



The CA Quarterly Review

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North Tampa Housing Development Corporation

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Check out the Discussion Forum on the NTHDC website!

<http://www.nthdc.org/Forum>

A Message From the NTHDC Team



NTHDC State Conference 2010 ~ www.NTHDC.org

Spring is here once again, and in much the same fashion as last year, we are working diligently as we prepare our application to remain your PBCA for the state of Florida. The PBCA NOFA was published on March 9, 2012 and responses are due on June 11, 2012 with the new contract starting on December 1, 2012. Once we know more information, we will be sure to pass it along to you.

NTHDC recently presented at three LeadingAge meetings throughout the state, and will be at the SAHMA State conference in Jacksonville, FL on April 10th –12th, where we will be participating in numerous sessions including Budgeting and Special Claims. We look forward to seeing you there!

Regards,
North Tampa Housing Development Corporation

Proposed Regulatory Changes

The Affordable Housing and Self Sufficiency Improvement Act of 2012, which is currently in discussions with a few of the House Subcommittees, include some significant changes that will, if enacted, affect the Project Based Multifamily Section 8 Program.

The proposed bill includes provisions that will require the minimum rent to increase from \$25 to \$75 and will continue to be adjusted annually based on an inflationary factor. Hardship exemptions will continue to apply. The bill also includes provisions to increase the standard medical deduction from \$400 to \$550 and will also raise the dependant deduction from \$480 to \$525 with the ability to increase annually by an inflationary factor.

During the conference calls that HUD hosted for the proposed Fiscal Year 2013 budget, HUD made mention of a few proposed regulatory changes that they hope to have in place by FY13. One of those proposals included a reduction of the Regular Vacancy Special Claim period, reducing the allowable claim timeframe from 60 to 30 days.

In addition to the proposed Special Claim regulatory changes, HUD also mentioned the impact the budget will have on HAP contract Funding. HUD stated that some contracts will receive less than 12 months funding reservation. HUD stated that only 5300 contracts will receive a full 12 months funding reservation, while more than 10,000 contracts will have partially funding reserved.

During the call, HUD also mentioned that Residual Receipts will be used to offset any Budget Based rent increases, and that Option 4 contracts will be limited to OCAF adjustments if their projects current rents exceed the published Fair Market Rents.

Other proposed regulatory changes include the draft revisions to the Section 8 Renewal Policy Guidebook. These draft revisions were originally published in July 2010 and have not been implemented. HUD has stated several times, that they still plan on issuing the revised Section 8 Renewal Policy Guidebook, however, the Guidebook still remains in a draft format.

Policy changes to the Section 8 Renewal Guide include:

- A proposal to require Option Four contracts who are requesting a budget based rent adjustment, to obtain a Rent Comparability study.
- A proposal to eliminate the 2% reserve net income contingency for non profits, and instead allow them to have a distribution percentage.
- A proposal to allow all properties to utilize new debt service on BBRA calculations.
- A proposal to allow For-profit and nonprofit owned projects with 100% Section 8 to include a vacancy loss rate of 3% in the budget.

While all of the policy changes listed above are still in the draft and/or proposal stages, HUD anticipates implementing most, with the exception of those listed as part of the AHSSIA bill, before the beginning of fiscal year 2013.

DUNS and Central Contractor Registration Requirements

On January 5, 2011, HUD issued Notice 2011-01 which required legal entities receiving assistance under the Project Based Section 8, 202 ,811 PRAC, Rent Supplement and RAP programs to obtain a DUNS number and have an active, valid registration in the Central Contractor Registration (CCR) within 60 days from the publication of the notice.

The notice went on to further state that any entity failing to comply with the DUNS and CCR requirements faced the possibility of having their Housing Assistance Payments suspended, though at the time, HUD issued a statement which acknowledged that they would not be suspending payments at that time.

However, on February 29, 2012, HUD issued RHIIP posting #270, which re-iterated the terms outlined in HUD notice 2011-01, and affirmed resolutely that owners who were found to be out of compliance, that is to say owners who do not have an active DUNS and CCR registration, would have their Housing Assistance Payments suspended on April 23, 2013.

In order to avoid the suspension of your HAP Payments, please ensure that you have a DUNS number and that your CCR registration is currently active. Any questions regarding HUD notice 2011-01 should be directed to Theresa Fields at (202) 402-2703.

2012 Income Limits Issued by HUD

On December 1, 2011, HUD issued the 2012 Income Limits. The new income limits are to be used for all new move-in transactions effective 12/1/2011.

