

RESOLUTION NO. _____

**APPROVAL OF REVISIONS TO THE PUBLIC HOUSING ADMISSIONS AND
CONTINUED OCCUPANCY POLICY**

Item No. 5g

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) requires that Public Housing providers adopt an Admissions and Continued Occupancy Policy (ACOP) to set local policies for the administration of the program in accordance with HUD requirements and local priorities; and

WHEREAS, the ACOP and any revisions to said document must be formally adopted by the Louisville Metro Housing Authority (LMHA) Board of Commissioners; and

WHEREAS, LMHA finds it necessary to revise the existing ACOP to administer the program in a more effective and efficient manner and to remain in compliance with HUD rules and regulations; and

WHEREAS, LMHA is proposing revisions to the following sections of the LMHA ACOP: “Informal Review” (Section 8.4); “Preferences” (Section 10.1 and 10.9); “Abandonment” (Section 20.4); “Emergency Transfers” (Section 23.3); “Fair Market Rent, Flat Rent Schedule, and Standard Medical Deduction” (Appendix D); and

WHEREAS, the full text of the proposed revisions is given as an attachment to this resolution; and

WHEREAS, these proposed revisions were made available for public comment from December 5, 2020 through January 4, 2021 and a public hearing was held on December 17, 2020.

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NOW, THEREFORE, BE IT RESOLVED BY THE LOUISVILLE METRO HOUSING AUTHORITY BOARD OF COMMISSIONERS that the Public Housing Program Admissions and Continued Occupancy Policy for LMHA owned properties revisions are adopted.

RESOLUTION BACKGROUND STATEMENT
APPROVAL OF REVISIONS TO THE PUBLIC HOUSING ADMISSIONS AND
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Item No. 5g

I. STATEMENT OF FACTS:

LMHA reviews its Public Housing Admissions and Continued Occupancy Policy (ACOP) to ensure that the admissions and occupancy policies described therein are compliant with the latest rules and regulations issued by HUD and that the Public Housing Program is operated in a manner that is effective, efficient, and beneficial to residents. To that end, LMHA is now proposing the following changes to its ACOP:

- 8.4 Informal Review: While HUD waivers have allowed LMHA the flexibility to conduct in-person business remotely through email, phone, or web call, in order to continue utilizing these methods when needed, LMHA is required to state these options in our policies. This applies to informal reviews, briefings, and other in-person meetings.
- 10.1 Preferences: With the success of a partnership with the Common Assessment Team to house families that are experiencing homelessness during the pandemic, LMHA proposes to extend this program on an on-going basis. This is a preference for a referral directly to LMHA by the Common Assessment Team. Therefore, LMHA proposes to revise preferences to include any families relocated from revitalization projects, families referred by the Common Assessment Team, and participants that have successfully graduated from the YouthBuild program. LMHA also proposes to eliminate the ranking of preferences.
- 10.9 Beecher Terrace: This creates a new subsection related to Beecher Terrace. This information previously could be found in preferences. However, Beecher Terrace relocation is a distinct occurrence separate from preferences.
- 20.4 Abandonment: This language clarifies LMHA abandonment policies while aligning with current relevant regulation.
- 23.3 Emergency Transfers: LMHA proposes to offer housing choice vouchers to public housing residents when there are no other public housing vacancies in the event of a VAWA related emergency transfer. Such instances will be referred to the Center for Women and Families first for assistance and referral.

