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Ceiling Rents in Public Housing
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This Notice provides basic information on establishing ceiling rents in the public housing program.

This Notice does not deal with the phase out of old ceiling rents that were in existence at some public housing agencies (PHAs) prior to August 1, 1982. This Notice does not apply to the Turnkey III program, Indian housing, or Section 8 housing.

1) Ceiling Rents -- What They Are

A ceiling rent (sometimes called a maximum rent) provides a cap on the amount of rent a family can be charged. The ceiling rent caps the total tenant payment (TTP), the amount the family must pay to cover both shelter and a reasonable amount of utilities.

Residents in public housing usually pay one of three amounts as their total tenant payment, whichever is highest:

-- 30% of monthly adjusted income -- the most common;

-- 10% of monthly income; or

-- a welfare rent, if applicable.

The TTP can be set at a lower amount than would result from applying this payment formula if HUD has authorized the PHA to use ceiling rents.

Example: A resident paying $400 per month, based on 30% of the family's monthly adjusted income, would have to pay only $300 per month if the PHA, with HUD approval, has established a $300 ceiling rent for the dwelling unit where the family resides.

2) 1987 Act / March 15, 1989 and December 16, 1991 FR Notices

The statutory basis for ceiling rents is Section 102(a) of the Housing and Community Development Act of 1987 (the "1987 HCD Act"), which amended section 3(a) of the U.S. Housing Act of 1937, the law governing the public housing program.

Ceiling rents are being implemented, for now, on a waiver basis by a FEDERAL REGISTER Notice published March 15, 1989 (Attachment 1), as amended by a FEDERAL REGISTER Notice published December 16, 1991 (Attachment 2). The regulation affected is 24 CFR 913.107. PHAs may not adopt ceiling rents without getting a HUD waiver of that regulation.

3) PHA Optional

PHAs are under no obligation to adopt ceiling rents. PHAs that have adopted them may do away with them entirely, or increase them, after giving affected residents reasonable notice.

PHAs are encouraged to consult with public housing residents, generally through the Resident Councils, prior to adopting, increasing, or doing away with ceiling rents.

4) 60 Months Maximum

The rent of any particular public housing resident may be set at the ceiling rent for a cumulative maximum of 60 months.

Under the 1987 HCD Act, the maximum period for each resident was 36 months. This was extended to 60 months by Section 302 of the Department of Housing and Urban Development Reform Act of 1989.

A family can go off the ceiling rent for a few months, then back on it. But prior months on the ceiling rent count toward the 60 month total.

5) Which Units

Ceiling rents are unit based. A PHA can apply them:

-- inventory-wide;

-- to certain developments;

-- to certain size dwelling units (such as efficiencies).

Ceiling rents are not resident-based. They cannot be applied only to a particular group of families, such as those involved with resident management.

6) Covering Debt Service and Operating Expenses

The ceiling rent must at least cover the average monthly debt service and average monthly operating expenses. These figures vary by unit size.

-- Debt includes total development and modernization costs for the PHA.

-- Imputed debt is used in cases where debt has been forgiven. The debt service figures to be used (with operating expenses) in determining ceiling rent minimums have been previously distributed to HUD field offices.

-- The PHA's operating expenses can be derived from the PHA's "Statement of Operating Receipts and Expenditures," Form HUD-52599.

The appendix to the March 15, 1989 FEDERAL REGISTER Notice gives a step-by-step procedure for PHAs to use in determining the minimum amount necessary in order for the ceiling rent to cover the average monthly debt service and average monthly operating expenses.

7) What Level

The ceiling rent can be set at the fair market rent without doing a survey.

By doing a survey, the ceiling rent can be set at a lower amount, based on comparable unassisted rent in the community. Any such survey should look at private rental housing of similar age, location, condition, amenities, design, and size, in the same market area.

Whether the ceiling rent is set at the fair market rent or a lower amount, based on a survey, the ceiling rent must at least cover the average monthly debt service and average monthly operating expenses.

8) How PHA Applies For Approval

The PHA must submit a written request to the local HUD field office:

-- Stating the number of families (in the PHA's units) that are paying a rent greater than the fair market rent or, if a comparability survey is used, paying more than the rents in that survey;

-- Giving unit sizes and developments to which ceiling rents would apply, and the actual amount of the ceiling rents;

-- Stating, for each unit size, the minimum level at which the ceiling rents could be established to cover debt service and operating expenses;

-- Stating whether the proposed ceiling rents are to be based on fair market rents or a comparability study; and

-- Estimating the financial impact on rental income of the rent reductions.

To facilitate analysis of the PHA's request, the PHA should include the figures it used in making its calculations.

9) Headquarters Must Approve

The local HUD office should review the PHA's request to make sure that all the necessary elements are present.

The local HUD office should then send the request (including the supporting materials the PHA has submitted), along with the office's recommendation (through the Regional office, where applicable) to HUD Headquarters for approval.

The authority to waive the provisions of 24 CFR 913.107 to allow a PHA to establish ceiling rents resides with the Assistant Secretary for Public and Indian Housing. Prior delegation to the field to approve ceiling rents was withdrawn by a FEDERAL REGISTER Notice (Vol 56, No. 77) published on April 22, 1991.

10) Some Advantages of Ceiling Rents

In some circumstances, ceiling rents can be very helpful. They may:

-- help to avoid unreasonably high rents.

-- assist residents in transition from welfare to employment, or help working families that get better jobs.

-- stabilize the population of a development. Higher income residents can remain for a while, and serve as role models to other residents. This may benefit those who become involved with resident management.

-- help a PHA fill vacancies -- by improving the PHA's ability to market less desirable units, such as efficiencies, or particular projects.

11) Potential Disadvantages / Shortcomings of Ceiling Rents

Ceiling rents are not always the right answer, however. It depends on the PHA's particular circumstances.

-- The combined debt service and operating expenses of a particular PHA may be too high to make ceiling rents a viable option. Or the level where they would need to be set would protect the highest income residents but not those in transition from welfare to employment.

-- There would be a loss of rental revenue (through reduction of rents) if families charged a ceiling rent would have remained in public housing anyway.

-- Ceiling rents may reduce unit turnover rate, resulting in lower availability of assisted housing for low income applicants.

Assistant Secretary for Public
and Indian Housing

Attachments