

U. S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
H O U S I N G

**NOTICE** H 78-32 (PHA)

11/9/78  
EXPIRES: 5/31/79

**TO:** Public Housing Agencies

**SUBJECT:** District Court Stipulated Order Requiring PHAs  
to Process Tenant and Former Tenant Rent Claims

1. Purpose. This Notice provides for implementation of a Stipulated Order entered by the District Court of the District of Columbia in class action litigation alleging that instructions issued by HUD regarding the definition of income resulted, in some cases, in rents exceeding the maximum specified in the United States Housing Act of 1937, as amended by Section 208 (a) of the Housing and Urban Development Act of 1970. It requires PHAs with housing developed or leased under the provisions of the United States Housing Act prior to September 26, 1975, to receive and process claims for rent refunds submitted by tenants or former tenants. It further provides for negative reports to be submitted by PHAs with no dwelling units in occupancy prior to September 26, 1975, and by those PHAs where no claims or no valid claims are received.

This Notice, specifically, is applicable to the following low-income public housing programs:

- a. Traditional (Conventional) Public Housing
  - b. Section 23 Leased Housing
  - c. Section 10(c) Leased Housing
  - d. Low-Income Housing Homeownership Opportunities Program (Turnkey III)
  - e. Indian Mutual Help Housing (to the extent that Circular HM 7465.10 was used in computing rents)
2. Background. On July 7, 1978, the District Court of the District of Columbia entered a Stipulated Order (Appendix 1) which requires HUD to establish a one million dollar fund for the payment of validated claims filed by tenants or former tenants of public housing whose rents exceeded the statutory maximum during the period between

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March 16, 1971, and September 26, 1975. (The period involved begins with the effective date of the amendment to the United States Housing Act of 1937 which specified a definition of income for the computation of maximum rents and terminates on the effective date of relevant provisions of the Housing and Community Development Act of 1974.) The Stipulated Order was based on a Court determination that Circular HM 7465.10, New Definition of Income - Implementation of Section 208 of the Housing and Urban Development Act of 1970, dated March 16, 1971, and revised on April 4, 1972, violated statutory provisions governing the definition of income used in the maximum rent computation, in that it precluded:

- (a) application of a \$300 deduction from family income on behalf of a dependent spouse of the head of the family; and
- (b) double deductions of \$300 from family income in the case of dependents who were also secondary wage earners.

The Court held that it was the intent of Congress that the rent limitation would take into account a \$300 deduction for a dependent spouse (husband or wife) and two deductions of \$300 for each dependent who was also a secondary wage earner.

The Stipulated Order further provides that determinations of eligibility for rent refunds, based on claims by tenants or former tenants, shall be made by PHAs. This is to be done for each claimant by comparing rents actually charged during the period involved pursuant to the PHA's rent schedule with statutory maximum rents computed in accordance with the Court's determination regarding the definition of income.

An additional provision of the Order is that in the event valid claims are submitted which, in total, exceed one million dollars, HUD may elect to request dissolution of the Order and to proceed with a further appeal on the litigation.

(NOTE: Circular HM 7465.10 has been withdrawn. Regulations implementing the 1974 legislation were published in the Federal Register on September 26, 1975 and, subsequently, in Notice 75-39 (LHA) on October 22, 1975. The Regulation and Notice explain the proper procedures for computing rent after September 26, 1975. The procedures described below are to be used only for the purpose of validating claims under the Court's Order).

3. Procedures. In order for HUD to carry out the Stipulated Order, the following actions on the part of PHAs are required:

a. Prior to December 7, 1978, PHAs shall provide notification to all current and former tenants advising them of the Stipulated Order and of the opportunity to submit claims.

This shall be accomplished in the following manner:

(i) Current Tenants shall be provided a copy of the Notice attached as Appendix 2 either by directly handing it to each tenant, or where such is not possible (or as an alternative procedure), mailing it to each tenant. The Notice must also be posted in each PHA office where business is conducted with tenants.

(ii) Former Tenants shall be notified through the PHA's publication of the Notice attached as Appendix 2 in a local newspaper of general circulation. The Notice is also to be posted in local Welfare Offices.

(PHAs may wish to make this Notice available in other languages, if its policies provide for issuance of tenant notices in languages other than English).

