

OFFICE OF THE ASSISTANT SECRETARY FOR PUBLIC HOUSING AND INDIAN HOUSING
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MEMORANDUM

November 28, 1990
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PORTLAND OREGON

MEMORANDUM FOR: All Regional Administrators - Regional Housing Commissioners
All Field Office Managers
All Office of Public Housing Directors
All Assisted Housing Management Branch Chiefs
All Office of Indian Programs Directors

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FROM: Joseph G. Schiff, Assistant Secretary for Public and Indian Housing, P



SUBJECT: Extent of Resident's Use of His or Her Public Housing Dwelling

We understand a number of public housing agencies (PHAs) have a mistaken understanding of what may constitute residential use of a public housing dwelling. They apparently believe the HUD public housing lease regulations (24 CFR Part 966 Subpart A) prohibit them from allowing their tenants to operate small-scale in-home businesses. This memorandum is an attempt to correct that misconception.

HUD public housing regulation, 24 CFR 966.4(f)(3), says public housing leases should require tenants: "To use the premises solely as a private dwelling" It is our position that using the premises as a private dwelling means using it in ways permitted for private dwellings by local law and authorized by the PHA. Thus, in many jurisdictions, residential use of a dwelling may include the small-scale business uses of the resident. Whether business uses are permitted, what types, and to what extent, depends on the law in the locality.

There are a number of small-scale, in-home business uses commonly permitted in most communities. Daytime child and elder care are examples. Other types of generally acceptable "home" work include: sewing and clothes alteration; book-keeping and accounting; telephone sales/telemarketing; word-processing and secretarial work; writing; tax-preparation; specialty cooking and catering; small appliance repair; cleaning services; etc. What is allowed generally depends on local health, building, and zoning codes and local licensing requirements.

However, the PHA, as the landlord, must be the ultimate judge of what in-home businesses are permitted in its rental developments. Even if a particular use is allowed by local laws, the PHA should require the residents to get its permission before they undertake their business ventures.

Generally, we think PHAs will find that most of the small-scale in-home businesses permitted by local law will be compatible with the neighborhood. We recommend, however, that PHAs still evaluate each request to determine if the particular business use is appropriate for the location.

When deciding whether to approve a resident's request to operate a small-scale in-home business, the PHA should consider: (1) The amount of traffic (pedestrian and vehicular) it will generate; (2) Whether the traffic will create problems with neighbors and the extent of the problems; (3) The potential strain of such traffic on the building, grounds, roads or parking area; (4) The extent of the noise (if any) the business will generate; (5) The degree to which the traffic and noise will disturb the normal atmosphere of the neighborhood; (6) The location of the dwelling where the business will be conducted; and (7) The number of dwellings affected by possibly adverse effects.

The PHAs also should consider the positive aspects of allowing residents to use their dwellings for small-scale business purposes. We think they will find there are many benefits to be found in small-scale in-home businesses. The residents/entrepreneurs supply necessary services to their communities. They gain opportunities for individual economic and personal development. The results of such efforts often are increased feelings of self-worth and a positive sense of community. Finally, at a practical financial level, in-home businesses can result in increased tenant income, as well as increased rent for the PHAs.

A service such as home child care is especially important. It has the benefit of assisting the economic independence of the care givers. In addition, it facilitates the economic development of other residents.

We hope you will take an active role in persuading PHAs to allow small-scale in-home business use by their residents, where it is permitted by local law. We especially want to encourage the providers of residential child care.

The contents of this memorandum will be incorporated into a later revision of HUD Handbook 7465.1 REV 2, the Public Housing Occupancy Handbook. In addition, the lease regulation, 24 CFR Part 966, Subpart A, will be revised.

If you have any questions about residential use, you may call Joyce Anne Bassett at PHS 458-0744.