



NOTICE OF PROPOSED TERMINATION OF ELIGIBILITY

THIRTY (30) DAY NOTICE

P.O. Box 447
Stockton, CA 95201

September 30, 2011



Dear Ms [REDACTED]

This letter serves as a THIRTY (30) DAY NOTICE that the Housing Authority of the County of San Joaquin (Housing Authority) is proposing to terminate your participation in the Housing Choice Voucher Program (HCVP) effective October 31, 2011.

In order to receive HCVP assistance, you agreed to follow the rules set forth in the obligations of the family (Federal Regulation 24 CFR 982.551):

1. Section 4 of the Voucher, Obligations of the Family, which you acknowledged by signing; and
2. The Housing Authority of the County of San Joaquin's Family Obligations Form (copy attached) which you also acknowledged by signing prior to receiving housing assistance and at any subsequent reexamination of family income and composition.

REASON FOR PROPOSED TERMINATION:

The Housing Authority received information from the US Department of Housing and Urban Development's (HUD) Office of Inspector General (OIG) regarding unauthorized persons residing in the above-referenced unit (see enclosed letter). According to records filed with the State of California Parole, [REDACTED] has been living with [REDACTED] since January, 2007.

During an interview with the OIG on July 19, 2011, [REDACTED] made a statement that her husband, [REDACTED] had been using her address as his address with the Parole Department since January, 2007 and that he stayed with her occasionally since January 2007.



GROUND FOR PROPOSED TERMINATION:

1. In signing The Family Obligations Form, the family acknowledges that "Providing false or incomplete information will result in termination of assistance and you may be subject to criminal prosecution". It has been determined that you are in violation of the following Family Obligations (Federal Regulation 24 CFR 982.551) listed on the Family Obligations Form:

Family Obligation Number	Description
2	The family must supply any information requested by the Housing Authority or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements.
4	All information supplied by the family must be true and complete.
10	The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
11	The composition of the assisted family residing in the unit must be approved by the Housing Authority. The family must promptly inform the Housing Authority of the birth, adoption or court-awarded custody of a child. The family must request Housing Authority approval to add any other family member as an occupant of the unit.
15	The family must not sublease or let the unit.
19	The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with any Federal housing programs.

2. Pursuant to US Code, Title 18, Section 1001, it is a criminal offense, in any matter within the jurisdiction of the executive, legislative, or judicial branch of the Government of the United States, to knowingly and willfully --

- I. falsify, conceal, or covers up by any trick, scheme, or device a material fact;
- II. make any materially false, fictitious, or fraudulent statement or representation; or
- III. make or use any false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry.

As a result, providing false or incomplete statements or information may be subject to criminal prosecution. Therefore, as a result of failing to report changes in family composition and income, the Housing Authority continued to pay a Housing Assistance Payment on behalf of your household from January 2007 to October 2011, totaling \$43,694 of which needs to be recovered and will be forwarded to the San Joaquin County District Attorney's Office for prosecution.

INFORMAL HEARING REQUEST

You have the right to an informal hearing to consider whether the Housing Authority's decision to terminate your assistance is in accordance with the law, HUD regulations and Housing Authority policies. An informal hearing is conducted by a Hearing Officer who did not make or approve the decision you are appealing. Neither is the Hearing Officer a subordinate of that



person. You will have the right to present evidence and question witnesses. The formal rules of evidence used in judicial proceedings will not apply.

Legal Representation: At your own expense, you have the right to seek legal advice and to be represented at the hearing.

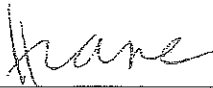
Written Request: If you want to request an informal hearing, you must submit a written request (form enclosed), *within ten (10) days from the date of this letter*, stating why you believe this action is not in accordance with program requirements. The Housing Authority will consider documented, verifiable health needs, or needs of a person with disabilities when proceeding with this action.

If your request is not received within ten (10) days from the date of this letter, you will waive your right to a hearing and the Housing Authority's decision to terminate your assistance will become final. However, this does not waive your rights to appropriate judicial proceedings.

