



Special Attention of: All Regional and FHEO **Notice** H 90-33 HD
Directors; Directors of Housing Management
and FHEO; Category A, B & C Offices; FHEO Issued: 5/7/90
Program Operations and Field Office Div.; Expires: 5/31/91
Loan Management and Assisted Housing
Branch Chiefs; Category A, B & C Offices; Cross References: 4350.3, Par. 2-15 and 4-4;
Contract Administrators 4381.5 Chapter 2

Subject: Tenant Selection Plans and House Rules

APPLICABILITY: Projects assisted under the following programs:
Rent Supplement, Section 236, Rental Assistance Payments,
Section 8 (Loan Management Set-aside, Property Disposition
Set-aside, State Agency Set-aside and New Construction and
Substantial Rehabilitation) and Section 202 and 202/8.
Projects insured or coinsured under any of the multifamily
mortgage insurance programs pursuant to Title II of the
National Housing Act excluding Section 242 and condominium
projects where the individual unit mortgages are insured
by HUD (Sections 234(c) and 235.)

BACKGROUND:

On December 15, 1988 the Office of Housing issued Change 6 to Handbook 4350.3, Occupancy Requirements of Subsidized Multifamily Housing Programs. This change removed a statement in Appendix 19b of the Handbook which indicated that HUD routinely approves house rules developed by owners of subsidized multifamily housing projects. A subsequent clarification memorandum from the Office of Housing dated March 17, 1989 reaffirmed this policy and stated in addition that HUD does not review or approve tenant selection plans for subsidized multifamily projects. That memorandum should have stated that the Office of Housing does not review or approve tenant selection plans or house rules.

POLICY:

This notice supersedes the Office of Housing's March 17, 1989 memorandum to Housing personnel. It describes the responsibilities of both the Office of Housing and the Office of Fair Housing and Equal Opportunity (FHEO) for the review of tenant selection plans and house rules. Handbook 4350.3 Change 6 remains unchanged. The policy with respect to the review of house rules and tenant selection and assignment plans are as follows.

1. The Offices of Housing and FHEO will neither perform upfront reviews of tenant selection plans and house rules nor approve such documents. Owners voluntarily develop these documents and they do not require the Office of Housing's or FHEO's review or approval. Owners must familiarize themselves with the HUD requirements for screening applicants and operating HUD subsidized projects. In developing tenant selection plans and house rules, it is the owner's responsibility to assure that they do not conflict with HUD's regulations and procedures (e.g., tenant eligibility requirements under the applicable program, including Federal occupancy preferences, local residency preferences and case-by-case waivers to occupancy requirements permitted by regulation and approved by HUD and Fair housing and civil rights-related requirements.)
2. Housing and FHEO FOD/POD staff may become aware through other means (e.g., site inspections, tenant complaints, general routine monitoring) that tenant selection plans and/or house rules circumvent or conflict with HUD requirements. When this occurs, the HUD Field Office director should require the owner to modify the tenant selection plan and/or house rules to conform with HUD requirements, or refer the matter to the Regional Office for Compliance Activity, as appropriate.

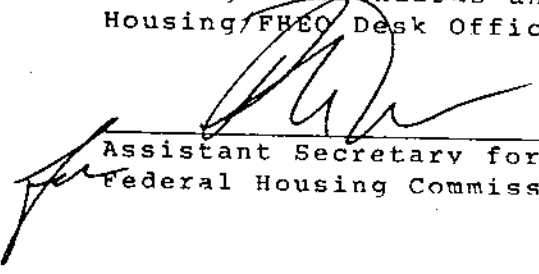
In addition, FHEO FOD/POD staff shall continue monitoring marketing, tenant selection, unit assignments, the provision of maintenance and other tenant services (a) to assure that all tenants receive equal treatment on a nondiscriminatory basis and (b) to assure that project management complies with all applicable civil rights-related program requirements. If FHEO's monitoring discloses a conflict between management practices stated above and civil rights-related program requirements, FHEO shall assist the owner/management company in modifying the practices in question. Deficiencies that appear to be violations of the nondiscrimination provisions of Title VI of the Civil Rights Act of 1964, the Fair Housing Act, or Section 504 of the Rehabilitation Act of 1973 shall be forwarded to the FHEO Regional Office for possible compliance activity.


DISTRIBUTION:

Bulk shipments of this notice will be sent to HUD field offices for distribution to all addressees.

QUESTIONS:

Please address questions on this notice to Bonnie Harris, Office of Multifamily Management (426-3944), Steven Tursky, Office of Program Standards and Evaluation, FHEO (755-2288), or your Housing/FHEO Desk Officer.


Assistant Secretary for Housing-
Federal Housing Commissioner


Assistant Secretary for Fair
Housing and Equal Opportunity