RESOLUTION BACKGROUND STATEMENT
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I. STATEMENT OF FACTS (cont'd):

Appendix D Fair Market Rent Schedule, Flat Rent Schedule, and Standard Medical Deduction: Since Fair Market Rent increased in November, the flat rent will also increase. There are 121 families utilizing flat rents. The following schedule includes the new flat rents:

- Studio/Efficiency: \$519 (increase of \$38, 14 families; total \$532)
- 1 bedroom: \$608 (increase of \$58; 46 families; total \$2,668)
- 2 bedrooms: \$734 (increase of \$52; 45 families; total \$2,340)
- 3 bedrooms: \$983 (increase of \$57; 16 families; total \$912)
- 4 bedrooms: \$1,126 (increase of \$81; 0 families; total \$0)

II. ALTERNATIVES:

- A. Approve the revisions to the ACOP in full
- B. Approve the revisions to the ACOP in part
- C. Do not approve the revisions to the ACOP

III. RECOMMENDATION:

Staff recommends Alternative "A"

IV. JUSTIFICATION:

HUD requires that Public Housing providers adopt a written Admissions and Continued Occupancy Policy that establishes local policies for administration of the program. This document guides staff in administering the Public Housing Program and informs residents and the general public of the Housing Authority's admissions and occupancy policies.

Submitted by: Heath Rico-Storey
Compliance Manager
January 19, 2021

PROPOSED CHANGES TO ACOP FOR JANUARY 19, 2021

8.4 INFORMAL REVIEW

- A. Applicant denials will be reviewed by the Executive Director. Should LMHA deny admission to the Public Housing Program on the basis of a criminal record, LMHA must provide the applicant with notification and an opportunity to dispute the accuracy and relevance of a criminal record before admission is denied on the basis of such record¹. Applicants are also afforded the right to request an informal hearing or review after an application for housing assistance is denied². The applicant will have thirty calendar days to dispute the accuracy and relevance of the record in writing. If the Housing Authority does not receive the dispute within the allotted time, the applicant will be denied.
- B. If the LMHA determines that an applicant does not meet the criteria for receiving public housing assistance, the Housing Authority will promptly provide the applicant with written notice of the determination. The notice must contain a brief statement of the reason(s) for the decision and state that the applicant may request in writing an informal review of the decision within thirty calendar days of the denial. The LMHA will describe how to obtain the informal review.
- C. The informal review may be conducted by any person designated by the LMHA, other than a person who made or approved the decision under review or a subordinate of this person. **The hearing may be conducted via mail, electronic mail, telephone, and video call, as appropriate**³. The applicant must be given the opportunity to present written or oral objections to the Housing Authority's decision. The LMHA must notify the applicant of the final decision within fourteen calendar days after the informal review, including a brief statement of the reasons for the final decision.
- D. The applicant may request that the LMHA provide for an Informal Hearing after the family has notification of an Immigration and Naturalization Service (INS) decision on their citizenship status on appeal, or in lieu of request of appeal to the INS. The applicant must make this request within thirty calendar days of receipt of the Notice of Denial or Termination of Assistance, or within thirty calendar days of receipt of the INS appeal decision

¹ 24 CFR §5.903(f), §5.905(d), §960.204(c), §960.208(a)

² HUD Notice PIH 2015-19, "Guidance for Public Housing Agencies (PHAs) and Owners of Federally-Assisted Housing on Excluding the Use of Arrest Record s in Housing Decisions"

³ PIH HUD notice 2020-32, "Guidance for PHAs on the Allowability of Remote Hearings and Remote Briefings"

10.0 TENANT SELECTION AND ASSIGNMENT PLAN

10.1 PREFERENCES

The LMHA will select families based on the following preferences within each bedroom size (0-bedroom, 1-bedroom, 2-bedroom, etc.). These preferences are based on local housing needs and priorities.

- A. *Former Clarksdale residents who were relocated by the LMHA as a result of the Housing Authority's HOPE VI Revitalization of the site receive a one-time preference for all rental units built through the Liberty Green Revitalization effort. ~~(Category I preference)~~*

These families should apply through the Liberty Green site-based waiting list for units at Liberty Green, and through the agency's central waiting list for all other units built through the Revitalization effort;

- B. *Former Sheppard Square residents who were relocated by the LMHA as a result of the Housing Authority's HOPE VI Revitalization of the site receive a one-time preference for all rental units built through the Sheppard Square Revitalization effort. ~~(Category I preference)~~*

These families should apply through the Sheppard Square site-based waiting list for units at Sheppard Square, and through the agency's central waiting list for all other units built through the Revitalization effort;