Persons with Disabilities: If you or anyone in your family is a person with disabilities, and you require a specific accommodation in order to understand or respond to this Notice, please contact me as soon as possible.

If you choose to stay in your housing unit after the effective date of termination of your HCVP assistance, you will be responsible for paying the full amount of rent to the owner and all matters pertaining to your tenancy.

Sincerely,



Heidi Lane
Compliance Supervisor
(209) 460-5000



Housing Authority of the County of San Joaquin



Housing Choice Voucher Program Informal Hearing
Notice of Final Decision

Barbara S. Kauss
Executive Director

Rosa Vázquez
Deputy
Executive Director

Board of
Commissioners

Rudolph Willey
Chairperson

Greg Arnaudo
First Vice Chairperson

Irenemaree Castillo
Second Vice Chairperson

John Bevanda
Commissioner

David Renison
Commissioner

Alan R. Coon
General Counsel

Hearing Date: 11/8/2011
Participant: [REDACTED]
Participant #: [REDACTED]
Current Address: [REDACTED]
Mailing Address: same

Hearing Officer: Ms. Kristi Rhea

Participant Representatives	Relationship to Participant
Ms. [REDACTED]	n/a
Mr. [REDACTED]	friend

Housing Authority Representatives
Mr. Quang Nguyen, Leasing Specialist, Rental Assistance Department
Special Agent Paul Richard, HUD Office of Inspector General (OIG)
Officer Mark Sandberg, Stockton Police Department (SPD)

This is the summary and decision for the Informal Hearing held at the request of the Participant to determine whether the Housing Authority's Rental Assistance Department followed regulations and procedure in terminating the Participant's housing assistance and, where applicable, whether there are extenuating circumstances or mitigating factors that should have been considered in making the decision. The following decision by the Hearing Officer was made after a thorough review and substantiation (if possible) of all the evidence and testimony presented at the Informal Hearing.



Introduction

Participants in the Housing Authority's Housing Choice Voucher Program are responsible for fulfilling the family obligations stated in Section 982.551 of Title 24 of the Code of Federal Regulations (CFR); the Housing Choice Voucher; and in the Housing Authority's Statement of Family Obligations. Additionally, as set forth in Chapter 15 of the Housing Authority's Administrative Plan, the Housing Authority Rental Assistance Department *may*, and in some cases, *must*, terminate a family's housing assistance on the basis of the stated grounds.

Grounds for Termination Cited in the Housing Authority's Notice of Termination

The Notice of Proposed Termination of Eligibility dated September 30, 2011, stated the Participant's housing assistance was to terminate on October 31, 2011, based upon the following grounds:

Housing Authority Ground for Termination

Violation of the following Family Obligations [24 CFR 982.551]:

Family Obligation Number	Description
2	The family must supply any information requested by the Housing Authority or HUD for use in a regularly scheduled reexamination or interim reexamination of family income and composition in accordance with HUD requirements.
4	All information supplied by the family must be true and complete.
10	The family must use the assisted unit for residence by the family. The unit must be the family's only residence.
11	The composition of the assisted family residing in the unit must be approved by the Housing Authority. The family must promptly inform the Housing Authority of the birth, adoption or court-awarded custody of a child. The family must request Housing Authority approval to add any other family member as an occupant of the unit.
15	The family must not sublease or let the unit.
19	The members of the family must not commit fraud, bribery or any other corrupt or criminal act in connection with any Federal housing programs.

Validity as a Cause for Termination

If proven, this Ground is valid cause for termination of the family's assistance. The validation is based upon 24 CFR 982.552; the Housing Authority's Administrative Plan; and the Statement of Family Obligations.

Specific Housing Authority Allegation(s) and Evidence supporting Ground

Rental Assistance Testimony (Mr. Quang Nguyen, Leasing Specialist):

1. The Rental Assistance Department received information from the US Department of Housing and Urban Development's (HUD) Office of Inspector General (OIG) and the City of Stockton Police Department (SPD) that an unauthorized person was residing in the Participant's household. During interviews with the OIG and SPD, a statement was made by a member of the household that [REDACTED] has been a resident of the Participant's household since January 2007.
2. After a review of all of the information and documentation, a Notice of Proposed Termination of Eligibility was mailed to the Participant on September 30, 2011.