PHAs shall make a sufficient number of copies of the Notice attached as Appendix 2 to provide for the above requirements and to supply a copy to any individual who may wish to submit a claim. Sufficient copies of the Court's Stipulated Order, Appendix 1, are also to be made by the PHA so that any individual who so requests may receive a copy.

Each copy of the Notice to current and former tenants shall have inserted, in the spaces provided, the PHA's name and address and shall indicate the date of the first and last day of the 120 day period during which claims may be submitted.

b. Submittal of claims by current and former tenants must occur within the 120 day time period indicated by the PHA on the Notice. This time period must commence prior to December 7, 1978, and must not extend beyond 120 days from the date of commencement indicated by the PHA on the Notice. No claim submitted by a claimant after the end of the 120 day period may be considered.

c. Processing of claims shall be carried out by each PHA for its current and former tenants as follows:

(i) PHA files shall be used to verify claims. Recomputations of rent shall be made for those claims where the PHA determines that during the time periods indicated the family members were in residence in a unit leased to the family by the PHA, and one or more of the following situations prevailed in the computation of maximum rents:

a. A \$300 deduction from family income was not allowed the spouse (wife or husband) in the household who was a dependent of the head of the household.

b. Two \$300 deductions from family income were not allowed a dependent who was also a secondary wage earner.

When the foregoing circumstances exist, a comparison shall be made between the amount of rent actually charged the family and the amount which would have been charged if the additional deduction, as listed above, had been allowed in computing a maximum rent under the instructions then in effect. (Circular HM 7465.10) The amount by which the latter is less than the former shall constitute the dollar amount to be validated by the PHA for a family.

(ii) Where files have been discarded or are otherwise unavailable, claimants shall submit supplemental information supportive of their claims. Claimants in this category shall have up to 10 days following the 120 day eligibility period to submit this supplemental information; however, the claim form itself must have been submitted by the claimant within the 120 day time period. A claim shall not be validated for any family member or time period beyond that specified by the claimant on the claim form. Claims shall be processed on the basis of the PHA's best determination as to the amount, if any, which the family was overcharged as rent. If in the final analysis the PHA is unable to arrive at what it determines to be a reasonably accurate determination in

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f.

this regard, it shall compute the claim on the basis of a credit due the family of \$6.25 (\$300 divided by 12 months, and the result multiplied by .25) for each month for which a dependent spouse of the head of the household was present, and for each dependent secondary wage earner who also resided with the family.

- d. PHA determinations on current and former tenant claims shall be final. Notification in writing by a PHA to claimants concerning its determinations on claims is not required; however, a PHA should provide claimants with informal advice when requested.

Claimants should also be advised, when inquiring about their claims, that even a positive determination by the PHA may not insure their full or even partial reimbursement by HUD through the PHA. The Court's decision acknowledged that the administrative procedures required for disbursement by HUD of funds would take several months and that, should the claims on a nationwide basis exceed one million dollars, HUD has the option of dissolving the Court's Order, in which case HUD may negotiate a modified settlement or proceed with further litigation. Thus, the submission of a claim subsequently validated by the PHA does not insure full or even partial reimbursement to the claimant.

- e. Each PHA shall complete all processing of claims and provide the Deputy Director for Housing Management in the HUD Field Office, within whose jurisdiction it is located, with a summary of its determinations not later than May 4, 1979. The Summary Claim Form, attached as Appendix 3, shall be used for this purpose. All PHAs will be required to submit this form, including those PHAs that did not administer tenant-occupied public housing prior to September 26, 1975, and those PHAs to which either no claims or no valid claims were submitted. PHAs with no validated claims shall submit the Summary Claim Form indicating a negative report and specifying one of the foregoing circumstances.
- f. PHAs will be notified as soon as possible concerning HUD's plan for any disbursement of funds to pay tenant claims. PHAs are not to pay any tenant claims validated under the procedures described in this Notice until such time as funds specifically designated for this purpose are provided by HUD. Upon receipt of funds, PHAs may audit a valid claim against a tenant's or former tenant's back rent or other amount owed.

- g. Credits or refunds are not to be considered additional tenant income for purposes of upward adjustments in rent, nor is it the intent that any other federal, state or local public agency consider the repayment of a prior rent overcharge as income for purposes of eligibility for or level of assistance in a public assistance program.
- h. Each PHA shall retain for three years copies of all claims submitted by current and former tenants, as well as a copy of the Summary Claim Form submitted to the HUD Field Office.
- i. PHAs may seek assistance from HUD Field Offices on questions which may arise concerning the processing of claims.