- C. ~~*Former Beecher Terrace residents who were relocated by the LMHA as a result of the Housing Authority's Choice Neighborhood Initiative Revitalization of the site receive a one-time preference for all rental units built through the Beecher Terrace Revitalization effort.*~~

~~These families should apply through the Beecher Terrace site-based waiting list for units at Beecher Terrace, and through the agency's central waiting list for all other units built through the Revitalization effort;~~

~~(Moved to Section 10.9)~~

- D. *Families referred by the Family Health Centers Common Assessment Team that are experiencing homelessness.*

Families must be referred to the LMHA by the Family Health Centers Common Assessment Team. Families that believe they may qualify for this admissions preference should contact:

Family Health Centers Common Assessment Team
1300 S. 4th St., Suite 200
Louisville, KY 40208
Phone: (502) 637-2080

E. *Participants successfully graduating from the YouthBuild Louisville program.*

This preference only applies to participants living in subleased LMHA public housing at the time of program completion. Such individuals receive a preference for either the Housing Choice Voucher or Public Housing Program, but not both;

F. *An involuntarily displaced individual or family. (Category 1 preference)*

~~To qualify for this preference, an individual or family must meet at least one of the following criteria:~~

- ~~1. An individual or family displaced by government action;~~
- ~~2. An individual or family that includes a member who is unable to use critical elements of their current rental unit due to a mobility impairment and where the owner is neither legally obligated nor willing to make adaptive modifications;~~
- ~~3. An individual or family that is facing an eviction action due to reasons beyond their control or cause;~~
- ~~4. An individual or family that has been forced to vacate their home due to a fire that was beyond their control or cause; or~~
- ~~5. An individual or family whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized by a unit of local, state, or federal government;~~
- ~~1. Victims of domestic violence where the most recent incident of abuse occurred no more than thirty calendar days before the date the applicant begins the full application process;~~

G. *Individuals and families referred by the Family Health Centers Common Assessment Team that include an adult household member who is a homeless veteran. (Category 2 preference)*

~~For the purpose of determining eligibility for this preference, at least one adult household member must both:~~

- ~~1. Meet the criteria for “homeless” as the term is defined in this Plan’s Glossary; and~~
- ~~2. Be a veteran, where “veteran” means a person who wore the uniform of any of the military forces. The term “veteran” does not include National Guard members who were~~

~~never called up for service.¹~~

~~In addition, the individual or family must be referred to the LMHA by the Family Health Centers Common Assessment Team.~~

~~Families or individuals that believe they may qualify for this admissions preference should contact:~~

~~Family Health Centers Common Assessment Team~~

~~1300 S. 4th St., Suite 200~~

~~Louisville, KY 40208~~

~~Phone: (502) 637-2080~~

~~Website: <http://www.fhelouisville.org/health-services/healthcare-for-the-homeless>~~

~~**H. *Participants successfully graduating from the YouthBuild Louisville program. (Category 3 preference)***~~

~~This preference only applies to participants living in subleased LMHA public housing at the time of program completion. Such individuals receive a preference for either the Housing Choice Voucher or Public Housing Program, but not both;~~

~~**I. *An individual or family displaced as a result of physical violence. (Category 3 preference)***~~

~~To qualify for this preference, an individual or family must meet at least one of the following criteria:~~

- ~~1. Victims of domestic violence where the most recent incident of abuse occurred no more than thirty calendar days before the date the applicant begins the full application process;~~
- ~~2. Victims of hate crime(s), where a hate crime is defined as actual or threatened physical violence or intimidation that is directed against a person or their property and is based on the person's race, color, religion, sex, perceived or actual sexual orientation or gender identity, national origin, handicap, or familial status. The most recent incident must have occurred no more than thirty calendar days before the date the applicant begins the full application process; or~~
- ~~3. Police informants for whom the law enforcement agency has recommended re-housing in order to avoid or minimize the risk of violence against family members.~~

~~**J. *A homeless applicant*, as verified through the Kentucky Homeless Management Information System (HMIS). The applicant must be identified within Kentucky HMIS as having been homeless within the thirty calendar days immediately prior to the date they begin the full application process. (Category 3 preference)**~~

~~Applicants that qualify for a Category 1 preference will be housed first.~~

¹ RX: *Housing Veterans. Report to Mayor Fischer on Ending Veteran Homelessness in Louisville, Kentucky.* 5 December 2014.

