program participation, or eviction from federally assisted housing. Owners are also encouraged to read the Shriver Report entitled "When Discretion Means Denial: A National Perspective on Criminal Records Barriers to Federally Subsidized Housing."



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Income Exclusion - Temporary Employment from the U.S. Census

In 2009 HUD issued Notice H 09-16, Exclusion from Annual Income of Temporary Employment from the U.S. Census Bureau which provided instruction regarding exclusion of temporary income received from annual income, by residents, from the U.S. Census Bureau.

Every ten years in the United States, an actual enumeration of the people is done to be used for appointment of seats in the House of Representatives among the states. The U.S. Census Bureau hires people to assist, temporarily, to count the population. As a Census partner, HUD is committed to supporting this temporary employment in order to help ensure the accuracy of the census counts. Owner/Agents are to exclude any temporary income payments received from the U.S. Census Bureau.

Temporary is defined as employment lasting no longer than 180 days and not resulting in permanent employment. Employment verification of the dates of employment and amount of income must be maintained in the resident file.





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Family Self Sufficiency Program in Multifamily Housing

The Family Self Sufficiency (FSS) Program enables HUD-assisted families to increase their earned income and reduce their dependency on public assistance programs such as welfare assistance and rental subsidies. FSS promotes the development of local strategies to coordinate the use of HUD rental assistance programs with both private and public resources. This enables eligible families to make progress toward economic independence and self-sufficiency.

During a five year period, participants will work individually with a case manager to set and pursue goals related to education, job training, money management, childcare, and transportation. Through case management, the program provides life-skills guidance and links to network service providers. Participants are expected to make continual progress towards their educational and career goals while meeting the additional requirements of the FSS program in order to graduate successfully in five years. Families who wish to participate will sign a contract of participation (CoP) with the owner, for up to five years, and each individual participating member will have their goals set out in Individual Training and Services Plan (ITSP) that are part of the CoP.

A key component of the FSS program is an interest-earning escrow savings account that accumulates as earned income increases. Owners are required to set up the interest bearing accounts for all families participating in the program, with separate accounting for each family. The escrow account is funded by HUD through adjustments to rental subsidy payments to the owner. If family members' earned incomes and rental payments increase while participating in the FSS program, the owner will credit the incremental rent due to the increase in earned income amount to the family's escrow account. Families will receive the funds from that account after they have successfully completed the program. Families involved with the FSS program have used their escrow accounts to purchase homes, pay off debts, and finance higher education for themselves or for their children.

<u>HUD Notice 2016-08</u> implements the policies and procedures applicable to a FSS program in a HUD-assisted multifamily housing property. Owners of privately-owned HUD assisted multifamily housing can voluntarily establish and operate an FSS program at their housing sites. Participation in the FSS program is voluntary for families living in these properties.

Should an owner of a multifamily Section 8 property choose to participate in the FSS program, they are responsible for the following activities:

- 1. Coordinating services with appropriate local entities;
- 2. Writing an Action Plan and submitting to HUD for approval;
- 3. Recruiting program participants, and if desirable, screening for motivation;
- 4. Crafting and executing a Contract of Participation (CoP) with participating families;
- 5. Providing service coordination, case management, coaching, including referring, monitoring, and evaluating supportive services provided to FSS families;
- 6. Creating FSS escrow accounts and managing deposited funds;
- 7. Submitting quarterly reports to HUD; and
- 8. Complying with Fair Housing and Equal Opportunity Requirements.

Families who choose to participate in the FSS program also have obligations, including:

- 1. The Head of Household will execute a CoP with the owner;
- 2. The Head of Household must seek and maintain a suitable employment during the term of the contract (and any extension thereto);

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Family Self Sufficiency Program in Multifamily Housing (continued)

- 3. The Head of Household and those family members who have decided to execute an individual ITSP will work with the owner to set goals that become part of the CoP;
- 4. FSS participants will complete the activities within the dates identified in each ITSP;
- 5. All family members must report increases in earned income immediately to property management staff;
- 6. All family members must become independent from welfare assistance and remain independent at least one year before the expiration of the term of the CoP; and
- 7. All family members must comply with the terms of the lease.

Should a property owner choose to participate in the FSS program, they must develop an action plan in consultation with both the public and private entities that will provide tenant services and/or other resources for the operation of the FSS program. The action plan must then be subsequently submitted to HUD for approval. As part of the approval process, HUD will assess the owner's capacity to effectively run an FSS program by reviewing the property's recent Management and Occupancy Review (MOR) and the Financial Assessment Subsystem (FASS) score. The owner must demonstrate a rating of Satisfactory or higher on the most recent MOR and must be current in the submission of the Annual Financial Statements (AFS) in the form required by HUD for the prior three-year period, and have all compliance flags resolved. Owners should not begin operating their FSS program before receiving the official approval from HUD.

The owners created Action Plan must describe the policies and procedures of the FSS program. It must also contain, at a minimum: information on family demographics, estimation of participating families, FSS family selection procedures, incentives plan, outreach efforts, FSS activities and supporting services, funding of the program, identification of family support needs, the owner's policies concerning terminating participation in the FSS program, the rights of the non-participating families, and the timetable for the program implementation. The owner can choose to include any information that will support the proposed plan.

HUD has recently been providing technical assistance training to assist Owners in launching a Multifamily FSS program. For more information on the FSS program, including the basics of the program as well as in-depth procedures to implement the program at your property, refer to the <u>HUD Exchange Web page for FSS Technical Assistance</u>.





