

QUESTIONS & ANSWERS/DISCUSSIONS FROM MOCARH MEETINGS

- Reasonable Accommodation (HB-2-3560, Appendix 5).

Q. On one of the slides it states that reasonable accommodation requests do not necessarily have to meet accepted accessibility standards, it just has to meet the needs of the requester (however, it must at least meet building code and life/safety requirements). Can you give an example? Most were under the impression all reasonable accommodations must meet accessibility standards.

A. An example would be a tenant who needs a ramp. They aren't in the accessible unit and not in a wheelchair – they just have problems climbing up the step to get into their unit and feel a small ramp would help. In this case, the ramp would not have to meet the accessible slope or landing requirements. However, if the complex does not have the required 5% accessible units and it makes sense to identify this apartment as a HC unit, we would encourage the borrower to make the ramp meet accessibility so it doesn't have to be re-done in the future.

Q. Can you charge a deposit for a “pet” or an “assistance/companion/service” animal?

A. There is a distinction between a “pet” and an “assistance/companion/service” animal. One you can charge a deposit for and the other you cannot.

A pet is just that – a pet. Pets do not require a doctor's statement indicating a need. Therefore, you can charge a pet deposit. An “assistance/companion/service” animal provides assistance or performs tasks for the benefit of a person with a disability, or provides emotional support that alleviates one or more identified symptoms or effects of a person's disability. These require a doctor's statement that ties the animal to a certain medical need (must certify that the tenant has an impairment that impedes their ability to live independently and that the animal will help alleviate that impairment). For this type of animal, you cannot charge a pet deposit. Regardless whether you charge a pet deposit or not, the tenant must follow the rules and make sure the animal does not cause any damage to the unit or property. If there is damage, it will be the responsibility of the tenant to pay.

Q. If charging a pet deposit, can you keep the deposit of every tenant regardless if there is damage to the unit or not?

A. No. This would be considered a fee instead of a deposit and is not allowed. You must assess whether there is damage caused by the pet and send the tenant an itemized list of charges to make repairs. If the entire deposit is not adequate for all repairs, it is up to the tenant to pay the difference. Likewise if all the deposit is not needed for repairs, the difference must be returned to the tenant.

Q. An applicant on the waiting list needs an accessible unit but none of the units available meet their needs. The applicant would like to move in anyway and has asked for a reasonable accommodation. Do you have to honor their request?

- A. All reasonable accommodation requests must be honored unless the request would impose an undue financial and administrative burden on the housing provider or if it would fundamentally alter the nature of the provider's operations. This would be an eligible use of reserve funds.
- Q. What if the complex doesn't have enough reserve funds but there is enough in the operating account? Do we have to meet the reasonable accommodation request?
- A. Yes, all reasonable accommodation requests must be honored regardless where the funds come from (see response to above question for exception).
- Q. What if the complex does not have adequate funds to pay for the reasonable accommodation and the tenant is willing to either chip in or pay the entire cost?
- A. This is allowable. We would strongly recommend that you obtain something in writing from the tenant agreeing to this arrangement.
- Notifying applicants/tenants of adverse decisions (7 CFR 3560.160 (e)).

Q. When notices are sent certified, return receipt requested, and the tenant or applicant does not sign for the certified letter, is the returned letter acceptable documentation that the notices were sent?

A. Yes, this would be acceptable as long as you have the white certified slip stamped by the post office showing when it was mailed and you have the returned letter showing "Refused" (or something similar). What we also recommend, and it is what we do when we send certified mail from our office, is to also send the letter by regular mail. This way you can assure that tenants/applicants will receive the letter one way or another. As always, keep a copy of every letter sent.

Q. We know the Notice of Termination must be sent certified but does the Notice of Violation?

A. Yes, both the Notice of Violation and Notice of Termination must be sent certified. Refer to the Tenant Adverse Action Reference Guide that was handed out during the training and also posted to our website.
 - Tenants who receive Social Security Income as a Debit Card.