The FY 2012 Income Limits are based on the same American Community Survey data that was used in developing the FY 2011 Income Limits, which were released on May 31, 2011. An additional year of update data was used in crafting the FY 2012 Median Incomes. From now on, Income Limits and Fair Market Rents will be based on the same American Community Survey data; the 2009 ACS data were used for both the FY 2012 FMRs and Income Limits. Some Income Limits use FMRs for the determination of high housing cost adjustments; having them based on the same year of data is beneficial for purposes of consistency.

Income Limits will continue to be published on December 1 in subsequent fiscal years. HUD made this change for several reasons. First and foremost, HUD understands that having a certain date for the publication of median family income and income limits is important to many constituents. Additionally, publishing income limits on December 1 better aligns the availability of these program parameters with the fiscal year for which they're applicable.

What's New on HUDClips

3/2/2012	<u>HUD Notice 2012-04</u>	Extension of Housing Notice 2011-05, Policies and Procedures for the Deferred Repayment of Operating Assistance Flexible Subsidy Loans
2/23/2012	<u>FR-5603-N-12</u>	Notice of Submission of Proposed Information Collection to OMB; Procedures for Appealing Section 8 Rent Adjustments
2/13/2012	<u>HUD Notice 2012-02</u>	Collection Procedures for Excess Income Receivables and Form 93104, Monthly Report of Excess Income
1/9/2012	<u>HUD Form 935.2A</u>	Affirmative Fair Housing Marketing Plan (AFHMP)- Multifamily Housing

What's New in EIV: Existing Tenant Search Guidance

Existing Tenant Search Clarification

Recently HUD has been asked to clarify what documentation is needed in an applicant's file if the applicant household is rejected for a reason identified in an owner's Tenant Selection Plan. The policies for rejecting applicants have not changed with the addition of the EIV Existing Tenant Search screening criteria.

HUD Handbook 4350.3 REV-1, paragraph 4-9 allows an owner to reject an applicant if the applicant is ineligible for occupancy in a particular unit or property. There are several program and project eligibility requirements that must be met by an applicant household. If an applicant fails to meet one of these eligibility requirements, the applicant is considered ineligible for occupancy and must not be housed from the waiting list. Accordingly, once the applicant is determined to be ineligible for occupancy there is no need to continue screening the applicant household for any other eligibility factor including the EIV Existing Tenant Search. The applicant file must contain documentation demonstrating ineligibility but does not necessarily need to contain the EIV Existing Tenant Search.

If an applicant household is being housed from the waiting list, the EIV Existing Tenant Search, along with all other program and project eligibility requirements, must be performed and the documentation must be retained in the tenant file.

Multifamily Summarization Failure

The Multifamily Housing summarization job that ran on January 29, 2012, failed. Income Discrepancy reports will not be available and all other reports will be as of January 22, 2012. The cause of the failure is being investigated.

Final Rule Prohibits LGBT Discrimination

On February 3, 2012, HUD published a final rule on equal access to housing in HUD programs regardless of sexual orientation or gender identity. The rule, which took effect on March 5, 2012, prohibits housing discrimination against Lesbian, Gay, Bisexual and Transgender (LGBT) individuals in HUD-subsidized, insured and financing programs.

The final rule makes the following provisions:

- Requires owners of HUD-assisted housing or housing whose financing is insured by HUD, to make housing available without regard to sexual orientation or gender identity of an applicant for, or occupant of the dwelling. HUD will institute this policy in its rental assistance and home ownership programs, which include the FHA mortgage insurance programs, community development programs and public and assisted housing programs.
- Clarifies that all otherwise eligible families, regardless of marital status, sexual orientation or gender identity, will have the opportunity to participate in HUD programs and may not be excluded from participation because one or more members of the family may be an LGBT individual, have an LGBT relationship, or be perceived to be such an individual or in such relationship;
- Prohibits owners of HUD-assisted or HUD-insured housing from inquiring about an applicant or occupant's sexual orientation or gender identity for the purpose of determining eligibility or otherwise making housing available. The final rule does not prohibit any individual from voluntarily self-identifying his or her own sexual orientation or gender identity;
- Adds sexual orientation and gender identity to the characteristics that an FHA lender may not take into consideration when determining the adequacy of a mortgagor's income;
- Slightly modifies the term "family" in 24 CFR 5.403 to: "Family includes but is not limited to, regardless of marital status, actual or perceived sexual orientation or gender identity...";
- Defines "Gender Identity" under 24 CFR 5.403, as actual or perceived gender-related characteristics; and
- Defines "Sexual Orientation" under 24 CFR 5.403, as homosexuality, heterosexuality or bisexuality.