~~Applicants that qualify for a Category 2 preference (but not a Category 1 preference) will be housed before applicants that qualify for a Category 3 preference.~~

~~Applicants that qualify for a Category 3 preference (but not a Category 1 or 2 preference) will be housed before applicants that do not qualify for a preference.~~

Within the same preference category, applicants that qualify for multiple preferences will not be housed before applicants that qualify for fewer preferences.

Within the same preference category, the date and time of pre-application will be used to determine the sequence in which applicants are housed.

Buildings Designed for the Elderly (55+) and Disabled (Mixed Population Developments):

Avenue Plaza, William E. Seay Plaza, Dosker Manor, Lourdes Hall, The Weathers Building (Park DuValle), and St. Catherine Court have been designed to meet the needs of the elderly (55+) and disabled. Preference will be given to elderly and disabled families. If there are no elderly or disabled families on the list, preference will then be given to near-elderly families. All such families will be selected from the waiting list using the preferences as outlined above. No person under the age of 18 is eligible to reside in these developments. Residents in mixed designated housing may not add persons who are not elderly and/or not disabled to an existing lease (except a spouse or a live-in aid).

Accessible Units: Accessible units will first be offered to families who may benefit from the accessible features and who reside in the development that has the vacancy. If there are no families residing in that development needing the accessible unit, it shall then be offered to families residing in other developments that may benefit from the accessible unit. If there are no families residing in the other developments needing the accessible unit, it shall then be offered to applicants on the waiting list who may benefit from the accessible features. Applicants for these units will be selected utilizing the same preference system as outlined above.

If there are no applicants who would benefit from the accessible features, the units will be offered to other applicants in the order that their names come to the top of the waiting list. Such applicants, however, will be required to sign a release form stating they will accept a transfer (at the Housing Authority's expense) if, at a future time, a family requiring an accessible feature applies or a family requires a transfer from a non-accessible unit. Any family required to transfer will be given a 30-day notice.

[...]

10.9 BEECHER TERRACE

Original Beecher Terrace residents who moved or were relocated as a result of the Housing Authority's Choice Neighborhoods redevelopment efforts at the site receive a life-time preference for all on- and off-site replacement rental units and select Project Based Voucher locations. The only requirement for an original Beecher Terrace resident to maintain their Lifetime Preference is to have been lease compliant and remain lease compliant during their relocation period.

Families who returned a pre-application by the May 13, 2020 lottery deadline were placed on a wait list for replacement units. Families who haven't turned in a pre-app will be placed on the wait list in the order their pre-application is received. Original Beecher Terrace families who would like to receive a pre-application can call 502/569-6076.

20.4 ABANDONMENT

For LMHA-properties, LMHA considers a unit to be abandoned² when a resident has:

- a. Fallen behind in rent; AND
- b. Has clearly indicated by words or actions an intention not to continue living in a unit.³

Units are suspected of abandonment when a resident is absent for fourteen (14) calendar days or more without notification by the resident to the management offices. When a unit is suspected to have been abandoned, an LMHA representative may enter the unit⁴ to verify abandonment. LMHA will make multiple attempts to contact the resident via mail and telephone to verify intention of continued residency and non-payment of rent.

LMHA will issue a notification giving the resident seven (7) calendar days to contest abandonment. If a resident does not respond to notification, LMHA will consider the unit abandoned and remove any abandoned property.

