

§ 882.508

(4) Otherwise, the unit(s) may not be accepted, and the Owner must be notified with a statement of the reasons for nonacceptance.

[47 FR 34383, Aug. 9, 1982, as amended at 52 FR 1895, Jan. 15, 1987]

§ 882.508 [Reserved]

§ 882.509 Overcrowded and under occupied units.

If the PHA determines that a Contract unit is not decent, safe, and sanitary by reason of increase in Family size, or that a Contract unit is larger than appropriate for the size of the Family in occupancy, housing assistance payments with respect to the unit will not be abated; *However*, the Owner must offer the Family a suitable alternative unit should one be available and the Family will be required to move. If the Owner does not have a suitable available unit, the PHA must assist the Family in locating other standard housing in the locality within the Family's ability to pay and require the Family to move to such a unit as soon as possible. In no case will a Family be forced to move nor will housing assistance payments under the Contract be terminated unless the Family rejects without good reason the offer of a unit which the PHA judges to be acceptable.

§ 882.510 Adjustment of utility allowance.

The PHA must determine, at least annually, whether an adjustment is required in the Utility Allowance applicable to the dwelling units in the Program, on grounds of changes in utility rates or other change of general applicability to all units in the Program. The PHA may also establish a separate schedule of allowances for each building of 20 or more assisted units, based upon at least one year's actual utility consumption data following rehabilitation under the Program. If the PHA determines that an adjustment should be made in its Schedule of Allowances or if it establishes a separate schedule for a building which will change the allowance, the PHA must then determine the amounts of adjustments to be made in the amount of rent to be paid by affected Families and the amount of housing assistance payments and must

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notify the Owners and Families accordingly. Any adjustment to the Allowance must be implemented no later than at the Family's next reexamination or at lease renewal, whichever is earlier.

[47 FR 34383, Aug. 9, 1982, as amended at 49 FR 19946, May 10, 1984]

§ 882.511 Lease and termination of tenancy.

(a) *Lease*. The lease must include all provisions required by HUD, and must not include any provisions prohibited by HUD.

(b) *Applicability*. The provisions of this section apply to decisions by an Owner to terminate the tenancy of a Family during or at the end of the Family's lease term.

(c) *Grounds for termination of or refusal to renew the lease*. The Owner must not terminate or refuse to renew the lease except upon the following grounds:

(1) Serious or repeated violation of the terms and conditions of the lease.

(2) Violation of applicable Federal, State or local law.

(3) Other good cause.

(d) *Notice of termination of tenancy*. (1) The Owner must serve a written notice of termination of tenancy on the Family which states the date the tenancy shall terminate. Such date must be in accordance with the following:

(i) When termination is based on failure to pay rent, the date of termination must be not less than five working days after the Family's receipt of the notice.

(ii) When termination is based on serious or repeated violation of the terms and conditions of the lease or on violation of applicable Federal, State or local law, the date of termination must be in accordance with State and local law.

(iii) When termination is based on other good cause, the date of termination must be no earlier than 30 days after the notice is served on the Family.

(2) The notice of termination must:

(i) State the reasons for such termination with enough specificity to enable the Family to prepare a defense.

(ii) Advise the Family that if a judicial proceeding for eviction is instituted, the tenant may present a defense in that proceeding.

(iii) Be served on the Family by sending a prepaid first class properly addressed letter (return receipt requested) to the tenant at the dwelling unit or by delivering a copy of the notice to the dwelling unit.

(3) *Substitution of State and local requirements.* In the case of failure to pay rent, a notice of termination which is issued pursuant to State or local law or is common practice in the locality and which satisfies paragraph (c)(2) may be substituted for or run concurrently with the notice required herein.

(e) *Eviction.* All evictions must be carried out through judicial process under State and local law. "Eviction" means the dispossession of the Family from the dwelling unit pursuant to State or local court action.

(f) *Lease.* The requirements of this section shall be incorporated into the dwelling lease between the Owner and the Family.

[47 FR 34383, Aug. 9, 1982, as amended at 63 FR 23855, Apr. 30, 1998]

§ 882.512 Reduction of number of units covered by contract.

(a) *Limitation on leasing to ineligible Families.* Owners must lease all assisted units under Contract to Eligible Families. Leasing of vacant, assisted units to ineligible tenants is a violation of the Contract and grounds for all available legal remedies, including suspension or debarment from HUD programs and reduction of the number of units under the Contract, as set forth in paragraph (b) of this section. Once the PHA has determined that a violation exists, the PHA must notify HUD of its determination and the suggested remedies. At the direction of HUD, the PHA must take the appropriate action.

(b) *Reduction for failure to lease to Eligible Families.* If, at any time beginning six months after the effective date of the Contract, the Owner fails for a period of six continuous months to have at least 90 percent of the assisted units leased or available for leasing by Eligible Families (because families initially eligible have become ineligible), the PHA may, on at least 30 days' notice,

reduce the number of units covered by the Contract. The PHA may reduce the number of units to the number of units actually leased or available for leasing by Eligible Families plus 10 percent (rounded up). If the Owner has only one unit under Contract and if one year has elapsed since the date of the last housing assistance payment, the Contract may be terminated with the consent of the Owner.

(c) *Restoration.* The PHA will agree to an amendment of the Contract, to provide for subsequent restoration of any reduction made pursuant to paragraph (b) if:

(1) The PHA determines that the restoration is justified by demand,

(2) The Owner otherwise has a record of compliance with obligations under the Contract, and

(3) Contract authority is available.

§ 882.513 Public notice to low-income families; waiting list.

(a) *Public notice to low-income Families.* (1) If the PHA does not have a waiting list which is sufficient to provide applicants for the units under the Moderate Rehabilitation Program, the PHA must, promptly after receiving the executed ACC, make known to the public the availability of the Program.

(i) The notice must state that assistance under this Program will be available only in specified units which have been rehabilitated under the Program.

(ii) The notice must be made in accordance with the PHA's HUD-approved application and with the HUD guidelines for fair housing requiring the use of the equal housing opportunity logotype, statement and slogan.

(b) *Waiting list.* The PHA must maintain a waiting list for applicants for the Moderate Rehabilitation Program. This requirement may be met through the use of waiting lists for other subsidized housing programs such as the Existing Housing Program.

§ 882.514 Family participation.

(a) *Initial determination of family eligibility.* (1) The PHA is responsible for receipt and review of applications, and determination of family eligibility for participation in accordance with HUD regulations (see 24 CFR parts 5, 750 and 760). The PHA is responsible for