Stockton Police Department Testimony (Officer Mark Sandberg):

The OIG, working with the Stockton Police Department, conducted an investigation to determine if an unauthorized person was residing in the Participant's home. According to the California Department of Corrections and Rehabilitation's Division of Adult Parole Operations (DAPO), a parolee, known as [REDACTED] had provided the Participant's address as his legal residence as a condition of his release from State Prison.

According to DAPO's records, the Parole Officer assigned to [REDACTED] went to the Participants unit on at least 51 different occasions, since January 2007, and conducted a Parole Check to confirm [REDACTED] was at the address of record.

On January 25, 2011, Officer Sandberg went and spoke with [REDACTED] at her residence. According to Officer Sandberg's report, [REDACTED] stated the following:

- Her husband, [REDACTED] has been living with her since he was paroled, but he is now currently in jail (since May 2010).
- Since 1997, her husband has always lived with her, when he was not in jail or prison.
- Neither the Participant nor [REDACTED] work. He had worked for [REDACTED] in the past, and he had worked as an auto mechanic from home.

Office of the Inspector General (OIG) Testimony (Special Agent Paul Richard):

On July 19, 2011, Special Agent Richard met with [REDACTED] at her home. Special Agent Richard showed [REDACTED] copies of the Personal Declaration Form and the Family Obligations Form signed by [REDACTED], dated March 28, 2011, as well as the forms from 2010, in which she did not list her husband as a family member. She also acknowledged by signature on these documents the requirements to inform the Housing Authority's Rental Assistance Department regarding household composition changes. Additionally, on Page 6 of 14, of the Personal Declaration for Rental Assistance Form signed by [REDACTED] in 2011 and 2010, [REDACTED] indicated "NO" when responding to the following question:

"Does anyone residing outside of your household receive mail at your residence or claim it as their Residence on ANY legal document (driver's license, government assistance benefits, school, tax forms, vehicle registration, work, etc?) If yes, list name of person(s) and actual address where they reside."

During the interview, Special Agent Richard asked [REDACTED] if her husband, [REDACTED] lives with her. [REDACTED] stated the following during her interview with Special Agent Richard:

- [REDACTED] is her husband, but he has been in jail and then prison since May 2010.
- [REDACTED] has been in and out of prison since 2007 due to drugs.
- When he is released from prison, he uses her address for parole, but she had never spoken to a Parole Officer.
- He had stayed overnight on occasion, but she would make him leave if he started using drugs.
- He had a bag of clothes in her unit, but he took them with him when he left.
- She recalled speaking to a Stockton Police Officer and telling him that her husband was in prison, but she denied telling the Officer that he had lived with her and denied ever telling him that her husband worked as an at-home auto mechanic.

Participant's Evidence and Rebuttal(s)

██████████ stated the following in her testimony:

- In the past, her husband has used her address for parole, and she should have written it down on the Personal Declaration Form even though at the time, he was in prison.
- She had told Officer Sandberg all of the things he just referred to in the hearing. During the interview with Officer Sandberg, she thought he was conducting an investigation on her husband, because he had been arrested and was in jail. She was afraid to get her husband in more trouble if the District Attorney knew that he had not been living at the address he had given parole. Her husband was looking at a 25 year sentence, which he subsequently got sentenced for six years instead.
- She acknowledged that she should not have lied to Officer Sandberg. That it was wrong.
- Parole would call ██████████ and tell them they were on their way. Her husband would then come to her unit and talk with the Parole Officer, then he would leave.
- She is the one that turned him into his Parole Officer. She called his Parole Officer and told him that ██████████ was doing drugs. She did not want him around her, at all, when he is doing drugs because he gets combative.
- Her husband would plead with her to let him live with her, but she always turned him down. She knows that if he lived with her, she would have to tell the Rental Assistance Department.
- Since 2007, her husband has been in prison more than he has been out.

