

Chapter 16

OWNER DISAPPROVAL AND RESTRICTION

[24 CFR 982.54, 982.306, 982.453]

INTRODUCTION

It is the policy of the PHA to recruit owners to participate in the Voucher program. The PHA will provide owners with prompt and professional service in order to maintain an adequate supply of available housing throughout the jurisdiction of the PHA. The regulations define when the PHA must disallow an owner participation in the program, and they provide the PHA discretion to disapprove or otherwise restrict the participation of owners in certain categories. This Chapter describes the criteria for owner disapproval, and the various penalties for owner violations.

A. DISAPPROVAL OF OWNER [24 CFR 982.306, 982.54(d)(8)]

The owner does not have a right to participate in the program. For purposes of this section, "owner" includes a principal or other interested party.

The PHA will disapprove the owner for the following reasons:

HUD or another agency directly related has informed the PHA that the owner has been disbarred, suspended, or subject to a limited denial of participation under 24 CFR part 24.

HUD has informed the PHA that the federal government has instituted an administrative or judicial action against the owner for violation of the Fair Housing Act or other federal equal opportunity requirements and such action is pending.

HUD has informed the PHA that a court or administrative agency has determined that the has owner violated the Fair Housing Act or other federal equal opportunity requirements.

Unless their lease was effective prior to June 17, 1998, the owner may not be a parent, child, grandparent, grandchild, sister or brother of any family member. The PHA will waive this restriction as a reasonable accommodation for a family member who is a person with a disability.

In cases where the owner and tenant bear the same last name, the PHA may, at its discretion, require the family and or owner to certify whether they are related to each other in any way.

The owner has violated obligations under a housing assistance payments contract under Section 8 of the 1937 Act (42 U.S.C. 1437f).

The owner has committed fraud, bribery or any other corrupt act in connection with any federal housing program.

The owner has engaged in drug-related criminal activity or any violent criminal activity.

The owner has a history or practice of non-compliance with the HQS for units leased under the tenant-based programs or with applicable housing standards for units leased with project-based Section 8 assistance or leased under any other federal housing program.

The owner has a history or practice of renting units that fail to meet State or local housing codes.

The owner has a history or practice of failing to terminate tenancy of tenants of units assisted under Section 8 or any other federally assisted housing program for activity by the tenant, any member of the household, a guest or another person under the control of any member of the household that:

Threatens the right to peaceful enjoyment of the premises by other residents;

Threatens the health or safety of other residents, of employees of the PHA, or of owner employees or other persons engaged in management of the housing.

Threatens the health or safety of, or the right to peaceful enjoyment of their residences, by persons residing in the immediate vicinity of the premises; or

Is drug-related criminal activity or violent criminal activity;

The owner has not paid State or local real estate taxes, fines or assessments.

The owner has failed to comply with regulations, the mortgage or note, or the regulatory agreement for projects with mortgages insured by HUD or loans made by HUD.

B. OWNER RESTRICTIONS AND PENALTIES [24 CFR 982.453]

If an owner has committed fraud or abuse or is guilty of frequent or serious contract violations, the PHA will restrict the owner from future participation in the program for a period of time commensurate with the seriousness of the offense. The PHA may also terminate some or all contracts with the owner.

Before imposing any penalty against an owner the PHA will review all relevant factors pertaining to the case, and will consider such factors as the owner's record of compliance and the number of violations.

See Program Integrity Addendum for guidance as to how owner fraud will be handled.

OTHER REMEDIES FOR OWNER VIOLATIONS

Overpayments

If the landlord has been overpaid as a result of fraud, misrepresentation or violation of the Contract, the PHA may terminate the Contract and arrange for restitution to the PHA and/or family as appropriate.

The PHA will make every effort to recover any overpayments made as a result of landlord fraud or abuse. Payments otherwise due to the owner may be debited in order to repay the PHA or the tenant, as applicable.

C. CHANGE IN OWNERSHIP

A change in ownership does not require execution of a new contract and lease.

The PHA may approve the assignment of the HAP contract at the old owner's request. The PHA may approve the assignment, since they are a party to the contract. The PHA may deny approval of assignment of the contract, for any of the reasons listed in Section A. of this chapter.

The PHA will process a change of ownership only upon the written request of the new owner.

The PHA must receive a written request by the old owner in order to change the HAP payee and/or the address to which payment is to be sent.

Reserved