23.3 EMERGENCY TRANSFERS

A tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking, as provided in HUD's regulations at 24 CFR part 5, subpart L, is eligible for an emergency transfer, if the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant remains within the same unit. If the tenant is a victim of sexual assault, the tenant may also be eligible to transfer if the sexual assault occurred on the premises within the 90-calendar-day period preceding a request for an emergency transfer. Tenants who are not in good standing may still request an emergency transfer if they meet the eligibility requirements in this section.

LMHA cannot guarantee that a transfer request will be approved or how long it will take to process a transfer request. LMHA will, however, act as quickly as possible to move a tenant who is a victim of domestic violence, dating violence, sexual assault, or stalking to another unit, subject to availability and safety of a unit. If a tenant reasonably believes a proposed transfer would not be safe, the tenant may request a transfer to a different unit. If a unit is available, the transferred tenant must agree to abide by the terms and conditions that govern occupancy in the unit to which the tenant has been transferred. LMHA may be unable to transfer a tenant to a particular unit if the tenant has not or cannot establish eligibility for the unit.

² Abandonment may lead to rental agreement termination as per KRS 383.670(2)

³ Verbal or written confirmation of abandonment or willfully failing to notify landlord by non-response as per KRS 383.670(1)

⁴ 24 CFR 966.4(j), KRS 383.615(4)(c), and KRS 383.670(2)

In the event that no public housing vacancies are available for an emergency transfer, the tenant may be referred to the Center for Women and Families and offered a housing choice voucher if available. If LMHA has no safe and available units for which a tenant who needs an emergency is eligible, LMHA will assist the tenant in identifying other housing providers who may have safe and available units to which the tenant could move. At the tenant's request, LMHA will also assist tenants in contacting the local organizations offering assistance to victims of domestic violence, dating violence, sexual assault, or stalking that are attached to this plan.

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

The tenant shall notify LMHA's management office by submitting an emergency transfer request form provided by public housing staff or a written request that includes either:

1. A statement expressing that the tenant reasonably believes that there is a threat of imminent harm from further violence if the tenant were to remain in the same dwelling unit assisted under LMHA's program; OR
2. A statement that the tenant was a sexual assault victim and that the sexual assault occurred on the premises during the 90-calendar-day period preceding the tenant's request for an emergency transfer.

Pending processing of the transfer and the actual transfer, if it is approved and occurs, the tenant is urged to take all reasonable precautions to be safe.

APPENDIX D: FAIR MARKET RENT SCHEDULE, FLAT RENT SCHEDULE, AND STANDARD MEDICAL DEDUCTION

FAIR MARKET RENT SCHEDULE⁸ (Effective October 1, 2019)

| Number of Bedrooms | Fair Market Rent | Fair Market Rent (Eff. Oct. 1, 2020) |
|--------------------|------------------|---|
| 0 | \$614 | \$649 |
| 1 | \$713 | \$760 |
| 2 | \$872 | \$918 |
| 3 | \$1,174 | \$1,229 |
| 4 | \$1,331 | \$1,408 |

FLAT RENT SCHEDULE⁹ *For Developments Where LMHA Pays Utility Costs on Tenant's Behalf* (Effective January 1, 2020)

| Number of Bedrooms | Flat Rent FY2020 | Flat Rent (Eff. Jan. 1, 2021) |
|--------------------|---------------------|----------------------------------|
| 0 | \$481 | \$519 |
| 1 | \$550 | \$608 |
| 2 | \$682 | \$734 |
| 3 | \$926 | \$983 |
| 4 | \$1,045 | \$1,126 |

STANDARD MEDICAL DEDUCTION¹⁰

For calendar year 2021, the monthly Medicare/Medicaid Part B premium for individual tax return of \$88,000 or less or joint tax return of \$176,000 or less:

\$148.50/month or \$1,782/year

⁸ HUDUser. FY2020 Louisville, KY-IN HUD Metro FMR Area FMRs for All Bedroom Sizes.

⁹ PIH Notice 2017-23 (HA).

¹⁰ <https://www.medicare.gov/your-medicare-costs/part-b-costs>