██████████ asked her witness, ██████████ to provide the following testimony:

- He has known ██████████ through Church, for the last 5-6 years. Through the years, the Church had been trying to help ██████████, but to no avail.
- Through his observations, ██████████ stating that her husband had not been providing for the family, there was no benefit of spousal income, and he was not part of the household. ██████████ provides for the disabled adult child, and until recently, her daughter and her grandchildren. ██████████ used to have her grandchildren sleep with her in her bed, so clearly, the husband was not there.
- Due to the need to care for her adult disabled child, ██████████ household would be devastated if she were to lose her Section 8 voucher. She has acknowledged that she lied to the Officer and she understands the seriousness of the offense, however, she is seeking another chance.

Housing Authority's Rebuttal(s) of Participant's Evidence and Rebuttal(s)

None.

The Hearing Officer asked Officer Sandberg if he had any history regarding ██████████ time in prison. Officer Sandberg provided the following information:

A parole check was done on ██████████ on October 12, 2007. He then became a parolee-at-large; he was found and taken into custody. ██████████ was paroled on June 30, 2008. On October 8, 2008, he was taken into custody. He was paroled on January 26, 2009. He was taken into custody on March 5, 2009, and paroled on June 29, 2009. A parole check was attempted on February 1, 2010, where it was determined he was a parolee-at-large; he was found and taken into custody. He was then paroled on April 12, 2010. A parole check was done on May 18, 2010, and he was taken into custody. From jail he went to state prison (early 2011), where he is now, for a six year term.

Hearing Officer's Evaluation of Evidence and Testimony

The evaluation of the proof was based upon the HUD-approved Administrative Plan for the Housing Choice Voucher Program, Chapter 15, page 15-12:

Required Evidence

"Preponderance of evidence" is defined as evidence which is of greater weight or more convincing than the evidence which is offered in opposition to it; that is, evidence which as a whole shows that the fact sought to be proved is more probable than not. The intent is not to prove criminal liability, but to establish that the act(s) occurred. Preponderance of evidence is not to be determined by the number of witnesses, but by the greater weight of all evidence.

"Credible evidence" may be obtained from police and/or court records. Testimony from neighbors, when combined with other factual evidence, can be considered credible evidence. Other credible evidence includes documentation of drug raids or arrest warrants where illegal drugs were found or illegal activity discovered.

The Housing Authority may pursue fact-finding efforts as needed to obtain credible evidence.

Additionally, the Housing Authority is *permitted, not required*, to consider the following factors when determining whether a participant's assistance should be terminated:

- The seriousness of the case;
- The extent of participation or culpability of individual family members;
- Mitigating circumstances related to the disability of family members;
- The effects of termination of assistance on other family members who were not involved; and/or
- If a family includes a person with disabilities, the Housing Authority's decision regarding discretionary termination is subject to consideration of reasonable accommodation.

Analysis of Informal Hearing Testimony

The Hearing Officer has determined that the proof provided by the Housing Authority's Rental Assistance Department at the Informal Hearing was not sufficient grounds for termination of rental assistance. According to the testimony provided by Officer Sandberg, [REDACTED] has been in prison or jail on-and-off since January 2007. According to the information provided by the Parole Office, [REDACTED] was a parolee-at-large, or in custody more than he was out on the streets. It is possible that [REDACTED] is culpable in not being truthful with the parole office, and letting them think he lived at her residence, when in fact he may not have been.

Additionally, the Personal Declaration Form that was entered into evidence, and signed by [REDACTED] did not support the claim of an unauthorized person in the home. The form was dated March 28, 2011, when [REDACTED] was in custody and had been since May 2010. Special Agent Richard stated in his testimony that the 2010 Personal Declaration forms also did not indicate that [REDACTED] was using her address; however, copies of the forms were not entered into evidence by the Rental Assistance Department. There was no evidence provided by the Rental Assistance department that [REDACTED] benefited from any wages or income earned by [REDACTED]. There was no evidence of any income coming to the household by [REDACTED].

