

CIRCULAR

RHM 7465.8

2/22/71

Cancellation

Date:

SUBJECT: Requirements and Recommendations To Be Reflected in Tenant Dwelling Leases for Low-Rent Public Housing Projects

1. PURPOSE. To set forth standards and criteria of management-tenant relationships to be embodied in dwelling leases in the low-rent public housing program.
2. BACKGROUND.
 - a. The traditional landlord-tenant relationship has been substantially changed in recent years by State statutes in many states as well as by a long series of legal decisions. This has been particularly true in public housing, the courts indicating that Local Housing Authorities have certain duties and obligations which cannot be avoided or circumvented by contractual provisions in leases with tenants. In line with these decisions and as a result of extensive discussions involving organizations representing Local Housing Authorities and tenants, HUD recently issued Circular RHM 7465.6, dated 8-10-70, prohibiting the inclusion in public housing leases of certain unfair or unreasonable provisions.
 - b. Agreement was also reached regarding the provisions that should be included in such leases to reflect the obligations, responsibilities, and duties of both management and tenants. It was the belief of all the participants in such discussions that leases which reflect the obligations imposed upon public landlords by the courts, and the correlative obligations of tenants, would improve management-tenant relationships and promote an improved housing environment to the advantage of the low-rent housing program, its beneficiaries, and the communities in which such housing is located.

3. REQUIREMENTS.

- a. The Annual Contributions Contract between a Local Housing Authority and HUD provides in Part II, Section 203(B):

"The Local Authority shall not permit any family to occupy a dwelling in any Project except pursuant to a written lease for such dwelling executed by a responsible member of such family, which lease shall contain all relevant provisions necessary to meet the requirements of the Act and of this Contract, and which lease shall provide that the Local Authority shall not terminate the tenancy other than for violation of the terms of the lease or other good cause. In terminating a tenancy, the Local Authority shall inform the tenant in a private conference or other appropriate manner the reasons for the eviction and give the tenant an opportunity to make such reply or explanation as he may wish."

- b. To implement this provision of the Contract, all such dwelling leases shall include provisions covering:

- (1) Names of the parties to the lease and the identification of the premises leased.
- (2) The amount and due date of rental payments, and a proviso that management will accept rental payments without regard to any other charge owed by the tenant to management.
- (3) The utilities and quantities thereof to be furnished to the tenant by management.
- (4) The process by which rents and eligibility for occupancy shall be determined and redetermined including:
 - (a) The frequency of such rental and eligibility determinations.
 - (b) The information which the tenant shall supply to permit such determinations.

- (c) The standards by which rents, eligibility, and appropriate dwelling unit size shall be judged.
 - (d) The circumstances under which a tenant may request a redetermination of rent.
 - (e) The effect of misrepresentation by the tenant of the facts upon which rent or eligibility determinations are based.
 - (f) The time at which rent changes or notice of ineligibility shall become effective.
- (5) The limitation upon the tenant of his right to the use and occupancy of the dwellings.
 - (6) The responsibilities of the tenant in the maintenance of his dwelling and such other project areas as may be assigned to him for maintenance and upkeep, if any; and his obligations for intentional or negligent failure to do so.
 - (7) The use of separate legal process to collect monetary claims for damages.
 - (8) The responsibility of management to maintain the buildings and any unassigned community areas in a decent, safe, and sanitary condition in accordance with local housing codes and HUD regulations, and its obligations for failure to do so.
 - (9) The responsibility of management to provide the tenant with a written statement of the condition of the dwelling unit (when the tenant initially enters into occupancy and when he vacates the dwelling unit), and the conditions under which the tenant may participate in the inspection of the premises which is the basis for such statement.
 - (10) The circumstances under which management may enter the premises during the tenant's possession thereof.

- (11) The formalities that shall be observed by management and tenant in giving notice one to the other as may be called for under the terms of the lease.
 - (12) The circumstances under which management may terminate the lease, all limited to good cause, and the length of notice required for the tenant to exercise his right to terminate.
 - (13) The agreement that any tenant grievance or appeal from management's decision shall be resolved in accordance with LHA procedures consistent with HUD regulations covering such procedures.
 - (14) The usual signature clause attesting that the lease has been executed by the parties.
- c. No lease shall contain language which establishes less than the minimum responsibilities and obligations on each of the parties as provided in the model lease shown as Appendix 1, with respect to the above required provisions.
 - d. These provisions shall not apply to leased housing units.