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Lease Addendums

The lease is a legally binding contract between an owner and the tenant. Owners must use one of the four model leases prescribed by HUD. The type of lease used by an owner depends on the program being administered. The two most common leases used are the Family Model Lease (90105a) and the Model Lease for Section 202/8 or Section 202 PACs (90105b). The model leases identify the program requirements that owners and tenant must adhere to while participating in the program. Owners are not to make any changes or modifications to the HUD model lease.

There are certain attachments and addendums to the lease that HUD does require. The main one being the Violence Against Women and Justice Department Reauthorization Act of 2005 Lease Addendum (VAWA HUD-91067). This must be signed by all adult members of the household and attached to the model lease.

The following are required attachments to the model lease:

- a. HUD 50059 signed by the tenant and owner,
- b. HUD 50059A signed by the owner, and when applicable, by the tenant,
- c. Move-in inspection signed by the owner and tenant,
- d. House Rules,
- e. Pet Rules (if applicable),
- f. Owner's Live-In Aide Addendum (if applicable),
- g. Owner's Police or Security Personnel Addendum (if applicable),
- h. VAWA Lease Addendum

Lease modifications are done by creating and using a lease addendum. Since the addendums are modifying the model lease, they are just as legally binding in regards to tenancy requirements. Because of this, HUD required that <u>ALL</u> lease addendums are approved by HUD before implementation.

HUD will not allow modifications to the following nine provisions of the model lease:

- a. Changes in tenant rent,
- b. Regularly scheduled recertifications,
- c. Reporting changes between regularly scheduled recertifications,
- d. Removal of subsidy,
- e. Tenant obligation to repay,
- f. Discrimination prohibited,
- g. Changes in rental agreement,
- h. Termination of tenancy, and
- i. Penalties for submitting false information.

A lease change provided by HUD Headquarters through the issuance of Notices or revisions to the handbook must be incorporated into the lease as a lease addendum. Lease changes and/or new lease addendums issued directly from HUD Headquarters do not require additional HUD Field Office approval. A modification to the lease may only be effective at the end of the lease term. The tenant must be provided the approved modifications at least 60 days prior to the end of the lease term. The notice to the tenant must include a copy of the revised lease or the new addendum revising the existing lease agreement. A letter must be included clearly stating that the tenant can either accept the modification or move, but they must respond within 30 days of the letter. The tenant will accept the modification by signing and returning the updated lease or addendum, or, they will refuse the modification and give 30 days' notice of

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Lease Addendums (continued)

intent to vacate. The proposed lease addendum must be submitted to the local HUD Field Office for review. Two copies of the proposed lease addendum along with an explanation for the need of the lease addendum. If the proposed lease addendum is approved, then the notification process noted above must be followed.

In addition, <u>Housing Notice 2012-5</u> was issued to provide guidance on prevention and the response to pest infestations, particularly bed bugs, in HUD assisted properties. Due to this guidance, many properties added Bed Bug Lease Addendums to the HUD Model Lease that contained provisions that may conflict with current HUD guidance. HUD has issued a memo stating that a clarification to this notice will shortly be released. In addition, this memo states that any leases that come to the attention of a local HID office which have been amended, or had addenda added that shift the



If you are not already receiving this publication via e-mail, or if you have ideas, suggestions or questions for future publications, we'd like to hear from you.

Please visit the NTHDC website OR send an email to michelle.thomas@cgifederal.com



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Member Spotlight Introducing Lynn Mey

Lynn is a Central Contract Specialist with 13 years of experience as part of the FL PBCA. In her position, she manages a portfolio in which she oversees the contract renewals, rent adjustments, voucher processing and special claims approvals. Over the years, she has gained a wealth of knowledge in the Affordable Housing Industry. Prior to her time with NTHDC she was a Claims Adjuster focusing on catastrophes.

In her current role with NTHDC, Lynn enjoys working hand in hand with Owners/Agents in working through the daily challenges that arise in property management. In addition,



she works with HUD staff, often in unison with properties to help ensure compliance with HUD rules and regulations.

Lynn's hobbies include boating, classic cars, and glamping with her 3 dogs.





ALL RESIDENTS OF H.U.D. SUBSIDIZED PROPERTIES

North Tampa Housing Development Corporation (NTHDC) is the HUD Contract Administrator and is responsible for responding to resident concerns. NTHDC Call Center has a team of Customer Relation Specialist (CRS) that will receive, investigate and document concerns such as, but not limited to the following:

- Questions or concerns regarding work order follow-up.
- Questions regarding the calculation of your rent.
- Address health & safety and HUD Handbook 4350.3 concerns.

Call Center Purpose:

- Call Center aids in ensuring HUDs mission of providing Decent, Safe and Sanitary Housing.
- Serve as a neutral third party to residents, owners and the public.
- Assist with clarifying HUD Occupancy Handbook 4350.3 requirements.

Call Center Contact Information and Business Hours:

- ♦ Hours of Operation: Monday Friday, 8:30am to 5:30pm
- ♦ Contact Numbers: 800-982-5232 fax: 614-985-1502
- ♦ Written Summaries: 8760 Orion Place, Suite 110, Columbus, Ohio 43240
- Email: <u>PBCAContactCenter@cgifederal.com</u>
- Website: www.nthdc.org

Concerns can be submitted by the following:

- ♦ Phone
- ◆ Fax
- Mail
- Email
- Voicemail
- FOIA- Freedom of Information Act request must be submitted directly to HUD

Required Information to open an inquiry:

- Property name
- Caller's name (anonymous calls accepted)
- ◆ Caller's telephone number with area code
- Caller's address including apartment number
- A brief, detailed description of the caller's concern(s)

EQUAL HOUSING OPPORTUNITY