



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
FEDERAL HOUSING ADMINISTRATION  
NASHVILLE INSURING OFFICE  
110 NINTH AVENUE SOUTH  
NASHVILLE, TENNESSEE 37203

REGION IV  
Pershing Point Plaza  
Peachtree Street, N.E.  
Atlanta, Georgia 30309

June 25, 1979

IN REPLY REFER TO:  
4.11FMA (WJM)  
(615) 251-5063

Mr. Kurt Tschaepe  
Attorney at Law  
115 Public Square  
Gallatin, Tennessee 37066

Dear Mr. Tschaepe:

On May 21, 1979, you and Mr. David Ettinger of Legal Services jointly requested an opinion regarding a dispute involving the applicability of an escrow deposit requirement to grievance hearings regarding the amount of excess utility charges.

Your joint letter stated that the Housing Authority relies upon provisions of 24 CFR Section 865.55(e) and 866.4(b)(2) in support of its decision that an escrow deposit must be made as a pre-requisite to a formal grievance hearing regarding the amount of excess utility charges. The tenant represented by Mr. Ettinger relies upon Section 4-21 of the Public Housing Occupancy Handbook 7465.1 REV. in support of the position that the escrow requirement does not apply. The Authority has stated its belief that Section 4-21 of the Handbook is advisory and not binding on the Authority.

Since the disagreement involved legal interpretation of the regulations, your joint request was submitted to the Area Counsel of HUD.

Counsel's position is that Section 4-21 is binding on the Authority; that no support is found for the section being advisory in nature. Thus, the Housing Authority cannot require the tenant to escrow the disputed excess utility charges as a condition of granting the tenant a grievance hearing on the matter.

A copy of this letter is being provided to Mr. Ettinger as requested in the joint letter of May 21, 1979.

Sincerely,

*William J. Miles*

*Acting for* Helen J. Broyles  
Chief  
Assisted Housing Management Branch

cc: Mr. David Ettinger, Legal Services  
650 North Water Avenue  
Gallatin, Tennessee 37066