4. RECOMMENDATIONS.

- a. Security deposits when required by LHAs should be limited to an amount not in excess of one month's rent, or some reasonable set amount. Provision should be made for the gradual build up of such security deposit; and any interest earned upon such security deposit should be considered money due to the tenant upon vacation of the premises less any amounts owing to management. Management should consult with tenants concerning an appropriate depository for such funds.
- b. Penalties for late payments for rent are no longer assessed by many LHAs. Since such penalties have proved ineffective in improving rent collections and tend to exacerbate tenant-management relationships, it is strongly urged that they not be imposed.

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5. UTILITY ALLOWANCE. With respect to utility allowances (paragraph 3b(3) above), attention is called to the provisions of Circular RHM 7465.7, dated 2-1-71, on Charges to Tenants for Excess Use of Utilities in Low-Rent Public Housing Projects. This sets forth the process that shall be used in establishing reasonable amounts or quantities of utilities to be supplied, and which prohibits the imposition of utility charges unless such charges are determined by individual or check meters, or result from the use of major tenant-supplied appliances.
6. MODEL FORM OF LEASE. Appendix 1 attached hereto is one form of lease which embodies the requirements and recommendations set forth above. The lease is a model only and other language may be substituted to reflect the particular operational requirements of the project involved or the requirements of State law, so long as each lease includes provisions which establish no less than the minimum responsibilities and obligations on each of the parties provided in the model lease attached as required by paragraph 3 above.

MODEL LEASE FORM

1. DESCRIPTION OF THE PARTIES AND PREMISES. The _____
 _____ (Management) does hereby lease to
 _____ (Local Housing Authority)
 _____ (Tenant) the dwelling unit
 described below, under the terms and conditions stated herein.

Address _____
 Occupancy Date _____

2. AMOUNT AND DUE DATE OF RENTAL PAYMENTS. Monthly rent of \$ _____
 shall be due and payable in advance on the _____ of each month
 beginning _____ 19____. This rent will remain in effect
 unless adjusted in accordance with the provisions of Section 5 hereof.

Alternate provision may be used if it is determined that a tenant
 may pay rent in installments, as per example, "monthly rent of
 \$ _____ shall be due and payable in advance in _____
 installments on the _____ day and _____ day of each month beginning
 _____ 19____."/

3. SECURITY DEPOSIT. Security deposits are not necessarily
 required. If it is determined not to have a security deposit this
 section shall be eliminated. If security deposits are utilized, the
 alternate procedures for their collection are indicated./

Tenant agrees to pay \$ _____ as a security deposit to be used by
 Management at the termination of this lease toward reimbursement of
 the cost of repairing any intentional or negligent damages to the
 dwelling unit caused by Tenant, his family, or dependents, and any
 rent or other charges owed by Tenant. Payment of the security
 deposit is to be made upon occupancy/ by payment of \$10 upon
 occupancy and \$2 per month for the following _____ months of
 occupancy until the balance is paid/.

The following provision may be used to provide for interest on
 security deposits./

add this
Management agrees to deposit such security deposit in an interest-
 bearing account, crediting such interest as may accrue to Tenant's
 security deposit. Management agrees to return the security deposit,
 with such accrued interest as may have been earned, to Tenant when
 he vacates, less any deductions for any of the costs indicated above.
 If such deductions are made, Management will give Tenant a written
 statement of any such costs for damages and/or other charges to be
 deducted from the security deposit. The security deposit may not be
 used to pay rent or other charges while Tenant occupies the dwelling
 unit.

APPENDIX 1

4. UTILITIES. Management agrees to furnish the following utilities in accordance with the current Schedule of Utilities posted in the Project Office:

List utilities to be furnished

Management will not be responsible for failure to furnish utilities by reason of any cause beyond its control.

