



MEMORANDUM

Rural Development

Rural Housing Service

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Telephone: (202) 692-0268

DATE: May 15, 2023

TO: Multifamily Housing Stakeholders
Multifamily Housing Owners
Multifamily Housing Management Agents

FROM: Joaquin Altoro
Administrator
Rural Housing Service

SUBJECT: Program Requirements and best practices regarding denial of admission in USDA Multifamily Housing (MFH) administered programs

In January, the White House released a [Blueprint for a Renter Bill of Rights](#), which articulated principles to increase fairness in the rental market, strengthen tenant protections, and encourage rental affordability. One of the principles focused on ensuring renters and rental applicants know their existing legal rights and protections.

Across the housing market, landlords increasingly rely on [tenant screening reports](#) as part of their selection criteria, but research shows that these reports [too often include](#) inaccurate information, including inaccuracies in criminal and eviction records and credit history. If prospective renters are not given the opportunity to review and correct the information in these reports, then these renters may be repeatedly denied housing as a result of inaccurate information in their tenant screening reports. In addition, housing providers may miss opportunities to consider qualified applicants who would have made for quality tenants.

The goal of this outreach is to remind USDA MFH Owners (landlords and property managers) of relevant legal requirements around disclosing denials of admission to applicants and to share best practices around the use of tenant screening reports and the disclosure of the contents of those reports to tenants. For example, Owners must provide written notice of denial under USDA rules, and any housing provider that uses consumer reports to make adverse tenant decisions must provide [adverse action notices](#) under the Fair Credit Reporting Act (FCRA). The most efficient way to comply with both obligations is to include the FCRA notice in writing as part of the denial letter that Owners are required to send to denied applicants. USDA strongly encourages Owners to provide the FCRA notice in writing as a way to demonstrate to USDA compliance with the notice requirements.

Notice Obligations for Denial of Admission within the USDA MFH Program

The MFH Program requires that Owners must promptly notify any applicant determined to be ineligible for admission and must provide the applicant an opportunity to respond to the denial notice within ten calendar days after the date of the denial notice.¹

Owners must send a notice of denial to an applicant who is denied admission, which:

- Clearly states the reason for the denial;
- States the time period and process for requesting an informal hearing;
- Provides notice to the applicant that a person with a disability has the opportunity to request a reasonable accommodation; and
- Provides notice of the mandatory VAWA Notice of Occupancy Rights, along with form HUD-5382.²

Owners have additional regulations regarding the denial of admission based on criminal conviction records³; status as a victim of domestic violence, dating violence, sexual assault, or stalking⁴; and civil rights and antidiscrimination laws.⁵ For more detailed information, please refer to the USDA [Handbook-2-3560](#) Asset Management Handbook Chapter 6 on Project Occupancy.

Notice Obligations under FCRA

Under FCRA, all landlords or property managers are required to inform rental applicants when information from a consumer report played a role in them rejecting a rental applicant or taking another action unfavorable to the applicant, such as requiring a co-signer or deposit that would not be required for another applicant. This requirement is known as the adverse action notice. Failure to provide the notice correctly may subject landlords and property managers to legal liability under state and federal law. As Federal Trade Commission guidance explains, the adverse action notice must communicate the following information:

- the name, address, and phone number of the tenant screening company
- that a consumer can receive a free copy of the report from the tenant screening company within 60 days
- that a consumer has the right to dispute any information that is incorrect
- that the tenant screening company did not make the decision to take the unfavorable action and cannot give the specific reason for it

¹ See 7 CFR § 3560.154(h) and 3560.160(e).

² See 24 CFR § 5.2005(a), and Handbook 2-3560, Attachment 6-K.

³ See 7 CFR § 3560.154(j); 24 CFR § 5.854; § 5.855; § 5.856 and § 5.857, as well as Handbook 2-3560, Chapter 6, Project Occupancy.

⁴ See 24 CFR § 5.2005(b).

⁵ Relevant civil rights and antidiscrimination laws include the Fair Housing Act, Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973 (Section 504), the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990 (ADA), as well as the nondiscrimination and equal opportunity provisions of 7 CFR § 3560.2.

The Consumer Protection Financial Bureau and the Federal Trade Commission, two federal agencies, interpret and enforce this requirement of the Fair Credit Reporting Act. They have additional resources Owners can review [here](#).

Recommended Best Practices

When an Owner denies an applicant, USDA requires the Owner to provide a written adverse action notice to the applicant as part of the denial letter. USDA also strongly encourages Owners to provide a copy of any consumer screening report you relied on when making an adverse action determination to an applicant. A written notice paired with a report copy allows Owners to demonstrate they have fulfilled their legal obligations under the Fair Credit Reporting Act, and also permits applicants to understand the basis for any denial, fully assert their rights with tenant screening companies, and more effectively correct their records.

USDA also reminds landlords participating in the Rural Development Voucher Program of their obligations to provide adverse action notices to applicants to whom they deny housing based on information contained within that applicant's consumer report. Note that FCRA requirements apply to both their assisted and unassisted tenants.