



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

WASHINGTON, D. C. 20410

OFFICE OF THE ASSISTANT SECRETARY
FOR RENEWAL AND HOUSING ASSISTANCE

CIRCULAR
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TO: Local Authorities
Regional Administrators
Assistant Regional Administrators for Housing Assistance

FROM: Don Hummel

SUBJECT: Admission and Continued Occupancy Regulations for Low-Rent
Public Housing

The purposes of this Circular are (1) to report recent developments relating to the objectives of low-rent housing and specifically to conditions and standards for admission and continued occupancy; and (2) to set forth minimum admission and continued occupancy standards to be followed by Local Authorities in complying with these objectives.

1. Recent Developments Pertinent to Local Authority Responsibility and to Admission and Occupancy Regulations

Recent court decisions, although reaffirming the local authority's right and responsibility to establish standards for admission and occupancy that will protect the health, safety, morals and comfort of public housing tenants, have also determined that such authority may not deny admission or occupancy to a family based on a moral judgment or solely on the basis of the presence of an out-of-wedlock child. In a typical case, a court struck down as contrary to the Fourteenth Amendment of the United States Constitution the Local Authority's policy of excluding unwed mothers from admission to, or continued occupancy in, its projects solely on the basis of illegitimate children. The court held that such policy did not, as it must, take into account such other pertinent factors as number of illegitimate children and their ages, background, and experience of the mother, or likelihood of more illegitimacies, adding that:

"an indiscriminate denial of access to public housing to families unfortunate enough to have or acquire one or more illegitimate children would be to deprive, of the real or supposed benefits of the program, many of the people who need it most--the poorest and most ignorant of the poor. An administrative policy which involves such a denial does not square with the humane purposes of the low-rent program."

The Court emphasized that the Local Authority was not required to

" . . . permit the facilities to be operated as brothels or places of assignation, to tolerate criminal activities within the facilities, or disorderly conduct, or conduct amounting to a nuisance or which seriously violates ordinary standards of decency . . . "

but could consider under appropriate criteria whether a given unwed mother and her family should be admitted to the facilities.

As the result of decisions such as that set forth above, many Local Authorities have eliminated their absolute rule against the admission or continued occupancy of unwed mothers.

2. Standards for Establishment and Administration of Admission and Occupancy Regulations

a. In addition to the standards presently stated in Section 3 of the Low-Rent Management Manual, a Local Authority's admission and occupancy regulations must be consistent with the stated goals and objectives of the low-rent program, including the social goals set forth in the Circular of 3-22-68, the Local Authority's responsibilities as a public body, the applicant's rights of privacy, and the applicant's constitutional rights.

b. A Local Authority shall not establish policies which automatically deny admission or continued occupancy to a particular class, such as unmarried mothers, families having one or more children born out of wedlock, families having police records or poor rent-paying habits, etc.

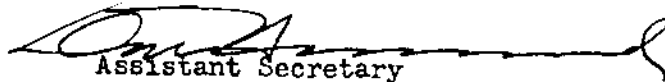
c. To determine whether applicants or occupants should be admitted to or remain in its project, a Local Authority may establish criteria and standards bearing on whether the conduct of such tenants (in an applicant's present or prior housing, or in occupancy in the case of present tenants) does or would be likely to interfere with other tenants in such a manner as to materially diminish their enjoyment of the premises. Such interference must relate to the actual or threatened conduct of the tenant and not be based solely on such matters as the marital status of the family, the legitimacy of the children in the family, police records, etc.

d. Local Authorities are required to establish policies governing the nature and extent of investigations to be made of applicants' statements relating to their eligibility, subject to the following standards:

- (1) That forms and procedures provide for obtaining only such information from the applicant and for only such verification as are necessary for determining his eligibility, preferences (if any), size of unit required, and amount of rent, and for reporting to HUD.

- (2) That applicants and tenants be treated with courtesy and consideration at all times, in all written or verbal communications and relationships.
- (3) That applicants and tenants be the primary source for information required by the Local Authority. Applicants and tenants shall be requested to furnish only documentation that can be reasonably obtained without undue effort, delay, or expense. The Authority shall utilize other sources to obtain required information only to the extent necessary.
- (3) That applicants be provided in a reasonable time with the most accurate and factual information possible concerning their status, with full regard for their need to know how to plan for meeting their household needs.

Applicable provision of this Circular will be incorporated in the Low-Rent Management Manual.


Assistant Secretary