If heat is to be furnished by Management, add:
Management agrees to furnish heat when necessary or as specified by local law.

If heat is to be furnished by Tenant, add:
Tenant agrees to furnish heat to the dwelling unit and agrees to maintain sufficient heat to prevent freezing of piped water. If for any reason, Tenant is unable to maintain sufficient heat, he shall immediately notify Management. Tenant will be charged for any damages resulting from his failure to maintain sufficient heat or to notify Management, unless for any cause beyond his control.

5. REDETERMINATION OF RENT, DWELLING SIZE, AND ELIGIBILITY. Once each year Once every two years if elderly tenant as requested by Management, Tenant agrees to furnish accurate information to Management as to family income, employment, and composition, for use by Management in determining whether the rental should be changed, whether the dwelling size is still appropriate for Tenant's needs, and whether Tenant is still eligible for low-rent housing. This determination will be made in accordance with the approved Schedule of Rents and Statement of Income and Occupancy Limits available in the Project Office.

- a. Rent as fixed in Section 2 hereof or as adjusted pursuant to the above will remain in effect for the period between regular rent redeterminations unless during such period:
- (1) Tenant can show a change in his circumstances (such as a decline in income) which would justify a reduction in rent pursuant to the Schedule of Rents or such other circumstances as would create a hardship situation.
 - (2) Tenant commences to receive public assistance or his public assistance is terminated. Such a change must be reported to Management within ten (10) days of its occurrence.
 - (3) It is found that Tenant has misrepresented to Management the facts upon which his rent is based, so that the rent he is paying is less than he should have been charged. If this is found then the increase in rent may be made retroactive.

In the event of any rent adjustment pursuant to the above, Management will mail or deliver a "Notice of Rent Adjustment" to Tenant in accordance with Section 9 hereof. In the case of rent decreases, the adjustment will become effective the first of the following month. In case of rent increases, the adjustment will have effect the first of the second following month, unless the rent increase results from a finding of intentional misrepresentation under Section 5a(3) above.

- b. If Management determines that the size of the dwelling unit is no longer appropriate to Tenant's needs, Management may amend this lease by notice to Tenant, in accordance with Section 9 hereof, that Tenant will be required to move to another unit within the project in which he lives, giving Tenant a reasonable time in which to move.
- c. If Management finds that Tenant's income has increased so that it is above the approved income limits for continuing occupancy in low-rent housing, Management will then determine whether or not Tenant can, with reasonable effort, find other suitable housing.
 - (1) If Management determines that due to special circumstances Tenant will be unable to find other suitable housing, Tenant may remain in low-rent housing so long as the special circumstances exist, but the monthly rental will be increased in accordance with the approved Schedule of Rents. Management will notify Tenant of the rent adjustments in accordance with Section 9 hereof. The adjustment will become effective the first of the second following month.
 - (2) If Management determines that Tenant can, with reasonable effort, find other suitable housing, it will notify Tenant that Tenant has _____ months to find other housing and move, in accordance with Section 9 hereof.

6. OCCUPANCY OF THE DWELLING UNIT. Tenant agrees not to assign this lease, nor to sublet or transfer possession of the premises; nor to give accommodation to boarders or lodgers without the written consent of Management. Tenant further agrees not to use or permit the use of the dwelling unit for any purpose other than as a private dwelling unit solely for Tenant and his family and/or dependents. This provision does not exclude reasonable accommodation of tenant's guests or visitors. Tenant agrees to abide by such necessary and reasonable regulations as may be promulgated by Management for the benefit and well being of the housing project and the tenants.

APPENDIX 1

7. DAMAGE AND REPAIR. Tenant shall use reasonable care to keep his dwelling unit in such condition as to prevent health or sanitation problems from arising. Tenant shall notify Management promptly of known need for repairs to his dwelling unit, and of known unsafe conditions in the common areas and grounds of the project which may lead to damage or injury. Except for normal wear and tear, Tenant agrees to pay reasonable charges for repair of intentional or negligent damage to the leased premises or project caused by Tenant, his family, or dependents. Such charges shall be billed to Tenant and shall specify the items of damages involved, correctional action taken, and the cost thereof. Management agrees to accept rental money without regard to any other charges owed by Tenant to Management, and to seek separate legal remedy for the collection of any other charges which may accrue to Management from Tenant.