*Lawrence Simon*  
Assistant Secretary for Housing-  
Federal Housing Commissioner

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

FILED

JUL 7 1978

JAMES F. DAVEY, Clerk

NATIONAL TENANTS ORGANIZATION  
INC., et al.,

Plaintiffs,

v.

DEPARTMENT OF HOUSING AND  
URBAN DEVELOPMENT, et al.,

Defendants.

Civil Action No. 974-70

STIPULATED ORDER

This matter has come before the Court pursuant to the Order of the United States Court of Appeals for the District of Columbia Circuit, entered on January 6, 1978, remanding this cause for the entry of an amendatory judgment stating "with particularity the precise relief which the District Court orders" in this case. On consideration of the record herein, the Court has determined that appropriate relief should be afforded as set forth in this Order. It is therefore, this 7<sup>th</sup> day of July, 1978,

ORDERED that this Court's Order filed July 12, 1976, is hereby amended, nunc pro tunc as of July 12, 1976, to provide as follows:

ORDERED that, in accordance with the Opinion filed May 3, 1973 (stay denied, Order of June 29, 1973), and the Memorandum on remand filed May 13, 1976, as amended May 21, 1976, judgment is hereby entered in plaintiffs' favor; and it is further

ORDERED, ADJUDGED AND DECLARED that the definition of "family income," for purposes of computing maximum rentals for public housing, as contained in Housing and Urban Development ("HUD") Circular HM 7465.10 (as promulgated by defendants on March 16, 1971, and revised on April 4, 1972, hereinafter referred to as the "1971 Circular"), which excluded spouses from the \$300 deduction for each dependent and excluded dependents from the \$300 deduction for each secondary wage earner (the "Subject Deductions"); was invalid and violated the United States Housing Act of 1937 (42 U.S.C. 1401, et seq.), as amended prior to the relevant effective date of the Housing and Community Development Act of 1974 (P.L. 93-383); and it is further

ORDERED that defendants shall take the following actions to afford relief to the plaintiffs --

1. HUD shall establish a fund (the "Fund") for the payment of claims under this judgment.

2. Anyone coming forward during that certain 120-day period to be prescribed by HUD and establishing with reasonable promptness that, according to the foregoing judgment of invalidity and violation, he qualified for but was denied one or both of the Subject Deductions, shall be entitled to participate in payments from the Fund. No one coming forward after the end of such 120-day period shall retain any claims or defenses based on denial of the Subject Deductions.

3. Determinations of eligibility shall be made by public housing authorities (PHAs) because records are maintained locally. Disbursements shall be made through the PHAs and may



- 3 -

be in the form of rent credits to any extent that either eligible tenants in possession or former tenants are in arrears in their payments. In the event the amount of such arrearage is in dispute, payments may be withheld until that issue is resolved. The rent credits referred to in this paragraph shall be debited against the Fund in the same manner as direct payments to be distributed to eligible persons.

4. In order to permit defendants to issue appropriate instructions to the PHAs, the 120-day period to be prescribed by HUD may begin at any time prior to the expiration of five (5) months after the entering of this Order. It is understood that, after the 120-day period, several months will be needed to complete the PHAs' determinations of eligibility, to obtain reports from the PHAs, and to disburse the funds (or make equivalent debits).

5. Prior to the commencement of the 120-day period, HUD or its delegate(s) shall issue appropriate general notice to tenants in possession and former tenants, which notice shall be reasonably calculated to inform all eligible persons of the terms of this Order and of the related procedures for establishing eligibility and obtaining payment. Such notice may be limited to publicizing the referenced terms generally and need not be directed to specific persons; however, any person making his request known to HUD or a PHA shall be entitled to receive a copy of this Order and of related detailed instructions.

6. Defendants shall deliver to plaintiffs' counsel for comment copies of its proposed instructions to PHAs and of its proposed notice to tenants. Plaintiffs' counsel shall have fifteen (15) days for comment, after which, in the absence of intervention by this Court at plaintiffs' request, defendants may issue the instructions to the PHAs and may cause to be issued the notice to tenants.

