



U.S. Department of Housing and Urban Development
St. Louis Office, Region VII
210 North Tucker Boulevard
St. Louis, Missouri 63101

November 27, 1989

Mr. Roger Bertling
Legal Services of Eastern
Missouri, Inc.
P.O. Box 4999A. Field Station
625 N. Euclid Avenue
St. Louis, MO 63108

Dear Mr. Bertling:

SUBJECT: Riverview Bend Apartments - FHA 085-35329-PM-L8

This letter is in response to your letter dated November 20⁶, 1989, regarding the calculation of a lump sum of \$7,834.20 for the above referenced tenant. A review of the case indicates that the lump sum should be disregarded as income and, as the entire amount has been spent, there is no longer an asset available.

By copy of this letter to Riverview Bend Apartments, we are instructing them to recalculate income based on her income as of September 1989 and making any necessary adjustments on the next monthly voucher. We regret any inconvenience to

If you have any questions, please contact Ray Laythe at 314-425-4764.

Sincerely,

George Demetre
Chief, Multifamily
Loan Management Branch

cc:
Riverview Bend Apartments
200 Flagship
Crystal City, MO 63019

The Professional Real Estate
Organization of Arnold, Inc.
3838 Jeffco Blvd., Suite 5
Arnold, MO 63010

Legal Services of Eastern Missouri, Inc.

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625 N. EUCLID AVE.
ST. LOUIS, MISSOURI 63108
(314) 367-1700

November 6, 1989

Ray Laythe
Department of Housing and Urban Development
210 North Tucker
St. Louis, MO 63101

RE: Riverview Bend Apartments and

Dear Mr. Laythe:

This letter is in response to our phone conversation concerning the above tenant at Riverview Bend. Our office represents . She moved into Riverview Bend as a Section 8 tenant January 1, 1986. Her income at the time of moving into the complex was \$80.00 per month General Relief. Her rent at Riverview Bend was \$0.00 from the date she moved in until the end of October, 1989. After she entered Riverview Bend, applied for Federal Supplemental Security Income (SSI) benefits. She was originally denied those benefits but eventually was determined to be eligible for those benefits.

In September of 1989 she received a lump sum from SSI in the amount of \$7,834.20 for retroactive benefits from December, 1987 through September, 1989. \$1,760.00 of the lump sum was paid to the Missouri Division of Family Services to recoup the General Relief benefits paid the State from November, 1987 through September, 1989. paid \$1,866.50 of the remaining lump sum to her SSI attorney pursuant to her agreement with that attorney. The remaining \$4,207.70 of the lump sum was consumed in purchasing a car, clothing, groceries, etc. All the money was spent during September, 1989 and at the end of September, had none of the lump sum remaining.

During September, 1989, had her annual recertification with Riverview Bend management at which she reported receipt of the lump sum. Riverview Bend management determined that \$6,074.20 of the SSI lump sum (\$7,834.20 gross less \$1,760.00 paid to General Relief) was income and was attributed to the annual income for for the rental period beginning November 1, 1989. This lump sum plus her monthly SSI grant of \$368.00 resulted in an annual income for the year commencing November 1, 1989 of \$10,490.00. monthly rent for the year November 1, 1989-October 31, 1990 was thereupon determined to be \$202.00. As we discussed, disputes the treatment of the lump sum as annual income.

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HUD Handbook 4350.3 (Occupancy Requirements of Subsidized Multi-Family Housing Programs) governs situation. Specifically, 4350.3 Change-1, Section 3-4 on page 3-4 excludes from annual income any lump sum payments which are counted as assets. That section also states under Subsection (C) that treatment of the lump sum income varies by whether an interim recertification was processed for receipt of the lump sum income. If no interim recertification is requested or processed prior to or at the time of the receipt of the lump sum, the lump sum is treated as an asset and not as income.

Exhibit 3-5 on page 3-55 and 3-56 of the HUD Handbook 4350.3 and particularly Example 2 of Exhibit 3-5 are strikingly similar to situation. Under the Example 2, where a tenant loses income and then receives a lump sum payment, if the tenant requested an interim recertification to reduce the rent to cover the period of reduced income, the subsequently received lump sum is treated as income. However, under Situation B of Example 2, where the tenant who lost income did not request an interim recertification to reduce the rent for the lessened income period, the subsequently received lump sum benefit is treated as an asset and is not included in annual income.

In case, she never requested nor received an interim recertification concerning her lessened income because her income was stable for the entire time she has resided in Riverview Bend. She has had only annual recertifications during her tenancy at Riverview Bend.

While the regulations under 24 C.F.R. §813 do indicate that lump sums generally are considered income, I believe this specific exception mentioned in the Handbook overcomes the general rule. The lump sum should therefore be treated as an asset rather than as income.

As an asset, the most that can be attributed to as income would be the amount derived by multiplying the amount of money received by the passbook rate for the period she retains the asset. 4350.3 CHG-1, ¶3-3. As she quickly spent the asset, none of the asset amount can be attributed to her as income.

The only amount of money that should be attributed to as income for the current certification year is the \$368.00 that she receives each month from SSI. Based on that income alone, her share of the monthly rental should be \$50.00 per month rather than the \$202.00 required by Riverview Bend.

In the case of Martin vs. East Side Housing Corporation and HUD, CA No. 89-0300, a case recently brought in the federal District Court of Rhode Island and with facts very similar to , HUD and the Section 8 landlord stipulated to judgment treating a lump sum as an asset and determining rent accordingly.

I have advised to pay Riverview Bend the amount of \$50.00 per month commencing November 1. She will escrow with our office the difference between the \$202.00 asked and the \$50.00 paid until this matter is resolved. This is done as a good faith gesture on her part.

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Therefore, we are asking that HUD direct Riverview Bend to treat the SSI lump sum as an asset rather than as income for purposes of determining portion of the monthly rent at Riverview Bend. We also ask that her rent be recomputed accordingly.

Please give me HUD's response to this letter as soon as you can. By this letter I am also requesting that Riverview Bend take no adverse action against until we have determined whether this matter can be resolved amicably. I look forward to your response in the very near future.

Sincerely,

Roger Bertling
Attorney at Law

RB:mg

cc: Dave Collins
Riverview Bend Apartments