

REGION IV
Pershing Point Plaza
Peachtree Street, N.E.
nts, Georgia 30309

DEPARTMENT OF HOUSING AND URBAN DEVELOPMEN.

FEDERAL HOUSING ADMINISTRATION NASHVILLE INSURING OFFICE 130 NINTH AVENUE SOUTH NASHVILLE, TENNESSEE 37203

June 25, 1979

4.11FMA (WJM) (615) 251-5063

Mr. Kurt Tschaepe Attorney at Law 115 Public Square Gallatin, Tennessee 37066

Dear Mr. Tschaepe:

On May 21, 1979, you and Mr. David Ettinger of Legal Services jointly requested an opinion regarding a dispute involving the applicability of an escrow deposit requirement to grievance hearings regarding the amount of excess utility charges.

Your joint letter stated that the Housing Authority relies upon provisions of 24 CFR Section 865.55(e) and 866.4(b)(2) in support of its decision that an escrow deposit must be made as a prerequisite to a formal grievance hearing regarding the amount of excess utility charges. The tenant represented by Mr. Ettinger relies upon Section 4-21 of the Public Housing Occupancy Handbook 7465.1 REV. in support of the position that the escrow requirement does not apply. The Authority has stated its belief that Section 4-21 of the Handbook is advisory and not binding on the Authority.

Since the disagreement involved legal interpretation of the regulations, your joint request was submitted to the Area Counsel of HUD.

Counsel's position is that Section 4-21 is binding on the Authority; that no support is found for the section being advisory in nature. Thus, the Housing Authority cannot require the tenant to escrow the disputed excess utility charges as a condition of granting the tenant a grievance hearing on the matter.

A copy of this letter is being provided to Mr. Ettinger as requested in the joint letter of May 21, 1979.

Sincerely,

Helen J. Broyles

Chief

Assisted Housing Management Branch

William J. Miles

cc: Mr. David Ettinger, Legal Services
650 North Water Avenue
Gallatin, Tennessee 37066