- 4 -

It is further ORDERED, that this Stipulated Order, entered this 7<sup>th</sup> day of July, 1978, is subject to the following condition subsequent. If valid claims are made pursuant to the foregoing in excess of One Million Dollars (\$1,000,000), defendants may elect to so inform this Court and request that this Stipulated Order be dissolved, which request this Court shall thereupon grant. In such event, the parties reserve their rights to litigate the question of relief before this Court and thereafter to litigate all aspects of this case then properly pending before the United States Court of Appeals.

*Joseph Daniel...*  
UNITED STATES DISTRICT COURT

*Wesley S. Williams, Jr.* Date: July 7, 1978  
WESLEY S. WILLIAMS, JR.  
Counsel for Plaintiffs

*Nathan Dodel* Date: July 7, 1978  
NATHAN DODELL  
Assistant United States Attorney  
Counsel for Defendants

## NOTICE

LEGAL NOTICE TO FAMILIES WHO LIVED IN PUBLIC HOUSING PROJECTS OPERATED BY THE \_\_\_\_\_ OR LIVED IN PUBLIC HOUSING PROJECTS IN ANY OTHER CITY BETWEEN MARCH 16, 1971, - SEPTEMBER 26, 1975.

If you rented a house or apartment from the \_\_\_\_\_ or any other Public Housing Agency (PHA) during the period between March 16, 1971, and September 26, 1975, you may be eligible to file a claim for a refund of part of your rent during that period if:

1. The wife or husband of the head of the household was present and dependent upon the head of the household for support and/or;
2. a dependent member of your family household was employed.

If you believe your family falls within one of the categories described above, you may wish to continue reading this Notice in order to determine how and under what circumstances you may file a claim.

On July 7, 1978, the District Court of the District of Columbia entered a Stipulated Order providing that the definition of family income for purposes of computing maximum rentals for public housing, as contained in a HUD Circular, which excluded spouses from the \$300 deduction for each dependent and excluded dependents from the \$300 deduction for each secondary wage earner, was invalid and violated the United States Housing Act of 1937, as amended. The effect of this determination is that certain families who lived in public housing during the period from March 16, 1971, to September 26, 1975, may have been charged too much rent. Therefore, the District Court ordered HUD to establish a one million dollar fund for the payment of claims which current or former tenants of public housing may submit for a refund of any overpayments.

The District Court's Stipulated Order provides that, if valid claims exceed one million dollars, HUD has the option of having the Order dissolved in which case NTO and HUD may negotiate a modified settlement or proceed with further litigation. Thus, claimants should realize that the submittal of a claim determined valid by a PHA may result in full, partial, or no payment, depending on the total amount of valid claims submitted to HUD, or the final outcome of any further litigation. Any person wishing to receive a copy of the Stipulated Order or a claim form may do so by making their request known to a local PHA.

Individuals wishing to submit a claim must fill in the claim form made a part of this Notice and must submit it to the Public Housing Agency's address indicated on the claim form, or such other appropriate Public Housing Agency if different from the address indicated, within 120 days from \_\_\_\_\_ . No claims will be accepted after the end of the 120 day period, \_\_\_\_\_ .

Information provided by the claimant on the claim form must be specific as to the time period between March 16, 1971, and September 26, 1975, for which the wife or husband of the head of the household was present and was a dependent and/or a dependent in the household was employed.

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HUD  
vash  
form



C L A I M F O R M

\*To file a claim pursuant to the information above, complete this form and submit it to:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

[Insert Name and Address of PHA]

- |   |                          |
|---|--------------------------|
| Full name of household member who was:                    | Month/Year to Month/Year |
| 1. Dependent wife or husband of head of household and/or; |                          |
| 2. Employed dependent of family                           |                          |

_____	_____
_____	_____
_____	_____
_____	_____

I affirm to the best of my knowledge that the foregoing is true and accurate.

\_\_\_\_\_ (Signature)

\_\_\_\_\_ (Name-Please print)

\_\_\_\_\_ (Current address)

\_\_\_\_\_ (Date)

\*If the PHA which you rented an apartment or house from during the claim period is other than that indicated above, you should delete the PHA's name and address indicated and submit your claim to the appropriate PHA.

PHAs will make the final decision as to the validity of any claim submitted. Payment of a valid claim shall be made through PHAs and may be credited by PHAs against a tenant's or former tenant's back rent or other amount owed.

