



REGION IV

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
KNOXVILLE AREA OFFICE
ONE NORTHSORE BUILDING
1111 NORTHSORE DRIVE
KNOXVILLE, TENNESSEE 37919

July 13, 1979

IN REPLY REFER TO
4:7HMA, (W. Banks
637-9300, Ext. 132

Ms. Carol S. Nickle
Attorney at Law
The University of Tennessee Legal Clinic
502 South Gay Street, Suite 404
Knoxville, TN 37902

Dear Ms. Nickle:

This is in response to your letter of June 29, 1979, regarding maintenance charges.

Much of your concern apparently relates on two specific items: tenant charges resulting from burglary and "trash" charges to the residents.

The reference from the Code of Federal Regulations cited in your letter requires that the resident pay for damages to the premises "caused by the tenant, his household or guests." It is our judgment that this definition would generally preclude the assessment of damage charges as a result of burglary where the resident has not been negligent in defending the unit against such illegal trespass.

Further, the PHA should require that any damages arising from such illegal trespass be promptly reported. This is due to the PHA's duty of maintaining all units in a decent, safe and sanitary condition, and due to the fact that the potential for tenant abuse arises since any damages could be claimed to have resulted from illegal trespass.

As to the validity of assessing charges for cleaning a resident's assigned yard area, Chapter 3-5(a) of the Public Housing Occupancy Handbook, 7465.1 REV., states, in part, that "In addition to damages to structures and equipment such charges may include charge for the tenant's failure to carry out maintenance and house-keeping task in accordance with the terms of the lease, such as failure to maintain a lawn area that is an appurtenance to the dwelling....."

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Judicious administration is required in the assessment of charges to tenants. This will generally require that decisions as to whether such charges are warranted must be made on a case-by-case basis within the guidelines of the dwelling lease, applicable regulations and law. Consequently, requirements of judicious administration--or of law--may result in interpretations that are exceptions to general policy.

If you have any questions, please advise.

Sincerely,



Wallace C. Cheatwood
Deputy Director for Management