Management shall maintain the buildings and common areas and grounds of the project in a decent, safe, and sanitary condition in conformity with the requirements of local housing codes and applicable regulations or guidelines of the Department of Housing and Urban Development. Management shall make all necessary repairs, alterations, and improvements to the dwelling unit with reasonable promptness at its own cost and expense, except as otherwise provided in this Section. If repairs of defects hazardous to life, health, and safety are not made or temporary alternative accommodations offered to the Tenant within seventy-two hours of Tenant's reporting same to Management, and if it was within Management's ability to correct the defect or obtain the correction thereof, then Tenant's rent shall abate during the entire period of the existence of such defect while he is residing in the unrepaid dwelling. Rent shall not abate if the tenant rejects reasonable alternative temporary accommodation.

Additional provisions may be inserted where Tenant assumes maintenance responsibilities.

8. INSPECTIONS. When Tenant moves in, Management shall inspect the dwelling unit and shall give Tenant a written statement of the condition of the dwelling unit and the equipment in it. Tenant and/or his representative may join in such inspection.

Tenant agrees that the duly authorized agent, employee, or representative of Management will be permitted to enter Tenant's dwelling unit for the purpose of examining the condition thereof or for making improvements or repairs. Such entry may be made only during reasonable hours, after advance notice in writing to Tenant of the date, time, and purpose, provided, however, that Management shall have the right to enter Tenant's dwelling unit without prior notice to Tenant if Management reasonably believes that an emergency exists which requires such entrance. Management must promptly notify Tenant in

writing of the date, time, and purpose of such entry, and of the emergency which necessitated it.

When Tenant vacates, Management will inspect the dwelling unit and give Tenant a written statement of the charges, if any, for which Tenant is responsible. Tenant and/or his representative may join in such inspection.

9. LEGAL NOTICES. Any notice required hereunder will be sufficient if delivered in writing to Tenant personally, or to an adult member of his family residing in the dwelling unit, or if sent by certified mail return receipt requested properly addressed to Tenant, postage prepaid. Notice to Management must be in writing, and either delivered to a Management employee at the Management office of the project within which Tenant resides or at the Central office of the Local Housing Authority, or sent to Management by certified mail, properly addressed, postage prepaid.
10. TERMINATION OF THE LEASE. This lease may be terminated by Tenant at any time by giving fifteen (15) days written notice in the manner specified in Section 9.

Tenant agrees to leave the dwelling unit in a clean and good condition, reasonable wear and tear excepted, and to return the keys to Management when he vacates.

This lease may be terminated by Management at any time by the giving of written notice as set forth in Section 9, not less than thirty (30) days prior to termination. Such notice may only be given for good cause, such as nonpayment of rent, serious or repeated interference with the rights of other tenants, serious or repeated damage to the premises, creation of physical hazards, or over-income status. Notice by either party to this lease may be given on any day of the month. If Management should elect to terminate this lease, Tenant must be told in a private conference, by a duly authorized representative of Management, the reason(s) for the eviction, and must be given an opportunity to make such reply or explanation as he may wish. At the time of the conference, Tenant must be informed of:

- a. The specific reasons for the proposed eviction and the alleged facts upon which it is based; and
- b. His right to request a hearing upon the proposed eviction in the manner provided in Section 11 of this lease.

APPENDIX 1

- 11. GRIEVANCE PROCEDURE. All grievances or appeals arising under this lease shall be processed and resolved pursuant to the grievance procedure of Management which is in effect at the time such grievance or appeal arises, which procedure is posted in the Project Office and incorporated herein by reference.
- 12. CHANGES. This lease, together with any future adjustments of rent or dwelling unit, evidences the entire agreement between Management and Tenant. No changes herein shall be made except in writing, signed and dated by both parties.

IN WITNESS WHEREOF, the parties have executed this lease agreement this _____ day of _____ 19____, at _____, (City)

(State)

(Tenant)

(Local Housing Authority)

By: _____

Title: _____