

Ch. B, 5, 10
802A. 1-Y



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, D.C. 20410

OFFICE OF THE ASSISTANT SECRETARY FOR
HOUSING-FEDERAL HOUSING COMMISSIONER

OCT 21 1985

Kathryn F. Calhoon, Esquire
Legal Services of Middle Tennessee, Inc.
800 Stahlman Building
211 Union Street
Nashville, TN 37201

Dear Ms. Calhoon:

Thank you for your September 5, 1985 letter bringing to our attention the improper lease provision in Ms. Janice Key's lease at Dellway Villa Apartments. Our Nashville Office spoke to Dellway management and they immediately agreed to delete the offending provision.

Thank you for bringing this matter to our attention:

Sincerely,

A handwritten signature in black ink, appearing to read "Frank Malone".

Frank Malone
Branch Chief
Operations Division



LEGAL SERVICES OF MIDDLE TENNESSEE, INC.
800 Stahlman Building
211 Union Street, Nashville, Tennessee 37201 (615) 244-6610

September 5, 1985

Mr. Conrad Egan, Director
Office of Multi Family Management
Room 6164
U. S. Department of Housing and
Urban Development
451 Seventh Street, S.W.
Washington, D. C. 20410

RE: Lease Provision, Dellway Villa Apartments,
Nashville, Tennessee

Dear Mr. Egan:

I am writing to you on behalf of my client Janice Key, a tenant of Dellway Villa Apartments, a Section 8 New Construction Complex here in Nashville, Tennessee. Ms. Key has been aggrieved by, and is concerned regarding the future application of a lease provision added to the model lease for Dellway Villa Apartments that has been approved by the local HUD office and that appears to circumvent HUD rules.

The lease provision in question, the third paragraph of section 5 of the lease, states:

Monies received from Tenant will be first applied to any outstanding balance of accrued late charges, next to any unpaid damage charges (per payment schedule if any), then to any delinquent rent, and finally to any current rent due.

This provision allows Dellway Villa Apartments in effect to evict a tenant for non-payment of late charges, which is specifically prohibited by both the lease and HUD Handbook No. 4350.3 CHG-1 ¶ 4-14(d).

BOARD OF DIRECTORS STAFF ATTORNEYS

Susan Emery McGannon
President
Frank S. Bloch
Vice President
Virginia Collier
Secretary
David B. Herbert
Treasurer

Nashville
G. Gordon Bonnyman
Kathryn F. Calhoon
Dot Dobbins
David Ettinger
Drake Holliday

Russell J. Overby
David J. Tarpley
Ashley T. Wiltshire, Jr.
Executive Director

Clarksville
Judy L. Bond-McKissack
Marilyn J. Devine
Beverly D. Fisher
Patricia Mock

Gallatin
Kathy Skaggs

Murfreesboro
Alex J. Hurder
Mary W. Wrasor

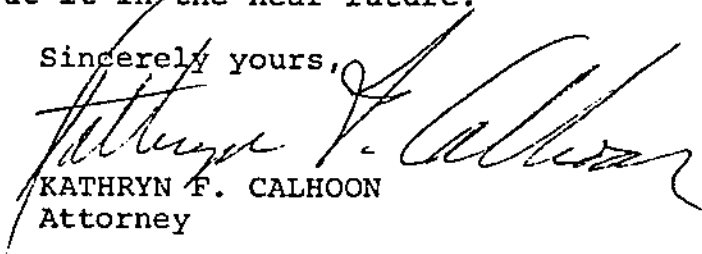
Mr. Conrad Egan
9/5/85
Page 2

That is, a tenant, such as Ms. Key, may incur some late charges and then in subsequent months pay rent, only to have it applied to late charges. This renders her delinquent in rent (as well as causes her to incur more late charges), subjecting her to termination of tenancy for non-payment of rent. Obviously, there would be no "non-payment of rent", and consequent termination of tenancy, if the money were not applied to the outstanding late charges. Thus, this lease provision allows Dellway Villa Apartments to get around the prohibition against termination of tenancies for non-payment of late charges. The provision thereby falls within the type of model lease change that a HUD Field Office must not approve, under HUD Handbook 4350.3 CHG-1 ¶ 4-2 (d) (2).

If you agree with this assessment, I would appreciate your letting me, as well as the Local Field Office and Dellway Villa Apartments know. I am attaching for your reference a copy of the lease between Ms. Key and Dellway Villa Apartments.

Thank you for your attention to this matter. I look forward to hearing from you about it in the near future.

Sincerely yours,



KATHRYN F. CALHOON
Attorney

KFC/mjm

Enclosure