Final Rule Prohibits LGBT Discrimination cont'd.

While the new program requirements do not result in additional protected classes under current civil rights laws, owners are cautioned against taking actions that could be perceived as discriminatory and as a result, potentially prosecuted under existing fair housing regulations.

Discrimination based on sex under the Fair Housing Act includes discrimination because of nonconformity with gender stereotypes. For example, a HUD-assisted owner or property manager denies housing to an applicant who is transgender. If the housing denial is because of the prospective tenant's non-conformity with gender stereotypes, it may constitute illegal discrimination on the basis of sex under the Fair Housing Act.

HUD may also have jurisdiction to process a complaint if an LGBT person obtains housing but then experiences discrimination in the form of sexual harassment. Sexual harassment is illegal under the Fair Housing Act if the conduct is motivated by sex and is either so severe or pervasive that it creates a hostile environment or the provision of housing or its benefits is conditioned on the receipt of sexual favors. Harassment may be motivated by sex if, for example, it is due to the landlord's view that the tenant's appearance or mannerisms fail to conform with stereotypical expectations of how a man or woman should look or act. Housing owners or operators may be liable for their own actions or the actions of their employees or other residents.

If HUD determines that it does not have jurisdiction to investigate a complaint from a LGBT person, the person may still be protected under state and local laws that include sexual orientation or gender identity as protected classes.

To view the Final Rule, visit HUD's website at:

<http://portal.hud.gov/hudportal/documents/huddoc?id=5359-F-02EqAccessFinalRule.pdf>

To view information regarding LGBT discrimination, visit HUD's website at

http://portal.hud.gov/hudportal/HUD?src=/program_offices/fair_housing_equal_opp/LGBT_Housing_Discrimination



A Message From HUD Secretary Shaun Donovan

Each year, more than half a million people are released from prisons in the United States, and an additional seven million are released from jails. Research shows that ex-offenders who do not find stable housing in the community are more likely to recidivate than those who do, yet people returning to their communities from prison often face significant barriers to obtaining housing. Studies have also found that the majority of people released from prison intend to return to their families, some of whom may live in assisted housing.

The Department is asking owners of HUD-assisted properties to seek a balance between allowing ex-offenders to reunite with families that live in HUD subsidized housing, and ensuring the safety of all residents of its programs. Accordingly, the Department encourages owners of HUD-assisted properties to develop policies and procedures that allow ex-offenders to rejoin the community to the extent that this balance can be maintained.

When screening family behavior and suitability for tenancy, owners may consider all relevant information, including factors that indicate a reasonable probability of favorable future conduct; for example, evidence of rehabilitation and evidence of the applicant family's participation in or willingness to participate in social services such as counseling programs. Discretion is, however, afforded to each owner.

Despite the discretion given to owners to set admission and termination policies for their properties, HUD statute and regulations require owners to prohibit admission to sex offenders subject to a lifetime registration requirement under a state government's sex offender registration program (24 CFR 5.856). Additionally, owners must establish standards that prohibit admission if the owner determines that any household member is currently engaged in illegal use of a drug, or the owner has reasonable cause to believe that a household member's illegal drug use, alcohol use, or pattern of drug or alcohol use may threaten the health, safety, or right to peaceful enjoyment of the premises by other residents (24 CFR 5.854, 24 CFR 5.857).

Owners must also prohibit admission of an applicant for 3 years from the date of eviction if a household member has been evicted from federally assisted housing for drug-related criminal activity. In this case, however, owners retain discretion to consider the circumstance and may admit households if the owner determines that the evicted household member who engaged in drug-related criminal activity has successfully completed a supervised drug rehabilitation program, including those supervised by drug courts, or that the circumstance leading to eviction no longer exist (24 CFR 5.854).

As President Obama recently made clear, this is an Administration that believes in the importance of second chances – that people who have paid their debt to society deserve the opportunity to become productive citizens and caring parents, to set the past aside and embrace the future. Part of that support means helping ex-offenders gain access to one of the most fundamental building blocks of a stable life – a place to live.

Thank you for your continued commitment to providing quality affordable rental housing.

Shaun Donovan
Secretary

Carol J. Galante
Acting Assistant Secretary for Housing-
Federal Housing Commissioner