Q. How does Rural Development count this income?

A. Guidance was issued on this topic in our December 2013 State Office newsletter. What we said was "You would treat these the same as a checking account. If tenants indicate they cannot receive statements/balances, inform them they can be obtained by either calling 1-888-741-1115 or by going on the website www.usdirectexpress.com. They will have to set up an account on-line but they can access balances from this website."
 - Waiting List (HB-2-3560, Chapter 6, 6.18 C and 7 CFR 3560.154 (f)).

Q. Do incomplete applications need to be put on the waiting list?

A. Yes, all applications, whether complete or not, must be entered on the waiting list. In fact, one management company changed the name of the waiting list to Application Waiting List to make this distinction. We don't care what it is called as long as all applications are accounted for.

Q. If a manager receives a phone call for an application, does that need to be entered on the waiting list?

A. No, not until the application has been returned. However, if you are having vacancy issues and would like to consider converting some units to accommodate larger families (i.e., you only have 1 BR units but you receive a lot of calls for 2 BR units), keep a separate "Inquiry List" as one form of evidence of need for larger units. Our Agency can consider allowing the unit conversion if deemed necessary.

- Drug Free Housing.

Q. If a tenant in a complex is convicted of a felony (drugs, direct threat) but has gone through rehab and wants to move back in. Do we have to take them back?

A. That depends on what is in your Rules and Regulations. If it says no felons are allowed, you should not allow them back in because if you do, you have to let all felons in who apply.

- Social Security Number (SSN).

Q. At what age do we require a dependent to have a SSN and provide it to the complex?

A. Our Agency does not have a set age for this requirement. If a child does not yet have a SSN, the system will assign a temporary number until one is obtained.

- Layered Financing.

Q. Our property has both MHDC and RD financing. Which one takes precedence?

A. Normally the Agency with first lien position takes precedence unless there is a conflict in requirements. Then the most restrictive would prevail.

- Rental Assistance (RA) (HB-2-3560, Chapter 8, 8.10 B, Exhibit 8-2, and 7 CFR 3560.257 (a)).

Q. If you have a unit of RA available to assign, what is the priority of assigning this unit?

A. Priorities for assigning RA:

* First priority is to eligible very low-income tenants paying the highest percentage of their adjusted annual income for rent

- * Second priority is to eligible very low-income applicants on the waiting list if the housing project has vacant rental units
- * Third priority is to eligible low-income tenants paying the highest percentage of their adjusted income for rent
- * Fourth priority is to eligible low-income applicants on the waiting list if the housing project has vacant rental units
- * Fifth priority is to households which are residing in a rental unit for which they do not qualify on the basis of an occupancy waiver or other special approval situation

- Rental Assistance Reminder: If your Rental Assistance (RA) was renewed prior to December 12, 2015, if you run out within 12 months, your RA will be renewed with little or no disruptions. However, if your RA was renewed on or after December 12, 2015, and you run out again within 12 months, your RA will NOT be renewed. In order to determine approximately how long your RA will last once it is renewed, take the total amount remaining on your RA Agreement divided by the amount you claim on your Project Worksheet (shown on the worksheet as “RA Request”). We have been told we will be able to offer borrowers some servicing options to assist with the lack of RA but as of right now, we have not been told what these will consist of.

Example:

- Your RA was renewed January 30, 2015
- The amount remaining as of April 30, 2015, is \$26,531.70
- The RA Request on the May 1, 2015, worksheet is \$8,061
- Take \$26,531.70 divided by \$8,061 = 3.29 – this means you have a little over 3 months remaining on your RA Agreement. However, because your RA was renewed after December 12, 2015, our Agency will not be able to renew your RA because it is still within the 12 month timeframe

Remember, this is just an estimate. Other factors can come into play that would make the RA run out faster (tenant income decreasing, which would increase the amount of RA claimed for that tenant, rent increases, etc.).

- Lease Agreement (HB-2-3560, Chapter 6, Section 6 and 7 CFR 3560.156).

Q. What section of the Lease is completed when you have a Project Based Section 8 property (Tenant Subsidy Code of “2”) or a tenant with a HUD Voucher (Tenant Subsidy Code of “6”)?