The Hearing Officer has determined that the Participant's evidence and rebuttals were sufficient. The Participant provided a persuasive argument that it is possible that her husband did not live with her for any significant period of time, when he was out of prison. The Housing Choice Voucher Program allows for guests and visitors. Additionally, the testimony provided by [REDACTED]

██████████ also supported her claims. However, it is important to note that it is disconcerting that the Participant acknowledged that she lied to the Police and therefore her testimony is suspect.

Lastly, the Participant was not provided all documentation for her review, as required, before the Informal Hearing. ██████████ exerted her right to review *all* evidence in the possession of the Housing Authority upon which the Housing Authority based the proposed action. ██████████ was advised that the copy of the letter from the Office of Inspector General was all that was being used to make a determination. This is inaccurate, since the Personal Declaration Forms were also used to make a determination and they were referred to in both the Informal Hearing by the Housing Authority and in the Proposed Termination Letter dated September 30, 2011. ██████████ should have been provided copies of these documents as well. ██████████ was willing to waive her right to discovery in order to proceed with the Informal Hearing.

Decision

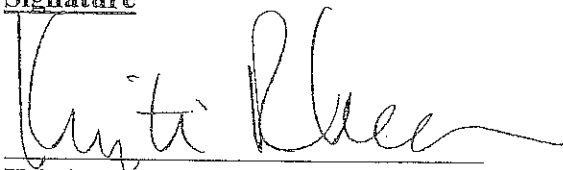
The information reviewed by the Rental Assistance Department was initially adequate grounds to propose termination of assistance. However, the Participant provided an adequate argument that supports her claim is more probable than not. Additionally, because ██████████ the care-provider for her adult, disabled child, the effect of terminating assistance would have a serious negative impact on this family member.

Upheld or Overturned

Overturned.

The decision of the Hearing Officer is to **halt the proposed action taken by the Housing Authority's Rental Assistance Department and cease with the termination of the Rental Assistance Voucher.** However, should there be future voucher violation incidents, including but not limited to, violation of family obligations, the Rental Assistance Voucher will be in jeopardy of termination.

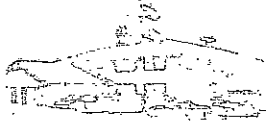
Signature



Kristi Rhea, Hearing Officer

Date of Decision: November 21, 2011

cc: Carena Lane, Interim Director of Rental Assistance
Heidi Lane, Rental Assistance Department Compliance Supervisor
Quang Nguyen, Leasing Specialist




P. O. Box 447
Stockton, CA 95201

November 30, 2011



RE: Informal Hearing Decision Overturned

Dear Ms. 

The Housing Authority of the County of San Joaquin (Housing Authority) has received the "Notice of Final Decision" letter from the Hearing Officer, as a result of the Informal Hearing on November 8, 2011, indicating the Hearing Officer made a decision to overturn the Housing Authority's proposal to terminate your Housing Choice Voucher assistance for the following reason(s):

- Violation of Family Obligations [24 CFR 982.551]. See attached Notice of Proposed Termination for details.

After a review of the letter from the Hearing Officer, the information obtained demonstrates there is credible evidence provided by the Stockton Police Department, the Office of Inspector General and statements made by the family. This information allows the Housing Authority to make a final determination when it feels the decision of the Hearing Officer is contrary to applicable Federal, State, or local law; including HUD regulations. Therefore, the Housing Authority has overturned the Hearing Officer's decision due to the above listed reason(s) which are adequate grounds to terminate assistance. The Housing Authority will proceed with the termination of the Housing Assistance Payment effective December 31, 2011.

If you wish to seek judicial review, you may petition the court under Section 1094.5 of the California Code of Civil Procedure (CCP). The time within which judicial review of this decision must be sought is governed by CCP Section 1094.6. Please contact legal counsel for assistance in understanding these rights.

Respectfully,



Carena Lane

Interim Director of Rental Assistance