A. Most were thinking that they would complete Section III 2. but the NOTE on the template states “Complete if Part II, Item 6 on Tenant Cert is coded “0””. Since number 2 doesn’t fit this situation, we have made the determination that Section III 6. would be the appropriate section to complete. We realize it states on the Lease “If complex and unit receive Section 8 HUD assistance, initial this section,” however, there is no other place that ties the required HUD Lease in with our Lease. Therefore, in the near future we will be making a change so it states “If complex and/or unit...” and we will change the note on the template to say to complete the section if you have Tenant Subsidy Code of “2” or “6”.

- And Justice for All Poster (HB-2-3560, Chapter 6, 6.36 and 7 CFR 3560.103 (a) (3) (xiv)).

Q. Which “And Justice for All” poster is required to be posted at all complexes?

- A. The required poster is Form AD-475-C (Revised 9/2006) and it is green (if yours is red, please take it down and replace it with the green one). If you need one of these posters, notify your servicing office.
- Items handed out during meetings.
 - RD AN 4778 (1944-N), “Implementation of 42 U.S.C. 14043c-11 of the Violence Against Women Reauthorization Act in Rural Development’s Multi-Family Housing Program” dated January 5, 2015
 - The title is miss-leading because it does not just apply to violence against women – it can be for anyone who is a victim of domestic violence
 - Unnumbered Letter “Integrating a Pest Management Control Plan” dated June 5, 2013
 - Can be an eligible reserve request. However, if there are adequate funds in the General Operating Account (GOA), you may be asked to pay for the expense using a combination of funds from reserve/GOA
 - General Comments.
 - If the tenant owes for both damages and rent, rent comes out of the deposit first. As always, work with your legal counsel to recoup any remaining charges not covered by the deposit.
 - If the complex is charging a fee for the use of a freezer or AC unit and that unit breaks, it is the responsibility of the complex to pay for any repairs.

Websites of Interest.

- MINC <https://usdaminc.sc.egov.usda.gov/> – Always check for updates; they usually show up on the right hand side in red. For example, the income limits were recently changed so you were notified on the MINC website. While you are in MINC – you can pull up a blank AFHMP, find out information on unauthorized assistance, see the handbook for the MINC website, etc. Be sure to utilize the listing of items that are coming due so you know what needs to be completed for each property.
- Missouri RD Multi-Family Housing Website <http://www.rd.usda.gov/programs-services/multi-family-housing-direct-loans/mo> – then click on Forms and Resources for all of the State forms that you need including rent change information, budget/actual templates, request to rent to ineligible, etc.
- Forms for MFH <http://forms.sc.egov.usda.gov/eForms/welcomeAction.do?Home> – You can click on browse on the top left hand corner. Very handy if you know the name of the form or the form number. This would be the reserve request, IOI forms, and any forms that are provided by National Office. You can typically save these on your computer, fill in the property information and then print them as needed. Very handy to fill out tenant certification basic information and print out so you don’t always have to retype or pencil the project name, etc.
- MFH Handbook 2 - 3560 (most commonly used by property management) <http://www.rd.usda.gov/publications/regulations-guidelines/handbooks> – Go to HB-2-3560 and click on the binoculars to search for whatever you need. For example, search for fidelity bond and find out what the requirements are. Search for ineligible and read up on renting to ineligible applicants.

- Missouri Rural Development website <http://www.rd.usda.gov/mo> – Want to know how much Rental Assistance was obligated in Missouri last year? Click on [FY 2014 Annual Report: Investing in Rural Missouri](#) and check out the various programs and the monies utilized for each of the programs in Missouri. Please note booklets are available also.
- MOCARH – Sponsor of this training <http://www.mocarh.org/> – Be sure to watch this website as they remodel it. The Missouri Council for Affordable Rural Housing has links available also.
- HUD Handbook, Chapter 5
<http://www.hud.gov/offices/adm/hudclips/handbooks/hsg/4350.3/43503c5HSGH.pdf> – Be sure to look at the exhibits at the end of the handbook and click on the links. For example, medical expenses that are allowable include mileage to/from treatment, not mileage to the pharmacy. Keep this handbook on your computer for easy reference. Very good information to have!